



November 29, 2012

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: ICE Clear Europe Submission of New Swaps for Clearing Under Rule 39.5(b) and Related Rule Amendments Under Rules 39.4(b) and 40.6

Dear Mr. Stawick:

ICE Clear Europe Limited ("ICE Clear Europe"), a registered derivatives clearing organization ("DCO"), hereby submits to the Commodity Futures Trading Commission's (the "CFTC" or the "Commission") pursuant to CFTC Rule 39.5(b) the swaps described herein, which ICE Clear Europe intends to accept for clearing commencing on such date as is determined by ICE Clear Europe. ICE Clear Europe also hereby submits the related amendments to its Rules and FX Procedures attached as Exhibit A hereto (the "Related FX Rule/Procedure Amendments") for self-certification pursuant to CFTC Rules 39.4(b) and 40.6, which will be effective 10 business days after this submission, or on such later date as is determined by ICE Clear Europe.

New Swaps to be Accepted for Clearing

Exhibit B identifies the new swaps that ICE Clear Europe intends to accept for clearing (the "New Swaps"). As described in more detail herein, these products are foreign exchange transactions ("FX Transactions") that are non-deliverable forwards.

Statement of Eligibility

ICE Clear Europe is eligible to clear the New Swaps in accordance with CFTC Rule 39.5(a).

ICE Clear Europe is a recognised clearing house under section 288 of the Financial Services and Markets Act 2000 by the U.K. Financial Services Authority (FSA). ICE Clear Europe provides clearing services for all ICE Futures Europe futures and options contracts and all cleared OTC energy contracts transacted through ICE OTC. ICE Clear Europe also provides clearing services for a range of credit default swap transactions. ICE Clear Europe also received the settlement finality designation (SFD) by the FSA under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, which enhances the systemic risk protection provided to clearing members in the event of a clearing counterparty default. Under SFD, payment instructions can be protected from EU administrators or liquidators of insolvent firms. Designation means that ICE Clear Europe's system is now designated under the EU's Settlement

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Finality Directive. The Clearing House is also a recognised as an inter-bank payment system under the Banking Act 2009 and regulated by the Bank of England.

ICE Clear Europe is a registered DCO pursuant to Section 5b of the Commodity Exchange Act, as amended (the "CEA"), and as such is supervised by the Commission. ICE Clear Europe became a DCO on January 22, 2010, and since that date, ICE Clear Europe has cleared energy-based and credit default swaps in compliance with section 5b(c)(2) of the CEA. Additionally, ICE Clear Europe is a registered securities clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934, and as such is supervised by the Securities and Exchange Commission.

As one of the leading clearinghouses in the world, ICE Clear Europe will be able to clear the New Swaps in accordance with Section 5b(c)(2) of the CEA, including if the New Swaps are designated for mandatory clearing by the Commission. In ICE Clear Europe's view, the New Swaps are not materially different from existing swaps cleared by ICE Clear Europe from risk management, operational and other relevant perspectives. ICE Clear Europe has previously adopted rules for the clearing of foreign exchange transactions such as the New Swaps and proposes to make enhancements in those rules as described herein. ICE Clear Europe believes that it will have adequate financial resources to support clearing of the New Swaps and will be able to manage the risks associated with the New Swaps consistent with ICE Clear Europe's commercial objectives and the requirements of Section 5b(c)(2) of the CEA.

In terms of financial resources, pursuant to Rule 1101 as proposed to be amended, ICE Clear Europe will implement a separate guaranty fund for the New Swaps. Initially, the FX guaranty fund is expected to be at least USD 50 million, which will be adjusted periodically as ICE Clear Europe determines necessary based on volatility, open interest and other risk management considerations in accordance with ICE Clear Europe's internal FX risk management policies and procedures. ICE Clear Europe will also have a limited right of assessment, as set forth in Part 11 of its Rules, against non-defaulting FX Clearing Members in an amount up to two times their required FX guaranty fund contribution as in effect prior to the relevant default.

Information Related to the Act's Swap Submission Review Requirements

In accordance with §39.5(b)(3)(ii), information is provided below to assist the Commission in its review of ICE Clear Europe's submission of the New Swaps against market activity, clearinghouse capabilities, impact on systemic risk, competition, and insolvency protection.

(A) Market Activity

"The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data."

Confidential Exhibit C provides available data describing the outstanding notional exposures, observed trading liquidity and adequacy of end-of-day pricing data for New Swaps.

We note in this regard that limited existing cleared open interest data is available for many of the New Swaps. ICE Clear Europe believes that trading liquidity and pricing data are adequate for it to manage its risk effectively in clearing these products.

(B) Clearinghouse Capabilities

"The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded."

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Rule Framework - ICE Clear Europe maintains a comprehensive set of rules that are publicly available and may be viewed at <https://www.theice.com/Rulebook.shtml?clearEuropeRulebook>. ICE Clear Europe plans to revise Part 17 of its Rules and FX Procedures for the New Swaps, as set forth herein.

Capacity, Operational Expertise and Resources - ICE Clear Europe has 67 clearing firms. The complete list can be found at www.theice.com/publicdocs/clear_europe/ICE_Clear_Europe_Clearing_Member_List.pdf. Initially, ICE Clear Europe expects to have 10 clearing firms active in clearing of the New Swaps.

Credit Support Infrastructure - ICE Clear Europe has established three mutualised Guaranty Funds, one for energy products, one for credit default swaps, and one for foreign exchange swaps (including the New Swaps). The FX Guaranty Fund will be based on levels of volatility and open positions in cleared foreign exchange swaps and will initially be approximately USD 50 million.

(C) Impact on Systemic Risk

“The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contracts.”

ICE Clear Europe believes that clearing of the New Swaps will mitigate systemic risk. Although there is significant trading volume in products similar to the New Swaps, such products have historically not been subject to clearing. As a result, ICE Clear Europe expects that as these products move to clearing over time, systemic risk will be reduced for the following reasons, among others:

- ICE Clear Europe’s clearing members are amongst the most active market participants and continue to clear a significant portion of their clearing-eligible portfolio.
- ICE Clear Europe has developed a robust risk management framework that has been extensively reviewed by regulators, industry participants and third-party experts.
- ICE Clear Europe’s price discovery process is working successfully to provide reliable inputs to its risk models.

(D) Competition

“The effect on competition, including appropriate fees and charges applied to clearing.”

ICE Clear Europe’s fee structure is appropriate and its margin and guaranty fund computations for the New Swaps suitably account for the risk brought to the clearinghouse. The clearing of the New Swaps should therefore have no adverse impact on competition.

The initial clearing fees for the New Swaps will be published on the ICE Clear Europe website.

(E) Insolvency Protection

“The existence of reasonable legal certainty in the event of the insolvency of the relevant derivatives clearing organization or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.”

ICE Clear Europe believes that there is reasonable legal certainty in the event of the insolvency of ICE Clear Europe or a clearing member of ICE Clear Europe with regard to the treatment of house and

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customer positions, funds and property in connection with the clearing of the New Swaps, as required by CFTC Rule 39.5(b)(3)(i)(E).

ICE Clear Europe clearing members consist of several types of institutions, principally U.K. and EU financial institutions and clearing firms but also futures commission merchants ("FCMs") (including FCMs that are also broker-dealers). In the event of a clearing member insolvency, ICE Clear Europe is of the view, based on the advice of counsel in the relevant jurisdictions, that ICE Clear Europe would be permitted to exercise its rights to close out house and customer positions and apply margin and other property of the defaulting clearing member in accordance with its rules. Specifically, as a matter of English law, ICE Clear Europe is protected by Part VII of the Companies Act 1989, the Financial Markets and Insolvency (Settlement Finality Regulations 1999) and the EU Settlement Finality Directive (Directive 98/26/EC) from the general application of the insolvency laws of England and Wales, meaning that the clearinghouse's default rules prevail over insolvency laws, such as any applicable moratorium on transactions.

With respect to customer positions carried through an FCM clearing member, the New Swaps would constitute "commodity contracts" for purposes of the commodity broker liquidation provisions of the U.S. Bankruptcy Code. Under the Bankruptcy Code and the Commission's Part 190 regulations, ICE Clear Europe would have the ability to close out customer positions following the insolvency of the clearing member and/or, in appropriate circumstances, facilitate a transfer of such positions to another, solvent clearing member. ICE Clear Europe rules will require segregation of customer property for the New Swaps in accordance with Part 22 of the Commission's regulations (and prior to the implementation thereof, if applicable, in accordance with existing legal requirements). As such, customer property would be subject to distribution to cleared swap customers of the insolvent FCM in accordance with those regulations.

With respect to an ICE Clear Europe insolvency, ICE Clear Europe would be subject to applicable English insolvency law and in addition would be a commodity broker subject to the Bankruptcy Code and Part 190 regulations. U.S. bankruptcy law would also apply in respect of any U.S. customer property for customer positions carried through an FCM clearing member. ICE Clear Europe believes, based on the advice of counsel, that under the applicable provisions of those laws and regulations, ICE Clear Europe rules providing for the termination of all outstanding contracts and the application and/or return of a net sum in respect of remaining member and customer property to each of its clearing members would similarly be enforceable.

ICE Clear Europe notes that in connection with its application for registration as a DCO, it has previously provided to the Commission further information on the application of relevant English insolvency laws.

Product Specifications

"Product specifications, including copies of any standardized legal documentation, generally accepted contract terms, standard practices for managing any life cycle events associated with the swap, and the extent to which the swap is electronically confirmable."

The product specifications for the New Swaps can be found in Exhibit A.

Participant Eligibility

"Participant eligibility standards, if different from the derivatives clearing organization's general participant eligibility standards."

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Participant eligibility is governed by Rule 201 of the ICE Clear Europe rulebook, which is available as described in "Clearinghouse Capabilities-Rule Framework" above. FX Clearing Members (as defined below) must satisfy additional requirements set forth in Section 2 of the FX Procedures, which are attached as Exhibit A hereto.

Price Discovery

"Pricing sources, models, and procedures, demonstrating an ability to obtain sufficient price data to measure credit exposures in a timely and accurate manner, including any agreements with clearing members to provide price data and copies of executed agreements with third-party price vendors, and information about any price reference index used, such as the name of the index, the source that calculates it, the methodology used to calculate the price reference index and how often it is calculated, and when and where it is published publicly."

In relation to the New Swaps, the end-of-day pricing methodology can be found in the ICE Clear Europe Risk Management Framework.

Risk Management

"Risk management procedures, including measurement and monitoring of credit exposures, initial and variation margin methodology, methodologies for stress testing and back testing, settlement procedures, and default management procedures."

ICE Clear Europe will establish a separate FX Risk Committee with up to 15 members, including up to 10 representatives from clearing members of ICE Clear Europe. The role of the Risk Committee includes:

1. ensuring that the clearing house maintains and implements procedures, processes and controls which are designed to:

- protect the integrity of the FX Guaranty Fund;
- manage and mitigate credit and market risks;

2. considering applications for membership; and

3. reviewing the clearing of new FX products.

ICE Clear Europe uses has an agreement with the CME Group that permits the clearing house to use SPAN4® for margin calculations in relation to FX Clearing. SPAN4® margin parameters for the New Swaps will be made available at https://www.theice.com/otc_fx.jhtml, once clearing of the New Swaps has commenced.

Rules, Policies and Procedures

ICE Clear Europe maintains a comprehensive set of rules that are publicly available and may be viewed at www.theice.com/Rulebook.shtml?clearEuropeRulebook=. As noted above, ICE Clear Europe proposes to adopt a set of amendments to its Rules in connection with the clearing of the New Swaps, including addition of a new Part 17 of the Rules, as well as the adoption of a new set of FX Procedures.

Communication to Members Regarding this Submission

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"A description of the manner in which the derivatives clearing organization has provided notice of the submission to its members and a summary of any views on the submission expressed by the members (a copy of the notice to members shall be included with the submission.)"

ICE Clear Europe will post a copy of this submission (absent any confidential exhibit) on its public website. ICE Clear Europe has discussed the Related FX Rule/Procedure Amendments extensively with the initial group of FX Clearing Members and their counsel and other interested parties. Written comments relating to the circular or this submission have not been solicited or received. ICE Clear Europe will notify the CFTC of any written comments received by ICE Clear Europe.

Self-Certification of Related FX Rules

ICE Clear Europe hereby also submits the Related FX Rule/Procedure Amendments for self-certification pursuant to Commission Rules 39.4(b) and 40.6. A copy of the Related FX Rule/Procedure Amendments is attached as Exhibit A hereto. ICE Clear Europe anticipates implementing the Related FX Rules Amendments on the same date on which it expects to commence accepting the New Swaps for clearing.

The Related FX Rule/Procedure Amendments include a number of changes to the ICE Clear Europe rules and procedures intended to facilitate the clearing of foreign exchange transactions, such as the New Swaps. Principally, the amendments modify Part 17 of the ICE Clear Europe rules, which provides for the basic terms and conditions on which foreign exchange transactions will be cleared. The amendments also provide for the establishment of a separate guaranty fund for foreign exchange transactions (including a separate assessment right applicable to clearing members that clear FX transactions ("FX Clearing Members")). Accordingly, the FX rules as modified by the Related FX Rule/Procedure Amendments contain a separate default waterfall, the application of resources following a default of an FX clearing member. The amendments also contain certain other changes addressing the status of FX Clearing Members and certain updates and clarifications to the rules applicable to FCM clearing members under Part 16 of the ICE Clear Europe rules. The amendments are potentially relevant to the following core principles: (C) Participant and Product Eligibility and (L) Public Information, and the applicable regulations of the Commission thereunder.

ICE Clear Europe hereby certifies that the Related FX Rule/Procedure Amendments comply with the CEA and the Commission's regulations thereunder.

Pursuant to applicable law, ICE Clear Europe respectfully requests confidential treatment of Confidential Exhibit C attached as part of this submission and any other information or documents which may at any time be submitted in connection with this submission and which may be marked "Confidential" or for which confidential treatment may be requested.

Confidential treatment of the confidential exhibit attached as part of this submission and any subsequent related documents is justified under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* and the Rules Regarding Availability of Information, 12 C.F.R. § 261.15 (2006). The confidential exhibit attached as part of this submission contains confidential business and commercial information (together with confidential intellectual property) related to ICE Clear Europe's clearing services and ICE Clear Europe's clearing members, the disclosure of which could have a material adverse effect on, and cause injury to, the operations and competitive position of ICE Clear Europe and its clearing members. We believe that the confidential exhibit is entitled to protection pursuant to exemptions (b)(4) and (b)(8) of the Freedom of Information Act. In particular, the confidential exhibit provides information that is useful to potential competitors and would be competitively harmful to ICE Clear Europe and its clearing members if disclosed to the public.

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In the event that a determination is made to release any confidential portion of this submission, we respectfully request an opportunity to discuss or to revise as appropriate prior to such release.

If you should have any questions or comments, please do not hesitate to contact me at +44-20-7065-7738 or patrick.davis@theice.com.

Respectfully submitted,



Patrick Davis
Head of Legal and Company Secretary

List of Exhibits

- Exhibit A Related FX Rules/Procedure Amendments
- Exhibit B List of New Swaps
- Confidential Exhibit C Outstanding Notional Amounts, Liquidity and Pricing Data



ICE Clear Europesm

Clearing Rules

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Part 1 General Provisions

Rule 101 Definitions

The term "**Accounting Standards**" means applicable accounting standards and principles.

The term "**Affected FM Party**" means a Person prevented, hindered or delayed by a Force Majeure Event.

The term "**Affiliated Person**" or "**Affiliate**" means, with respect to any specified Person, any other Person that Controls, is Controlled by, or is under common Control with, such specified Person.

The term "**Appeals Panel**" means the panel at which an appeal of a decision of a Disciplinary Panel is heard pursuant to Rule 1005.

The term "**Applicable Law**" means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law, ordinance, regulation, rule, code, guidance, order, published practice or concession, judgment or decision of a Governmental Authority and, for the avoidance of doubt, includes all the provisions of the FSA Rules.

The term "**Approved Financial Institution**" means a credit institution, bank, trust company or other institution which is an "institution" as defined in the Settlement Finality Regulations and which has been designated as an approved financial institution by the Clearing House.

The term "**Assessment Contribution**" means an Energy Assessment Contribution ~~or~~, a CDS [Assessment Contribution or an FX Assessment Contribution](#).

The term "**Banking Consolidation Directive**" means Directive 2006/48/EC.

The term "**Bilateral CDS Transaction**" means: (i) a CDS transaction between two CDS Clearing Members or (ii) a CDS transaction between a CDS Clearing Member and an Affiliate of a different CDS Clearing Member or (iii) a CDS transaction between an Affiliate of a CDS Clearing Member and an Affiliate of a different CDS Clearing Member, (to which in either case, for the avoidance of doubt, the Clearing House is not a party).

The term "**Board**" means the board of Directors or any other body established thereunder (whether called a board, a committee or otherwise) of the Clearing House.

The term "**Business Day**" means a day on which the Clearing House is open for business or, in relation to deliveries, has the meaning given in the Procedures or, in relation to certain Contract Terms, has the meaning given in the Procedures, ICE Futures Europe Rules or ICE Futures US Rules.

The term "**Buyer**" means, in relation to deliveries under Part 7, the Clearing Member or the Clearing House, whichever is obliged to receive delivery of a Commodity (whether itself or through another Person).

The term "**Buying Clearing Member**" means: ~~(a), in respect of a Contract: (a) except in circumstances in which sub-paragraph (c) below applies,~~ the Clearing Member that was, before formation of a Contract, party to the corresponding Transaction as buyer (or, in relation to CDS Contracts, as protection buyer); ~~(b) or, in relation to a Financially-Settled FX Contract,~~

Reference Currency Buyer); (b) except in circumstances in which sub-paragraph (c) below applies, where a Non-FCM Clearing Member's Customer is a party to the corresponding Transaction as buyer ~~or~~ protection buyer or Reference Currency Buyer (as applicable), the Clearing Member that provides clearing services to that Customer in relation to the Transaction in question (or, for Energy Contracts, if more than one such Clearing Member exists, the Clearing Member that was selected by the Customer for the initial booking of that Transaction); ~~or~~ (c) where an FCM Customer is a party to the corresponding Transaction as buyer or protection buyer (as applicable), the FCM Clearing Member clearing on behalf of such FCM Customer; or (d) in relation to Energy Contracts only and overriding any designation that would occur pursuant to (a), (b) or (c) above, where one Clearing Member that would be the Buying Clearing Member in accordance with (a), (b) or ~~(bc)~~ above has allocated an Energy Transaction to another Clearing Member for clearing in accordance with Market Rules, the Clearing Member to whom such Energy Transaction is allocated.

The term "**Call**", in respect of an Energy Contract, means an Option pursuant to which a Person with a Long position has the right to buy a Future or Futures from a Person with a Short position at the Strike Price and at a specified time.

The term "**Capital**":

- (a) ~~(a)~~ —with respect to a Clearing Member that is not an FCM Clearing Member, has the same meaning as the term "own funds", as such term is defined in the Banking Consolidation Directive and applicable on a stand-alone (non-consolidated) basis and subject to the limits and deductions set out therein and, in relation to matters reserved for member states, as implemented in the United Kingdom, whether or not the relevant Clearing Member is subject to the Banking Consolidation Directive or the supervision of the FSA; or
- (b) ~~(b)~~ —with respect to an FCM Clearing Member, means its "adjusted net capital" as defined in CFTC Rule 1.17,

and, in either case, such other classes of Capital as are permitted at the Clearing House's discretion pursuant to the Procedures.

The term "**CDS**" means credit default swap.

The term "**CDS Assessment Amount**" means the total amount of all CDS Assessment Contributions payable by CDS Clearing Members pursuant to Rule 1106 in respect of an Event of Default.

The term "**CDS Assessment Contribution**" has the meaning set out in Rule 1106.

The term "**CDS Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to CDS Contracts.

The term "**CDS Contract**" means a Contract that is a CDS that is cleared in accordance with the Procedures or is otherwise described as a CDS Contract under the Procedures and may be in the form of a CDS relating to an index or a single reference entity or in the form of a Component Transaction (as defined in Part 15).

The term "**CDS Default Amount**" has the meaning set out in Rule 1103(~~de~~)(iii).

The term "**CDS Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating to the Clearing of CDS Contracts.

The term "**CDS Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the CDS Guaranty Fund.

The term "**CDS Sub-Account**" means, in relation to a CDS Clearing Member, each account at the Clearing House with a unique identification number used by that CDS Clearing Member in accordance with an election under Rule 406(d) for the recording of details of CDS Contracts with the Clearing House, which account is linked to an account at Deriv/SERV for the recording of details of trades relating to such CDS Contracts and which account is further linked to the CDS Clearing Member's Proprietary Account or Customer Account.

The term "**CEA**" means the U.S. Commodity Exchange Act.

The term "**CFTC**" means the Commodity Futures Trading Commission of the United States of America, or any successor thereto.

The term "**Chairman**" means the chairman of the Board from time to time.

The term "**Circular**" means a publication issued by the Clearing House for the attention of all Clearing Members and posted on the Clearing House's website in accordance with Rule 109(g).

The term "**Clearing**" means the central counterparty, risk, Open Contract Position, Margin, settlement, delivery, administrative, acceptance, transaction data, settlement price establishment and other functions of the Clearing House pursuant to these Rules.

The term "**Clearing House**" means ICE Clear Europe Limited, a company registered in England & Wales with registered number 06219884.

The term "**Clearing House Account**" means an account of the Clearing House at an Approved Financial Institution.

The term "**Clearing House CDS Contributions**" means the Clearing House CDS GF Contribution and the Clearing House CDS Initial Contribution.

The term "**Clearing House CDS GF Contribution**" means amounts allocated by the Clearing House as being applicable following an Event of Default in accordance with Rule 1103(c)(v)(B) or 1103(fg)(v)(C) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House CDS Initial Contribution**" means amounts allocated by the Clearing House as being applicable following an Event of Default in accordance with Rule 1103(c)(iv) or 1103(fg)(iv)(B) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House Contributions**" means [the Clearing House Energy Contributions](#), the Clearing House CDS Contributions and the Clearing House ~~Energy Initial Contribution~~ [FX Contributions](#).

The term "**Clearing House Energy Contributions**" means the Clearing House Energy GF Contribution and the Clearing House Energy Initial Contribution.

The term "**Clearing House Energy GF Contribution**" means amounts allocated by the Clearing House as being applicable following an Event of Default in accordance with Rule 1103(b)(v)(B) or 1103(~~f~~g)(v)(B) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House Energy Initial Contribution**" means amounts allocated by the Clearing House as being applicable following an Event of Default in accordance with Rule 1103(b)(iv) or 1103(~~f~~g)(iv)(A) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House FX Contributions**" means the Clearing House FX GF Contribution and the Clearing House FX Initial Contribution.

The term "**Clearing House FX GF Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 1103(d)(v)(B) or Rule 1103(g)(v)(D) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House FX Initial Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 1103(d)(iv) or Rule 1103(g)(iv)(C) and as maintained pursuant to Rule 1104(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing Member**" means a Person which has entered into a Clearing Membership Agreement with the Clearing House and which has been admitted as a clearing member pursuant to Part 2 of these Rules.

The term "**Clearing Membership Agreement**" means an agreement between the Clearing House and a Clearing Member under which, *inter alia*, the Clearing House agrees to provide Clearing in respect of Contracts to that Clearing Member and that Clearing Member agrees to be bound by and subject to these Rules. Without prejudice to the generality of Rule 102(b) or to the effectiveness of any other agreement between a Clearing House and a Clearing Member, for the avoidance of doubt, for FCM Clearing Members that have executed a Pledged Collateral Addendum, the relevant Clearing Membership Agreement will be interpreted as amended by the applicable Pledged Collateral Addendum.

The term "**Clearing Organisation**" means any clearing house duly authorised, regulated, recognised or licensed under Applicable Laws in any jurisdiction, including any recognised clearing house, recognised overseas clearing house, derivatives clearing organisation or similar entity.

The term "**Clearing Processing System**" means the clearing processing system used by the Clearing House and any Market from time to time.

The term "**CLS Bank**" means CLS Bank International.

The term "**Commodity**" means any kind of property which is capable of being delivered pursuant to an Energy Contract.

The term "**Complaints Procedures**" means the complaints procedures of the Clearing House from time to time.

The term "**Concentration Bank**" means an Approved Financial Institution at which the Clearing House has an account or accounts for the purpose of making transfers between Clearing House Accounts.

The term "**Contract**" means a contract between the Clearing House and a Clearing Member arising in accordance with these Rules, and as amended, subject to netting or aggregation in accordance with these Rules, the terms and conditions of which are the relevant Contract Terms.

The term "**Contract Category**" means any of the three categories of Contract cleared by the Clearing House, namely Energy Contracts, CDS Contracts and FX Contracts.

For the definition of the term "**Contract Position**", see 'Open Contract Position' below.

The term "**Contract Terms**" means all the terms and conditions of a Contract, as applicable, in: (i) (in relation to Energy Contracts only) the general conditions set out in the Procedures; (ii) (in relation to ICE Futures Europe Contracts only) the ICE Futures Europe Rules; (iii) (in relation to ICE Futures US Contracts only) the ICE Futures US Rules; (iv) (in relation to ICE OTC Contracts only) the specific standard terms and eligibility criteria set out in the Procedures for the class of Contract involved, the ICE OTC Participant Agreement between the Clearing Member and the ICE OTC Operator and any relevant ICE OTC Broker Agreement; (v) (except in relation to Energy Contracts which are settled only in cash) if such Energy Contract becomes deliverable, the relevant delivery Procedures for the class of Energy Contract and ICE Futures Europe Rules or ICE Futures US Rules, as applicable; ~~and~~ (vi) for CDS Contracts, the terms specified pursuant to Rule ~~1502~~.1502; and (vii) for FX Contracts, the general conditions set out in the Rules and Procedures.

The term "**Control**" means the rights and powers exercised over a Person by a Controller and its cognate terms shall be construed accordingly.

The term "**Controller**" has the meaning given to that term in section 422 of the FSMA.

The term "**Controller Guarantee**" means a guarantee given by a Controller of a Clearing Member under Rule 201(a)(~~vii~~vi).

The term "**Credit Derivatives Definitions**" means the document of that name dated 2003 published by ISDA as supplemented by the 2009 ISDA Credit Derivatives Determination Committees, Auction Settlement and Restructuring Supplement to the Credit Derivatives Definitions (published on 14 July 2009) and the Credit Derivatives Determinations Committees Rules as published by ISDA from time to time, including as supplemented or modified by incorporation of any additional provisions thereto (howsoever described) under, and as amended by, the Contract Terms for any relevant CDS Contract from time to time.

The term "**Customer**" means a Person who is a client or customer of a Clearing Member (which Customer may, subject to Applicable Law, be acting for one or more other clients or customers for purposes of the clearing of Contracts).

The term "**Customer Account**" means an account (if any) with the Clearing House opened in the name of a Clearing Member relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more Customers (whose transactions the Clearing Member requests be recorded in the Customer Account) and in which such Contracts are recorded and to

which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different Customers or groups of Customers or may be designated for Energy Contracts only, for CDS Contracts only or for ~~CDS~~FX Contracts only. Where an FCM Clearing Member provides services for FCM Customers, it shall have a separate DCM Customer Account for Contracts and monies relating to DCM Customers, Swap Customer Account for Contracts and monies relating to FCM Swap Customers, Non-DCM/Swap Customer Account for Contracts and monies relating to Non-DCM/Swap Customers and General Customer Account for Contracts and monies relating to General Customers. A Customer Account of an FCM Clearing Member must be a DCM Customer Account, Swap Customer Account, Non-DCM/Swap Customer Account or General Customer Account. A Clearing Member which is not an FCM Clearing Member shall have only a single General Customer Account.

The term "**DCM Customer**" means any FCM Customer with respect to any Contract arising as a result of a Transaction in U.S. Futures. A Person may be a DCM Customer in relation to certain Contracts and another category of FCM Customer in relation to other Contracts.

The term "**DCM Customer Account**", in respect of an FCM Clearing Member, means an account (if any) with the Clearing House (in its capacity as a registered U.S. derivatives clearing organization clearing Contracts that are U.S. Futures), the books and records of which are located in the United States of America, opened in the name of the FCM Clearing Member (acting in its capacity as a clearing member in relation to transactions connected with the provision of services to DCM Customers where segregation of related collateral is required in accordance with Section 4d(a) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and entering into market contracts in the capacity of a clearing member in relation to transactions connected with the provision of services to DCM Customers) relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more DCM Customers (whose transactions the Clearing Member requests be recorded in the DCM Customer Account where the same is required in accordance with the segregation provisions of Section 4d(a) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder) and in which such Contracts are recorded and to which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different DCM Customers or groups of DCM Customers.

The term "**Default Amount**" means any of the Energy Default Amount, the CDS Default Amount or the FX Default Amount, as the context requires, and "**Default Amounts**" means any two of the foregoing or all of them, as the context requires.

The term "**Default Notice**" means a notice issued by the Clearing House under Rule 901(c).

The term "**Defaulter**" means a Person in respect of whom a Default Notice has been issued.

The term "**Delivery Facility**" means any Person or facility used for the delivery of Commodities (excluding Transferors and Transferees).

The term "**Deriv/SERV**" means The Depository Trust & Clearing Corporation's system for storage and processing of trade information in relation to CDS, currently known as Deriv/SERV, or any successor thereto.

The term "**Director**" means a director of the Clearing House.

The term "**Disciplinary Panel**" means a disciplinary panel established pursuant to Rule 1003.

The term "**Disclosed Principal Member**" means, where a Clearing Member acts as agent for a disclosed principal in respect of its Energy Contract clearing business and such principal has been admitted by the Clearing House as a Disclosed Principal Member, that principal.

The term "**Dispute**" means any dispute, difference, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, in relation to, or in connection with these Rules or any Contract, including any dispute as to the existence, construction, validity, interpretation, enforceability, termination or breach of these Rules or any Contract.

The term "**EFPs**" means 'exchange for physicals' under the ICE Futures Europe Rules or ICE Futures US Rules, as applicable.

The term "**EFSS**" means 'exchange for swaps' under the ICE Futures Europe Rules or 'exchange for related position' under ICE Futures US Rules, as applicable.

The term "**Eligible Complaint**" means a complaint which is eligible pursuant to the Complaints Procedures.

The term "**Eligible Currencies**" means USD, EUR, GBP and such other currencies as are specified as such by the Clearing House from time to time.

The term "**Encumbrance**" means any claim, charge, mortgage, security, lien, equity, beneficial interest, power of sale, option or other right to purchase, usufruct, hypothecation, retention of title, right of pre-emption or other third party right or security interest of any kind or an agreement to create any of the foregoing.

The term "**Energy Assessment Amount**" means the total amount of all Energy Assessment Contributions payable by Energy Clearing Members pursuant to Rule 1105(a) in respect of an Event of Default.

The term "**Energy Assessment Contribution**" has the meaning set out in Rule 1105(b).

The term "**Energy Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to Energy Contracts.

The term "**Energy Contracts**" means Contracts ~~that are not CDS Contracts~~ [resulting from the clearing of Energy Transactions](#).

The term "**Energy Default Amount**" has the meaning set out in Rule 1103(~~de~~)(~~ii~~).

The term "**Energy Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating only to Energy Contracts.

The term "**Energy Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the Energy Guaranty Fund.

The term "**Energy Transaction**" means an ICE Futures Europe Transaction, ICE Futures US Transaction or an ICE OTC Transaction.

The term "**EUR**" means the euro, or any other lawful currency that is a successor to it.

The term "**Event of Default**" has the meaning set out in Rule 901 and the term "**Default**" shall be construed accordingly.

The term "**Exchange**" means any exchange or similar body duly authorised, regulated, recognised or licensed (to the extent necessary) under Applicable Laws in any jurisdiction, including, but not limited to, any recognised investment exchange, recognised overseas investment exchange, designated investment exchange, designated contract market, exempt commercial market, regulated market, alternative trading system, multilateral trading facility or similar entity.

The term "**Exchange Act**" means the U.S. Securities Exchange Act of 1934.

The term "**FX Failure To Pay**" means the failure of the Clearing House to make, when due, any payment (including the transfer of Pledged Collateral) pursuant to Part 3 of the Rules in relation to FX Contracts required to be made by it if such failure is not remedied on or before the third Business Day after notice of such failure is given to it by the FX Clearing Member to which such payment is due, unless such failure to pay constitutes a Force Majeure Event affecting the Clearing House.

The term "**FCM**" means a Person registered as a futures commission merchant ~~registered as such~~ with the CFTC.

The term "**FCM Clearing Member**" means a Clearing Member that is an FCM.

The term "**FCM Customer**" means any Customer that is a customer (as defined in CFTC Rule ~~1.3(k)~~39.2) of an FCM Clearing Member with respect to any Contract in one or more account classes (as defined in CFTC Rule 190.01) (other than a non-public customer as defined in CFTC Rule 190.01); provided that for the avoidance of doubt the term "FCM Customer" will include a Customer of an FCM Clearing Member (which Customer may, but need not, be an Affiliate of that FCM Clearing Member or another Clearing Member) that is itself acting on behalf of one or more customers (other than non-public customers, as so defined) with respect to a Contract.

The term "**Financial Collateral Regulations**" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (which implement Directive 2002/47/EC on financial collateral arrangements).

The term "**Financial Emergency**" means, with respect to any Clearing Member, any situation in which the financial or operational condition of such Clearing Member is not or is likely not to be, in either case determined at the discretion of the Clearing House, adequate for such Clearing Member to meet its obligations (including, without limitation, its obligations to comply with these Rules) or to engage in business, or is such that it would not be in the best interests of the Clearing House or the marketplace for such Clearing Member to continue to be a Clearing Member.

The term "**Financial Indebtedness**" means any indebtedness for or in respect of: (a) monies borrowed; (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent; (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument; (d) the amount of any

liability in respect of any lease or hire purchase contract which would, in accordance with applicable accounting standards, be treated as a finance or capital lease; (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis); (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and (h) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in (a) to (g) above.

The term "**Financially-Settled FX Contract**" means an FX Contract which provides for cash settlement in a single predetermined currency on the relevant FX Settlement Date based on the difference between the values on the FX Settlement Date of: (i) the purchase of an agreed amount in one currency by the Reference Currency Buyer from the Reference Currency Seller; and (ii) the purchase by the Reference Currency Seller of an agreed amount in a different currency from the Reference Currency Buyer. Each leg of an FX Swap may be an FX Transaction which, if eligible for Clearing and Cleared, would give rise to two Financially-Settled FX Contracts.

The term "**Force Majeure Event**" means any occurrence outside the control of the Clearing House or the relevant Clearing Member, as applicable, which hinders or prevents the performance in whole or in part of any of its obligations hereunder (other than, for an Energy Contract or Financially-Settled FX Contract or any obligation relating to an Energy Contract or Financially-Settled FX Contract, an obligation to make payments in an Eligible Currency) (and, in relation only to any obligation of the Clearing House or a CDS Clearing Member under the Master Agreement that is part of the relevant Contract Terms which obligation has not yet fallen due, such an occurrence which would hinder or prevent performance in whole or in part of any of its obligations thereunder were the occurrence or effects of the occurrence to continue until the date of performance of the relevant obligation), including, but not limited to, fire, flood, storm, earthquake, explosion, war, hostilities, accidents howsoever caused, strike, labour dispute, lockout, work to rule or other industrial dispute, lack of energy supply, criminal action, terrorist action, civil unrest, embargoes, acts of God, acts of a public enemy, unavailability or impairment of computer or data processing facilities, the actions or omissions of third Persons (including, without limitation, Deriv/SERV, CLS Bank, Delivery Facilities, Approved Financial Institutions, bank or electronic transfer systems, Exchanges, Clearing Organisations, Governmental Authorities and Regulatory Authorities, but excluding the Clearing House in the case of a Force Majeure Event affecting the Clearing House and a Clearing Member, its Customers, Transferors and Transferees in the case of a Force Majeure Event affecting a Clearing Member); and, for CDS Clearing Members and the Clearing House in relation to CDS Clearing Members only, "Illegality" as defined in the 2002 ISDA Master Agreement published by ISDA; or alternatively and to the exclusion of the foregoing, in relation to delivery of a Commodity pursuant to any Energy Contract, any event that is an event of force majeure (or similar event, howsoever defined) for that Energy Contract under the Contract Terms or Market Rules.

The term "**FSA**" means the UK's Financial Services Authority or any successor entity.

The term "**FSA Rules**" means all rules, requirements, directions, guidance, examples, waivers and other similar materials published or otherwise made by the FSA from time to time.

The term "**FSMA**" means the UK's Financial Services and Markets Act 2000.

The term "**Future**" means an Energy Contract or FX Contract subject to Clearing by the Clearing House that is a 'future' or 'contract for differences etc.' under articles 84 or 85 of the FSMA (Regulated Activities) Order 2001 or any economically similar Contract that is not an investment.

The term "**FX**" means foreign exchange.

The term "**FX Assessment Amount**" means the total amount of all FX Assessment Contributions payable by FX Clearing Members pursuant to Rule 1107 in respect of an Event of Default.

The term "**FX Assessment Contribution**" has the meaning set out in Rule 1107.

The term "**FX Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to FX Contracts.

The term "**FX Contract**" means a Contract that is a foreign exchange contract that is subject to Clearing pursuant to these Rules and of a nature as specified in Circulars issued by the Clearing House from time to time.

The term "**FX Default Amount**" has the meaning set out in Rule 1103(e)(iii).

The term "**FX Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating to the Clearing of FX Contracts.

The term "**FX Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the FX Guaranty Fund.

The term "**FX Mark-to-Market Interest**" means interest calculated by reference to the FX Mark-to-Market Margin Balance, determined and payable as set out in the Procedures.

The term "**FX Mark-to-Market Margin**" means the Permitted Cover required to be provided to the Clearing House by a Clearing Member or by the Clearing House to a Clearing Member in respect of FX Contracts pursuant to Rule 503(i) and the Procedures.

The term "**FX Mark-to-Market Margin Balance**", in respect of an FX Contract on any day, means the sum of all FX Mark-to-Market Margin delivered by the relevant FX Clearing Member in respect of such FX Contract to the Clearing House less all FX Mark-to-Market Margin delivered by the Clearing House in respect of such FX Contract to such FX Clearing Member, as determined at the close of business on such day.

The term "**FX Original Margin**" means the Permitted Cover required to be provided to the Clearing House as security for the obligations of a Clearing Member in respect of FX Contracts pursuant to Part 5 and includes, where the context so requires, any proceeds of realisation of the same.

The term "**FX Settlement Date**" means (a) in relation to a Financially-Settled FX Contract, means the date on which the Reference Currency Buyer or Reference Currency Seller is obliged to make payment to the other party in order to discharge its obligations under the contract, which date may be expressed as a settlement, termination or payout date and (b) in relation to an FX Transaction submitted for Clearing, the date set out in the relevant FX Confirmation.

The term "FX Swap" means an FX transaction that is a 'contract for differences' under article 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (or any economically similar transaction that is not an investment). An FX Swap may be submitted for Clearing as two separate FX Transactions or part of an FX Swap may be submitted for Clearing as a single FX Transaction.

The term "FX Transaction" means a foreign exchange transaction in the form of a non-deliverable forward of a nature which, pursuant to the Procedures and Circulars issued by the Clearing House from time to time, is eligible for Clearing pursuant to these Rules and the Procedures.

The term "**GBP**" means the lawful currency from time to time of the United Kingdom.

The term "**General Customer**" means either: (i) a Customer of a Clearing Member that is not an FCM Clearing Member; or (ii) for an FCM Clearing Member, a Customer that is not a DCM Customer, FCM Swap Customer or Non-DCM/Swap Customer. A Person may be a General Customer of an FCM Clearing Member in relation to certain Transactions or Contracts and another category of FCM Customer of an FCM Clearing Member in relation to other Transactions or Contracts.

The term "**General Customer Account**" means either: (i) the Customer Account of a Clearing Member that is not an FCM Clearing Member; or (ii) for an FCM Clearing Member, a Customer Account used for Contracts or monies that do not relate to DCM Customers, FCM Swap Customers or Non-DCM/Swap Customers.

The term "**Governmental Authority**" means any Regulatory Authority and any national, federal, supranational, state, regional, provincial, local or other government, government department, ministry, governmental or administrative authority, regulator, agency, commission, secretary of state, minister, court, tribunal, judicial body or arbitral body or any other Person exercising judicial, executive, interpretative, enforcement, regulatory, investigative, fiscal, taxing or legislative powers or authority anywhere in the world with competent jurisdiction.

The term "**Guaranty Funds**" means the Energy Guaranty Fund, [the CDS Guaranty Fund](#) and the ~~CDS~~[FX](#) Guaranty Fund.

The term "**Guaranty Fund Contribution**" means Permitted Cover transferred by a Clearing Member to the Clearing House as a contribution to the Guaranty Fund pursuant to Part 11 that has not been applied pursuant to Part 11 and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Guaranty Fund Period**" ~~(i)~~ [\(i\)](#) for the Energy Guaranty Fund, means a three-month period for which the total amount of Energy Guaranty Fund Contributions for the Energy Guaranty Fund is fixed (subject to any termination or suspension of any Energy Clearing Member's membership or status as an Energy Clearing Member, new Energy Clearing Members making Energy Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 11); ~~or;~~ [\(ii\)](#) for the CDS Guaranty Fund, means a period for which the total amount of CDS Guaranty Fund Contributions for the CDS Guaranty Fund is fixed pursuant to the Procedures (subject to any termination or suspension of any CDS Clearing Member's membership or status as a CDS Clearing Member, new CDS Clearing Members making CDS Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 11); ~~or~~ [\(iii\)](#)

for the FX Guaranty Fund, means a period for which the total amount of FX Guaranty Fund Contributions for the FX Guaranty Fund is fixed pursuant to the Procedures (subject to any termination or suspension of any FX Clearing Member's membership or status as an FX Clearing Member, new FX Clearing Members making FX Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 11);

The term "**Guidance**" means guidance issued by the Clearing House pursuant to Rule 109(f).

The term "**HM Treasury**" means Her Majesty's Treasury in the UK and any successor thereto.

The term "**ICE Commodity Markets**" means ICE U.S. OTC Commodity Markets, LLC, a company incorporated in Delaware.

The term "**ICE Futures Europe**" means ICE Futures Europe (a company registered in England and Wales with registration number 01528617) and the recognised investment exchange (as defined in the FSMA) known as and operated by ICE Futures Europe.

The term "**ICE Futures Europe Block Contract**" means a Contract resulting from an ICE Futures Europe Block Transaction.

The term "**ICE Futures Europe Block Trade Facility**" means the block trade facility operated by ICE Futures Europe in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Block Transaction**" means an EFS, EFP or ICE Futures Europe Block Trade Facility transaction reported through ICE Futures Europe in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Contract**" means an ICE Futures Europe Block Contract or an ICE Futures Europe Matched Contract.

The term "**ICE Futures Europe Matched Contract**" means a Contract resulting from an ICE Futures Europe Matched Transaction.

The term "**ICE Futures Europe Matched Transaction**" means a transaction that occurs or occurred on the ICE Futures Europe exchange in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Rules**" means the rules of ICE Futures Europe and, except when a particular rule is cross-referenced herein, has the same meaning as that given to the term "*Regulations*" in the regulations of ICE Futures Europe.

The term "**ICE Futures Europe Transaction**" means an ICE Futures Europe Matched Transaction or an ICE Futures Europe Block Transaction.

The term "**ICE Futures US**" means ICE Futures U.S. Inc. and the designated contract market operated thereby.

The term "**ICE Futures US Block Contract**" means a Contract resulting from an ICE Futures US Block Transaction.

The term "**ICE Futures US Block Trade Facility**" means the block trade facility operated by ICE Futures US in accordance with the ICE Futures US Rules.

The term "**ICE Futures US Block Transaction**" means an EFS, EFP or ICE Futures US Block Trade Facility transaction reported through ICE Futures US in accordance with the ICE Futures US Rules.

The term "**ICE Futures US Contract**" means an ICE Futures US Block Contract or an ICE Futures US Matched Contract.

The term "**ICE Futures US Matched Contract**" means a Contract resulting from an ICE Futures US Matched Transaction.

The term "**ICE Futures US Matched Transaction**" means a transaction that occurs or occurred on the ICE Futures US exchange in accordance with the ICE Futures US Rules.

The term "**ICE Futures US Rules**" means the bylaws and rules of ICE Futures US.

The term "**ICE Futures US Transaction**" means an ICE Futures US Matched Transaction or an ICE Futures US Block Transaction.

The term "**ICE Group**" means the Clearing House and all its Affiliated Persons.

The term "**ICE Inc.**" means IntercontinentalExchange, Inc., a company incorporated in Delaware with registered file number of 2497808.

The term "**ICE OTC**" means the market operated by the ICE OTC Operator.

The term "**ICE OTC Block Contract**" means a Contract resulting from an ICE OTC Block Transaction.

The term "**ICE OTC Block Transaction**" means a transaction reported through ICE OTC without a trade having been matched by ICE OTC.

The term "**ICE OTC Broker Agreement**" means an agreement between the ICE OTC Operator and an ICE OTC broker in the form approved by the ICE OTC Operator from time to time, relating to that broker's access to ICE OTC.

The term "**ICE OTC Contract**" means an ICE OTC Matched Contract or an ICE OTC Block Contract.

The term "**ICE OTC Matched Contract**" means a Contract resulting from an ICE OTC Matched Transaction.

The term "**ICE OTC Matched Transaction**" means a transaction that occurs or occurred on ICE OTC in accordance with applicable ICE OTC Participant Agreements and, where applicable, any ICE OTC Broker Agreement.

The term "**ICE OTC Operator**" means either: (i) ICE Commodity Markets, in connection with any Contract entered into, transaction submitted or other circumstance relating to ICE OTC occurring on or after the ICE OTC Changeover Time; or (ii) ICE Inc., in connection with any Contract entered into, transaction submitted or other circumstance relating to ICE OTC occurring prior to the ICE OTC Changeover Time. For the purposes of this definition, the term "ICE OTC Changeover Time" means the time notified as such by the Clearing House in a

Circular, at which ICE Inc. will cease to be the ICE OTC Operator and ICE Commodity Markets will become the new ICE OTC Operator.

The term "**ICE OTC Participant**" means a Clearing Member or Customer that has entered into an ICE OTC Participant Agreement.

The term "**ICE OTC Participant Agreement**" means an agreement between the ICE OTC Operator and an ICE OTC Participant, in the form approved by the ICE OTC Operator from time to time, relating to the ICE OTC Participant's access to ICE OTC.

The term "**ICE OTC Transaction**" means an ICE OTC Matched Transaction or an ICE OTC Block Transaction.

The term "**ISDA**" means the International Swaps and Derivatives Association, Inc. and any successor thereto.

The term "**Initial Margin**" means Portfolio Risk Margin, Physical Settlement Margin or other margin transferred in relation to CDS Contracts, including pursuant to Rule 502(f).

The term "**Initial Payment**" means, in relation to a CDS Contract, the payment, if any, specified as the "Initial Payment 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 usually not later than 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.

The term "**LCIA**" means the London Court of International Arbitration or any successor thereto.

The term "**LCIA Rules**" means the arbitration rules of the London Court of International Arbitration.

The term "**Long**", in respect of an Option, refers to the positions of Persons entitled to exercise Options.

The term "**Margin**" means Original Margin, [FX Original Margin](#), Variation Margin, [FX Mark-to-Market Margin](#), Initial Margin, Portfolio Risk Margin, Physical Settlement Margin, Mark-to-Market Margin and other margin, security or collateral provided (by way of title transfer collateral pursuant to a Clearing Membership Agreement or as collateral pursuant to a Pledged Collateral Addendum) to the Clearing House pursuant to the Rules or the Procedures and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Mark-to-Market Margin**" means the Permitted Cover required to be provided by Clearing Members to the Clearing House related to the market value of a Clearing Member's Open Contract Positions relating to CDS Contracts, as determined pursuant to Rule 503(f)(ii).

The term "**Mark-to-Market Price**" has the meaning given in Rule 503(g).

The term "**Market**" means ICE Futures Europe, ICE Futures US, ICE OTC and any other market for which the Clearing House provides or may provide Clearing services (and for the purposes of Clearing Membership Agreements for CDS Clearing Members only, also includes the over-the-counter market for CDS).

The term "**Market Delivery Settlement Price**" in respect of a Set of Energy Contracts or an Energy Contract, means the delivery or cash settlement price determined pursuant to Rule 701.

The term "**Market Rules**" means the rules, regulations, procedures of, and agreements governing, a Market, including the ICE Futures Europe Rules, ICE Futures US Rules, and ICE OTC Participant Agreements, ICE OTC Broker Agreements and the procedures of each of ICE Futures Europe, ICE Futures US and the ICE OTC Operator.

The term "**Master Agreement**" has the meaning given to that term in Rule 1502(a)(i).

The term "**Membership Category**" means any of the three membership categories of Energy Clearing Member, CDS Clearing Member and FX Clearing Member.

The term "**Monetary Default**" means a Clearing Member failing to transfer, deposit with, or pay to, the Clearing House in full any Margin, Guaranty Fund Contribution, amount due under or in connection with any Contract or other amount due to the Clearing House or required by or pursuant to Market Rules.

The term "**Nominated Account**" means a Nominated Customer Account or a Nominated Proprietary Account.

The term "**Nominated Customer Account**" means an account (if any) of a Clearing Member at an Approved Financial Institution recognised by the Clearing House for administrative convenience only and used by the Clearing Member for the business of its segregated Customers.

The term "**Nominated Proprietary Account**" means an account of a Clearing Member at an Approved Financial Institution that is not a Nominated Customer Account.

The term "**Non-DCM/Swap**" means, in relation to an FCM Clearing Member, a Transaction or Contract that is not a U.S. Future or a Swap (as described in paragraphs (i) or (ii) of the definition thereof), which will include without limitation an ICE Futures Europe Transaction, an ICE Futures Europe Contract and any other Transaction or Contract made on or subject to the rules of any other "foreign board of trade" as defined in the CEA and will not include transactions in "security-based swaps" as defined in the CEA.

The term "**Non-DCM/Swap Customer**", in respect of an FCM Clearing Member, means a Customer that is not a DCM Customer or a Swap Customer with respect to a Transaction or Contract and which is required by Applicable Laws to be treated or is otherwise treated by the FCM Clearing Member as a Non-DCM/Swap Customer. A Person may be a Non-DCM/Swap Customer in relation to certain Transactions or Contracts and another category of FCM Customer in relation to other Transactions or Contracts.

The term "**Non-DCM/Swap Customer Account**", in respect of an FCM Clearing Member, means a Customer Account that is not a DCM Customer Account or Swap Customer Account in relation to which the Clearing Member: (i) acts in its capacity as a clearing member in relation to Non-DCM/Swaps (other than Permitted Co-mingled Contracts) connected with the provision of services to Non-DCM/Swap Customers; and (ii) enters into market contracts in the capacity of a clearing member in relation only to transactions connected with the provision of services to Non-DCM/Swap Customers.

The term "**Non-FCM Clearing Member**" means a Clearing Member that is not an FCM Clearing Member.

The term "**OFT**" means the UK's Office of Fair Trading and any successor thereto.

The term "**Open Contract Position**", in respect of each Set of Contracts for a Clearing Member from time to time, comprises the Contract Position and, for Energy Contracts only, the Net Amount Position, where:

(a) *Contract Position* means:

- (i) in relation to a Proprietary Account for [Energy Contracts that are](#) Futures: where a Clearing Member is party to one or more Futures Contracts of a particular Set, the number that equals the netted sum of buy and sell obligations pursuant to those Contracts;
- (ii) in relation to a Proprietary Account for [Energy Contracts that are](#) Options: where a Clearing Member is party to one or more Options Contracts of a particular Set, the number that equals the netted sum of Long and Short obligations pursuant to those Contracts;
- (iii) in relation to a Customer Account for [Energy Contracts that are](#) Futures: where a Clearing Member is party to one or more Futures Contracts of a particular Set, the gross number of buy positions and the gross number of sell positions pursuant to those Contracts (subject to any netting pursuant to Rule 406);
- (iv) in relation to a Customer Account for [Energy Contracts that are](#) Options: where a Clearing Member is party to one or more Options Contracts of a particular Set, the gross number of Long positions and the gross number of Short positions pursuant to those Contracts (subject to any netting pursuant to Rule 406);
- (v) in relation to a Proprietary Account for CDS Contracts: where a Clearing Member is party to one or more CDS Contracts of a particular Set, the number that equals the aggregate of all Floating Rate Payer Calculation Amounts for (and as defined pursuant to) each CDS Contract of that Set where it acts as Selling Clearing Member minus the aggregate of all Floating Rate Payer Calculation Amounts for each CDS Contract of that Set where it acts as Buying Clearing Member, provided that Matched CDS Contracts will be held and calculated on a gross basis; ~~and~~
- (vi) in relation to a Customer Account for CDS Contracts: where a Clearing Member is party to one or more CDS Contracts of a particular Set, the gross number of all Floating Rate Payer Calculation Amounts for (and as defined pursuant to) each CDS Contract of that Set where it acts as Selling Clearing Member; and the gross number of all Floating Rate Payer Calculation Amounts for each CDS Contract of that Set where it acts as Buying Clearing Member, subject in either case to any netting pursuant to Rule 406, provided that Matched CDS Contracts will be held and calculated on a gross basis;
- (vii) in relation to a Proprietary Account for FX Contracts: where a Clearing Member is party to one or more FX Contracts of a particular Set, both the gross Financially-Settled FX Contracts to which the Clearing Member is party as Reference Currency Buyer and the gross Financially-Settled FX Contracts to which the Clearing Member is party as Reference Currency Seller for a particular Set, without prejudice to any requirement for Margin to be called based on the position derived from the Financially-Settled FX Contracts to which the Clearing Member is party as Reference Currency Buyer being netted against the Financially-Settled FX Contracts to which the Clearing Member is party as Reference Currency Seller (or vice versa) for a particular Set; and
- (viii) in relation to a Customer Account for FX Contracts: where a Clearing Member is party to one or more FX Contracts of a particular Set, both the gross

Financially-Settled FX Contracts where the Clearing Member is identified as Reference Currency Buyer and the gross Financially-Settled FX Contracts where the Clearing Member is identified as Reference Currency Seller for a particular Set, without prejudice to any requirement for Margin to be called based on the position derived from the Financially-Settled FX Contracts where the Clearing Member is identified as Reference Currency Buyer being netted against the Financially-Settled FX Contracts where the Clearing Member is identified as Reference Currency Seller (or vice versa) for a particular Set to the extent permitted under these Rules and the Procedures for the Customer Account in question.

in any case as calculated by the Clearing House from time to time based on data received by the Clearing House in respect of Contracts entered into by the Clearing Member up to the close of business on the immediately preceding Business Day (or such other period determined by the Clearing House at its discretion); and

- (b) *Net Amount Position* for Energy Contracts, means the price at which the Open Contract Position is recorded on the Clearing House's books based on Settlement Prices for each Contract.

The term "**Opening Days**" means the days upon which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Opening Hours**" means the hours during which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Option**" means an Energy Contract subject to Clearing by the Clearing House that is an 'option' under article 83 of the FSMA (Regulated Activities) Order 2001 or any economically similar Contract that is not an investment.

The term "**Original Margin**" means the Permitted Cover required to be provided (by way of title transfer collateral pursuant to a Clearing Membership Agreement or as collateral pursuant to a Pledged Collateral Addendum) to the Clearing House as security for the obligations of a Clearing Member in respect of Energy Contracts pursuant to Part 5 and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Permitted Co-mingled Contract**" means, with respect to an FCM Clearing Member, (i) a Contract that is a Non-DCM/Swap which has been designated by the Clearing House by Circular and approved by the appropriate Regulatory Authority or Regulatory Authorities to be recorded in the Swap Customer Account ~~or the DCM Customer Account, as applicable,~~ rather than the Non-DCM/Swap Customer Account; and (ii) a Contract that would otherwise be a U.S. Future pursuant to paragraph (i) of the definition thereof but which has been designated by the Clearing House by Circular or the second following sentence and which in accordance with Applicable Laws may be recorded in the Swap Customer Account rather than the DCM Customer Account. The term "**Co-mingled Futures/Options Contracts**" means Contracts referred to in paragraph (ii) of the preceding sentence. Initially, the Co-mingled Futures/Options Contracts shall, to the extent permissible under Applicable Laws, include Contracts of such Sets as are specified in the Procedures.

The term "**Permitted Cover**" means assets or cash determined by the Clearing House as permissible for Margin or Guaranty Fund Contributions, including cash in Eligible Currencies and includes, where the context so requires, any such assets transferred to the Clearing House and any proceeds of realisation of the same.

The term "**Person**" means any individual, partnership, firm, body corporate, association, trust, unincorporated organisation or other entity.

The term "**Physical Settlement Margin**" means the Permitted Cover required to be provided by Clearing Members related to the risk and size of a Clearing Member's obligations relating to physical settlement of a CDS Contract, as determined pursuant to Rule 503(f)(i).

The term "**Pledged Collateral**" means Margin (or Permitted Cover in respect thereof) provided by a Clearing Member in respect of a Pledged Collateral Account by way of security interest pursuant to a Pledged Collateral Addendum.

The term "**Pledged Collateral Account**" means a Proprietary Account or Customer Account in respect of which the Clearing House has designated ([including by way of Rule 1603\(c\)](#)) that Margin (or Permitted Cover in respect thereof) is to be provided by a Clearing Member by way of security interest in accordance with a Pledged Collateral Addendum rather than by way of title transfer pursuant to the Clearing Membership Agreement.

The term "**Pledged Collateral Addendum**" means a Pledged Collateral Addendum to the Clearing Membership Agreement entered into between a Clearing Member and the Clearing House.

The term "**Portfolio Risk Margin**" means the Permitted Cover required to be provided by Clearing Members to the Clearing House related to the size and risk of a Clearing Member's Open Contract Positions in relation to CDS Contracts, as determined pursuant to Rule 503(f)(i).

The term "**Position Holder**" has the meaning set out in Rule 407.

The term "**Position Limit**" of any Clearing Member means the limit(s) on Open Contract Positions established by the Clearing House pursuant to Rule 601.

The term "**President**" means the president of the Clearing House from time to time.

The term "**Procedures**" means the procedures of the Clearing House from time to time, as amended pursuant to Rule 109(e).

The term "**Proprietary Account**" means an account with the Clearing House, which is not a Customer Account, opened in the name of a Clearing Member in which Contracts made by the Clearing Member are recorded (whether directly or indirectly) and to which monies in respect of such Contracts are credited and debited, which may be divided for administrative convenience only into sub-accounts or may be designated for Energy Contracts only ~~or~~ for CDS Contracts only [or for FX Contracts only](#).

The term "**Put**", [in respect of an Energy Contract](#), means an Option pursuant to which the Person with a Long position has the right to sell a Future or Futures to the Person with a Short position at the Strike Price and at a specified time.

The term "**Reference Currency Buyer**" means, (i) in respect of an FX Transaction the person identified as the Reference Currency Buyer in the Clearing House's records in relation to that Transaction; and (ii) in respect of an FX Contract, the Clearing House if the Clearing Member who is party to that FX Contract (or its Customer) was the Reference Currency Seller under the corresponding FX Transaction, or the Clearing Member who (or whose Customer) was party to the corresponding FX Transaction as Reference Currency Buyer.

The term "**Reference Currency Seller**" means, (i) in respect of an FX Transaction the person identified as the Reference Currency Seller in the Clearing House's records in relation to that Transaction; and (ii) in respect of an FX Contract, the Clearing House if the Clearing Member who is party to that FX Contract (or its Customer) was the Reference Currency Buyer under the corresponding FX Transaction, or the Clearing Member who (or whose Customer) was party to the corresponding FX Transaction as Reference Currency Seller.

The term "**Reference Price**" in respect of Energy Contracts and a Set of Options or an Option, means the reference price determined by the Clearing House on the basis of data provided by the relevant Market or otherwise pursuant to Rule 802.

The term "**Regulatory Authority**" means any Governmental Authority which exercises a regulatory or supervisory function under the laws of any jurisdiction in relation to financial services, the financial markets, Exchanges or Clearing Organisations (including, without limitation, the FSA, any Person given powers under the FSMA, the Bank of England, HM Treasury, the OFT, the CFTC and the SEC).

The term "**Representative**" means any Person that carries out or is responsible for (or purports to carry out or be responsible for) any of the functions of another Person, including without limitation any director, partner, officer, executive, employee, Affiliate, Customer, contractor or agent of that other Person.

The term "**Rule Change**" means any amendment, alteration, restatement, addition, deletion or other change to the Rules made in accordance with Rule 109.

The term "**Rules**" means these rules, together with the Procedures, as interpreted in accordance with Guidance and Circulars.

The term "**SEC**" means the Securities and Exchange Commission of the United States of America, or any successor thereto.

The term "**Seller**" means, in relation to deliveries under Part 7, the Clearing Member or the Clearing House, whichever is obliged to make delivery of a Commodity (whether itself or through another Person).

The term "**Selling Clearing Member**" means: ~~-(a), in respect of a Contract: (a) except in circumstances in which sub-paragraph (c) below applies,~~ the Clearing Member that was, before formation of a Contract for Clearing, party to the corresponding Transaction as seller (or, in relation to CDS Contracts, as protection seller); ~~or (b) or, in relation to Financially-Settled FX Contract, Reference Currency Seller); or (b) except in circumstances in which sub-paragraph (c) below applies,~~ where a Non-FCM Clearing Member's Customer is party to the corresponding Transaction as seller ~~or~~ protection seller or Reference Currency Seller (as applicable), the Clearing Member that provides clearing services to that Customer in relation to the Transaction in question (or, for Energy Contracts, if more than one such Clearing Member exists, the

Clearing Member that was selected by the Customer for the initial booking of that Transaction); ~~or~~ (c) where an FCM Customer is a party to the corresponding Transaction as seller or protection seller (as applicable), the FCM Clearing Member clearing on behalf of such FCM Customer; or (d) in relation to Energy Contracts only and overriding any designation that would occur pursuant to (a), (b) or (c) above, where one Clearing Member that would be a Selling Clearing Member in accordance with (a), (b) or ~~(bc)~~ above has allocated an Energy Transaction to another Clearing Member for clearing in accordance with Market Rules, the Clearing Member to whom such Energy Transaction is allocated.

The term "Sequential FX Guaranty Fund Depletion" in respect of a particular FX Clearing Member that is not a Defaulter, means circumstances in which: (i) there have been two or more Events of Default relating to different FX Clearing Members within a period of 20 or fewer Business Days; (ii) FX Guaranty Fund Contributions have been applied in respect of at least two such Events of Default; and (iii) the total amount that the FX Clearing Member has paid the Clearing House to replenish its FX Guaranty Fund Contributions exceeds the total amount of FX Guaranty Fund Contributions standing to the credit of that FX Clearing Member in the Clearing House's accounts prior to the first Event of Default.

The term "**Set**" means:

(a) for Futures Contracts: a set or class of Contracts that are identical as to their terms (including the Commodity to which such Contract relates and contract date; but excluding any amount paid or to be paid for entry into the Contract and any amount paid or to be paid in respect of settlement or delivery of a Contract);

(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); and

(e) for Financially-Settled FX Contracts: a set of Contracts that are identical as to their terms and economic characteristics (including the currency pair to which such Financially-Settled FX Contracts relate and their FX Settlement Date; but excluding any amount paid or to be paid for entry into or writing of the Financially-Settled FX Contract, any amount paid or to be paid in respect of settlement under the Financially-Settled FX Contract and the position of the FX

[Clearing Member or Clearing House as Reference Currency Buyer or Reference Currency Seller](#)).

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 the ICE Futures US Rules (for Contracts traded on ICE Futures US) or by the Clearing House in coordination with the ICE OTC Operator (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 "**Swap**" means (i) a "swap" as defined in the CEA and the Exchange Act, (ii) to the extent permitted to be held in an account with Swaps under Applicable Law, a "security-based swap" as defined in the CEA and the Exchange Act, and (iii) Permitted Co-mingled Contracts ~~recorded in the Swap Customer Account.~~

The term "**Swap Customer**", in respect of an FCM Clearing Member, means any FCM Customer with respect to any Contract arising as a result of a Transaction that is a Swap. A Person may be a Swap Customer in relation to certain Contracts and another category of FCM Customer in relation to other Contracts.

The term "**Swap Customer Account**", in respect of an FCM Clearing Member, means an account (if any) with the Clearing House (in its capacity as a registered U.S. derivatives clearing organisation clearing Swaps), the books and records of which are located in the United States of America, opened in the name of the FCM Clearing Member (acting in its capacity as a clearing member in relation to transactions connected with the provision of services to Swap Customers where segregation of related collateral is required in accordance with Section 4d(f) of the CEA and insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and entering into market contracts in the capacity of a clearing member in relation to transactions connected with the provision of services to Swap Customers) relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more Swap Customers (whose transactions the Clearing Member requests be recorded in the Swap Customer Account where the same is required in accordance with the segregation provisions of

Section 4d(f) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder) and in which such Contracts are recorded and to which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different Swap Customers or groups of Swap Customers.

The term "**Termination Date**" ~~means~~ **Close-Out Deadline Date** means: (i) in respect of a termination of FX clearing membership under Rule 209(c)(i) or Rule 209(f)(i), the date falling 20 Business Days after the Termination Notice Time; (ii) in respect of a termination of FX clearing membership under Rule 209(c)(v) or Rule 209(f)(v), in respect of FX Contracts only, the day falling 10 Business Days after the relevant Termination Notice Time; or (iii) notwithstanding (i) and (ii), in any case, such later day as the Clearing House may at its discretion permit and notify in writing to the affected FX Clearing Member.

The term "**Termination Close-Out Time**" means the time at which an FX Clearing Member that is terminating its FX clearing membership ceases to be party to any open FX Contracts with the Clearing House.

The term "**Termination Date**": means: (A) (x) in respect of an FX Clearing Member that is not a CDS Clearing Member or an Energy Clearing Member and (y) for any other Clearing Member, in respect of its FX clearing membership only, the later of: (i) where applicable, the Termination Close-Out Deadline Date; (ii) the date of the Termination Close-Out Time; or (iii) the time of expiry of the termination notice period; or (B) in respect of the membership of a CDS Clearing Member or Energy Clearing Member except as set out in (A), the date on which a Clearing Member's membership of the Clearing House terminates.

The term "**Termination Notice Time**", in respect of FX clearing membership, means the time of service by an FX Clearing Member of a notice of termination under Rule 209(c)(i) or (v) or Rule 209(f)(i) or (v).

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 Futures US Transaction, an ICE OTC Transaction ~~or~~, a Bilateral CDS Transaction or an FX 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.

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 "**U.S. Future**" means ~~(i)~~ a Future or an Option that is an option on a Future, in either case that is traded on or subject to the rules of a designated contract market under Section 5 of the CEA ~~and (ii) Permitted, other than~~ Co-mingled Futures/Options Contracts ~~recorded in the DCM Customer Account~~. For the avoidance of doubt, U.S. Futures will not include Swaps.

The term "**Variation Margin**" means the cash required to be provided (by way of title transfer collateral pursuant to a Clearing Membership Agreement or as collateral pursuant to a Pledged Collateral Addendum) 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 amended, 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.
- (d) When a reference is made in these Rules to a rule, part, paragraph or procedure, such reference is to a Rule, Part, paragraph, Procedure of, or made under these Rules, unless otherwise indicated.
- (e) The headings in these Rules are for reference purposes only and do not affect in any way the meaning or interpretation of these Rules.
- (f) To the extent there is any conflict between any of the provisions of these Rules, a Clearing Membership Agreement, the Master Agreement, the Procedures (including all exhibits, attachments and appendices thereto), any Guidance or Circular or Market Rules or between any of the foregoing, the provision of the first document specified in the paragraphs below shall prevail, control, govern and be binding upon the parties:
 - (i) these Rules (excluding the Procedures, Contract Terms and any other document incorporated by reference) (except Rules 301(h), (i), (j) or (k) only in the event of any conflict between any such provision on the one hand and any provision of the Contract Terms of a CDS Contract relating to tax on the other hand, in

which case the relevant provision of the Contract Terms of the CDS Contract shall prevail; and except as provided in Rule 1518);

- (ii) the Clearing Membership Agreement;
 - (iii) in the case of CDS Contracts only, the CDS Procedures;
 - (iv) in the case of CDS Contracts only, the Master Agreement;
 - (v) in the case of Energy Contracts traded on ICE Futures Europe only, in relation to those aspects of the ICE Futures Europe Rules that include Contract Terms only, the Market Rules;
 - (vi) in the case of Energy Contracts traded on ICE Futures US only, in relation to those aspects of the ICE Futures US Rules that include Contract Terms only, the Market Rules;
 - (vii) in the case of Energy Contracts only, the Contract Terms other than those set out in these Rules or Market Rules (except as set out in Rule 102(f)(i)) (excluding the Rules and any other document incorporated by reference);
 - (viii) in the case of Energy and FX Contracts only, the Procedures (excluding any Contract Terms set out in the Procedures);
 - (ix) Market Rules other than those referred to in (v) above (excluding any document described in Rule 102(f)(i) to ~~viii~~vii) incorporated by reference);
 - (x) any Guidance; and
 - (xi) any Circular.
- (g) [Not used].]
- (h) All references to timings or times of day are to London (UK) times, unless indicated otherwise. Business hours shall occur only on Business Days and shall be construed accordingly.
- (i) All references to "**tax**" shall include, without limitation, any tax, levy, impost, duty, or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying the same).
- (j) Reference to the "**conduct**" of a Clearing Member includes any act, omission, conduct or behaviour in relation to the Rules. For the purposes of determining a Clearing Member's liability for any such conduct (referred to in Rule 111 as a "disciplinary matter"), a Clearing Member shall be responsible for all conduct of that Clearing Member's Representatives, including conduct of a Clearing Member's Customer and such Customer's clients, as if that conduct were the conduct of the Clearing Member itself; but notwithstanding the attribution of such conduct to the Clearing Member, the Representative responsible for such conduct (where relevant) may also be liable to be sanctioned for their conduct through sanctions imposed on the Clearing Member or otherwise. [This Rule 102\(j\), in as much as it is relevant to conduct relating to FX Data, is subject to the provisions of Rule 1708\(a\).](#)

- (k) Any capitalised term used in these Rules that is not defined in Rule 101 or elsewhere herein shall have the meaning given to it (in order of priority) in the Procedures, the Clearing House's standard form Clearing Membership Agreement, the ICE Futures Europe Rules or ICE Futures US Rules, as appropriate, and the standard form ICE OTC Participant Agreement.
- (l) Each of the Rules shall, unless the context otherwise requires, be construed as an independent provision and shall be in addition and without prejudice to any other provision of the Rules.
- (m) If any provision of these Rules (or part of any provision) is found by any court or other Governmental Authority to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Rules, and the validity, legality or enforceability of the other provisions of these Rules shall not be affected.
- (n) The Rules, together with the applicable Clearing Membership Agreement and other documents given contractual force pursuant to these Rules, form a contract between the Clearing House and each Clearing Member. All obligations of the Clearing House hereunder are solely to Clearing Members. No Person other than the Clearing House has any obligation to Clearing Members pursuant to these Rules except as expressly provided in any provisions of these Rules or the Procedures purporting to create or define rights and obligations as between Clearing Members, between Clearing Members and their Customers or between Customers (each a "**Bilateral Obligation**"). Subject to any Bilateral Obligation in respect of which the relevant Clearing Members or Customers (as applicable) shall have the right to enforce the provisions of these Rules or Procedures against each other, no Person shall have any right pursuant to the Contract (Rights of Third Parties) Act 1999 to enforce any provision of these Rules or the Procedures.
- (o) Any matter or right stated to be in, of or at the Clearing House's discretion shall be subject to the Clearing House's sole, unfettered and absolute discretion and such discretion may be exercised at any time. Where there is a provision that the Clearing House (or its Directors, officers or committees) may make further directions upon or in relation to the operation of a Rule or may make or authorise any arrangement, direction or procedure thereunder, the Clearing House may make such direction or make or authorise such arrangement or procedure in relation to or under the whole or any part of the Rule and may make or authorise different directions, arrangements or procedures in relation to different Clearing Members and may make or authorise such directions, arrangements or procedures generally or in relation to a particular Clearing Member or particular occasion and in all cases subject to such conditions as it may think fit. Any action taken at the discretion of the Clearing House may not be challenged by a Clearing Member (subject to the requirements of Rule 111(c) and the right of the Clearing Member to make a complaint pursuant to the Procedures and Part 10).
- (p) Without prejudice to the requirements of any Applicable Laws relating to clients' money made by the FSA under sections 138 and 139 of the FSMA and notwithstanding any other provision of these Rules, nothing in these Rules shall have the effect of enabling, requiring or implying that any Margin or other amounts deposited in relation to a Clearing Member's or Defaulter's:

- (i) Customer Account of any class be used to meet a shortfall on that Clearing Member's or Defaulter's Proprietary Account;
- (ii) Non-DCM/Swap Customer Account be used to meet a shortfall on that Clearing Member's or Defaulter's DCM Customer Account, Swap Customer Account or General Customer Account;
- (iii) Swap Customer Account be used to meet a shortfall on that Clearing Member's or Defaulter's DCM Customer Account, Non-DCM/Swap Customer Account or General Customer Account;
- (iv) DCM Customer Account be used to meet a shortfall on that Clearing Member's or Defaulter's Non-DCM/Swap Customer Account, Swap Customer Account or General Customer Account; or
- (v) General Customer Account be used to meet a shortfall on that Clearing Member's or Defaulter's Non-DCM/Swap Customer Account, DCM Customer Account or Swap Customer Account,

(which restrictions, for the avoidance of doubt, shall not apply to any Guaranty Fund Contribution or Assessment Contribution).

- (q) The Rules shall at all times be observed, interpreted and given effect in the manner most conducive to the promotion and maintenance of:
 - (i) recognition of the Clearing House as a recognised clearing house under the FSMA and any other legal or regulatory status it has from time to time under any other Applicable Law;
 - (ii) the good reputation of the Clearing House (and Clearing Members);
 - (iii) high standards of integrity and fair dealing in accordance with FSA Rules; and
 - (iv) proper protection for all Persons interested in the performance of Contracts.
- (r) Subject to Rule 1608, these Rules and each Contract shall be governed by and construed in accordance with the laws of England and Wales.
- (s) These Rules may be supplemented by processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (t) References in these Rules to UK or English legislation or European Directives shall be interpreted as references to such legislation as implemented in England & Wales, including by the relevant Governmental Authorities. References in these Rules to U.S. federal or state legislation or regulation shall be interpreted as references to such legislation or regulation as implemented in the U.S. including by the relevant U.S. Governmental Authorities.

Rule 103 *Delay in performance by the Clearing House*

Subject to the provisions of the Contract Terms relating to deliveries, where an obligation of the Clearing House must be performed immediately, promptly or by or prior to a specified time

or date but is not so performed, the Clearing House shall not be in breach of these Rules if, having used all reasonable endeavours to perform such obligation by such specified time or date, it performs the relevant obligation promptly after such specified time or date.

Rule 104 *Invoicing Back and Specification of Terms*

- (a) The Clearing House shall have the right in consultation with the relevant Market (if any), to Invoice Back a Contract with a Clearing Member, including a Contract that is subject to delivery or tender, upon the occurrence of a Force Majeure Event or a Financial Emergency, provided that the Invoicing Back is, subject to Rule 109(c), approved in advance by an affirmative vote of the Board at a quorate meeting, at which meeting the facts giving rise to the Force Majeure Event or the Financial Emergency, as the case may be, will be considered and the meeting shall decide whether it would be appropriate to use this Invoicing Back power, and provided further that the use of this power will be undertaken subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (b) The Clearing House shall have the right in consultation with the relevant Market, to specify or over-ride the price or other terms of any Energy Contract or Energy Transaction, subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees. Other than in circumstances in which the fourth sentence of Rule 209(c) applies, the Clearing House shall have the right to specify or over-ride the price or other terms of any FX Contract, subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees and provided that the Clearing House's rights under this Rule 104(b) may not be applied for the purpose of changing the amount of any liability of the Clearing House to a Defaulter (or deemed defaulter) or to an FX Clearing Member which would be a Defaulter on the making of the relevant declaration by the Clearing House under Rule 901(a) or of any liability of any Defaulter (or deemed defaulter) or any such FX Clearing Member to the Clearing House.
- (c) Provided that any power exercised under this Rule 104 is exercised in accordance with its terms, any Invoicing Back, specification or over-riding by the Clearing House shall be final and binding for the purposes of these Rules and not be subject to challenge by any Person under these Rules or otherwise, except in the case of manifest error, negligence or fraud.
- (d) Where the Clearing House deems it necessary to exercise its powers under paragraph (a) or (b) above, it will do so in good faith and in accordance with Rule 102(q).
- (e) The Clearing House will not exercise its powers under paragraph (a) or (b) to avoid or amend the terms of any Contract to which a Clearing Member is party unless there is an objective justification for it doing so and such an approach is applied objectively. The price at which any Invoicing Back is executed shall be determined in a commercially reasonable manner.

Rule 105 *Termination*

- (a) If at any time the Clearing House decides to cease acting as a clearing house, either generally, in relation to a particular Exchange or in relation to a class of Contracts, it shall give all Clearing Members advanced notice of the proposed Withdrawal Date by

Circular. In the event of a complete cessation of services or of services in relation to a particular Exchange or any class of Contracts, at least four months' notice shall be necessary. In any other event for which there is a Withdrawal Date, at least one month's notice shall be necessary. The Clearing House shall be entitled to postpone any such Withdrawal Date, generally or in respect of any individual Clearing Member, Exchange or class of Contract.

- (b) If, at any Withdrawal Date, any affected Contracts have not been finally settled, the Clearing House shall be entitled to liquidate any or all such Contracts and require any such Contracts to be cash settled on terms specified by the Clearing House in accordance with Rule 104.
- (c) Rule 209(d) and Rule 209(e) shall apply, either in relation to the Clearing House's services generally or the Contracts in question, as applicable, in the event of any termination under this Rule 105.

Rule 106 *Confidentiality and Information*

- (a) All information received or held by the Clearing House concerning past or current positions carried by the Clearing House or any other Clearing Organisation for a Clearing Member, or concerning Margin payments between the Clearing House or any other Clearing Organisation and a Clearing Member or concerning deliveries made by or to a Clearing Member and any financial statements filed with the Clearing House by any Clearing Member shall be held in confidence by the Clearing House and shall not be made known to any other Person except where disclosed, subject to such terms and conditions as the Clearing House may from time to time deem appropriate:
 - (i) with the written consent of the Clearing Member involved;
 - (ii) to a Regulatory Authority or Governmental Authority where a request is formally made to the Clearing House by or on behalf of the same or pursuant to Applicable Laws;
 - (iii) pursuant to an order of a competent court or other Governmental Authority or otherwise to such other Persons, at such times and in such manner as may be required by Applicable Law;
 - (iv) to any member of the ICE Group, any Exchange or Clearing Organisation and any of their or the Clearing House's Representatives, committees, experts, Delivery Facilities, auditors, advisers or lawyers including (without limitation) for audit, compliance, making or taking delivery, market surveillance or disciplinary purposes, for the purposes of an arbitration pursuant to Rule 117 or any proceedings in support of such an arbitration, or in relation to any possible or actual Event of Default or the termination or suspension of any clearing membership;
 - (v) to any Person in the business of providing data processing or similar services for the purposes of performing computations or analysis, or of preparing reports or records, for the Clearing House;

- (vi) to any Person who has provided or is considering entering into a loan, insurance policy, guarantee or other financial arrangement with the Clearing House;
 - (vii) to the Secretary of State, any Insolvency Practitioner and any other authority or body having responsibility for any matter arising out of or connected with an Event of Default;
 - (viii) to any Person or to the public as a result of its complaints procedure or disciplinary proceedings; or
 - (ix) to any Person if the information comes into the public domain, other than as a result of a breach of this Rule by the Clearing House or its Representatives.
- (b) Clearing Members are given notice that the Clearing House is subject to section 348 (Restrictions on disclosure of confidential information by the FSA etc.) and regulations made under section 349 (Exemptions from section 348) of the FSMA. Clearing Members shall be deemed to consent to any use, disclosure or non-disclosure of information by the Clearing House that is required or permitted pursuant to such provisions.
- (c) The Clearing House is a Data Controller in relation to Personal Data provided to it by Clearing Members and their Representatives. Each Clearing Member shall ensure that:
- (i) any and all of its Representatives in relation to whom Personal Data are provided to the Clearing House ("**Data Subjects**") have consented in advance to such data being Controlled and Processed by the Clearing House or, if not a natural person, have agreed to procure such consent to the extent necessary;
 - (ii) the disclosure of Personal Data by the Clearing Member or its Representatives is in all respects and in each case lawful; and
 - (iii) the information set out in Rule 106(d) has been provided to each Data Subject prior to disclosure of Personal Data relating to such Data Subject to the Clearing House.
- (d) The Clearing House shall have the right to disclose Personal Data to such Persons and for such purposes as are set out in Rule 106(a). The Clearing House and other Persons referred to in Rule 106(a) may transfer Personal Data outside the European Economic Area and Process Personal Data outside the European Economic Area.
- (e) Data Subjects have the right, on payment of a small fee to the Clearing House, to receive a copy of Personal Data held by the Clearing House and to have any errors or inaccuracies in such Personal Data rectified. Any request should be addressed to the Clearing House's registered office.
- (f) In this section only, the terms "**Control**" (and derivations thereof), "**Process**" (and derivations thereof), "**Personal Data**" and "**Data Controller**" each have the meaning given to such terms in the Data Protection Act 1998.

Rule 107 *Conversion to other Eligible Currency*

The Clearing House shall be entitled to direct Approved Financial Institutions to convert any cash standing to the debit or credit of any Clearing Member into such other Eligible Currency as the Clearing House, in its discretion, determines is appropriate or expedient. Any such conversion shall be effected at a reasonable exchange rate determined by the Clearing House at its discretion or such Approved Financial Institution.

Rule 108 *Maintenance of Records; Return of Documents and other Materials*

- (a) Clearing Members that provide or present any documentation or other materials to the Clearing House are required to make a copy (whether electronic or physical) prior to doing so and must maintain each such copy for at least five years. Clearing Members that are authorised and regulated by the FSA will be deemed to satisfy this requirement if they comply with all applicable FSA Rules relating to record-keeping in relation to their activities connected with the Clearing House.
- (b) The Clearing House shall not be obliged to return or provide a copy of any document or other materials presented or provided by any Clearing Member or other Person to the Clearing House, except where an express right to such copy or return is set out in these Rules.

Rule 109 *Alteration of Rules, Procedures, Guidance and Circulars*

- (a) The Clearing House shall provide details (which, where appropriate, will include a reasoned account) of any Rule Change in a Circular. A Rule Change shall take effect and be binding on the Clearing House and Clearing Members on the relevant date specified by the Clearing House in a Circular. Where the reason for any Rule Change is not manifest in the amended text of the Rules, the Clearing House will seek to provide an appropriate reasoned account of the Rule Change.
- (b) The Clearing House shall be entitled, at its discretion, to make any Rule Change at any time and without consulting Clearing Members where such Rule Change:
 - (i) is of a minor nature and relates to Rules of an administrative or commercial nature;
 - (ii) is of a limited, technical nature, if a consultation is reasonably considered by the Clearing House not to be appropriate;
 - (iii) relates to the Clearing House's fees, if a consultation is reasonably considered by the Clearing House not to be appropriate;
 - (iv) is considered by the Clearing House to be necessary as a result of an Event of Default, Force Majeure Event or Financial Emergency which has been recognised by an affirmative vote of the Board at a quorate meeting (subject always to Rule 109(c)) and subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees;
 - (v) is required to ensure compliance by the Clearing House or any Clearing Member or Members with Applicable Laws, Accounting Standards or the

requirements of any Governmental Authority or Regulatory Authority or is necessary or desirable to maintain the Clearing House's status as a recognised clearing house under the FSMA or any other legal or regulatory status it has under any other Applicable Law;

- (vi) concerns the parameters for Margin or the Guaranty Fund or classes of or haircuts for Permitted Cover, if a consultation is reasonably considered by the Clearing House not to be appropriate;
- (vii) amounts to a change in any Contract Terms, the removal of an existing Contract Set or the addition of a new Contract Set; or
- (viii) is considered by the Clearing House to be of an urgent nature (provided that the Clearing House may consult Clearing Members in relation to the continued applicability of the Rule Change after the urgent event or circumstance has concluded or ended), of a nature that would not affect significantly the rights of Clearing Members or of a nature where a consultation would otherwise not be appropriate or necessary;

provided that, in any such case, the requirements of sections 300A to 300E of the FSMA or article 10(4) of the Settlement Finality Regulations would not prevent such Rule Change from being made.

- (c) In relation to the determination of an Event of Default, a Force Majeure Event or a Financial Emergency pursuant to Rule 109(b)(iv) or, in relation to a Force Majeure Event only, Rule 112(b), or in relation to an approval of Invoicing Back under Rule 104(a), in the event that the Clearing House is unable to convene a meeting of the Board sufficiently promptly in the circumstances, any officer of the Clearing House designated by the Board from time to time for purposes of the applicable determination or approval may make such determination or approval, as the case may be, provided that the Clearing House shall convene a meeting of the Board as soon as practicable thereafter to ratify such determination or approval, rescind such determination or approval (only where, if rescission is desired, this is possible and practicable) or, where rescission is desired but not possible and practicable, to amend such determination or approval as appropriate.
- (d) In cases other than those described in Rule 109(b), prior to any proposed Rule Change taking effect, the Clearing House will either: (i) issue a consultation paper by Circular or (ii) consult with a smaller number of Clearing Members selected by the Clearing House at its discretion. In cases where this Rule 109(d) applies, the Clearing House will seek to provide at least 14 days for Clearing Members and any other Persons to respond to the consultation. The contents of responses and the names of Persons who respond to any consultation may be made publicly available by the Clearing House, unless the Clearing House receives a request to the contrary by a Person making a response. If the Clearing House receives any such requests for confidentiality or anonymity, the Clearing House may state that an anonymous response was made and may make public a summary of the contents of any response but the response will otherwise be subject to Rule 106. Clearing Members are encouraged, where appropriate, to inform Customers of proposed Rule Changes.

- (e) The Clearing House may at any time amend the Procedures, subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees. Any such amendment shall have immediate effect or shall take effect at such time as is specified by the Clearing House. The Clearing House will issue a Circular in respect of any amendment to the Procedures.
- (f) The Clearing House may issue, amend or revoke interpretative Guidance in relation to any aspect of the management of the Clearing House, its action under these Rules or the conduct of business of the Clearing House or Clearing Members at any time at its discretion and without prior consultation.
- (g) The Clearing House may issue Circulars or amend or revoke the contents of Circulars in connection with Clearing, the Rules or any action taken by it under the Rules at any time at its discretion and without prior consultation.
- (h) None of the following (whether proven, evidenced or alleged) shall invalidate any Rule Change, Procedures amendment or the contents of any Circular or Guidance in respect of any individual Clearing Member:
 - (i) omission by the Clearing House to give any notice or publish any Circular which may be required under these Rules;
 - (ii) non-receipt of any Circular by the Clearing Member or any of its Representatives;
 - (iii) lack of awareness on the part of the Clearing Member or any of its Representatives;
 - (iv) lack or inadequacy of any reasoned account; or
 - (v) failure by the Clearing House to comply with its obligations under Rule 109(d).
- (i) Without prejudice to the generality of Rule 109(h), in the event of any of the circumstances in Rule 109(h)(i), (h)(iv) or (h)(v) occurring, the Clearing House will consider what action should appropriately be taken in relation to the Rule Change which may (or may not) include the Clearing House:
 - (i) opening a second or subsequent consultation on the past Rule Change, subject to the procedures required by this Rule 109 *mutatis mutandis*; or
 - (ii) allowing a particular Clearing Member or Clearing Members to make representations or submissions in relation to a past Rule Change and considering whether to propose a new Rule Change in accordance with this Rule 109.

Rule 110 *Extension or Waiver of Rules*

- (a) The time fixed by the Rules for the doing of any act or acts may be extended, or the doing of any act or acts required by the Rules may be waived, by the Clearing House whenever in its discretion it considers that such extension or waiver is necessary or in the best interests of the Clearing House.

- (b) Without prejudice to the generality of Rule 110(a), the time fixed by the Rules for filing any report or other document, for submitting any information or for making transfers, deposits or payments may be extended by the Clearing House whenever in its discretion it considers that such extension is necessary or in the best interests of the Clearing House. Any such extension may continue in effect after the event or events giving rise thereto, provided that the time fixed for making transfers, deposits or payments shall not be extended beyond two hours after the time such transfer, deposit or payment is due, and no other extension shall continue in effect for more than 60 calendar days, unless it is approved by the Clearing House within such period.
- (c) Any waiver of any right or consent given by the Clearing House under these Rules is only effective if it is in writing, applies only in the circumstances for which it is given and shall not prevent the Clearing House from subsequently relying on the relevant provision. No delay or failure to exercise by the Clearing House of any of its rights or pursuing any of its remedies hereunder shall constitute a waiver. No single or partial exercise of any right or remedy by the Clearing House shall prevent any further exercise of the same or any other right or remedy.

Rule 111 *Liability*

- (a) Each Clearing Member shall indemnify and hold harmless the Clearing House and its officers and employees against any and all losses, liabilities, damages, injuries, delays, costs and expenses incurred or suffered by any of them arising out of or in connection with such Clearing Member's conduct, a breach by such Clearing Member of any of its obligations hereunder or under any Contract or a breach by the Clearing Member of any Applicable Laws.
- (b) The provisions of this Rule 111 shall apply:
 - (i) without prejudice to the liability of any other Person subject to the Rules or the rules of any Exchange for the same conduct;
 - (ii) in the case of inconsistency with any other provision of the Rules, in priority to that other provision;
 - (iii) whether or not the Clearing Member's Representative(s) are subject to the Rules; and
 - (iv) whether or not the Clearing Member's Representative(s) can be conclusively identified (provided that it is established that the relevant conduct was in fact carried out by a Clearing Member's Representative, albeit an unidentified Clearing Member's Representative).
- (c) Neither the Clearing House nor any of its Representatives, its Affiliates or its Affiliates' Representatives shall be liable to any Clearing Member or any other Person in respect of any loss, liability, damage, injury, delay, cost or expense incurred or suffered by such Clearing Member or Person, whether in contract, tort or restitution, as a fiduciary or under any other cause of action, arising out of or in connection with any of the following:
 - (i) any suspension, restriction or closure of the Clearing House or its services;

- (ii) any failure or malfunction of or inability to use any systems, communication lines or facilities or technology supplied, operated or used (directly or indirectly) by the Clearing House or any Exchange or the suspension, restriction or closure of any Market ~~or Exchange~~;
- (iii) any act or omission of any Exchange, any Clearing Member or any other third party including any error in relation to price data;
- (iv) any Force Majeure Event affecting the Clearing House (including, in relation to a delivery, a Force Majeure Event affecting a Person making or taking delivery on behalf of the Clearing House);
- (v) any dispute relating to the validity, existence or terms of any Contract;
- (vi) the exercise (or failure to exercise) by the Clearing House of any discretion or right conferred upon it pursuant to these Rules;
- (vii) the exercise (or failure to exercise) by any Exchange of any discretion or right conferred upon it pursuant to its rules (including, without limitation, in relation to error trades);
- (viii) any indirect or consequential loss, liability, damage, injury, delay, cost or expense, any loss of profit (whether direct or indirect) or any loss of bargain;
- (ix) any action in libel, defamation or slander in connection with the issue of any Default Notice, conduct of any proceedings relating to an Event of Default, the timing of liquidation of any Contracts or the manner in which or the price at which any Contracts are liquidated following an Event of Default;
- (x) rejection of any application to become a Clearing Member;
- (xi) any Contract being void pursuant to Rule 403 or avoided pursuant to Rule 404, including (without limitation) the causes and consequences of such Contract being void or voidable;
- (xii) any action or inaction on the part of a Transferor or Transferee;
- (xiii) in respect of a Contract subject to tender, delivery or physical settlement:
 - (A) a tender given by the Clearing House;
 - (B) any documents accompanying a tender as required by Market Rules or the Procedures;
 - (C) the performance by the Clearing House of its obligations to make delivery of a Commodity or Investment under a Contract or to pay the price or settlement price; or
 - (D) any other loss, liability, damage, injury, delay, cost or expense arising under the terms of a Contract in relation to tender, delivery or physical settlement,

unless, the relevant Clearing Member gives notice of its loss, liability, damage, injury, delay, cost or expense within seven Business Days of either the day on which relevant documents must be taken up and paid for by the Clearing Member (whether or not the Clearing Member fulfils that obligation) or the Clearing Member must take delivery of the Commodity or Investment, whichever is the earlier;

- (xiv) as a result of any action taken by it pursuant to Market Rules on the basis that Market Rules are to any extent invalid or *ultra vires* or that a determination or request made by the Market or any agreement made by the Market, is *ultra vires* or incompatible with Market Rules;
- (xv) any express or implied representations or warranties in relation to the Clearing House's systems, including, but not limited to, representations or warranties of good title, merchantability and fitness for purpose or for a particular use;
- (xvi) any statement, representation, assurance or warranty of the Clearing House or any other Person other than as expressly set out in the Rules, Contract Terms or Clearing Membership Agreement; or
- (xvii) any action, suit or proceeding brought against the Clearing House over one year after the time that a cause of action, suit or proceeding has accrued,

provided that neither this Rule 111(c) nor any other provision of these Rules shall affect the application of section 291 of the FSMA nor shall exclude or restrict the liability of the Clearing House or any other Person for:

- (xviii) fraud, bad faith or wilful misconduct;
 - (xix) personal injury or death resulting from negligence, recklessness, or an intentional act or omission;
 - (xx) obligations under Contracts (except that, other than as provided in Part 7, the terms of CDS Contracts, Part ~~15~~[15, the terms of FX Contracts, Part 17](#), and the Procedures, the Clearing House shall have no obligation physically to make or accept delivery of any Commodity or Investment and shall have no liability arising out of the failure or lateness of another Clearing Member (or its Transferor or Transferee) physically to make or accept any such delivery or make any such payment); or
 - (xxi) any liability which in accordance with Applicable Laws cannot be excluded, to the extent such liability cannot lawfully be excluded.
- (d) Any possible action, suit or proceeding against the Clearing House must be notified to the Clearing House as soon as reasonably practicable, including all relevant details then known and supporting documentation.
- (e) Due to ICE OTC not being a 'designated contract market' regulated under Applicable Laws in the United States of America, there may be result in additional risks, losses or liabilities for Clearing Members that are authorised to clear ICE OTC Contracts. Save as described in Rule 111(c)(xviii)-(xxi), the Clearing House shall not be liable to any Person as a result of any losses, damages, injuries, delays, costs or expenses arising out

of or in connection with the lack of regulatory oversight or regulatory status of ICE OTC.

- (f) Save for any liability which it cannot exclude pursuant to Applicable Laws, the Clearing House shall not be liable pursuant to these Rules or any Membership Agreement to any Person who is not a Clearing Member. Without prejudice to the generality of the foregoing, the Clearing House shall not be liable (save for any liability which it cannot by law exclude) to any Transferor or Transferee (that is not the Seller or Buyer under a Contract, respectively) or to any Customer of a Clearing Member. If any Eligible Person (as defined in the Clearing Membership Agreement), Transferor or Transferee of a Clearing Member successfully brings any claim or asserts any liability against the Clearing House at any time or the Clearing House otherwise is or becomes liable to any Customer, Transferor or Transferee of a Clearing Member, the relevant Clearing Member shall immediately become liable to indemnify the Clearing House in respect of such loss, liability, damage, injury, delay, cost or expense of the Clearing House and the Clearing House shall be entitled to collect such payment pursuant to Part 3.
- (g) If the Clearing House is found liable to a Clearing Member in respect of a Contract and another Clearing Member is also found liable to the Clearing House in respect of a Contract which arose pursuant to the same Transaction as the first Contract, then the liability of the Clearing House under the first Contract shall be deemed to be a foreseeable consequence of the breach by the Clearing Member of the second Contract and the Clearing House shall be entitled to be indemnified by such Clearing Member in accordance with this Rule 111.
- (h) Damage or loss to the property of the Clearing House or any other property on the Clearing House's premises will be paid for by the Clearing Member causing such damage or loss.

Rule 112 ***Force Majeure and similar events***

- (a) Neither the Clearing House nor a Clearing Member shall be liable for any failure, hindrance or delay in performance in whole or in part of its obligations under these Rules or of any Contract if and to the extent that such failure, hindrance or delay arises as a result of a Force Majeure Event.
- (b) On the occurrence of any Force Majeure Event (and, where the Force Majeure Event affects the Clearing House, an affirmative vote of the Board at a quorate meeting recognising such Force Majeure Event (subject always to Rule 109(c)):
 - (i) the Affected FM Party shall immediately notify the Clearing House of the same (or, if the Affected FM Party is the Clearing House, the Clearing House shall issue a Circular in relation to the Force Majeure Event);
 - (ii) the Clearing House shall be entitled to require any Contracts affected by the event or circumstance to be performed in accordance with directions issued by the Clearing House or to be Invoiced Back;

- (iii) the Clearing House shall be entitled to require any Clearing Member to take such action as the Clearing House may direct in respect of Contracts affected by the event or circumstance;
 - (iv) the Clearing House shall be entitled to require Clearing Members to comply with any directions issued by the Clearing House regarding the performance of, or otherwise in respect of, such affected Contracts as are specified by the Clearing House; and, upon receipt of such an invoice, settlement of all affected accounts shall be due immediately and shall be made forthwith in discharge of such Contracts;
 - (v) a Clearing Member affected by a Force Majeure Event shall use all reasonable endeavours to mitigate the effects of the same upon its ability to perform its obligations to the Clearing House and if the Clearing House is affected by a Force Majeure Event, it shall use all reasonable endeavours to mitigate the effects of same upon its ability to perform such obligations to Clearing Members; and
 - (vi) the Affected FM Party shall notify the Clearing House immediately as soon as its ability to perform is no longer affected by the Force Majeure Event (or, if Affected FM Party is the Clearing House, the Clearing House shall issue a Circular in relation to the cessation of the Force Majeure Event).
- (c) If a Market determines in accordance with Market Rules that an excessive position or unwarranted speculation or any other undesirable situation or practice is developing or has developed which is affecting or capable of affecting the Market, the Clearing House may take such action as is requested of it by that Market in respect of one or more Contracts.

Rule 113 *Notices*

- (a) The delivery by hand, electronic transmission, facsimile or telephone of any notice, order or other communication to a Clearing Member at the address, facsimile number or telephone number last designated by it shall be good and sufficient delivery thereof to such Clearing Member (unless another method of delivery is specified in the Rules or in relation to any Contract). The publication of a Circular shall amount to good and sufficient delivery of the contents of the Circular to all Clearing Members.
- (b) Any notice, document, communication, filing or form to be served on, filed with, made to or provided to the Clearing House pursuant to these Rules or in relation to any Contract shall be served, filed, made or provided at the address, fax number or e-mail address (or through such other communication system) as is specified by the Clearing House from time to time in accordance with the Procedures and shall be marked for the attention of such person or department as is specified by the Clearing House from time to time in accordance with the Procedures. Unless another form or method is specified in the Rules or the Procedures for the notice, document, communication, filing or form in question, a notice, document, communication, filing or form must be served, filed, made or provided in writing.

- (c) Any notice, document, communication, filing or form, unless otherwise specified in the Rules or the Procedures, will only be effectively served, filed, made or provided and delivered to the Clearing House for the purposes of these Rules:
 - (i) if sent by post, on the third Business Day (or tenth Business Day in the case of airmail) after the day on which it was deposited in the post, full postage prepaid, in a correctly addressed envelope; or
 - (ii) if delivered in person or by courier, at the time of delivery or, if not delivered during business hours on a Business Day, on the following Business Day.
- (d) Unless otherwise specified in the Rules or Procedures, any notice by fax or electronic communication shall not be effective until hard copy confirmation is served pursuant to Rule 113(c).
- (e) Each CDS Clearing Member [or FX Clearing Member](#) that is not incorporated or registered in England and Wales shall appoint and maintain an agent in England and Wales to act as its agent to accept service of process issued out of the courts of England and Wales in relation to any arbitration commenced pursuant to Rule 117 or the Clearing Membership Agreement and shall deliver to the Clearing House an agreement substantially in the form specified by the Clearing House relating to such appointment countersigned by such agent. No CDS [Clearing Member or FX](#) Clearing Member shall give any notice of revocation to, or otherwise terminate the appointment of, any such agent unless prior to such termination it has validly appointed a replacement agent in England and Wales reasonably acceptable to the Clearing House to accept service of process issued out of the courts of England and Wales in relation to any arbitration commenced pursuant to Rule 117 or the Clearing Membership Agreement and has delivered to the Clearing House a copy of that agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent. If for any reason any agent appointed under this Rule 113(e) ceases to be such an agent, the CDS [Clearing Member or FX](#) Clearing Member shall forthwith appoint a replacement agent in England and Wales and deliver to the Clearing House a copy of the new agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent within 10 Business Days of such appointment. Nothing in these Rules, the Procedures, the Clearing Membership Agreement or any Contract shall affect the right of the Clearing House to serve process in any other manner permitted by law.

Rule 114 *Action by the Clearing House*

- (a) Except as otherwise specifically set out herein, any action permitted or required to be taken by the Clearing House may be taken by the Board, the Chairman, the President, any other Board member or any other officer or committee to whom or which authority has been delegated by the Clearing House, the Board, the Chairman, the President or any committee.
- (b) Where there is a provision to the effect that an action may be taken or power exercised by the Clearing House, any action taken or power exercised by the Clearing House shall be without prejudice to the right of the Clearing House to exercise such powers and take such other steps (or not as the case may be) as it may think fit upon that or any other occasion.

Rule 115 *Relations with Governmental Authorities and other Persons*

- (a) With a view to maintaining recognition as a clearing house under the FSMA, the Clearing House may:
 - (i) make arrangements with any Person for monitoring compliance with and investigating alleged breaches of the Rules (and arrangements, Procedures and directions made, authorised or given thereunder); and
 - (ii) co-operate generally with any Governmental Authority.
- (b) Without prejudice to the generality of Rule 115(a):
 - (i) this may include making arrangements for the sharing of information with Governmental Authorities; and
 - (ii) the Clearing House may, where appropriate, at any time refer a complaint or any other matter coming to its attention to one or more Exchanges, Clearing Organisations or Regulatory Authorities for its or their comment or investigation and may, pending the result of such reference, either suspend or continue with (in whole or in part) its own investigation, proceedings or other actions.

Rule 116 *Opening Hours*

The Clearing House will notify Clearing Members of any changes to its Opening Days and Opening Hours from time to time by Circular.

Rule 117 *Dispute Resolution*

- (a) Subject to Rule 1518, any Dispute between the Clearing House and the Clearing Member(s) shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated into this Rule 117. In the event of a conflict between any provision of the LCIA Rules and this Rule 117, this Rule 117 shall prevail.
- (b) The seat of arbitration will be London and the language of the arbitration proceedings shall be English.
- (c) The Tribunal will comprise three arbitrators appointed by the LCIA Court. The LCIA Court shall nominate one of the arbitrators to act as the chairman of the Tribunal. [The members of the Tribunal will be persons considered by the LCIA Court in its discretion to have experience with respect to the subject matter of the Dispute.](#) Tribunal members shall not be current or former employees or directors of any Clearing Member that is a party to the arbitration, current or former employees of the Clearing House or any person or persons with a material interest or conflict of interest in the outcome of the Dispute.
- (d) The Tribunal shall have the power on the application of any party to an existing arbitration, to require one or more Clearing Members to be joined to an existing arbitration. Each Clearing Member agrees that it may be joined as an additional party to an arbitration involving the Clearing House and another Clearing Member.

- (e) If more than one arbitration is begun under these Rules and the Clearing House or a Clearing Member that is a party to an arbitration so concerned serves notice upon the Tribunals concerned that it believes two or more arbitrations are substantially related and that the issues should be heard in one set of proceedings, the Tribunal appointed in the first-filed of such proceedings shall have the power to determine whether, in the interests of justice and efficiency, the proceedings should be consolidated and heard together before that Tribunal.
- (f) In the case of such joinder or consolidation, the Tribunal shall make a single, final award determining all Disputes between the relevant parties in those proceedings. Each Clearing Member and the Clearing House irrevocably waives any right to challenge any award or order of any Tribunal by reason of the fact that it arises from a joined or consolidated arbitration. In addition to the waiver of challenge on the basis of joinder set out in clause 8.5 of the Clearing Membership Agreement, each Clearing Member and the Clearing House hereby irrevocably waives any right to challenge any award or order of any tribunal appointed under the Clearing Membership Agreement by reason of the fact that it arises from a consolidated arbitration.
- (g) The award of the arbitral Tribunal will be final and binding on the Clearing House and any Clearing Member from the day it is made. Judgment upon the award may be entered or the award enforced through any other procedure in any court of competent jurisdiction.
- (h) No arbitral proceedings under this Rule 117 may be instigated where arbitral proceedings could have been instigated in respect of the same Dispute under Market Rules.
- (i) The provisions of this Rule 117 may not be varied by any Clearing Member or Clearing Members save where each Clearing Member that is a party to the Dispute or arbitration proceedings and the Clearing House agree in express written terms.
- (j) The commencement of any arbitral proceedings shall be without prejudice to and shall not limit in any way the right of the Clearing House to instigate any procedure under Part 9 or Part 10 of these Rules, including without limitation in relation to any Event of Default, any investigation, disciplinary proceedings or the imposition of a sanction.
- (k) Each Clearing Member that now or hereafter has a right to claim sovereign immunity from suit or sovereign immunity from enforcement for itself or any of its assets shall be deemed to have waived any such immunity to the fullest extent permitted by Applicable Laws. Such waiver shall apply in respect of any immunity from:
 - (i) any proceedings commenced pursuant to this Rule 117;
 - (ii) any judicial, administrative or other proceedings to aid an arbitration commenced pursuant to this Rule 117; and
 - (iii) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from any judicial or administrative proceedings commenced pursuant to this Rule 117.

- (l) The rights and obligations of a Clearing Member under the Rules and in relation to any Contract are of a commercial and not a governmental nature.
- (m) No Clearing Member shall raise or in any way whatsoever assert a defence of sovereign immunity in relation to any claim or enforcement proceedings arising from a Dispute under this Agreement.
- (n) All Permitted Cover standing to the credit of a Clearing Member who is party to one or more Contracts subject to a Dispute or difference to which this Rule 117 or Market Rules applies, whether or not such Permitted Cover is held with respect to a disputed Contract, may be retained by the Clearing House until the Dispute in question is finally disposed of.
- (o) This Rule 117 is subject to Rule 1608.

Part 2 Clearing Membership

Rule 201 Clearing Membership Criteria

- (a) In order to attain and maintain membership as a Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a Clearing Member:
 - (i) have paid the Clearing House's (non-refundable) application fee (if applicable) and provided completed membership application forms;
 - (ii) (if proposing to become a Clearing Member in relation to ICE Futures Europe Transactions) be a member of ICE Futures Europe;
 - (iii) (if proposing to become a Clearing Member in relation to ICE Futures US Transactions) be a member of ICE Futures US;
 - (iv) (if proposing to become a Clearing Member in relation to ICE OTC Transactions) be an ICE OTC Participant or an Affiliate of an ICE OTC Participant;
 - (v) have nominated a Person, satisfactory to the Clearing House, who is (A) a director, general partner, trustee or officer of the applicant (or Person occupying a similar status or performing similar functions), (B) responsible for the clearing operations of the applicant and (C) authorised to act on behalf of the applicant in all transactions with or involving the Clearing House, and have nominated a second Person who meets the requirements of (A) above and is authorised to act on behalf of the applicant in the event of the death, incapacity or other inability of the first Person to so act;
 - (vi) maintain and, where applicable, procure that its Controller maintains, sufficient Capital in accordance with Rule 206;
 - (vii) unless the Clearing House at its discretion agrees otherwise in writing, where the applicant is subject to Control by any Person or Persons, procure in favour of the Clearing House a Controller Guarantee or Controller Guarantees from such of its Controllers as the Clearing House may request in such form as the Clearing House may prescribe from time to time, each such Controller Guarantee guaranteeing payment of all amounts due by such applicant;
 - (viii) be party to a Clearing Membership Agreement with the Clearing House;
 - (ix) have in place all necessary regulatory authorisations, licences, permissions and approvals in its country of origin, the UK and any other jurisdiction in which it conducts business;
 - (x) be fit and proper, have sufficient qualities of financial responsibility, operational capacity, business integrity, reputation and competence as the Clearing House, in its discretion, considers necessary or appropriate and satisfy the Clearing House that its directors, officers and Controllers also satisfy such tests;

- (xi) have such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting the proper performance of its business as a Clearing Member, including such IT links to the Clearing House and software as in the judgment of the Clearing House are necessary or desirable;
- (xii) have in place business continuity procedures that satisfy the Clearing House's minimum requirements;
- (xiii) have a sufficient level of knowledge about the types of Contracts that it intends to clear and any risks involved in relation to the same;
- (xiv) have demonstrated its ability to make available to the Clearing House sufficient Margin and make Margin payments as required pursuant to these Rules;
- (xv) have made the required Guaranty Fund Contributions;
- (xvi) not be subject to an Insolvency;
- (xvii) be either a Person that is not a natural person or a Person that is subject to business taxation for the purposes of Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments;
- (xviii) if it is a Clearing Member in respect of ICE OTC Transactions, be an 'eligible commercial entity' (as defined in Section 1a(11) of the U.S. Commodity Exchange Act) or an 'eligible contract participant' (as defined in Section 1a(12) of the U.S. Commodity Exchange Act);
- (xix) not be subject to any circumstances pursuant to which an Event of Default could be declared were the applicant to be a Clearing Member;
- (xx) have provided details of an office which is staffed during normal business hours and sufficient for its proposed activities as a Clearing Member under the direct supervision and responsibility of an executive officer of the Clearing Member (who need not be physically located at such office) to which all notices, orders and other communications from the Clearing House may be transmitted or delivered;
- (xxi) satisfy the Clearing House that it, its officers, directors and Controllers would each meet the requirements for an 'approved person' (for individuals) or 'controller' (for partnerships, companies and other bodies corporate) under the FSA Rules;
- (xxii) hold an account or accounts (as necessary) at an Approved Financial Institution or Institutions in relation to each of which a direct debit mandate has been established in favour of the Clearing House;
- (xxiii) if non-cash assets are to be used as Permitted Cover, have executed all necessary documentation relating to the transfer of such assets and not be in dispute with the Clearing House in relation to the ownership over or rights relating to such non-cash assets;

- (xxiv) either (A) be a Person in respect of whom 'simplified due diligence' may be applied pursuant to the Money Laundering Regulations 2007; or (B) have been subject to customer due diligence measures under the Money Laundering Regulations 2007 to the Clearing House's satisfaction~~;~~;
- (xxv) be organised (and any relevant branch or establishment outside its home jurisdiction must be organised) in a jurisdiction whose insolvency laws are acceptable to the Clearing House, and comply with any additional restrictions or requirements imposed by the Clearing House as a result of activities in any such jurisdictions; and
- (xxvi) not be subject to statutory disqualification under Applicable Law.
- (b) The Clearing House may at its discretion attach further objective conditions to any application for Clearing Member status prior to such status being granted. The Clearing House may grant approval to an applicant conditional upon satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence of its ability to do so.
- (c) Applicants for membership must provide information or documentation to the Clearing House evidencing compliance (or lack thereof) with each of the criteria set out in or required pursuant to Rule 201(a), and~~;~~ for CDS Clearing Member applicants only, Rule 201(i), and, in addition, for FX Clearing Member applicants only, Rule 201(j). Failure by an applicant to supply such information or documentation may result in an application being rejected.
- (d) All information supplied to the Clearing House in respect of an application for membership shall be deemed to have been provided by the Clearing Member to the Clearing House on the day on which that Clearing Member becomes a Clearing Member, save to the extent that such information has been amended or revoked at least two Business Days prior to membership being granted.
- (e) If the Clearing House determines that an application for membership should be denied, the applicant will be given notice of such denial. In such an event, the applicant may request an opportunity to be heard by the Clearing House's Board (or an appropriately constituted sub-committee of the Board) in relation to the matter and to present evidence as to why its application should not be denied or may raise a complaint which the Clearing House will deal with in the same way as if Part 10 applied to such complaint (notwithstanding that the Rules do not apply to the complaint).
- (f) Membership of the Clearing House does not entitle any Clearing Member to any shareholding or other similar interest in the Clearing House or any of the Clearing House's Controllers or Affiliates. Nothing in these Rules is intended to, or shall be deemed to, establish any partnership or joint venture between any Clearing Members or between the Clearing House and any other person. Except for any provision relating to Disclosed Principal Members or Representatives that are agents, nothing in these Rules constitutes any Clearing Member or the Clearing House as the agent or principal of any other Person. Nothing in these Rules authorises any Person to make or enter into any commitments for or on behalf of any other Person (save in the case of a Clearing Member acting on behalf of and being liable for a Customer or as otherwise expressly provided herein).

- (g) Clearing Members shall be deemed to represent and warrant, upon their first date of membership and on each subsequent date that they are a Clearing Member, that they meet all of the membership criteria in Rule 201(a) (and, if they are a CDS Clearing Member, Rule 201(i) and, if they are an FX Clearing Member, Rule 201(j)) and are in compliance with all of their obligations under these Rules.
- (h) In order to attain and maintain membership as a Disclosed Principal Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a Disclosed Principal Member, meet all the requirements for membership as a Clearing Member. A Disclosed Principal Member shall be subject to and bound by all these Rules in every way as if it were a Clearing Member, subject to such modifications as are set out herein and acting at all times as disclosed principal for the Clearing Member that has appointed it.
- (i) In order to attain and maintain membership as a CDS Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a CDS Clearing Member, meet such additional requirements applicable to CDS Clearing Members as are specified in the Procedures.
- (j) In order to attain and maintain membership as an FX Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes an FX Clearing Member, meet such additional requirements applicable to FX Clearing Members as are specified in the Procedures.

Rule 202 *Obligations of Clearing Members*

- (a) In connection with these Rules, all and any Contracts, its membership of the Clearing House and its business and activities as a Clearing Member, each Clearing Member shall at all times:
 - (i) comply with these Rules and any agreement with the Clearing House;
 - (ii) comply with all Applicable Laws relating to its status and performance as a Clearing Member;
 - (iii) act in good faith in its dealings with the Clearing House;
 - (iv) continually satisfy the criteria for membership set out in Rule 201(a) and, if it is a CDS Clearing Member, Rule 201(i), and, in addition, if it is an FX Clearing Member, Rule 201(j);
 - (v) respond promptly to any direction by the Clearing House to provide information or documentation;
 - (vi) maintain and, where applicable, procure that its Controller maintains, at least the amount of Capital required pursuant to Rule 206;
 - (vii) pay all fees and other charges when due in accordance with Part 3;
 - (viii) provide Margin and make Margin payments to the Clearing House in accordance with Part 3 and Part 5;

- (ix) make all such payments to such Guaranty Funds as are required pursuant to Part 11;
- (x) respond promptly to all enquiries or requests for information made by the Clearing House;
- (xi) maintain accounts at an Approved Financial Institution for the deposit of funds in Eligible Currencies and the deposit of securities required to be transferred to and from the Clearing Member pursuant to these Rules (whether by way of Margin, Guaranty Fund Contributions, fees, amounts due under Contracts or otherwise) and have arrangements with such Approved Financial Institutions satisfactory to the Clearing House for electronic transfer of funds and securities into and out of such accounts (separately for Customer Account and Proprietary Account, if the Clearing Member has a Customer Account, separately for [Energy Contracts](#), CDS Contracts and [EnergyFX](#) Contracts, if applicable, and separately for Swap Customer Account, Non-DCM/Swap Customer Account, DCM Customer Account and General Customer Account, if applicable) on the order of the Clearing House and without the need to seek the consent of such Clearing Member or any of its Customers;
- (xii) [not used];
- (xiii) if the Clearing House at its discretion so directs, allow formal audits or system tests of its operations related to its business with the Clearing House during reasonable business hours and on reasonable notice no more than twice annually, at the expense of the Clearing Member;
- (xiv) have adequate systems and controls in place in order to ensure that:
 - (A) its internal affairs are organised and controlled in a responsible and effective manner;
 - (B) it has adequate risk management systems that are applied appropriately;
 - (C) its internal record-keeping is adequate;
 - (D) all of its Representatives are fit and proper, suitable, adequately trained and properly supervised;
 - (E) all clearing business conducted by it, including in relation to individual Contracts, complies with the Clearing Member's obligations under the Rules and Applicable Laws;
 - (F) it only enters into Contracts or accesses the Clearing House (through actions of its Representatives or otherwise) in or from jurisdictions on a list of acceptable jurisdictions published by the Clearing House from time to time and in accordance with all conditions and requirements as are specified by the Clearing House from time to time for entry into Contracts or access in or from that jurisdiction;
 - (G) it is able continuously to monitor communication facilities for receipt of communications from the Clearing House; and

- (H) it is able promptly to review Circulars and other communications delivered or made available to the Clearing Member or its Representatives by the Clearing House;
- (xv) ensure that any power of attorney, appointment of any agent or Representative or other authorisation to transact business with the Clearing House given by a Clearing Member to any Person remains in effect on its original terms until not less than five Business Days after a written notice of change has been received by the Clearing House; and
- (xvi) keep accurate records showing the details of each Transaction submitted for Clearing by or on behalf of such Clearing Member and such other information, in such form, as shall be required by the Clearing House from time to time and in accordance with Applicable Laws and Accounting Standards.

Rule 203 *Prohibitions on Clearing Members*

- (a) In connection with these Rules, any Contracts, its membership of the Clearing House or its business and activities as a Clearing Member, no Clearing Member shall at any time:
 - (i) provide any information to the Clearing House (including information for the purpose of obtaining or reinstating membership) which is false, misleading or inaccurate in any material respect;
 - (ii) breach any Applicable Law relating to its status and performance as a Clearing Member;
 - (iii) commit any act of fraud;
 - (iv) engage in any behaviour which amounts to market abuse, insider dealing, market manipulation, money laundering or which is in breach of any similar Applicable Laws;
 - (v) except with the prior written consent of the Clearing House and otherwise than to liquidate existing positions, continue to trade, enter into Contracts or provide or accept payments or transfers in respect of Margin when not in compliance with the Capital requirement then applicable;
 - (vi) knowingly disseminate false, misleading or inaccurate reports concerning any Contract, product or market information or conditions that affect or tend to affect prices of Contracts;
 - (vii) make or report a false or fictitious Transaction or Contract;
 - (viii) knowingly, fraudulently, recklessly or negligently furnish any false, inaccurate or misleading information to the Clearing House;
 - (ix) enter into any Contract or fail to close out the same either intending to default in performance of the same or having no reasonable grounds for believing that it would be able to avoid such default (provided that it shall not be sufficient to have intended to comply with any contractual or other provision governing the consequences of default);

- (x) use or reveal any information confidential to the Clearing House or any of its Representatives when under a legal or contractual obligation to the Clearing House or any Applicable Law not to do so;
- (xi) (A) use any information technology or any online services provided to it or made available to it pursuant to its membership of the Clearing House other than for the purposes of conducting its business and activities as a Clearing Member in accordance with these Rules; or (B) use any FX Data except for (1) internal purposes related directly to such Clearing Member's, its Affiliates' and Customers' and their clients' trading and clearing activity relating to FX Clearing at the Clearing House; or (2) licensing, sublicensing, transferring, transmitting, reproducing and/or distributing copies of FX Data to third parties in accordance with Rule 1708;
- (xii) engage in any other event or practice which has developed or is developing on the Clearing House and is reasonably considered by the Clearing House to be capable of impairing the orderly conduct of business of the Clearing House or affecting the timely delivery or settlement of Contracts;
- (xiii) represent or hold out to any Person that membership of the Clearing House brings with it any stamp of approval, special status, hallmark, regulatory supervision or approval or confers any rights or protections to Customers or any other Person in relation to the Clearing Member's business, policies, financial standing or otherwise (although Clearing Members may inform their Customers, potential Customers and other Persons that they are a member of the Clearing House and details of their privileges);
- (xiv) participate in, facilitate, procure, counsel, incite, encourage, aid or abet any conduct by a third party which would be a violation or attempted violation of these Rules regardless of whether that third party is subject to these Rules;
- (xv) take any action or make any omission or knowingly or recklessly permit the use of its services, facilities or membership or clearing privileges by any Person in a manner which in the reasonable opinion of the Clearing House is liable to:
 - (A) bring the Clearing House or any of its Clearing Members into disrepute;
 - (B) impair the dignity or degrade the good name of the Clearing House;
 - (C) create or maintain or exacerbate actual or attempted breaches, infringements, manipulations or violations of the Rules (or arrangements, provisions or directions made or given thereunder) or market practice; or
 - (D) otherwise be substantially detrimental to the interests or welfare of the Clearing House;
- (xvi) engage in conduct that would render it unable to satisfy the membership criteria in Rule 201(a), Rule 201(i) or Rule 201(i) (in the case of the Rule 201(i), only if it is a CDS Clearing Member, and in the case of Rule 201(j), only if it is an FX Clearing Member);

- (xvii) knowingly, negligently, recklessly or carelessly allow any Representative to engage in any conduct that might itself breach these Rules or render it unable to satisfy the membership criteria in Rule 201(a), [Rule 201\(i\)](#) or Rule 201(~~i~~) (in the case of the Rule 201(i), only if it is a CDS [Clearing Member and in the case of Rule 201\(j\), only if it is an FX](#) Clearing Member);
- (xviii) assign any of its rights or transfer by novation any of its rights and obligations under these Rules to a third party (or purport to do so) unless the Clearing House provides its prior written consent (which consent shall not unreasonably be withheld or delayed); or
- (xix) breach any Contract Terms.

Rule 204 *Notifications by Clearing Members*

- (a) Each Clearing Member shall notify the Clearing House in writing without delay providing full particulars known to it:
 - (i) in relation to any change of Control, as soon as it becomes aware of that change or proposed change of Control and it is not prevented from disclosing the change of Control by Applicable Laws;
 - (ii) if it breaches any applicable Position Limit that has been notified to it;
 - (iii) if it ceases to have sufficient Capital;
 - (iv) if its Capital for any reason is reduced by more than 10% from that shown on the latest financial statement filed by it with the Clearing House;
 - (v) prior to any payment, loan, distribution or redemption causing a reduction in Capital of the nature described in Rule 204(a)(iv), detailing the payment, loan, distribution or redemption involved and a description of the effect that the same will have on the Capital of the Clearing Member;
 - (vi) in the event that it fails to meet any obligation to transfer, deposit or pay any Margin when and as required by any Clearing Organisation of which it is a member (other than the Clearing House), excluding any matter subject to a dispute (where the Clearing Member is not in default) or resulting from manifest error;
 - (vii) in the event that it fails to comply with any applicable financial requirements of any Governmental Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility;
 - (viii) of an Insolvency affecting it or any of its Controllers or Affiliates (and must provide a copy of such notice to the FSA and the Bank of England pursuant to Part 12);
 - (ix) of any Event of Default affecting it;
 - (x) of any financial or commercial difficulty such as would give rise to a risk of an Event of Default occurring;

- (xi) of any "early warning" or similar matter required to be notified to ~~a Regulatory Authority~~ the CFTC or SEC under Applicable Law, within the time and in the manner specified in Applicable Law for such notification to such Regulatory Authority;
 - (xii) of any breach by it of any Applicable Law relating to its status and performance as a Clearing Member or of the Rules, including full particulars of the breach; or
 - (xiii) of anything relating to the Clearing Member of which Clearing House would reasonably expect notice (including of any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to this Rule 204, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded).
- (b) Where a Clearing Member is regulated by the FSA:
- (i) Notifications under Rule 204(a)(i) shall only be required where a change of Control is notifiable to the FSA; and in such cases the Clearing Member should provide the Clearing House contemporaneously with a copy of all submissions sent to the FSA relating to the change of Control; and
 - (ii) Notifications under Rule 204(a)(xiii) (other than notifications of any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to this Rule 204, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded) shall only be required if a notification is also required to the FSA under the Principles for Business in the FSA Rules.

Rule 205 *Financial Reporting*

- (a) Each Clearing Member must file with the Clearing House in relation to the Clearing Member and, if so notified by the Clearing House at its discretion, any Controller:
- (i) an audited financial statement including profit and loss accounts and balance sheet, with the auditor's report, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House within 90 days of the end of the Clearing Member's or relevant Controller's fiscal year;
 - (ii) a quarterly financial statement including management profit and loss accounts and balance sheet, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House, within 30 days of the end of each quarter; and
 - (iii) in the case of Clearing Members or their Controllers that are licensed, authorised or regulated by a Regulatory Authority, a copy of all financial returns, reports, statements and notices provided to the relevant Regulatory Authority as soon as so provided and, if any such material is other than a routine periodic financial return, statement or report required under Applicable Laws, a

written statement setting out (to the extent known) the reasons why such Clearing Member or relevant Controller is filing it.

- (b) In the case of Clearing Members authorised and regulated by the FSA, the Clearing House shall be authorised, at its discretion, to obtain copies of financial filings, returns and reports directly from the FSA rather than from the Clearing Member. The Clearing Member will not be relieved of any of its obligations to the extent that the Clearing House does not obtain, or is unable to verify the accuracy of, any financial return or report obtained by it from the FSA.
- (c) Each Clearing Member shall file with the Clearing House such financial or other relevant information, in addition to what is explicitly required by this Rule 205, as may be requested by the Clearing House at its discretion from time to time.
- (d) All qualifications and reports of Clearing Members' auditors in any financial report must be satisfactory to the Clearing House.

Rule 206 *Minimum Capital*

- (a) Each Clearing Member shall maintain, or to the extent permitted pursuant to the Procedures shall procure that its Controller maintains, at all times the requisite types and amounts of Capital specified in the Procedures or otherwise as specified in writing by the Clearing House from time to time. The Clearing House may, at any time and at its discretion, require that a Clearing Member maintains additional Capital or procure a Controller to maintain additional Capital.
- (b) A Clearing Member must, upon request of the Clearing House, provide financial statements and other documentation supporting calculations of Capital and details of the terms and conditions of any documentation relating to any Capital (including, without limitation, subordinated loan agreements, legal opinions, information provided to Governmental Authorities and accounts and including in relation to any Controller) to the Clearing House.

Rule 207 *Clearing Member Status*

- (a) Each Clearing Member shall be authorised to enter into Contracts and hold an Open Contract Position with the Clearing House. Clearing Members may, at the Clearing House's discretion, be subject to restrictions in their business with the Clearing House, for example by reference to certain Contracts, Markets or the clearing of Contracts for Customers or using a Non-DCM/Swap Customer Account, Swap Customer Account, DCM Customer Account or General Customer Account. The Clearing House shall be entitled to publish lists of Clearing Members including details of their privileges and restrictions from time to time.
- (b) Each Clearing Member shall have the privileges, rights and obligations provided for in these Rules. Such privileges, rights and obligations may be terminated or altered in any respect at any time as provided in these Rules.
- (c) A Clearing Member may apply to clear additional categories of Contract by furnishing such information as is relevant to such request in accordance with Rule 201.

- (d) Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of its Proprietary ~~Accounts and~~ Account. Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of each of its Customer Accounts as principal, ~~except that an FCM Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of each of its Customer Accounts as set forth in Part 16.~~ Any sub-accounts of a Customer Account are reported on by the Clearing House for administrative convenience of the Clearing Member only. Recognition by the Clearing House, and transfers between, to and from, a Clearing Member's Nominated Customer Accounts and Nominated Proprietary Accounts are for administrative convenience of the Clearing Member only. ~~Neither~~ Subject only to the provisions of Part 16 and any Pledged Collateral Addendum in the case of FCM Clearing Members, neither any separate Customer Account or sub-accounts of a Customer Account recognised in the Clearing House's or any Clearing Member's books and records or those of any Approved Financial Institution nor any other Procedures or Rules of the Clearing House shall result in any obligation of the Clearing House towards any Customer of the Clearing Member, any other Person that is not a Clearing Member, whether under FSA Rules relating to client money, any other Applicable Laws or otherwise. It is the responsibility of the Clearing Member (and not the Clearing House) to ensure that its Nominated Proprietary Accounts and Nominated Customer Accounts are linked appropriately to its Proprietary ~~Accounts~~ Account and Customer Accounts and to ensure its own compliance with Applicable Laws relating to conduct of business, client money ~~and~~ segregation of client assets and segregation of Customer Transactions. A Disclosed Principal Member shall be liable as principal to the Clearing House and responsible for all obligations arising in respect of the Proprietary Account referable to the Clearing Member that has appointed it as a Disclosed Principal Member, instead of the Clearing Member. Where the Clearing Member appoints a Disclosed Principal Member, there shall be no Customer Account for either the Clearing Member or the Disclosed Principal Member and the only Proprietary Account shall be that of the Disclosed Principal Member.
- (e) Subject to Market requirements (if any), a Clearing Member may appoint another Clearing Member to perform specific functions, including deliveries, on the first Clearing Member's behalf. In order to do so, the relevant Clearing Members, the Market (if any) and the Clearing House must be party to an agreement pursuant to which the second Clearing Member agrees to perform specific functions detailed in the agreement on behalf of the first Clearing Member. A Clearing Member intending to perform functions for another Clearing Member will represent and warrant to the Clearing House that it has sufficient authorisation under the FSMA and other Applicable Laws to carry on such function.

Rule 208 ***Suspension of Clearing Member***

- (a) A Clearing Member may be suspended:
- (i) if one or more of the conditions set out in Rule 209(a) is satisfied;
 - (ii) upon any breach by the Clearing Member of these Rules;
 - (iii) if a Market suspends the Clearing Member or any of its trading privileges;

- (iv) if the Clearing House at its discretion considers that suspension is necessary to protect the interests of the Clearing House or its Clearing Members (excluding the Clearing Member concerned); or
 - (v) in the event of any Financial Emergency or Force Majeure Event affecting the Clearing Member.
- (b) Any suspension may occur in relation to the Clearing Member's status as a Clearing Member or in respect of certain classes of Contracts or rights of a Clearing Member only. A Clearing Member that has been suspended shall, during the term of such suspension and thereafter, remain and continue to be:
- (i) subject to and bound by these Rules and any agreements between it and the Clearing House;
 - (ii) obliged to pay all fees, fines, assessments or other charges imposed by the Clearing House;
 - (iii) liable pursuant to these Rules for all other obligations arising under Contracts and all obligations incurred before, during or after such suspension including, but not limited to, obligations to transfer, deposit, maintain and pay Margin and make Guaranty Fund Contributions; and
 - (iv) able to undertake such activities of a Clearing Member as are expressly permitted by the Clearing House and required to undertake such activities of a Clearing Member as are required by the Clearing House, in each case subject to compliance with all reasonable instructions of the Clearing House in relation to those activities.
- (c) The Clearing House shall be entitled at its discretion to revoke the suspension of any suspended Clearing Member.
- (d) The Clearing House may publish details of any suspension or a copy of any suspension notice in or together with a Circular, at its discretion except to the extent that a notice is required by Rule 208(e).
- (e) The Clearing House will issue a Circular promptly following any suspension of a CDS Clearing Member that is not an Energy Clearing Member or the suspension of any CDS Clearing Member's ability to clear ~~CDS~~Energy Contracts, CDS Contracts or FX Contracts, specifying the name of the CDS Clearing Member affected.
- (f) The Clearing House will issue a Circular promptly following any suspension of an FX Clearing Member that is not an Energy Clearing Member or the suspension of any FX Clearing Member's ability to clear Energy Contracts, CDS Contracts or FX Contracts, specifying the name of the FX Clearing Member affected.

Rule 209 *Termination of Clearing Membership*

- (a) The Clearing House shall be entitled to terminate the membership of any Clearing Member immediately upon notice to the Clearing Member:

- (i) following the occurrence of any Event of Default affecting that Clearing Member;
 - (ii) as a result of disciplinary proceedings brought against that Clearing Member pursuant to Part 10;
 - (iii) upon receipt of notice of termination of the Clearing Member's Clearing Membership Agreement from that Clearing Member;
 - (iv) following any material and unremedied breach by the Clearing Member of these Rules;
 - (v) upon such Clearing Member ceasing to meet, or being unable to satisfy the Clearing House that it is able to meet, any of the membership criteria set out in Rule 201(a) or, if it is a CDS Clearing Member, Rule 201(i), or, if it is an FX Clearing Member, Rule 201(j); or
 - (vi) upon an Insolvency in relation to that Clearing Member or any of its Affiliates.
- (b) The Clearing House shall be entitled to terminate the membership of any Clearing Member upon no less than three months' prior written notice.
- (c) The Clearing Member shall be entitled to terminate its membership of the Clearing House: (i) upon no less than three months' prior written notice to the Clearing House; (ii) upon the Insolvency of the Clearing House; (iii) pursuant to Rule 1105(h); ~~or~~ (iv) pursuant to Rule 1106(h); or (v) pursuant to Rule 1107(h). The membership of a Clearing Member which is a CDS Clearing Member but ~~not~~ neither an Energy Clearing Member nor an FX Clearing Member shall terminate automatically upon the occurrence and continuance of an 'Event of Default' (as defined in the Master Agreement between the Clearing House and such CDS Clearing Member) in respect of the Clearing House. The membership of a Clearing Member which is an FX Clearing Member but neither an Energy Clearing Member nor a CDS Clearing Member shall terminate automatically upon the occurrence of an FX Failure To Pay in respect of the Clearing House. In the event of the Insolvency of the Clearing House ~~or~~ (in the case of any Clearing Member) or (in the case of a CDS Clearing Member that is neither an Energy Clearing Member nor an FX Clearing Member) an 'Event of Default' as aforementioned in respect of the Clearing House or (in the case of an FX Clearing Member that is neither an Energy Clearing Member nor a CDS Clearing Member) an FX Failure To Pay in respect of the Clearing House or (in the case of a Clearing Member that is an FX Clearing Member and a CDS Clearing Member but not an Energy Clearing Member) circumstances which constitute both an 'Event of Default' as aforementioned and an FX Failure To Pay in respect of the Clearing House, all open Contracts shall be terminated, the rights and liabilities of each Clearing Member under ~~CDS~~ all Contracts will be deemed discharged for the purposes of Rule 905 and a net sum or net sums payable by or to the Clearing Member to or from the Clearing House shall be determined as if each Clearing Member were a Defaulter, in accordance with Rule 905 *mutatis mutandis* and without need for the prior occurrence or declaration of an Event of Default in relation to such Clearing Member (provided that, for the avoidance of doubt: (A) ~~Rules 1105~~ Rule 1105, Rule 1106 and ~~1106~~ Rule 1107 shall only apply where necessary to meet a shortfall resulting from an Event of Default or Events of Default actually declared by the Clearing House pursuant to Rule 901(a)

(rather than any Event of Default effectively deemed to occur pursuant to this provision); (B) Rules 901, 902, 903 and 904 shall apply only to Clearing Members that are actually declared subject to an Event of Default (rather than effectively deemed subject to an Event of Default pursuant to this provision); and (C) without prejudice to the generality of (B), Rule 903(a)(~~xix~~xiii) shall apply only in relation to Contracts the counterparties to which are Clearing Members that are actually declared subject to an Event of Default (and not in relation to Contracts the counterparties to which are Clearing Members that are effectively deemed to be subject to an Event of Default pursuant to this provision) and provided further that the net sum or net sums required to be determined in these circumstances pursuant to Rule 905 in respect of a Clearing Member that ~~is both an Energy Clearing Member and a CDS Clearing Member~~has multiple Membership Categories will be made separately in relation to the rights and liabilities of that Clearing Member ~~as Energy Clearing Member and as CDS Clearing Member~~for each applicable Membership Category and Rule 905 shall be interpreted accordingly. If the Clearing House becomes aware of there being or occurring an FX Failure To Pay in respect of the Clearing House, the Clearing House will promptly issue a Circular specifying that the same has occurred. If the Clearing House becomes aware of there being or occurring an Insolvency in respect of the Clearing House, the Clearing House will promptly notify the FX Clearing Members that the same has occurred.

(d) This Rule 209(d) applies to a Person that has served a notice of termination, except:

(A) if the Person is or was an FX Clearing Member but neither a CDS Clearing Member nor an Energy Clearing Member, in which case Rule 209(g) and Rule 209(h) shall apply and this Rule 209(d) shall not apply; or

(B) if the Person is or was an FX Clearing Member and is or was also either an Energy Clearing Member or a CDS Clearing Member (or both), in which case Rule 209(g) and Rule 209(h) shall apply but only in respect of those of the rights, obligations or liabilities of the Person relating to FX Contracts, FX Guaranty Fund, FX Assessment Contributions, FX Mark-to-Market Margin, FX Original Margin and otherwise in respect of the Person's status (or former status) as an FX Clearing Member, and this Rule 209(d) shall apply otherwise in relation to the termination of membership of that Person.

~~(d) — Upon any~~In circumstances in which this Rule 209(d) applies, upon termination of a Clearing Member's membership, the relevant Clearing Member shall remain liable to transfer, deposit, maintain and pay all Margin, make Guaranty Fund Contributions when due and make all other payments due pursuant to Contracts from time to time and shall be obliged to:

- (i) transfer, liquidate, make settlement in respect of and/or make delivery (as applicable) pursuant to all Contracts to which it is party in accordance with applicable Contract Terms; and
- (ii) take such other actions as the Clearing House at its discretion deems appropriate or necessary.

(e) This Rule 209(e) applies to a Person that has served a notice of termination, except:

(A) if the Person is or was an FX Clearing Member but neither a CDS Clearing Member nor an Energy Clearing Member, in which case Rule 209(g) and Rule 209(h) shall apply and this Rule 209(e) shall not apply;
or

(B) if the Person is or was an FX Clearing Member and is or was also either an Energy Clearing Member or a CDS Clearing Member (or both), in which case Rule 209(g) and Rule 209(h) shall apply but only in respect of those of the rights, obligations or liabilities of the Person relating to FX Contracts, FX Guaranty Fund, FX Assessment Contributions, FX Mark-to-Market Margin, FX Original Margin and otherwise in respect of the Person's status (or former status) as an FX Clearing Member, and this Rule 209(e) shall apply otherwise in relation to the termination of membership of that Person.

~~(e)~~ In circumstances in which this Rule 209(e) applies, any Person who for any reason ceases to be a Clearing Member shall remain and continue to be:

- (i) subject to any arbitration, investigations, panels or proceedings, and provisions of these Rules relating thereto, which relate in whole or in part to any acts or omissions of that Person while it was a Clearing Member;
 - (ii) obliged in respect of all fees, fines, charges, payments pursuant to Contract Terms, Margin payments and other amounts due to the Clearing House as a result of Contracts and other obligations entered into or incurred prior to the termination of its status as Clearing Member;
 - (iii) subject to claims against its Guaranty Fund Contributions until the Clearing House returns such Guaranty Fund Contributions in accordance with Part 11;
and
 - (iv) obliged to pay any Assessment Contribution for which it is liable pursuant to Part 11.
- (f) A Clearing Member which ~~is both a CDS Clearing Member and an Energy Clearing Member~~ has multiple Membership Categories shall be entitled to terminate its status as ~~either an Energy Clearing Member, CDS Clearing Member and/or an EnergyFX Clearing Member:~~ (i) upon no less than three months' prior written notice to the Clearing House; (ii) upon the Insolvency of the Clearing House; (iii) pursuant to Rule 1105(i); ~~or~~ (iv) pursuant to Rule 1106(i); or (v) pursuant to Rule 1107(i). If a ~~Clearing Member is both a CDS Clearing Member and an Energy Clearing Member~~ has multiple Membership Categories, its status as a CDS Clearing Member shall terminate automatically upon the occurrence and continuance of an 'Event of Default' (as defined in the Master Agreement between the Clearing House and such CDS Clearing Member) in respect of the Clearing House. ~~Rules 209(e) (third sentence only), Rule 209(d) and, Rule 209(e), Rule 209(g) and Rule 209(h)~~ shall apply mutatis mutandis in relation to any termination described in this Rule 209(f), as regards Energy Contracts, CDS Contracts or EnergyFX Contracts

(whichever the Clearing Member proposes to cease to clear or ceases to clear, as applicable) and Clearing related thereto only.

(g) If an FX Clearing Member serves notice of termination of its membership under Rule 209(c) or termination of FX Clearing membership under Rule 209(f) (other than if there is a termination pursuant to Rule 209(c)(ii) or the third sentence of Rule 209(c) or Rule 209(f)(ii) or the third sentence of Rule 209(f)) it must use all reasonable endeavours, until such time as there is a subsequent Insolvency or FX Failure To Pay in respect of the Clearing House, to close out all of its open FX Contracts prior to the Termination Close-Out Deadline Date. Such an FX Clearing Member, after the Termination Notice Time, shall only be entitled to submit FX Transactions for clearing or become party to FX Contracts which it can demonstrate have the overall effect of reducing risks to the Clearing House associated with the FX Contracts to which that FX Clearing Member is party, whether by hedging, novating, transferring, terminating, liquidating or otherwise closing out such FX Contracts. If any such FX Clearing Member has any open FX Contracts with the Clearing House after the Termination Close-Out Deadline Date (and notwithstanding any provision of Rule 1107 or Rule 1710 to the contrary) the FX Clearing Member shall as from the Termination Close-Out Deadline Date: (x) become liable to replenish any FX Guaranty Fund Contribution that would have fallen due for replenishment but has not been paid, to have applied any FX Guaranty Fund Contribution that would have been applied but was not so applied and to pay any FX Assessment Contribution that would have fallen due but has not been paid, in each case to the extent that the same would have been payable or applied but for its service of a notice of termination and in each case in respect of any Event of Default affecting an FX Clearing Member and relating to FX Clearing that has occurred subsequent to the Termination Notice Time; (y) become liable for further obligations to replenish any FX Guaranty Fund Contribution, have any FX Guaranty Fund Contribution applied or pay FX Assessment Contributions in the same way as any other FX Clearing Member in respect of any Event of Default affecting an FX Clearing Member and relating to FX Clearing occurring prior to the Termination Date; and (z) (unless the termination was under Rule 209(c)(i) or Rule 209(f)(i)) be reinstated as an FX Clearing Member without any need to follow the membership application process described in Part 2. For the avoidance of doubt, the Clearing House may call for additional FX Original Margin from an FX Clearing Member subject to this Rule 209(g), until such time as all of its open FX Contracts have been terminated, and such FX Clearing Member shall pay such additional FX Original Margin to the Clearing House. Following termination of all open FX Contracts to which a terminating FX Clearing Member (the "**Terminated Clearing Member**") was party in relation to a particular Customer Account or Proprietary Account, the Clearing House shall then declare a net sum (which may be declared in parts, as envisaged below) as due to or from the Terminated Clearing Member in accordance with Rule 904 and Rule 905, in the same way as if the Terminated Clearing Member were a Defaulter but with the following modifications:

(i) references in Part 9 to "Default", an "Event of Default" shall be read as references to a Terminated Clearing Member terminating its FX clearing membership and, in the case of a failure to close out relevant Contracts only in respect of a particular Customer Account or Proprietary Account, shall be construed as applying only in respect of such account;

- (ii) any net sum calculated in relation to the Terminated Clearing Member under Rule 905 will be calculated only with regard to rights, obligations and liabilities relating to FX and any such net sum which is payable to the Terminated Clearing Member shall not be paid by the Clearing House to such Terminated Clearing Member until the later of:
- (A) ten Business Days after the date on which the termination of the Terminated Clearing Member's open FX Contracts and the realisation or return of any Margin provided in respect of FX Contracts, FX Guaranty Fund Contributions or other assets remaining credited to the Terminated Clearing Member's relevant Proprietary Account or Customer Account in respect of FX clearing or otherwise in the Clearing House's possession in respect of FX clearing is completed (subject always to Rule 102(p)); or
 - (B) if the Terminated Clearing Member has any unapplied FX Guaranty Fund Contributions, the expiry of the Guaranty Fund Period for the FX Guaranty Fund immediately following the Guaranty Fund Period current on the Termination Date;
- (iii) notwithstanding anything in Part 9 or elsewhere in these Rules:
- (A) the Clearing House may at its discretion return amounts due to the Terminated Clearing Member in different currencies or by way of transfer or return of non-cash Permitted Cover to the Terminated Clearing Member;
 - (B) the Clearing House may further pay any net sum calculated under Rule 905 and payable to the Terminated Clearing Member in different amounts denominated in different currencies and is not required to pay a single sum in one currency; and
 - (C) the Clearing House may make part payment of any amounts due excluding the FX Guaranty Fund Contribution prior to the time specified in Rule 209(g)(ii)(B).
- (iv) it is acknowledged that any 'net sum' declared in accordance with this provision is not formally a 'net sum' for purposes of the Companies Act 1989;
- (v) an FX Clearing Member subject to these provisions is not a Defaulter and no Default Notice will be issued or required to be issued in respect of such FX Clearing Member in order for the Clearing House to exercise its rights under this provision or for the FX Clearing Member in question to receive any payment or return of assets; and
- (vi) references to Part 9 in any other Rules or in the Procedures, Circulars and Guidance shall be construed in accordance with this Rule 209(g) when they fall to be applied in relation to the termination of a Clearing Member's membership under Rule 209 and any action taken by the Clearing House following such termination taking effect.

(h) Notwithstanding Rule 209(e), after the Termination Date, a Person that was an FX Clearing Member shall remain and continue, in respect of all obligations, rights and liabilities relating to the Clearing Member's status as an FX Clearing Member:

(i) subject to any arbitration, investigations, panels or proceedings, and provisions of these Rules relating thereto, which relate in whole or in part to any acts or omissions of that Person while it was a Clearing Member;

(ii) bound to the Clearing House to perform all and any obligations and liabilities (which either have not been performed or have fallen due but are unpaid) resulting from its status as an FX Clearing Member, including obligations and liabilities relating to: fees, fines, charges, payments pursuant to Contract Terms for FX Contracts, obligations to pay FX Guaranty Fund Contributions (subject always to Rule 209(g), Rule 1107(h) and Rule 1107(i)), obligations to pay FX Assessment Contributions (subject always to Rule 209(g), Rule 1107(h) and Rule 1107(i)), FX Original Margin payments and FX Mark-to-Market Margin payments; and

(iii) subject always to Rule 1107(h) and Rule 1107(i), in a position such that its FX Guaranty Fund Contributions may be applied in accordance with Part 11, until such time as the Clearing House returns such FX Guaranty Fund Contributions in accordance with Part 11 and Rule 209(g)(ii)(B).

(i) ~~(g)~~ The Clearing House may publish details of any termination or a copy of any termination notice in or together with a Circular, at its discretion except to the extent that a notice is required by Rule 209(~~h~~j) or Rule 209(k).

(j) ~~(h)~~ The Clearing House will issue a Circular promptly following any termination of membership of a CDS Clearing Member that is not an Energy Clearing Member or the termination of any Clearing Member's ability to clear ~~CDS~~Energy Contracts, CDS Contracts or FX Contracts, specifying the name of the CDS Clearing Member affected.

(k) The Clearing House will issue a Circular promptly following any termination of membership of an FX Clearing Member that is not an Energy Clearing Member or the termination of any FX Clearing Member's ability to clear Energy Contracts, CDS Contracts or FX Contracts, specifying the name of the FX Clearing Member affected.

Part 3 Financial Requirements and Payments

Rule 301 Fees, Margin, Contract and other payment obligations

- (a) Clearing Members shall be liable to pay such fees and charges as are levied by the Clearing House in accordance with published rates from time to time. Unless otherwise provided and without limitation, fees shall be payable on each Contract cleared by the Clearing House and the Clearing House shall be entitled to levy fees in respect of Permitted Cover. The Clearing House may amend its fees and charges and the bases for its fees at any time and will notify Clearing Members of any such amendments by means of a Circular prior to the same taking effect.
- (b) Fees charged to Clearing Members by the Clearing House may include the fees of any one or more Markets. The Clearing House shall be entitled to collect fees due from Clearing Members on behalf of all Markets of which a Clearing Member is a member or participant.
- (c) Clearing Members shall be liable to make any payment to the Clearing House that is required pursuant to these Rules at the time and in the amount specified by the Rules or required in accordance with the Rules. In particular, Clearing Members shall be liable to make payment in respect of Margin and Guaranty Fund Contributions from time to time in accordance with Part 5, Part 6 and Part 11 of the Rules at the times and in the amounts that are required pursuant to the instructions of the Clearing House made pursuant to Rule 302.
- (d) Clearing Members shall be liable to pay all amounts due under the Contract Terms, upon entering into a Contract, as Margin and upon delivery or settlement, as further described in these Rules and the Contract Terms at the time and in such amounts as are required pursuant to the Contract Terms. Without prejudice to the generality of the foregoing:
 - (i) in relation to each Energy Contract that is a Future, the parties to such Contract shall be liable to make such payments upon settlement and delivery as are required pursuant to Part 7 and the Procedures; ~~and~~
 - (ii) in relation to each Energy Contract that is an Option, the parties to such Contract shall be liable to make such payments as are required pursuant to Part 8; and
 - (iii) in relation to each FX Contract, the parties to such Contract shall be liable to make such payments as are required pursuant to Part 17 and the Procedures.
- (e) Each Clearing Member will procure that the Clearing House has at all times the right to instruct that Clearing Member's Approved Financial Institution to debit its Proprietary Accounts and Customer Accounts (if any) and any other account designated by that Clearing Member for the purposes of this Rule 301, for payment in respect of fees, charges, fines, penalties, Margin, Guaranty Fund Contributions, amounts due pursuant to Contracts (whether upon their formation, settlement or delivery) and any other amounts due to the Clearing House or due to any Market.

- (f) All amounts payable to the Clearing House (except, with the prior written consent of the Clearing House, application fees) shall be payable by electronic transfer from an account at an Approved Financial Institution only. The Clearing Member shall continue to be liable for any amount due under these Rules unless and until the relevant electronic transfer of funds is actually received by the Clearing House in unencumbered, fully cleared and fully available funds.
- (g) Interest shall be charged to the Clearing Member on any unpaid but due amount from the date on which the amount becomes due and payable until the date of payment at 1% above the rate per annum which is the cost (without proof or evidence of any actual cost) to the Clearing House if it were to fund the relevant amount, compounded daily.
- (h) In the event that the Clearing House determines that it will suffer or has suffered (directly or indirectly) any loss, liability or cost for or on account of any tax in connection with any Contract, any amount payable to the Clearing House or in respect of any future obligation, or these Rules, the Clearing Member counterparty to such Contract, the Clearing Member by which such amount is payable, or such other Clearing Member whom the Clearing House at its discretion determines should be responsible for meeting the amount of such loss, liability, or cost, shall be liable to pay to the Clearing House, pursuant to Rule 302, an amount equal to such loss, liability, or cost.
- (i) All amounts set out in or expressed to be payable to the Clearing House in connection with any Contract or these Rules or otherwise and which constitute the consideration for a supply made by the Clearing House for the purposes of value added tax, and the value of any supply made by the Clearing House for value added tax purposes, shall be deemed to be exclusive of any value added tax which is chargeable on that supply and accordingly if value added tax is chargeable on any supply made by the Clearing House the relevant Clearing Member or such other Clearing Member whom the Clearing House at its discretion determines should be responsible for meeting the amount of such value added tax shall pay to the Clearing House (in addition to and at the same time as the consideration is paid or provided, or if no consideration is due, at the time the supply is made or an appropriate value added tax invoice is issued, whichever is earlier) an amount equal to the amount of the value added tax and the Clearing House shall issue an appropriate value added tax invoice.
- (j) All amounts payable to the Clearing House in connection with any Contract or these Rules or otherwise shall be paid without any deduction or withholding for or on account of tax unless such deduction or withholding is required by Applicable Law. If a deduction or withholding for or on account of tax is required to be made, the amount of the payment due shall be increased to an amount which (after making the deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.
- (k) Where a Clearing Member has appointed a Disclosed Principal Member, any obligation of the Clearing Member to make payment to the Clearing House shall be construed as an obligation of the Disclosed Principal Member, any right to receive payment of the Clearing Member shall be construed as a right of the Disclosed Principal Member and all other provisions of these Rules relating to payment shall be construed accordingly.

Rule 302 *Mechanics for Payments*

- (a) The Clearing House shall advise each Clearing Member of amounts due to or from the Clearing Member in respect of its Proprietary Accounts and Customer Accounts (if any) on the following Business Day and:
 - (i) if the net amount for a Proprietary Account is due to the Clearing House, the Clearing House shall instruct the Clearing Member's Approved Financial Institution to transfer funds from the relevant Nominated Proprietary Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account in an amount equal to the amount so due;
 - (ii) if the net amount for a Proprietary Account is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Proprietary Account of the Clearing Member with the Approved Financial Institution in an amount equal to the amount so due;
 - (iii) if the net amount for a Customer Account is due to the Clearing House, the Clearing House shall instruct the Clearing Member's Approved Financial Institution to transfer funds from the relevant Nominated Customer Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account in an amount equal to the amount so due;
 - (iv) if the net amount for a Customer Account is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Customer Account of the Clearing Member with the Approved Financial Institution in an amount equal to the amount so due.
- (b) Instructions made pursuant to this Rule 302 may be made by means of a SWIFT message (or, in the case of a contingency, such other electronic message, fax, telephone or other means as are allowed pursuant to the Procedures) to the relevant Approved Financial Institution. Payments pursuant to this Part 3 shall be made immediately at the time and on the date that the obligation to pay arises or at such other time as is specified by the Clearing House in writing.
- (c) Upon notice from the Clearing House that a transfer of funds from a Clearing Member's Nominated Account was not effected as instructed by the Clearing House for any reason, the Clearing Member shall deliver to the Clearing House the amount required at such time and in such form as the Clearing House may prescribe.
- (d) Various authorities and powers are granted to the Clearing House pursuant to clause 5.2 of the Clearing Membership Agreement for purposes of supporting the payment arrangements set out in this Part 3. For the avoidance of doubt, the reference in the fourth sentence of clause 5.2 of the Clearing Membership Agreement that the "Approved Financial Institutions will act upon any instructions received from the Clearing House" shall be understood to mean that the "Approved Financial Institutions shall be authorised and directed to act upon any instructions received from the Clearing House".

Rule 303 **Set Off**

- (a) Subject to Rule 102(p), the Clearing House may set off any obligation due to it from a Clearing Member against any obligation owed by the Clearing House to, or for the account of, the Clearing Member, regardless of the place of payment, account, branch or currency of either obligation. If the obligations referred to in this Rule 303(a) are in different currencies, the Clearing House may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off.
- (b) The Clearing House shall be entitled to make any necessary adjustments to the Clearing Member's Proprietary Accounts and Customer Accounts resulting from exercise of its rights of set off.
- (c) The rights of the Clearing House in this Rule 303 are without prejudice to any rights of lien, setoff, netting, liquidation, combination of accounts or appropriation, or to instruct the same or any other rights or remedies of the Clearing House or any Approved Financial Institution, whether under these Rules or otherwise.

Part 4 Clearing Mechanism

Rule 401 Formation of Contracts

- (a) Subject to Rule 403 and Rule 404, two Contracts shall arise automatically, one between the Selling Clearing Member and the Clearing House and the other between the Clearing House and the Buying Clearing Member (or a single Contract shall arise between the Clearing House and a Clearing Member where applicable in the case of Rule 401(a)(vi) or (x)), at the moment that:
- (i) in the case of any ICE Futures Europe Matched Transaction or ICE Futures US Matched Transaction, the relevant orders are matched on ICE Futures Europe or ICE Futures US, respectively;
 - (ii) in the case of any ICE OTC Matched Transaction, the relevant orders are matched on ICE OTC in an instance in which, in accordance with relevant ICE OTC Participant Agreements, any relevant ICE OTC Broker Agreement and the Procedures, the Transaction is to proceed to clearing;
 - (iii) in the case of any ICE Futures Europe Block Transaction or ICE Futures US Block Transaction, ICE Futures Europe or ICE Futures US, respectively, receives and has recorded on its system complete data in respect of the Transaction;
 - (iv) in the case of any ICE OTC Block Transaction, the ICE OTC Operator receives complete data in respect of the Transaction in an instance in which, in accordance with relevant ICE OTC Participant Agreements, any relevant ICE OTC Broker Agreement and the Procedures, the Transaction is to proceed to clearing;
 - (v) in the case of Transactions generated by ICE Futures Europe, ICE Futures US or the ICE OTC Operator as a result of the operation of their contra trade, error trade, invalid trade, cancelled trade, error correction or similar policies and rules and procedures relating thereto or otherwise, upon notice of the final terms of the Transaction being received by the Clearing House;
 - (vi) in the case of a Contract that is formed as a result of another Contract being Invoiced Back by the Clearing House, immediately upon notice of the existence and final terms of the new Contract being given by the Clearing House to the Clearing Members affected;
 - (vii) in the case of a Contract that forms as a result of an Option being exercised in accordance with Part 8, immediately upon such exercise taking effect pursuant to Part 8;
 - (viii) in the case of an Energy Contract that is allocated by one Clearing Member to another Clearing Member by agreement of both Clearing Members subsequent to that Energy Contract arising but on the same day as that on which such Contract arose, upon both such Clearing Members having recorded their agreement to such allocation on the Clearing House's systems;

- (ix) in the case of a CDS Contract (other than a CDS Contract arising pursuant to Rule 401(a)(x)), the time specified pursuant to the Procedures occurs for the acceptance of CDS Contracts on any day, provided that no such CDS Contract shall arise unless the Clearing House has provided an acceptance notice to the Buying Clearing Member and Selling Clearing Member in accordance with the Procedures in relation to the CDS Contract;
- (x) in the case of a CDS Contract arising under Rule 903(a)(~~xii~~xiii), 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 the CDS Contract involved and the price or Initial Payment at which such CDS Contract will be recorded on the Clearing House's books and records; ~~and~~
- (xi) in the case of a CDS Contract arising following the submission of end-of-day prices by a Clearing Member pursuant to Rule 503(g), at the time specified by the Clearing House for the entry into of the relevant CDS Contract, provided that (A) the Clearing House has given notice to the relevant CDS Clearing Member of the particulars of the CDS Contract involved and the price or Initial Payment at which such CDS Contract will be recorded on the Clearing House's books and records in accordance with the Procedures; and (B) no such CDS Contract shall arise unless the Clearing House has provided an acceptance notice to the Buying Clearing Member and Selling Clearing Member in accordance with the Procedures in relation to the CDS Contract;
- (xii) in the case of an FX Contract (other than an FX Contract arising pursuant to Rule 401(a)(vi)), the time specified pursuant to the Procedures occurs for the acceptance of the FX Contract, provided that no such FX Contract shall arise unless the Clearing House has provided an acceptance notice to the Buying Clearing Member and Selling Clearing Member in accordance with the Procedures in relation to the FX Contract; and
- (xiii) in the case of a Contract arising under Rule 404(c)(i), at the time of execution of relevant documentation or otherwise when a replacement Contract arises in accordance with that provision.
- (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) 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, Exchange, Deriv/SERV or other data entry facility for CDS Contracts or FX Transactions, 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), (x) or (xi); or
 - (ii) Rule 401(a)(vi) or Rule 401(a)(xiii) in relation to a CDS Contract,
the Clearing Member in question must be a CDS Clearing Member.
- (k) In order for a Contract to arise pursuant to:
 - (i) Rule 401(a)(xii); or

(ii) Rule 401(a)(vi) or Rule 401(a)(xiii) in relation to an FX Contract.

the Clearing Member in question must be an FX Clearing Member.

- (l) ~~(k)~~ On each occasion that the Clearing House gives notice in relation to a CDS Contract pursuant to Rule 401(a)(ix), Rule 401(a)(x) or Rule 401(a)(xi), 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) or Rule 401(a)(xi), as applicable, adjusted to take into account netting and aggregation of CDS Contracts pursuant to Rule 406.
- (m) ~~(j)~~ Where an Energy Contract arises pursuant to Rule 401 as a result of trading, submission of trade data or other action by a Customer of a Clearing Member, an opposite corresponding contract shall arise between the Customer and that Clearing Member (and may be void or voided) and further corresponding contracts may arise between Customers in the manner specified by and in accordance with:
- (i) in the case of Energy Contracts arising as a result of ICE Futures Europe Transactions, the ICE Futures Europe Rules; or
 - (ii) in the case of Energy Contracts arising as a result of ICE OTC Transactions, the Procedures.
- (n) ~~(m)~~ When a Clearing Member enters into any Contract, it may do so in only one of the following capacities:
- (i) if it is an FCM Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Non-DCM/Swap Customers, in which case the Contract shall be recorded by the Clearing Member in the Non-DCM/Swap Customer Account;
 - (ii) if it is an FCM Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more DCM Customers, in which case the Contract shall be recorded by the Clearing Member in the DCM Customer Account;
 - (iii) if it is an FCM Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Swap Customers, in which case the Contract shall be recorded by the Clearing Member in the Swap Customer Account;
 - (iv) if it is an FCM Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more General Customers, in which case the Contract shall be recorded by the Clearing Member in the General Customer Account;
 - (v) if it is not an FCM Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Customers where segregation of related collateral is required or agreed, in

which case the Contract shall be recorded by the Clearing Member in the General Customer Account; or

- (vi) as a clearing member in any other capacity (including where the Clearing Member does not provide any services to any Customer or where the Clearing Member provides services in relation to a transaction or transactions where there is no requirement or agreement for segregation of related collateral) in which case the Contract shall be recorded by the Clearing Member in the Proprietary Account.

- (o) ~~(n)~~ For the avoidance of doubt, for purposes of section 187 of the Companies Act 1989, a Clearing Member with one or more of a Proprietary Account, Non-DCM/Swap Customer Account, Swap Customer Account, DCM Customer Account or General Customer Account enters into Contracts recorded in its each such account in a different capacity to that in which it enters into Contracts recorded in any other account.

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) ~~(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) ~~(b)~~ 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.
- (d) ~~(e)~~ The Clearing House shall have no liability or obligation in relation to any Transaction whatsoever, unless and until a Contract arises in accordance with Rule 401 that is not void; in which case its liabilities shall be pursuant to the Contract only. The Clearing House's obligations and liabilities under any Contract shall be limited to those pursuant to the Contract Terms and these Rules, and are subject to the Contract not being void pursuant to Rule 403 and to the Clearing House's rights in relation to voidable Contracts pursuant to Rule 404.
- (e) ~~(d)~~ As between the Clearing House and each Clearing Member, all Contracts, these Rules, the relevant Clearing Membership Agreement and, if such Clearing Member is a CDS Clearing Member, the Master Agreement are entered into in reliance on the fact that all such documents constitute a single agreement between the Clearing House and such Clearing Member. Were it not for these Rules, the Clearing Membership

Agreement, other Contracts and, if such Clearing Member is a CDS Clearing Member, the Master Agreement, neither the Clearing House nor such Clearing Member would enter into any Contracts with the other.

(f) In the case of a Contract between the Clearing House and an FCM Clearing Member that is recorded in a Customer Account, the Contract will remain valid and binding on the FCM Clearing Member, and the FCM Clearing Member will be liable to perform under the Contract as set forth in Part 16, regardless of the validity of any obligations in respect of the Contract to which the Customer is or was intended to be bound.

Rule 403 *Energy Contracts that are Void from Inception*

- (a) No Energy Contract will arise (it being void *ab initio*) and the Clearing House shall have no obligation or liability to any Person in respect of a Transaction for which incomplete, erroneous or conflicting details are received by the relevant Market.
- (b) In the event of an Energy Contract being void:
 - (i) the Clearing House shall immediately notify the affected Clearing Members and any relevant Market;
 - (ii) all amounts paid pursuant to the purported Energy Contract shall be returned by the affected Clearing Member and the Clearing House to their respective contractual counterparties, in each case without interest;
 - (iii) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b).
- (c) Nothing in this Rule 403 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 404 *Contracts that are Voidable*

- (a) In relation only to Energy Contracts, the Clearing House shall have the discretion to avoid any Contract (which is not void *ab initio* pursuant to Rule 403) if the relevant Contract or Transaction (or related information or data received by the Clearing House, as applicable) whether in whole or in part:
 - (i) conflicts or appears to conflict with information received by the Clearing House in relation to such Contract or Transaction from another source, including (without limitation) information received from a Market, [Exchange](#), Deriv/SERV or any other data entry facility for CDS Contracts, any other Clearing Member or any Governmental Authority;
 - (ii) results or appears to result from a communications or information technology error or problem;
 - (iii) is or appears to be connected with fraud, illegality, insider dealing, market abuse, money laundering or any other breach of Applicable Laws;
 - (iv) is or appears to be a result of a Force Majeure Event;

- (v) is one which any Governmental Authority or any Market requires or requests in writing that the Clearing House treat as void or voided;
- (vi) is one which any Applicable Law provides is void or voided or which any Applicable Law requires the Clearing House to treat as void or voided;
- (vii) is one in respect of which the Clearing House has requested additional Margin or Permitted Cover from the Clearing Member and no Margin or Permitted Cover is provided by the time required;
- (viii) is otherwise made or received in such circumstances or in such a manner that acceptance of the Contract or Transaction would be inadvisable, in the opinion of the Clearing House, for the Clearing House's own protection, the protection of Clearing Members generally, Energy Clearing Members generally or the protection of a Market or marketplace in any class of Contracts.

(b) If any CDS Contract or FX Contract:

- (i) is one which any Governmental Authority requires or requests in writing that the Clearing House treat as void or voided;
- (ii) is one which any Applicable Law provides is void or voided, or requires the Clearing House to treat as void or voided;
- (iii) is one which, whether in whole or in part, pursuant to any Applicable Law is voidable; or
- (iv) is unenforceable by the Clearing House,

then the Clearing House shall act in accordance with Rule 404(c). A ~~CDS~~ Contract shall not be subject to Rule 404(b)(iii) or (iv) if a Clearing Member is subject to fraud, illegality, insider dealing, market abuse, money laundering, breach of Applicable Laws or other grounds for the ~~CDS~~ Contract being void, voidable or unenforceable solely as a result of it having been party to a Bilateral CDS Transaction or an FX Transaction (as applicable) in circumstances in which a ~~CDS~~ Contract to which another Clearing Member is party is subject to Rule 404(b)(iii) or (iv).

(c) If any of the circumstances set out in Rule 404(b)(i) and (ii) arises, the Clearing House shall comply with any relevant request, requirement or provision, and, if Rule 404(b)(iii) or (iv) applies, it may at its discretion avoid the relevant ~~CDS~~ Contract. If the Clearing House exercises its discretion to avoid a ~~CDS~~ Contract or any ~~CDS~~ Contract is otherwise void or voided, the Clearing House may, at its discretion, take action in accordance with this Rule 404(c). Where it does take action under this Rule 404(c), it may take the steps set out in paragraph (i) below or, if that is not reasonably 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 or FX 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 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 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).
- (vi) in the case of two FX Contracts resulting from the same FX Transaction being voided in circumstances in which the FX Transaction itself is not void:
 - (A) the relevant FX Transaction shall be deemed never to have been terminated; and
 - (B) 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.
- (g) For the avoidance of doubt, Rules 404(b), (c) and (d) shall only apply to CDS Contracts and FX Contracts and shall not apply to Energy Contracts.

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:

- (i) acting as principal and not as agent; and
 - (ii) in full compliance with the Rules.
- (b) In relation to each Contract (other than a Contract arising pursuant to Rule 401(a)(v), [Rule 401\(a\)\(vi\)](#), [Rule 401\(a\)\(x\)](#) ~~or (xi)~~, [Rule 401\(a\)\(xi\)](#), [Rule 401\(a\)\(xiii\)](#) or Rule 401(b)), 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:
- (i) the data submitted by the Clearing Member or its Customer to the Exchange (if applicable) or the Clearing House has been authorised by the Clearing Member and is complete and correct in all respects; and
 - (ii) Market Rules (if applicable) and all Applicable Laws have been complied with by the Clearing Member and any relevant Customer in respect of the Transaction.
- (c) In relation to each Contract that arises pursuant to Rule 401(a)(iii), Rule 401(a)(iv), Rule 401(a)(viii), [Rule 401\(a\)\(ix\)](#) and Rule 401(a)(~~ix~~[xii](#)), 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:
- (i) all and any previously subsisting contracts, rights, obligations or liabilities in connection with the subject matter of the Transaction or proposed Contract are on equal terms to that of the relevant Contract Terms (save as to the parties) and, in the case of rights, free from all Encumbrances (excluding liabilities and obligations arising pursuant to the Contract Terms);
 - (ii) any Person other than the Clearing Member to whom any contracts, rights, obligations or liabilities referred to in Rule 405(c)(i) pertain has agreed with the Clearing Member, or such other Person as is relevant, to be released from all of its rights, obligations and liabilities as a result of Contracts arising pursuant to Rule 401(a) (save for any contracts, rights, obligations or liabilities as between the Clearing Member and its Customers and any Customer and its customers and so on in relation to the subject matter of the Contract); and
 - (iii) any contracts giving rise to the Transaction were, immediately prior to the formation of a Contract pursuant to Rule 401(a), legally valid, binding and enforceable under Applicable Laws.
- (d) Clearing Members will become party to, and liable under, Contracts each and every time a Transaction that gives rise to a Contract arises as a result of the action or omission of its Representatives, regardless of any circumstance in relation to such Transaction, including without limitation whether the person placing the Transaction was authorised to do so by the Clearing Member or its Representative or whether the Transaction caused a Representative to exceed the Clearing House's credit or other

parameters set for such Representative, the Clearing House's Position Limits or otherwise was in breach of the Rules or any of the Clearing Member's or Clearing House's policies, procedures or controls.

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 [that are Energy Contracts](#)) or Long and Short positions (for a Set of Options [that are Energy Contracts](#)) 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, Non-DCM/Swap Customer Account (if any), Swap Customer Account (if any), DCM Customer Account (if any) and General 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. [For the avoidance of doubt, any contractual netting of Energy Contracts 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 any of: \(A\) any Energy Contract recorded in the Clearing Member's Proprietary Account; \(B\) any Energy Contract recorded in particular Customer Account of a Clearing Member; or \(C\) any Energy Contract recorded in a different Customer Account of a Clearing Member.](#)
- (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 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 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):

- (i) where a CDS Clearing Member elects to manage a CDS Sub-Account on a 'trade by trade' basis, there will be no netting, offsetting, consolidation, aggregation, novation, termination or replacement of CDS Contracts recorded in that CDS Sub-Account;
 - (ii) where a CDS Clearing Member elects to manage a CDS Sub-Account on a 'gross' basis:
 - (A) there shall be no netting or offsetting of CDS Contracts recorded in that CDS Sub-Account;
 - (B) CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set and where the CDS Clearing Member acts as Buying Clearing Member, will, by operation of this provision, be aggregated, terminated and replaced by a single CDS Contract at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the total of the Floating Rate Payer Calculation Amounts of those CDS Contracts; and
 - (C) CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set and where the CDS Clearing Member acts as Selling Clearing Member, will, by operation of this provision, be aggregated, terminated and replaced by a single CDS Contract, being a different CDS Contract to the CDS Contract referred to in Rule 406(d)(ii)(B), at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the total of the Floating Rate Payer Calculation Amounts of those CDS Contracts;
 - (iii) where a CDS Clearing Member elects to manage a CDS Sub-Account on a 'net' basis, CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set, will, by operation of this provision, be terminated and replaced by a single CDS Contract, at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the net of the Floating Rate Payer Calculation Amounts of those CDS Contracts; and
 - (iv) where a CDS Clearing Member makes no election in respect of a CDS Sub-Account, it shall be deemed to have elected to manage that CDS Sub-Account on a 'net' basis and Rule 406(d)(iii) shall apply.
- (e) Notwithstanding Rule 406(d):
- (i) following an Applicable Credit Event, the Clearing House shall be entitled to aggregate, consolidate, set off, close out and terminate CDS Contracts (as applicable) to result in one or more CDS Contracts per Set regardless of the

election in Rule 406(d), to the extent permitted under these Rules and the Procedures;

- (ii) if a CDS Contract becomes a self-referencing CDS Contract (in the circumstances further detailed in the Procedures), the Clearing House shall be entitled to set off, close out and terminate CDS Contracts (as applicable) to 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) There shall be no regular contractual netting or aggregation of FX Contracts. FX Contracts will be recorded separately and on a gross basis in both the Clearing Member's Proprietary Account and Customer Account. Notwithstanding this Rule 406(f):

- (i) 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;

- (ii) Rule 406(f) does not affect the definition or calculation of any Margin or Guaranty Fund Contribution requirements applicable to an FX Clearing Member;
- (iii) Rule 406(f) does not prevent the netting and offset of an FX Contract against another FX Contract, if the second FX Contract arose as a result of the Invoicing Back of the first FX Contract by the Clearing House under Rule 104;
- (iv) for the avoidance of doubt, any contractual netting of FX Contracts 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 any of: (A) any FX Contract recorded in the Clearing Member's Proprietary Account; (B) any FX Contract recorded in a particular Customer Account of a Clearing Member; or (C) any FX Contract recorded in a different Customer Account of a Clearing Member; and
- (v) if the Clearing House nets and offsets or combines and replaces any opposite FX Contracts (or any part of an FX Contract) of a Defaulter pursuant to Rule 902 or Rule 903, then the Clearing House shall be entitled to net and offset or combine and replace up to an equal amount of FX Contracts (or any part of an FX Contract) of other Clearing Members (which are not Defaulters) of the same Set as those FX Contracts of the Defaulter that were netted and offset or combined and replaced, and upon any such netting and offsetting or combination and replacement being notified by the Clearing House to a Clearing Member, the FX Contracts to which the netting and offsetting or combination and replacement applies shall automatically be terminated (and, in the case of a combination or partial offset, replaced with a new FX Contract) without need for any further action on the part of any Person, provided that:
 - (A) the Clearing House shall only net or offset two or more Financially-Settled FX Contracts of a Clearing Member that is not a Defaulter, in whole or in part, where such Financially-Settled FX Contracts are in the same Set and the Clearing Member in question is Reference Currency Buyer under one of the Financially-Settled FX Contracts and Reference Currency Seller under the other Financially-Settled FX Contract;
 - (B) the Clearing House shall only combine and replace two or more Financially-Settled FX Contracts (or parts thereof) of a Clearing Member that is not a Defaulter:
 - (1) if the Clearing Member is Reference Currency Buyer under one of the Financially-Settled FX Contracts in respect of a particular currency and Reference Currency Seller under the other Financially-Settled FX Contract in respect of the same currency, and those two Financially-Settled FX Contracts have the same FX Settlement Date; and
 - (2) if the replacement FX Contract is also a Financially-Settled FX Contract, with the obligations

and rights of the Clearing Member referring to the two currencies of the original FX Contracts (which were not the same), but with the same FX Settlement Date as the original FX Contracts and based on obligations with reference to the two remaining currencies as stood under the original FX Contracts; and

(C) the Clearing Members to which any netting, offsetting, combination or replacement applies shall be selected by the Clearing House based on an objective, automated selection process.

(g) ~~(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 Contracts or FX Contracts, this shall be subject to any provision to the contrary in any agreement in writing between the Clearing House and a CDS Clearing Member or FX Clearing Member, respectively). Such data may be provided by the Clearing House to any Market, Exchange, Deriv/SERV or any other data entry facility for CDS Contracts or any repository or data entry facility for FX 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). 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 Clearing and FX Clearing, to any further restrictions in any agreement in writing between the Clearing House and a CDS Clearing Member or FX Clearing Member, as the case may be.

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, if required under Applicable Law for Open Contract Positions in a Customer Account, the consent of the relevant Customers), 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)(~~xi~~xiii) 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, [FX 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. The amount of Original Margin or Margin under Rule 502(g) for any Business Day shall be calculated (and, if necessary, called) separately in respect of the relevant Proprietary Account, Non-DCM/Swap Customer Account (if any), Swap Customer Account (if any), DCM Customer Account (if any) and General Customer Account (if any) of a Clearing Member in accordance with the Procedures.
- (c) Variation Margin, [FX Mark-to-Market 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, which is the settlement currency (save where the Procedures require otherwise)~~ (for CDS Contracts) pursuant to the Contract Terms [or which is specified as the FX Mark-to-Market Margin currency for the relevant Set \(for FX Contracts\) \(save where the Procedures require otherwise\)](#).

- (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 procedures or haircuts set out in the Procedures. Any general changes to requirements for Margin or Permitted Cover will be notified to Clearing Members by a Circular.
- (e) Certain classes of Permitted Cover may be subject to haircuts, ~~as specified~~ in accordance with the Procedures, ~~(as specified from time to time by Circular)~~ pursuant to which certain classes of Permitted Cover do not count for their full face or market value in the determination of Margin for the account of a Clearing Member. For the avoidance of doubt, this subparagraph (e) shall apply to any haircuts imposed pursuant to clause 2.9 of the Pledged Collateral Addendum.
- (f) The Clearing House may require a Clearing Member or Clearing Members to transfer cash in other Eligible Currencies or Permitted Cover with the Clearing House in substitution for any Permitted Cover already transferred to the Clearing House.
- (g) The Clearing House may impose, amend or withdraw additional Margin requirements in respect of any Clearing Member at any time and at its discretion.
- (h) The Clearing House may designate that a Proprietary Account or Customer Account of a Clearing Member shall be a Pledged Collateral Account and consequently that Margin (or Permitted Cover in respect thereof) to be provided by such Clearing Member with respect to such account shall be provided by way of Pledged Collateral. In the absence of such express designation (whether pursuant to these Rules or otherwise), a Proprietary Account or Customer Account will not be a Pledged Collateral Account.

Rule 503 *Margin Calls and Return of Excess Margin*

- (a) Margin shall be and become due and payable at the times specified by the Clearing House pursuant to Rule 302.
- (b) Regular Margin calculations will be made by the Clearing House on each Business Day. Any such calculation may result in a call for additional Permitted Cover pursuant to Part 3.
- (c) The Clearing House shall be entitled, at its discretion, to make an intra-day call for Margin or any other amount payable to it. In the event of such a call being made, the Clearing House will:
 - (i) give notice to each Clearing Member which is required to make payment to the Clearing House of the amount payable by such Clearing Member and time by which payment must be made; and
 - (ii) immediately after giving or making reasonable efforts to give the notice described in Rule 503(c)(i), instruct the relevant Approved Financial Institution to transfer funds equal to the amount due to the Clearing House from the account of such Clearing Member to an account of the Clearing House.

- (d) For regular calls relating to Energy Contracts, Margin shall be calculated with reference to a Clearing Member's Open Contract Position in accordance with the Procedures. For any intra-day Margin call relating to Energy Contracts, Margin shall be calculated with reference to a Clearing Member's Open Contract Position and gross number of Contracts in relation to any Contracts not included in Open Contract Positions in accordance with the Procedures.
- (e) The amount of Variation Margin for any Business Day shall be calculated (and, if necessary, called) separately in respect of the relevant Proprietary Account, Non-DCM/Swap Customer Account (if any), Swap Customer Account (if any), DCM Customer Account (if any) and General Customer Account (if any) of a Clearing Member in accordance with the Procedures. Each such Variation Margin call shall be:
 - (i) in the case of an Open Contract Position, based on the prices at which Open Contract Positions in Energy Contracts are recorded on the Clearing House's books; and
 - (ii) in the case of Energy Contracts not reflected in a Clearing Member's Open Contract Position, represented by the difference between the Settlement Price and the price at which each such Energy Contract was bought or sold; provided, however, that in the case of any Energy Contract based on an index, the amount of the final Variation Margin payment shall be determined as specified in the rules of the Exchange on which the index is based.
- (f) Regular calls for Margin in respect of CDS Contracts will be made following the close of business on each Business Day as follows and in accordance with the Procedures:
 - (i) For Portfolio Risk Margin and Physical Settlement Margin calls, the Clearing House shall calculate net amounts as due to or from the Clearing House from or to each CDS Clearing Member separately in respect of its Proprietary Account and Customer Account (if any). Such amounts shall in each case be calculated based on the difference between the CDS Clearing Member's requirement for Portfolio Risk Margin and Physical Settlement Margin and the value attributed by the Clearing House to assets accounted for by the Clearing House as Margin of that category, in accordance with the Procedures. Additional amounts in respect of Physical Settlement Margin may also be required pursuant to the Procedures or Rule 502(g).
 - (ii) For Mark-to-Market Margin calls, each currency in which a CDS Contract is denominated is treated as a separate category (each, a "**Mark-to-Market Margin Category**"). For each Mark-to-Market Margin Category of a CDS Clearing Member, the Clearing House shall calculate net amounts as due to or from the Clearing House from or to each CDS Clearing Member separately in respect of its Proprietary Account and Customer Account (if any) based on the change in Mark-to-Market Price from the last time at which a Mark-to-Market Margin call was made, in accordance with the Procedures.
- (g) The "**Mark-to-Market Price**" for CDS Contracts of a Set at any time is the price, expressed as a percentage of the Floating Rate Payer Calculation Amount for such a CDS Contract, determined by the Clearing House in accordance with the Procedures, such price being the amount that would be payable up front as an Initial Payment by the

Buyer or Seller in order to enter into a CDS Contract of such a Set with a particular Floating Rate Payer Calculation Amount as at such time, divided by such Floating Rate Payer Calculation Amount. When such Initial Payment would be payable by a Buyer, the Mark-to-Market Price will be a negative percentage and when such Initial Payment would be payable by a Seller, the Mark-to-Market Price will be a positive percentage. When deemed at the Clearing House's discretion to be necessary in order to protect the interests of the Clearing House and Clearing Members, the Clearing House may set the Mark-to-Market Price for CDS Contracts of any Set at a price determined by the Clearing House at its discretion. When the Clearing House so uses its discretion so to set a Mark-to-Market Price, the reasons for doing so and the basis for the establishment of the Mark-to-Market Price in such circumstances shall be recorded by the Clearing House. To aid in the establishment of Mark-to-Market Prices, Clearing Members are required to submit end-of-day prices relating to Sets of CDS Contracts in accordance with the Procedures. In connection with the Clearing services provided by the Clearing House and as detailed in the Procedures, the submission of end-of-day prices relating to CDS Contracts may, on the day of price submission only, result in a CDS Contract arising pursuant to Rule 401(a)(xi).

- (h) For regular and intra-day Margin calls relating to FX Contracts, Margin shall be calculated with reference to the FX Contracts to which the Clearing Member is party, in accordance with the Procedures.
- (i) The amount of FX Mark-to-Market Margin for any Business Day shall be calculated (and, if necessary, called) separately in respect of the relevant Proprietary Account and Customer Account of a Clearing Member in accordance with the Procedures. Each such FX Mark-to-Market Margin call shall be based on changes to the mark-to-market values for FX Contracts and exchange rates from the last time at which a call for FX Mark-to-Market Margin was made in accordance with Part 17 of the Rules and the Procedures.
- (j) ~~(h)~~ The Clearing House shall return to a Clearing Member the amount of any excess Margin, provided that the Clearing House receives a request for such a release from such Clearing Member by such time as may be specified by the Clearing House on the day such release is to be made, in accordance with Rule 302.

Rule 504 *Rights relating to Margin and Representations of Clearing Members*

- (a) The rights and liabilities of the Clearing House and each Clearing Member in relation to Margin are set out in the Clearing Membership Agreement and these Rules.
- (b) Each Clearing Member will act as principal and not as agent in providing Margin to the Clearing House. The Clearing House will take no account of any right or interest which any Person other than the Clearing Member may have in any Margin furnished by such Clearing Member to the Clearing House.
- (c) Each Clearing Member will be deemed to represent and warrant to the Clearing House on each date on which such Clearing Member provides assets to the Clearing House to be held by way of Margin pursuant to these Rules, that:

- (i) the Clearing Member is the sole legal and beneficial owner of all such assets (or such assets are provided with the legal and beneficial owner's unconditional consent for their use and application pursuant to these Rules);
 - (ii) no such assets are subject to any Encumbrance whatsoever; and
 - (iii) the use or application of Margin by the Clearing House pursuant to these Rules is not in breach of any of the Clearing Member's contractual obligations towards any third party or Applicable Laws.
- (d) The Clearing Member shall be liable to the Clearing House for any cost or liability incurred by the Clearing House as a result of the Clearing House possessing, holding, perfecting the title to or otherwise being associated with, any asset provided to it by that Clearing Member by way of Margin.
- (e) Where a Clearing Member has appointed a Disclosed Principal Member, any obligation to transfer Margin of the Clearing Member shall be construed as an obligation of the Disclosed Principal Member and all other provisions of these Rules relating to Margin shall be construed accordingly.

Rule 505 Financial Collateral Regulations

Clearing Members and the Clearing House acknowledge that the Financial Collateral Regulations apply in relation to all Permitted Cover, Margin and Guaranty Fund Contributions transferred to the Clearing House in the form of "cash" or "financial instruments" (in either case, as defined in the Financial Collateral Regulations). Each Clearing Member agrees that it will not dispute the construction of the arrangements regarding the provision of collateral under these Rules as "financial collateral arrangements" within the meaning of the Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on Financial Collateral Arrangements.

Part 6 Position Limits

Rule 601 Establishment of Position Limits

- (a) The Clearing House will be entitled at its discretion to establish, amend or revoke Position Limits for Clearing Members. The Clearing House may or may not inform Clearing Members of their Position Limits.
- (b) The Position Limit for each Clearing Member will be determined at the Clearing House's discretion and may take into account the Clearing House's evaluation of the financial and operational capacity of the Clearing Member and such other factors as the Clearing House at its discretion deems appropriate.

Rule 602 Breach of Position Limit

- (a) If a Clearing Member exceeds its Position Limit, the Clearing House may, at its discretion:
 - (i) require a Clearing Member to provide information to the Clearing House in respect of its positions;
 - (ii) require a Clearing Member to allocate, transfer or liquidate such Contracts or close out its Open Contract Position to the extent necessary to reduce its Open Contract Position so as to meet its Position Limit within such time as the Clearing House may prescribe;
 - (iii) make an additional call for such Margin as the Clearing House in its discretion determines; and/or
 - (iv) impose such additional Capital requirements on the Clearing Member as the Clearing House in its discretion determines.
- (b) If the Clearing Member fails to comply with any requirement imposed on it pursuant to Rule 602(a), the Clearing Member shall be in breach of these Rules and, without limitation, the Clearing House may, at its discretion, in respect of the Clearing Member concerned:
 - (i) declare an Event of Default;
 - (ii) terminate or suspend membership of the Clearing Member;
 - (iii) liquidate such Contracts as the Clearing House at its discretion selects on behalf of the Clearing Member;
 - (iv) instigate an investigation or disciplinary proceedings under Part 10 of the Rules; and/or
 - (v) impose such other requirements on the Clearing Member as it sees fit.
- (c)

- (i) A Clearing Member shall be deemed not to have exceeded a Position Limit (for purposes of Rules 602(a)(ii) and (iv) and Rule 204(a)(ii) only) to the extent that such Position Limit is exceeded as a result of it being party to any Contract arising pursuant to any of Rule 401(a)(v), (vi), (x), (xi) or ~~(xiii)~~ which was entered into: (A) 5 or fewer Business Days prior to the date of determination by the Clearing House that a Position Limit has been exceeded; or (B) 5 or fewer Business Days prior to the relevant Set becoming ineligible for Clearing (or, in either case, as a result of any Open Contract Position or Contract reflecting any such Contract). Consequently, where a Clearing Member is party to any such Contract, the existence of the Contract will be disregarded in calculating the position of the Clearing Member that is used for purposes of determining the availability of the Clearing House's powers under Rule 602(a)(ii) or (iv) or the applicability of a notification requirement under Rule 204(a)(ii) and instead the position of the Clearing Member excluding each disregarded Contract will be used for the purposes of such determinations.
- (ii) A Clearing Member shall be deemed not to have breached a requirement imposed on it pursuant to Rule 602(a)(ii) to the extent that such a requirement is breached as a result of it being party to any Contract arising pursuant to any of Rule 401(a)(v), (vi), (x), (xi) or ~~(xiii)~~ which was entered into: (A) at any time after the requirement was imposed; (B) 5 or fewer Business Days prior to the requirement being imposed; or (C) 5 or fewer Business Days prior to the Set becoming ineligible for Clearing (or, in any such case, as a result of any Open Contract Position or Contract reflecting any such Contract). Consequently, where a Clearing Member is party to any such Contract, the existence of the Contract will be disregarded for purposes of determining any breach of a requirement under Rule 602(a)(ii) and instead the position of the Clearing Member excluding each disregarded Contract will be used for the purposes of any such determination.
- (iii) Nothing in Rule 602(c) shall restrict the taking by the Clearing House of any action under Rule 602(a)(i) or (iii), which it may do without regard to the nature of Contracts making up any Open Contract Position.

Part 7 Settlement and Delivery of Futures

Part 7 of the Rules does not apply to CDS Contracts or FX Contracts. References to Contracts in this section are to Energy Contracts. References to Customer Accounts and Proprietary Accounts in this section are references to such accounts as are designated for Energy Contracts.

Rule 701 Determination of Market Delivery Settlement Price

- (a) The Clearing House will specify the Market Delivery Settlement Price for any Future Set.
- (b) The Market Delivery Settlement Price will generally be determined on the basis of data provided by the Market on which the Contract in question is traded.
- (c) The Clearing House shall be entitled to determine the Market Delivery Settlement Price itself, at its discretion, if:
 - (i) a Market fails on any day to determine a Market Delivery Settlement Price;
 - (ii) a Market fails to provide the Clearing House with necessary data for determination of a Market Delivery Settlement Price;
 - (iii) there is an error in data provided by a Market; or
 - (iv) the Clearing House at its discretion otherwise considers it appropriate to do so.

Rule 702 Cash Settlement

- (a) A Futures Contract shall be settled in cash if:
 - (i) pursuant to the applicable Contract Terms it can be settled only in cash; or
 - (ii) pursuant to the applicable Contract Terms it may be settled in cash and the Clearing Member opts to settle the Contract(s) in cash.
- (b) Cash settlement for a Set of Futures Contracts shall occur separately, and separate payment obligations shall accrue, in respect of a Clearing Member's:
 - (i) Proprietary Account;
 - (ii) gross buy positions under its Non-DCM/Swap Customer Account (if applicable);
 - (iii) gross sell positions under its Non-DCM/Swap Customer Account (if applicable);
 - (iv) gross buy positions under its Swap Customer Account (if applicable);
 - (v) gross sell positions under its Swap Customer Account (if applicable);
 - (vi) gross buy positions under its DCM Customer Account (if applicable);
 - (vii) gross sell positions under its DCM Customer Account (if applicable);

- (viii) gross buy positions under its General Customer Account (if applicable); and
- (ix) gross sell positions under its General Customer Account (if applicable).
- (c) Provided that all Margin payments in respect of the Set have been paid by the Clearing Member to the Clearing House or repaid by the Clearing House, the amount payable for cash settlement of any Future shall be the net gain or loss, as the case may be, based on the price at which Open Contract Positions are recorded on the Clearing House's books and the Market Delivery Settlement Price and, for Contracts not reflected in a Clearing Member's Open Contract Position, the difference between the Market Delivery Settlement Price and the price at which each new relevant Contract not in the Clearing Member's Open Contract Position was bought or sold. Each cash settlement shall occur in accordance with the Contract Terms.
- (d) Neither those parts of the Procedures relating to delivery nor the requirements of Rule 703 shall apply to any Contract which is settled in cash in accordance with this Rule 702.

Rule 703 *Delivery*

- (a) In relation only to Futures which are not settled in cash pursuant to Rule 702, those parts of the Procedures relating to delivery and the requirements of this Rule 703 shall apply.
- (b) The Buyer and Seller shall each make such payments and deliveries and deliver such tenders, notices and invoices as are required pursuant to the Procedures and Market Rules.
- (c) Full compliance with the Procedures applicable to the Contract in question and, where applicable, Market Rules shall amount to a good discharge of the rights, liabilities and obligations of the parties under such Contract (but shall be without prejudice to any rights, liabilities or obligations of any party to a Contract in relation to breach of warranty, representation, damaged goods, under-delivery, over-delivery or otherwise).
- (d) The Clearing House may, at its discretion, direct a Clearing Member who is a Seller under a Contract subject to delivery to deliver the Commodity the subject matter of such Contract to another Clearing Member that is a Buyer. The Seller and Buyer shall each be bound by any such direction. Delivery in accordance with any such direction shall be deemed to constitute delivery by the Seller to the Clearing House and from the Clearing House to the Buyer for the purposes of the Contract or Contracts in question (but title shall not pass unless and until specified in the Procedures). All payments in relation to such Contracts shall nonetheless be made only to and from the Clearing House by the Clearing Members concerned.
- (e) If a Buyer under a Contract rejects a Commodity delivered to it, the Clearing House as Buyer under the similar (effectively, back to back) Contract shall be entitled, if to do so would be in accordance with the applicable Contract Terms, to take the same action as against the Seller under the equivalent Contract and the Clearing House shall not be deemed to have accepted such delivery until the relevant Buyer has accepted delivery under the first Contract.

- (f) If an invoice has not been prepared or delivered when payment becomes due pursuant to a Contract, payment shall be made and received on account, pending the issue of that invoice.
- (g) Where a Clearing Member that is a Buyer or Seller under a Contract subject to delivery is subject to an Event of Default or Force Majeure Event, the rights, liabilities and obligations of any Clearing Member that is not a Defaulter in respect of such performance shall be discharged and there shall arise in place of the same an obligation to account as between the Clearing Member and the Clearing House for a settlement amount. The Clearing House shall be entitled to substitute an obligation to account for such settlement amount, or a proportion thereof, for the Clearing House's rights, liabilities and obligations in respect of performance of delivery obligations under other Contracts subject to tender with other Clearing Members (such Contracts and Clearing Members selected by the Clearing House at its discretion) of the same Set.
- (h) Where a Clearing Member has appointed a Disclosed Principal Member, any delivery or related obligation of the Clearing Member shall be construed as an obligation of the Disclosed Principal Member and terms 'Buyer,' 'Seller' and all other provisions of these Rules relating to deliveries shall be construed accordingly.

Rule 704 *Credit and Debit of Accounts*

The Clearing House shall make any necessary credits or debits to or from Clearing Members' Proprietary Account and Customer Accounts, as appropriate, arising as a result of each cash settlement and delivery in accordance with Part 3.

Rule 705 *Settlement and Delivery Obligations only in respect of Open Contract Position and Termination of other Contracts*

- (a) The Clearing House and each Clearing Member shall make cash settlement or delivery only for such number of Contracts as are reflected in the Clearing Member's Open Contract Position plus any Contracts not included in the Open Contract Position, separately for each of the positions on the Clearing Member's:
 - (i) Proprietary Account;
 - (ii) gross buy positions under its Non-DCM/Swap Customer Account (if applicable);
 - (iii) gross sell positions under its Non-DCM/Swap Customer Account (if applicable);
 - (iv) gross buy positions under its Swap Customer Account (if applicable);
 - (v) gross sell positions under its Swap Customer Account (if applicable);
 - (vi) gross buy positions under its DCM Customer Account (if applicable);
 - (vii) gross sell positions under its DCM Customer Account (if applicable);
 - (viii) gross buy positions under its General Customer Account (if applicable); and

(ix) gross sell positions under its General Customer Account (if applicable).

No such Open Contract Position (or additional Contracts) may be netted against another Open Contract Position on cash settlement or delivery without the prior written consent of the Clearing House, and subject always to Rule 102(p).

(b) Upon each of the parties to a Contract having made all necessary payments and deliveries in accordance with these Rules in respect of all Futures Contracts in a Set in relation to which a cash settlement or delivery obligation exists for any account or positions specified in Rule 705(a), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to Futures Contracts belonging to such Set in respect of such account or position.

Part 8 Options

Part 8 of the Rules does not apply to CDS Contracts or FX Contracts. References to Contracts in this section are to Energy Contracts. References to Customer Accounts and Proprietary Accounts in this section are references to such accounts as are designated for Energy Contracts.

Rule 801 Payment of Premium

- (a) A Buying Clearing Member that becomes party to an Option shall be obliged to pay to the Clearing House the premium for the Option at the time specified in the Contract Terms.
- (b) A Selling Clearing Member that becomes party to an Option will be credited by the Clearing House with an amount equal to the premium for the Option at the time specified in the Contract Terms.

Rule 802 Reference Prices

- (a) The Clearing House will specify the Reference Price for any Option Set.
- (b) The Reference Price will generally be determined on the basis of data provided by the Market on which the Contract in question is traded.
- (c) The Clearing House shall be entitled to determine the Reference Price itself, at its discretion, if:
 - (i) a Market fails on any day to determine a Reference Price;
 - (ii) a Market fails to provide the Clearing House with necessary data for determination of a Reference Price;
 - (iii) there is an error in data provided by a Market; or
 - (iv) the Clearing House at its discretion otherwise considers it appropriate to do so.

Rule 803 Exercise of Options

- (a) An Option Contract may be exercised only by a Clearing Member with a Long Open Contract Position or by the Clearing House in respect of a Contract in which it is Long. Option Contracts may only be exercised by a Clearing Member for any Option Set for such number of Contracts as are reflected in the Clearing Member's Open Contract Position (plus any Contracts not included in the Open Contract Position), separately for each of the positions on the Clearing Member's:
 - (i) Proprietary Account;
 - (ii) gross Long positions under its Non-DCM/Swap Customer Account (if applicable);
 - (iii) gross Short positions under its Non-DCM/Swap Customer Account (if applicable);

- (iv) gross Long positions under its Swap Customer Account (if applicable);
 - (v) gross Short positions under its Swap Customer Account (if applicable);
 - (vi) gross Long positions under its DCM Customer Account (if applicable);
 - (vii) gross Short positions under its DCM Customer Account (if applicable);
 - (viii) gross Long positions under its General Customer Account (if applicable); and
 - (ix) gross Short positions under its General Customer Account (if applicable).
- (b) Any exercise of an Option Contract shall be in accordance with the applicable Contract Terms. In particular, an Option Contract shall only be exercised:
- (i) if it is an Option Contract which in accordance with the applicable Contract Terms is automatically exercised, in which case it will be automatically exercised at the time and in the manner specified in the Contract Terms; or
 - (ii) if it is an Option Contract not falling in Rule 803(b)(i), at such time as is permitted pursuant to the applicable Contract Terms (whether on the day and by the time prescribed by the applicable Contract Terms or in such period as is prescribed by the applicable Contract Terms) and in such form and manner as is permitted pursuant to the Contract Terms and the Procedures (including, where permitted, by manual exercise or the establishment of settings in the Clearing House's systems for the exercise of Options).
- (c) An Option Contract may be abandoned by notice to the Clearing House in writing or such other form as is permitted pursuant to the Procedures ~~or Contract Terms~~.
- (d) The Clearing House shall be entitled to rely upon any form or electronic communication purporting to give notice of exercise or abandonment of an Option made in accordance with these Rules without any enquiry as to:
- (i) whether such form or electronic communication complies with the Contract Terms or the requirements of the Procedures; or
 - (ii) as to the authority of any Representative purporting to exercise an Option on behalf of a Clearing Member or due execution of the relevant form.
- (e) The Clearing House may reject any notice of exercise or abandonment of an Option if such notice does not, or appears not to, comply with the Contract Terms or the Procedures, notwithstanding any equivalent notice or other prescribed form of exercise that has been provided by the Clearing House to any Clearing Member in respect of the exercise of an Option Contract.
- (f) No notice or other form of exercise or abandonment of an Option received by the Clearing House may be cancelled or withdrawn once the deadline for exercise has passed.
- (g) Part 7 of these Rules shall not apply in relation to Options.

Rule 804 *Notice of Assignment*

The Clearing House will assign exercise notices to Clearing Members which have or carry Short Open Contract Positions (and Short Contracts not in their Open Contract Position) in the Option Set being exercised, in accordance with the Procedures.

Rule 805 *Formation of new Futures Contracts*

- (a) Upon exercise of any Option, one or more Futures Contracts at the Strike Price (or such other price as is required pursuant to the Contract Terms) shall arise pursuant to Rule 401 and in accordance with the Contract Terms for the Option and applicable Market Rules.
- (b) Upon such Futures Contract or Contracts having arisen and all necessary payments having been made by the Clearing Member and Clearing House pursuant to the Procedures, the rights, obligations and liabilities of the Clearing House and the relevant Clearing Member in respect of the Option shall be satisfied and the Option shall be terminated.

Rule 806 *Termination of other Contracts*

Upon each of the parties to a Contract having made all necessary payments and becoming party to all resulting Futures Contracts in accordance with these Rules in respect of all Option Contracts in a Set in relation to an account or position specified in Rule 803(a), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to Option Contracts belonging to such Set in respect of such account or position.

Rule 807 *Expiry and Abandonment*

- (a) If an Option Contract is not automatically exercised in accordance with Rule 803(b)(i) or exercised by the Clearing Member by the day and time referred to in Rule 803(b)(ii), all the rights, liabilities and obligations of each of the Clearing House and the relevant Clearing Member in respect of any the Option shall lapse and the Option shall be terminated and be deemed to be abandoned.
- (b) If notice of abandonment of an Option Contract is given pursuant to Rule 803(c), all the rights, liabilities and obligations of each of the Clearing House and the relevant Clearing Member in respect of any the Option shall lapse and the Option shall be terminated and be deemed to be abandoned upon the Clearing House updating its books and records in respect of such abandonment.

Part 9 Events of Default

Rule 901 Events of Default

- (a) If any of the following events should occur with respect to any Clearing Member (regardless of whether it is cured by the Clearing Member, a guarantor or other third party on behalf of the Clearing Member or otherwise), such event shall, if so declared by the Clearing House, constitute an "**Event of Default**":
- (i) any breach by that Clearing Member of these Rules, the Procedures, the Clearing Membership Agreement, any other agreement with the Clearing House or Market Rules;
 - (ii) that Clearing Member being unable, or likely to be unable, to meet its obligations under these Rules or in respect of any Contract;
 - (iii) a Monetary Default occurring with respect to that Clearing Member;
 - (iv) any Financial Indebtedness of that Clearing Member or any of its Affiliated Persons: (A) not being paid when due or within any originally applicable grace period; or (B) being declared to be or otherwise becoming due and payable prior to its specified maturity as a result of an event of default (however described);
 - (v) any commitment for any Financial Indebtedness of that Clearing Member or any of its Affiliated Persons being cancelled or suspended by a creditor as a result of an event of default (however described);
 - (vi) any creditor of that Clearing Member or any of its Affiliated Persons becoming entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described);
 - (vii) an Insolvency in relation to that Clearing Member or any of its Affiliated Persons;
 - (viii) any material action being taken against that Clearing Member (including, without limitation, any declaration of default, material adverse notice or finding, material fine, suspension or expulsion or withdrawal of, revocation of or failure to renew any permission, licence or authorisation) by any Governmental Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility; or
 - (ix) breach by that Clearing Member of any Applicable Law relevant to its business as a Clearing Member.
- (b) If an Event of Default is has been declared ~~in respect of a Clearing Member~~, the Clearing House may immediately suspend or terminate such the Defaulter's membership as a Clearing Member and take any action to close out the Defaulter's positions under this Part 9. Any such suspension or termination may be temporarily postponed or may not be enforced if the Clearing House in its discretion determines that any such suspension or termination would either (i) not be in the best interests of the Clearing House; or (ii) be likely adversely to affect the operation of any market.

- (c) As soon as practicable after the Clearing House has declared that a Clearing Member is subject to an Event of Default, the Clearing House shall issue a Default Notice to the Defaulter and shall provide a copy of such Default Notice to any other party to an affected Contract (if any). The Clearing House will issue a Circular in respect of any Default Notice specifying the name of the Defaulter. The Clearing House may at its discretion publish a copy of the relevant Default Notice in or together with a Circular. The Clearing House shall, as soon as reasonably practicable after issuing a Default Notice, appoint a day on which any net sums certified under Rule 905 are to be paid.
- (d) The Clearing House may assume that the occurrence of any Event of Default means that a Clearing Member is unable, or likely to be unable, to meet its obligations under these Rules or in respect of any Contract.
- (e) The Clearing House may exercise rights under the power of attorney granted under clause 5.1 and 5.2 of the Clearing Membership Agreement (including with respect to the Pledged Collateral Addendum) if there has been an Event of Default. If, following an Event of Default, the Clearing House exercises rights under the power of attorney in clause 5.1 and 5.2 of the Clearing Membership Agreement for purposes of enforcement or otherwise to exercise any of its rights under this Part 9 or under the Pledged Collateral Addendum and a Circular has not been issued in respect of the Event of Default, the Clearing House will notify the Clearing Member concerned as soon as is reasonably practicable of such exercise.

Rule 902 *Liquidation following an Event of Default*

- (a) ~~Where a Person is subject to~~If an Event of Default has been declared, the Clearing House may take such steps pursuant to this Part 9 and Part 11 as appear in the circumstances to be necessary or expedient to discharge all the Defaulter's rights and liabilities under or in respect of Contracts to which it is party, to protect the Clearing House and its non-defaulting Clearing Members and to complete the process described in this Part 9 and Part 11. All Contracts to which a Defaulter is party (which are not voidable and voided by the Clearing House pursuant to Part 4) shall be liquidated in the manner set out in Rule 903 below unless and to the extent that:
 - (i) the Defaulter's rights and obligations under such Contracts are transferred or sold to and accepted by one or more other Clearing Members (each, a "**Transferee Clearing Member**"), with the prior consent of the Clearing House in the case of each transfer or sale at a price agreed between the Clearing House and the relevant Transferee Clearing Member;
 - (ii) the Clearing House determines in its discretion that the protection of the financial integrity of the Clearing House does not require such a liquidation;
 - (iii) such liquidation is delayed because of the cessation or curtailment of trading on an Exchange which lists such Contracts;~~or~~
 - (iv) the Defaulter acts as Buying Clearing Member and Selling Clearing Member in respect of Contracts of the same Set, in which case the Clearing House shall be entitled to net, offset, mutually close out or terminate such Contracts (or any part thereof) up to the extent that, following such netting, offsetting, closing out or termination, Contracts representing in aggregate the Open Contract Position

of the Defaulter in the relevant Set are recognised; and, in the case of CDS Contracts, the Clearing House shall be entitled (but shall not be required) to amend the records of trades recorded in Deriv/SERV accordingly, subject always to Rule 102(p): or

(v) two or more FX Contracts of a Defaulter (or any part of an FX Contract) are combined and replaced by a single FX Contract, which may occur where the Defaulter is Reference Currency Seller under one of the FX Contracts in respect of a particular currency and Reference Currency Buyer under the other FX Contract in respect of the same currency, and those two FX Contracts have the same FX Settlement Date.

The Clearing House shall be entitled, at its discretion, to take or arrange for any of the steps described in Rule 902(a)(i), (ii), (iii), (iv) or ~~(ivv)~~ as part of its default proceedings. If any Contracts recorded in a Defaulter's Customer Account are subject to any transfer or sale pursuant to Rule 902(a)(i):

- (A) any Margin recorded in a Defaulter's Customer Account may, at the discretion of the Clearing House, be transferred from the Defaulter's Customer Account to the Transferee Clearing Member's Customer Account;
- (B) to the extent that any transfer of Margin takes place in accordance with Rule 902(a)(A), the Defaulter shall have no claim against the Clearing House for return of such Margin and the Clearing House shall be released from any liability or obligation to return such Margin (or any property in substitution thereof) to the Defaulter; and
- (C) as between the Transferee Clearing Member and the Clearing House, the Clearing House shall have all rights in relation to any Margin transferred pursuant to Rule 902(a)(A) as if the same were Margin delivered to the Clearing House directly by the Transferee Clearing Member.

Any transfer, sale or acceptance pursuant to Rule 902(a)(i) may take place pursuant to a termination of Contracts between the Clearing House and a Defaulter and the entry into of new Contracts with the Transferee Clearing Member, rather than as a transfer or sale, at the discretion of the Clearing House.

- (b) If it is determined pursuant to Rule 902(a) not to liquidate any Contracts to which the Defaulter is party, or if the Clearing House is unable for any reason to liquidate such Contracts, in a prompt and orderly fashion, the Clearing House may authorise the execution from time to time for the account of the Clearing House, for the purpose of an orderly unwind of any Contracts to which a Defaulter is party or reducing the risk to the Clearing House and the risk to Clearing Members (in the case of Clearing Members, except to the extent that reducing any risk to Clearing Members creates or increases any risk for the Clearing House) resulting from the continued maintenance of such Contracts, of hedging transactions including, without limitation, the purchase, exercise, sale or grant of Contracts. Any such hedging transactions that are executed shall be submitted by Clearing Members against whom they are executed to the Clearing House for Clearing on a daily basis. Any costs or expenses, including losses, sustained by the

Clearing House in connection with transactions effected for its account pursuant to this Rule 902 shall be charged to the Defaulter and any gains (net of any costs and expenses) shall be credited to the Defaulter.

- (c) Upon an Event of Default being declared, any accrued or invoiced amounts shall be immediately due and payable by the Defaulter to the Clearing House.

(d)

(i) ~~(d)~~ If a CDS Contract is terminated pursuant to an automatic early termination provision or if a CDS Contract is terminated in circumstances in which the third sentence of Rule 209(c) applies, Rules 902(a), 902(b), 902(c), 903, 904 and 905 shall apply *mutatis mutandis* in relation to such terminated CDS Contract and rights, obligations and liabilities relating thereto. For the avoidance of doubt, in any case where this Rule 902(d)(i) applies as a result of a CDS Contract being terminated in circumstances in which the ~~third~~fourth sentence of Rule 209(c) applies, Rules 903(a)~~(xix)~~(xiii) and 904 shall not apply to the extent that the same are disapplied by Rule 209(c).

(ii) If an FX Contract is terminated pursuant to an automatic early termination provision or under Applicable Law as a result of any Event of Default or related event, or if the fourth sentence of Rule 209(c) applies, Rules 902(a), 902(b), 902(c), 903, 904 and 905 shall apply *mutatis mutandis* in relation to such terminated FX Contract and rights, obligations and liabilities relating thereto. For the avoidance of doubt, in any case where this Rule 902(d)(ii) applies as a result of the fourth sentence of Rule 209(c) applying, Rule 904 shall not apply to the extent that the same is disapplied by Rule 209(c).

- (e) Where a Clearing Member that is a Defaulter has a Pledged Collateral Account, the Clearing House shall be entitled, in addition to its other rights and remedies under Rule 902, to exercise the rights of a secured party and collateral-taker under Applicable Law with respect to any Pledged Collateral and the rights set forth in the Pledged Collateral Addendum to liquidate such Pledged Collateral, and shall thereupon apply the proceeds thereof to the applicable obligations of the Defaulter in respect of the relevant Customer Account or Proprietary Account in determining the net sum under Rule 905.

Rule 903 *Method of Closing Out*

- (a) Contracts (which are not voidable and voided by the Clearing House pursuant to Part 4) to which a Defaulter is party which, pursuant to Rule 902 are required to be liquidated in accordance with this Rule 903 (and any contracts to which the Defaulter is party referred to in Rule 902(b) including those arising from hedging transactions made pursuant to Rule 902(b), which shall be treated as if they were "Contracts" subject to this Rule 903), shall be liquidated in such manner as the Clearing House in its discretion may direct for the purposes of discharging all the rights, obligations and liabilities of the Defaulter (provided that in respect of Contracts, this does not include, where the Defaulter acts as agent, any rights or liabilities attributable to the Defaulter arising out of the relationship of principal and agent), including pursuant to such powers as are granted pursuant to the Clearing Membership Agreement. Without prejudice to the generality of the foregoing, at the Clearing House's discretion:

- (i) Any such liquidation may be effected by placing, with one or more members of an Exchange, Clearing Organisation or over-the-counter marketplace upon which the relevant category of Contract is traded, orders for the purchase, grant, exercise or sale of Contracts. The Clearing House may designate and authorise an individual to be responsible for the placement of such orders or may enter into Contracts with non-defaulting Clearing Members by way of auction.
- (ii) Contracts on opposite sides of the market, for Energy Contracts having different expiration months or for CDS Contracts having different series or version numbers or scheduled termination dates, may be liquidated by any transactions, Invoicing Back or the creation of new Contracts at the Clearing House's discretion (regardless of whether they are held for different accounts or different beneficial owners), for purposes of liquidation of Contracts, hedging market risks of the Defaulter or otherwise. FX Contracts (or any part thereof) on opposite sides of the market of the same Set or having different FX Settlement Dates may be liquidated by any transactions, Invoicing Back or the creation of new Contracts at the Clearing House's discretion (regardless of whether they are held for different accounts or different beneficial owners, but subject always to, and accounting for the close-out amounts under, Rule 905(b)), for purposes of liquidation of Contracts, hedging market risks of the Defaulter or otherwise.
- (iii) FX Contracts of a Defaulter having different FX Settlement Dates may be combined, terminated and replaced by any transactions, Invoicing Back or the creation of new FX Contracts at the Clearing House's discretion, for purposes of liquidation of Contracts, hedging market risks of the Defaulter or otherwise, if the Defaulter is Reference Currency Buyer under one of the FX Contracts in respect of a particular currency and Reference Currency Seller under the other FX Contract in respect of the same currency.
- (iv) ~~(iii)~~ Any Contracts (including for the Defaulter's Customer Accounts) which are sale and purchase Contracts of the same Set may be terminated by way of off-set.
- (v) ~~(iv)~~ An Option may be liquidated by closing transactions, exercise or abandonment, at the discretion of the Clearing House, and in any case where an Option is exercised, the Clearing House may liquidate the underlying Future, if any, resulting from such exercise in accordance with the provisions of this Rule 903.
- (vi) ~~(v)~~ Notwithstanding any other provision of this Rule 903, any such liquidation may be effected without placing orders for execution, by making appropriate book entries on the records of the Clearing House (including, without limitation, by pairing and cancelling offsetting Long and Short positions in the same Future or Option Set ~~or~~, 'Selling Clearing Member' and 'Buying Clearing Member' positions in any Set of CDS Contracts or FX Contracts) at a price, for Futures or Options Contracts equal to the Settlement Price on the day such liquidation is ordered ~~or~~, for CDS Contracts at the Mark-to-Market Price, ~~or for~~ FX Contracts at the FX Market Price or in any case at such other price as the Clearing House may establish.

- (vii) ~~(vi)~~—The Clearing House shall be entitled (without the prior or subsequent consent or agreement of the Defaulter or any court order) to sell, transfer, value or create any interest in any Permitted Cover, Margin, Guaranty Fund Contributions or other assets that remain credited to the Defaulter's Proprietary Accounts or Customer Accounts (as applicable, subject to Rule 102(p)) or are otherwise in the Clearing House's possession (subject always to Rule 102(p)), subject to an obligation to account to the Defaulter for the net proceeds of such actions after having deducted the Clearing House's reasonable and properly incurred expenses and costs in doing so in accordance with this Part 9.
 - (viii) ~~(vii)~~—The Clearing House shall be entitled to settle any Contract in respect of which settlement may have been or may otherwise (but for the Event of Default) have been requested by the Defaulter.
 - (ix) ~~(viii)~~—The Clearing House shall be entitled to take such actions, take or make delivery and give such notices on behalf of the Defaulter in respect of a Contract under delivery as it determines; or to make or receive a tender in the Defaulter's name.
 - (x) ~~(ix)~~—The Clearing House shall be entitled to determine an amount due from the Defaulter in substitution of delivery obligations.
 - (xi) ~~(x)~~—The Clearing House shall be entitled to take any other action as it deems to be necessary or prudent.
 - (xii) ~~(xi)~~—The Clearing House's powers to convert currency under Rule 107 may be applied.
 - (xiii) ~~(xii)~~—To the extent that the Clearing House does not terminate, transfer or close out all of the CDS Contracts of a Defaulter, the Clearing House may at its discretion require the entry into of new CDS Contracts between the Clearing House and CDS Clearing Members that are not Defaulters which CDS Contracts replace any remaining CDS Contracts of the Defaulter at a price determined by the Clearing House, taking into account the minimum target price determined in accordance with the Procedures, on a *pro rata* basis (or as near as practicable, with odd lots determined by the Clearing House and assigned randomly) in proportion to the size of each CDS Clearing Member's required CDS Guaranty Fund Contribution relative to the aggregate of all required CDS Guaranty Fund Contributions. In any such circumstances, the provisions of Part 4 of the Rules (including without limitation Rule 401(a)(x)) shall apply to the formation of any new CDS Contracts resulting from such action, as part of the Clearing House's default rules. To the extent that any new CDS Contracts arise pursuant to the procedure set out in this Rule 903(a)(~~xii~~xiii), an equal notional amount of CDS Contracts of each relevant Set to which the Defaulter was party shall hereby be liquidated.
- (b) If, as a result of the rules of an Exchange which limit fluctuations in price or other circumstances, it is not possible to liquidate all Contracts to which the Defaulter is party pursuant to Rule 903(a), the Clearing House may liquidate such Contracts by taking opposite positions for Energy Contracts in Contracts in the current expiration month ~~and~~and for CDS Contracts in Contracts of a different series or version number or

scheduled termination date or, for FX Contracts, in Contracts of a different FX Settlement Date, and liquidating the resultant offset positions.

- (c) All liquidations made pursuant to this Rule 903 shall be for the account and risk of the Defaulter.

Rule 904 *Amounts Payable to the Clearing House*

Upon completion of the liquidation or transfer of the positions of a Defaulter pursuant to Rule 903, the Defaulter shall be liable to the Clearing House to make payment in respect of all the Clearing House's and relevant Markets' (if any) losses, liabilities, damages, injuries, delays, costs and expenses (including, without limitation, legal fees and disbursements) incurred by the Clearing House and relevant Markets (if any) in connection with the Event of Default.

Rule 905 *Net Sums Payable*

- (a) Following discharge of a Defaulter's rights, obligations and liabilities under Contracts pursuant to this Part 9, the Clearing House shall conduct the following process such that the sums payable in respect of Contracts (which are not voidable and voided by the Clearing House pursuant to Part 4) between the Defaulter and the Clearing House may be aggregated or set off (as applicable) so as to produce a net sum or net sums (each, *N*) in any case defined by the formula:

$N = L - A - D - C - M - GFC - SC - OA + OL$, where:

L = the aggregate amount of all sums payable by the Defaulter in respect of Contracts as calculated in accordance with Rule 905(h) taking into account any of the following actions under Rules 902 or 903:

- (i) the effecting by the Clearing House of corresponding contracts (as defined in section 25(3) of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001, SI 2001/995) in relation to Contracts to which the Defaulter is party;
- (ii) the transfer or sale of any of the Defaulter's Contracts to a Clearing Member (not being the Defaulter) or acceptance or entry into by a Clearing Member of any of the Defaulter's Contracts or contracts similar to any of the Defaulter's Contracts; and
- (iii) the exercise by the Clearing House of any Option,

including any costs and expenses of the Clearing House, including, without limitation, legal and accountancy expenses and disbursements, the costs of liquidation and any amount payable by the Clearing House to any Person in respect of tax in connection with the Defaulter or its Contracts, Margin, obligations or the Event of Default; but excluding, in respect of a Contract where the Defaulter acts as agent (if any), any liabilities attributable to the Defaulter arising out of the relationship of principal and agent; and the Clearing House may assess any one or more elements of such amount *L* in its discretion;

A = the aggregate amount of all sums payable to the Defaulter in respect of Contracts as calculated in accordance with Rule 905(h), taking into account any of the actions under

L (i), (ii) or (iii) above but excluding, in respect of a Contract where the Defaulter acts as agent (if any), any rights attributable to the Defaulter arising out of the relationship of principal and agent and further excluding any amount included under *D*, *C*, *M*, *GFC* or *SC*; and the Clearing House may assess any one or more elements of such amount *A* in its discretion;

D = if the Clearing House so determines at its discretion, the aggregate amount of any sums in respect of a Commodity or Investment delivered, physically settled, to be delivered or to be physically settled under a Contract with the Defaulter or in respect of which cash settlement is to be made as calculated by the Clearing House at its discretion (if payable to the Clearing Member being a positive number and hence set off against any amount *L-A* if that amount is also a positive number or if payable to the Clearing House being a negative number and hence aggregated with any amount *L-A* if that amount is a positive number), in any case excluding any amount included under *C*, *M*, *GFC* or *SC*;

C = if relevant, any sum owed by or to the Clearing House to or from a recognised investment exchange or another recognised clearing house of which the Defaulter is or was a member, under an indemnity given or reimbursement or similar obligation in respect of a margin set off agreement in which the Defaulter chose to participate (if payable to the Clearing Member being a positive number and hence set off against any amount *L-A-D* if that amount is also a positive number or if payable to the Clearing House being a negative number and hence aggregated with any amount falling under *L-A-D* if that amount is a positive number);

M = any property provided by or on behalf of the Defaulter as Original Margin, Initial Margin, Portfolio Risk Margin, Physical Settlement [Margin](#), [FX Original Margin](#), [FX Mark-to-Market](#) Margin or margin under Rule 502(g) or in satisfaction of such Margin requirements, including any such Margin transferred to the Clearing House by the Defaulter and any amounts received by the Clearing House pursuant to a letter of credit or Controller Guarantee entered into in favour of the Clearing House in satisfaction of such applicable Margin requirements, subject in any case to a deduction for any unsatisfied claims arising out of the default of the Defaulter before the Default in relation to which the calculation is being made, excluding any Margin that would otherwise fall under amount *M* transferred to a Transferee Clearing Member pursuant to Rule 902(a) and further excluding any Pledged Collateral returned to an FCM Clearing Member or any of its Customers pursuant to Rule 1604(e);

GFC = any property provided by or on behalf of the Defaulter as Guaranty Fund Contributions;

SC = any property provided by or on behalf of the Defaulter that constitutes Surplus Collateral, including any amounts received by the Clearing House pursuant to a letter of credit or Controller Guarantee entered into in favour of the Clearing House surplus to applicable Margin requirements but excluding any Pledged Collateral returned to an FCM Clearing Member or any of its Customers pursuant to Rule 1604(e);

OA = the aggregate of any amounts not falling under *A*, *D*, *C*, *M*, *GFC* or *SC* standing to the credit of the Defaulter or payable to the Defaulter or any right or claim of the Defaulter against the Clearing House, in any case whether pursuant to these Rules, any Contract or otherwise (including without limitation any amount payable to the

Defaulter due to any breach by the Clearing House of these Rules), in any case at the discretion of the Clearing House, but excluding any Pledged Collateral returned to an FCM Clearing Member or any of its Customers pursuant to Rule 1604(e); and

OL = the aggregate of any other amounts not falling under *L* payable by the Defaulter to the Clearing House or any right or claim of the Clearing House against the Defaulter, in any case whether pursuant to these Rules, any Contract or otherwise (including without limitation any fines payable pursuant to Part 10 and any other amounts payable in respect of any breach by the Defaulter of these Rules in either case not falling under *L*), in any case at the discretion of the Clearing House,

provided that all such amounts specified above are aggregated, set off and applied in the order set out in the calculation above and in such order as is further required by Rules 102(p), 905(b) and 1103 and provided further that any amount is only included in respect of the relevant net sum to the extent allowed pursuant to Rule 905(b).

- (b) Where the Defaulter has one or more Customer Accounts, the process set out in Rule 905(a) shall, subject to Part 11, be completed separately in respect of:
- (i) the Defaulter's Non-DCM/Swap Customer Account and Contracts, rights, obligations and liabilities relating to the Defaulter's Non-DCM/Swap Customers;
 - (ii) the Defaulter's Swap Customer Account and Contracts, rights, obligations and liabilities relating to the Defaulter's Swap Customers; and
 - (iii) the Defaulter's DCM Customer Account and Contracts, rights, obligations and liabilities relating to the Defaulter's DCM Customers;
 - (iv) the Defaulter's General Customer Account and Contracts, rights, obligations and liabilities relating to the Defaulter's General Customers; and
 - (v) the Defaulter's Proprietary Account and other Contracts, rights, obligations and liabilities not falling under Rule 905(b)(i) to (iv).

The Defaulter's Guaranty Fund Contributions, amounts under a Controller Guarantee or amounts payable under a letter of credit may be used for the purpose of calculating any net sum (provided that any such amounts are not double counted), subject to the restrictions in Rule 1103 and to Rule 102(p). The aggregate sums finally payable shall be separately certified under Rule 905(d). The Clearing House may aggregate, set off or apply any Margin surplus available to it in relation to a Defaulter's Proprietary Account to meet a shortfall on any or both of the same Defaulter's relevant Customer Accounts (and, if it does so, shall include any such amounts within the amount *M* or for the net sum to be calculated in relation to the Defaulter's Customer Account), provided that if any amounts are so aggregated, set off or applied, the net sum payable by the Clearing House in relation to the Defaulter's Proprietary Account shall be reduced by the same amount as is so included within the amount *M* for any of the Defaulter's Customer Accounts and provided further that, if there is a shortfall to more than one class of the Defaulter's Customer Accounts, any Proprietary Account surplus shall first be applied as between the classes of Customer Accounts in proportion to the shortfalls for each class of Customer Account until there is no shortfall in respect of one or other

of the classes of Customer Accounts and thereafter shall be applied to the Customer Account which remains subject to a shortfall. The Clearing House shall not aggregate, set off or apply any Margin surplus available to it in relation to one class of Customer Account of a Defaulter to meet a shortfall on any other class of Customer Account of the same Defaulter, as further set out in Rule 102(p). The Clearing House shall not aggregate, set off or apply any Margin surplus available to it in relation to a Customer Account to meet a shortfall on any Proprietary Account.

- (c) Where N is a positive number, the net sum equal to N shall be payable by the Defaulter to the Clearing House. Where N is a negative number, the net sum equal to the absolute value of N shall be payable by the Clearing House to the Defaulter, provided that if the Clearing House is required under any Applicable Law or pursuant to the order of any Governmental Authority to make payment in respect of any net sum to or to the account of a Person other than the Defaulter, the Defaulter's claim against the Clearing House shall be reduced by the amount paid to such Person and the amount payable by the Clearing House to the Defaulter shall be reduced accordingly. Where N is equal to zero, no amount shall be payable as between the Clearing House and the Defaulter pursuant to this Rule 905. Where there is more than one separately certified amount N certified under Rule 905(d) as a result of Rule 905(b), each amount so certified shall be treated as a separate obligation which cannot be netted off against another N .
- (d) Each amount N shall be certified by the Clearing House promptly upon its determination. Such determination may be delayed or withheld until such time as all relevant sums and components have been evaluated and until the value or sale proceeds of any non-cash Margin, Surplus Collateral, Guaranty Fund Contributions or other assets are determined, received or available. A certificate of the Clearing House made pursuant to this Rule 905 shall be conclusive as to the amount required to be paid by any Defaulter in discharge of its rights and liabilities in respect of the Contracts to which such certificate relates or by any other Person in relation to such Event of Default.
- (e) The Clearing House may co-operate, by the sharing of information and otherwise, with any Governmental Authority, Clearing Organisation, Exchange or Insolvency Practitioner having responsibility for any matter arising out of, or connected with, an Event of Default or the default of a recognised investment exchange or another recognised clearing house.
- (f) The Clearing House will report to the Defaulter or any relevant Insolvency Practitioner, on steps taken pursuant to this Part 9.
- (g) Where a Defaulter enters into Contracts in more than one capacity for purposes of section 187 of the Companies Act 1989, separate net sums shall be calculated pursuant to Rule 905(a) and 905(b) in respect of each capacity in which the Defaulter acts. If a Disclosed Principal Member and the Clearing Member that appointed the Disclosed Principal Member are both Defaulters, the Clearing House shall be entitled to set off any amount or asset to the credit of either Defaulter against any liability or obligation of the other Defaulter for the purposes of calculating any net sum under this Rule 905 and may exercise any of its powers under this Part 9 accordingly.

- (h) For the purposes of calculating amounts L and A in Rule 905(a), the amount payable by or to the Defaulter in respect of any Contract or Open Contract Position is the difference between:
- (i) the price of the Contract or Open Contract Position recorded in the Clearing House's books for the later of: (A) the last date on which a payment in respect of Variation Margin, [FX Mark-to-Market Margin](#) or Mark-to-Market Margin was successfully and fully made by the Clearing Member to or to the account of the Clearing House; or (B) the last date on which a return of amounts following a Variation [Margin, FX Mark-to-Market](#) Margin or Mark-to-Market Margin call was successfully and fully made by the Clearing House to the Clearing Member or to the account of the Clearing Member; and
 - (ii) the price at which the Contract or Open Contract Position was sold, transferred, terminated or liquidated pursuant to this Part 9.
- (i) The Clearing House and each Clearing Member with a Pledged Collateral Account acknowledge and agree that Pledged Collateral: (i) is provided pursuant to a charge over property provided as margin in respect of market contracts entered into by the Clearing House; and (ii) is provided to secure the obligation to pay the Clearing House any sum due to the Clearing House in respect of unsettled market contracts to which the FCM Clearing Member is party as set forth in these Rules. Accordingly, the Clearing House and each such Clearing Member intend and agree that the Pledged Collateral provided to the Clearing House is provided pursuant to a "market charge" for purposes of the Companies Act 1989.

Part 10 Disciplinary Proceedings

Rule 1001 Complaints

- (a) The Clearing House shall consider all complaints made to it in writing by a Clearing Member and may consider any complaints made to it by any other person. If the Clearing House, in its discretion, considers it appropriate or if it is otherwise compelled to do so under any Applicable Law, the Clearing House may refer the matter or make a report on the matter to a Market, Regulatory Authority or Governmental Authority.
- (b) In the case of a complaint which alleges a breach of these Rules, the Clearing House may authorise an investigation or commence disciplinary proceedings under this Part 10 or take no further action if it considers it disproportionate or otherwise, in its discretion.
- (c) The Clearing House shall inform the complainant in writing of any steps taken as a result of the complaint and of the result thereof.
- (d) In the event of a complaint against the Clearing House or any of its officers or employees (or agents in their capacity as such), such complaint shall be investigated in accordance with the Complaints Procedures and shall not otherwise be subject to this Part 10.

Rule 1002 Investigations

- (a) Investigations into breaches or alleged breaches of the Rules may be authorised and conducted by the Clearing House.
- (b) Upon determining that a complaint, matter or concern requires investigation, the Clearing House shall issue a Notice of Investigation ("**NoI**") notifying the Clearing Member concerned that an investigation has been commenced. The NoI shall be sent to the Clearing Member or the person concerned and shall contain a brief description of the matter under investigation.
- (c) In the course of conducting an investigation, the Clearing House may call for the assistance of such professional, legal or accounting advisers, Clearing Organisations, Exchanges, Regulatory Authorities and advisers or other Persons as it thinks fit. Any external adviser appointed by the Clearing House shall be required to treat all information obtained in the course of the investigation as confidential and to disclose it only to the Clearing House, save where compelled to disclose such documents to a third party under any Applicable Law.
- (d) Clearing Members shall co-operate fully with all investigations (whether or not such Clearing Member or person is the direct subject of such investigation). Without limitation, each Clearing Member shall:
 - (i) promptly furnish to the Clearing House such information and documentary and other material (including any information in electronic form) as may reasonably be requested (including without limitation in the case of Clearing Members, details of the Clearing Member's Customers' accounts);

- (ii) permit those persons appointed to carry out or assist in carrying out the investigation on reasonable notice, such notice being commensurate with the seriousness of the potential or alleged breach of the Rules and to enter any premises in any part of the world where the Clearing Member carries on its business or maintains its records during normal business hours for the purpose of carrying out such investigation. Each Clearing Member hereby irrevocably grants the Clearing House a licence for this purpose and shall procure a licence to the Clearing House from any Affiliated Person, agent or third party under its control that is necessary for this purpose;
 - (iii) exercise best endeavours to make available for interview such of the Clearing Member's Representatives as may reasonably be requested and use its best endeavours to ensure that such persons answer truthfully and fully any question put to him or them by or on behalf of the Clearing House. A Clearing Member who fails to procure any of its Representatives to attend an interview or hearing with the Clearing House and who fails in the reasonable opinion of the Clearing House to demonstrate good cause for such failure may be fined £1000 per day of non-attendance, such fine representing a genuine pre-estimate of the likely cost to the Clearing Houses attributable to such non-attendance, and the Clearing Member may be suspended until the Clearing Member takes reasonable steps to make its Representatives available on an alternative date;
 - (iv) make available for inspection such documents, records or other material in its possession, power or control as may reasonably be required and, upon request, provide copies of the same; and
 - (v) use its best endeavours to ensure that so far as possible its Representatives give similar co-operation.
- (e) Failure to co-operate with an investigation by the Clearing House, failure to provide information requested on a timely basis and concealment or destruction of evidence are each, for the avoidance of doubt, a breach of these Rules.
- (f) The Clearing House, having conducted an investigation into an alleged breach of the Rules, shall send to the relevant Clearing Member a letter of mindedness ("**Letter of Mindedness**") setting out its preliminary factual conclusions and its intended course of action in relation to the alleged breach.
- (g) Following its issuing of the Letter of Mindedness, the Clearing House shall invite the Clearing Member to either attend an initial meeting ("**IM**") or alternatively send the Clearing House written comments. The purpose of the IM or the written comments shall be to afford the Clearing Member an opportunity to correct any factual error it considers to be contained in the Letter of Mindedness. The IM is not intended to be a hearing. The proceedings of the IM will take place on a confidential basis, subject, in the case of the Clearing House, to Rule 106. The Clearing House and Clearing Member shall each be entitled to nominate up to four attendees, who may include lawyers or legal advisers.
- (h) Following the IM or the receipt of written comments from the Clearing Member (if received within a reasonable time) the Clearing House shall finalise its initial findings and communicate these in writing to the Clearing Member.

- (i) Without prejudice to any other powers, the possible powers of the Clearing House following the completion of its investigation and the communication of its initial findings to the Clearing Member include:
- (i) to decide that no further action should be taken and notify any Clearing Member or other Person concerned in writing accordingly;
 - (ii) in the event of a minor breach, to issue a written warning (which shall be private save as provided for in Rule 1002(i)(vii) below) to the Clearing Member concerned (or, in the case of such a breach by some other Person, that Person with a copy to any Clearing Member with whom he was associated at the time of such breach);
 - (iii) to order that the Clearing Member concerned pay a fine which the Clearing House in its discretion regards as commensurate with a breach of the Rules, the amount of such fine to be appellable to the Appeals Panel directly without reference first to a Disciplinary Panel;
 - (iv) to commence disciplinary proceedings;
 - (v) to refer the matter for further enquiry where the Clearing House considers it necessary to investigate further;
 - (vi) to report the findings of the investigation and hand over any documents or communicate any information it has acquired whether during the course of its investigation or otherwise, to other Clearing Organisations, Exchanges, Regulatory Authorities or Governmental Authorities; or
 - (vii) to publish such findings as it has made following the IM and in such detail as the Clearing House deems appropriate where the matter under investigation is considered of relevance to the market in general or in the public interest, save that the Clearing Member shall be afforded an opportunity to comment on the text of such an announcement during a period of no less than 48 hours prior to publication, such period commencing on a Business Day;

provided that the Clearing House may, in an appropriate case, take more than one of the above actions in relation to any one Clearing Member and/or different actions in relation to different Clearing Members concerned in the same investigation or on similar facts.

Rule 1003 *Disciplinary Proceedings*

- (a) Disciplinary proceedings may be commenced by the Clearing House only when the Clearing House is satisfied (whether or not a formal investigation has taken place under this Part 10) that there is *prima facie* evidence of a breach of the Rules by a Clearing Member.
- (b) Upon determining that disciplinary proceedings should be commenced, the Clearing House must establish a Disciplinary Panel. Each Disciplinary Panel shall consist of a chairman sitting with two other persons. Such persons, including the Chairman, that are appointed to the Disciplinary Panel may be drawn from market practitioners, experts, lawyers or other suitable persons at the discretion of the Clearing House.

Neither employees nor directors of the Clearing House or Clearing Member subject to disciplinary proceedings nor any of their Affiliated Persons, Representatives or Customers shall be appointed to a Disciplinary Panel. Expert assessors may be appointed, at the discretion of the Disciplinary Panel itself, to sit with and advise the Disciplinary Panel but not to vote. No person shall serve on or sit with a Disciplinary Panel if he has a personal or financial interest in or has been involved in any investigation into or previous disciplinary panel hearing on the matter under consideration.

- (c) The Clearing Member alleged to have committed the breach may object to any particular appointment to the Disciplinary Panel, which objection will be determined in the first instance by the chairman of the Disciplinary Panel and, in the event that the objection is in relation to the chairman of the Disciplinary Panel, the Chairman of the Clearing House.
- (d) In the event of any member of the Disciplinary Panel having or acquiring a personal or financial interest in the outcome or in any other way being or becoming incapacitated or permanently unavailable, the chairman of the Disciplinary Panel (or in the case of the chairman of the Disciplinary Panel, the Chairman of the Clearing House) may direct that the Disciplinary Panel shall continue to act with a reduced number or appoint another person to take the place of the retiring member of the Disciplinary Panel (and the disciplinary proceedings shall then proceed as if such person had been originally appointed in lieu of the first person) or may direct that a new Disciplinary Panel should be appointed to rehear the matter.
- (e) In the event of equality of votes, the chairman shall have a second or casting vote in reaching any determination.
- (f) The Clearing House may discontinue disciplinary proceedings or reach a settlement with the Clearing Member on such terms as it sees fit at any stage during the course of the disciplinary proceedings (including any Summary Procedure pursuant to Rule 1004 or any appeal).
- (g) When the Clearing House commences disciplinary proceedings, it shall send a written notice ("**Notice**") to the Clearing Member, setting out the alleged breach of the Rules, including a summary of facts relied upon in sufficient detail for a party in the Clearing Member's position properly to understand and respond to the allegations made against it.
- (h) The Clearing Member or other person the subject of a Notice shall have 20 working days (or such further time as either the Clearing House or Disciplinary Panel may in their discretion allow) from the service of the Notice in which to provide a statement of defence (the "**Defence**") responding to all or any of the allegations, stating its intended pleas and what admissions of fact, if any, it makes. If no Defence has been served within 20 days of service of the Notice or such extended period as has been agreed, the Disciplinary Panel may in its discretion deem the Clearing Member to have accepted the facts and matters alleged in the Notice.
- (i) Having seen and considered the Defence, the Clearing House may proceed with the disciplinary proceedings, discontinue the disciplinary proceedings or deal with the matter as set out in Rule 1003(j).

- (j) The Clearing House may at any time amend a Notice by deletion, alteration or addition, change to the Rule breach alleged in the Notice or addition of another Rule breach in the Notice provided that:
- (i) the deletion, alteration, addition, change, amendment or variation is relevant to the course of conduct under investigation;
 - (ii) the essential character of the allegation or Rule breach has not been changed;
 - (iii) the Clearing Member or other respondent would not be substantially prejudiced in any defence he might wish to put before the Disciplinary Panel; and
 - (iv) the Disciplinary Panel has not previously and does not subsequently make a procedural ruling adverse to the Clearing House in connection with such deletion, alteration, addition, change, amendment or variation.
- (k) For the avoidance of doubt, the power of the Clearing House to amend a Notice will exist where the Clearing House has in its discretion determined that a separate or unrelated *prima facie* breach of the Rules has been revealed during the course of the disciplinary proceedings. The Disciplinary Panel may order an adjournment at any stage upon an application by the Clearing House to enable such an alleged separate or unrelated *prima facie* breach to be investigated further. The Clearing House shall not be obliged to hold a further IM or otherwise consult with the Clearing Member in respect of additional or new alleged breaches.
- (l) Upon amendment of a Notice, the Clearing Member shall have 14 days or such extended period as may be agreed with the Clearing House or as directed by the Disciplinary Panel to make any consequential amendment of its Defence. If no amended Defence has been served within 14 days of service of the amended Notice on the Clearing Member, the Disciplinary Panel may in its discretion deem the Clearing Member to have accepted the facts and matters alleged in the Notice.
- (m) The Disciplinary Panel shall hear submissions on the matter of the alleged breach of the Rules and shall determine whether there has been a violation of the Rules and, if so, the appropriate sanction (if any) to be imposed. In carrying out this function, the Disciplinary Panel acting as a whole or through the Chairman may adopt such procedure as it thinks fit, including the holding of a pre-hearing review to hear procedural applications by the Clearing House or Clearing Member at any stage following its composition or in order to set a procedural timetable. Without limitation, the Disciplinary Panel may:
- (i) order the disclosure by the Clearing House or Clearing Member of such further statements, information, documents or other evidence as may be necessary;
 - (ii) allow either party to the proceedings to present to it further evidence within time limits ordered by the Disciplinary Panel;
 - (iii) issue directions and take such other steps as it considers appropriate for the clarification of the facts and issues and for the just and expeditious determination of the case;

- (iv) balancing the need for cases to be dealt with expeditiously and the need for affected Persons to have sufficient opportunity to prepare and present their case: specify deadlines for the production of documents or hearings, which shall be binding on the parties;
 - (v) if it considers appropriate, but only with the express agreement of the Clearing House and the Clearing Member concerned (or the Person concerned and any associated Clearing Member), decide to determine the case upon written submissions and evidence placed before it;
 - (vi) in all other cases, give the opportunity to, or require, the Clearing House and the Clearing Member to attend hearings before the Disciplinary Panel and the Clearing House and the Clearing Member may call witnesses to give evidence and be questioned;
 - (vii) allow the Clearing Member and the Clearing House to be assisted or represented by any person, who may or may not be legally qualified;
 - (viii) call for any person to attend its hearings;
 - (ix) require hearings to be held in private unless the Clearing Member or Clearing House requests otherwise and the other consents; and
 - (x) appoint its own legal advisers.
- (n) The Disciplinary Panel shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged breach.
 - (o) The Disciplinary Panel shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact made by a court or any other Governmental Authority.
 - (p) If the Clearing House or Clearing Member should fail to meet a time limit imposed by the Disciplinary Panel or fail to attend a hearing, the Disciplinary Panel may in its discretion allow an extension of time, adjourn its proceedings or proceed, if necessary in the absence of the Clearing Member.
 - (q) Upon having determined whether a breach of the Rules has been proven in accordance with the standard of proof set out in Rule 1003(n), the Disciplinary Panel shall communicate in writing its findings and particulars of any sanction determined to the Clearing House and to the Clearing Member concerned. Such findings and sanction shall be deemed conclusive and binding upon expiry of the time permitted for appeal or receipt by the Clearing House of any earlier written notice from the Clearing Member that such right of appeal will not be exercised. The Disciplinary Panel may in its absolute discretion communicate its findings to the parties and give them, where there is a finding that there has been a disciplinary breach, the opportunity to make representations as to the appropriate sanction(s) before deciding on the sanction(s).
 - (r) The sanctions which may be imposed on a person subject to the Rules by a Disciplinary Panel shall be communicated to the Clearing Member and shall not exceed the following:

- (i) the issue of a private warning or reprimand;
 - (ii) the issue of a public notice of censure;
 - (iii) in the case of a Representative, a finding that any Clearing Member for which such Representative is a director, controller or officer would not meet the Clearing House's membership criteria for any period or indefinitely;
 - (iv) in the case of a Clearing Member, disqualification (either indefinitely or for a fixed term) of any of its Representatives from being a Director or member of a committee or any panel of the Clearing House;
 - (v) a fine of any amount, to be paid on such terms as may be prescribed;
 - (vi) the disgorgement of any gain made by the Clearing Member or its Representatives in connection with the breach of the Rules;
 - (vii) a recommendation to the Clearing House to suspend membership for a period of time or terminate the membership of the Clearing Member;
 - (viii) the issue of an order requiring the Clearing Member or Representative found to have committed the breach to take such steps including making an order for compensation, as the Disciplinary Panel may direct, to remedy the situation including, without limitation, making an order for restitution to any affected person when the Clearing Member (or person concerned) has profited (or avoided a loss) from a breach at that person's expense;
 - (ix) provided that the Clearing House may, in an appropriate case, take more than one of the above actions in relation to any one Clearing Member and/or different actions in relation to different Clearing Members concerned in the same investigation or on similar facts; and
 - (x) any combination of the foregoing.
- (s) Following the suspension or expulsion of a Clearing Member, the Clearing House may make such directions as it thinks fit in respect of Contracts to which that Clearing Member is a party (including, without limitation, directions for the reduction, transfer or elimination of any of them).
- (t) (i) The contravention of any sanction imposed or direction made under or pursuant to Rule 1003(q) may be treated for all purposes as a breach of the Rules.
- (ii) A Disciplinary Panel may order any party to the proceedings to pay costs as it thinks appropriate, including, but not limited to the costs of running the Disciplinary Panel, further administration costs directly attributable to the disciplinary proceedings, costs incurred in the investigation, preparation and presentation of the case, including the costs of the Clearing House's and Disciplinary Panel's external advisers.

Rule 1004 *Summary Procedure*

- (a) A Clearing Member may submit in writing a request that the Clearing House adopt a summary procedure under this Rule 1004 ("**Summary Procedure**") for disposing of the matter. Such notice may be served by the Clearing Member at any time prior to the formation of the Disciplinary Panel.
- (b) The Clearing House may in its discretion agree to refer the matter to the Summary Procedure and shall notify the Clearing Member of any such determination.
- (c) Upon reference of the matter to the Summary Procedure the Clearing House in its absolute discretion shall nominate three Directors or employees of the Clearing House or of any Clearing Member other than the Clearing Member subject to the Summary Procedure to hear the submissions of the Clearing Member into the alleged breach, who shall form a Summary Disciplinary Committee. The Clearing House shall nominate one such member of the Summary Disciplinary Committee to act as Chairman.
- (d) The Summary Disciplinary Committee shall make such directions as to the procedural conduct of the case before it as it sees fit.
- (e) The Summary Disciplinary Committee shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged breach. The Summary Disciplinary Committee shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact by a court or Governmental Authority.
- (f) The Summary Disciplinary Committee shall hold a private hearing at which the Clearing Member shall be present in order to put to the Clearing Member the alleged breach of the Rules and hear any submissions the Clearing Member or its Representatives make in relation to the alleged breach or the mitigation.
- (g) None of the Clearing House, the Clearing Member or the Summary Disciplinary Committee shall be represented by legal advisors at a hearing except with the prior express agreement of the Summary Disciplinary Committee.
- (h) Save as provided in Rule 1005, a Clearing Member that chooses to submit itself to the Summary Procedure expressly waives any right of appeal or review by any body including any court of law against any determination or ruling of the Summary Disciplinary Committee.
- (i) The Summary Disciplinary Committee shall, following the hearing, determine whether a Clearing Member has breached the Rules and shall determine what sanction or sanctions are to be imposed on the Clearing Member or Representative. Upon having determined in its absolute discretion whether a breach of the Rules has occurred, the Summary Disciplinary Committee shall communicate its findings and particulars of any sanction to the Clearing Member. The Summary Disciplinary Committee shall enjoy the full range of powers of sanction open to a Disciplinary Panel and may impose a combination of any such sanctions as it sees fit.

- (j) A determination or sanction imposed by the Summary Disciplinary Committee may be appealed under Rule 1005 to an Appeals Panel and shall not be referred to a Disciplinary Panel.

Rule 1005 Appeals

(a)

- (i) Within 14 days of receiving notice in writing of a decision of a Disciplinary Panel, a determination in writing of a Summary Disciplinary Committee or a notice of sanction (whichever is the later), or such longer period as the chairman of the Disciplinary Panel or the Summary Disciplinary Committee may in his discretion direct, a Clearing Member (whether current or former in the case of expulsion) or the Clearing House, or both, may appeal to an Appeals Panel by lodging with the Clearing House a notice of appeal in writing and by delivering a copy thereof to any other party to the disciplinary proceedings.

- (ii) A notice of appeal shall set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the appellant. The grounds of the appeal may be any one or more of the following:

- (A) the Disciplinary Panel or Summary Disciplinary Committee misdirected itself; or

- (B) the Disciplinary Panel's or Summary Disciplinary Committee's decision was:

- (1) one which no reasonable tribunal could have reached; or

- (2) unsupported by the evidence or was against the weight of the evidence; or

- (3) in the case of the Disciplinary Panel only, based on an error of law, or a misinterpretation of the Rules; or

- (C) the sanction imposed by the Disciplinary Panel, Clearing House or Summary Disciplinary Committee was excessive or, in the case of an appeal by the Clearing House, was insufficient or inappropriate; or

- (D) new evidence is available and that, had it been made available, the Disciplinary Panel, Clearing House or Summary Disciplinary Committee could reasonably have come to a different decision. This will not apply, in the case of the Disciplinary Panel only, if the evidence could have been adduced before the Disciplinary Panel by the exercise of reasonable diligence;

but no party may otherwise appeal.

- (iii) In the case of appeal against a sanction, the Appeals Panel may affirm, vary or revoke the sanction. The Appeals Panel may make such order or give such direction as it considers fit, including, in the case of an appeal from the

Disciplinary Panel, a direction for a rehearing of the case by another newly constituted Disciplinary Panel.

- (b) Upon receipt of such a notice of appeal, the Clearing House shall appoint an Appeals Panel.
- (c) The Clearing House shall have 14 working days or such other period as the Chairman of the Disciplinary Panel or the Summary Disciplinary Committee, as the case may be (or the Appeals Panel in its exclusive discretion should it be constituted at such time), may allow from the service of the notice of appeal to serve notice of any grounds on which it objects to such appeal.
- (d) An Appeals Panel shall consist of a chairman sitting alone who shall be a solicitor admitted in England and Wales or a member of the Bar of England and Wales and who shall be appointed at the discretion of the Clearing House. No Members of any disciplinary panel, serving members of the Clearing House's committees dealing with any disciplinary or summary disciplinary proceedings, employees of the Clearing House or Clearing Member subject to disciplinary proceedings or any of their Affiliated Persons, Representatives or Customers shall be appointed to an Appeals Panel. Expert assessors may be appointed, at the discretion of the Chairman of the Appeals Panel, to sit with and advise the Appeals Panel but not to vote. No Person shall serve on or sit with an Appeals Panel if he has a personal or financial interest in or has been involved in any investigation into or previous disciplinary panel or Summary Disciplinary Committee hearing (including that which is the subject of the appeal itself) on the matter under consideration.
- (e) An Appeals Panel may adopt such procedure as it thinks fit and just, including, without limitation, the procedures described in Rule 1003(m) and shall be bound by Rule 1003(n) and (o). An Appeals Panel shall further enjoy all powers vested in disciplinary panels, procedural or otherwise. The appellant and the respondent may appear, make representations and (subject to any restriction on adducing new evidence), call witnesses, who may be examined and cross-examined.
- (f) The decision of an Appeals Panel shall be final and binding and there shall be no further appeal. The decision with reasons shall be notified to the appellant and respondent in writing without undue delay.

Part 11 Guaranty Funds

Rule 1101 Establishment and parameters of the Guaranty Funds

- (a) There shall be ~~two~~three separate Guaranty Funds operated by the Clearing House: the ~~CDS Guaranty Fund and the Energy Guaranty Fund. CDS Clearing Members shall be liable to make and maintain CDS,~~ the CDS Guaranty Fund, and the FX Guaranty Fund Contributions. Energy Clearing Members shall be liable to make and maintain Energy Guaranty Fund Contributions. CDS Clearing Members shall be liable to make and maintain CDS Guaranty Fund Contributions. FX Clearing Members shall be liable to make and maintain FX Guaranty Fund Contributions. The total amount required in each Guaranty Fund will be established by the Clearing House in accordance with the Procedures. The total amount of the Energy Guaranty Fund will be expressed in USD and will be reviewed quarterly by the Clearing House. The total ~~amount~~amounts of the CDS Guaranty Fund and the FX Guaranty Fund will be expressed in the currencies set out in the Procedures and will be reviewed periodically by the Clearing House in advance of the end of each Guaranty Fund Period for each of those Guaranty Funds. If the Clearing House determines that the total amount in any Guaranty Fund is to change, Clearing Members will be given notice by Circular and will be informed of their new Guaranty Fund Contribution requirements prior to the start of the Guaranty Fund Period when the change becomes effective.
- (b) The Clearing House will communicate to Clearing Members by Circular the basis on which their Guaranty Fund Contributions are calculated.
- (c) The Clearing House may vary the parameters by reference to which Guaranty Fund Contributions are calculated from time to time and at any time upon issuing a Circular to Clearing Members. Any new parameters will come into effect on the date of the next applicable re-calculation of Guaranty Fund Contributions, unless Clearing Members are otherwise notified of a different effective date.
- (d) Clearing Members shall be required and liable to make Guaranty Fund Contributions in the amounts and at the times specified in accordance with Rule 1102 and Part 3, such that the Guaranty Funds are always at least of the size required pursuant to this Rule 1101, except in circumstances in which amounts are drawn down from any Guaranty Fund in order to meet liabilities resulting from an Event of Default and such amounts have not been replenished in accordance with this Part 11.

Rule 1102 Clearing Members' Contributions

- (a) Clearing Members' required Guaranty Fund Contributions at the start of each Guaranty Fund Period (or otherwise when a payment to a Guaranty Fund is due) will be calculated with reference to the total amount of the relevant Guaranty Fund established pursuant to Rule 1101.
- (b) CDS Guaranty Fund Contributions for each CDS Clearing Member will be calculated each Guaranty Fund Period based on criteria set out in the Procedures and Circulars. Energy Guaranty Fund Contributions for each Energy Clearing Member will be proportional to its relative share of the total of the average of the highest valid daily intra-day calculations of each Clearing Member as calculated by the Clearing House, in accordance with Rule 503(b), over the preceding Guaranty Fund Period, subject to the

minimum contribution of any one Clearing Member being USD 1 million. [FX Guaranty Fund Contributions for each FX Clearing Member will be calculated each Guaranty Fund Period based on criteria set out in the Procedures and Circulars.](#)

- (c) Required Guaranty Fund Contributions will be calculated or re-calculated, as the case may be, by the Clearing House for each Clearing Member and notified in advance of each Guaranty Fund Period.
- (d) Guaranty Fund Contributions must be in the form of cash or other Permitted Cover, subject to such limits as are specified in the Procedures and Circulars.
- (e) In the event of any change in the value of non-cash Guaranty Fund Contributions, the Clearing Member may be required by the Clearing House to make an additional Guaranty Fund Contribution. Clearing Members will be permitted (and may be required) at any time to make additional Guaranty Fund Contributions (beyond the required Guaranty Fund Contributions) in order to reduce the risk that revaluations of non-cash Permitted Cover result in such additional Guaranty Fund Contributions falling due.
- (f) New Clearing Members admitted to membership of the Clearing House shall make the required minimum Guaranty Fund Contributions plus such other amount as the Clearing House at its discretion determines is necessary based on projected clearing activity. Any such Guaranty Fund Contributions by a new Clearing Member or Clearing Members shall not result in any obligation on the Clearing House to repay any Guaranty Fund Contributions to other Clearing Members and the size of the relevant Guaranty Funds shall be increased accordingly until the end of the relevant Guaranty Fund Period.
- (g) [Energy Guaranty Fund Contributions and CDS](#) Guaranty Fund Contributions of a Clearing ~~Members~~Member following termination of its membership of the Clearing House will be returned to the Clearing Member on the first date of the first new Guaranty Fund Period beginning after the transfer or liquidation of all of its positions at the Clearing House and the payment of all other amounts due to the Clearing House (subject to [Energy Guaranty Fund Contributions and CDS](#) Guaranty Fund Contributions being applied under Part 9 or this Part 11 and further subject to any extension to the [Energy Guaranty Fund Period or CDS](#) Guaranty Fund Period pursuant to Rule 1102(l)). Energy Guaranty Fund Contributions of a Clearing Member that is both an Energy Clearing Member and a CDS [Clearing Member or FX](#) Clearing Member following termination of its membership of the Clearing House in relation to Energy Contracts under Rule 209(f) will be returned to the Clearing Member on the first date of the first new Guaranty Fund Period for the Energy Guaranty Fund beginning after the transfer or liquidation of all of its Energy Contract positions at the Clearing House and the payment of all other amounts due to the Clearing House in respect of Energy Contracts (subject to Energy Guaranty Fund Contributions being applied under Part 9 or this Part 11 and further subject to any extension to the Guaranty Fund Period for the Energy Guaranty Fund pursuant to Rule 1102(l)). CDS Guaranty Fund Contributions of a Clearing Member that is both an Energy Clearing Member and a CDS Clearing Member following termination of its membership of the Clearing House in relation to CDS under Rule 209(f) will be returned to the Clearing Member on the first date of the first new Guaranty Fund Period for the CDS Guaranty Fund beginning after the transfer or liquidation of all of its CDS Contract positions at the

Clearing House and the payment of all other amounts due to the Clearing House in respect of CDS Contracts (subject to CDS Guaranty Fund Contributions being applied under Part 9 or this Part 11 and further subject to any extension to the Guaranty Fund Period for the CDS Guaranty Fund pursuant to Rule 1102(l)). The obligation of the Clearing House to return to an FX Clearing Member any remaining portion of its FX Guaranty Fund Contributions in the event of termination of its FX clearing membership of the Clearing House will be satisfied by accounting for the amount of that obligation in the determination of a net sum under Rule 905, a net sum as referred to in Rule 209(c) or a net sum in respect of FX under Rule 209(g) (whichever is applicable or the earlier), in either case payable by the Clearing House or the Clearing Member to the other, provided that the determination of the portion of such FX Guaranty Fund Contributions to be so taken into account may be made up to and including the first date of the first new FX Guaranty Fund Period beginning after the transfer or liquidation of all of the relevant FX Clearing Member's FX Contracts at the Clearing House.

- (h) Each Clearing Member will be entitled to receive interest payments on its cash Guaranty Fund Contributions each quarter through the banking arrangements detailed in Part 3 and no accommodation charges will apply to any non-cash Guaranty Fund Contributions.
- (i) In the event of application of any Guaranty Fund Contributions taking place pursuant to Rule 1103 or 1104, the Clearing House shall:
 - (i) give notice by Circular of the amount by which each relevant Guaranty Fund has been reduced;
 - (ii) notify each Clearing Member and any relevant former Clearing Member of the amount for which it is liable to make additional Guaranty Fund Contributions in order to replenish the relevant Guaranty Funds;
 - (iii) in the case of any Energy Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House Energy Contributions by Circular; ~~and~~
 - (iv) in the case of any CDS Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House CDS Contributions by Circular; and
 - (v) in the case of any FX Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House FX Contributions by Circular.

Energy Clearing Members must make required Energy Guaranty Fund Contributions within ten Business Days of the notice under Rule 1102(i)(ii), or on or before such other later date as is specified by the Clearing House at its discretion. CDS Clearing Members must make required CDS Guaranty Fund Contributions and FX Clearing Members must make required FX Guaranty Fund Contributions prior to the opening of business on the first Business Day following the notice under Rule 1102(i)(ii) or such other later date as is specified by the Clearing House at its discretion. The Clearing House shall ensure that any specified new Clearing House Contributions are held by it in accordance with Rule 1104(e) at the same date as Guaranty Fund Contributions for the relevant Guaranty Fund are so due. Any obligation on a Clearing Member to make payments pursuant to this Rule 1102(i) is separate from, and shall apply in addition to,

any obligation to make payment in respect of Energy Assessment Contributions pursuant to Rule 1105 (subject only to the provisions of Rules 1105(h) and 1105(i)) or CDS Assessment Contributions pursuant to Rule 1106 (subject only to the provisions of Rule 1106(h) and 1106(i)) or FX Assessment Contributions pursuant to Rule 1107 (subject only to the provisions of Rule 1107(h) and Rule 1107(i)).

- (j) If:
- (i) an Event of Default is declared in relation to more than one Defaulter contemporaneously (excluding an Event of Default declared in respect of a Disclosed Principal Member, only when an Event of Default is declared contemporaneously in respect of the Clearing Member that identified that Disclosed Principal Member in accordance with Rule 201(h)) (the defaulter in respect of whom default proceedings are first completed being the "**First Defaulter**" and any other defaulter being an "**Additional Defaulter**" or, if default proceedings are completed at the same time, the Defaulter whose name would appear first alphabetically being the "**First Defaulter**" and any other Defaulter or Defaulters being an "**Additional Defaulter**"); or
 - (ii) a separate Event of Default is declared in relation to a Defaulter or Defaulters that has or have made a Guaranty Fund Contribution or Guaranty Fund Contributions to the same Guaranty Fund (any, an "**Additional Defaulter**") prior to the termination of default proceedings in relation to an existing Defaulter ("**First Defaulter**"),

and recourse is made to Guaranty Fund Contributions in respect of the First Defaulter (or any Additional Defaulter), then (subject in the case of FX Guaranty Fund Contributions only to Rule 1107(h) and Rule 1107(i)) Clearing Members shall be required to replenish the relevant Guaranty Fund pursuant to Rule 1102(i) separately in respect of each Defaulter causing a reduction in the Guaranty Fund. The Clearing House may apply Guaranty Fund Contributions and Clearing House Contributions resulting from replenishment following default proceedings in relation to the First Defaulter to meet the liabilities of an Additional Defaulter and may apply Guaranty Fund Contributions and Clearing House Contributions resulting from replenishment following default proceedings in relation to an Additional Defaulter to meet the liabilities of another Additional Defaulter. Other than as set out in this Rule 1102(j), amounts transferred by Clearing Members or former Clearing Members in order to replenish Guaranty Fund Contributions under Rule 1102(i) or amounts designated as Clearing House Contributions may not be applied to meet liabilities arising in connection with any Event of Default occurring prior to the time at which the relevant replenishment or designation is required under these Rules.

- (k) In the event of the Clearing House applying any Guaranty Fund Contributions of non-defaulting Clearing Members, the Clearing House will make payment to the Persons whose Guaranty Fund Contributions have been applied (and retain assets in respect of Clearing House Energy GF Contributions, Clearing House CDS GF Contributions and Clearing House EnergyFX GF Contributions) *pro rata* in respect of any amounts received from the Defaulter as a result of its being a creditor of the Defaulter in the Defaulter's Insolvency or otherwise (net of the Clearing House's costs of recovery), up to the amount by which the relevant Guaranty Fund was reduced (excluding the Guaranty Fund Contribution of the Defaulter) but without counting for

interest, subject to the Clearing House first: (i) retaining or repaying amounts up to the amount of any other assets of the Clearing House (including following claims under insurance policies) or other third parties applied to meet any liability following exhaustion of the assets specified in Rule 1103 or in substitution of any such assets; and (ii) making reimbursement payments to Persons that have made Assessment Contributions (in that order of priority).

- (l) If an Event of Default occurs prior to the end of a Guaranty Fund Period where the total amount of Guaranty Fund Contributions or the Guaranty Fund Contribution of any particular Clearing Member would otherwise subsequently be reduced in the next Guaranty Fund Period, the Clearing House shall at its discretion be entitled to defer the end of the current Guaranty Fund Period and start of the next Guaranty Fund Period until the completion of default proceedings or retain all then held Guaranty Fund Contributions made to any potentially affected Guaranty Fund. In either such circumstance, the Clearing House shall not be obliged to make any repayment to Clearing Members in respect of Guaranty Fund Contributions to any such Guaranty Fund until and subject to completion of the relevant Default proceedings pursuant to Part 9 and this Part 11. For the avoidance of doubt: in such circumstances, the Clearing House shall nonetheless be entitled to make periodic adjustments to Guaranty Fund Contributions as otherwise set out in these Rules at its discretion; and this Rule 1102(l) is without prejudice to Rule 1102(m) [and Rule 1102\(n\)](#).
- (m) If a CDS Clearing Member's business changes in a material way, a CDS Clearing Member's anticipated clearing volume of Contracts indicates a potential increase in risk to the Clearing House at any time during a Guaranty Fund Period or as otherwise required by the Procedures, which determinations shall be made and conducted at the Clearing House's discretion, then the Clearing House may require the CDS Clearing Member to increase the amount of its Guaranty Fund Contribution at the time specified by the Clearing House. Any such Guaranty Fund Contributions shall not result in any obligation on the Clearing House to repay any Guaranty Fund Contributions to other Clearing Members and the size of the relevant Guaranty Funds shall be increased accordingly until the end of the relevant Guaranty Fund Period.
- (n) If an FX Clearing Member's business changes in a material way, an FX Clearing Member's anticipated clearing volume of Contracts indicates a potential increase in risk to the Clearing House at any time during a Guaranty Fund Period or as otherwise required by the Procedures, which determinations shall be made and conducted at the Clearing House's discretion, then the Clearing House may require the FX Clearing Member to increase the amount of its Guaranty Fund Contribution at the time specified by the Clearing House. Any such Guaranty Fund Contributions shall not result in any obligation on the Clearing House to repay any Guaranty Fund Contributions to other Clearing Members and the size of the relevant Guaranty Funds shall be increased accordingly until the end of the relevant Guaranty Fund Period.

Rule 1103 *Application of Assets upon an Event of Default*

- (a) Notwithstanding any other provision of these Rules:
- (i) if a Defaulter was only liable to make ~~Energya~~ Guaranty Fund ~~Contributions, no CDS~~ Contribution relating to a single Membership Category, ~~no~~ Guaranty Fund Contributions, ~~CDS~~ Assessment Contributions, or Clearing House ~~CDS~~

Contributions relating to a different Membership Category shall be applied by the Clearing House to meet any obligations or liabilities of the Defaulter or any loss or shortfall to the Clearing House arising from the Event of Default;

- (ii) if a Defaulter was only liable to make ~~CDS~~ Guaranty Fund Contributions relating to two Membership Categories, no ~~Energy~~ Guaranty Fund Contributions, ~~Energy~~ Assessment Contributions, or Clearing House ~~Energy~~ Contributions relating to a different Membership Category shall be applied by the Clearing House to meet any obligations or liabilities of the Defaulter or any loss or shortfall to the Clearing House arising from the Event of Default;
- (iii) any Guaranty Fund Contributions (including additional Guaranty Fund Contributions) invoiced to or transferred by Clearing Members that are not Defaulters or accrued after the declaration of an Event of Default but prior to the completion of the relevant default proceedings for the Event of Default shall not be applied to meet any obligations or liabilities of the Defaulter or any loss or shortfall to the Clearing House arising in connection with that prior Event of Default;
- (iv) if a Defaulter was ~~both a CDS Clearing Member and~~ an Energy Clearing Member and had one or more other Membership Categories, and any Energy Guaranty Fund Contribution of the Defaulter is applied other than as described in Rule 1103(~~fg~~)(ii)(A), no non-defaulting Energy Clearing Member shall be required to make any payment to replenish the Energy Guaranty Fund under Rule 1102(i) or (j) in respect of the resulting incremental shortfall to the Energy Guaranty Fund caused by such application of assets prior to the date which is the first day of the next following Guaranty Fund Period for the Energy Guaranty Fund (other than pursuant to Rule 902(c), if the non-defaulting Energy Clearing Member becomes a Defaulter);
- (v) if a Defaulter was ~~both~~ a CDS Clearing Member and ~~an Energy Clearing Member~~ had one or more other Membership Categories, and any CDS Guaranty Fund Contribution of the Defaulter is applied other than as described in Rule 1103(~~fg~~)(ii)(B), no non-defaulting CDS Clearing Member shall be required to make any payment to replenish the CDS Guaranty Fund under Rule 1102(i) or (j) in respect of the resulting incremental shortfall to the CDS Guaranty Fund caused by such application of assets prior to the date which is the first day of the next following Guaranty Fund Period for the CDS Guaranty Fund (other than pursuant to Rule 902(c), if the non-defaulting CDS Clearing Member becomes a Defaulter); ~~and~~
- (vi) if a Defaulter was an FX Clearing Member and had one or more other Membership Categories, and any FX Guaranty Fund Contribution of the Defaulter is applied other than as described in Rule 1103(g)(ii)(C), no non-defaulting FX Clearing Member shall be required to make any payment to replenish the FX Guaranty Fund under Rule 1102(i) or (j) in respect of the resulting incremental shortfall to the FX Guaranty Fund caused by such application of assets prior to the date which is the first day of the next following Guaranty Fund Period for the FX Guaranty Fund (other than pursuant to Rule 902(c), if the non-defaulting FX Clearing Member becomes a Defaulter); and

(vii) ~~(vi)~~ without limitation to the generality of Rule 102(p), this Rule 1103 is subject to Rule 102(p).

(b) In the case of a Defaulter ~~which~~that was an Energy Clearing Member but ~~not~~neither a CDS Clearing Member nor an FX Clearing Member, the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any loss or shortfall to the Clearing House upon or following any Event of Default (including in connection with any net sum calculated under Rule 905), in the following order of recourse:

- (i) first, any amounts payable to the Defaulter in respect of Contracts, any Margin ~~or Surplus Collateral~~ and any other amounts falling under A, D, C or M in Rule 905(a), in the order specified in Rule 905(a);
- (ii) second, Energy Guaranty Fund Contributions of the Defaulter and any accrued interest or rights arising pursuant to such Energy Guaranty Fund Contributions falling under amount *GFC* in Rule 905(a);
- (iii) third, any amounts falling under *SC* or *OA* in Rule 905(a) in the order specified in Rule 905(a) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in paragraphs (iv) to (vii) below but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
- (iv) fourth, the Clearing House Energy Initial Contribution;
- (v) fifth:
 - (A) Energy Guaranty Fund Contributions of Clearing Members other than the Defaulter in question (including, where relevant, any surplus Energy Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
 - (B) the Clearing House Energy GF Contribution,
on a basis *pro rata* to the sum of the total of all Energy Guaranty Fund Contributions (excluding Energy Guaranty Fund Contributions of the Defaulter and Energy Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House Energy GF Contribution at the time of the Event of Default;
- (vi) sixth, any claims under default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that are available to the Clearing House as a result of the Default; and
- (vii) seventh, Energy Assessment Contributions received by the Clearing House pursuant to Rule 1105.

- (c) In the case of a Defaulter which was a CDS Clearing Member but ~~not~~neither an Energy Clearing Member nor an FX Clearing Member, the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any loss or shortfall to the Clearing House upon or following any Event of Default (including in connection with any net sum calculated under Rule 905), in the following order of recourse:
- (i) first, any amounts payable to the Defaulter in respect of Contracts, any Margin ~~or Surplus Collateral~~ and any other amounts falling under A, D, C or M in Rule 905(a), in the order specified in Rule 905(a);
 - (ii) second, CDS Guaranty Fund Contributions of the Defaulter and any accrued interest or rights arising pursuant to such CDS Guaranty Fund Contributions falling under amount *GFC* in Rule 905(a);
 - (iii) third, any amounts falling under *SC* or *OA* in Rule 905(a) in the order specified in Rule 905(a) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in paragraphs (iv) to (vi) below but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
 - (iv) fourth, the Clearing House CDS Initial Contribution;
 - (v) fifth:
 - (A) CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question (including, where relevant, any surplus CDS Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
 - (B) the Clearing House CDS GF Contribution,

on a basis pro rata to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default; and
 - (vi) sixth, CDS Assessment Contributions received by the Clearing House pursuant to Rule 1106.

(d) In the case of a Defaulter which was an FX Clearing Member but neither an Energy Clearing Member nor a CDS Clearing Member, the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any loss or shortfall to the Clearing House upon or following any Event of Default (including in connection with any net sum calculated under Rule 905), in the following order of recourse:

- (i) first, any amounts payable to the Defaulter in respect of Contracts, any Margin and any other amounts falling under A, D, C or M in Rule 905(a), in the order specified in Rule 905(a);
 - (ii) second, FX Guaranty Fund Contributions of the Defaulter and any accrued interest or rights arising pursuant to such FX Guaranty Fund Contributions falling under amount GFC in Rule 905(a);
 - (iii) third, any amounts falling under SC or OA in Rule 905(a) in the order specified in Rule 905(a) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in paragraphs (iv) to (vi) below but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
 - (iv) fourth, the Clearing House FX Initial Contribution;
 - (v) fifth:
 - (A) FX Guaranty Fund Contributions of Clearing Members other than the Defaulter in question (including, where relevant, any surplus FX Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
 - (B) the Clearing House FX GF Contribution,

on a basis pro rata to the sum of the total of all FX Guaranty Fund Contributions (excluding FX Guaranty Fund Contributions of the Defaulter and FX Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House FX GF Contribution at the time of the Event of Default; and
 - (vi) sixth, FX Assessment Contributions received by the Clearing House pursuant to Rule 1107.
- (e) ~~(d) In the case of a Defaulter which was both a CDS Clearing Member and an Energy Clearing Member~~In the case of a Defaulter which held multiple Membership Categories, separate amounts shall be calculated in accordance with Rules 905(a) and (b) as if they were "net sums", mutatis mutandis in respect of:
- (i) if the Defaulter was an Energy Clearing Member, any amounts, assets or liabilities included or to be included within the calculation of the amount N in Rule 905(a) in respect of Energy Contracts, Margin or Surplus Collateral in respect of Energy Contracts, Guaranty Fund Contributions to the Energy Guaranty Fund and any other amounts, assets or liabilities relating in any case exclusively to Energy Contracts of the Defaulter, together with such Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below ("**Energy Default Amount**"):

- (ii) ~~(i)~~ if the Defaulter was a CDS Clearing Member, any amounts, assets or liabilities included or to be included within the calculation of the amount *N* in Rule 905(a) in respect of CDS Contracts, Margin or Surplus Collateral in respect of positions in CDS Contracts, Guaranty Fund Contributions to the CDS Guaranty Fund and any other amounts, assets or liabilities relating in any case exclusively to CDS Contracts of the Defaulter, together with such Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below ("**CDS Default Amount**"); and
- (iii) ~~(ii)~~ if the Defaulter was an FX Clearing Member, any amounts, assets or liabilities included or to be included within the calculation of the amount *N* in Rule 905(a) in respect of EnergyFX Contracts, Margin or Surplus Collateral in respect of Energy positions in FX Contracts, Guaranty Fund Contributions to the EnergyFX Guaranty Fund and any other amounts, assets or liabilities relating in any case exclusively to EnergyFX Contracts of the Defaulter, together with such Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below ("**EnergyFX Default Amount**").

"**Non-Exclusive Assets**" constitute any amounts or assets included or to be included within the calculation of the amount *N* in Rule 905(a) not relating exclusively to ~~either Energy Contracts or CDS Contracts~~ any one Contract Category. Non-Exclusive Assets may be included in the calculation of ~~either any of the CDS-Default Amount or the Energy Default Amount~~ Amounts in question or split between ~~both~~ such calculations at the Clearing House's discretion, provided that:

- (A) to the extent that ~~both two or more of the CDS-Default Amount and the Energy-Default Amount~~ Amounts represent or would (but for this provision) represent a shortfall ("Shortfall Default Amounts"), the Non-Exclusive Assets must be included in the calculation of the ~~CDS Shortfall Default Amount and the Energy-Default Amount~~ Amounts in proportion to the Margin requirements of the Defaulter for ~~CDS Contracts and Energy Contracts respectively~~ each Contract Category corresponding to each Shortfall Default Amount immediately prior to the Event of Default until one of the ~~CDS Shortfall Default Amount or Energy Default Amount~~ Amounts would represent zero; and
- (B) subject to the process in (A) first being completed if applicable, to the extent that one or two of the ~~CDS-Default Amount or the Energy-Default Amount represents~~ Default Amounts in question represent(s) or would (but for this provision) represent a surplus to the Clearing House and the other ~~represents or others represent~~ or would (but for this provision) represent a shortfall to the Clearing House, the Non-Exclusive Assets must be included in the relevant calculation so as to eliminate or reduce the shortfall pro rata as to the losses.

"**Non-Exclusive Liabilities**" constitute any liabilities included or to be included within the calculation of the amount *N* in Rule 905(a) not relating exclusively to ~~either Energy Contracts or CDS Contracts~~ any one Contract Category. Non-Exclusive Liabilities may be included in the calculation of ~~either any of the CDS-Default Amount or the Energy~~

~~Default Amount~~Amounts in question or split between ~~both~~ such calculations at the Clearing House's discretion, provided that:

- (C) to the extent that ~~both~~two or more of the ~~CDS Default Amount and the Energy Default Amount~~Amounts represent or would (but for this provision) represent a surplus ("Surplus Default Amounts"), the Non-Exclusive Liabilities must be included in the calculation of the ~~CDS Surplus Default Amount and the Energy Default Amount~~Amounts in proportion to the Margin requirements of the Defaulter for ~~CDS Contracts and Energy Contracts respectively~~each Contract Category corresponding to each Surplus Default Amount immediately prior to the Event of Default until one of the ~~CDS Surplus Default Amount or Energy Default Amount~~Amounts would represent zero; and
 - (D) subject to the process in (C) first being completed if applicable, to the extent that one ~~or two~~ of the ~~CDS Default Amount or the Energy Default Amount represents~~Default Amounts in question represent(s) or would (but for this provision) represent a surplus to the Clearing House and the other ~~represents or others represent~~ or would (but for this provision) represent a shortfall to the Clearing House, Non-Exclusive Liabilities must first be included in the relevant calculation against the surplus pro rata as to the surpluses.
- (f) ~~(e)~~ In any instance in which assets are to be applied pursuant to Rule 1103(~~fg~~)(ii), Rule 1103(g)(iii), Rule 1103(g)(iv) or Rule 1103(g)(v), the Clearing House shall publish the amount of any Energy Default Amount, CDS Default Amount and/or ~~EnergyFX~~ Default Amount that is required to be calculated under Rule 1103(d) in a Circular. For the avoidance of doubt, any Energy Default Amount, CDS Default Amount and/or ~~EnergyFX~~ Default Amount so published shall not constitute a "net sum" for purposes of Rule 905, the Companies Act 1989 or the Settlement Finality Regulations.
- (g) ~~(f)~~ In the case of a Defaulter which ~~was both a CDS Clearing Member and an Energy Clearing Member~~held multiple Membership Categories, the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any loss or shortfall to the Clearing House upon or following any Event of Default (including in connection with any net sum calculated under Rule 905), in the following order of recourse:
- (i) first, any amounts payable to the Defaulter in respect of Contracts, any Margin or Surplus Collateral and any other amounts falling under A, D, C or M in Rule 905(a), in the order specified in Rule 905(a);
 - (ii) second, Guaranty Fund Contributions of the Defaulter and any accrued interest or rights arising pursuant to such Guaranty Fund Contributions falling under amount *GFC* in Rule 905(a), provided that:
 - (A) if a Defaulter was an Energy Clearing Member, Energy Guaranty Fund Contributions of the Defaulter must first be applied by the Clearing House against any liabilities relevant to the Energy Default Amount;

- (B) if a Defaulter was a CDS Clearing Member, CDS Guaranty Fund Contributions of the Defaulter must first be applied by the Clearing House against any liabilities relevant to the CDS Default Amount;
- (C) ~~(B) CDS~~ if a Defaulter was an FX Clearing Member, FX Guaranty Fund Contributions of the Defaulter must first be applied by the Clearing House against any liabilities relevant to the ~~CDS~~FX Default Amount;
and
- (D) ~~(C)~~ if a Defaulter was an Energy Clearing Member, subject to paragraphs (A) ~~and~~, (B) and (C), any Energy Guaranty Fund Contributions of the Defaulter may be applied against any other liabilities of the Defaulter but only after the earliest date on which non-defaulting Energy Clearing Members are required to replenish the Energy Guaranty Fund pursuant to Rule 1103(a)(iv) and only to the extent that such assets have not been applied in respect of any subsequent Event of Default before that date affecting an Energy Clearing Member; ~~and~~
- (E) ~~(D)~~ if a Defaulter was a CDS Clearing Member, subject to paragraphs (A) ~~and~~, (B) and (C), any CDS Guaranty Fund Contributions of the Defaulter may be applied against any other liabilities of the Defaulter but only after the earliest date on which non-defaulting CDS Clearing Members are required to replenish the CDS Guaranty Fund pursuant to Rule 1103(a)(v) and only to the extent that such assets have not been applied in respect of any subsequent Event of Default before that date affecting ~~a~~an CDS Clearing Member; ~~and~~
- (F) if a Defaulter was an FX Clearing Member, subject to paragraphs (A), (B) and (C), any FX Guaranty Fund Contributions of the Defaulter may be applied against any other liabilities of the Defaulter but only after the earliest date on which non-defaulting FX Clearing Members are required to replenish the FX Guaranty Fund pursuant to Rule 1103(a)(vi) and only to the extent that such assets have not been applied in respect of any subsequent Event of Default before that date affecting an FX Clearing Member;
- (iii) third, any amounts falling under *SC* or *OA* in Rule 905(a) in the order specified in Rule 905(a) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in paragraphs (iv) to (vii) below but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
- (iv) fourth:
- (A) if a Defaulter was an Energy Clearing Member, the Clearing House Energy Initial Contribution, provided that it shall only be applied up to the extent of any Energy Default Amount notified to Clearing Members

in accordance with Rule 1103(e~~f~~) and in circumstances in which the Energy Default Amount represents a shortfall or liability; ~~and~~

(B) if a Defaulter was a CDS Clearing Member, the Clearing House CDS Initial Contribution, provided that it shall only be applied up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 1103(e~~f~~) and in circumstances in which the CDS Default Amount represents a shortfall or liability; and

~~(C) if a Defaulter was an FX Clearing Member, the Clearing House FX Initial Contribution, provided that it shall only be applied up to the extent of any FX Default Amount notified to Clearing Members in accordance with Rule 1103(f) and in circumstances in which the FX Default Amount represents a shortfall or liability;~~

(v) fifth:

(A) Guaranty Fund Contributions of Clearing Members other than the Defaulter in question (including, where relevant, any surplus Guaranty Fund Contributions of other Defaulters and proceeds of the realisation thereof, if two or more Default proceedings take place concurrently and any such surplus is available);

~~(B) if a Defaulter was an Energy Clearing Member, the Clearing House Energy GF Contribution;~~

~~(C) ~~(B)~~ if a Defaulter was a CDS Clearing Member, the Clearing House ~~Energy~~CDS GF Contribution; and~~

~~(D) ~~(C)~~ if a Defaulter was an FX Clearing Member, the Clearing House ~~CDS~~FX GF Contribution;~~

provided that:

(1) if a Defaulter was an Energy Clearing Member, Energy Guaranty Fund Contributions of Clearing Members other than the Defaulter in question and the Clearing House Energy GF Contribution shall only be applied towards and up to the extent of any Energy Default Amount notified to Clearing Members in accordance with Rule 1103(e~~f~~) and in circumstances in which the Energy Default Amount less any assets applied in accordance with paragraph ~~(f)~~(iv)(A) represents a shortfall or liability; ~~and~~

(2) if a Defaulter was a CDS Clearing Member, CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question and the Clearing House CDS GF Contribution shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 1103(e~~f~~) and in circumstances in which the CDS Default Amount less any assets applied in accordance with paragraph ~~(f)~~(iv)(B) represents a shortfall or liability; and

(3) if a Defaulter was an FX Clearing Member, FX Guaranty Fund Contributions of Clearing Members other than the Defaulter in question and the Clearing House FX GF Contribution shall only be applied towards and up to the extent of any FX Default Amount notified to Clearing Members in accordance with Rule 1103(f) and in circumstances in which the FX Default Amount less any assets applied in accordance with paragraph (iv)(C) represents a shortfall or liability

and provided further that:

- (X) in the case of a Defaulter who was an Energy Clearing Member, Energy Guaranty Fund Contributions and the Clearing House Energy GF Contribution are applied on a basis *pro rata* to the sum of the total of all Energy Guaranty Fund Contributions (excluding Energy Guaranty Fund Contributions of the Defaulter in question and Energy Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House Energy GF Contribution at the time of the Event of Default; and
- (Y) in the case of a Defaulter who was a CDS Clearing Member, CDS Guaranty Fund Contributions and the Clearing House CDS GF Contribution are applied on a basis *pro rata* to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter in question and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default; and
- (Z) in the case of a Defaulter who was an FX Clearing Member, FX Guaranty Fund Contributions and the Clearing House FX GF Contribution are applied on a basis *pro rata* to the sum of the total of all FX Guaranty Fund Contributions (excluding FX Guaranty Fund Contributions of the Defaulter in question and FX Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House FX GF Contribution at the time of the Event of Default;
- (vi) sixth, if a Defaulter was an Energy Clearing Member, any claims under default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that are available to the Clearing House as a result of the Default, provided that the Clearing House, acting reasonably, must specify in a Circular the extent to which any such claims are applied in respect of any shortfall relating to the Energy Default Amount and any shortfall relating to ~~the CDS~~any other Default Amount(s); and
- (vii) seventh, if a Defaulter was an Energy Clearing Member, Energy Assessment Contributions received by the Clearing House pursuant to Rule ~~1105~~and ~~CDS~~1105, if a Defaulter was a CDS Clearing Member, CDS Assessment Contributions received by the Clearing House pursuant to Rule 1106, and, if a Defaulter was an FX Clearing Member, FX Assessment Contributions received by the Clearing House pursuant to Rule ~~1106~~.1107.

(h) ~~(g)~~ For the avoidance of doubt, this Part 11, including this Rule 1103, is part of the Clearing House's "default rules" for the purposes of the Companies Act 1989. The requirements of this Rule 1103 shall apply and be binding upon the Clearing House and all Clearing Members including upon the event of any Insolvency affecting the Clearing House or any Clearing Member. The Clearing House (including any Insolvency Practitioner with powers over the Clearing House or other Representative) and all Clearing Members (including any Insolvency Practitioner with powers over any Clearing Member or other Representative) shall, to the extent permitted by Applicable Laws:

- (i) refrain from taking any action or seeking any order of any Governmental Authority that would result in or facilitate any asset or liability being applied contrary to the requirements of this Rule 1103; and
- (ii) take all reasonable steps possible including, without limitation, the application for and procurement of such orders from such Governmental Authorities as are necessary, to ensure that assets of the Clearing House are applied only pursuant to this Rule 1103.

Rule 1104 Use of Guaranty Fund Contributions

- (a) Following an Event of Default, the Clearing House shall apply the Guaranty Fund Contribution of a Defaulter only pursuant to Rules 905 and 1103. Otherwise, Guaranty Fund Contributions of a Clearing Member may be applied or used by the Clearing House at its discretion in any of the following manners to the extent of the relevant Clearing Member's Guaranty Fund Contribution:
 - (i) against any amount that becomes due to the Clearing House by that Clearing Member for any reason (including but not limited to Margin, amounts due pursuant to Contract Terms, fees, dues, assessments and fines);
 - (ii) where applicable, to meet the Clearing House's costs involved in facilitating the transfer of Customer Account positions from that Clearing Member, if it is experiencing financial difficulty or during a termination of membership to another Clearing Member; or
 - (iii) provisionally, in respect of any actual or potential shortfall, loss, obligation or liability if the Clearing House at its discretion determines that Guaranty Fund Contributions are likely to be applied pursuant to Rule 1103 or Rule 1104(a)(i) or (ii), provided that to the extent that any Guaranty Fund Contributions are not applied pursuant to Rule 1103 or Rule 1104(a)(i) or (ii) within a reasonable period of time, the Clearing House shall account to the relevant Clearing Member for the difference between the amount by which any Guaranty Fund Contributions were actually applied and the amount by which the same were provisionally applied under this Rule 1104(a)(iii).

In any such case, to the extent that Guaranty Fund Contributions are called upon, Guaranty Fund Contributions may be sold, substituted, set off, transferred, assigned, pledged, repledged or have any lien, interest or charge created over them at the Clearing House's discretion, in order to realise proceeds therefrom.

- (b) Any expense (including, without limitation, legal fees and expenses) incurred by the Clearing House in connection with the use, application or transfer of Guaranty Fund Contributions, or the return of equivalent assets to a Clearing Member, may, at the option and discretion of the Clearing House, be charged to the account of such Clearing Member.
- (c) A Clearing Member's entitlement to repayment of any Guaranty Fund Contribution or any part of it or interest thereon shall not be capable of assignment or transfer by the Clearing Member or being made subject to any Encumbrance whatsoever purporting to rank in priority over, *pari passu* with, or subsequent to, the rights of the Clearing House or in conflict with Rule 1103. Any purported Encumbrance of a Clearing Member in respect of any Guaranty Fund Contribution shall be null and void.
- (d) Default insurance policies of which the Clearing House is the beneficiary (if any) may be subject to limits on claims applicable in respect of particular time periods (each such period, a "**Relevant Period**"). Furthermore, pursuant to the terms of insurance obtained by the Clearing House, it is possible that (i) insurance claims may be payable in excess of losses resulting from a Default or Defaults above a certain amount ("**Loss Threshold**") occurring within a Relevant Period as opposed to following the application of particular assets in respect of particular Defaults in the order set out in Rule 1103; or (ii) default insurance policies may apply only in relation to losses occurring in relation to certain Sets of Contracts cleared by the Clearing House or particular Guaranty Funds. As a result, it is possible that: (A) insurance receipts may be available to (and applied by) the Clearing House at an earlier order to that specified in Rule 1103 if the total available Guaranty Fund Contributions exceed the Loss Threshold or in respect of a second or subsequent Default where the limit on claims for the Relevant Period has not been exhausted; (B) no or reduced insurance may be available in the case of a second or subsequent Default occurring in a Relevant Period; or (C) the insurance policies (if any) may not provide cover in respect of certain Events of Default. The Clearing House will issue a Circular to Clearing Members specifying the amount of insurance, Loss Threshold, Relevant Period and any restrictions by Set of Contract or Guaranty Fund applicable to any default insurance obtained by the Clearing House. Neither this Rule 1104(d) nor any Circular issued by the Clearing House shall affect the liability of Clearing Members in respect of Guaranty Fund Contributions under these Rules.
- (e) The Clearing House will notify Clearing Members from time to time, by Circular and in accordance with the Procedures, of each of the Clearing House Contributions. The Clearing House undertakes to all non-defaulting Clearing Members from time to time to maintain amounts equal to the total of the Clearing House Contributions in a separate account from its other assets and to use such amounts only for the purposes of meeting shortfalls arising directly or indirectly from Defaults in accordance with this Part 11. The Clearing House undertakes to all non-defaulting Clearing Members from time to time to maintain Clearing House [Energy Contributions, Clearing House CDS Contributions](#) ~~in an~~ [and Clearing House FX Contributions in a separate](#) account or accounts ~~separate from Clearing House Energy Contributions~~ [for each such contribution](#). This Rule 1104(e) shall not restrict the Clearing House from investing such amounts in any way that it is able to invest Guaranty Fund Contributions made by Clearing Members.

- (f) The total amount of Guaranty Fund Contributions for each Guaranty Fund and any Clearing House Contributions applied in connection with any Event of Default shall be notified to Clearing Members in a Circular prior to the same being applied.

Rule 1105 Powers of Assessment: Energy

- (a) Powers of assessment under this Rule 1105 may be exercised by the Clearing House following an Event of Default occurring in respect of an Energy Clearing Member and the liabilities of a Defaulter that is or was an Energy Clearing Member not having been met pursuant to:
- (i) Rule 1103(b)(i) to 1103(b)(vi); or
 - (ii) Rule 1103(fg)(i) to 1103(fg)(vi), only to the extent that the Energy Default Amount, less any assets applied in accordance with Rule 1103(fg)(iv)(A), 1103(fg)(v)(B) and Rule 1103(fg)(vi) (in the latter case, only to the extent certified by the Clearing House as applying in relation to the Energy Default Amount), represents a shortfall or a liability.

Immediately upon the Clearing House certifying the Energy Assessment Amount in a Circular, all Energy Clearing Members (other than Defaulters) shall indemnify the Clearing House and become liable to pay Energy Assessment Contributions to the Clearing House in accordance with Rule 1105(b).

- (b) The Energy Assessment Contribution payable by each Energy Clearing Member shall be the amount:

$EAA \times \frac{EGF(CM)}{EGF(all)}$

where:

EAA is the Energy Assessment Amount certified by the Clearing House in a Circular as the total shortfall following an Event of Default occurring after funds referred to in Rule 1105(a) have been applied, provided that the total Energy Assessment Amount shall be no greater than the amount equal to twice the total required Energy Guaranty Fund Contributions of all Energy Clearing Members immediately prior to the relevant Event of Default (less Energy Guaranty Fund Contributions of Defaulters and excluding the Clearing House Energy Contributions);

EGF(CM) is the required Energy Guaranty Fund Contribution of the relevant Energy Clearing Member immediately preceding the relevant Event of Default; and

EGF(all) is the total required Energy Guaranty Fund Contributions of all Energy Clearing Members immediately preceding the relevant Event of Default (less Energy Guaranty Fund Contributions of Defaulters and excluding the Clearing House Energy Contributions) .

- (c) A Person that ceases to be an Energy Clearing Member shall be subject to obligations to pay Energy Assessment Contributions only in respect of:

- (i) Events of Default declared in relation to Clearing Members that are Energy Clearing Members occurring prior to the Termination Date (whether or not declared prior to the Termination Date); and
- (ii) any Events of Default declared in relation to Clearing Members that are Energy Clearing Members occurring after the Termination Date but whilst it still has an Energy Guaranty Fund Contribution with the Clearing House,

provided that:

- (A) the aggregate amount of all Energy Assessment Contributions in respect of all Events of Default for any such Person shall be capped at: (I) in the case of a Person terminating its membership of the Clearing House following an Event of Default or Events of Default where Energy Guaranty Fund Contributions have been applied, an amount equal to twice that Person's Energy Guaranty Fund Contribution immediately prior to the first Event of Default being declared which led to the relevant application of Energy Guaranty Fund Contributions; or (II) in the case of a Person otherwise terminating its membership of the Clearing House, an amount equal to twice that Person's Energy Guaranty Fund Contribution on the date of service of the relevant notice of termination; and
 - (B) Energy Assessment Contributions made by a Person terminating its membership of the Clearing House pursuant to Rule 1105(h) shall be included for the purpose of calculating such a cap.
- (d) If the Energy Assessment Amount is not met by Energy Assessment Contribution receipts from Energy Clearing Members due to non-payment by an Energy Clearing Member or Energy Clearing Members, Default of an Energy Clearing Member or Energy Clearing Members or otherwise, the Clearing House shall at its discretion determine what, if any, further action to take. Unless, or unless to the extent that, the Clearing House directs otherwise in a Circular, any shortfall shall be re-assessed against all Energy Clearing Members (other than Defaulters and Persons that have defaulted in making an Energy Assessment Contribution) in accordance with Rule 1105(a), as if the shortfall were the Energy Assessment Amount, provided that no Energy Clearing Member shall be liable to pay Energy Assessment Contributions in respect of a single Default for an amount greater than twice its Energy Guaranty Fund Contribution immediately prior to the relevant Default. Subject to Rule 1105(c), further Energy Assessment Contributions may be levied and repeated in this manner at the discretion of the Clearing House until the entire Energy Assessment Amount has been met in full by Energy Assessment Contributions.
 - (e) All Energy Assessment Contributions shall become due and payable at such time as the Clearing House notifies to Energy Clearing Members (which may be by Circular) and may be collected by the Clearing House pursuant to Part 3.
 - (f) If, after any Energy Assessment Contribution has been paid in relation to an Event of Default, the Clearing House collects amounts in respect of a defaulted obligation or unpaid Energy Assessment Contribution in whole or in part from the Defaulter or a Person liable to pay an unpaid Energy Assessment Contribution, the Clearing House

shall refund the amount so collected (less any expenses of the Clearing House, including without limitation any legal fees and expenses incurred in connection therewith) to other Energy Clearing Members (excluding any Defaulter) *pro rata* in respect of paid Energy Assessment Contributions relating to the Event of Default in question, subject to the Clearing House first retaining or repaying amounts up to the amount of any assets of the Clearing House or other third parties applied to meet any liability following exhaustion of the assets specified in Rule 1103 or in substitution of any such assets.

- (g) Amounts transferred to the Clearing House by Energy Clearing Members in respect of Guaranty Fund Contributions, including without limitation amounts transferred to restore a deficiency in any Guaranty Fund following an Event of Default, do not constitute Energy Assessment Contributions. Neither the exercise of powers of assessment by the Clearing House nor the payment of Energy Assessment Contributions shall reduce or otherwise affect the liability of a Clearing Member to make Guaranty Fund Contributions pursuant to Rule 1101 *et seq.* or to replenish any Guaranty Fund Contribution pursuant to Rule 1102(i). Energy Assessment Contributions do not constitute Guaranty Fund Contributions.
- (h) Upon an Event of Default or Events of Default occurring and Energy Assessment Contributions becoming due, a Clearing Member liable to pay an Energy Assessment Contribution shall be entitled to terminate its membership of the Clearing House with effect from the moment immediately prior to the time at which Energy Guaranty Fund Contributions are required to be made pursuant to Rule 1102(i). Notwithstanding Rule 209(d), an Energy Clearing Member that terminates its membership in such circumstances shall have no further obligation to replenish the Energy Guaranty Fund pursuant to Rule 1102(i). Such a Clearing Member shall nonetheless remain liable for further Energy Assessment Contribution payments pursuant to Rules 1105(c) and 1105(d). Rules 209(c) (~~third~~fourth sentence only), 209(d) (subject as aforesaid), 209(e)(i) and 209(e)(ii) shall apply in relation to any such termination. Any Clearing Member terminating its membership pursuant to this Rule 1105(h) shall give notice of the same to the Clearing House as soon as practicable and in any event on or prior to the date falling 10 days after the date on which a first call for Energy Assessment Contributions was made.
- (i) Upon an Event of Default or Events of Default occurring and Energy Assessment Contributions becoming due, a Clearing Member that is both an Energy Clearing Member and a CDS Clearing Member and which is liable to pay an Energy Assessment Contribution shall be entitled to terminate its status with the Clearing House as an Energy Clearing Member (maintaining its status as a CDS Clearing Member) with effect from the moment immediately prior to the time at which Energy Guaranty Fund Contributions are required to be made pursuant to Rule 1102(i). Notwithstanding Rule 209(f), a Clearing Member that terminates its status as an Energy Clearing Member in such circumstances shall have no further obligation to replenish the Energy Guaranty Fund pursuant to Rule 1102(i). Such a Clearing Member shall nonetheless remain liable for further Energy Assessment Contribution payments pursuant to Rules 1105(c) and 1105(d). Any Clearing Member terminating its status as an Energy Clearing Member pursuant to this Rule 1105(i) shall give notice of the same to the Clearing House as soon as practicable and in any event on or prior to the date falling 10 days after the date on which a first call for Energy Assessment Contributions was made.

Rule 1106 Powers of Assessment: CDS

- (a) Powers of assessment under this Rule 1106 may be exercised by the Clearing House following an Event of Default occurring in respect of a CDS Clearing Member and the liabilities of a Defaulter that is or was a CDS Clearing Member not having been met pursuant to:
 - (i) Rule 1103(c)(i) to 1103(c)(v); or
 - (ii) Rule 1103(~~fg~~)(i) to 1103(~~fg~~)(vi), only to the extent that the CDS Default Amount, less any assets applied in accordance with Rule 1103(~~fg~~)(iv)(B), or Rule 1103(~~fg~~)(v)(C) and Rule 1103(~~fg~~)(vi) (in the latter case, only to the extent certified by the Clearing House as applying in relation to the CDS Default Amount), represents a shortfall or a liability.

Immediately upon the Clearing House certifying the CDS Assessment Amount in a Circular, all CDS Clearing Members (other than Defaulters) shall indemnify the Clearing House and become liable to pay CDS Assessment Contributions to the Clearing House in accordance with Rule 1106(b).

- (b) The CDS Assessment Contribution payable by each CDS Clearing Member shall be the amount:

$$CAA \times \frac{CGF(CM)}{CGF(all)}$$

where:

CAA is the CDS Assessment Amount certified by the Clearing House in a Circular as the total shortfall following an Event of Default occurring after funds referred to in Rule 1106(a) have been applied, provided that the total CDS Assessment Amount shall be no greater than the amount equal to the total required CDS Guaranty Fund Contributions of all CDS Clearing Members immediately prior to the relevant Event of Default (less CDS Guaranty Fund Contributions of Defaulters and excluding the Clearing House CDS Contributions);

CGF(CM) is the required CDS Guaranty Fund Contribution of the relevant CDS Clearing Member immediately preceding the relevant Event of Default; and

CGF(all) is the total required CDS Guaranty Fund Contributions of all CDS Clearing Members immediately preceding the relevant Event of Default (less CDS Guaranty Fund Contributions of Defaulters and excluding the Clearing House CDS Contributions).

- (c) A Person that ceases to be a CDS Clearing Member shall be subject to obligations to pay CDS Assessment Contributions only in respect of:
 - (i) Events of Default declared in relation to Clearing Members that are CDS Clearing Members occurring prior to the Termination Date (whether or not declared prior to the Termination Date); and

- (ii) any Events of Default declared in relation to Clearing Members that are CDS Clearing Members occurring after the Termination Date but whilst it still has a CDS Guaranty Fund Contribution with the Clearing House,

provided that:

- (A) the aggregate amount of all CDS Assessment Contributions in respect of all Events of Default for any such Person shall be capped at: (I) in the case of a Person terminating its membership of the Clearing House following an Event of Default or Events of Default where CDS Guaranty Fund Contributions have been applied, an amount equal to that Person's CDS Guaranty Fund Contribution immediately prior to the first Event of Default being declared which led to the relevant application of CDS Guaranty Fund Contributions; or (II) in the case of a Person otherwise terminating its membership of the Clearing House, an amount equal to that Person's CDS Guaranty Fund Contribution on the date of service of the relevant notice of termination; and
 - (B) CDS Assessment Contributions made by a Person terminating its membership of the Clearing House pursuant to Rule 1106(h) shall be included for the purpose of calculating such a cap.
- (d) If the CDS Assessment Amount is not met by CDS Assessment Contribution receipts from CDS Clearing Members due to non-payment by a CDS Clearing Member or CDS Clearing Members, Default of a CDS Clearing Member or CDS Clearing Members or otherwise, the Clearing House shall at its discretion determine what, if any, further action to take. Unless, or unless to the extent that, the Clearing House directs otherwise in a Circular, any shortfall shall be re-assessed against all CDS Clearing Members (other than Defaulters and Persons that have defaulted in making a CDS Assessment Contribution) in accordance with Rule 1106(a), as if the shortfall were the CDS Assessment Amount, provided that no CDS Clearing Member shall be liable to pay CDS Assessment Contributions in respect of a single Default for an amount greater than its CDS Guaranty Fund Contribution immediately prior to the relevant Default. Subject to Rule 1106(c), further CDS Assessment Contributions may be levied and repeated in this manner at the discretion of the Clearing House until the entire CDS Assessment Amount has been met in full by CDS Assessment Contributions.
 - (e) All CDS Assessment Contributions shall become due and payable at such time as the Clearing House notifies to CDS Clearing Members (which may be by Circular) and may be collected by the Clearing House pursuant to Part 3.
 - (f) If, after any CDS Assessment Contribution has been paid in relation to an Event of Default, the Clearing House collects amounts in respect of a defaulted obligation or unpaid CDS Assessment Contribution in whole or in part from the Defaulter in question or a Person liable to pay an unpaid CDS Assessment Contribution, the Clearing House shall refund the amount so collected (less any expenses of the Clearing House, including without limitation any legal fees and expenses incurred in connection therewith) to other CDS Clearing Members (excluding any Defaulter) *pro rata* in respect of paid CDS Assessment Contributions relating to the Event of Default in question, subject to the Clearing House first retaining or repaying amounts up to the amount of any assets of the Clearing House or other third parties applied to meet any

liability following exhaustion of the assets specified in Rule 1103 or in substitution of any such assets.

- (g) Amounts transferred to the Clearing House by CDS Clearing Members in respect of Guaranty Fund Contributions, including without limitation amounts transferred to restore a deficiency in any Guaranty Fund following an Event of Default, do not constitute CDS Assessment Contributions. Neither the exercise of powers of assessment by the Clearing House nor the payment of CDS Assessment Contributions shall reduce or otherwise affect the liability of a Clearing Member to make Guaranty Fund Contributions pursuant to Rule 1101 *et seq.* or to replenish any Guaranty Fund Contribution pursuant to Rule 1102(i). CDS Assessment Contributions do not constitute Guaranty Fund Contributions.
- (h) Upon an Event of Default or Events of Default occurring and CDS Assessment Contributions becoming due, a Clearing Member liable to pay a CDS Assessment Contribution shall be entitled to terminate its membership of the Clearing House with effect from the moment immediately prior to the time at which CDS Guaranty Fund Contributions are required to be made pursuant to Rule 1102(i). Notwithstanding Rule 209(d), a CDS Clearing Member that terminates its membership in such circumstances shall have no further obligation to replenish the CDS Guaranty Fund pursuant to Rule 1102(i). Such a Clearing Member shall nonetheless remain liable for further CDS Assessment Contribution payments pursuant to Rules 1106(c) and 1106(d). Rules 209(c) (~~third~~fourth sentence only), 209(d) (subject as aforesaid), 209(e)(i) and 209(e)(ii) shall apply in relation to any such termination. Any Clearing Member terminating its membership pursuant to this Rule 1106(h) shall give notice of the same to the Clearing House as soon as practicable and in any event on or prior to the date falling 10 days after the date on which a first call for CDS Assessment Contributions was made.
- (i) Upon an Event of Default or Events of Default occurring and CDS Assessment Contributions becoming due, a Clearing Member that is both an Energy Clearing Member and a CDS Clearing Member and which is liable to pay a CDS Assessment Contribution shall be entitled to terminate its status with the Clearing House as a CDS Clearing Member (maintaining its status as an Energy Clearing Member) with effect from the moment immediately prior to the time at which CDS Guaranty Fund Contributions are required to be made pursuant to Rule 1102(i). Notwithstanding Rule 209(f), a Clearing Member that terminates its status as a CDS Clearing Member in such circumstances shall have no further obligation to replenish the CDS Guaranty Fund pursuant to Rule 1102(i). Such a Clearing Member shall nonetheless remain liable for further CDS Assessment Contribution payments pursuant to Rules 1106(c) and 1106(d). Rule 209(f) shall apply in relation to any such termination. Any Clearing Member terminating its status as a CDS Clearing Member pursuant to this Rule 1106(i) shall give notice of the same to the Clearing House as soon as practicable and in any event on or prior to the date falling 10 days after the date on which a first call for CDS Assessment Contributions was made.

Rule 1107 Powers of Assessment: FX

- (a) Powers of assessment under this Rule 1107 may be exercised by the Clearing House following an Event of Default occurring in respect of an FX Clearing Member and the liabilities of a Defaulter that is or was an FX Clearing Member not having been met pursuant to:

- (i) Rule 1103(d)(i) to Rule 1103(d)(v); or
- (ii) Rule 1103(g)(i) to Rule 1103(g)(vi), only to the extent that the FX Default Amount, less any assets applied in accordance with Rule 1103(g)(iv)(C) or Rule 1103(g)(v)(D) and Rule 1103(g)(vi) (in the latter case, only to the extent certified by the Clearing House as applying in relation to the FX Default Amount) represents a shortfall or a liability.

Immediately upon the Clearing House certifying the FX Assessment Amount in a Circular, all FX Clearing Members (other than Defaulters) shall indemnify the Clearing House and become liable to pay FX Assessment Contributions to the Clearing House in accordance with Rule 1107(b).

- (b) The FX Assessment Contribution payable by each FX Clearing Member shall be the amount:

$FAA \times FGF(CM)$

$FGF(all)$

where:

FAA is the FX Assessment Amount certified by the Clearing House in a Circular as the total shortfall following an Event of Default occurring after funds referred to in Rule 1107(a) have been applied, provided that the total FX Assessment Amount shall be no greater than the amount equal to twice the total required FX Guaranty Fund Contributions of all FX Clearing Members immediately prior to the relevant Event of Default (less FX Guaranty Fund Contributions of Defaulters);

FGF(CM) is the required FX Guaranty Fund Contribution of the relevant FX Clearing Member immediately preceding the relevant Event of Default; and

FGF(all) is the total required FX Guaranty Fund Contributions of all FX Clearing Members immediately preceding the relevant Event of Default (less FX Guaranty Fund Contributions of Defaulters).

- (c) A Person that is or was an FX Clearing Member and that has served a termination notice shall be subject to obligations to pay FX Assessment Contributions only in respect of:

- (i) Events of Default declared in relation to Clearing Members that are FX Clearing Members occurring prior to the Termination Notice Time; and

- (ii) any Events of Default declared in relation to Clearing Members that are FX Clearing Members occurring after the Termination Notice Time but prior to the Termination Close-Out Time,

provided that FX Assessment Contributions made by a Person terminating its membership of the Clearing House pursuant to Rule 1107(h) or Rule 1107(i) shall be included for the purpose of calculating such a cap.

- (d) If the FX Assessment Amount is not met by FX Assessment Contribution receipts from FX Clearing Members due to non-payment by an FX Clearing Member or FX Clearing Members, Default of an FX Clearing Member or FX Clearing Members or otherwise, the Clearing House shall at its discretion determine what, if any, further action to take. Unless, or unless to the extent that, the Clearing House directs otherwise in a Circular, any shortfall shall be re-assessed against all FX Clearing Members (other than Defaulters and Persons that have defaulted in making an FX Assessment Contribution) in accordance with Rule 1107(a), as if the shortfall were the FX Assessment Amount, provided that no FX Clearing Member shall be liable to pay FX Assessment Contributions in respect of a single Default for an amount greater than twice its FX Guaranty Fund Contribution immediately prior to the relevant Default. Subject to Rule 1107(c), further FX Assessment Contributions may be levied and repeated in this manner at the discretion of the Clearing House until the entire FX Assessment Amount has been met in full by FX Assessment Contributions.
- (e) All FX Assessment Contributions shall become due and payable at such time as the Clearing House notifies to FX Clearing Members (which may be by Circular) and may be collected by the Clearing House pursuant to Part 3.
- (f) If, after any FX Assessment Contribution has been paid in relation to an Event of Default, the Clearing House collects amounts in respect of a defaulted obligation or unpaid FX Assessment Contribution in whole or in part from the Defaulter in question or a Person liable to pay an unpaid FX Assessment Contribution, the Clearing House shall refund the amount so collected (less any expenses of the Clearing House, including without limitation any legal fees and expenses incurred in connection therewith) to other FX Clearing Members (excluding any Defaulter) *pro rata* in respect of paid FX Assessment Contributions relating to the Event of Default in question, subject to the Clearing House first retaining or repaying amounts up to the amount of any assets of the Clearing House or other third parties applied to meet any liability following exhaustion of the assets specified in Rule 1103 or in substitution of any such assets.
- (g) Amounts transferred to the Clearing House by FX Clearing Members in respect of Guaranty Fund Contributions, including without limitation amounts transferred to restore a deficiency in any Guaranty Fund following an Event of Default, do not constitute FX Assessment Contributions. Neither the exercise of powers of assessment by the Clearing House nor the payment of FX Assessment Contributions shall reduce or otherwise affect the liability of a Clearing Member to make Guaranty Fund Contributions pursuant to Rule 1101 *et seq.* or to replenish any Guaranty Fund Contribution pursuant to Rule 1102(i). FX Assessment Contributions do not constitute Guaranty Fund Contributions.
- (h) Upon an Event of Default or Events of Default being declared and either FX Assessment Contributions becoming due or there being a Sequential FX Guaranty Fund Depletion, a Clearing Member liable either to pay an FX Assessment Contribution or to have its FX Guaranty Fund Contribution applied (as applicable) shall be entitled to terminate its membership of the Clearing House in accordance with and subject to the provisions of this Rule 1107(h). Subject as set out in Rule 209(g), an FX Clearing Member that terminates its membership in such circumstances shall have no further obligation to replenish the FX Guaranty Fund pursuant to Rule 1102(i) as from the Termination Notice Time. Such a Clearing Member shall nonetheless remain liable for

further application of its FX Guaranty Fund and further FX Assessment Contribution payments pursuant to 1107(c)(i) and (d), in either case in connection with any Event of Default declared by the Clearing House prior to the Termination Notice Time. For the avoidance of doubt, Rule 209(c) (fourth sentence only), Rule 209(d), Rule 209(e)(i)-(ii), Rule 209(g) and Rule 209(h) shall apply in relation to any such termination. To be valid, a termination notice under this Rule 1107(h) must be delivered to the Clearing House: (i) between the first date on which a call for FX Assessment Contributions was made in respect of the relevant Event of Default and the date falling 10 days after such date; or, as applicable (ii) between the first date on which the Clearing House gave notice that FX Guaranty Fund Contributions have been applied in circumstances which constitute a Sequential FX Guaranty Fund Depletion and the date falling 10 days after such date.

- (i) Upon an Event of Default or Events of Default being declared and either FX Assessment Contributions becoming due or there being a Sequential FX Guaranty Fund Depletion, an FX Clearing Member with multiple Membership Categories which is liable either to pay an FX Assessment Contribution or to have its FX Guaranty Fund Contribution applied (as applicable) shall be entitled to terminate its status with the Clearing House as an FX Clearing Member (maintaining any other Membership Category or Categories) in accordance with and subject to the provisions of this Rule 1107(i). Subject as set out in Rule 209(g), a Clearing Member that has duly served notice of termination of its status as an FX Clearing Member in such circumstances shall have no further obligation to replenish the FX Guaranty Fund pursuant to Rule 1102(i). Such a Clearing Member, after the Termination Notice Time, shall nonetheless remain liable for further application of its FX Guaranty Fund and further FX Assessment Contribution payments pursuant to Rule 1107(c)(i) and (d), in either case in connection with any Event of Default declared by the Clearing House prior to the Termination Notice Time. For the avoidance of doubt, Rule 209(g) and Rule 209(h) shall apply in relation to any such termination. To be valid, a termination notice under this Rule 1107(i) must be delivered to the Clearing House: (i) between the first date on which a call for FX Assessment Contributions was made in respect of the relevant Event of Default and the date falling 10 days after such date; or, as applicable (ii) between the first date on which the Clearing House gave notice that FX Guaranty Fund Contributions have been applied in circumstances which constitute a Sequential FX Guaranty Fund Depletion and the date falling 10 days after such date.

Part 12 Settlement Finality Regulations and Companies Act 1989

Rule 1201 Introduction and Interpretation

- (a) The Clearing House is the system operator of a Designated System for the purposes of the Settlement Finality Regulations in respect of Transfer Orders. In addition, Part VII of the Companies Act 1989 applies in respect of Contracts, the 'default rules' and 'default proceedings' of the Clearing House and certain other matters related to the Clearing House.
- (b) Clearing Members are subject to various obligations and requirements as a result of the Settlement Finality Regulations and Companies Act 1989. Clearing Members must comply with, facilitate compliance by the Clearing House with, and comply with any action taken by the Clearing House pursuant to, the Settlement Finality Regulations or the Companies Act 1989. Furthermore, various modifications to Applicable Laws relating to Insolvency affecting Clearing Members apply pursuant to the Settlement Finality Regulations and Companies Act 1989.
- (c) The term "**AFI Agreement**" means a payment services agreement between the Clearing House and an Approved Financial Institution.
- (d) The term "**Custodian**" means any custodian, sub-custodian, nominee, agent, depository or settlement system used by a Clearing Member or the Clearing House for the holding or transfer of Non-Cash Collateral that is subject of a Collateral Transfer Order provided that such person is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, such a person).
- (e) The term "**Default Arrangements**" means the Rules and Procedures relating to, or that can be exercised upon, an Event of Default including, without limitation, all of Part 9 and Part 11 and this Part 12 of the Rules and Procedures relating thereto and any and all actions, omissions, powers and arrangements of the Clearing House pursuant to such Rules or Procedures.
- (f) The term "**Designated System**" means the system operated by the Clearing House consisting of the formal arrangements between the Clearing House and Participants including the common rules (including the Rules and the Procedures) and the standardised arrangements (including the AFI Agreements, Clearing Membership Agreements and other agreements involving the Clearing House, Clearing Members and Approved Financial Institutions) and related functionality for the effecting of Transfer Orders between the Clearing House and Participants which, inter alia:
 - (i) enables the Clearing House to give instructions and to place at the disposal of Clearing Members amounts of money on the account of Approved Financial Institutions;
 - (ii) enables Clearing Members to give instructions and to place at the disposal of the Clearing House amounts of money on the accounts of Approved Financial Institutions;

- (iii) enables the Clearing House and Clearing Members to fulfil the obligations they incur in respect of Contracts and otherwise to one another pursuant to the Rules;
 - (iv) enables transfers, assignments and novations of Contracts between Clearing Members or following a Default;
 - (v) enables transfers of Non-Cash Collateral to or to the order of the Clearing House and Clearing Members;
 - (vi) enables Bilateral CDS Transactions to give rise to CDS Contracts;
 - (vii) enables ICE OTC Block Transactions, ICE Futures Europe Block Transactions and ICE Futures US Block Transactions to give rise to Energy Contracts;
 - (viii) facilitates physical settlement obligations under CDS Contracts; and
 - (ix) facilitates supplementary and incidental matters to the satisfaction of obligations pursuant to Contracts and the collection and payment of amounts due in respect of Contracts or Permitted Cover.
- (g) The term "**Indirect Participant**" means any Disclosed Principal Member or Customer, provided that: (i) it is an 'indirect participant', within the meaning of the Settlement Finality Regulations, in the Designated System; (ii) the identity of that Disclosed Principal Member or Customer has been notified to the Clearing House in writing by the Clearing Member; (iii) the Clearing House has accepted such notification and treatment as an indirect participant in writing (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, an Indirect Participant); and (iv) such Disclosed Principal Member or Customer has executed such agreement as is prescribed by the Clearing House from time to time in order for it to become contractually bound by these Rules and this Part 12 in particular.
- (h) The term "**Intermediary Financial Institution**" means any bank or branch used by an Approved Financial Institution, whether as banker, corresponding banker, intermediary or agent, for the fulfilment of a Payment Transfer Order, that is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, such a person).
- (i) The term "**Non-Cash Collateral**" means any Permitted Cover that is in the form of an SFD Security.
- (j) The term "**Participant**" means the Clearing House, each Clearing Member and each Approved Financial Institution, in the case of a Clearing Member or Approved Financial Institution to the extent that it is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, a Participant).
- (k) The term "**Payment Transfer Order**" means a payment transfer order (as defined in the Settlement Finality Regulations) that is a New Contract Payment Transfer Order, Credit/Debit Payment Transfer Order, AFI-CB Payment Transfer Order or CB-AFI Payment Transfer Order subject to this Part 12.

- (l) The term "**Securities Transfer Order**" means a securities transfer order (as defined in the Settlement Finality Regulations) that is a Position Transfer Order, Collateral Transfer Order, Energy Block Clearing Order, CDS Clearing Order or CDS Physical Settlement Order subject to this Part 12.
- (m) The term "**SFD Security**" means a 'security', as defined in the Settlement Finality Regulations.
- (n) The term "**Transfer Order**" means a Payment Transfer Order or a Securities Transfer Order.
- (o) The term "**ICE Post Trade and Clearing Systems**" or the "**ICE Systems**" means the trade registration, clearing processing and finance hardware and software used by the Clearing House and Clearing Members from time to time, as further described in the Procedures.
- (p) No transfer orders (as defined in the Settlement Finality Regulations) shall arise, enter the Designated System or become irrevocable under these Rules except as set out in this Part 12.
- (q) The Clearing House and each Clearing Member with a Pledged Collateral Account that is a Participant in the Designated System acknowledge and agree that: (i) all forms of Permitted Cover provided as Pledged Collateral constitute realisable assets; and (ii) Pledged Collateral is provided under a charge or a repurchase or similar agreement which has been entered into for the purpose of securing rights and obligations potentially arising in connection with a designated system, for purposes of the Settlement Finality Regulations. Accordingly, the Clearing House and each such Clearing Member that is a Participant in the Designated System intend and agree that: (a) Pledged Collateral constitutes both collateral security and collateral security in connection with participation in a designated system for purposes of the Settlement Finality Regulations; and (b) the Clearing Membership Agreement, Pledged Collateral Addendum, Rules and Contracts insofar applicable to Pledged Collateral constitute a collateral security charge in respect of the Pledged Collateral, for purposes of the Settlement Finality Regulations.

Rule 1202 *Transfer Orders Arising*

- (a) Subject to regulation 20 of the Settlement Finality Regulations, a Payment Transfer Order shall arise and shall enter the Designated System immediately and automatically upon:
 - (i) in relation to a Contract that forms in accordance with Rule 401 (excluding any Energy Contract arising under Rule 401(a)(vii) and further excluding any CDS Contract arising under Rule 401(a)(x) pursuant to a Bilateral CDS Transaction submitted for Weekly Clearing), at the time that a Contract arises under Rule 401 (such Payment Transfer Order, a "**New Contract Payment Transfer Order**");
 - (ii) the Clearing House sending an instruction pursuant to Rule 302 (such Payment Transfer Order, a "**Credit/Debit Payment Transfer Order**");

- (iii) the Clearing House sending an instruction by means of a SWIFT message, other electronic message, fax, telephone or other means to an Approved Financial Institution to transfer a sum of money from a Clearing House Account to an account of the Clearing House at the Concentration Bank (such Payment Transfer Order, a "**AFI-CB Payment Transfer Order**"); or
 - (iv) the Clearing House sending an instruction by means of a SWIFT message, other electronic message, fax, telephone or other means to a Concentration Bank to transfer a sum of money from an account of the Clearing House at the Concentration Bank to a Clearing House Account (such Payment Transfer Order, a "**CB-AFI Payment Transfer Order**").
- (b) Subject to regulation 20 of the Settlement Finality Regulations, a Securities Transfer Order shall arise and shall enter the Designated System immediately and automatically upon:
- (i) if either:
 - (A) the Clearing House, the relevant Market and the two Clearing Members involved (both being Participants) have already agreed to a transfer, assignment or novation of Contracts from one Clearing Member to another Clearing Member pursuant to Rule 408(a)(i); or
 - (B) the Clearing House has declared an Event of Default under Rule 901 and any Contracts to which a Defaulter is party are proposed to be transferred from the Defaulter to another Clearing Member (being a Participant) pursuant to the Clearing House's powers under Rule 902(a), Rule 903 or otherwise,

in either case, instructions for settlement of the transfer, assignment or novation in question being effected through the ICE Systems at the relevant settlement transfer deadline for the relevant Contract (such Securities Transfer Order, a "**Position Transfer Order**");
 - (ii) the Clearing House accepts, through the ICE Systems, that a Clearing Member has validly requested either:
 - (A) the transfer of Non-Cash Collateral to or to the order of the Clearing House; or
 - (B) a transfer to that Clearing Member or to its order of Non-Cash Collateral

(such Securities Transfer Order, in either case, a "**Collateral Transfer Order**");
 - (iii) the Clearing House receiving full, complete and correct information in relation to an ICE OTC Block Transaction, ICE Futures Europe Block Transaction or ICE Futures US Block Transaction from the relevant Market (such Securities Transfer Order, a "**Energy Block Clearing Order**");
 - (iv) in respect of a Bilateral CDS Transaction submitted for Weekly Clearing, the Clearing House providing a report to a Clearing Member after it has checked whether a Bilateral CDS Transaction submitted for Clearing is consistent with

the records submitted by another Clearing Member and with the records in Deriv/SERV (such Securities Transfer Order, a "**Weekly CDS Clearing Order**");

- (v) in respect of a Bilateral CDS Transaction submitted for Trade Date Clearing, the Clearing House issuing an acceptance notice in accordance with Rule 401(a)(ix) to a Clearing Member through the ICE System (such Securities Transfer Order, a "**Trade Date CDS Clearing Order**" and, together with a Weekly CDS Clearing Order, "**CDS Clearing Order**"); or
 - (vi) (A) the Clearing House being provided with a copy of a notice delivered by a Matched CDS Buyer to a Matched CDS Seller in a Matched Pair of a Notice of Physical Settlement in respect of Matched CDS Contracts, where the Notice of Physical Settlement specifies an instrument to be delivered that is an SFD Security; or (B) the Clearing House being provided with a copy of a notice delivered by a Matched CDS Buyer to a Matched CDS Seller in a Matched Pair of a NOPS Amendment Notice in respect of Matched CDS Contracts, where the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security but where the Notice of Physical Settlement (including, as amended by any previous NOPS Amendment Notice) had specified an instrument that is not an SFD Security as the instrument that was to be delivered (either such Securities Transfer Order, a "**CDS Physical Settlement Order**").
- (c) If two or more Transfer Orders exist in respect of the same obligation prior to becoming irrevocable, all such Transfer Orders shall be valid. No duplication of an obligation to pay shall arise as a result of two or more Transfer Orders existing in respect of the same obligation.
- (d) The status of a Transfer Order shall not be affected by any calculation of Open Contract Position, netting, set off or closing out of a Contract to which it relates.
- (e) Each Payment Transfer Order shall apply and have effect in respect of the following amounts:
- (i) in the case of a New Contract Payment Transfer Order, the amount due to or from the Clearing House pursuant to the Contract Terms as a result of the Contract to which the confirmation referred to in Rule 1202(a)(i) relates arising (which, for any CDS Contract arising as a result of Trade Date Clearing, is the Initial Payment); or
 - (ii) in the case of a Credit/Debit Payment Transfer Order, AFI-CB Payment Transfer Order or CB-AFI Payment Transfer Order, the amount specified in the relevant instruction referred to in Rule 1202(a).
- (f) Each Position Transfer Order shall apply and have effect in respect of the Contracts to be transferred, assigned or novated.
- (g) Each Collateral Transfer Order shall apply and have effect in respect of the Non-Cash Collateral to be transferred to or to the order of the Clearing House or Clearing Member.

- (h) Each Energy Block Clearing Order shall apply and have effect in respect of the ICE OTC Transaction, ICE Futures Europe Transaction or ICE Futures US Transaction in question and any resulting Energy Contract.
- (i) Each CDS Clearing Order shall apply and have effect in respect of the Bilateral CDS Transaction in question and any resulting CDS Contract.
- (j) Two separate CDS Physical Settlement Orders shall apply and shall have effect separately in respect of each of the CDS Contracts in the Matched Pair that are subject to a physical settlement obligation, and the instrument to be delivered pursuant thereto.
- (k) Transfer Orders shall apply to, and have effect as against and between, each of the following Persons, in respect of any particular Person only to the extent that such Person is a Participant or an Indirect Participant:
 - (i) in the case of a New Contract Payment Transfer Order, the affected Clearing Member (if it is a Participant) and the Clearing House and, as from and after the time of irrevocability only, the affected Approved Financial Institution;
 - (ii) in the case of a Credit/Debit Payment Transfer Order, the affected Clearing Member (if it is a Participant), the affected Approved Financial Institutions and the Clearing House;
 - (iii) in the case of an AFI-CB Payment Transfer Order, CB-AFI Payment Transfer Order, the affected Approved Financial Institution, the Concentration Bank and the Clearing House;
 - (iv) in the case of a Position Transfer Order:
 - (A) the Clearing Members (that are the transferor, assignor or person whose rights, liabilities and obligations are novated and the transferee, assignee or person that assumes rights, liabilities and obligations pursuant to a novation);
 - (B) each Customer and Disclosed Principal Member affected by the Position Transfer Order which is an Indirect Participant (if any); and
 - (C) the Clearing House;
 - (v) in the case of a Collateral Transfer Order:
 - (A) the Clearing Member that is the transferor of the Non-Cash Collateral in question;
 - (B) any Custodian of the Clearing Member or the Clearing House; and
 - (C) the Clearing House;
 - (vi) in the case of an Energy Block Clearing Order:

- (A) each Clearing Member that has submitted or confirmed details of the ICE OTC Block Transaction, ICE Futures Europe Block Transaction or ICE Futures US Block Transaction;
 - (B) any Affiliate of the Clearing Member that was party to an ICE OTC Block Transaction, ICE Futures Europe Block Transaction or ICE Futures US Block Transaction and which is an Indirect Participant (if any); and
 - (C) the Clearing House;
- (vii) in the case of a CDS Clearing Order:
- (A) each Clearing Member that has submitted or confirmed details of the Bilateral CDS Transaction;
 - (B) any Affiliate of a Clearing Member that is or was party to a Bilateral CDS Transaction and which is an Indirect Participant (if any); and
 - (C) the Clearing House; and
- (viii) in the case of a CDS Physical Settlement Order:
- (A) each Clearing Member in the Matched Pair; and
 - (B) the Clearing House.
- (l) Where a Transfer Order applies to an Approved Financial Institution, it shall also apply to and be effective against any Intermediary Financial Institution used by that Approved Financial Institution.
- (m) Where a Transfer Order applies additionally to an Indirect Participant, the liability of any Participant pursuant to the same Transfer Order shall not be affected.

Rule 1203 Transfer Orders Becoming Irrevocable

- (a) A Credit/Debit Payment Transfer Order shall become irrevocable at the time when the Approved Financial Institution sends a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that the relevant payment will be or has been made.
- (b) An AFI-CB Payment Transfer Order shall become irrevocable at the time when the Approved Financial Institution sends a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that the relevant payment will be or has been made.
- (c) A CB-AFI Payment Transfer Order shall become irrevocable at the time when the Concentration Bank sends a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that the relevant payment will be or has been made.

- (d) Subject to Rule 1205(f) and Rule 1205(g), a New Contract Payment Transfer Order shall become irrevocable upon an Approved Financial Institution sending a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that amount to which the New Contract Payment Transfer Order relates (as specified in Rule 1202(e)(i)) will be or has been made.
- (e) A Position Transfer Order shall become irrevocable at the time when the definitive record of the Open Contract Position of the Clearing Member (that is the assignee, transferee or person that assumes rights, liabilities and obligations pursuant to a novation) is updated as a result of a successful position transfer clearing run in the ICE Systems to reflect the transfer, assignment or novation of Contracts which are given effect pursuant to the Position Transfer Order.
- (f) A Collateral Transfer Order shall become irrevocable at the earlier of the time when: (i) the Clearing House receives the Non-Cash Collateral; or (ii) any related securities transfer order (which relates to the same subject matter as the Collateral Transfer Order but which is a securities transfer order in a designated system for purposes of Directive 98/26/EC which is not the Designated System) becomes irrevocable.
- (g) An Energy Block Clearing Order shall become irrevocable at the time that the Clearing House becomes party to resulting Contracts with the Clearing Members in question, pursuant to Rule 401(a)(iii) or (iv).
- (h) A CDS Clearing Order shall become irrevocable when the time specified pursuant to the Procedures occurs for the acceptance of the resulting CDS Contracts in question, pursuant to Rule 401(a)(~~ix~~x).
- (i) A CDS Physical Settlement Order shall become irrevocable at the earliest of: (i) the time when the Matched CDS Buyer in the Matched Pair has submitted irrevocable instructions to a securities system, depository, nominee or custodian for the transfer of securities to or to the account of the Matched CDS Seller; (ii) the time at which the instrument subject to physical settlement is delivered or assigned or at which physical settlement obligations are otherwise discharged; or (iii) if the Matched CDS Buyer or Matched CDS Seller has (in the absence of any Matching Reversal Notice or not later than one Business Day after any 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.
- (j) As from the time when a Transfer Order becomes irrevocable, it shall not be revoked or purported to be revoked by any Participant or the Clearing House and shall be binding upon all Participants.

Rule 1204 *Variations to or Cancellation of Transfer Orders*

- (a) This Rule 1204 applies only to a Transfer Order that is not irrevocable and:
 - (i) in the case of any Transfer Order, it is affected by manifest or proven error or an error that is agreed so to be by all affected Participants;

- (ii) in the case of a New Contract Payment Transfer Order, Credit/Debit Payment Transfer Order or Position Transfer Order, it relates to a Contract or Transaction which is:
 - (A) void ab initio pursuant to Rule 403;
 - (B) avoided pursuant to Rule 404; or
 - (C) amended as a result of the Clearing House exercising its discretion pursuant to Rule 104 or otherwise pursuant to these Rules; or
 - (iii) without prejudice to the generality of Rule 1204(a)(i), in the case of a Weekly CDS Clearing Order, if an error or omission is noted by or notified to the Clearing House prior to the Acceptance Time or the data relating to any Bilateral CDS Transaction to which the Weekly CDS Clearing Order relates is otherwise capable of being amended in accordance with the Procedures;
 - (iv) in the case of a CDS Physical Settlement Order, if a NOPS Amendment Notice is validly delivered by the Matched CDS Buyer in accordance with Rule 1505 and Rule 1509; or
 - (v) without prejudice to the generality of Rule 1204(a)(i), (ii) or (iii), in the case of an Energy Block Clearing Order or CDS Clearing Order, it relates to a Transaction which is not eligible for Clearing or which is not accepted for Clearing by the Clearing House.
- (b) Subject to Rule 1204(d), (e), (f) and (g), neither the validity nor the irrevocability of any Transfer Order shall of itself be affected by any event described in Rule 1204(a) occurring.
 - (c) The terms of all Transfer Orders that have not become irrevocable shall each be subject to a condition (which, if not satisfied, shall enable the Clearing House to exercise its rights under this Rule 1204) that that the circumstances described in Rule 1204(a) have not occurred.
 - (d) If any of the circumstances described in Rule 1204(a) has occurred, the amount payable, Contracts to be transferred or to arise or SFD Securities or Non-Cash Collateral to be delivered pursuant to the affected Transfer Order may at the discretion of the Clearing House be increased, decreased or otherwise varied, as necessary, to reflect the payments, transfers, Contracts, assignments, novations, SFD Securities, Non-Cash Collateral or deliveries that would have been required:
 - (i) in the case of Rule 1204(a)(i) applying, had there been no error;
 - (ii) in the case of Rule 1204(a)(ii)(A), Rule 1204(a)(ii)(B) or Rule 1204(a)(v) applying, had no Contract or Transaction ever arisen or occurred;
 - (iii) in the case of Rule 1204(a)(ii)(C) applying, had the Contract always been subject to such amended terms as are agreed or determined;

- (iv) in the case of Rule 1204(a)(iii) applying, had the details of the Bilateral CDS Transaction always been corrected or amended as permitted in accordance with the Procedures; or
- (v) in the case of Rule 1204(a)(iv) applying and the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security, had the Notice of Physical Settlement been originally issued as amended pursuant to the NOPS Amendment Notice

(any such variation, a "**Transfer Order Variation**").

- (e) A Transfer Order Variation may be effected only by the Clearing House delivering a notice of amendment of an existing Transfer Order to all affected Participants. Valid delivery of a NOPS Amendment Notice in accordance with Rules 1505 and 1509 by a Matched CDS Buyer in a Matched Pair shall be deemed to constitute notice by the Clearing House for purposes of this Rule 1204(e) in respect of a Transfer Order Variation to a CDS Physical Settlement Order, if the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security.
- (f) If any of the circumstances described in Rule 1204(a) has occurred, the Transfer Order in question may at the discretion of the Clearing House alternatively be cancelled. Any such cancellation may be effected by the Clearing House serving a notice of cancellation on all affected Participants. In respect of an Energy Block Clearing Order or CDS Clearing Order, such notice shall be deemed to have been given if the Clearing House (or, in the case of an Energy Block Clearing Order, any Market) rejects a Transaction for Clearing.
- (g) A CDS Physical Settlement Order shall be cancelled immediately and automatically if and when a copy is provided to the Clearing House of a validly delivered NOPS Amendment Notice specifying an instrument for delivery which is not an SFD Security.
- (h) This Rule 1204 does not affect the ability of the Clearing House to take steps giving rise to a new Transfer Order of opposite effect to an existing Transfer Order or part thereof if any of the events described in Rule 1204(a) occur. No Transfer Order Variation shall preclude the cancellation of a Transfer Order in any circumstances in which a Transfer Order may alternatively be cancelled by the Clearing House. The ability of the Clearing House to cancel or vary a Transfer Order shall not preclude a Transfer Order Variation from taking effect.

Rule 1205 *Termination of Transfer Orders*

- (a) Each Payment Transfer Order shall be satisfied immediately and automatically upon all payments required pursuant to the Payment Transfer Order being received in cleared funds or full satisfaction of the relevant underlying obligations is otherwise made, in either case not subject to any Encumbrances (except as envisaged under a Pledged Collateral Addendum).
- (b) Each Position Transfer Order shall be satisfied immediately and automatically at the same time that it becomes irrevocable under Rule 1203(e) (whereupon all Contracts to which the Transfer Order in question relates will have been transferred, assigned or novated pursuant to the Rules).

- (c) Each Collateral Transfer Order shall be satisfied immediately and automatically at the later of the time when: (i) the Clearing House receives the Non-Cash Collateral in its account; or (ii) the definitive record of the Permitted Cover transferred by the Clearing Member that is the transferor is updated in the ICE Systems to reflect the successful transfer of Non-Cash Collateral to or to the order of the Clearing House pursuant to the Collateral Transfer Order.
- (d) A CDS Clearing Order or Energy Block Clearing Order shall be satisfied immediately and automatically at the same time that the relevant resulting Contracts arise under Rule 401(a).
- (e) A CDS Physical Settlement Order shall be satisfied immediately and automatically at the time when the Clearing House updates its records of the relevant CDS Contracts in the ICE Systems to reflect that either physical delivery of the security in question has been completed or the delivery obligations of the parties under the relevant CDS Contracts have otherwise been discharged or settled.
- (f) If a Credit/Debit Payment Transfer Order becomes irrevocable in respect of the same obligation to which a New Contract Payment Transfer Order relates, the New Contract Payment Transfer Order shall automatically be satisfied and shall not become irrevocable. It is acknowledged that New Contract Payment Transfer Orders will generally terminate in accordance with this Rule 1205(f) when standard Clearing and payment processes apply.
- (g) A New Contract Payment Transfer Order relating to an Energy Contract shall be satisfied immediately and automatically if and at the point that the relevant Energy Transaction or Contract is transferred or allocated to another Clearing Member pursuant to Rule 401(a)(viii) or Rule 408(a)(ii).

Rule 1206 Provision of Information by the Clearing House and Participants

- (a) The Clearing House and any Participant must provide, upon payment of a reasonable charge, the following information to any person who requests it, save where the request is frivolous or vexatious, within 14 days of a request being made:
 - (i) details of the Designated System; and
 - (ii) information about the Rules relevant to the functioning of the Designated System.
- (b) The Clearing House will provide a copy of information referred to in Rule 1206 (a) to any Clearing Member upon request.

Rule 1207 Notice to the FSA and Bank of England

- (a) Any notice which under Rule 204(a)(viii) must be copied to the FSA and Bank of England, shall be sent to the following addresses:
- (b) FSA:
 - Manager, Clearing/Settlement
 - Markets and Exchanges Division

Financial Services Authority
25 The North Collonade
London E14 5HS
Fax: 020 7676 9735

(c) Bank of England:

The Senior Manager, Payment Systems Oversight
Financial Resilience Division, HO-3
Bank of England
Threadneedle Street
London EC2R 8AH
Fax: 020 7601 3217

(d) Any such notice will only be effectively served, filed, made or provided and delivered to the FSA and Bank of England:

(i) if sent by post, on the fifth Business Day (or tenth Business Day in the case of airmail) after the day on which it was deposited in the post, full postage prepaid, in a correctly addressed envelope;

(ii) if delivered in person to the officer or department specified, at the time of delivery or, if not delivered during business hours on a Business Day, on the following Business Day.

(e) Any notice by fax shall not be effective until hard copy confirmation is served pursuant to Rule 1207(d).

Part 13 [Not used]

Part 14 Transition Rules [No longer applicable: available on request.]

Part 15 Credit Default Swaps

Part 15 of the Rules does not apply to Energy [Contracts or FX](#) Contracts.

Rule 1501 Definitions

- (a) The term "**2010 PD Amending Directive**" means Directive 2010/73/EU.
- (b) 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) The term "**CADP**" or "**CDS Alternative Delivery or Settlement Procedure**" has the meaning set out in Rule 1514.
- (d) 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) 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) The term "**CDS Procedures**" means the chapter of the Procedures relevant to CDS only.
- (g) 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) The term "**Component Transaction**", in relation to any CDS Contract, has the meaning given to that term in the relevant Contract Terms.
- (i) 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) 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) The term "**Failed Amount**" has the meaning given to that term in Rule 1512.
- (l) 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) 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) The term "**Matched CDS Contract**" means a Matched CDS Seller Contract or a Matched CDS Buyer Contract.
- (o) 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) 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) 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) 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(r)(i).
- (s) 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) The term "**Relevant Member State**" means any member state of the European Economic Area which has implemented the Prospectus Directive.
- (u) 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) The term "**Restructuring Credit Event Notice**" means a Credit Event Notice, describing a Restructuring Credit Event, relating to all or, where 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) 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) 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) 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) 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) The terms "CDS Default Committee", "Dispute Resolver", "Dispute Resolution Panel", "External Reviewer", "Regional CDS Committee", "Regional CDS Committee Credit Event Announcement", "Sovereign Contract" and "Trade Date Clearing" each have the meaning given to those terms in the CDS Procedures.
- (bb) 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, subject to the provisions of Rule 401(a)(vi), [Rule 401\(a\)\(ix\)](#), [Rule 401\(a\)\(x\)](#) or (xi); as applicable; 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 contains any obligation for payment or performance falling due before a CDS Contract arises pursuant to Rule 401(a)(ix), the obligation for such payment or performance shall remain a direct obligation of the relevant CDS Buyer or CDS Seller (as applicable) to the other party to the relevant Bilateral CDS Transaction. The Clearing House shall have no obligation to make or guarantee any Initial Payment in respect of a Bilateral CDS Transaction (but this shall not affect the Clearing House's obligations under CDS Contracts, including any obligation to make an Initial Payment under a CDS Contract arising from Trade Date Clearing) or to make or guarantee any payment or performance reflecting any payment or performance in respect of a Bilateral CDS Transaction falling due for payment or performance before a CDS Contract arises pursuant to Rule 401(a)(~~vi~~)(ix). For the avoidance of doubt: (i) 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, that would have been due under the Bilateral CDS Transaction submitted for Trade Date Clearing; and (ii) CDS Contracts arising in other circumstances (other than pursuant to Weekly Clearing, but including, without limitation, CDS Contracts arising pursuant to Rule 401(a)(vi), (x) or (xi)) may include an obligation to pay an Initial Payment constituting a payment obligation of the relevant party thereto.
- (c) For the avoidance of doubt, a Clearing Member that does not clear CDS Contracts is not required to execute a Master Agreement with the Clearing House.

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),
 - (iv) 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:
 - (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(r) 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(r) 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
 - (ii) a Credit Event Notice, Notice of Physical Settlement, NOPS Amendment Notice or, where applicable, Notice to Exercise Movement Option in respect of a CDS Contract of a Set in respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event.

- (c) If a CDS Clearing Member delivers a Credit Event Notice, Notice to Exercise Movement Option, Notice of Physical Settlement or NOPS Amendment Notice in relation to a Matched CDS Contract in respect of a Floating Rate Payer Calculation Amount exceeding the MP Amount in respect of which it is matched in the relevant Matched Pair then such notice will be effective only in respect of a Floating Rate Payer Calculation Amount equal to the relevant MP Amount. This requirement will apply separately in relation to each Matched Pair in respect of which the CDS Clearing Member is matched.
- (d) Nothing in this Rule 1505 shall restrict or prevent any deemed delivery of a Credit Event Notice pursuant to the Procedures or Contract Terms.

Rule 1506 Auction Settlement and Physical Settlement

Auction Settlement will be specified as the Settlement Method and "Physical Settlement" will be specified as the Fallback Settlement Method for all CDS Contracts.

Rule 1507 Physical Settlement Allocation of Buyers and Sellers: Applicable Credit Events other than Restructuring

- (a) Following the occurrence of a Credit Event Announcement relating to an Applicable Credit Event other than Restructuring in respect of a CDS Contract, the Clearing House will be obliged, where Fallback Settlement applies to the CDS Contract, to carry out the steps in Rule 1507(b) in accordance with the Procedures.
- (b) If Rule 1507(a) applies:
 - (i) the Clearing House shall match each CDS Seller in respect of a CDS Contract of the relevant Set with one or more CDS Buyers under CDS Contract(s) of the same Set in accordance with the Procedures (such CDS Contracts thereby becoming Matched CDS Contracts and each matched CDS Seller and CDS Buyer becoming a Matched Pair), such that the Floating Rate Payer Calculation Amount related to each CDS Seller under each Matched CDS Seller Contract is fully allocated to one or more CDS Buyers under Matched CDS Buyer Contracts of the same Set to the Matched CDS Seller Contract; and
 - (ii) the Clearing House will, in accordance with the Procedures, notify each CDS Buyer and CDS Seller of the details of the Matched CDS Contracts, Matched CDS Buyer and Matched CDS Seller (such notice, for purposes of this Rule 1507, the "**Matched Pair Notice**") and the associated MP Amount.
- (c) If the Clearing House has delivered a Matched Pair Notice that specifies a MP Amount that is less than the outstanding Floating Rate Payer Calculation Amount applicable to a Matched CDS Contract to which such Matched Pair Notice relates, the relevant rights and obligations of the Clearing House and the relevant Clearing Member pursuant to the Matched CDS Contract shall, with effect from the date such Matched Pair Notice is effective, be construed as if the Clearing House had entered into two CDS Contracts, one of which has a Floating Rate Payer Calculation Amount equal to the MP 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 delivery of such Matched Pair Notice minus the MP Amount.

- (d) The provisions of this Rule 1507 are subject to Rule 1515.

Rule 1508 *Settlement Allocation of Buyers and Sellers: Restructuring*

- (a) Following the occurrence of a Credit Event Announcement in respect of a Restructuring Credit Event, in accordance with the Procedures:
- (i) the Clearing House will match each CDS Seller with one or more CDS Buyers each of which is party to a Restructuring CDS Contract of the same Set in accordance with the Procedures (such Restructuring CDS Contracts thereby becoming Matched CDS Contracts and each matched CDS Seller and CDS Buyer becoming a Matched Pair), such that the Floating Rate Payer Calculation Amount related to each Matched CDS Seller under each Matched CDS Contract is fully allocated to one or more CDS Buyers under Matched CDS Contracts of the same Set to the Matched CDS Seller Contract; and
 - (ii) the Clearing House will notify each relevant CDS Buyer and CDS Seller of the Matched CDS Contracts, Matched CDS Buyer and Matched CDS Seller (such notice, for purposes of this Rule 1508, the "**Matched Pair Notice**") and the associated MP Amount.
- (b) If the Clearing House has delivered a Matched Pair Notice that specifies a MP Amount that is less than the outstanding Floating Rate Payer Calculation Amount applicable to a Matched CDS Contract to which such Matched Pair Notice relates, the relevant rights and obligations of the Clearing House and the relevant Clearing Member pursuant to the Matched CDS Contract shall, with effect from the date such Matched Pair Notice is effective, be construed as if the Clearing House has entered into two Restructuring CDS Contracts, one of which has a Floating Rate Payer Calculation Amount equal to the MP 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 delivery of such Matched Pair Notice minus the MP Amount.
- (c) The provisions of this Rule 1508 are subject to Rule 1515.

Rule 1509 *Matched Pairs: Designations and Notices*

- (a) In respect of each Matched CDS Buyer Contract which is the subject of a Matched Pair, the Clearing House, pursuant to Section 9.2(c)(iv) of the Credit Derivatives Definitions (which is amended for these purposes in the Procedures), as designator, shall be deemed to have designated the Matched CDS Seller in such Matched Pair as its designee:
- (i) to receive on its behalf from the Matched CDS Buyer in the Matched Pair:
 - (A) Notices of Physical Settlement (and any NOPS Amendment Notices) in relation to any CDS Contract in respect of which a Credit Event Announcement has been made in respect of an Applicable Credit Event other than Restructuring; and
 - (B) Credit Event Notices, Notices of Physical Settlement (and any NOPS Amendment Notices) and, where applicable, Notices to Exercise Movement Option in relation to any Restructuring CDS Contract in

respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event;

- (ii) to deliver on its behalf to the Matched CDS Buyer in the Matched Pair Credit Event Notices and, where applicable, Notices to Exercise Movement Option in relation to any Restructuring CDS Contract in respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event;
- (iii) other than in respect of the Physical Settlement Amount relating to the settlement of Non DVP Obligations as referred to in Rule 1510, to pay, on behalf of the Clearing House, the applicable Physical Settlement Amount in respect of any CDS Contract to be settled in accordance with the Fallback Settlement Method to the Matched CDS Buyer in the Matched Pair;
- (iv) to pay to the Matched CDS Buyer in the Matched Pair and receive from the Matched CDS Buyer in the Matched Pair, in either case on behalf of the Clearing House, any amounts in respect of the costs and expenses of settlement due under the Matched CDS Buyer Contract; and
- (v) to take Delivery, on behalf of the Clearing House, of Deliverable Obligations from the Matched CDS Buyer in the Matched Pair,

and each Matched CDS Seller is hereby notified of the same accordingly. The Matched CDS Seller shall assume such obligations as designee upon notification of any Matched Pair.

- (b) In respect of each Matched CDS Seller Contract which is the subject of a Matched Pair, the Clearing House, pursuant to Section 9.2(c)(iv) of the Credit Derivatives Definitions (which is amended for these purposes in the Procedures), as designator, shall be deemed to have designated the Matched CDS Buyer in such Matched Pair as its designee:

- (i) to deliver on its behalf to the Matched CDS Seller in the Matched Pair:
 - (A) Notices of Physical Settlement (and any NOPS Amendment Notices) in relation to any CDS Contract in respect of which a Credit Event Announcement has been made in respect of an Applicable Credit Event other than Restructuring; and
 - (B) Credit Event Notices, Notices of Physical Settlement (and any NOPS Amendment Notices) and, where applicable, Notices to Exercise Movement Option in relation to any Restructuring CDS Contract in respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event;
- (ii) to receive on its behalf from the Matched CDS Seller in the Matched Pair Credit Event Notices and, where applicable, Notices to Exercise Movement Option in relation to any Restructuring CDS Contract in respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event;
- (iii) other than in respect of the Physical Settlement Amount relating to the settlement of Non DVP Obligations as referred to in Rule 1510, to receive

payment, on behalf of the Clearing House, of the applicable Physical Settlement Amount from the Matched CDS Seller in the Matched Pair;

- (iv) to pay to the Matched CDS Seller in the Matched Pair and receive from the Matched CDS Seller in the Matched Pair, in either case on behalf of the Clearing House, any amounts in respect of the costs and expenses of settlement due under the Matched CDS Seller Contract; and
- (v) to Deliver, on behalf of the Clearing House, the relevant Deliverable Obligations to the Matched CDS Seller in the Matched Pair,

and each Matched CDS Buyer is hereby notified of the same accordingly. The Matched CDS Buyer shall assume such obligations as designee upon notification of any Matched Pair.

(c) In relation to each Matched Pair:

- (i) the exercise of any rights by the Matched CDS Buyer against the Clearing House under a Matched CDS Buyer Contract shall be deemed to constitute the exercise of equal and simultaneous rights by the Clearing House against the Matched CDS Seller under the Matched CDS Seller Contract in the relevant Matched Pair;
- (ii) the exercise of any rights of the Matched CDS Seller against the Clearing House under a Matched CDS Seller Contract shall be deemed to constitute the exercise of equal and simultaneous rights by the Clearing House against the Matched CDS Buyer under the Matched CDS Buyer Contract in the relevant Matched Pair;
- (iii) where the Matched CDS Buyer validly delivers or serves any notice to the Matched CDS Seller in accordance with the Contract Terms and Rule 1509(b), such notice shall be effective with respect to both the Matched CDS Buyer Contract and the Matched CDS Seller Contract; and
- (iv) where the Matched CDS Seller validly delivers or serves any notice to the Matched CDS Buyer in accordance with the Contract Terms and Rule 1509(a), such notice shall be effective with respect to both the Matched CDS Buyer Contract and the Matched CDS Seller Contract.

(d) Following delivery by a Matched CDS Buyer or Matched CDS Seller of any notice of a nature referred to in Rule 1509(a) or (b) (any such notice, a "**MP Notice**"), the CDS Clearing Member that delivered such MP Notice shall, at the times and in the circumstances specified in the Procedures, deliver a written copy of such MP Notice to the Clearing House in accordance with the Procedures. Where required by the Procedures, the Clearing House will provide a copy of the copy of each MP Notice received by it to both CDS Clearing Members in each Matched Pair under which an MP Notice has been served or appears to have been served, in accordance with the Procedures. Any CDS Clearing Member in a Matched Pair which disputes any MP Notice, or which considers that an MP Notice additional to those copied to it by the Clearing House has been served, must inform the Clearing House in accordance with the Procedures. Unless the Clearing House receives any notice disputing an MP Notice,

the Clearing House will update its and Deriv/SERV's records and will require the relevant CDS Clearing Members to update Deriv/SERV's records on the basis of the MP Notices (or, at the times and in the circumstances specified in the Procedures, on the basis of equivalent information) notified by the Clearing House to the Matched CDS Buyer and Matched CDS Seller in the Matched Pair. The Clearing House shall not be obliged to act upon any disputed MP Notice until the relevant dispute has been resolved.

- (e) The Matched CDS Buyer and Matched CDS Seller in each Matched Pair shall each make such payments and deliveries and deliver such tenders, notices and invoices in relation to settlement to one another and to the Clearing House as are required pursuant to a Matched CDS Contract, these Rules, the Procedures or Applicable Laws.

Rule 1510 Physical Settlement of Matched Pairs for Non DVP Obligations

- (a) In respect of any Matched Pair and the associated MP Amount, if any Deliverable Obligations to be Delivered by the Matched CDS Buyer to the Matched CDS Seller are reasonably believed by the Matched CDS Buyer not to settle standardly on a delivery-versus-payment basis (such Deliverable Obligations, "**Non DVP Obligations**") (as notified by the Matched CDS Buyer to the Matched CDS Seller and to the Clearing House upon delivering any Notice of Physical Settlement or NOPS Amendment Notice), Delivery of such Non DVP Obligations and payment of the related Physical Settlement Amount, each relating to the relevant portion of the MP Amount (the "**Non DVP MP Amount**") shall take place as follows and in accordance with the Procedures:
 - (i) the Matched CDS Buyer shall notify the Clearing House that it is ready to Deliver to the Matched CDS Seller the Non DVP Obligations in an amount at least equal to the Non DVP MP Amount;
 - (ii) following receipt of a valid notification under Rule 1510(a)(i), the Clearing House shall request that the Matched CDS Seller pays the full Physical Settlement Amount relating to such Non DVP MP Amount to the Clearing House;
 - (iii) following receipt of a request under Rule 1510(a)(ii), the Matched CDS Seller shall transfer the full Physical Settlement Amount relating to the Non DVP MP Amount to the Clearing House;
 - (iv) following receipt of the full Physical Settlement Amount relating to the Non DVP MP Amount in cleared funds, the Clearing House shall notify the Matched CDS Buyer that it is holding the full Physical Settlement Amount relating to such Non DVP MP Amount from the Matched CDS Seller;
 - (v) following receipt of the notice under Rule 1510(a)(iv), the Matched CDS Buyer shall Deliver the relevant Non DVP Obligations to the Matched CDS Seller in an amount at least equal to the relevant Non DVP MP Amount;
 - (vi) following its receipt of Delivery of the relevant Deliverable Obligations, the Matched CDS Seller shall deliver a Notice to the Clearing House in the form required by the Clearing House from time to time specifying that the Delivery

has occurred, in full or, if in part, the percentage of the Non DVP MP Amount (the "**Delivered Percentage**") in respect of which Delivery has occurred;

- (vii) following its receipt of a valid notice under Rule 1510(a)(vi), the Clearing House shall pay an amount equal to 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) received from the Matched CDS Seller in respect of the relevant Non DVP MP Amount to the Matched CDS Buyer; and
- (viii) if the Matched CDS Buyer does not Deliver the Non DVP Obligations in an amount at least equal to the relevant Non DVP MP Amount to the Matched CDS Seller within the required period under the Procedures for compliance with Rule 1510(a)(v) ("**Delivery Period**"), the Matched CDS Seller may request that the Clearing House repay to the Matched CDS Seller the Physical Settlement Amount in respect of the relevant Non DVP MP Amount, less the Delivered Percentage of the Physical Settlement Amount, if any, together with accrued interest on such amount for the period it has been held by the Clearing House calculated by reference to the Clearing House's rate for overnight deposits in the currency of the Physical Settlement Amount.

The process set out in this Rule 1510 may, subject to the relevant Contract Terms, be repeated in relation to any Non DVP Obligations not in fact delivered during a relevant Delivery Period.

Rule 1511 Notice that Physical Settlement is complete

Where, pursuant to their rights and obligations under Matched CDS Contracts, the Matched CDS Seller and Matched CDS Buyer in any Matched Pair settle any Matched CDS Contract which is to be settled in accordance with the Fallback Settlement Method, the relevant Matched CDS Seller and Matched CDS Buyer shall each deliver a notice to the Clearing House in the form required by the Clearing House from time to time specifying the payment and Delivery that have occurred in respect of such Matched CDS Contracts. Any such notice shall constitute a representation by the CDS Clearing Member delivering the notice to the Clearing House that, so far as it is aware, physical settlement has occurred successfully and that there are no outstanding claims known to the CDS Clearing Member in respect of the Matched CDS Contract (save as is disclosed in the notice) but is otherwise without prejudice to the rights of any party to a Matched CDS Contract in respect of settlement.

Rule 1512 Failure to pay Physical Settlement Amount; Cash Settlement

If, in relation to any Matched Pair, a Matched CDS Seller fails to pay all or part of the Physical Settlement Amount either to the Matched CDS Buyer or (where Rule 1510 applies) to the Clearing House when, in accordance with the Contract Terms, it was obliged to pay such amount (the amount not paid being the "**Failed Amount**"):

- (a) the Matched CDS Buyer may and the Matched CDS Seller in the Matched Pair shall, as soon as practicable, give notice in writing to the Clearing House, giving all material details of the Matched CDS Contracts involved, the failure to pay and the Failed Amount and any material details of the amount of any Physical Settlement Amount paid in part;

- (b) such failure to pay shall not constitute or be deemed to constitute a breach of contract, event of default or failure to pay by the Clearing House under these Rules, any Master Agreement or any Matched CDS Buyer Contract;
- (c) if the Matched CDS Buyer elects to notify the Clearing House of such failure to pay in accordance with paragraph (a), the Matched CDS Buyer may give any such notice as soon as reasonably practicable after the occurrence of such failure to pay by the Matched CDS Seller;
- (d) the Matched CDS Seller will be deemed to have failed to pay an amount equal to the Failed Amount to the Clearing House under the relevant Matched CDS Seller Contract;
- (e) upon notice being given to the Clearing House by the Matched CDS Buyer in accordance with paragraph (c), "Cash Settlement" between the CDS Buyer and the Clearing House 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 Buyer Contract with respect to the Deliverable Obligations corresponding to the Failed Amount as though:
 - (i) the Deliverable Obligations not Delivered 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 1512(c);
 - (iii) Indicative Quotations were not applicable; and
 - (iv) the Matched CDS Buyer were the Calculation Agent,

and the Clearing House and the Matched CDS Buyer will settle the Matched Buyer CDS Contract accordingly and Rule 1509 will not apply.

Rule 1513 Fallback to Cash Settlement in respect of Non-Deliverable Obligations

- (a) If a Matched CDS Buyer is not permitted to Deliver one or more Deliverable Obligations (such Deliverable Obligations, the "**Non-Deliverable Obligations**") specified in the relevant Notice of Physical Settlement or NOPS Amendment Notice to its Matched CDS Seller in the relevant Matched Pair because:
 - (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 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 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).

(b) If:-

- (i) a Credit Event Announcement in respect of a Restructuring Credit Event has been made; and
- (ii) a subsequent resolution of a Determining Body determines that the relevant Restructuring Credit Event did not in fact occur,

then:

- (iii) 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 1508, it shall not do so; and
- (iv) 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 1508, the Clearing House shall:
 - (A) with respect to relevant CDS Contracts to which Auction Settlement is applicable and where the subsequent resolution of the Determining

Body in (ii) above occurs prior to the Auction Final Price Determination Date, reverse such matching; and

- (B) with respect to relevant CDS Contracts to which the Fallback Settlement Method is applicable, 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 1508, the Clearing House shall, as soon as reasonably practicable, give a 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).
- (c) In relation to any Matched CDS Contract for which the matching of the related Matched Pair is reversed pursuant to (a) or (b) of this Rule 1515, the Clearing House will recalculate Margin on the basis that such CDS Contract is no longer a Matched CDS Contract and will adjust the Margin required by it accordingly.
- (d) In relation to any Matched CDS Contract for which the matching of the related Matched Pair is reversed pursuant to (a) or (b) of this Rule 1515, any notices sent by the Matched CDS Buyer or the Matched CDS Seller to the other for the purposes or in connection with the settlement of the relevant Matched CDS Contracts will be deemed not to have been delivered and will be ineffective.
- (e) For the avoidance of doubt, reversal of a Matched CDS Contract means that the relevant Clearing Members together with the Clearing House will restore the CDS Contracts that existed before the initial Credit Event determination occurred including by amending records in Deriv/SERV.

Rule 1516 *Customer Accounts*

- (a) Until further notice by the Clearing House, there will be no Customer Account available to Clearing Members in respect of CDS Contracts or Margin relating to CDS Contracts. As a result, all CDS Clearing Members must ensure that any Margin provided to the Clearing House in relation to CDS Contracts is capable of being received by the Clearing House only in circumstances in which no acknowledgement by the Clearing House pursuant to the second sentence of Clause 5.3 of Clearing Membership Agreements applies in respect of the Margin. Accordingly, until such further notice:
 - (i) the third and fourth sentences of Clause 5.3 of the Clearing Membership Agreement shall not apply in relation to CDS Contracts;
 - (ii) Circular no. C08/032 is inapplicable in relation to CDS Contracts and Margin relating to CDS Contracts;

- (iii) Part 16 of the Rules does not apply to CDS Clearing Members;
- (iv) Pledged Collateral Accounts are not available to CDS Clearing Members; and
- (v) notwithstanding any other provision of these Rules, the Rules shall be construed accordingly.

Rule 1517 Supplemental Default Rules

- (a) If an Event of Default occurs affecting a CDS Clearing Member, the Clearing House shall convene the CDS Default Committee. The CDS Default Committee shall have the competences specified in the Procedures.
- (b) The provisions of the CDS Procedures relevant to a default shall apply if the Defaulter is or was a CDS Clearing Member and shall amount to default rules for the purposes of these Rules and Applicable Laws.

Rule 1518 CDS Committees and Dispute Panels

Rule 117 and Part 10 (and equivalent provisions of any Clearing Membership Agreement) are hereby disappplied only to the extent that any matter is eligible for determination by a CDS Default Committee, Regional CDS Committee, Dispute Resolver, Dispute Resolution Panel, Credit Derivatives Determinations Committee, External Reviewer or ISDA in accordance with the CDS Procedures. This Rule applies in respect of a Person mentioned in the foregoing sentence unless and until any such Person resolves not to determine the matter concerned.

Part 16

~~Part 16~~—FCM Clearing Member Provisions

Rule 1601 Scope

This Part 16 of the Rules shall apply solely to FCM Clearing Members. Except as provided in this Part 16 or to the extent inconsistent with this Part 16, all other provisions of the Rules applicable to Clearing Members shall apply to FCM Clearing Members, and FCM Clearing Members shall constitute Clearing Members for all purposes of the Rules.

Rule 1602 Definitions

- (a) The term **“Clearing House DCM Segregated Account”** means an omnibus account located in the United States maintained by the Clearing House with respect to DCM Customers of an FCM Clearing Member, which is segregated in accordance with Applicable Law and contains Margin (or the Permitted Cover in respect thereof) or proceeds thereof deposited by such FCM Clearing Member on behalf of its DCM Customers in connection with Contracts that are U.S. Futures. The Clearing House DCM Segregated Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (b) The term **“Clearing House Non-DCM/Swap Account”** means an omnibus account maintained by the Clearing House with respect to Non-DCM/Swap Customers of an FCM Clearing Member, which is maintained in accordance with Applicable Law and contains Margin (or Permitted Cover in respect thereof) or the proceeds thereof deposited by such FCM Clearing Member on behalf of its Non-DCM/Swap Customers in connection with Non-DCM/ Swaps. The Clearing House Non-DCM/Swap Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (c) The term **“Clearing House Swap Segregated Account”** means an omnibus account located in the United States maintained by the Clearing House with respect to Swap Customers of an FCM Clearing Member, which is segregated in accordance with Applicable Law and contains Margin (or Permitted Cover in respect thereof) or proceeds thereof deposited by such FCM Clearing Member on behalf of its Swap Customers in connection with Contracts that are Swaps. The Clearing House Swap Segregated Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (d) The term **“Clearing House FCM Segregated Account”** means the Clearing House Swap Segregated Account, the Clearing House DCM Segregated Account or the Clearing House Non-DCM/Swap Account, as the case may be.

Rule 1603 FCM Contracts

- (a) A Contract that arises under Rule 401 between the Clearing House and an FCM Clearing Member shall be subject to this Part 16, regardless of whether any offsetting

Contract between the Clearing House and another Clearing Member is subject to this Part 16. In respect of any Contract between the Clearing House and an FCM Clearing Member, and in respect of other matters relating to such FCM Clearing Member and/or FCM Customer under the Rules, this Part 16 shall govern in the event of any conflict with any other provision of the Rules, and, for the avoidance of doubt, the Procedures, Clearing Membership Agreement or Pledged Collateral Addendum. With respect to an FCM Clearing Member, references in these Rules to such Clearing Member in respect of a Contract recorded in a Customer Account shall be deemed to refer to such FCM Clearing Member acting for the account of and on behalf of one or more FCM Customers in respect of such Contract under the terms of these Rules as set forth in Rule 1603(d).

- (b) Each FCM Clearing Member shall have a Proprietary Account and one or more Customer Accounts in which its Contracts shall be registered. Except as provided herein, references in the Rules to a Customer Account of an FCM Clearing Member or to a “class” of Customer Account shall refer to one or more of the DCM Customer Account, Swap Customer Account, Non-DCM/Swap Customer Account or General Customer Account, as applicable, each such account being of a different "class". Notwithstanding anything to the contrary herein, to the extent that pursuant to a CFTC rule, order or exemption (or a Rule of the Clearing House approved thereunder) it is permissible under Applicable Law for Contracts in U.S. Futures, Swaps and/or Non-DCM/Swaps (~~or~~and related Margin or Permitted Cover) to be co-mingled in a single class of Customer Account, the Clearing House may permit such co-mingling in such class of Customer Account, and references herein to the relevant Customer Account and FCM Customer shall thereupon be construed accordingly. Without limiting the foregoing, Permitted Co-mingled Contracts shall be treated as Swaps ~~or~~ U.S. Futures, as the case may be, and not as Non-DCM/Swaps or U.S. Futures, as applicable, and the appropriate classes of Customer Account shall be construed accordingly.
- (c) Each Customer Account of an FCM Clearing Member that has executed a Pledged Collateral Addendum shall be a Pledged Collateral Account. The Clearing House undertakes in favour of each FCM Clearing Member that has executed a Pledged Collateral Addendum (which remains valid and effective and which has not been terminated or rescinded) that in exercising its rights under the Pledged Collateral Addendum to modify the terms thereof, the Clearing House will not redesignate such FCM Clearing Member’s Customer Accounts as not being a Pledged Collateral Account or otherwise cause the FCM Clearing Member to breach any Applicable Law. Margin (or Permitted Cover in respect thereof) to be provided by ~~such~~ an FCM Clearing Member in respect of a Customer Account shall be provided in the form of Pledged Collateral, but in all other respects shall be provided in the forms, amounts, times and manners required under Rule 502 and Rule 503.
- (d) ~~The first sentence of Rule 402(a) and the whole of Rule 405(a)(i) shall not apply to an FCM Clearing Member in respect of a Transaction or Contract where it is acting for an FCM Customer. Notwithstanding the characterisation of the relationship between an FCM Clearing Member and its FCM Customer as an agency relationship as between such parties, where an FCM Clearing Member clears a Contract for an FCM Customer, such FCM Clearing Member becomes liable to the Clearing House, and the Clearing House becomes liable to the FCM Clearing Member, on such Contract as though the~~

~~Contract were for the FCM Clearing Member's own account, subject in all cases to the provisions of this Part 16. Except as provided by Applicable Law and Rule 1605 with respect to a Customer Account (and further to the second sentence of Rule 402(a)), in performing its obligations and exercising its rights under these Rules, the Clearing House shall treat the entitlement of Clearing Members to rights as against the Clearing House pursuant to Contracts to be a full legal and beneficial entitlement and not subject to any Encumbrance (without affecting the rights of Customer as against the FCM Clearing Member with respect to such Contracts under Applicable Law) in favour of any Person other than the Clearing House (other than pursuant to the Contract Terms).~~ Where an FCM Clearing Member clears a Contract for FCM Customers, (i) such FCM Clearing Member becomes liable to the Clearing House in respect of such Contract to no less an extent than if such Contract were for the FCM Clearing Member's own account (and without prejudice to the obligations of the FCM Customers to the FCM Clearing Member in respect of such Contract, including without limitation pursuant to any agreement between an FCM Customer and the FCM Clearing Member); (ii) the Clearing House becomes liable and is obligated to perform to the FCM Clearing Member, which in turn it is acknowledged will be acting for the account of and on behalf of such FCM Customers, in respect of such Contract; (iii) the Clearing House shall be deemed to have discharged such obligations by performing to such FCM Clearing Member for credit to the relevant Customer Account in respect of all payments and other obligations owed by the Clearing House under and in respect of such Contract as otherwise set forth in and subject to these Rules, without having any obligation to perform directly to the FCM Customers; and (iv) without prejudice to any agreement between an FCM Customer and the FCM Clearing Member, such FCM Customers become liable to reimburse and indemnify such FCM Clearing Member in respect of performance by the FCM Clearing Member under such Contract, subject, in the case of each of clauses (i) through (iv) of this subsection, to the provisions of this Part 16. Nothing in this Rule 1603(d) (I) shall be deemed to affect the rights or obligations of an FCM Customer as against such FCM Clearing Member with respect to such a Contract under Applicable Law or the terms of any agreement between the FCM Clearing Member and such FCM Customer; (II) shall require the Clearing House to carry out any enquiry as to the identity or existence of any FCM Customer or FCM Customers, except as required by Applicable Law; or (III) shall be deemed to limit the right or ability of the Clearing House to net or offset Open Contract Positions or obligations within a particular class of Customer Account of an FCM Clearing Member to the extent otherwise permitted by these Rules and Applicable Law.

- (e) ~~Neither Rule 402(a), Rule 405(d), Rule 408 nor~~ Rule 402(a), Rule 405(a)(i) and clause 3.2 of the Clearing Membership Agreement shall not apply to an FCM Clearing Member in respect of a Contract with respect to which it is acting for an FCM Customer. None of Rule 405(d), Rule 408, or clause 3.4 of a Clearing Membership Agreement shall be deemed to preclude an FCM Clearing Member from acting for an FCM Customer in connection with a Contract or Transaction. No such provision shall negate in any manner an FCM Customer's rights with respect to customer property held by an FCM Clearing Member (and not by the Clearing House).
- (f) Where the FCM Clearing Member acts for a Customer, Rule 405(c)(ii) shall not apply to any contracts, rights, obligations or liabilities as between that Customer and the FCM Clearing Member.

- (g) For purposes of Rule 303 and Rule 406(c) and for the avoidance of doubt Rule 905, Contracts and other obligations in any class of Customer Account of an FCM Clearing Member shall not be netted or offset against Open Contract Positions or other obligations in the Proprietary Account of that Clearing Member, and Open Contracts or other obligations in any class of Customer Account of any FCM Clearing Member may not be netted or offset against Open Contract Positions or other obligations in any other class of Customer Account of that FCM Clearing Member.
- (h) Notwithstanding anything to the contrary in Rule 502 and Rule 503, for each Customer Account if required by Applicable Law or otherwise if so specified in the relevant Procedures or by Circular, Margin shall be calculated and called for on a “gross” basis across all positions of the FCM Customers of a particular FCM Clearing Member.
- (i) The first sentence of Rule 504(b) is ~~deleted; not applicable.~~ The second sentence of Rule 504(b) is amended to read as follows: Except as provided by Applicable Law and Rule 1605 with respect to a Customer Account, the Clearing House will take no account of any right or interest which any Person other than the Clearing Member may have in any Margin furnished by such Clearing Member to the Clearing House. For purposes of the representation in Rule 504(c)(ii) in respect of Margin furnished with respect to a Pledged Collateral Account ~~and for purposes of section 2.7 of each Pledged Collateral Addendum~~, the definition of “Encumbrances” shall be amended by deleting the phrase “retention of title.” ~~Neither Rule 504(e)(ii) nor~~ Nothing in the Rules or any Pledged Collateral Addendum, ~~in either case (including without limitation section 2.7 thereof~~ as modified ~~hereby, pursuant to Rule 1609)~~ shall preclude an FCM Clearing Member from providing Pledged Collateral to the Clearing House that was provided to the FCM Clearing Member by an FCM Customer and in which the FCM Customer has granted the FCM Clearing Member a security interest to secure the FCM Customer’s obligations ~~to the FCM Clearing Member in respect of Contracts~~; provided that FCM Clearing Member hereby agrees that any such security interest in ~~favor~~ favor of FCM Clearing Member is in all respects subject to the rights of the Clearing House in respect of such Pledged Collateral hereunder and under the Pledged Collateral Addendum and FCM Clearing Member shall not, and shall not attempt to (i) exercise any rights or remedies or bring any proceeding or action with respect to such Pledged Collateral until such Pledged Collateral is released from the lien and security interest of the Clearing House hereunder and under the Pledged Collateral Addendum or (ii) otherwise interfere with, delay the exercise of or take any action to affect the Clearing House’s rights hereunder or under the Pledged Collateral Addendum with respect to such Pledged Collateral.
- (j) For purposes of Rule 504(d), in the case of Pledged Collateral provided by an FCM Clearing Member, the reference therein to “perfecting the title” shall be deemed amended to “perfecting the security interest”.
- (k) Without limiting Rule 111, save for any liability which it cannot exclude pursuant to Applicable Laws, the Clearing House shall have no obligation or liability ~~to any FCM Customer~~ in respect of an Open Contract Position in a Customer Account of an FCM Clearing Member ~~or other than to the FCM Clearing Member (acting as set forth in Rule 1603(d)) and no Person (including an FCM Customer) other than an FCM Clearing Member shall be entitled to enforce or exercise any rights or remedies with respect to such Open Contract Position as against the Clearing House. The Clearing House shall have no obligation or liability in respect of~~ any transaction, agreement or arrangement

between an FCM Clearing Member and an FCM Customer. This Rule 1603(k) shall not be deemed to limit the rights, if any, of an FCM Customer as against such FCM Clearing Member in respect of such Open Contract Positions, and payments or other performance thereunder, under Applicable Law or the terms of any agreement between the FCM Clearing Member and such FCM Customer.

- (l) With respect to any Open Contract Position carried by an FCM Clearing Member for a Customer Account, all terms of the position, as carried in the customer account on the books of the FCM Clearing Member, must conform to the terms of the Open Contract Position under the Rules as in effect from time to time (including any changes therein or actions by the Clearing House in relation thereto).
- ~~(m) — Where the FCM Clearing Member is acting for a Customer, clause 3.2(i) of the Clearing Membership Agreement shall not apply in respect of that Customer.~~
- (m) ~~(n)~~ This Rule 1603 is without prejudice to and shall not restrict or exclude any of the other obligations of Clearing Members under the Rules.

Rule 1604 Additional Default Rules for FCM Clearing Members

The following provisions constitute default rules for purposes of the Companies Act 1989.

- (a) Any right of the Clearing House pursuant to Rule 902 or Rule 903 to transfer Open Contracts and related Margin (or Permitted Cover in respect thereof) of an FCM Clearing Member that is a Defaulter will be subject to Applicable Law, including without limitation Part 190 of the CFTC Regulations.
- (b) Where an FCM Clearing Member wishes to terminate or close out an Open Contract Position in any class of Customer Account with respect to an FCM Customer because of a default or similar event with respect to that FCM Customer, the relevant FCM Clearing Member must, in accordance with Rule 406 and the Procedures, either (i) offset such Open Contract Position against a Contract or Contracts entered into by such FCM Clearing Member for such Customer Account ~~(linked with a separate Contract or Contracts entered into at the same time for its Proprietary Account)~~ for the specific purpose of liquidating such Customer Account position- or (ii) to the extent permitted by Applicable Law, transfer such Open Contract Position from such Customer Account to its Proprietary Account, whereupon it shall be treated as an Open Contract Position in the Proprietary Account for all purposes under these Rules. Nothing in this Rule 1604(b) is intended to create a condition precedent to any step being taken under any agreement between a Clearing Member and its Customer. However, a Clearing Member shall continue to be liable to the Clearing House in respect of any Contracts until such time as they are offset in accordance with this Rule 1604(b) or otherwise terminated in accordance with the Rules and the Procedures. For the avoidance of doubt, any Open Contract Position and any such offsetting Contract or Contracts entered into by an FCM Clearing Member for a Customer Account for the specific purpose of liquidating such Open Contract Positions pursuant to this Rule 1604(b) may be aggregated and/or netted pursuant to Rule 406.
- (c) Each FCM Customer whose transactions are cleared through an FCM Clearing Member with the Clearing House will be deemed to have consented to the actions taken in accordance with the following provisions if an Event of Default has occurred with

respect to its FCM Clearing Member ~~or in the event of the insolvency of the FCM Clearing Member:~~

- (i) the FCM Clearing Member (or its Insolvency Practitioner) and/or the Clearing House shall be entitled to transfer Open Contract Positions recorded in a Customer Account in accordance with Applicable Law and the Procedures;
 - (ii) such FCM Customer appoints the Clearing House as its lawful agent and attorney-in-fact to take such actions on behalf of the FCM Customer as the Clearing House determines necessary or appropriate in order to effectuate such transfer with respect to the Open Contract Positions carried by the FCM Clearing Member for such FCM Customer, including executing any document or instrument with respect to the transfer of the Open Contract Positions and/or exercising rights and remedies to transfer such positions;
 - (iii) the FCM Customer shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the FCM Clearing Member, any Insolvency Practitioner for such FCM Clearing Member, or the Clearing House to take action contemplated by these Rules, including, without limitation, the transfer or close-out of positions and the transfer or application of related Margin or Permitted Cover in respect thereof;
 - (iv) any determination made by the Clearing House with respect to the termination value of a Contract under the Rules or the value of any other asset or liability under Rule 905 shall be conclusive and binding; and
 - (v) any amount payable by such FCM Customer in respect of the termination of a Contract of a Defaulter in respect of its Customer Account shall not be netted or offset against any amount owed by such FCM Clearing Member to such FCM Customer under any other agreement or instrument and shall be paid directly to or as directed by the Clearing House.
- (d) In respect of any Contract to which a Defaulter that is or was an FCM Clearing Member and ICE Clear Europe is or was a party, any net sum certified by the Clearing House pursuant to Rule 905(b) as payable by the Clearing House to the Defaulter in respect of any class of Customer Account of the Defaulter is intended to be treated in accordance with Applicable Laws of the United States of America, including the U.S. Bankruptcy Code and the CEA. With respect to any FCM Clearing Member, the Clearing House and such FCM Clearing Member intend that:
- (i) for purposes of the relevant provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991:
 - (A) the Clearing House is a ‘clearing organization’;
 - (B) the Clearing House and each Clearing Member is a ‘member’;
 - (C) the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts together constitute a ‘netting contract’ between those parties

- and include ‘security agreements or arrangements or other credit enhancements related to such netting contract’;
- (D) an obligation of a Clearing Member to make a payment to the Clearing House, or of the Clearing House to make a payment to a Clearing Member, subject to a netting agreement, is a ‘covered clearing obligation’ and a ‘covered contractual payment obligation’;
 - (E) an entitlement of a Clearing Member to receive a payment from the Clearing House, or of the Clearing House to receive a payment from a Clearing Member, subject to a netting contract, is a ‘covered contractual payment entitlement’;
 - (F) the amount by which the covered contractual payment entitlements of a Clearing Member or the Clearing House exceed the covered contractual payment obligations of such Clearing Member or the Clearing House after netting under a netting contract is its ‘net entitlement’; and
 - (G) the amount by which the covered contractual payment obligations of a Clearing Member or the Clearing House exceed the covered contractual payment entitlements of such Clearing Member or the Clearing House after netting under a netting contract is its ‘net obligation’;
- (ii) for purposes of the Title 11 of the United States Code (the “**U.S. Bankruptcy Code**”), each Contract or Open Contract Position is a ‘commodity contract’ and the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts constitute a ‘master agreement’ and include a ‘security agreement or arrangement or other credit enhancement’ related to a ‘commodity contract’; and
 - (iii) for purposes of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, each Open Contract Position is a ‘swap agreement’ and the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts constitute a ‘master agreement’ and include a ‘security agreement or arrangement or other credit enhancement’ related to a ‘swap agreement’.
- (e) Any Pledged Collateral recorded in a Pledged Collateral Account is transferred to the Clearing House as contingent cover for Margin on the basis that it may only be converted and applied by the Clearing House: (i) pursuant to Rule 905 as cover for Margin against a liability of the Clearing Member relating to the relevant Pledged Collateral Account in respect of which it was provided; and (ii) only to the extent that such applied amount is required to be included in the net sum calculation to ensure that a net sum for the same Pledged Collateral Account would not represent an amount payable by the Clearing Member to the Clearing House. Any Pledged Collateral not applied in accordance with this provision and which is not transferred to a Transferee Clearing Member in accordance with Part 9 of the Rules shall be returned to the relevant Clearing Member for its applicable proprietary or customer account, as the case may be, subject to Applicable Law as a result of such Clearing Member’s or its

customers' entitlements to such Pledged Collateral and not as part of the net sum process arising pursuant to Part 9 of the Rules. Any such return by the Clearing House of Pledged Collateral outside of the net sum calculation shall discharge and satisfy in full the Clearing House's obligations to return such Pledged Collateral to the Clearing Member or any of its Customers and no Customer or Clearing Member shall have any further claim in respect of such Pledged Collateral. To the extent any Pledged Collateral is, or is required under Applicable Law to be, returned to a Defaulter separately from any net sum certified by the Clearing House pursuant to Rule 905, the value of such returned Pledged Collateral will be excluded from the calculation of any related net sum.

Rule 1605 Margin and Segregation Rules

- (a) An FCM Clearing Member shall require each FCM Customer to provide Margin (or Permitted Cover in respect thereof) (such assets, “**FCM Customer Collateral**”) in an amount no less than the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s), separately for each relevant class of Customer Account (regardless of whether the FCM Clearing Member is required to provide such Margin to the Clearing House on a gross basis pursuant to Rule 503). For this purpose, “gross basis” shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set of the same FCM Customer in the same class of Customer Account, but without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different FCM Customer.
- (b) With respect to FCM Customer Collateral transferred to the Clearing House in respect of Contracts registered in the DCM Customer Account arising from U.S. Futures (~~including for the avoidance of doubt Permitted~~other than Co-mingled Futures/Options Contracts ~~recorded in the DCM Customer Account~~) (“**FCM U.S. Futures Customer Collateral**”), the Clearing House shall receive and hold such collateral in the Clearing House DCM Segregated Account and shall hold, use and segregate such collateral as customer property in accordance with Section 4d(a) and (b) of the CEA and the regulations of the CFTC thereunder. By means of this Rule, the FCM Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under CFTC regulations.
- (c) With respect to FCM Customer Collateral in respect of Contracts registered in the Swap Customer Account arising from Swaps (including for the avoidance of doubt Permitted Co-mingled Contracts ~~recorded in the Swap Customer Account~~) (“**FCM Swap Customer Collateral**”):
- (i) An FCM Clearing Member shall receive, hold and use all FCM Customer Collateral only as permitted under CEA Section 4d(f) and the regulations of the CFTC thereunder (and, to the extent applicable, Securities Exchange Act Section 3E(b) and the regulations or any orders of the SEC thereunder) and as further set forth in these Rules and the Procedures (the “**Swap Customer Segregation Requirements**”). The Clearing House shall receive and hold such collateral transferred to the Clearing House in the Clearing House Swap Segregated Account and shall segregate, hold and use all such FCM Swap Customer Collateral as customer property in accordance with the Swap

Customer Segregation Requirements. By means of this Rule, FCM Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under the Swap Customer Segregation Requirements.

- (ii) Prior to the effectiveness of the Swap Customer Segregation Requirements, Contracts registered in the Swap Customer Account and related FCM Swap Customer Collateral shall be held in the cleared ~~OTC derivatives~~swaps account class for purposes of Part 190 of the CFTC regulations. The Clearing House shall receive and hold such FCM Swap Customer Collateral transferred to the Clearing House in the Clearing House Swap Segregated Account as customer property separated from the proprietary positions and margin of the FCM Clearing Member and shall treat FCM Swap Customer Collateral as belonging to the FCM Customers of the FCM Clearing Member. Subject to the foregoing, the FCM Clearing Member and the Clearing House shall treat such FCM Swap Customer Collateral in the manner required for segregated customer property with respect to futures contracts under CFTC Rules 1.20-1.30; provided that such customer property shall be accounted for and held separately from, and not in any event commingled with, any such segregated customer property for futures contracts; and provided, further, that such customer property may be commingled by the FCM Clearing Member with customer property segregated or sequestered for purposes of the cleared ~~OTC derivatives~~swaps account class under the rules of other derivatives clearing organisations to the extent such rules are not inconsistent with the requirements hereof. With respect to such Open Contract Positions and related FCM Swap Customer Collateral, the records required to be maintained under Rule 1605(e) will be those that would be required under CFTC regulations for positions subject to segregation under CFTC Rule 1.20 (including pursuant to CFTC Rules 1.32 and 1.36). The provisions of this Rule 1605(c)(ii) shall apply equally to any FCM that is a Customer of a Clearing Member but clears Contracts registered in the Swap Customer Account through an FCM Clearing Member on behalf of the customers of such FCM.
- (d) With respect to FCM Customer Collateral transferred to the Clearing House in respect of Contracts registered in the Non-DCM/Swap Customer Account arising from Non-DCM/ Swaps (other than Permitted Co-mingled Contracts) (“**FCM Other Transaction Collateral**”), the Clearing House shall hold such FCM Customer Collateral as constituting the foreign futures or foreign options secured amount subject to the requirements of CFTC Rule 30.7. By means of this Rule, the FCM Clearing Member shall have satisfied the requirement to obtain an acknowledgement letter of such status from the Clearing House under CFTC regulations.
- (e) In connection with any Open Contract Position and related FCM U.S. Futures Customer Collateral, FCM Swap Customer Collateral or FCM Other Transaction Collateral provided to the Clearing House, the FCM Clearing Member shall keep and maintain written records with respect thereto as required under Applicable Law. Each FCM Clearing Member shall provide such records to the Clearing House upon request and upon such other basis, if any, as may be provided in the Procedures.
- (f) For the avoidance of doubt, the acknowledgement in the first sentence of Rule 505 and the first sentence of clause 2.11 of a Pledged Collateral Addendum are intended to

apply in relation to Pledged Collateral to the extent that the characterisation of any Pledged Collateral or the terms of a Pledged Collateral Addendum fall to be considered under the laws of any member state of the European Economic Area that has implemented Directive 2002/47/EC. For the avoidance of doubt, neither Rule 505 nor clause 2.11 of a Pledged Collateral Addendum are intended to affect any of: (i) the choice of law of the parties to any Pledged Collateral Addendum in respect of such addendum; (ii) the choice of law under Rule 1608; (iii) the location or governing law of any account in which Pledged Collateral is held by the Clearing House; (iv) the location or governing law of any account from or to which assets intended to become or which were previously Pledged Collateral are transferred to or from the Clearing House; (v) the existence or nature of any place of business, establishment or office in any jurisdiction of any Person; or (vi) the principal place of business or centre of main interests of any FCM Clearing Member or any of its Customers or Affiliates.

Rule 1606 Additional FCM Clearing Membership Requirements

Each FCM Clearing Member that has a Customer Account shall execute and deliver to the Clearing House a Pledged Collateral Addendum to its Clearing Membership Agreement, in the form specified by the Clearing House.

Rule 1607 Additional FCM Requirements for Customer Transactions

- (a) The relationship between an FCM Customer and an FCM Clearing Member in respect of Open Contract Positions for that FCM Customer shall be documented pursuant to and governed by a futures account agreement or clearing agreement (or equivalent document) agreed between such parties, subject to the applicable provisions of these Rules and provided that no such agreement may be inconsistent with these Rules or the Clearing Membership Agreement.
- (b) Without limiting Rule 111, but subject to any contrary requirements of law: The Clearing House shall not be liable to any FCM Clearing Member, FCM Customer or other Person for any losses, claims, liabilities, damages or expenses arising out of or relating to the holding, investment or use of any Clearing House FCM Segregated Account or assets credited thereto from time to time (“**Custodial Losses**”), except to the extent such Custodial Losses result from the gross negligence or wilful misconduct of the Clearing House. The Clearing House shall have no duties or responsibilities with respect to any Clearing House FCM Segregated Account except as expressly set forth in these Rules and applicable law. The Clearing House shall have no responsibility for any investment decisions made or directed by an FCM Clearing Member (or any other Person) with respect to assets in a Clearing House FCM Segregated Account or for the results of any such investments and shall have no obligation to monitor any requirements set forth in any applicable agreement between FCM Clearing Member and an FCM Customer. The Clearing House shall have no responsibility for the compliance by any FCM Clearing Member or FCM Customer with its obligations under any such agreement. The Clearing House shall be under no obligation to inquire into, and shall be fully protected in relying on, any instructions or directions with respect to a Clearing House FCM Segregated Account or the assets therein or transferred thereto or therefrom under these Rules received from a Person the Clearing House believes to be authorised to act on behalf of the appropriate FCM Clearing Member.

- (c) Each FCM Customer for which an FCM Clearing Member clears a Swap must be an “eligible contract participant” as defined in the CEA.
- (d) Each FCM Customer whose transactions are cleared by an FCM Clearing Member with the Clearing House will be deemed to have consented to the disclosure by its FCM Clearing Member to the Clearing House of such FCM Customer’s identity and information concerning the Open Contract Positions held by such FCM Clearing Member for such FCM Customer and related Margin as set forth in these Rules and as may be required by Applicable Law and, if the FCM Customer is itself an FCM, to the operation of Rule 1605(c)(ii); and to disclosures to, use by and disclosures by the Clearing House of information relating to the Customer (including the Personal Data of its Data Subjects) pursuant to Rule 106.
- (e) Each FCM Customer whose transactions are cleared by an FCM Clearing Member with the Clearing House will be deemed to have consented to its FCM Clearing Member entering into Contracts arising under Rule 404(c)(i) and Rule 401(a)(xiii) on its behalf.
- (f) Each FCM Clearing Member shall be required to obtain the agreement of each FCM Customer to the provisions of the Rules applicable to or otherwise referring to FCM Customers (including Rule 111, Rule 1603(k), Rule 1604(c) and this Rule 1607) ~~and to Clause 3.2(ii) of the Clearing Membership Agreement~~ (which agreement may be obtained through a general obligation in a customer agreement to comply with applicable clearing organisation rules) and hereby represents and warrants to the Clearing House that it has obtained such agreement.

Rule 1608 *Governing Law and Dispute Resolution*

- (a) Solely as between an FCM Clearing Member and the Clearing House, those provisions of Parts 3, 5 and 16 of the Rules inasmuch as they relate solely to an issue or matter concerning:
 - (i) the pledging, transfer, holding, use and segregation of Pledged Collateral (or other property recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided); and/or
 - (ii) the application of any net sum owed in favour of the FCM Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in Part 1 of the Rules (such provisions, together or separately “**Pledged Collateral Matters**”) shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- (b) For the avoidance of doubt, Rule 1608(a) is an exception to Rule 102(r) which provides that the Rules and Contracts shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding Rule 1608(a), the following are governed by and shall be construed in

accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (i) all of the provisions of the Rules concerning the calculation and determination of any net sum (except to the extent expressly provided in Rule 1604(d)) and the other default rules of the Clearing House, including all the provisions of Parts 9 and 11 of the Rules;
 - (ii) all of the provisions of the Rules relating to the Designated System, including all the provisions of Part 12 of the Rules;
 - (iii) any Dispute or issue arising as between a Clearing Member that is not an FCM Clearing Member on the one hand and the Clearing House on the other hand;
 - (iv) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided; and
 - (v) the Contract Terms of all Contracts.
- (c) Where a dispute between an FCM Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, “**New York Courts**”). Consistent with the preceding sentence, the Clearing House and each of the Clearing Members hereby:
- (i) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
 - (ii) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- (d) All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to Rule 1608(c), does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or

claims in relation to which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) heard in the New York Courts.

- (e) Nothing in this Rule 1608 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- (f) EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE RULES OR ANY CONTRACT OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
 - (i) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
 - (ii) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Rule 1608(f).

Rule 1609 *Modifications to Pledged Collateral Addendum*

- (a) The following provisions of each Pledged Collateral Addendum have been amended pursuant to clause 4.2 thereof by virtue of the adoption of these provisions of the Rules:
 - (i) In clause 2.8, the deletion of the words: "(and to procure that any third party takes any action reasonably requested by the Clearing House)".
 - (ii) Clause 2.11, to the extent that any amendment may be regarded as necessary to give effect to Rule 1605(f).
 - (iii) In clause 3.5, the replacement of the words "the Clearing House" with the words "either party".
 - (iv) In clause 2.7, the definition of the term "Encumbrances" does not include retention of title.
 - (v) Any other provision of the Pledged Collateral Addendum to the extent that any amendment may be regarded as necessary to give effect to Rule 1603(i).

Part 17 Foreign Exchange

Part 17 of the Rules does not apply to Energy Contracts or CDS Contracts.

Rule 1701 Definitions

- (a) The term "**Currency Pair**" means, in relation to an FX Contract or an FX Transaction submitted for Clearing, the Reference Currency and the Settlement Currency.
- (b) The term "**FX Default Committee**" shall have the meaning given to that term in the FX Procedures.
- (c) The term "**FX Default Management Policy**" means the FX default management policy in the form approved by the Clearing House, as amended pursuant to processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (d) The term "**FX Market Price**" means, in relation to any Financially-Settled FX Contract, on any day, the price which the Clearing House determines is to be treated, for the purposes of these Rules and the Procedures as the value of such Financially-Settled FX Contract at the closing of such day, calculated in the FX MTM Currency for that Financially-Settled FX Contract.
- (e) The term "**FX MTM Currency**" means, in relation to any FX Contract, the currency in which FX Mark-to-Market Margin will be payable in respect of that FX Contract.
- (f) The term "**FX Procedures**" means the section of the Procedures of that name, which is relevant only to the Clearing of FX Contracts.
- (g) The term "**Reference Currency**" means (a) in relation to a Financially-Settled FX Contract, the currency specified as the reference currency in the Clearing House's records, being the currency other than that in which cash settlement is to be made and (b) in relation to an FX Transaction submitted for Clearing, the currency specified as such in the relevant FX Confirmation.
- (h) The term "**Settlement Currency**" means (a) in relation to a Financially-Settled FX Contract, the currency specified as such in the Clearing House's records, being the currency in which cash settlement is to be made on the FX Settlement Date and (b) in relation to an FX Transaction submitted for Clearing, the currency specified as such in the relevant FX Confirmation.
- (i) The terms "**Settlement Rate**" means in relation to a Financially-Settled FX Contract, for the relevant FX Settlement Date, the currency exchange rate, expressed as the amount of Reference Currency per one unit of Settlement Currency, determined by the Clearing House in accordance with the Rules and the Procedures as the settlement rate for the relevant Set of Financially-Settled FX Contracts which includes that Financially-Settled FX Contract.
- (j) The term "**Spot Price**" means, for a Currency Pair, the notional foreign exchange rate between the two currencies in the Currency Pair for "spot" delivery having a cash settlement value of zero, as determined by the Clearing House by reference to the terms of the relevant Financially-Settled FX Contract.

- (k) The term "**Standard Maturities**" means the specified standard maturities for the provision of pricing data relating to FX Contracts by Clearing Members, as specified by the Clearing House in a Circular, either in respect of particular Currency Pairs or generally.
- (l) Any term used but not defined in this Part 17 or elsewhere in the Rules shall have the meaning given to that term in the FX Procedures.
- (m) For the avoidance of doubt and without prejudice to any interpretation of the following terms as defined or used elsewhere in these Rules, in the context of the Clearing of FX Contracts (including, for the avoidance of doubt, Rule 1708(c)(ii)):
- (i) The term "**Applicable Law**" also includes a regulatory requirement.
- (ii) The term "**Exchange**" also includes any swap execution facility, organised trading facility, systematic internaliser, trade affirmation or confirmation platform.
- (iii) The term "**Future**" also includes any investment which may be labelled as a 'spot', 'forward' or 'swap' contract or treated as such under any Applicable Law.
- (iv) In Rule 102(f)(i), the first reference to Contract Terms excludes any reference to the Rules or Procedures.
- (v) The references in Rule 201(g), Rule 202(a)(iv) and Rule 209(a)(v) to satisfaction of the criteria for membership criteria in or set out in Rule 201(a) include those criteria for membership which are required pursuant to (but not actually set out in) Rule 201(a).

Rule 1702 Financially-Settled FX Contracts

- (a) Each Business Day, the Clearing House will determine or amend the FX Market Price for all Financially-Settled FX Contracts, per Currency Pair, for each maturity in respect of which it is party to one or more Financially-Settled FX Contracts in accordance with the Procedures. The Clearing House will also determine Settlement Rates for Financially-Settled FX Contracts in accordance with the Contract Terms and the Procedures.
- (b) Each FX Clearing Member shall be obliged to provide, to the Clearing House on each Business Day, for all Currency Pairs, Spot Prices and forward points for all the Standard Maturities in respect of Financially-Settled FX Contracts. The Clearing House may consolidate price data from these and other sources to determine FX Market Prices for Financially-Settled FX Contracts and will determine such prices for Financially-Settled FX Contracts that do not then match a Standard Maturity by such interpolation methodology as the Clearing House shall consider appropriate.
- (c) The Clearing House shall be entitled in certain circumstances to amend or to postpone, defer, cancel, bring forward or suspend publication of any FX Market Price or Settlement Rate as set out in the Procedures.

Rule 1703 *FX Mark-to-Market Interest*

In relation to each Financially-Settled FX Contract, the FX Clearing Member party thereto will pay to the Clearing House or the Clearing House will pay to such FX Clearing Member an amount in respect of FX Mark-to-Market Interest.

Rule 1704 *Separate treatment of FX Contracts for Proprietary Account and Customer Account*

FX Contracts to which a Clearing Member is party will be separately subject to the application of these Rules in relation to record-keeping and settlement for each of the following positions of the Clearing Member:

- (a) Reference Currency Buyer positions in FX Contracts allocated to the Proprietary Account;
- (b) Reference Currency Seller positions in FX Contracts allocated to the Proprietary Account;
- (c) Reference Currency Buyer positions in FX Contracts allocated to the Non-DCM/Swap Customer Account (if applicable);
- (d) Reference Currency Seller positions in FX Contracts allocated to the Non-DCM/Swap Customer Account (if applicable);
- (e) Reference Currency Buyer positions in FX Contracts allocated to the Swap Customer Account (if applicable);
- (f) Reference Currency Seller positions in FX Contracts allocated to the Swap Customer Account (if applicable);
- (g) Reference Currency Buyer positions in FX Contracts allocated to the DCM Customer Account (if applicable);
- (h) Reference Currency Seller positions in FX Contracts allocated to the DCM Customer Account (if applicable);
- (i) Reference Currency Buyer positions in FX Contracts allocated to the General Customer Account (if applicable); and
- (j) Reference Currency Seller positions in FX Contracts allocated to the General Customer Account (if applicable).

Rule 1705 *Settlement of Financially-Settled FX Contracts*

- (a) Either:
 - (i) the Reference Currency Buyer shall be liable to pay the amount due under any Financially-Settled FX Contract to the Reference Currency Seller; or
 - (ii) the Reference Currency Seller shall be liable to pay the amount due under the Financially-Settled FX Contract to the Reference Currency Buyer.

as required under the Contract Terms, on the FX Settlement Date, in accordance with Parts 3 and 5 of the Rules and the Finance Procedures.

- (b) Upon payment by the relevant party of the amount due in respect of a Financially-Settled FX Contract on the FX Settlement Date as referred to in (a) above, neither party to such Financially-Settled FX Contract shall have any further liability or obligation to the other party under such Financially-Settled FX Contract.

Rule 1706 Supplemental Default Rules

- (a) If an FX Clearing Member is declared to be a Defaulter, the Clearing House shall convene the FX Default Committee. The FX Default Committee shall have the competences specified in the Procedures.
- (b) The provisions of the FX Procedures relevant to a default shall apply if the Defaulter is or was an FX Clearing Member and shall amount to default rules for the purposes of the Rules and Applicable Laws.

Rule 1707 FX Default Committee and FX Default Management Policy

- (a) Rule 117 and Part 10 (and equivalent provisions of any Clearing Membership Agreement) are hereby disapplied only to the extent that any matter is eligible for determination by an FX Default Committee in accordance with the FX Procedures. This Rule applies in respect of an FX Default Committee unless and until such committee resolves not to determine the matter concerned.
- (b) Notwithstanding its rights set out in Rule 902 or Rule 903, or any other analogous Rule, following an Event of Default of a Person other than the Clearing House, the Clearing House shall follow the arrangements as set out in the FX Default Management Policy and the exercise of its rights pursuant to Rule 902 or Rule 903 shall be consistent with and in support of the FX Default Management Policy, except as set out in this provision. The Clearing House's rights under Part 9 of the Rules shall not be restricted by virtue of this provision to the extent that any action other than pursuant to the FX Default Management Policy is taken in accordance with Rule 1707(c).
- (c) The Clearing House may from time to time override the implementation or application of the FX Default Management Policy to the Clearing House or as against some or all of the FX Clearing Members or in respect of one or more Defaulters, subject to prior consultation with the FX Default Committee unless Rule 109(b)(i) or (ii) would apply were the FX Default Management Policy to be Rules and were such overriding to have been effected pursuant to an amendment to the Default Management Policy. The override of the implementation or application of the FX Default Management Policy may only be brought into effect where the Clearing House deems it necessary to manage material risks of the Clearing House or the Clearing Members or any Market (where material risks are those which could materially adversely impact the ongoing financial soundness or the proper performance of the Clearing House or the Clearing Members or the proper functioning of any Market) or is otherwise required to meet the Clearing House's continuing legal or regulatory obligations under Applicable Law. Any determination by the Clearing House to override the implementation or application of the FX Default Management Policy shall be notified to FX Clearing Members.

Rule 1708 Clearing data relating to FX Contracts

(a) Notwithstanding Rule 102(j) or anything else to the contrary in the Rules, in no event will a Clearing Member be liable for any conduct of a Customer of such Clearing Member or such Customer's clients with respect to the use of, or other actions taken with respect to, clearing data in respect of FX Clearing at the Clearing House ("FX Data") by such Customer or such Customer's clients if, prior to sharing such FX Data with such Customer, the Customer has agreed that it:

(i) may reproduce, transmit, distribute or use FX Data (to the extent generated whilst the Clearing Member which has (or whose Affiliate has) ultimately provided it with FX Data remains an FX Clearing Member) solely and exclusively for internal purposes related directly to such Customer's, its Affiliates' and their clients', trading and clearing activity relating to FX Clearing at the Clearing House;

(ii) may license, sublicense, transfer, transmit, reproduce and/or distribute copies of the FX Data (to the extent generated whilst the Clearing Member which has (or whose Affiliate has) ultimately provided it with FX Data remains an FX Clearing Member) to its Affiliates and clients, which may in turn license, sublicense, transfer, transmit, reproduce and/or distribute such FX Data only to their direct and indirect clients (each Affiliate, client or client's direct or indirect client that receives such FX Data, a "Data Recipient", each client or client's direct or indirect client that distributes such FX Data, a "Data Distributer Client," and each Affiliate that distributes such FX Data, a "Data Distributer Affiliate"), solely and exclusively to the extent such FX Data is related directly to such Data Recipient's trading and clearing activity relating to FX Clearing at the Clearing House and provided that such Data Recipient has agreed that it may:

(A) license, sublicense, transfer, transmit, reproduce and/or distribute such FX Data solely to (x) an Affiliate of such Data Recipient or (y) a different Data Recipient (other than an Affiliate of such Data Recipient) that in either case has agreed with such Customer to comply with restrictions on similar terms to those set out in this Rule 1708 applying to it as such restrictions would apply to the Customer (including the Data Obligations) *mutatis mutandis*; or

(B) reproduce, transmit, distribute or use such FX Data only for its own internal use,

in either case solely for purposes related directly to trading and clearing activity relating to FX Clearing at the Clearing House;

(iii) shall satisfy its Data Obligations as and to the extent provided in this Rule 1708 (which shall be interpreted in the case of a licensor that is not a Customer as if such licensor were a Customer) (the "Permitted Use Agreement"), which Permitted Use Agreement may be in any form, including such Data Recipient's agreement to comply with these Rules, so long as such Permitted Use Agreement is legally binding; and

- (iv) in each case that it becomes aware (from the Clearing House, a Clearing Member, one of their Affiliates, a client or otherwise) that any Data Recipient to which it has directly distributed FX Data is, or is reasonably suspected (as determined in its sole discretion) of being, in violation of the Permitted Use Agreement (or would be in breach of a Permitted Use Agreement, should such agreement have been in place), shall, to the extent permitted by Applicable Law (the following obligations in (A) to (C) below being the “Data Obligations”):
- (A) promptly notify the Clearing House and the Person that provided it with the FX Data (if different) in writing of the name of such Data Recipient and provide a reasonably detailed explanation of the nature of such Data Recipient’s violation, or the circumstances giving rise to the suspicion of a violation or would-be violation, of the Permitted Use Agreement;
- (B) take such actions as the Clearing House, the Person that provided it with the FX Data (if different) or any of their Affiliates may reasonably request to cause such Data Recipient to cease violating the terms of the Permitted Use Agreement (or, if no Permitted Use Agreement is in place, to cease violating the terms of a Permitted Use Agreement should such agreement have been in place) including, among other things, ceasing the provision of FX Data to any Data Recipient with which it or one of its Affiliates has a direct relationship by which it provides FX Data or suspending such Data Recipient’s direct or indirect use of FX Clearing at the Clearing House through such Customer, until the time as such Data Recipient is in compliance with the Permitted Use Agreement (or, if no Permitted Use Agreement is in place, in compliance with the terms of a Permitted Use Agreement should such agreement have been in place); and
- (C) when requested by the Clearing House, the Person that provided it with the FX Data (if different) or any of their Affiliates pursuant to its other Data Obligations, cease the provision of FX Data to a Data Recipient if and when the Clearing House, the Person that provided it with the FX Data (if different) or any of their Affiliates reasonably suspects (as determined by the Clearing House, such Person or such Affiliate, as applicable, in its sole discretion) that such Data Recipient is in violation of the Permitted Use Agreement (or would be in violation of a Permitted Use Agreement, should such agreement have been in place).
- (b) Nothing in this Rule 1708 shall impose any obligation on any Clearing Member, Customer or any of their Affiliates to monitor their Customers’ or clients’ use of FX Data or to independently investigate actual or suspected breaches of the Permitted Use Agreement, subject as set out in Rule 1708(a)(iv)(C).
- (c) Nothing in this Rule 1708 shall prevent or restrict any Person from:
- (i) using its own data relating to its own trading developed by such Person independently of, and without reference to, any FX Data; or

- (ii) providing any FX Data to any Governmental Authority as necessary to comply with any Applicable Law (including, for the avoidance of doubt, any request of a Governmental Authority).
- (d) It is intended that a Customer or any other Person may agree to the application of the restrictions and obligations set out in this Rule 1708 by agreeing with a Person that provides FX Data to such Customer or Person that the Rules are applicable to or contractually bind such Customer or Person (and, for the avoidance of doubt, it is intended that by so agreeing, the Customer or such Person thereby affirmatively agrees to comply with subsections (i) through (iv) of paragraph (a) hereof).

Rule 1709 Controllers

- (a) If a Controller Guarantee has been provided in favour of an FX Clearing Member, the FX Clearing Member to which the Controller Guarantee relates shall procure that the Controller:
 - (i) at all times complies with the requirements of Rule 201(a)(viii), Rule 202(a)(ii), Rule 202(a)(iii), Rule 202(a)(v), Rule 202(a)(vi), Rule 202(a)(x) and Rule 202(a)(xiii) as if the Controller were a Clearing Member, *mutatis mutandis*, and such provisions applied to the Controller's business;
 - (ii) would not breach any of the requirements of Rule 203, were the Controller to be a Clearing Member subject to the requirements of Rule 203, *mutatis mutandis*, and such provisions applied to the Controller's business; and
 - (iii) makes all notifications that would be required under Rule 204 if the Controller were a Clearing Member, *mutatis mutandis*, and such provisions applied to the Controller's business.

Rule 1710 Termination of FX Membership

- (a) With effect as from the Termination Notice Time in respect of a notice of termination served by an FX Clearing Member under Rule 209(c)(i) the following provisions shall apply, *mutatis mutandis* and subject to Rule 1710(c):
 - (i) the second, third and fourth sentences of Rule 1107(h); and
 - (ii) provisions of Rule 209 referred to therein.
- (b) With effect as from the Termination Notice Time in respect of a notice of termination served by an FX Clearing Member in relation to FX clearing membership under Rule 209(f)(i), the following provisions shall apply, *mutatis mutandis* and subject to Rule 1710(c):
 - (i) the second, third and fourth sentences of Rule 1107(i); and
 - (ii) provisions of Rule 209 referred to therein.
- (c) If:

- (i) an FX Clearing Member has served a notice of termination under Rule 209(c)(i) or Rule 209(f)(i);
- (ii) either (A) the Termination Close-Out Deadline Date has not yet passed; or (B) if the Termination Close-Out Deadline Date has passed, the FX Clearing Member closed out all of its open FX Contracts prior to the Termination Close-Out Deadline Date; and
- (iii) there is an Event of Default or Events of Default after the Termination Notice Time but prior to the Termination Date.

then the FX Clearing Member in question shall remain liable for the application of any then unapplied FX Guaranty Fund Contributions and further FX Assessment Contributions for all such Events of Default as are referred to in Rule 1710(c)(iii) (as if all such Events of Default had been declared by the Clearing House prior to the Termination Notice Time), provided that:

- (A) the total amounts of FX Guaranty Fund Contribution applied in respect of all Events of Default referred to in Rule 1710(c)(iii) shall not exceed the required FX Guaranty Fund Contribution as at the first day of the Guaranty Fund Period in which the Termination Notice Time fell; and
 - (B) the total amounts of FX Assessment Contributions for which the FX Clearing Member is liable in respect of all Events of Default referred to in Rule 1710(c)(iii) shall not exceed an amount equal to two times the amount of the required FX Guaranty Fund Contribution referred to in Rule 1710(c)(A).
- (d) Any termination notice issued by an FX Clearing Member under Rule 209(c)(i) or Rule 209(f)(i) shall be irrevocable by the FX Clearing Member and FX membership may only be reinstated pursuant to a new application for membership.
 - (e) In addition to the remedies set out or referred to in this Rule 1710, if any FX Clearing Member has served a notice of termination under Rule 209(c)(i) or Rule 209(f)(i) and has any open FX Contracts with the Clearing House after the last day of the three month notice period, the Clearing House may exercise its rights under Part 9 to liquidate the open FX Contracts of such FX Clearing Member, as if such FX Clearing Member were a Defaulter. An FX Clearing Member subject to this provision is not a Defaulter and no Default Notice will be issued or required to be issued in respect of such FX Clearing Member in order for the Clearing House to exercise its rights under this provision.

(X) FX PROCEDURES

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1. **ADDITIONAL DEFINITIONS**

- 1.1 The term "**Currency Pair Series**" means, in relation to a Currency Pair, a serial number referring to cleared Contracts which have identical Published Terms.
- 1.2 The term "**Disruption Event**" means an event that, if applicable to a Financially-Settled FX Contract, would give rise in accordance with an applicable Disruption Fallback to an alternative basis for determining the Settlement Rate for such Financially-Settled FX Contract.
- 1.3 The term "**Disruption Fallback**" means a source or method that, if applicable to a Financially-Settled FX Contract, gives rise to an alternative basis for determining the Settlement Rate when a Disruption Event has occurred and is continuing on the relevant date.
- 1.4 The term "**Eligible Employee**" has the meaning set out in paragraph 9.1.
- 1.5 The term "**EMTA**" means the Emerging Markets Trade Association or any successor thereto.
- 1.6 The term "**EMTA Template**", in respect of any Financially-Settled FX Contract, means the template terms relevant to non-deliverable forward transactions in the Currency Pair under that Financially-Settled FX Contract which were incorporated by reference in the Published Terms for the relevant Currency Pair, with any amendments thereto set out in the Published Terms.
- 1.7 The term "**Forward Rate**" means (a) in relation to a Financially-Settled FX Contract, the contractual currency exchange rate for such Financially-Settled FX Contract, expressed as the amount of Reference Currency per one unit of Settlement Currency, as specified in the Clearing House's records and (b) in relation to an FX Transaction submitted for Clearing, the Forward Rate specified in the relevant FX Confirmation or, if none, the Reference Currency Notional Amount divided by the Notional Amount specified in the relevant FX Confirmation rounded to such number of decimal places as are applicable for the Currency Pair in accordance with the relevant Rounding Convention.
- 1.8 The term "**FX Acceptance Notice**" has the meaning set out in paragraph 4.4(a).
- 1.9 The term "**FX Acceptance Time**" has the meaning set out in paragraph 4.5.
- 1.10 The term "**FX Clearing Cut-Off Time**", in respect of a Financially-Settled FX Contract, means 10:30 p.m. on the Business Day immediately preceding the scheduled FX Settlement Date or such other time as the Clearing House may specify in a Circular (if applicable generally) or in writing to a Clearing Member (if applicable only in connection with a particular FX Transaction or FX Transactions).
- 1.11 The term "**FX CM1**" has the meaning set out in paragraph 4.1.
- 1.12 The term "**FX CM2**" has the meaning set out in paragraph 4.1.
- 1.13 The term "**FX Confirmation**" means the confirmation between two parties to an FX Transaction, the details of which are submitted for Clearing.
- 1.14 The term "**FX Committee-Eligible Clearing Member**" means an FX Clearing Member that has been approved by the Clearing House, following consultation with the FX Risk Committee, for participation in the FX Default Committee. The Clearing House may revoke (or reinstate) its approval of any FX Clearing Member as an FX Committee-Eligible Clearing Member from time to time based on its determination as to whether a particular FX Clearing Member has been in compliance with the Rules.
- 1.15 The term "**FX Default Committee**" means a committee established pursuant to paragraph 9.1.
- 1.16 The term "**FX Default Committee Member**" has the meaning set out in paragraph 9.1.
- 1.17 The term "**FX Default Committee Participant**" has the meaning set out in paragraph 9.1.

- 1.18 The term "**FX Default Committee Participant List**" has the meaning set out in paragraph 9.2.
- 1.19 The term "**FX Procedures**" means these FX Procedures, as amended from time to time.
- 1.20 The term "**FX Risk Committee**" means the committee of that name established by the board of the Clearing House.
- 1.21 The term "**FX Settlement Facility**" means CLS or any other Person operating a facility for the settlement of foreign exchange contracts by the payment of two different currencies, which facility is approved by the Clearing House.
- 1.22 The term "**FX Trade Processing Platform**" means an Exchange that has satisfied the Clearing House's requirements to be able to act as an agent of one or more FX Clearing Members in the submission or confirmation of FX Transactions for Clearing, including having entered into an agreement with the Clearing House to act as an "Approved FX Trade Processing Platform" in relation to such submissions and confirmations and, in relation to any FX Clearing Member for which (and, as the case may be, for whose Affiliate) it acts as agent, has obtained that FX Clearing Member's authorisation in writing or through the ICE FX Clearing System to submit and confirm FX Transactions for Clearing as agent for that FX Clearing Member and accordingly, such an FX Trade Processing Platform will be a Representative of such FX Clearing Member for that purpose until the expiry of not less than one Business Day's written notice to the Clearing House given by such FX Clearing Member that such FX Trade Processing Platform is no longer, or is not, authorised to act as its agent and/or Representative. Where an Affiliate of an FX Clearing Member may submit or confirm FX Transactions for the account of that FX Clearing Member as referred to in paragraph 4.6, any person which, as an FX Trade Processing Platform, is a Representative of such FX Clearing Member shall be deemed to be additionally a Representative of such Affiliate for these purposes.
- 1.23 The term "**FX Valuation Date**" means (a) in relation to a Financially-Settled FX Contract, the day in respect of which a Spot Rate is to be determined for purposes of determining the Settlement Rate, as specified in the Clearing House's records, subject to adjustment as set out in the Contract Terms and (b) in relation to an FX Transaction submitted for Clearing, the Valuation Date specified in the relevant FX Confirmation.
- 1.24 The term "**ICE FX Clearing System**" means ECS, banking and risk management systems, their associated user interfaces and application programming interfaces (APIs) or any other system or interface from time to time used by the Clearing House for managing cleared transactions and/or positions in eligible products, asset management and making notifications to and from the Clearing House relating to settlement, and any other system notified to the FX Clearing Members and used by the Clearing House from time to time for the Clearing of FX Contracts.
- 1.25 The term "**ICE FX Gateway System**" means PTMS, ICE Block, ICE Link, their associated user interfaces and application programming interfaces (APIs) or such other system used by the Clearing House for the submission, confirmation and post-trade management of FX Transactions from time to time and any other system notified to the FX Clearing Members and used by the Clearing House from time to time for the submission, confirmation and trade management of FX Transactions.
- 1.26 The term "**Notional Amount**" means (a) in relation to a Financially-Settled FX Contract, the quantity of Settlement Currency to which the Forward Rate applies under such Financially-Settled FX Contract, as specified in the Clearing House's records and (b) in relation to an FX Transaction submitted for Clearing, the quantity of the Settlement Currency specified in the relevant FX Confirmation or, if such an amount is not specified, the quantity of the Settlement Currency equal to the Reference Currency Notional Amount divided by the Forward Rate.
- 1.27 The term "**Published Terms**" means, in relation to Financially-Settled FX Contracts, the standard terms of such Financially-Settled FX Contracts, as set out in the published Rules and these FX Procedures and in any Circular specifying further contractual provisions for such Financially-Settled

FX Contracts, in each case at the time that a Financially-Settled FX Contract arises in the version of such published Rules, FX Procedures and Circulars current as at the Trade Date of such Financially-Settled FX Contract, as such terms may be amended in accordance with paragraph 8.3.

- 1.28 The term "**Reference Currency Notional Amount**" means (a) in relation to a Financially-Settled FX Contract, the quantity of Reference Currency to which the Forward Rate applies under such Financially-Settled FX Contract, as specified in the Clearing House's records and (b) in relation to an FX Transaction submitted for Clearing, the quantity of the Reference Currency specified as such in the relevant FX Confirmation or, if such amount is not specified, the quantity of the Reference Currency equal to the Notional Amount multiplied by the Forward Rate.
- 1.29 The term "**Revocation Right**" will apply in respect of an FX Transaction submitted for Clearing: (a) if one of the Clearing Members for whose account the submission or confirmation for Clearing is made is a Defaulter; or (b) if and to the extent that either FX Contract which would arise on Clearing would have been void under Rule 403 (if Rule 403 applied to FX Contracts in addition to Energy Contracts) or capable of being treated as voidable under Rule 404(a) (if Rule 404(a) applied to FX 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 "FX Clearing Members") or Rule 404(b).
- 1.30 The term "**Rounding Convention**" in respect of a particular Currency Pair means the maximum number of decimal places that may be specified by an FX Clearing Member for the Forward Rate of FX Transactions submitted for Clearing, as specified in the Published Terms.
- 1.31 The term "**Settlement Currency Amount**" means, in relation to a Financially-Settled FX Contract, an amount expressed in the Settlement Currency calculated on a formula basis as follows:
- Settlement Currency Amount = Notional Amount x [1 - (Forward Rate/Settlement Rate)].*
- 1.32 The term "**Settlement Rate Option**" means (a) in relation to a Financially-Settled FX Contract, means the settlement rate option applicable, pursuant to the Published Terms, to the Currency Pair of such FX Contract and (b) in relation to an FX Transaction submitted for Clearing, the settlement rate option specified in the relevant FX Confirmation.
- 1.33 The term "**Trade Date**" means (a) in relation to a Financially-Settled FX Contract, the date specified in the Clearing House's records as the trade date of such FX Contract and (b) in relation to an FX Transaction submitted for Clearing, the date specified in the relevant FX Confirmation.
- 1.34 The term "**Unscheduled Holiday**" in relation to a Financially-Settled FX Contract for a Currency Pair, has the meaning set out in the Published Terms for the relevant Currency Pair, by reference to the relevant EMTA Template.
- 1.35 The term "**US FX Clearing Member**" means an FX Clearing Member or applicant that would become a FX Clearing Member that is (i) an FCM or (ii) any other Person organised or incorporated under the laws of the United States of America or a state thereof.
- 1.36 Capitalised terms used in these FX Procedures but not defined in this paragraph 1 shall have the meaning given to such terms in the Rules, these FX Procedures or elsewhere in the Procedures (in that order of priority in the event of any conflict).

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

- 2.1 Rule 201(j) provides that FX Clearing Members must meet such additional requirements applicable to FX Clearing Members as are specified in the Procedures.
- 2.2 The following additional membership requirements are specified for the purposes of Rule 201(j):

- (a) The FX Clearing Member is organized in a jurisdiction whose insolvency laws are acceptable to the Clearing House.
- (b) The FX Clearing Member is a settlement member of, or has an Affiliate (through which it can settle FX transactions) which is a settlement member of, an FX Settlement Facility.
- (c)
 - (i) In the case of an FX Clearing Member other than a US FX Clearing Member, the FX Clearing Member has a minimum of \$250 million of Capital (or an equivalent amount in another currency, as calculated at the exchange rate used by the Clearing House for purposes of the Finance Procedures); or
 - (ii) In the case of a US FX Clearing Member, the FX Clearing Member has a minimum of \$50 million of Capital. For purposes of the application of this clause to a US FX Clearing Member that is not an FCM, Capital shall be its net capital as determined pursuant to a risk adjusted capital calculation methodology acceptable to the Clearing House.

2.3 FX Clearing Members shall be obliged to:

- (a) co-operate and participate in all testing measures and initiatives relating to the development of FX Clearing, in relation to Financially-Settled FX Contracts;
- (b) be operationally able to interact with all aspects of the ICE FX Clearing System and ICE FX Gateway System; and
- (c) complete any necessary development required (i) to comply with their obligations and (ii) to submit for Clearing any FX Transactions which would give rise to Financially-Settled FX Contracts on Clearing, including in any case any developments arising out of testing.

3. **OTHER PROCEDURES**

3.1 The Clearing Procedures (sections 4.9 and 6 only), Finance Procedures, Membership Procedures, Business Continuity Procedures and Complaints Procedures also apply in relation to FX Clearing, FX Contracts and FX Clearing Members.

4. **SUBMISSION AND ACCEPTANCE OF FX CONTRACTS**

4.1 Any FX Transaction which is submitted to the Clearing House by an FX Clearing Member via electronic means (including any FX Transaction forwarded to the Clearing House by an FX 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 two FX Contracts under Rule 401(a)(xii) if the submission includes the information specified in paragraph 4.2, provided that the information specified in paragraph 4.2(b) is consistent with the Published Terms for the relevant Currency Pair at the time of submission for Clearing and provided further that the counterparty to the FX Transaction is also an FX Clearing Member and confirms the FX Transaction. Where an FX Transaction is submitted on behalf of both parties thereto by the same FX Trade Processing Platform, both parties will be treated as having submitted and confirmed the FX Transaction, without further reference to either of the FX Clearing Members. If an FX Trade Processing Platform only acts as a Representative of one FX Clearing Member that is party to an FX Transaction, then that FX Transaction must be confirmed by the other FX Clearing Member prior to it being accepted for Clearing. Each duly appointed FX Trade Processing Platform shall be treated as a Representative of each FX Clearing Member on whose behalf it submits an FX Transaction solely for the purposes of the submission and confirmation of data relating to FX Transactions. Pursuant to Rule 401(a)(xii), if an FX Transaction is so submitted and duly confirmed to the Clearing House by the parties thereto, each of which is an FX Clearing Member ("FX CM1" and "FX CM2") and then accepted by the Clearing House for Clearing pursuant to an FX Acceptance Notice (and the other provisions of the Rules complied with): (i) FX CM1 will be deemed to have entered into an FX Contract with the Clearing House as its counterparty rather than FX CM2; and (ii) FX CM2 will be deemed to have entered into an FX Contract with the Clearing House as its

counterparty rather than FX CM1. In each case, the FX Contract will be on the Contract Terms specified in the Rules and Procedures, based on the information submitted pursuant to paragraph 4.2. Rules 402(b) and 1702 make provision for the effect of this process on the rights, liabilities and obligations of FX CM1 and FX CM2 under the FX Transaction.

4.2 Transaction registration for FX Transactions shall take place through the ICE FX Gateway System and ICE FX Clearing System. Only FX Clearing Members (including their duly appointed Representatives) may submit FX Transactions to the Clearing House. In order to submit FX Transactions for Clearing, each Business Day, during the time periods from time to time established by the Clearing House for Clearing of FX Transactions on any day, FX Clearing Members shall file with the Clearing House or its duly appointed Representatives details of FX Transactions, showing for each FX Transaction:

- (a) the identity of both FX Clearing Members;
 - (b) the following economic and identification information:
 - (i) Trade Date;
 - (ii) which FX Clearing Member is the Reference Currency Buyer;
 - (iii) which FX Clearing Member is the Reference Currency Seller;
 - (iv) any one of (A), (B) or (C) below:
 - (A) Reference Currency Notional Amount and Notional Amount, with or without specifying the Forward Rate; or
 - (B) Reference Currency Notional Amount, Settlement Currency and Forward Rate; or
 - (C) Reference Currency, Notional Amount and Forward Rate,provided that, if the Forward Rate is specified and has been rounded to more than the number of decimal places which is the applicable Rounding Convention for the relevant Currency Pair, the FX Transaction will be deemed not to be consistent with the Published Terms for the relevant Currency Pair;
 - (v) FX Valuation Date, provided that, if the FX Valuation Date was not originally set as the date which (in the absence of any adjustment) would fall the same number of "Valuation Date Business Days" before the FX Settlement Date originally specified as the number of "Valuation Date Business Days" applicable to the Financially-Settled FX Contract which would arise on Clearing (which latter information is contained in the Published Terms), then the FX Transaction will be deemed not to be consistent with the Published Terms for the relevant Currency Pair; and
 - (vi) FX Settlement Date;
- (c) in relation to each FX Clearing Member, whether the resulting FX Contract is to be booked to its Customer Account or Proprietary Account;
 - (d) where a resulting FX Contract is to be booked to an FX Clearing Member's Customer Account, a unique identifier attributable to the specific Customer of that FX Clearing Member;
 - (e) Currency Pair Series for the FX Contracts arising on Clearing (if there is more than one Currency Pair Series for the relevant Currency Pair); and

- (f) 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 verification and Clearing of the FX Transaction between the parties.
- 4.3 If an FX Confirmation of any FX Clearing Member does not correspond in all material respects with the FX Confirmation of its counterparty to such FX Transaction or the information filed with the Clearing House does not satisfy the requirements of paragraph 4.2, the Clearing House may, prior to issuing an FX Acceptance Notice, reject such FX Transaction and notify the relevant FX Clearing Members, setting forth the basis of such rejection. An FX Clearing Member may revoke any submission or confirmation relating to an FX Transaction, provided that such revocation instruction shall only be effective if it is received and processed by the Clearing House prior to the time at which the Clearing House has issued an FX Acceptance Notice. The Clearing House will use reasonable endeavours to act in a timely manner upon timely receipt by it of such revocation instructions.
- 4.4 In relation to any FX Transaction submitted for Clearing:
- (a) An FX Transaction may be submitted and confirmed for Clearing at any time up to 10:30 p.m. on a Business Day. The Clearing House shall, unless it is exercising its rights to refuse or decline to accept or to reject any FX Transaction for Clearing as referred to below, give notice as soon as reasonably practicable in a matched trade confirmation issued through the ICE FX Clearing System, or such other report or notice identified for the purpose (an "**FX Acceptance Notice**" which term excludes any transaction accept report (which report is not an FX Acceptance Notice)) in accordance with this paragraph 4.4 to the FX Clearing Members which have submitted and confirmed such FX Transaction. The FX Acceptance Notice will be given by electronic message through the ICE FX Clearing System. The FX Acceptance Notice has the effect of specifying that the Clearing House accepts such FX Transaction for Clearing and may not be issued unless such FX Transaction is submitted and confirmed in accordance with and meets the requirements established by the Rules and these FX Procedures. FX Acceptance Notices in respect of FX Transactions may be given at any time during the course of any Business Day. Subject to Part 4 of the Rules and this paragraph 4, an FX Acceptance Notice will result in each of the FX Clearing Members who submitted and confirmed an FX Transaction for Clearing and the Clearing House entering into an FX Contract at the FX Acceptance Time.
- (b) The Clearing House may decline to accept or may reject an FX Transaction for Clearing (in a transaction reject report, or such other report or notice identified for the purpose) if the FX Transaction does not pass validation tests, the FX Transaction is not confirmed by each of the parties, the Clearing House determines in good faith that, in accordance with paragraph 4.4(g), it should not accept or should reject such FX Transaction for Clearing or if the Clearing House determines that a Revocation Right would apply in respect of such FX Transaction.
- (c) An FX Transaction which has been rejected may, if eligible in accordance with the Rules and these FX Procedures, be re-submitted for Clearing in the same way that an FX Transaction may be submitted for Clearing in accordance with paragraph 4.4(a). An FX Transaction that is not both submitted and confirmed for Clearing by the relevant FX Clearing Members prior to 10:30 p.m. on a Business Day or is submitted for Clearing on a day that is not a Business Day shall be deemed to have been submitted for Clearing at the time the ICE FX Clearing System re-opens for submissions on the following Business Day, unless it has been withdrawn or rejected by that time.
- (d) No FX Acceptance Notice shall result in any Contract arising pursuant to Rule 401(a)(xii) until the relevant FX Acceptance Time, as determined under paragraph 4.5. With effect as from the FX Acceptance Time and unless and until an FX Acceptance Notice is reissued pursuant to paragraph 4.4(i)(i), the FX Acceptance Notice shall be definitive as to any FX Contracts entered into between the Clearing House and any FX Clearing Member, regardless of whether any FX Contract is based on any FX Transaction and regardless of any error.

- (e) After the FX Acceptance Time, an FX 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 405, Rule 406 or Part 9 of the Rules or as referred to in paragraph 4.4(i)(ii); or (ii) with the consent of the Clearing House if the Clearing House is presented with an agreement in writing between the two FX Clearing Members who were party to the FX Transaction the submission for Clearing of which gave rise to such FX Contract to the effect that they each agree to the termination, rescission or cancellation of both FX Contracts which arose on the Clearing of such FX Transaction.
- (f) Each Clearing Member acknowledges and agrees that the Clearing House may rely, without additional investigation, on the terms of FX Transactions or apparent or alleged FX Transactions submitted by an FX Trade Processing Platform that have been designated by such FX Trade Processing Platform as having been affirmed or confirmed by the relevant parties thereto (including as to the identity of the FX Clearing Members to be party thereto), and that each FX Clearing Member shall be party to any FX Contract arising as a result of such submission and confirmation. An FX Clearing Member may give not less than one Business Day's notice to the Clearing House (which notice may be given electronically), in accordance with the Procedures, that an FX Trade Processing Platform is no longer authorised to submit or confirm FX Transactions on its behalf, and following expiry of that notice period, the Clearing House will not accept for Clearing any FX Transactions submitted or confirmed by such FX Trade Processing Platform on behalf of such FX Clearing Member (but without limiting the provisions of this paragraph with respect to any FX Transactions submitted before the expiry of that notice period).
- (g) The Clearing House may establish limits for FX Transactions of various types which may be submitted or confirmed by an FX Clearing Member for Clearing by reference to the expected change in the Margin requirements which would result from Clearing of such FX Transactions and may establish requirements for advance funding by an FX Clearing Member of all or part of the estimated Margin which would be applicable as a result of the acceptance for Clearing of FX Transactions of various types. Any material change to the factors by reference to which the limits and/or requirements are set will be subject to consultation with the FX Risk Committee. Such limits and/or requirements may be amended from time to time by the Clearing House and need not be identical for, or apply to, all FX Clearing Members. The Clearing House will give notice from time to time to each FX Clearing Member of the limits and requirements, if any, applying to that FX Clearing Member. The Clearing House may, without other reason, reject or refuse to accept for Clearing any FX Transaction for which a submitting or confirming FX Clearing Member is not in compliance with such limits and requirements, if any, applying to it. The provisions of this paragraph 4.4(g) are without prejudice and in addition to the Clearing House's powers under Part 6 of the Rules.
- (h) In relation to any FX Transaction with a trade date falling more than one Business Day prior to the date of submission for Clearing:
 - (i) FX Clearing Members must provide information in the form specified by the Clearing House concerning the FX Transactions they intend to submit for Clearing at least one Business Day prior to submitting or confirming any such FX Transaction for Clearing;
 - (ii) the Clearing House may request the posting of additional Margin by an FX Clearing Member prior to the submission of such FX Transaction for Clearing and as a condition of it being in a position to issue an FX Acceptance Notice in respect of such FX Transaction;
 - (iii) the Clearing House will be entitled to check with the relevant counterparty to the FX Transaction that such counterparty also intends to submit the FX Transaction for

Clearing and may require Margin as aforementioned of that other FX Clearing Member; and

- (iv) an FX Clearing Member shall not submit or confirm such an FX Transaction for Clearing unless and until the Clearing House has provided its consent to such submission, in which case the submission, confirmation and acceptance of such FX Transaction shall then proceed in the same way as for other FX Transactions.
- (i) FX Clearing Members will be able to verify their cleared FX Contracts through access to the ICE FX Clearing System and may elect to receive certain electronic clearing notices for such purposes (which notices do not constitute FX Acceptance Notices) from the Clearing House. FX Clearing Members shall reconcile trades, adjustments, open positions and Margin requirements with the Clearing House on a daily basis and shall regularly check these reports and records issued by the Clearing House in order to confirm that they are accurate. FX Clearing Members must notify the Clearing House promptly upon becoming aware of any error. If an FX Contract arising pursuant to the Clearing of an FX Transaction does not reflect, subject to the provisions of the Rules and Procedures, the terms of such FX Transaction which were submitted or confirmed or were intended to be submitted or confirmed or if there has otherwise been a bona fide error (but not in any other circumstances) then:
 - (i) where the details in the FX Acceptance Notice did not so reflect the terms of the FX Transaction as submitted or confirmed for Clearing, the Clearing House will promptly issue a corrected FX Acceptance Notice and the Contract Terms of the FX Contract shall be deemed to have been amended accordingly and any amending payments shall be made accordingly, by way of an FX Mark-to-Market Margin payment or otherwise (as appropriate); and
 - (ii) other than in circumstances falling in (i), at any time up to two Business Days following the relevant FX Acceptance Notice being issued, the affected FX Clearing Members may agree among themselves (subject to the consent of the Clearing House) to submit and confirm for Clearing an opposite FX Transaction for the purpose of offsetting the net margin requirements and net exposures to the Clearing House resulting from the error (or, with the consent of the Clearing House, to terminate the two FX Contracts which were entered into as a result of an incorrectly submitted FX Transaction), but such Clearing Members shall be bound by the terms of the relevant FX Contracts notwithstanding such error unless and until such FX Contracts shall be terminated as a result of the operation of this provision.

Payments and performance will be due pursuant to all FX Contracts to which the Clearing House and an FX Clearing Member are party from time to time, regardless of the applicability or potential applicability of this paragraph 4.4(i)

4.5 Rule 401(a)(xii) refers to a time to be specified pursuant to the Procedures for the acceptance of FX Contracts ("**FX Acceptance Time**"). The FX Acceptance Notice will specify the relevant FX Acceptance Time for the FX Contracts to which it relates. For FX Acceptance Notices relating to FX Contracts arising on the Clearing of FX Transactions having a trade date on the date of the FX Acceptance Notice or on the previous day, the FX Acceptance Time will be the time of issuance of the FX Acceptance Notice.

4.6 In relation to FX Transactions where at least one of the parties thereto is an Affiliate of an FX Clearing Member:

- (a) The Clearing House may accept the submission or confirmation of FX Transactions for clearing for the account of an FX Clearing Member from a Representative of such FX Clearing Member that is an Affiliate of such FX Clearing Member or from an FX Trade

Processing Platform as the Representative of such Affiliate, provided that such Affiliate is at that time duly designated for this purpose as an authorised Representative of the FX Clearing Member and such FX Trade Processing Platform is at that time duly designated as an authorised Representative of the FX Clearing Member.

- (b) Where an FX Transaction submitted or confirmed for Clearing has as one of its parties an Affiliate of an FX Clearing Member then the resulting FX Contract shall have as its counterparty, as a result of Part 4 of the Rules, the FX Clearing Member and not the Affiliate and accordingly:
- (i) each FX Clearing Member submitting or confirming an FX Transaction to which an Affiliate was party shall be responsible for ensuring that any give-up or novation agreements or back-to-back FX transactions between it and its Affiliate come in to effect and are properly documented at the appropriate time;
 - (ii) pursuant to Rule 207(d), it is the responsibility of the FX Clearing Member to determine whether an FX Contract resulting from an Affiliate transaction should be recorded in its Proprietary Account or Customer Account;
 - (iii) for the avoidance of doubt, each relevant Affiliate shall be treated as a Customer for purposes of the Rules regardless of whether a resulting FX Contract is recorded in the Clearing Member's Proprietary Account or Customer Account and, accordingly, the provisions of the Rules relating to liability, including Rule 111, apply in respect of the Affiliate;
 - (iv) the Affiliate shall be deemed to be on notice of this provision and shall be deemed to agree to its application by its conduct in having the relevant FX Transaction submitted or confirmed for Clearing, so that (in the absence of evidence of a contrary intention under the relevant FX Transaction) Rules 402(b) and 405 shall operate in respect of any rights, liabilities or obligations of the Affiliate relating to, or arising out of or in connection with any FX 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 FX Clearing Member in relation to the FX Transaction in question, excluding any performance due prior to the time at which an FX 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 FX Clearing Member.
- 4.7 Where, prior to the FX Acceptance Time, any FX Transaction is rejected for Clearing, the Transaction Rights or Obligations of the FX Clearing Members which are party thereto shall be deemed never to have been released and discharged pursuant to Rule 402(b).
- 4.8 Nothing in this paragraph 4 of itself is intended to result in any FX Transaction or Transaction Rights or Obligations being void or voided as between the original parties thereto.
- 4.9 An FX Transaction which would, on Clearing, give rise to an FX Contract shall cease to be eligible for submission or confirmation after the relevant FX Clearing Cut-Off Time. FX Clearing Members shall use reasonable endeavours not to submit or confirm any FX Transaction for Clearing after the FX Clearing Cut-Off Time.
- 4.10 Without prejudice to the provisions of paragraph 4.4 which provide for FX Contracts to arise only at the FX Acceptance Time, the Trade Date recorded for an FX Contract arising from an FX Acceptance Notice in relation to an FX Transaction accepted for Clearing may be the Trade Date of that FX Transaction provided that such date is not more than one Business Day before the date of the FX Acceptance Notice, or such other date as is specified by the Clearing House.

- 4.11 The ICE FX Clearing System will enable FX Clearing Members to maintain, update and enrich records in respect of Customer Account or Proprietary Account data and other data relating to FX Contracts. No FX Clearing Member may make any changes which result in any amendments to the existence or terms of FX Contracts. Where an FX Contract is identified as for an FX Clearing Member's Customer Account, such FX Contract must be recorded by the FX Clearing Member party thereto to a particular Customer-related identifier within two Business Days of the FX Acceptance Notice. Any failure to do so will result in the FX Contract being recorded in a temporary holding account within the Customer Account, and may result in higher Margin requirements than those that would otherwise be applicable.
- 4.12 FX Clearing Members may submit and confirm arrangements similar to FX Transactions for Clearing, where the same FX Clearing Member is effectively recorded as being both parties to the same FX Transaction. This situation may arise where the transaction reflects an internal accounting arrangement between different branches or departments of the same FX Clearing Member or is established for the purposes of providing prime brokerage services, or clearing of the transactions of Affiliates or Customers. In such circumstances, two opposite FX Contracts shall arise at the FX Acceptance Time between the FX Clearing Member and the Clearing House in the same manner as on the Clearing of an FX Transaction.
- 4.13 The Clearing House will accept or reject FX Transactions submitted for Clearing that are executed competitively on or subject to the rules of a designated contract market, swap execution facility or other similar FX Trade Processing Platform or Market in another jurisdiction as quickly after execution as would be technologically practicable if fully automated systems were used. The Clearing House will accept all such FX Transactions (i) for which the executing parties have clearing arrangements in place with Clearing Members, (ii) for which the executing parties identify the Clearing House as the intended clearing house and (iii) that satisfy the criteria of the Clearing House as set out herein and in the Rules (which criteria shall be non-discriminatory across trading venues and shall be applied as quickly as would be technologically practicable if fully automated systems were used).
- 4.14 The Clearing House will accept or reject FX Transactions submitted for Clearing that are not executed on or subject to the rules of a designated contract market, swap execution facility or other similar FX Trade Processing Platform or Market in another jurisdiction or that are executed non-competitively on or subject to the rules of a designated contract market, swap execution facility or other similar FX Trade Processing Platform or Market in another jurisdiction as quickly after submission to the Clearing House as would be technologically practicable if fully automated systems were used. The Clearing House will accept all such FX Transactions (i) that are submitted to the Clearing House by the parties in accordance with Applicable Laws, (ii) for which the executing parties have clearing arrangements in place with Clearing Members, (iii) for which the executing parties identify the Clearing House as the intended clearing house, and (iv) that satisfy the criteria of the Clearing House as set out herein and in the Rules (which criteria shall be non-discriminatory across trading venues and shall be applied as quickly as would be technologically practicable if fully automated systems were used).
- 4.15 Each FX Clearing Member must accept or reject each FX Transaction submitted by or for it as quickly as would be technologically practicable if fully automated systems were used and (to the extent such FX Transaction has not already been submitted to the Clearing House at the time of acceptance by such Clearing Member) must submit such FX Transaction to the Clearing House as quickly following such acceptance (or execution, if executed directly by such Clearing Member) as would be technologically practicable if fully automated systems were used. For the avoidance of doubt, such acceptance or rejection by a Clearing Member does not constitute acceptance or the issuance of an FX Acceptance Notice by the Clearing House.

5. **PRICING DATA**

5.1 **Provision of pricing data to the Clearing House**

- (a) Pricing data is required to be provided to the Clearing House by FX Clearing Members pursuant to Rule 1702 and may be used by the Clearing House for purposes of calculating FX

Mark-to-Market Margin and for other risk management purposes. The actual pricing data that is required to be provided by FX Clearing Members will be specified in the Clearing House's pricing and risk policies from time to time, as the same are updated and amended from time to time.

- (b) Pricing data must be submitted by each FX Clearing Member in the form prescribed by the Clearing House from time to time.
- (c) Pricing data in respect of a particular Business Day must be received by the Clearing House no later than 5:00 pm on the same Business Day.
- (d) The Clearing House may disregard the pricing data for any Standard Maturity of a Currency Pair provided by an FX Clearing Member if such pricing data falls outside the inter-quartile range for the various data for that Standard Maturity of that Currency Pair provided to the Clearing House by FX Clearing Members on that date.

5.2 Impact of events

- (a) If any Unscheduled Holiday or Disruption Event occurs in relation to a Financially-Settled FX Contract or a Set of Financially-Settled FX Contracts, then, subject to paragraph 5.2(b) and to any amendments to the relevant EMTA Template made in the Published Terms, the Clearing House will follow the relevant EMTA Template as a basis for determining the FX Valuation Date, the Settlement Rate, the FX Settlement Date and the obligations of FX Clearing Members and the Clearing House on the relevant FX Settlement Date or for determining any actions that it takes to postpone, defer, cancel, bring forward or suspend the publication of any Settlement Rate, as referred to in Rule 1702(c).
- (b) If, where an Unscheduled Holiday or Disruption Event has occurred, the Clearing House wishes to determine any FX Valuation Date, Settlement Rate, FX Settlement Date or obligations of FX Clearing Members and the Clearing House on any FX Settlement Date or to postpone, defer, cancel, bring forward or suspend the publication of any Settlement Rate, as referred to in Rule 1702(c), or the applicability or timing of any settlement obligation other than in accordance with the relevant EMTA Template as amended pursuant to the Published Terms and paragraph 8.3, then the Clearing House will consult the FX Risk Committee, in advance of the Clearing House taking any action. Such consultation may take place pursuant to the provisions of the terms of reference of the FX Risk Committee relating to emergency meetings.

6. SETTLEMENT OF FINANCIALLY-SETTLED FX CONTRACTS

- 6.1 For Financially-Settled FX Contracts, Parts 3 and 5 of the Rules and the Finance Procedures apply in respect of payments arising from settlement obligations in the same way as they apply to other payments to and from the Clearing House. In accordance with the Finance Procedures and Part 3 of the Rules, in relation to the settlement of an FX Contract, the FX Mark-to-Market Margin repayable on settlement of such FX Contract shall be offset against the Settlement Currency Amount payable on settlement of such FX Contract (provided that each such payment is then payable by a different party to the FX Contract) and only the balance after such set-off shall remain payable on the FX Settlement Date of such FX Contract.
- 6.2 No FX Clearing Member shall, or shall be entitled to, rescind any settlement instruction or otherwise refuse to settle any FX Contract in the manner specified in the Rules and these FX Procedures, unless otherwise directed by the Clearing House pursuant to the Rules and these FX Procedures.
- 6.3 FX Original Margin and FX Mark-to-Market Margin shall continue to be called and payable to and from the Clearing House (as applicable) in relation to any Financially-Settled FX Contract until such time as settlement of such Financially-Settled FX Contract actually occurs. No FX Original Margin or

FX Mark-to-Market Margin requirements shall apply in respect of a Financially-Settled FX Contract as from the time that settlement is complete.

7. **FX MARKET PRICES AND FX MARK-TO-MARKET INTEREST**

7.1 **FX Market Prices**

- (a) FX Market Prices will generally be determined in accordance with the risk policies of the Clearing House.
- (b) As referred to in Rule 1702(c), the Clearing House shall be entitled to determine or amend any FX Market Price or forward point for purposes of calculating FX Mark-to-Market Margin itself on any date, at its discretion, for any Financially-Settled FX Contract for a Currency Pair or to postpone, defer, cancel, bring forward or suspend the publication of any FX Market Price (and in that case, obligations of FX Clearing Members and the Clearing House calculated with reference to an FX Market Price shall also be postponed, deferred, cancelled, brought forward or suspended, as applicable) including if:
 - (i) FX Clearing Members fail on any day to submit data required to determine the relevant FX Market Price;
 - (ii) there are material errors in data provided by FX Clearing Members for this purpose;
 - (iii) material information is not available for the purposes of calculating the FX Market Price, due to a disruption, Valuation Postponement or Unscheduled Holiday affecting a particular country, its banks or otherwise; or
 - (iv) there has been a Force Majeure Event.

For such purposes, the Clearing House may extrapolate previously provided FX Market Prices for the purposes of determining FX Market Prices for Financially-Settled FX Contracts.

- (c) When the Clearing House so uses its discretion so to set an FX Market Price, the reasons for doing so and the basis for the establishment of the FX Market Price in such circumstances shall be recorded by the Clearing House.

7.2 **FX Mark-to-Market Interest**

- (a) FX Mark-to-Market Interest will be calculated daily, including in respect of weekends and currency holidays, based upon the applicable overnight rate notified by the Clearing House from time to time to FX Clearing Members for each of the FX MTM Currencies.
- (b) In respect of each FX Contract, FX Mark-to-Market Interest is payable in accordance with Part 3 of the Rules and the Finance Procedures:
 - (i) by the relevant FX Clearing Member to the Clearing House in respect of the absolute amount of any negative FX Mark-to-Market Margin Balance on any day; and
 - (ii) by the Clearing House to such FX Clearing Member in respect of any positive FX Mark-to-Market Margin Balance on any day.

8. **CLEARED FX PRODUCTS: ELIGIBLE SETS**

- 8.1 Details of the Published Terms of Financially-Settled FX Contracts for each available Currency Pair which will arise on Clearing of an FX Transaction, to the extent that they are not contained in the published Rules and these FX Procedures, will be notified from time to time by the Clearing House to Clearing Members by Circular.

8.2 The Clearing House may add to, amend or make deletions from the list of Currency Pairs for which there are Financially-Settled FX Contracts which will arise on Clearing of an FX Transaction by issuing a Circular. Any such addition, amendment or deletion (other than any amendment to the available tenors of Financially-Settled FX Contracts in relation to a Currency Pair) shall be made following consultation with the FX Risk Committee. In the case of a deletion of a Currency Pair, the Clearing House will consult with the FX Risk Committee in relation to the establishment of suitable arrangements for the run off, termination or other management of FX Contracts in such Currency Pair and any open interest therein.

8.3 All Financially-Settled FX Contracts for a particular Currency Pair will have the same standard terms, being the Published Terms, unless the Clearing House launches a new Currency Pair Series pursuant to paragraph 8.4. For the avoidance of doubt, any amendment to an EMTA Template (including any amendment to the definition of a term used directly or indirectly therein) will not result in any amendment to the Contract Terms of FX Contracts unless the relevant amendment is formally adopted by the Clearing House pursuant to this paragraph 8 and Rule 109. The Published Terms of all Financially-Settled FX Contracts of a Set may be amended, restated or updated pursuant to:

- (a) the issuance by the Clearing House of a Circular, in respect of those of the Published Terms of a particular Set which pursuant to these FX Procedures are defined with reference to Circulars; or
- (b) amendments to the Rules or these FX Procedures, in respect of those of the Published Terms of a particular Set as are set out in the Rules or these FX Procedures, respectively,

subject in any case to consultation with the FX Risk Committee. Any such amendments shall apply both to new Financially-Settled FX Contracts arising pursuant to Clearing after the date of the amendment and to existing Financially-Settled FX Contracts, with the result that all Financially-Settled FX Contracts for a particular Currency Pair Series having the same specified FX Settlement Date will have identical terms (other than for Trade Date, parties, Reference Currency Notional Amount, Notional Amount and Forward Rate).

8.4 If there is an amendment to an EMTA Template (including any amendment to the definition of a term used directly or indirectly therein), any new EMTA Template is published or any other FX-related recommendation or amendment is published or used that applies to FX transactions similar to FX Contracts or otherwise if the Clearing House decides to do so, the Clearing House may (following consultation with the FX Risk Committee) launch a new Currency Pair Series which has the same currencies as an existing Currency Pair but different Published Terms. If it does so, the Published Terms for each Currency Pair Series will be specified by the Clearing House by Circular, Rule Change or amendment to the Procedures (as appropriate). FX Contracts of a Currency Pair Series will only arise on the Clearing of an FX Transaction specifying that Currency Pair Series submitted for Clearing on or after the launch of such Currency Pair Series.

9. **FX DEFAULT COMMITTEE**

9.1 The FX Default Committee shall be comprised of not more than three FX Committee-Eligible Clearing Members designated in accordance with paragraph 9.2 (each, an "**FX Default Committee Participant**"). The FX Default Committee shall act as a committee of the Clearing House and for such time as any FX Default Committee is convened, relevant FX Default Committee Members shall be treated as if they were seconded to and shall act as agent for the Clearing House and accordingly may take actions in the name of the Clearing House to the extent authorised by this paragraph 9. Accordingly, Rule 114 applies to bind the Clearing House, the relevant Defaulter and Clearing Members in respect of any action taken by the FX Default Committee on behalf of the Clearing House in accordance with its competencies, as set out in this paragraph 9. Each FX Default Committee Participant shall designate an employee of it or one of its Affiliates with FX trading experience by notice in writing to the Clearing House (an "**Eligible Employee**") to serve as its representative on the FX Default Committee, along with one or more Eligible Employees as alternates in the event such

person is not available on a timely basis (the designated employee or alternate, as applicable, an "**FX Default Committee Member**"). Eligible Employees and their alternates must be located in the London region or be able to travel to London at short notice and stay in the London region for a period of several weeks thereafter. An FX Default Committee Participant may replace its designated employee or alternate(s) as FX Default Committee Member with an Eligible Employee from time to time by notice in writing to the Clearing House.

- 9.2 The Clearing House shall randomly order all FX Committee-Eligible Clearing Members into a list (the "**FX Default Committee Participant List**"). The procedure for any random ordering for the purposes of this paragraph 9.2 shall be determined by the Clearing House at its discretion and may be amended at the Clearing House's discretion if any Clearing Member specifies a preference for the time at which its representatives will serve on the FX Default Committee. If two or more FX Committee-Eligible Clearing Members are or become Affiliates, as determined by the Clearing House, they shall be treated as one FX Committee-Eligible Clearing Member on the FX Default Committee Participant List, but the FX Default Committee Participant may represent all FX Committee-Eligible Clearing Members that are Affiliates. Any new FX Committee-Eligible Clearing Member will be added to the end of the FX Default Committee Participant List.
- 9.3 The FX Default Committee for the initial Relevant FX Default Committee Period shall be comprised of the first three FX Committee-Eligible Clearing Members on the FX Default Committee Participant List. The first listed FX Committee-Eligible Clearing Member will serve on the FX Default Committee until the end of the next complete Relevant FX Default Committee Period. The second listed FX Committee-Eligible Clearing Member will serve on the FX Default Committee until the end of the second next complete Relevant FX Default Committee Period. The third listed FX Committee-Eligible Clearing Member will serve on the FX Default Committee until the end of the third next complete Relevant FX Default Committee Period. At the end of each Relevant FX Default Committee Period (excluding any partial Relevant FX Default Committee Period following the launch of FX Clearing), the first retiring or longest-serving then FX Default Committee Participant shall cease to be an FX Default Committee Participant and shall be moved to the end of the FX Default Committee Participant List, and the next FX Committee-Eligible Clearing Member on the FX Default Committee Participant List shall be an FX Default Committee Participant for the next six months. If at any time, there are fewer than three FX Committee-Eligible Clearing Members on the FX Default Committee Participant List, all such FX Committee-Eligible Clearing Members shall be FX Default Committee Participants. The "**Relevant FX Default Committee Period**" will be each period of: 1 January to 28 or 29 February; 1 March to 30 April; 1 May to 30 June; 1 July to 31 August; 1 September to 31 October; and 1 November to 31 December (in each case inclusive) in each calendar year, unless otherwise specified by the Clearing House.
- 9.4 Any FX Clearing Member that ceases to be an FX Committee-Eligible Clearing Member shall be removed from the FX Default Committee Participant List and, if such Clearing Member is serving on the FX Default Committee at the time of removal, shall be replaced on the FX Default Committee by the next FX Committee-Eligible Clearing Member on the FX Default Committee Participant List. Any Clearing Member that becomes (or resumes being) an FX Committee-Eligible Clearing Member shall be added to the end of the FX Default Committee Participant List.
- 9.5 If the Clearing House determines that any Eligible Employee is not available to participate in the FX Default Committee in a timely manner or should for any other reason be removed from or not participate in actions to be undertaken by the FX Default Committee, the Clearing House shall give notice to the FX Clearing Member who appointed such person who shall appoint a new Eligible Employee or alternate (if an FX Default Committee has been convened within one hour and otherwise within 2 Business Days). If the Clearing House determines, whether upon the request of such FX Default Committee Participant or upon the Clearing House's own initiative, that any FX Default Committee Participant has a conflict or lacks impartiality with regard to an action to be undertaken by the FX Default Committee (e.g., it or its Affiliate is the subject of the Event of Default), fails to appoint a new Eligible Employee or alternate when requested to do so under this paragraph 9.5 or should for any other reason be removed from or not participate in actions to be undertaken by the FX Default

Committee, the Clearing House shall remove such FX Default Committee Participant and, as promptly as practicable under the circumstances, replace it with the next FX Committee-Eligible Clearing Member on the FX Default Committee Participant List and, pending such replacement, the remaining FX Default Committee Members shall continue to perform the responsibilities of the FX Default Committee.

9.6 Each FX Default Committee Member and FX Default Committee Participant when acting in such capacity shall act at all times in good faith in the interests of the Clearing House. To the extent that the FX Default Committee is given powers under paragraph 9 of these FX Procedures to act on behalf of the Clearing House, each FX Default Committee Member shall be treated as an officer of the Clearing House for purposes of Rule 111(a) and as a Representative of the Clearing House for purposes of Rule 111(c) and is therefore entitled to the benefit of those provisions accordingly.

9.7 The FX 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 relation to FX Contracts only;
- (b) assist and advise the Clearing House on how a Defaulter's portfolio should be split for purposes of transfers, sales, auctions, hedging or otherwise, where deemed necessary;
- (c) execute close-out, offsetting or hedging transactions on behalf of the Clearing House to the extent that the FX Default Committee or any of its members has been provided with authority from the Clearing House to do so;
- (d) assist the Clearing House in determining (and thereafter adjusting) any sale or transfer prices, target prices or estimates of achievable auction prices for such transactions relating to FX Contracts, utilising historical data from past auctions where applicable;
- (e) assist the Clearing House in relation to the unwinding of any FX Contracts and otherwise as provided in the Rules and Procedures in relation thereto;
- (f) provide the Clearing House with recommendations as to how prudently to unwind the FX Contracts of a Defaulter that was an FX Clearing Member and the related close-out of FX Contracts and any hedging transactions;
- (g) 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) in relation to FX Contracts would achieve, or would be likely to achieve, the purpose of an orderly unwind of any FX Contracts to which a Defaulter is party or a reduction of the risk specified in Rule 902(b);
- (h) provide recommendations to the Clearing House in respect of its management of the Event of Default;
- (i) carry out such functions as are specified in the FX Default Management Policy;
- (j) carry out such other activities and functions as are delegated to it by the Clearing House; and
- (k) be consulted in respect of any proposal by the Clearing House to override the implementation or application of the FX Default Management Policy pursuant to Rule 1707(c).

The target prices or estimates of achievable auction prices shall be established by the Clearing House in consultation with the FX 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 FX Contracts or hedging contracts under Rule 902. Any target price or estimate of

achievable auction price so determined by the Clearing House may be adjusted by the Clearing House in consultation with the FX 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 target price or estimate of achievable auction price to the time any new FX Contracts are entered into. The powers and competencies of the FX Default Committee shall be bounded by the requirements of Rule 1707.

- 9.8 Each FX Default Committee Participant and FX Default Committee Member (each, for purposes of this paragraph 9.8, 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 as it is so advised must be disclosed and shall not otherwise disclose Confidential Material.
- 9.9 Each FX Default Committee Participant and FX Default Committee Member shall be responsible for its own costs associated with its service in such position.
- 9.10 The Clearing House acknowledges and agrees that it will consider in good faith the recommendations of any FX Default Committee in relation to matters over which the FX Default Committee has competence.

10. **CLEARING HOUSE FX CONTRIBUTIONS**

- 10.1 The Clearing House FX Contributions are to be determined and allocated from time to time in accordance with the following provisions:
- (a) the minimum amount of the Clearing House FX Initial Contribution shall be USD 2.5 million;
 - (b) the minimum amount of the Clearing House FX GF Contribution shall be USD 2.5 million;
 - (c) the maximum amount of the Clearing House FX Initial Contribution shall be USD 25 million;
 - (d) the maximum amount of the Clearing House FX GF Contribution shall be USD 25 million;
 - (e) subject to the minima in paragraphs 10.1(a) and (b) and the maxima in paragraphs 10.1(c) and (d), the total Clearing House FX Contributions from time to time shall be of an amount representing 5% of the total FX Guaranty Fund Contributions required from time to time to be provided to the Clearing House by FX Clearing Members (excluding FX Guaranty Fund Contributions applied under Rule 1103);
 - (f) subject to paragraph 10.1(g), the amount of the Clearing House FX Initial Contribution and the amount of the Clearing House FX GF Contribution from time to time shall always be identical to one another; and
 - (g) if the calculations in paragraph 10.1(f) result in a fraction of a USD cent being allocated to the Clearing House FX GF Contribution, that fraction of a cent shall be allocated to the Clearing House FX Initial Contribution so as to round up the Clearing House FX Initial Contribution to the nearest higher USD cent and round down the Clearing House FX GF Contribution to the nearest lower USD cent.

- 10.2 The requirements of paragraph 10.1 shall not result in any breach by the Clearing House of its obligations as a result of any temporary reduction to Clearing House FX Contributions as a result of the application of any amount of Clearing House FX Contributions pursuant to Rule 1103. If the total amount of Clearing House FX Contributions is reduced by any application of any amount of Clearing House FX Contributions pursuant to Rule 1103, the Clearing House shall, by the open of business on the Business Day following the date of any application of Clearing House FX Contributions, allocate additional Clearing House FX Contributions equal to the amount by which the Clearing House FX Contributions were applied. Such allocations shall be made as Clearing House FX Initial Contribution and Clearing House FX GF Contribution in proportion to the amount by which each such contribution was applied.
- 10.3 For the purposes of calculating the amount of any application of any amount of Clearing House FX Contributions pursuant to Rule 1103, the value of the Clearing House FX Contribution so applied shall be determined in USD as of the date of such application at the exchange rates used by the Clearing House pursuant to the Finance Procedures at the relevant time, where any exchange rate is required to be applied.
- 10.4 The Clearing House may substitute assets constituting the Clearing House FX Contributions in the same way and to the same extent that assets constituting Guaranty Fund Contributions may be substituted by Clearing Members.
- 10.5 Without prejudice to Applicable Laws relating to insolvency, the Clearing House shall have no obligation to contribute or allocate any additional Clearing House FX Contributions in any situation in which final sentence of Rule 209(c) or the final sentence of Rule 209(f) applies, except in either case in respect of any due but unallocated amounts at the time of such occurrence.

11. **CONTRACTUAL TERMS**

- 11.1 Each Financially-Settled FX Contract shall be subject to the following contractual terms.
- 11.2 Each Financially-Settled FX Contract shall include the terms and conditions set out in Part I of the “General Contract Terms and ICE OTC Standard Contract Terms and Eligibility Criteria” section of the Procedures (excluding section 2.2 thereof) as part of its Contract Terms as if the same were set out here and applied to Financially-Settled FX Contracts, *mutatis mutandis*. In the event of any conflict or inconsistency between any two provisions of the terms set out or referred to herein, the following order of priority shall apply:
- (a) First, these FX Procedures other than the portion of these FX Procedures referred to in (b) below;
 - (b) Second, the relevant section of Part I of the “General Contract Terms and ICE OTC Standard Contract Terms and Eligibility Criteria” section of the Procedures.
- 11.3 Where:
- (a) an FX Transaction between FX CM1 and FX CM2 is submitted for Clearing;
 - (b) two Financially-Settled FX Contracts, one between FX CM1 and the Clearing House (the "**FX CM1 Contract**") and the other between the Clearing House and FX CM2 (the "**FX CM2 Contract**") arise as a result of Clearing; and
 - (c) it is necessary to determine certain terms of the FX CM1 Contract and the FX CM2 Contract by reference to such FX Transaction,

then:

- (i) any such term applying to FX CM1 in the FX CM1 Contract or to the Clearing House in the FX CM2 Contract will be determined by reference to the role of FX CM1; and
- (ii) any such term applying to the Clearing House in the FX CM1 Contract or to FX CM2 in the FX CM2 Contract will be determined by reference to the role of CM2,

in each case as set out in the information submitted to the Clearing House in respect of an FX Transaction in accordance with paragraph 4.2(b).

11.4 The following terms of each Financially-Settled FX Contract will be determined by reference to the information submitted in respect of an FX Transaction in accordance with paragraph 4.2(b), subject as set out below:

- (a) Reference Currency Buyer;
- (b) Reference Currency Seller;
- (c) Trade Date where, pursuant to paragraph 4.10, the Trade Date of the Financially-Settled FX Contract is to be the same as the Trade Date of such FX Transaction;
- (d) Reference Currency;
- (e) Reference Currency Notional Amount;
- (f) Notional Amount;
- (g) Forward Rate;
- (h) Currency Pair Series, if applicable;
- (i) Settlement Currency; and
- (j) FX Settlement Date.

11.5 The following terms of each Financially-Settled FX Contract will be determined by reference to the relevant Circular setting out the Published Terms:

- (a) FX Valuation Date;
- (b) Settlement Rate Option.

11.6 The following terms shall apply to Financially-Settled FX Contracts:

- (a) the Disruption Events, Disruption Fallbacks and any other terms (if specified by the Clearing House in the relevant Circular) set out in the EMTA Template published on such date as is specified in the relevant Circular as being applicable to the Currency Pair of the Financially-Settled FX Contract will apply;
- (b) any defined term used in the specified EMTA Template and incorporated into the terms of a Financially-Settled FX Contract will have the meaning set out in such EMTA Template (where therein defined); and
- (c) if any defined term used in the relevant EMTA Template is not defined in the EMTA Template, the Rules, these FX Procedures or the relevant Circular specifying Published Terms, that term shall have the meaning set out in the 1998 FX and Currency Option Definitions (as published by the International Swaps and Derivatives Association, Inc., among others),

subject in each of cases (a), (b) and (c) to any amendments set out in the relevant Circular specifying Published Terms, the Rules and these FX Procedures (as each of the foregoing is amended or restated from time to time in accordance with paragraph 8.3). Further to Rule 102(f), to the extent there is any conflict between any of the provisions of the Rules, these FX Procedures, a Circular specifying Published Terms, the relevant EMTA Template or the aforementioned 1998 FX and Currency Option Definitions in relation to any Contract Terms of an FX Contract, the provision of the first document mentioned in this sentence shall prevail, control, govern and be binding upon the parties.

11.7 The Calculation Agent will be the Clearing House for all Financially-Settled FX Contracts. Any price determination pursuant to a Calculation Agent Determination of any Settlement Rate in respect of any Financially-Settled FX Contract is subject to consultation with the FX Risk Committee.

11.8 In relation to each Financially-Settled FX Contract, on the related FX Settlement Date:

- (a) if the Settlement Currency Amount is a positive number, the Reference Currency Buyer will pay that amount in the Settlement Currency to the Reference Currency Seller; or
- (b) if the Settlement Currency Amount is a negative number, the Reference Currency Seller will pay the absolute value of that amount in the Settlement Currency to the Reference Currency Buyer.

11.9 Contract specifications for Financially-Settled FX Contracts:

General	Financially-Settled FX Contracts are contracts between the Reference Currency Buyer and the Reference Currency Seller for the cash settlement of the Settlement Currency Amount in the Settlement Currency on the FX Settlement Date.
Currency Pairs	As specified in Circulars published by the Clearing House from time to time setting out certain Published Terms for Financially-Settled FX Contracts.
Tenors	Tenors are generally available with FX Settlement Dates scheduled on any day up to two (2) years after Clearing, unless the Published Terms specify otherwise. Certain Currency Pairs for Financially-Settled FX Contracts may be limited to one (1) year tenors, unless otherwise specified in the Published Terms.
FX Valuation Date	The FX Valuation Date for any Financially-Settled FX Contract will be scheduled by reference to the FX Settlement Date which is specified in the Financially-Settled FX Contract, subject to adjustment as set out in the Published Terms for such Financially-Settled FX Contract.
Contract size	Each Financially-Settled FX Contract is for one (1) sub-unit of the Settlement Currency down to a precision of 0.01 (e.g. 1 USD cent).
FX MTM Currency	For each Financially-Settled FX Contract, the currency of the Settlement Currency.
Maximum daily price fluctuation	No limits.
Settlement	Each Financially-Settled FX Contract is cash settled on the FX Settlement Date, based upon the Settlement Currency Amount,

	pursuant to Rule 1705.
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ICE Clear Europe
OTC FX Product Guide
and Published Terms for FX Contracts

**OTC Foreign Exchange
Clearing Services**

October 2012

CONFIDENTIAL

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1 Product Summary

ICE Clear Europe plans to launch several cleared FX non-deliverable forward contracts in 2012.

1.1 Non-deliverable FX Forwards

ICE will clear non-deliverable FX forwards and FX swaps in the following currency pairs:

1.1.1 *Tranche-1:*

Currency Description	Currency Pair	MTM & Settlement Currency	Settlement Rate Option	Maximum Tenor	Price Precision
U.S. Dollar / Brazilian Real	USD/BRL	USD	BRL PTAX Offer Rate (BRL09) 1:15pm Sao Paulo Time on the FX Valuation Date (See e.g. Reuters Page BRFR)	2 years	.000001
U.S. Dollar / Korean Won	USD/KRW	USD	KRW KFTC18 (KRW02) 3:30pm Seoul Time on the FX Valuation Date (See e.g. Reuters Page KFTC18)	2 years	.000001
U.S. Dollar / Chinese Yuan	USD/CNY	USD	CNY SAEC (CNY01) 9:15am Beijing Time on the FX Valuation Date (See e.g. Reuters Page SAEC)	2 years	.000001
U.S. Dollar / Indian Rupee	USD/INR	USD	INR RBIB (INR01) 12:30pm Mumbai Time on the FX Valuation Date (See e.g. Reuters Page RBIB)	2 years	.000001
U.S. Dollar / Indonesian Rupiah	USD/IDR	USD	IDR ABS (IDR01) 11:30am Singapore Time on the FX Valuation Date (See e.g. Reuters Page ABSIRFIX01)	2 years	.000001
U.S. Dollar / Chilean Peso	USD/CLP	USD	CLP DOLAR OBS (CLP10) 10:30am Santiago Time on the FX Valuation Date (See e.g. Reuters Page CLPOB=)	2 years	.000001
U.S. Dollar / Russian Ruble	USD/RUB	USD	RUB CME-EMTA (RUB03) 1:30pm Moscow Time on the FX Valuation Date (See e.g. Reuters Page EMTA)	2 years	.000001

Note: descriptions of settlement rates in the table above are included for convenience and not intended to amend the settlement rates set out in the applicable EMTA Template.

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2 Non-deliverable FX Forwards

2.1 USD/BRL FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Brazilian Real (USD/BRL) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Brazilian Real per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Brazilian Real per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits

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Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.
Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract. FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).

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	<p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	As set forth in the applicable EMTA Template. In summary, this is BRL PTAX Offer Rate (BRL09), which is expressed as the offered amount of Brazilian Real per one U.S. Dollar for settlement in two (2) business days, as reported by the Banco Central do Brazil at approximately 1:15pm São Paulo time on the FX Valuation Date.
Primary fixing source Valuation Postponement:	None
Valuation Business Days	São Paulo and New York City
Settlement Business Days	New York City
First Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option is unavailable, then the Settlement Rate shall be determined from the First Fallback Reference Price (i.e. "EMTA BRL Industry Survey Rate" (BRL12)) which is expressed as the amount of Brazilian Real per one U.S. Dollar, for settlement in two business days, as published on EMTA's web site (www.emta.org) at approximately 3:45pm Sao Paulo time, or as soon thereafter as practicable, on the FX Valuation Date.</p> <p>In the event that neither the Settlement Rate Option nor the First Fallback Reference Price are available, then Valuation Postponement will apply.</p>

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Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with BRL as the Reference Currency and USD as the Settlement Currency.
FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	Up to thirty (30) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than thirty (30) days, by Circular. Any such reduction will equally reduce the thirty (30) day time period

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	<p>under “Deferral Period” for Unscheduled Holidays and under “Cumulative Events”.</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the Settlement Rate Option or any of the Fallback Reference Prices, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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2.2 USD/KRW FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Korean Won (USD/KRW) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Korean Won per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Korean Won per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is KRW KFTC18 (KRW02), which is expressed as the amount of Korean Won per one U.S. Dollar for settlement in two (2) business days, as reported by the Korea Financial Telecommunications and Clearing Corporation at approximately 3:30pm Seoul time on the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to fourteen (14) calendar days
Valuation Business Days	Seoul
Settlement Business Days	New York City
Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (ie "SFEMC KRW Indicative Survey Rate (KRW04))", which is expressed as the amount of Korean Won per one U.S. Dollar, for settlement in two business days, as published on SFEMC's web site (www.sfemc.org) at approximately 3:30pm Singapore time, or as soon thereafter as practicable.</p>
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with KRW as the Reference Currency and USD as the Settlement Currency.

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FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	<p>Up to fourteen (14) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than fourteen (14) days, by Circular.</p> <p>Any such reduction will equally reduce the fourteen (14) day time period under "Deferral Period" for Unscheduled Holidays and under "Cumulative Events".</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the</p>

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	<p>Settlement Rate Option and, at the end of the “Fallback Survey Postponement Period”, the Settlement Rate has not been determined by reference to the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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2.3 USD/CNY FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Chinese Yuan (USD/CNY) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Chinese Yuan per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Chinese Yuan per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is CNY SAEC (CNY01), which is expressed as the amount of Chinese Renminbi per one U.S. Dollar for settlement in two (2) business days, as reported by the People's Bank Of China, at approximately 9:15am Beijing time on the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to fourteen (14) calendar days
Valuation Business Days	Beijing
Settlement Business Days	New York City
Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (i.e. SFEMC CNY Indicative Survey Rate (CNY02))", which is expressed as the amount of Chinese Renminbi per one U.S. Dollar, for settlement in two business days, as published on SFEMC's web site (www.sfemc.org) at approximately 3:30pm Singapore time, or as soon thereafter as practicable.</p>
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with CNY as the Reference Currency and USD as the Settlement Currency.

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FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	<p>Up to fourteen (14) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than fourteen (14) days, by Circular.</p> <p>Any such reduction will equally reduce the fourteen (14) day time period under "Deferral Period" for Unscheduled Holidays and under "Cumulative Events".</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the</p>

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	<p>Settlement Rate Option and, at the end of the “Fallback Survey Postponement Period”, the Settlement Rate has not been determined by reference to the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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2.4 USD/INR FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Indian Rupee (USD/INR) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Indian Rupee per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Indian Rupee per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is INR RBIB (INR01), which is expressed as the amount of Indian Rupee per one U.S. Dollar for settlement in two (2) business days, as reported by the Reserve Bank of India at approximately 12:20pm Mumbai time on the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to fourteen (14) calendar days
Valuation Business Days	Mumbai
Settlement Business Days	New York City
Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (i.e. "SFEMC INR Indicative Survey Rate (INR02))", which is expressed as the amount of Indian Rupee per one U.S. Dollar, for settlement in two business days, as published on SFEMC's web site (www.sfemc.org) at approximately 3:30pm Singapore time, or as soon thereafter as practicable.</p>
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with INR as the Reference Currency and USD as the Settlement Currency.

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FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	<p>Up to fourteen (14) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than fourteen (14) days, by Circular.</p> <p>Any such reduction will equally reduce the fourteen (14) day time period under "Deferral Period" for Unscheduled Holidays and under "Cumulative Events".</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the</p>

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	<p>Settlement Rate Option and, at the end of the “Fallback Survey Postponement Period”, the Settlement Rate has not been determined by reference to the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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2.5 USD/IDR FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Indonesian Rupiah (USD/IDR) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Indonesian Rupiah per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Indonesian Rupiah per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is IDR ABS (IDR01), which is expressed as the amount of Indonesian Rupiah per one U.S. Dollar for settlement in two (2) business days, as reported by the Association of Banks in Singapore at approximately 11:30am Singapore time on the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to fourteen (14) calendar days
Valuation Business Days	Jakarta and Singapore
Settlement Business Days	New York City
Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (i.e. "SFEMC IDR Indicative Survey Rate (IDR02))", which is expressed as the amount of Indonesian Rupiah per one U.S. Dollar, for settlement in two business days, as published on SFEMC's web site (www.sfemc.org) at approximately 3:30pm Singapore time, or as soon thereafter as practicable.</p>
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with IDR as the Reference Currency and USD as the Settlement Currency.

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FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	<p>Up to fourteen (14) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than fourteen (14) days, by Circular.</p> <p>Any such reduction will equally reduce the fourteen (14) day time period under "Deferral Period" for Unscheduled Holidays and under "Cumulative Events".</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the</p>

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	<p>Settlement Rate Option and, at the end of the “Fallback Survey Postponement Period”, the Settlement Rate has not been determined by reference to the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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2.6 USD/CLP FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Chilean Peso (USD/CLP) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Chilean Peso per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Chilean Peso per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is CLP DOLAR OBS (CLP10), which is expressed as the amount of Chilean Pesos per one U.S. Dollar for settlement in one (1) business day, as reported by the Banco Central de Chile by not later than 10:30am Santiago time on the first business day following the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to thirty (30) calendar days
Valuation Business Days	Santiago and New York City
Settlement Business Days	New York City
Fallback Reference Price	As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (i.e. "EMTA CLP Indicative Survey Rate" (CLP11)).
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 1 August, 2006, with CLP as the Reference Currency and USD as the Settlement Currency.
FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business

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	Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than two (2) Settlement Business Days after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling two (2) Valuation Business Days before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls two (2) Valuation Business Days before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is two (2) Valuation Business Days before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall two (2) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	<p>Up to thirty (30) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under “Maximum Days of Postponement” for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than thirty (30) days, by Circular.</p> <p>Any such reduction will equally reduce the thirty (30) day time period under “Deferral Period” for Unscheduled Holidays and under “Cumulative Events”.</p> <p>Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the Settlement Rate Option or the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p>

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	Otherwise, as set out in the applicable EMTA Template.
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2.7 USD/RUB FX Forward Contract Specification

Introduction	Cleared OTC U.S. Dollar / Russian Ruble (USD/RUB) Spot, Forwards and Swaps. As set out in the Rules, the terms include certain provisions of the Applicable EMTA Template, as amended and referred to in the Rules. Some of those provisions are summarised below.
Contract Units	The unit of clearing shall be one (1) U.S. Dollar, in any amount down to a precision of \$0.01 USD.
Tenors	The FX Settlement Date originally specified must fall not later than the day which is expected (as at the Trade Date) to be the last Settlement Business Day falling within the period of two calendar years beginning on the FX Settlement Date which would standardly apply in the market to a non-deliverable FX "spot" transaction entered into on the Trade Date.
Contract Security	ICE Clear Europe acts as central counterparty to all FX Contracts up to and including final settlement.
Transaction Registration Hours	Transactions may be submitted for clearing at any time during the Clearing House's normal operating hours up until one (1) Business Day prior to the applicable FX Settlement Date, subject to exceptions for currency and other holidays, in accordance with the Rules and Procedures of the Clearing House.
Quotation	The contract price is in units of the Reference Currency per unit of the Settlement Currency (interbank conventions), ie Russian Ruble per U.S. Dollar.
Minimum Price Fluctuation	Minimum price fluctuations shall be in multiples of 0.000001 Russian Ruble per U.S. Dollar.
Maximum Daily Price Fluctuation	No limits
Position Limits	Generally, none, subject to any particular limit imposed on a Clearing Member or otherwise under Part 6 of the Rules.

Daily Mark-To-Market Reference Rates	The Clearing House determines the rates at which FX Contracts are marked-to-market each Business Day, in accordance with its Rules and Procedures. In summary, the rates are based upon a combination of spot prices and forward points at standard tenors, which are used to generate a forward curve. Unrealized mark-to-market gains or losses as at the FX Settlement Date are (i) calculated in the Reference Currency, (ii) converted to USD at the end-of-day reference rate for that FX Settlement Date, and (iii) then discounted to present value using an OIS discount curve.
FX Mark To Market Margin	All open FX Contracts are 'marked-to-market' on each Business Day in the Reference Currency in accordance with the Rules, FX Procedures and applicable Margin and risk policies, with FX Mark-to-Market Margin, calculated after conversion into U.S. Dollars, being called and payable in cash in U.S. Dollars.
FX Mark To Market Interest	<p>A Clearing Member will pay FX Mark-to-Market Interest (overnight interest) to the Clearing House on the FX Mark-to-Market Margin Balance in the Clearing Member's favor (if any) in respect of any FX Contract. Similarly, the Clearing House will pay FX Mark-to-Market Interest to the relevant Clearing Member on the FX Mark-to-Market Margin Balance in the Clearing House's favor on any given FX Contract.</p> <p>FX Mark-to-Market Interest is calculated, accrues and is payable in U.S. Dollars, in accordance with the Rules and Procedures.</p>
Trading Mechanism	FX Contracts are eligible for clearing if traded or executed on any acceptable FX Trade Processing Platform and submitted to ICE Clear Europe for clearing and settlement.
Delivery / Settlement Type	Each FX Contract is cash settled, in U.S. Dollars, for value on the applicable FX Settlement Date.
Settlement Currency Amount	<p>All open FX Contracts will be settled on the relevant FX Settlement Date in U.S. Dollars, based upon the product of (i) the Notional Amount of the transaction in U.S. Dollars and (ii) 1 minus (the Forward Rate originally specified or applicable to the transaction as submitted for Clearing divided by the Settlement Rate).</p> <p>If this U.S. Dollar amount is positive then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall debit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will credit the</p>

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	<p>Clearing Member's account for this amount in U.S. Dollars.</p> <p>If this U.S. Dollar amount is negative then, where the Clearing Member is the Reference Currency Seller, the Clearing House shall credit the Clearing Member's account or, where the Clearing Member is the Reference Currency Buyer, the Clearing House will debit the Clearing Member's account for absolute value of this amount in U.S. Dollars.</p>
Settlement Rate Option (i.e. primary fixing source)	<p>As set forth in the applicable EMTA Template. In summary, this is RUB CME-EMTA (RUB03), which is expressed as the amount of Russian Rubles per one U.S. Dollar for settlement in one (1) business day, as calculated by the Chicago Mercantile Exchange (pursuant to the CME/EMTA Daily Russian Ruble Per U.S. Dollar Reference Rate Methodology) at approximately 1:30pm Moscow time on the FX Valuation Date.</p> <p>In the event that the Settlement Rate Option is not available, then Valuation Postponement will apply.</p>
Primary fixing source Valuation Postponement:	Up to fourteen (14) calendar days
Valuation Business Days	Moscow and New York City
Settlement Business Days	New York City
Fallback Reference Price	<p>As set forth in the applicable EMTA Template. In summary, if the Settlement Rate Option remains unavailable after Valuation Postponement, then the Settlement Rate shall be determined from the Fallback Reference Price (i.e. "EMTA RUB Indicative Survey Rate (RUB04)"), which is expressed as the amount of Russian Ruble per one U.S. Dollar, for settlement in one (1) business day, as published on EMTA's web site (www.emta.org) at approximately 2:45pm Moscow time, or as soon thereafter as practicable.</p>
Applicable EMTA Template	The applicable EMTA Template for this currency pair is that published on 17 May, 2006, with RUB as the Reference Currency and USD as the Settlement Currency.

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FX Settlement Date (i.e. value date)	As set forth in the applicable EMTA Template. In summary, a New York City Business Day, subject to adjustment if the scheduled FX Valuation Date is adjusted in accordance with the Following Business Day Convention, or if Valuation Postponement applies, and in each such case, the FX Settlement Date shall be as soon as practicable after, but not more than one (1) Settlement Business Day after, the adjusted FX Valuation Date.
FX Valuation Date (i.e. fixing date)	The FX Valuation Date will always be specified (as at the Trade Date) as the day falling one (1) Valuation Business Day before the specified FX Settlement Date and is subject to adjustment as summarized below.
Scheduled Holidays	If, by reason of change after the Trade Date in the days that are Valuation Business Days (other than a change which would constitute an Unscheduled Holiday), the FX Valuation Date no longer falls one (1) Valuation Business Day before the specified FX Settlement Date, then the FX Valuation date will be adjusted to fall on the first earlier date which is one (1) Valuation Business Day before the specified FX Settlement Date. Otherwise, as set out in the applicable EMTA Template.
Unscheduled Holidays or Valuation Postponement	If the FX Valuation Date is adjusted for an Unscheduled Holiday (in accordance with the Following Business Day Convention) or Valuation Postponement applies, the FX Settlement Date will fall one (1) Valuation Business Days after the date on which the relevant Spot Rate is determined. Otherwise, as set out in the applicable EMTA Template.
Rounding Convention	The Rounding Convention for Forward Rate is six (6) decimal places.
Valuation Postponement	Up to fourteen (14) calendar days, although the Clearing House may, after consultation with the FX Risk Committee, reduce the time period under "Maximum Days of Postponement" for all Financially-Settled FX Contracts in this Currency Pair having the same specified FX Settlement Date to fewer than fourteen (14) days, by Circular. Any such reduction will equally reduce the fourteen (14) day time period under "Deferral Period" for Unscheduled Holidays and under "Cumulative Events". Where, at the end of the Maximum Days of Postponement, the Settlement Rate has not been determined by reference to the

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	<p>Settlement Rate Option or the Fallback Reference Price, the Settlement Rate will be determined by the Clearing House, as Calculation Agent, in accordance with the Rules and Procedures.</p> <p>Otherwise, as set out in the applicable EMTA Template.</p>
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