



**LCH LIMITED**

**PROCEDURES SECTION 1**

**CLEARING MEMBER, NON-MEMBER MARKET  
PARTICIPANT AND DEALER STATUS**

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## 1. CLEARING MEMBER, NON-MEMBER MARKET PARTICIPANT AND DEALER STATUS

### 1.1 Application Procedure – Clearing Member, Special Clearing Member and Dealer Status

An application for Clearing Member status of the Clearing House, or for dealer status (whether as a ForexClear Dealer, RepoClear Dealer or SwapClear Dealer, each a "**Dealer**") or for an extension of Clearing Member status to another Clearing House service must be made in such form and fashion as prescribed by the Clearing House from time to time, and may be obtained from Clearing House's Membership team. Additional information (including legal documents) must be supplied where necessary and submitted to the Clearing House with (or as an addition or supplement to) such prescribed form.

An application for the status of special Clearing Member ("**Special Clearing Member**") must be initiated by a written request to the Clearing House. The nature of the application procedure and the documents and information required from the applicant will be determined by the Clearing House by reference to the nature of the application and will be notified by the Clearing House to the applicant upon receipt of such written request.

Applicants approved by the Clearing House for Clearing Member or Dealer status, including an extension of Clearing Member status to another Clearing House service, ("**Approved Applicants**") must, within six months of notification of their approval, fulfil all conditions attached to their approval. If an Approved Applicant does not fulfil all such conditions within these six months, the Clearing House may, at its sole discretion, consider the grant of approval to have lapsed and may notify the prospective Clearing Member or Dealer accordingly that they will be required to provide further information, following which the application will be submitted for re-approval.

Clearing Members have the right to apply for approval to clear one or more of the markets cleared by the Clearing House, subject to meeting the requirements of the Clearing House in respect of each such market. Please note that Clearing Member status does not provide membership of the company LCH Limited or any right to a shareholding therein, nor does it provide the right to any shareholding in LCH Group Holdings Limited or any entitlement or right to participate in any way in LCH SA or the clearing services it offers. LCH SA has its own arrangements and admission criteria for Clearing Member status – see the LCH SA Sections of the LCH website for further details.

Applicants approved as Dealers for ForexClear, RepoClear and/or SwapClear will be admitted to the Register of ForexClear Dealers, Register of RepoClear Dealers, and/or the Register of SwapClear Dealers ("**the OTC Registers**"), as appropriate. Successful admission to one OTC Register does not confer automatic admission to any other OTC Register.

#### 1.1.1 *Clearing Member Status*

The terms and conditions binding on each Clearing Member are set out in the Clearing Membership Agreement as amended. Two copies of this document

will be provided to the applicant who must sign both (but not date them) and return them to the Clearing House's Membership team along with the application documentation.

The applicant must pay the stipulated application fee to the Clearing House. This fee must accompany the application for Clearing Member status and is non refundable.

If (A) Clearing Member status is granted, new Clearing Members will receive a duly executed (and dated) copy of the Clearing Membership Agreement and (B) the Clearing House approves a Clearing Member's extension to a new Clearing House service, the Clearing House shall provide notice to the Clearing Member of such approval, in each case with details of any condition(s) attached to Clearing Member status. If granted, Clearing Member status or extension to another Clearing House service is subject to the making of Contributions to the default fund(s) of the Clearing House related to the Services cleared by the relevant Clearing Member, as determined by the Clearing House under the Default Rules.

#### 1.1.2 *Dealer Status*

The terms and conditions of admission to each of the OTC Registers are set out in the ForexClear Dealer Clearing Agreement, the RepoClear Dealer Clearing Agreement and the SwapClear Dealer Clearing Agreement ("**the OTC Agreements**") as amended. Admission to each OTC Register requires that three copies of the corresponding OTC Agreement must be signed by the applicant and their proposed Clearing Member.

The copies of the relevant OTC Agreement should be returned, undated, to the Clearing House's Membership team along with the application documentation.

If and when admission to an OTC Register is granted, new Dealers will receive a duly executed and dated copy of the relevant OTC Agreement, together with the notification of acceptance and details of any condition(s) attached to their admission. The Clearing House will send, under separate cover, a copy of the duly executed and dated OTC Agreement to the elected Clearing Member.

#### 1.1.3 *Conditions of Application*

An applicant for Clearing Member or Dealer status must accept that the Clearing House:

- (a) is entitled to make enquiries of any nature about the applicant and any person connected or associated with the applicant;
- (b) is entitled to ask the applicant to supply additional information and take whatever steps are necessary to verify information;
- (c) is entitled to provide and/or disclose information to an exchange, governmental department, regulatory organisation, other authority, or to the Clearing House's insurers in connection with any form of insurance, or to any person pursuant to the provisions of the Financial Services and

Markets Act 2000 as amended and any rules made thereunder, or in accordance with any other statutory requirement, and in accordance with the terms of the Clearing Membership Agreement, the ForexClear Dealer Clearing Agreement, the RepoClear Dealer Clearing Agreement, or the SwapClear Dealer Clearing Agreement as applicable;

- (d) may disclose to any other party the name, address, registered number and details of any exchange or clearing memberships held or applied for; and
- (e) will endeavour to process, consider and decide upon an application in a timely fashion, but owes no duty or obligation to the applicant to do so.

Conditions (a) to (e) apply equally to Clearing Members and to Dealers.

## 1.2 NCP Status

### 1.2.1 *Criteria for NCP status*

A Clearing Member may only appoint a person as an NCP in respect of a Service where such person:

- (a) is party to an agreement with an Exchange or Approved EquityClear Trading Platform (as applicable) pursuant to which:
  - (i) such person is a participant of, as applicable, the relevant
    - (A) Exchange; or
    - (B) Approved EquityClear Trading Platform; and
  - (ii) such person is subject to, as applicable,
    - (A) the relevant Exchange Rules; or
    - (B) the rules and procedures of the relevant Approved EquityClear Trading Platform; and
- (b) is party to a valid and enforceable arrangement with a Clearing Member pursuant to which:
  - (i) such Clearing Member authorises the NCP to act as its agent and on its behalf; and
  - (ii) the Clearing Member is entitled at all times to provide to the Clearing House such information and data relating to the NCP as the Clearing House may in its sole discretion deem appropriate.

### 1.2.2 *Acceptance of the Appointment of NCP as Agent*

A Clearing Member must submit to the Clearing House a static data form (which is available on request from the Clearing House), the purpose of which is to

inform the Clearing House of the appointment of an NCP as its agent. The submission of the static data form executed by both the relevant Clearing Member and the relevant NCP shall be definitive proof of the Clearing Member's appointment of the NCP to act as its agent and on its behalf. The Clearing House is not obliged to verify the appropriateness or authenticity of the signatures which appear on such static data form, nor that the person signing on behalf of any of the parties had the correct authority to sign. Without prejudice to the foregoing, the Clearing House may require the Clearing Member and NCP to enter into an agreement with the Clearing House to, inter alia, set forth the terms and conditions of the NCP's connection to any Clearing House system

### 1.2.3 *Termination of NCP*

The Clearing Member may terminate its appointment of an NCP, in respect of a Service ("**Termination**"), at any time by giving 21 days' written notice (or such other notice period as the Clearing House may specify) to the relevant Exchange(s) or Approved EquityClear Trading Platform(s) (as applicable) and the Clearing House ("**Termination Notice**"). For the avoidance of doubt, the Clearing House need not receive any notice or confirmation of such termination from the relevant NCP.

If a Clearing Member provides a Termination Notice to the Clearing House, in respect of a Service, then the Clearing Member agrees that the Clearing House is authorised to disclose the contents of such Termination Notice to the relevant Exchange(s) or Approved EquityClear Trading Platform(s) (as applicable) within such Service.

### 1.2.4 *Suspension of NCP*

A Clearing Member may, in a form prescribed and made available by the Clearing House ("**Suspension Form**"), request the Clearing House to advise an Exchange or Approved EquityClear Trading Platform (as applicable) to suspend the trading activity of an NCP of such Clearing Member, so that the NCP cannot effect an EquityClear Novation Transaction, EquityClear ATP Match, Rates Exchange Match and/or Listed Interest Rates Novation Transaction (as applicable) for clearing with the Clearing House in the name of such Clearing Member, until the Exchange or Approved EquityClear Trading Platform (as applicable) receives written notice from the Clearing House of the cessation of such suspension (such suspension, "**Suspension**") (each such request, a "**Suspension Request**"). For the avoidance of doubt, the Clearing House need not receive any notice or confirmation of such Suspension Request from the relevant NCP.

If a Clearing Member makes a Suspension Request, in respect of an Exchange or Approved EquityClear Trading Platform (as applicable), then the Clearing Member agrees that the Clearing House is authorised to disclose the contents of the completed Suspension Form relating to the Suspension Request to such Exchange or Approved EquityClear Trading Platform (as applicable).

### 1.2.5 *Exclusion of Liability*

Without prejudice to Regulation 52, neither the Clearing House, nor any other member of the LCH Group, shall have any liability whatsoever to any Clearing Member or to any other person in contract, tort (including, without limitation, negligence), trust, as a fiduciary or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred by a Clearing Member or any other person, as the case may be, as a result of:

- (a) where a Clearing Member makes a Suspension Request, in respect of an Exchange or Approved EquityClear Trading Platform (as applicable) (i) Suspension, (ii) any failure of, or delay in, Suspension to be implemented, or (iii) such Exchange or Approved EquityClear Trading Platform (as applicable) implementing, but then revoking, Suspension; or
- (b) where a Clearing Member provides a Termination Notice to the Clearing House, in respect of a Service and a NCP (i) Termination, (ii) any failure of, or delay in, Termination to be effective, or (iii) an Exchange or Approved EquityClear Trading Platform (as applicable) within such Service continuing to permit such NCP to effect an EquityClear Novation Transaction, EquityClear ATP Match, Rates Exchange Match and/or Listed Interest Rates Novation Transaction (as applicable) for clearing with the Clearing House in the name of such Clearing Member.

### 1.3 **Criteria for Clearing Member Status**

#### 1.3.1 *General*

The Clearing House imposes certain criteria and requirements in relation to Clearing Member status. The relevant criteria have, in all cases, been established by the Clearing House so as to be non-discriminatory and objective and so as to ensure fair and open access by Clearing Members (whether existing or potential) to the Clearing House.

The relevant criteria are without prejudice to the provisions of the Clearing Membership Agreement which must be executed by the applicant, and must equally be met by Clearing Members or approval required to extend Clearing Membership status to another Clearing Houser service.

The Clearing House may, in its sole discretion, refuse an application for membership (including extension to another Clearing House service) where it considers it appropriate to do so in accordance with its internal risk management policies and procedures as amended from time to time. In the event that the Clearing House refuses an application for membership or an extension to such membership, the Clearing House will provide reasons for such rejection in writing to the relevant applicant. Clearing Members are referred to the Clearing House's website for further information about the relevant internal risk management policies and procedures.

The applicant must either be, or have applied to become, a RepoClear Clearing Member (categories F & G), a SwapClear Clearing Member (category H), an EquityClear Clearing Member (categories I & J), a Clearing Member of the

relevant exchange(s) (categories B – D), an LCH EnClear Clearing Member (category B), a Special Clearing Member (category K) or a ForexClear Clearing Member (category M). Clearing Member status may be granted on a conditional basis before any Clearing House requirements have been fully met or before related exchange clearing membership(s) requirements are met, but cannot be operational until such requirements are satisfied.

The applicant must, if it also wishes to submit and clear RepoClear, SwapClear and/or ForexClear trades, meet the additional criteria for such status (see Sections 1.3.2, 1.3.3 and 1.3.4 respectively). The applicant, any controller of the applicant, and those of its staff who exercise an executive or managerial role, must have a high standard of integrity and a level of knowledge, as determined by and acceptable to the Clearing House, of the nature, risks and obligations of trading in the markets and contracts they wish to clear.

A Clearing Member of one or more markets who wishes to clear the Contracts of another market cleared by the Clearing House, must apply to the Clearing House for such extension and have the Clearing House's express written approval before commencing to submit trades in such other market for registration. The prescribed form of document for the relevant new market is available from the Clearing House's Membership team. Clearing Members should be aware that they also need the appropriate additional exchange clearing membership before they can extend their range of activities in this way. The Clearing Member must, within six months of notification of their approval to extend their activities, fulfil all conditions attached to their approval. If the Clearing Member does not, within these six months, fulfil all such conditions, the Clearing House may, at its sole discretion, consider the grant of approval to have lapsed and may notify the Clearing Member accordingly that they will be required to provide further information, following which the extension will be submitted for re-approval.

The applicant must satisfy the minimum net capital requirements, as set out in Section 1.7.2 ("**Net Capital Requirements**") or such greater amounts as may be required by the Clearing House.

The applicant must open a protected payments system ("**PPS**") bank account at one or more of the PPS banks, in accordance with the requirements of a Clearing Member under Section 3 (*Financial Transactions*) of the Procedures and must execute all necessary documentation in relation to this. Please see the PPS section of the Clearing House website for further information).

Clearing Members are required to have contingency payment arrangements in place to ensure that they can continue to meet their obligations in the event of failure of their nominated PPS bank(s). During the application process, the Clearing House will require the applicant to provide evidence of these arrangements and will test these prior to the applicant becoming a Clearing Member. The Clearing Member will be required to provide evidence of their contingency payment arrangements on an ongoing basis at the Clearing House's request.



The applicant must refrain from contravening the general prohibition contained in Section 19 of the Financial Services and Markets Act 2000.

If the applicant is a bank, it must at all times be appropriately authorised by the banking supervisors of its home country and additionally meet any notification or authorisation requirements set by banking supervisors in the United Kingdom.

The applicant must satisfy a minimum internal credit score which is determined by the Clearing House based on analysis of a range of quantitative and qualitative inputs. These include financial analysis, external market data as well as consideration of any implicit or explicit support available to the applicant. The analysis is performed on a predetermined methodology applicable to all applicants.

The applicant must maintain a back office:

- (a) remote from both the trading floor and/or trading desks;
- (b) with adequate systems (including but not limited to computer and communications systems) and records;
- (c) with an adequate number of administrative staff fully conversant with procedures for the management of business transacted in the markets and contracts cleared by the Clearing House and in which the Clearing Member participates; and
- (d) with such equipment (including technology and connectivity) as may be stipulated by the Clearing House or by the exchange(s) or EquityClear Approved Trading Platform ("ATP").

Applicants and Clearing Members must at all times respond promptly to enquiries or requests for information made by the Clearing House. Such enquiries may require Applicants and Clearing Members to demonstrate compliance with the applicable membership criteria and/or Applicable Law.

Each Clearing Member shall at all times continue to comply with the qualifications and requirements set forth in these Procedures and shall promptly notify the Clearing House if it has breached or reasonably expects to breach any such qualifications or requirements.

Each Clearing Member shall maintain current written risk management policies and procedures which address the risks that the relevant Clearing Member may pose to the Clearing House, including any policies and procedures that the Clearing House may reasonably request to be incorporated therein. Upon the request of the Clearing House, a Clearing Member shall promptly provide the Clearing House with a copy of its current policies and procedures for review by the Clearing House.

Clearing Members are required to promptly notify or pre-notify the Clearing House of any changes which may result in non-compliance with the Clearing Member status criteria as stated in these Procedures.

### 1.3.2 *Supplementary Criteria Applicable to RepoClear Applicants*

In addition to the minimum Net Capital Requirements as set out in Section 1.7.2, an applicant must satisfy the following criteria:

- (a) be authorised and supervised as either a credit institution or an investment firm by the competent authorities of a member state of the European Union; or
- (b) be authorised and supervised as the equivalent of a credit institution or an investment firm by the competent authorities of a country outside the European Union and be subject to prudential rules considered to be as stringent as those applicable to credit institutions and investment firms.

### 1.3.3 *Supplementary Criteria Applicable to SwapClear Applicants*

In addition to the minimum Net Capital Requirements as set out in Section 1.7.2, an applicant must satisfy the following criteria:

- (a) successfully participate, or demonstrate that it has: (i) an affiliated SwapClear Clearing Member ("**SCM**") that can successfully participate; or (ii) an LCH Approved Outsourcing Party that can successfully participate in a SwapClear "fire drill" run by the Clearing House which shall involve submitting a bid for a notional portfolio of trades within a specific currency in a specified timeframe. Submission of a bid outside the timeframe specified by the Clearing House or submitting a bid that is unreasonable will constitute a failure of the "fire drill" and the applicant's SCM application will not be approved;
- (b) be able to participate or demonstrate that it has: (A) an affiliated SCM that can participate; or (B) an LCH Approved Outsourcing Party that can successfully participate, in the default management process as operated by the Clearing House;
- (c) have, within its corporate group, at least one credit institution or investment firm licensed by the competent authorities of a member state of the European Union, or the equivalent of a credit institution or an investment firm licensed by the competent authorities of a country outside the European Union and which is subject to prudential rules considered by the Clearing House to be at least as stringent as those applicable to credit institutions and investment firms within the European Union; and
- (d) in the event of a default, be able to receive from the Clearing House and to process SwapClear Contracts, and any associated hedge trades, in FPML format or in separated value electronic format.

Membership criteria for FCM Clearing Member status are contained in the Clearing House's FCM Regulations.

### 1.3.4 *Supplementary Criteria Applicable to ForexClear Option Service Applicants*

In addition to the criteria set out in these Procedures as being applicable to ForexClear Clearing Members, a Clearing Member that wishes to use the ForexClear Option Service must satisfy the requirements in this section, which shall be without prejudice to any other membership or participation requirements applicable to a Clearing Member under the Regulations, the Procedures and/or any Clearing Membership Agreement.

A ForexClear Clearing Member that wishes to be designated as a ForexClear Option Clearing Member shall apply to the Clearing House in the manner prescribed by the Clearing House from time to time. That Clearing Member must, at the point of application and at all times thereafter, satisfy, in a manner satisfactory to the Clearing House, the following conditions (together, the "**ForexClear Option Service Membership Requirements**"):

- (i) the Clearing Member must be a ForexClear Clearing Member;
- (ii) the Clearing Member must at all times have primary nostro accounts in place with a bank satisfactory to the Clearing House to record, effect and receive payments denominated in each ForexClear Currency;
- (iii) the Clearing Member must at all times be able to demonstrate to the Clearing House that it or its designated settlement agent is capable of effecting timely payments within the applicable real-time gross settlement system for each ForexClear Currency;
- (iv) the Clearing Member must at all times be able to demonstrate to the Clearing House that it has back-up account arrangements in place with a bank satisfactory to the Clearing House to record, effect and receive payments denominated in each ForexClear Currency in the event that its primary nostro is unavailable;
- (v) prior to the date on which the Clearing Member is designated as a ForexClear Option Clearing Member, the Clearing Member shall pay to the Clearing House:
  - (A) an amount of cash denominated in Australian Dollars equal to the AUD ForexClear Liquidity Fund Contribution applicable to that Clearing Member;
  - (B) an amount of cash denominated in Euros equal to the EUR ForexClear Liquidity Fund Contribution applicable to that Clearing Member;
  - (C) an amount of cash denominated in Sterling equal to the GBP ForexClear Liquidity Fund Contribution applicable to that Clearing Member; and
  - (D) an amount of cash denominated in Swiss Francs equal to the CHF ForexClear Liquidity Fund Contribution applicable to that Clearing Member.

- (vi) prior to the date on which the Clearing Member is designated as a ForexClear Option Clearing Member, the Clearing Member shall pay to the Clearing House the ForexClear Option Service Default Fund Contribution;
- (vii) the Clearing Member must at all times either:
  - (A) have access to, and have all necessary documentation (if any) in place with, a third party provider approved by the Clearing House as being responsible for communicating, matching and facilitating the exercise and/or expiry of each ForexClear Option Contract to which it is a party; and
  - (B) have direct access to the ClearLink API, or similar direct communication methods as offered under the ForexClear Service, for the purpose of communicating directly with the Clearing House regarding exercise and/or expiry of each ForexClear Option Contract to which it is a party,
- (viii) the Clearing Member must enter into, deliver, and maintain, any agreement, deed, form or other document that is required by the Clearing House from time to time in connection with the ForexClear Option Service;
- (ix) the Clearing Member must not be a Defaulting Clearing Member;
- (x) the Clearing Member must participate in testing and trialling as requested by the Clearing House from time to time in connection with the ForexClear Option Service;
- (xi) the Clearing Member must be an “institution” or a “participant” within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979), as amended; and
- (xii) the Clearing Member must satisfy all other requirements and eligibility criteria that may be applicable to it from time to time under the Regulations, the Procedures and/or the Clearing Membership Agreement.

A Clearing Member’s status as a ForexClear Option Clearing Member is, at all times, subject to the condition precedent that it satisfies, in a manner satisfactory to the Clearing House, the ForexClear Option Service Membership Requirements in effect at the applicable time.

The Clearing House may, from time to time, publish a list of Clearing Members who are eligible to use the ForexClear Option Service.

### 1.3.5 *Supplementary Criteria Applicable to ForexClear Applicants*

In addition to the minimum Net Capital Requirements as set out in Section 1.7.2, an applicant must satisfy the following criteria:

- (a) successfully participate, or demonstrate that it has: (i) an affiliated ForexClear Clearing Member ("**FXCCM**") that can successfully participate; or (ii) an LCH Approved Outsourcing Party that can successfully participate, in a ForexClear "fire drill" run by the Clearing House which shall involve submitting a bid for a notional portfolio of trades within specific currency pairs in a specified timeframe. Submission of a bid outside the timeframe specified by the Clearing House or submitting a bid that is unreasonable will constitute a failure of the "fire drill" and the applicant's FXCCM application will not be approved;
- (b) be able to participate or demonstrate that it has: (A) an affiliated FXCCM that can successfully participate; or (B) an LCH Approved Outsourcing Party that can successfully participate, in the ForexClear default management process as operated by the Clearing House;
- (c) have, within its corporate group, at least one credit institution or investment firm licensed by the competent authorities of a member state of the European Union, or the equivalent of a credit institution or an investment firm licensed by the competent authorities of a country outside the European Union and which is subject to prudential rules considered by the Clearing House to be at least as stringent as those applicable to credit institutions and investment firms within the European Union; and
- (d) in the event of a default, be able to receive from the Clearing House and process ForexClear Contracts, and any associated hedge trades, in FPML format or, separated value electronic format.

1.3.6 *Supplementary Criteria Applicable to Special Clearing Member Applicant*

The Clearing House may agree with an applicant for Special Clearing Member status, in addition to or in place of requirements set out in these Procedures, such further terms as it deems appropriate in the circumstances of the applicant and its business and these shall be reflected in the Clearing Membership Agreement.

1.3.7 *Supplementary Criteria Applicable to Clearing Members subject to certain U.S. laws*

- (a) *12 U.S.C. § 5390(a)(6)*: Where a Clearing Member is a financial company as such term is defined in 12 U.S.C. § 5381(a)(11) it shall comply with the requirements of 12 U.S.C. § 5390(a)(6) with respect to the execution of the Clearing Membership Agreement and each transaction that is cleared pursuant to the Clearing Membership Agreement and the Rulebook (and the grant of any related security interest to the Clearing House) and it shall be deemed to have confirmed

that it complies with 12 U.S.C. § 5390(a)(6) each time that a transaction is submitted for clearing and it delivers Collateral to the Clearing House.

A Clearing Member that is a financial company as such term is defined in 12 U.S.C. § 5381(a)(11) is further required: (i) from the date of entry into the Clearing Membership Agreement (and the grant of any related security interest to the Clearing House), to maintain the Clearing Membership Agreement continuously as an official record of that Clearing Member; and (B) from the date of submission of a transaction for clearing (and the grant of any related security interest to the Clearing House), maintain each agreement evidencing each such transaction continuously as an official record of that Clearing Member.

- (b) *Insured Depository Institutions:* Where a Clearing Member is an insured depository institution under the U.S. Federal Deposit Insurance Act it shall comply with the requirements of 12 U.S.C. § 1823(e) and the policy statements adopted by the Board of Directors of the Federal Deposit Insurance Corporation thereunder with respect to the execution of the Clearing Membership Agreement and each transaction that is cleared pursuant to the Clearing Membership Agreement and the Rulebook (and the grant of any related security interest to the Clearing House) and it shall be deemed to have confirmed that it complies with the requirements of 12 U.S.C. § 1823(e) and the policy statements adopted by the Board of Directors of the Federal Deposit Insurance Corporation thereunder each time that a transaction is submitted for clearing and that Clearing Member delivers Collateral to the Clearing House.

A Clearing Member that is an insured depository institution under the Federal Deposit Insurance Act it is further required: (i) from the date of entry into the Clearing Membership Agreement (and the grant of any related security interest to the Clearing House), to maintain the Clearing Membership Agreement continuously as an official record of that Clearing Member; and (B) from the date of submission of a transaction for clearing (and the grant of any related security interest to the Clearing House), maintain each agreement evidencing each such transaction continuously as an official record of that Clearing Member.

#### 1.4 Dealer Status Criteria

- 1.4.1 An applicant must satisfy the criteria set out below in order to be considered for admission to the OTC Registers. These requirements are without prejudice to the provisions of the ForexClear Dealer Clearing Agreement, the RepoClear Dealer Clearing Agreement and/or the SwapClear Dealer Clearing Agreement, and must equally be met by Dealers.

The applicant and any controller of the applicant, and those of its staff who exercise an executive or managerial role, must have a high standard of integrity and a level of knowledge, acceptable to the Clearing House, of the nature, risks and obligations of trading foreign exchange transactions, over-the-counter repos and swaps cleared by the Clearing House.

The applicant must be a member of an Approved Trade Matching System (as approved by the Clearing House from time to time).

- (a) For RepoClear, see Section 2B of the Procedures (RepoClear).
- (b) For SwapClear, see Section 2C of the Procedures (SwapClear).
- (c) For ForexClear, see Section 2I of the Procedures (ForexClear).

If the applicant is a bank it must, at all times, be appropriately authorised by the banking supervisors of its home country and additionally meet any notification or authorisation requirements set by banking supervisors in the United Kingdom.

The applicant must maintain a back office:

- (a) remote from both the exchange floor and/or trading desks;
- (b) with adequate systems (including but not limited to computer and communications systems) and records;
- (c) with an adequate number of administrative staff fully conversant with procedures for the management of business transacted in the markets and contracts cleared by the Clearing House in which the applicant participates; and
- (d) with such technology and connectivity as may be stipulated by the Clearing House.

The applicant must have executed and must maintain a ForexClear Dealer Clearing Agreement, a RepoClear Dealer Clearing Agreement and/or a SwapClear Dealer Clearing Agreement.

The applicant may specify any number of branches, with agreement from its corresponding Clearing Member, from which it proposes to submit eligible ForexClear Transactions, RepoClear Transactions and/or SwapClear Transactions. It is a requirement that only branches of the same legal entity as the Dealer may be specified. A company which is a different legal entity and which wishes to submit eligible ForexClear, RepoClear and/or SwapClear Transactions for clearing must apply separately for admission to the relevant OTC Register. ForexClear Dealers, RepoClear Dealers and SwapClear Dealers are entitled to remain on the relevant OTC Register for so long as a valid agreement remains in effect. In the event that the relevant agreement for any ForexClear Dealer, RepoClear Dealer or SwapClear Dealer is terminated, then that Dealer will be removed from the relevant OTC Register.

The applicant must at all times respond promptly to enquiries or requests for information made by the Clearing House.

#### 1.4.2 *ForexClear Dealer Status*

The applicant must have a clearing arrangement for ForexClear transactions in place with an existing FXCCM within their corporate group.

#### 1.4.3 *RepoClear Dealer Status*

The applicant must:

- (a) have minimum Net Capital (as defined in paragraph 1.8) of €100mn;
- (b) either:
  - (i) be authorised and supervised as either a credit institution or an investment firm by the competent authorities of a member state of the European Union; or
  - (ii) be authorised and supervised as the equivalent of a credit institution or an investment firm by the competent authorities of a country outside the European Union and be subject to prudential rules considered to be as stringent as those applicable to credit institutions and investment firms; and
- (c) have a clearing arrangement for RepoClear transactions in place with an existing RepoClear Clearing Member.

#### 1.4.4 *SwapClear Dealer Status*

The applicant must have a clearing arrangement for SwapClear transactions in place with an existing SwapClear Clearing Member within their corporate group.

### 1.5 **Extension Of Clearing Activities**

#### 1.5.1 *Extension to Exchange Clearing*

A Clearing Member must hold the appropriate category of Clearing Member status for the exchange(s) it wishes to clear.

A Clearing Member is approved to clear only the exchange(s) stipulated in its application. Subject to the Clearing House's consent, this approval may be extended to include clearing on another exchange(s). Such approval must be given in writing by the Clearing House in the form prescribed from time to time. In determining such extension the Clearing House will have regard to, inter alia:

- (a) The Clearing Member having the appropriate category of exchange Clearing Member status applicable to the extension of its activities;
- (b) The Clearing Member demonstrably having sufficient staff resources and expertise in the new market that it wishes to clear; and
- (c) The Clearing Member having sufficient Net Capital to meet the additional requirement as set out in Section 1.7.2.



1.5.2 *Extension to LCH EnClear Services/EquityClear/RepoClear/SwapClear/ForexClear Clearing*

In addition to the requirements noted above, a Clearing Member wishing to commence clearing on each of the LCH EnClear services (Freight, OTC Emissions and/or gold divisions), the EquityClear markets and/or clearing or dealing on ForexClear, RepoClear and/or SwapClear, must complete additional documentation and be approved by the Clearing House. Clearing Members who wish to either clear directly or to submit for clearing EquityClear ATP Matches, RepoClear Transactions and/or Bond/Repo Trades, ForexClear Transactions and/or SwapClear Transactions originating from a Dealer, should contact the Clearing House's Membership team.

Dealers who wish to clear their own transactions must apply for Clearing Member status. Potential applicants should contact the Clearing House's Membership team.

1.5.3 *Extension for Clearing Members to clear for clients*

Subject to obtaining approval from the Clearing House's Membership team, a Clearing Member may offer certain Client Clearing Services to its clients (Clearing Clients).

A key (but not isolated) factor which will be considered by the Clearing House in determining whether or not to grant such approval to an individual Clearing Member will be whether the offering of Client Clearing Services by such Clearing Member would contravene the Clearing House's conflicts of law policies by giving rise to conflicts of law issues which cannot be mitigated by the rules and procedures the Clearing House has developed to mitigate such risks. In particular, the Clearing House will need to be satisfied (in its sole discretion and based, where appropriate, on external legal advice) that the Clearing House's arrangements for (i) the segregation of positions entered into by the Clearing Member on behalf of its Clearing Clients and of the Collateral held by the Clearing House in respect of such positions; and (ii) the porting of such positions and Collateral, would be effective under the laws (including, in particular, the insolvency laws) applicable to the relevant Clearing Member.

Where the insolvency regime applicable to a Clearing Member in a given jurisdiction could interfere with the Clearing Member's provision of EMIR Client Clearing in a manner which provides for the intrinsic client protections set out in Articles 39 and 48 of EMIR, the Clearing Member must offer its Clearing Client(s) alternative possibilities that ensure those Clearing Clients receive, at least, the choice of an Individual Segregated Account or an Omnibus Segregated Account. Such possibilities may include procuring the availability of EMIR Client Clearing through an affiliated Clearing Member or another Clearing Member. Where the Clearing Client, notwithstanding the alternatives offered, chooses to clear with the Clearing Member, then that Clearing Member must disclose those risks in full to the Clearing Client, in accordance with Articles 39(5) and 39(7) of EMIR.

Clearing Members should contact the Clearing House's Membership team for further details of the arrangements for client clearing in place within the Clearing House.

#### 1.5.4 *Special Clearing Members*

A Special Clearing Member is only approved to clear the types of contract on the Clearing House service(s) and/or on the market(s) stipulated in its Clearing Membership Agreement, subject to the terms of that Agreement.

### 1.6 **Termination Of Clearing Member Status**

- 1.6.1 In the event that a Clearing Member wishes to retire from Clearing Member status, it may do so by giving written notice to the Clearing House not less than three months ahead of the proposed termination date. By the close of business on the proposed termination date, the Retiring Member shall ensure that all Contracts registered in the Retiring Member's name have been closed-out or transferred so as to ensure that there are no open Contracts to which the Retiring Member is a party at the proposed termination date. Once all such Contracts have been closed-out or transferred, such Retiring Member shall be entitled to request that the Clearing House releases and returns to it any Collateral held by the Clearing House for such Retiring Member. Retiring Members will need to give the Clearing House notice of termination in respect of all such Dealer agreements in accordance with the terms of those agreements and the relevant Section of the Rulebook. For further information on the retirement process, Clearing Members should contact the Clearing House's Membership team.
- 1.6.2 If a Clearing Member has not been active on any exchange or market for a continuous period of three months, they will be asked to confirm that they intend to utilise their Clearing Member status and failing a satisfactory response, they will be asked to retire from Clearing Member status.
- 1.6.3 If a bankruptcy petition under the Polish Bankruptcy Law (*ustawa z dnia 28 lutego 2003 roku Prawo upadłościowe*) or a restructuring petition under the Polish Restructuring Law (*ustawa z dnia 15 maja 2015 r. Prawo restrukturyzacyjne*) is presented or a bankruptcy order under the Polish Bankruptcy Law or a restructuring order under the Polish Restructuring Law is made, the Clearing House may in its absolute discretion terminate with respect to the affected Polish Clearing Member the Clearing Membership Agreement by notice. Any such termination by notice will take effect on the expiry of the period specified in the notice. During the termination period specified in the notice, the Clearing House may take the steps listed in Rules 6 of the Default Rules, it deems appropriate in the circumstances: (a) to discharge all the Polish Clearing Member's rights and liabilities under or in respect of all Contracts to which it is party or upon which it is or may be liable; and (b) to complete the process set out in Rule 8. Any Contracts of the Defaulter which have not been closed out or transferred by the termination date set in the notice shall be closed-out on the close of business on the termination date. Termination of the Clearing Membership Agreement will result in termination of the terms of any other agreement to which the Clearing House and the Polish Clearing Member are party which relates to the provision of central counterparty and other services

by the Clearing House, the terms of, and applicable to, each and every registered Contract, the Rulebook and all amendments to any of the foregoing.

- 1.6.4 The Clearing Membership Agreement, the terms of any other agreement to which the Clearing House and the Polish Clearing Member are party which relates to the provision of central counterparty and other services by the Clearing House, the terms of, and applicable to, each and every registered Contract, the Rulebook and all amendments to any of the foregoing shall together constitute a master agreement (*umowa ramowa*) in the meaning of the Polish Bankruptcy Law (*ustawa z dnia 28 lutego 2003 roku Prawo upadłościowe*) and Polish Restructuring Law (*ustawa z dnia 15 maja 2015 r. Prawo restrukturyzacyjne*) between the Clearing House and the Polish Clearing Member and both parties acknowledge that all registered Contracts are entered into in performance of that master agreement. If that master agreement is terminated by the Polish Clearing Member or by the relevant bankruptcy or restructuring representative and such termination is enforceable under the relevant laws, this does not prejudice the Clearing House's rights under Rule 3 of the Default Rules.

## 1.7 Net Capital Requirements

### 1.7.1 *Categories of Clearing Member Status*

There are ten categories of Clearing Member status currently in use. These are as follows:

#### **Category B**

Rates Exchange - Clearing Member (clearing own business)

FCM Listed Interest Rates  
Clearing Member

#### **Category C**

Rates Exchange - (clearing own business and/or the business of NCPs and/or Listed

Interest Rates Client Clearing  
Business)

**Category D**

Category no longer in use.

**Category E**

Category no longer in use.

**Category F**

RepoClear Clearing Member in respect of RepoClear Clearing House Business.

**Category G**

RepoClear Clearing Member in respect of RepoClear Clearing House Business and RepoClear Client Clearing Business.

**Category H**

SwapClear Clearing Member.

**Category I**

EquityClear Individual Clearing Member in respect of EquityClear Clearing House Business.

**Category J**

EquityClear General Clearing Member in respect of EquityClear Clearing House Business.

**Category K**

Special Clearing Member.

**Category L**

SwapClear FCM Clearing Member (refer to FCM Rulebook)

**Category M**

ForexClear Clearing Member

**Category N**

Not in use

**Category O**

Category no longer in use.

### 1.7.2 Net Capital Requirements

The requirements set out below are the minimum requirements applicable to Clearing Members whose clearing relationship with the Clearing House is confined to the clearing of one market, subject, in relation to categories B to D, to an absolute minimum Net Capital requirement of £5mn sterling. The requirements may be satisfied in the currencies indicated or in foreign currency equivalents.

The requirements for Clearing Members who clear more than one market are detailed in Section 1.7.3. The definition of Net Capital is given in Section 1.8 (subject to a minimum of £5mn sterling).

#### **Category A**

Category no longer in use.

#### **Category B**

Net Capital £1.0mn per Service

#### **Category C**

Net Capital £2.0mn per Service

#### **Category D**

Category no longer in use.

#### **Category E**

Category no longer in use.

#### **Category F**

Net Capital €100.0mn

#### **Category G**

Net Capital €400.0mn

#### **Category H**

Net Capital US \$50mn

#### **Category I**

Net Capital £5.0mn

#### **Category J**

Net Capital £10.0mn

**Category K**

See Section 1.7.4

**Category L**

Net Capital Refer to FCM Rulebook

**Category M**

Net Capital US\$50mn

**Category N**

Not in use

**Category O**

Not in use

**1.7.3 Cross-Market Net Capital Requirement for categories B-D and I-J**

Subject to the absolute minimum requirement of £5mn sterling, Clearing Members who clear more than one exchange (categories B – D) or have EquityClear Clearing Member Status (categories I – J), are required to meet a minimum Net Capital Requirement which is the sum of their specific requirements. For example, a Clearing Member acting as a General Clearing Member on the Rates Exchange Service (Category C - £2mn sterling) and as an EquityClear Individual Clearing Member (category I - £5mn sterling) has a minimum requirement of £7mn sterling. A Clearing Member acting as a General Clearing Member on Rates Exchange only (Category C - £2mn sterling) has a minimum requirement of £5mn sterling.

Clearing Members for ForexClear, RepoClear and/or SwapClear (including those who clear on other exchanges or markets through the Clearing House) are required to meet the applicable Category F, G, H or M minimum Net Capital Requirement only.

**1.7.4 Capital Requirements for Category K**

The minimum capital requirements for a Special Clearing Member will be established at the discretion of the Clearing House with reference to (i) the requirements set out in Section 1.7.2 which would be applicable to a Clearing Member carrying on comparable business in the same service(s) and/or market(s) of the Clearing House as that which is to be carried on by the Special Clearing Member pursuant to its Clearing Membership Agreement and (ii) any other factors which the Clearing House deems to be relevant in establishing such requirements for a Special Clearing Member.

**1.7.5 Additional Net Capital Requirements**

Additional resources will be required when, in the Clearing House's assessment, a Clearing Member's Net Capital is not commensurate with its level of business.

The Clearing House shall, on a daily basis, compare the market risk associated with each Clearing Member's level of business with their level of Net Capital as reported to the Clearing House in order to ascertain whether, in the Clearing House's opinion, such Clearing Member is sufficiently capitalised to support the level of risk associated with the Contracts to which they are counterparty. In determining whether a Clearing Member is sufficiently capitalised, the Clearing House may also consider:

- (a) the Clearing Member's aggregate exposure to other clearing providers and other entities; and
- (b) the total amount of Collateral deposited with, transferred to or otherwise delivered to the Clearing House by the Clearing Member.

In the event that the Clearing House considers that the Clearing Member is not sufficiently capitalised to support the level of risk associated with its open Contracts, action may be taken, which could include, but is not limited to, a request for additional Collateral to be transferred to the Clearing House.

## 1.8 Calculation Of Net Capital

Net Capital ("**Net Capital**") is broadly defined as:

Permanent Capital plus additional capital less intangible fixed assets (including goodwill, development costs, etc ("**Intangible Fixed Assets**")).

Clearing Members must comply with the Net Capital minimum requirements at all times (see Section 1.7.2).

The Clearing House may vary the definitions below to include forms of capital or to exclude assets, other than those stated. An applicant wishing to determine the acceptability of specific forms of capital or the treatment of particular categories of assets should contact the Clearing House's Membership team.

### 1.8.1 Definition of Permanent Capital ("**Permanent Capital**")

The definition of Permanent Capital includes:

- (a) issued and fully-paid ordinary share capital;
- (b) issued and fully-paid preference share capital; and
- (c) share premium account and reserves not available for distribution.

Accumulated profit and loss and reserves available for distribution will not be taken into account when calculating permanent capital. A deficit in reserves will, however, be deducted from permanent capital.

### 1.8.2 *Definition of Additional Capital ("Additional Capital")*

The definition of Additional Capital includes:

- (a) other equity reserves (distributable or otherwise);
- (b) profit and loss reserve;
- (c) redeemable shares; and
- (d) subordinated loans.

Where loans, subordinated or otherwise, are allowed in a Clearing Member's Net Capital calculation, the Clearing House may require Clearing Members to provide the Clearing House with details of the terms and conditions of the loan(s) (see Section 1.8.3). The Clearing House may, at its discretion, recognise other long-term loans in the calculation of Additional Capital.

### 1.8.3 *Acceptability of Subordinated Loans*

The Clearing House will, in the Net Capital Requirement, allow subordinated loans from a parent company/ies as an acceptable form of capital. Where a Clearing Member is reliant upon subordinated loans to meet its minimum requirement, the Clearing House will require assurances that the loan(s) will not be repaid without the prior consent of the Clearing House.

Clearing Members who wish to re-structure their Net Capital in a way that subordinated loans become key to their meeting the minimum Net Capital Requirement, should contact the Clearing House's Membership team. Clearing Members will be required to enter into an agreement with the Clearing House in the standard form prescribed by the Clearing House for these purposes.

### 1.8.4 *Recognition of Irrevocable Letters of Credit*

In cases where the Net Capital Requirement is significantly greater than a Clearing Member's regulatory capital requirement, the Clearing House may, at its discretion, but in any case up to a maximum of 50% of the minimum capital requirement, recognise funds committed to the Clearing House under an Irrevocable Letter of Credit from a third party bank in determining whether the minimum requirement is met.

Clearing Members falling into this category and interested in meeting the requirements in this way will be required to enter into a standard form agreement with the Clearing House. That agreement is available from the Clearing House's Membership team.

## 1.9 **Reporting**

Clearing Members must provide the information detailed below.



### 1.9.1 *All Members*

- (a) All Clearing Members must, within six months from the date on which their annual accounts are made up, provide the Clearing House with an English-language copy of their profit and loss account and balance sheet, together with a statement that their auditors have reviewed and approved them, drawn up either in accordance with Companies Act requirements or otherwise in accordance with the requirements of the Clearing House. In addition, the Clearing House may at its discretion require the provision of financial accounts for the ultimate or immediate parent of the Clearing Member.
- (b) All Clearing Members must provide the Clearing House in a prompt and timely manner with:
  - (i) any information concerning any financial or business development that the Clearing Member reasonably considers may materially affect the Clearing Member's ability to comply with the applicable membership criteria or Applicable Law;
  - (ii) information and documents regarding the Clearing Member's risk management policies and practices as requested by the Clearing House. Such information shall include, without limitation, information and documents relating to the liquidity of that Clearing Member's financial resources and settlement procedures;
  - (iii) any other financial information that the Clearing House determines is necessary to assess whether membership criteria are being met on an ongoing basis; and
  - (iv) notice if the Clearing Member becomes the subject of a bankruptcy petition, receivership proceeding, or the equivalent, or any other event to which it is required to notify the Clearing House under the Clearing Membership Agreement or the Rulebook.

In addition, and upon request from the Clearing House or any Regulatory Body, each Clearing Member shall promptly provide the information detailed in (ii) above directly to the any Regulatory Body specified in the relevant request.

### 1.9.2 *Regulated Clearing Members*

Regulated Clearing Members must within 30 calendar days of each of their quarter-end dates, provide the Clearing House with copies of their regulatory returns. In addition, Clearing Members must provide the Clearing House with copies of all reports that are required to be filed with the CFTC pursuant to parts 17 and 20 of the CFTC Regulations.

### 1.9.3 *Non-Regulated Clearing Members*

Non-regulated Clearing Members must provide the Clearing House with an English language version of their quarterly balance sheet and profit and loss statement within 30 calendar days of their quarter-end date. This must be signed by two directors, a director and the company secretary, or two Authorised Signatories. Where the Clearing Member is a partnership the balance sheet and profit and loss statement must be signed by two partners of the firm. Please provide evidence of signing authority together with specimen signatures.

#### 1.9.4 *Category K*

Special Clearing Members must provide the Clearing House with such financial information as is stipulated in their Clearing Membership Agreement.

#### 1.9.5 *Reduction in Net Capital*

All Clearing Members must immediately notify the Clearing House of any significant reduction (usually 10% or more), from the figures shown in their last financial returns, in:

- (a) shareholders' funds; and
- (b) Net Capital.

### 1.10 **Additional Requirements**

#### **Notification of Changes of Ownership**

Clearing Members (other than Special Clearing Members, who shall be subject to such specific terms as set out in their Clearing Membership Agreement) are required, under the terms of their Clearing Membership Agreement, to notify or pre-notify the Clearing House of changes in controlling holdings (defined as the exercise or control of 20% or more of the voting power of the firm). The Clearing House recognises that, in the case of Clearing Members which are part of large financial groups, changes in controllers may occur with relative frequency, which may only be known after the event and are unlikely to be significant to the Clearing House. However, in cases of changes in ownership, and particularly where those potentially acquiring a dominant stake in a Clearing Member are not known to the Clearing House, Clearing Members are required to pre-notify the Clearing House of their plans. The proposed change of ownership may be subject to an approval process involving the Risk Committee and Board of the Clearing House.

#### **Due Diligence and Know Your Customer**

Clearing Members are required to respond to all due diligence requests, including but not limited to, annual updates, issued by the Clearing House within a reasonable period of time. In addition, all Clearing Members must ensure that they comply in relevant jurisdictions with all applicable anti-money laundering and sanctions legislation and regulations, including but not limited to, client due diligence and sanctions screening, and upon request from the Clearing House, will be required to evidence the same.

#### **Fees; Charges**

The Clearing House shall be entitled to charge Clearing Members fees, charges, levies and other dues as prescribed by the Clearing House from time to time, provided, that the Clearing House shall provide Clearing Members no fewer than fourteen (14) days' prior notice of any increase to such fees, charges, levies or other dues. The Clearing House may provide the aforementioned notice by way of Clearing Member circular or notification, which may include notification via the Clearing House's website.

### 1.11 Other Conditions

The Clearing House may, at any time, impose additional conditions in relation to continued Clearing Member status, and at any time vary or withdraw any such conditions, provided that any such conditions which restrict, or may be considered to have the effect of restricting, access of a Clearing Member to the Clearing House shall be imposed only in circumstances where, and to the extent that, their object is to control the exposure of the Clearing House to risk. Clearing Members are referred to the Clearing House's website for further information about the relevant internal risk management policies and procedures of the Clearing House.

The relevant additional conditions imposed on a Clearing Member may include, but are not limited to, a requirement to transfer additional cash or non-cash Collateral to the Clearing House, as determined by the Clearing House.

### 1.12 Jurisdictional Requirements

#### 1.12.1 Singaporean Clients

Clearing Members are required to provide a copy of the 'Notice to Singapore Clearing Clients' to Clearing Clients incorporated in or operating through a branch in Singapore. The 'Notice to Singapore Clearing Clients' is available at: [https://www.lch.com/system/files/media\\_root/singapore%20client%20disclosure.pdf](https://www.lch.com/system/files/media_root/singapore%20client%20disclosure.pdf).

#### 1.12.2 Restrictions on Clearing Members and SCM Branches incorporated in or domiciled in Japan (each a "**Japanese Clearing Member**" or "**Japanese SCM Branch**", respectively)

- (a) Japanese Clearing Members and Japanese SCM Branches are not permitted to participate in the Portfolio Margining Service.
- (b) Japanese Clearing Members and Japanese SCM Branches shall not clear Yen-denominated SwapClear Contracts.

#### 1.12.3 Restrictions on Clearing Clients incorporated in or domiciled in Japan ("**Japanese Clearing Clients**")

- (a) Clearing Members may not participate in the Portfolio Margining Service on behalf of Japanese Clearing Clients.
- (b) Clearing Members shall not clear Yen-denominated SwapClear Contracts on behalf of Japanese Clearing Clients.

- 1.12.4 Restrictions on Clearing Clients organized under the laws of Canada, have their head office located in Canada or have their principal place of business in Canada (each, a “**Canadian Clearing Client**”)
- (a) A Clearing Member may not open the following types of Client Accounts on behalf of or with respect to a Canadian Clearing Client:
    - (i) Identified Client Omnibus Net Segregated Account;
    - (ii) Affiliated Client Omnibus Net Segregated Account;
    - (iii) Non-Identified Client Omnibus Net Segregated Account; or
  - (b) A Clearing Member may not permit a Canadian Clearing Client to be a Combined Omnibus Gross Segregated Clearing Client.

**SCHEDULE 1**  
**CLEARING HOUSE PRESCRIBED LANGUAGE**

1. The Clearing Client acknowledges and agrees that:
  - (a) the services provided by the Clearing House with regard to the Client Clearing Services will be subject to, and governed by, the Clearing House's Rulebook and the Clearing Client will not act so as to cause (directly or indirectly) any breach of the Rulebook by any person. The provisions of Regulation 52 (*Exclusion of Liability*) of the Clearing House's Rulebook (as amended from time to time) shall apply *mutatis mutandis* as though entered into by the Clearing Client directly with the Clearing House;
  - (b) if the Clearing Member Defaults and either:
    - (i) the Clearing Client and (if applicable) each other relevant Clearing Client has failed to appoint a Backup Clearing Member; or
    - (ii) the Clearing House does not receive the written agreement of the Clearing Client and (if applicable) each other relevant Clearing Client, and of a Backup Clearing Member, to the porting of Contracts that the Defaulted Clearing Member has entered into with the Clearing House in respect of such Clearing Client(s) to such Backup Clearing Member,  
  
in each case, in accordance with, and subject to, the Default Rules, then the Clearing House will not port such Contracts to a Backup Clearing Member and will implement the remainder of its default management process under the Default Rules in relation to such Contracts. For the avoidance of doubt, a Backup Clearing Member can be appointed prior to or after the Default of the Clearing Member, but a Clearing Client who has not appointed a Backup Clearing Member prior to the Default of the Clearing Member may find that porting is less likely to occur;
  - (c) it may not instruct the Clearing House to act or to omit to act in any manner at any time prior to the Default of the Clearing Member, but: (i) the Clearing House shall accept instructions from the Clearing Client following the Default of the Clearing Member in accordance with, and subject to, the Clearing House's Rulebook; and (ii) a Clearing Client may appoint a Backup Clearing Member prior to or after the Default of the Clearing Member;
  - (d) it is not entitled to any information from the Clearing House as to any assets held by the Clearing House for any person or any Contracts registered to a Client Account or Proprietary Account (although it may request that the Clearing House provide such information following the Default of the Clearing Member);
  - (e) where the Clearing Member provides securities to the Clearing House as Collateral ("**Securities**"), the Clearing Client may not assert any equitable or other claim to any such Securities where the assertion of such claim would delay or inhibit the sale, disposal or appropriation by the Clearing House of such Securities and/or the application of the proceeds of sale or disposal of such

Securities in accordance with the Clearing House's Rulebook and any relevant Deed of Charge;

- (f) the Clearing House does not owe any fiduciary duty, duty of care or other duty to the Clearing Client, to the extent permitted by Applicable Law;
- (g) it has read and understood the Client Clearing End-User Notice, which is available on the Clearing House's website, for each Service in which it participates or will participate;
- (h) it is the sole responsibility of the Clearing Client to: (i) determine whether to use the Client Clearing Services and participate in any Client Account; and (ii) obtain its own independent advice, and undertake its own due diligence, in respect of the Client Clearing Services and any Client Account; and
- (i) any information which it obtains from the Clearing House does not constitute advice and it may not rely on it.

2. The Clearing Client and the Clearing Member acknowledge and agree that:

- (a) subject to [clause 2(b) of this schedule], a person who is not a party to the [insert the correct defined term for the client clearing agreement] has no right under the Third Parties Act to enforce any term of this [schedule];
- (b) notwithstanding [clause 2(a) of this schedule], the Clearing House may enforce any term of this [schedule] subject to, and in accordance with, the Third Parties Act; and
- (c) the rights of the Clearing Member and the Clearing Client to rescind and/or vary the [insert the correct defined term for the client clearing agreement] are not subject to the consent of any other person.

3. Capitalised terms which are used, but not defined, in this [schedule] shall have the meaning specified in the rulebook of LCH Limited, which is located at [www.lch.com/rules-regulations/rulebooks/ltd](http://www.lch.com/rules-regulations/rulebooks/ltd), as such rulebook is amended from time to time. The reference to Regulation 52 (Exclusion of Liability) of the Clearing House's Rulebook (as amended from time to time), in [clause 1(a) of this schedule], includes any subsequent renumbering of such regulation.

**[Note to Clearing Member and Clearing Client:**

Clause 2 of this schedule may be amended as necessary:

- 1. to ensure it fits in with any general Third Parties Act provisions within the client clearing agreement; and/or
- 2. as a result of the client clearing agreement being governed by law other than English law,

provided that, in each case, the substance and effect of clause 2 is preserved (i.e. the Clearing House has the right to enforce the terms of this schedule).]