

VIA CFTC PORTAL

18 November 2016

Mr Christopher Kirkpatrick
Commodity Futures Trading Commission
115 21st Street NW
Three Lafayette Centre
Washington DC 20581

LCH.Clearnet Limited Self-Certification: Clarifying changes to the provisions on characterisation of unallocated excess as FCM's buffer

Dear Mr Kirkpatrick,

Pursuant to Commodity Futures Trading Commission (the "CFTC") Regulation §40.6(a), LCH.Clearnet Limited ("LCH"), a derivatives clearing organization registered with the CFTC, is submitting for self-certification clarifying changes to the rules on the characterisation of unallocated excess collateral as FCM's buffer.

Part I: Explanation and Analysis

LCH has recently modified its rules allowing FCMs to request, under certain conditions, that the DCO identifies the unallocated excess collateral as FCM's buffer. The rules, concerning the "LSOC¹ account without excess" structure, enable the excess collateral to become available for trade registration or to cover intraday margin calls.

Under the current rules, where intraday margin calls in respect to a customer account were in fact covered by the FCM's own funds and not by means of calls on the customers, the FCM is able to request that such margin be recognised as its buffer in LCH's books and records at the end of the day, instead of as unallocated excess. This helps minimising the amount of unallocated excess collateral that may be generated at the end of the day.

The proposed rules clarify that the FCM may be allowed to make the above request in respect to all of its customers' accounts, and not only some.

The changes will go live on, or after, December 7, 2016.

Part II: Description of Rule Changes

¹ "Legally segregated, operationally commingled": the model required for the segregation of customer funds under Part 22 of CFTC Regulations.

The FCM Procedures has been changed in section 4.9 (*Return and Re-Application of Unallocated Excess and Return of FCM Buffer*) to note that the FCMs' request for LCH to apply margin attributable to the FCM's customer account to the FCM's buffer account may only be accommodated if it is made in respect to all of the customers' accounts, and not some only.

The changes also clarify that any FCM's request on the characterisation of unallocated excess collateral as FCM's buffer shall be executed by LCH in its sole discretion.

The changes include other minor revisions to the current wording, but which do not modify the content.

The texts of the changes to the FCM Procedures are attached hereto as **Appendix I**.

Part III: Core Principle Compliance

LCH has reviewed the changes to its rules against the Core Principles and finds that these will continue to comply with all the requirements and standards therein.

Part IV: Public Information

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

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

Part V: Opposing Views

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

Certification

LCH hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in 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@lch.com.

Yours sincerely



Julian Oliver

Chief Compliance Officer

LCH.Clearenet Limited

Appendix I
FCM Procedures

FCM Regulation 15 (*Margining of Swap Product Client Accounts*) contains additional provisions relating to FCM Buffer, Encumbered FCM Buffer and Unallocated Excess.

Upon written request from an FCM Clearing Member (including via email), the Clearing House will apply Margin attributable to (A) an FCM Clearing Member's (A) Unallocated Excess Sub-Account and/or (B) all of an FCM Clearing Member's FCM Client Sub-Accounts to its FCM Buffer Sub-Account. In requesting such transfer, the FCM Clearing Member shall be deemed to represent and warrant that such re-application of Margin: (1) is in accordance with applicable law and regulation; and (2) has been requested by an individual that is appropriately authorized to make the request. Any request from an FCM Clearing Member to ~~re-apply~~reapply Margin must ~~(i): (i) in the case of a request for reapplication pursuant to sub-clause (A) above,~~ contain the specific details of the amount of Margin to be re-applied; (ii) only request the ~~re-application~~reapplication where such ~~re-application~~reapplication reflects the true characterization of the Margin held by the Clearing House (in particular, the ~~application~~reapplication of Margin pursuant to the FCM Buffer Sub-Account~~this paragraph~~ should only be requested where the relevant Margin is the property of the FCM Clearing Member); (iii) in the case of a ~~re-application~~request for reapplication of Margin ~~from an FCM Client Sub-Account to an FCM Buffer Sub-Account~~ pursuant to sub-clause (B) above, request the ~~re-application~~reapplication of Margin attributed to all of the relevant FCM Clearing Member's FCM Client Sub-Accounts since the start of ~~the~~that given Business Day; and (iv) include such other information that the Clearing House may require. The ~~re-application~~reapplication of Margin shall be effected by the Clearing House in its sole and absolute discretion and in accordance with predefined parameters, and shall become effective from such time that the ~~re-application~~reapplication is reflected in the Clearing House's books and records.

4.10 Collateral Value Reports

In accordance with FCM Regulation 15(d) (*Margining of Swap Product Client Accounts*), an FCM Clearing Member that has elected to adopt the LSOC With Excess Model is required to provide the Clearing House with an eligible CVR (Collateral Value Report as defined in the FCM Regulations) at least once per Business Day.

4.10.1 Contents of the Collateral Value Report

The CVR should contain details of the following:

- (a) **FCM Client Sub-Account Balance:** The value of Margin delivered for and on behalf of each FCM Client and its respective FCM Client Sub-Account.
- (b) **FCM Buffer:** The value of FCM Buffer lodged in the FCM Buffer Sub-Account.

All values provided in a CVR must be the post haircut value in USD (or such other currency as agreed in writing by the Clearing House).

Where the CVR does not contain information for all of the FCM Clients of an FCM Clearing Member, the Clearing House will assume that the FCM Client