

**VIA CFTC PORTAL**

4 September 2015

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

Dear Mr Kirkpatrick:

Pursuant to CFTC regulation §40.6(a), LCH.Clearnet Limited ("LCH.Clearnet"), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the "CFTC"), is submitting for self-certification changes to its rules related to variation margin gains haircutting.

**Part I: Explanation and Analysis**

In the event that LCH.Clearnet's SwapClear service sustains default losses that are in excess of its mutualised default fund (including clearing member assessments), then it may enter into a Loss Distribution phase. Loss Distribution (otherwise known as 'variation margin gains haircutting') involves deducting amounts from variation margin payments due to SwapClear Clearing Members and clients. The wording in the Default Rules is being amended in light of the introduction of additional EMIR account types to ensure that Loss Distribution, where possible, occurs at a legal entity level, within a client account, rather than only at a client account level.

In particular, and for the purposes of the Omnibus Gross Segregated Account, in which multiple Clearing Clients may have SwapClear Contracts, a new definition of 'Omnibus Gross Segregated Sub-Account' has been introduced to apply the Loss Distribution process at the level of the relevant client legal entity within the account, or multiple legal entities within the relevant account where the entities therein have elected to have their positions combined for the purposes of calculating margin requirements (i.e. where the Gross Omnibus Segregated Account includes a group of Combined Omnibus Gross Segregated Clearing Clients).

For client accounts where the underlying legal entities within the account are not identified or where the relevant account is a 'net' account, LCH.Clearnet will continue to apply the Loss Distribution process at the Omnibus account level.

The above changes are not driven by a change in LCH.Clearnet's default management or Risk management processes, which already reflect the position described in the revised rulebook.

These changes do not affect Futures Commission Merchant Clearing Members.



The changes will go live on, or after, September 22<sup>nd</sup>, 2015.

**Part II: Description of Rule Changes**

A definition for "Omnibus Gross Segregated Sub-Account" has been added and the definition for "Margin Account" has been amended in the LCH.Clearnet Default Rules.

The text of the change is attached hereto as **Appendix I**.

**Part III: Core Principle Compliance**

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

**Part IV: Public Information**

LCH.Clearnet has posted a notice of pending certification with the CFTC and a copy of the submission on LCH.Clearnet's website at:

<http://www.lchclearnet.com/rules-regulations/proposed-rules-changes>

**Part V: Opposing Views**

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

**Certification**

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

Should you have any questions please contact me at [julian.oliver@lchclearnet.com](mailto:julian.oliver@lchclearnet.com).

Yours sincerely,

A handwritten signature in black ink that reads "Julian".

Julian Oliver  
**Chief Compliance Officer**  
LCH.Clearnet Limited



**Appendix I**  
**LCH.Clearnet Default Rules**

"**LCH Uncovered Loss**" means, in respect of the Clearing House on any business day in any Loss Distribution Period, the amount calculated in accordance with the following formula:

$$\text{LCH Uncovered Loss}(t) = \text{Max} (0, (\text{TCPH} (t) + \text{CLC}(t) - \text{TAR}))$$

where:

"**TCPH**" means the Total Cumulative Pre Haircut Base Currency Gains losses and Realised Cash Flows;

"**CLC**" means the Cumulative LCH Transfer Cost;

"**TAR**" means the Total Available Resources; and

the LCH Uncovered Loss as at the Last Call Prior to Default shall be zero.

"**Loss Distribution Cap Amount**" means, in respect of each Non-Defaulting SCM and any Loss Distribution Period, an amount equal to the higher of (i) £100,000,000; (ii) the product of (a) 100 per cent. and (b) the SwapClear Contribution of such Non-Defaulting SCM as at the last SwapClear Determination Date prior to the date when the Default occurred at the beginning of that Loss Distribution Period; and (iii) any adjusted cap as may be agreed pursuant to paragraph (d) of this Rule S9.

"**Loss Distribution Day**" means any business day in a Loss Distribution Period on which the Clearing House, in consultation with the SwapClear DMG, prior to calling for Collateral in respect of margin on such business day, determines that the LCH Uncovered Loss for that business day is greater than zero.

"**Loss Distribution Period**" means the period from, but excluding, the day on which a Default occurs with respect to an SCM to but excluding the earlier of: (i) the business day on which (a) the rights and obligations arising out of the Default Rules. Auction Portfolios of the Defaulting SCM are transferred to those SCMs which have successfully bid for such Auction Portfolios in Auctions, or, if any Default occurs with respect to any other SCM prior to the end of a Loss Distribution Period, the rights and obligations arising out of the Auction Portfolios of any subsequent Defaulting SCM are transferred to those SCMs who have successfully bid for such Auction Portfolios in Auctions and (b) all payments required to be made by such SCMs and/or the Clearing House in respect of such Auction(s) have been made in full; or (ii) any Loss Distribution Day in respect of which the Clearing House determines that the SCM Adjustment Amount for any SCM would be equal to or greater than the Loss Distribution Cap Amount for such Loss Distribution Day.

"**Margin Account**" means each Proprietary Account, Individual Segregated Account, Non-Identified Client Omnibus Net Segregated Account, Affiliated Client Omnibus Net Segregated Account, Identified Client Omnibus Net Segregated Account, Omnibus Gross Segregated Sub-Account and each FCM Client Sub-Account related to the SwapClear Service of an SCM.

"Omnibus Gross Segregated Sub-Account" means the sub-account allocated to each individual Omnibus Gross Segregated Clearing Client or each set of Combined Omnibus Gross Segregated Clearing Clients within an Omnibus Gross Segregated Account for the purposes of recording SwapClear Contracts referable to each such individual client or group of clients.

"**Payment Currency Adjustment to Cash Payment**" means one or more Cash Gainer Payment Currency Adjustment to Cash Payment(s) and/or one or more Cash Loser Payment Currency Adjustment to Cash Payment(s).

"**Pre Haircut Base Currency Gains, Losses and Realised Cash Flows by Cash Payment**" means, in respect of each Cash Payment and any business day, the amount (converted, where applicable, into pounds sterling at the Rate of Exchange) which would be paid by the Clearing House to a Non-Defaulting SCM (expressed as a positive number) or by such SCM to the Clearing House (expressed as a negative number) on such business day in the absence of the application of the Distribution Haircut.

"**Rate of Exchange**" means, for any day, the applicable rate of exchange for converting one currency into another as determined by the Clearing House by reference to Reuters;

"**SCM Adjustment Amount**" means in respect of the Margin Account(s) of any Non-Defaulting SCM and any Loss Distribution Day, an amount equal to the sum of the Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows in respect of such Margin Account(s) of such SCM less the sum of the Cumulative Actual Base Currency Gains, Losses and Realised Cash Flows in respect of such Margin Account(s) of such Clearing Member, in each case in respect of the Loss Distribution Period in which such Loss Distribution Day falls.

"**t**" means, in respect of any determination made in relation to a business day, such business day.

"**t-1**" means, in respect of any determination made in relation to a business day, the business day immediately prior to such business day.

"**Total Available Resources**" means, on any business day during a Loss Distribution Period the sum of (i) the Available Resources and (ii) any Unfunded Contributions deposited with the Clearing House since the relevant Last Call Prior to Default.

"**Total Cash Gains**" means, in respect of any business day, the sum of the Cash Gain in respect of all Cash Gainers on such business day.

"**Total Cumulative Pre Haircut Base Currency Gains losses and Realised Cash Flows**" means, in respect of any business day the sum of all Total Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows by Cash Payments.