

**NOTICE**

**Notice 2020-010**

**Net Fails settlement on Transactions registered in the Cash and Derivatives Clearing System – Tender price, Delivery timing & Calculations of cash compensation, penalty for failure to deliver and settlement for Net Fails on Financial Instruments on which occurs an elective corporate event.**

**This Notice supersedes Notices 2019-180**

**Publication Date** 4 December 2020  
**Enforcement Date** 7 December 2020

**Markets** Cash markets

**1) Calculation of “the tender price”**

Pursuant to Article 10 of Instruction III.4-2, for any type of Security, the tender price is deemed to be a maximum amount above which no offer of buy-in will be made. It is defined as follows:

120% of the adjusted closing price of the Clearing Day immediately prior to the Clearing Day of the buy-in attempt. In case of unavailability of the above mentioned price, LCH SA will take into account the last known adjusted closing price at the moment of the buy-in.

**2) Delivery timing**

The timing within which a Securities provider or the selling Clearing Member shall send to LCH SA a notification of delivery, on the fifth Clearing Day following the intended Settlement Date (intended Settlement Date +5), and, by exception, in respect of Exchange Traded Funds (“ETFs”) only, on the eighth Clearing Day following the intended Settlement Date (intended Settlement Date +8), is set out hereinafter.

The timing within which the Securities provider or the selling Clearing Member shall deliver the Securities depends on the settlement cycles of the Securities settlement system and/or central Securities depository and is set out hereinafter.

<b>Market</b>	Euronext, Equiduct, Turquoise, CBOE			Euronext	Bourse de Luxembourg
<b>Segment</b>	Belgium (shares and assimilated) / France / Netherlands	Portugal	Belgium (bonds only)	Oslo (Securities resulting from Derivatives physical delivery only)	Luxembourg
<b>LCH-SA Account to be delivered</b>	<u>Euroclear Bank:</u> 23789  <u>Euroclear Belgium:</u> CIKBBACPFRRPPEQ2000 L10 <u>Euroclear France:</u> SICVBACPFRRPPEQ2000 L10  <u>Euroclear Netherlands:</u> NECIBACPFRRPPEQ2000 L10	<u>Interbolsa :</u> IBLSBACP FRPPEQ2S A00000000 2105002100	<u>Euroclear France:</u> SICVBACPFRRPPEQ 2000L10	<u>VPS</u> 459004900021	<u>Euroclear Bank :</u> 23789
<b>Notification of delivery timeframe</b>	For the Securities provider, as mentioned in article 11 of Instruction III.4.2 : before 11:00 a.m.  For the selling Clearing Member, in the case mentioned on articles 12 of Instruction III.4.2 : before 12:00 p.m. (noon)  For the selling Clearing Member, in the case mentioned on article 13 of Instruction III.4.2 : 2:00 p.m.				
<b>Delivery timeframe</b>	Before 04:00 p.m.			Before 02:00 p.m.	

Pursuant to Article 1.2.7.1 of the Clearing Rule Book, the deadline shall be understood to mean the Central European Time (CET).

### **3) Calculation methodology of the cash compensation:**

Pursuant to Article 20 of Instruction III.4-2, for any type of Security, the cash compensation is equal to 120% of the adjusted closing price of the Clearing Day immediately prior to the Clearing Day of the buy-in attempt. In case of unavailability of the above mentioned price, LCH SA will take into account the last known adjusted closing price at the moment of the buy-in attempt.

By exception to the above paragraph:

- With regards to warrants expiring at maturity date and knock-out warrants expiring prematurely, when a residual price<sup>1</sup> is known, the cash compensation is equal to 120% of such a residual price.
- With regards to the Securities delisted further to a squeeze out or an Insolvency Event:
  - (i) Where the Securities have been fully delisted further to a squeeze-out declared by the issuer, and where the relevant Market Undertaking has published a reference price for these Securities, as from the Clearing Day before the day when the delisting, resulting from such a squeeze out, occurs, the cash compensation is equal to 100% of the reference price<sup>2</sup>.
  - (ii) Where the Securities are not listed anymore because of an insolvency event affecting the issuer of such Securities, further to a court, administrative or regulatory order, the cash compensation is equal to 100% of the last known adjusted closing price.

For Exchange Traded Funds multi-listed in different currencies ("ETF multicurrency"), without prejudice to the cash compensation amount due to the buying Clearing Member as defined above, any additional costs which may be, *inter alia*, related to the application of an exchange rate shall entirely be supported by the selling Clearing Member. In such case, the retained exchange rate is the official exchange rate as displayed by Banque de France<sup>3</sup> on the Clearing Day immediately prior to the Clearing Day of the buy-in attempt.

The cash compensation amount derived by applying the relevant formula is not capped.

### **4/ Calculation methodology of the penalty due for failure to deliver following a notification of delivery:**

The notification of delivery sent to LCH SA, mentioned in Articles 11 to 13 of Instruction III.4-2, by the Securities provider and/or the selling Clearing Member, is a unilateral promise of delivery. In case of failure to execute fully this obligation to deliver, under the conditions set out in Instruction III.4-2, a penalty is applicable which is calculated as follows:

10% of the Securities' "tender price" × quantity of undelivered Securities.

Such a penalty shall not exceed 10.000 €.

### **5/ Conditions and timeframe regarding the settlement for Net Fails on Financial Instruments on which occurs an elective corporate event:**

Should the corporate event be elective and subject that all the details of the corporate event are received by LCH SA from the relevant Market Undertaking or the relevant CSD of Reference or the Securities settlement system:

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<sup>1</sup> The residual price is the value of a warrant at the moment of its delisting and/or at the moment of the knock-out, which is issued by the issuer.

<sup>2</sup> The reference price is the price issued by the relevant Market Undertaking and officially published before the date of the squeeze out. In such circumstances, the reference price may be zero.

<sup>3</sup> The exchange rate can be consulted in the Banque de France website at the following link : <https://www.banque-france.fr/nc/economie-et-statistiques/changes-et-taux/les-taux-de-change-salle-des-marches/parites-quotidiennes.html>

- a) LCH SA will manage it in compliance with the instructions provided by the buying Clearing Member mentioned in the dedicated “buyer protection instruction” form available on LCH SA website, sent at the latest before 6:00 pm CET on the deadline date mentioned by the relevant Market Undertaking or the relevant CSD of Reference or the Securities settlement system
- b) Should the buying Clearing Member not send the dedicated “buyer protection instruction” form available on LCH SA website before the deadline mentioned above, the relevant CSD of Reference or ICSD will manage the default option and subsequent transformation.

If you have any questions and/or remarks,  
**Please contact:** [Legal.SA@LCH.com](mailto:Legal.SA@LCH.com)