



**Form 19b-4 Information****1. Text of the Proposed Rule Change**

(a) ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) proposes to amend its Finance Procedures in order to align the timing at which monthly interest payments and monthly transaction fees are processed.<sup>1</sup>

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

(a) The proposed rule changes have been approved by the Executive Risk Committee of ICE Clear Europe and did not require approval by the ICE Clear Europe Board of Directors.

(b) Please refer questions and comments regarding the proposed rule changes to George Milton, Head of Regulation and Compliance, ICE Clear Europe Limited, 5th Floor, Milton Gate, 60 Chiswell Street, London, EC1Y 4SA, United Kingdom, +44 20 7065 7600.

**3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change****(a) Purpose**

ICE Clear Europe is proposing to amend its Finance Procedures to align the timing for payment of the return on cash margin and Guaranty Fund deposits of Clearing Members with that for payment of monthly transaction fees. Under existing Finance Procedures paragraph 6.1(i)(vi), transaction fees are payable through the overnight payment call or return by the fifth Business Day after the end of each month. ICE Clear Europe is proposing to amend Finance

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings specified in the Finance Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

Procedures paragraph 6.1(i)(iv) to provide that interest on margin and Guaranty Fund contributions will be credited by the fifth Business Day after the end of each month, rather than the fourth Business Day after the end of each month. ICE Clear Europe proposes to implement the change on or about December 14, 2022.

ICE Clear Europe believes that processing interest and transaction fees on the same day as part of the same net overnight payment calculation will reduce the number and size of overall cash flows and thus improve overall payment efficiency. The change will also reduce unnecessary potential liquidity demands on the Clearing House and Clearing Members to the extent of offsetting interest and transaction fees and reduce the risk to the Clearing House of a failure or default in payment of transaction fees by a Clearing Member after payment by the Clearing House of interest. ICE Clear Europe believes that the benefits of improving payment efficiency in this manner will be more significant in the current rising interest rate environment, as increases in ICE Clear Europe's ICE Deposit Rate have resulted in an increase in monthly interest payments due from ICE Clear Europe to Clearing Members.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Finance Procedures are consistent with the requirements of Section 17A of the Act<sup>2</sup> and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act<sup>3</sup> requires that "[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants." ICE Clear Europe believes that the proposal is a reasonable and appropriate change to the timing of payment of return on cash margin and Guaranty Fund

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<sup>2</sup> 15 U.S.C. 78q-1.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(D).

contributions, in order to enhance overall settlement efficiency. This is particularly so, in ICE Clear Europe's view, in light of the current interest rate environment which has led to increases in the ICE Deposit Rate. The amendment also reduces liquidity demands and reduces the risk of a payment failure or default with respect to the payment of transaction fees. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act which requires, among other things, that "[t]he rules of a clearing agency [...] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency."<sup>4</sup> As noted above, the Finance Procedures, as proposed to be amended, would apply to all Clearing Members and the amendments would not otherwise the rights or obligations of the Clearing House or Clearing Members with respect to the payment of transaction fees or the payment of interest on cash margin and Guaranty Fund contributions. Section 17A(b)(3)(F) also requires that the "[t]he rules of a clearing agency [...] are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities or funds which are in the custody or control of the clearing agency or for which it is responsible . . . and, in general, to protect investors and the public interest."<sup>5</sup> As set forth above, ICE Clear Europe believes the amendments will enhance payment efficiency and reduce payment risks. As such, the amendments, in ICE Clear Europe's view,

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<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

would be consistent with prompt and accurate clearance and settlement, would not adversely affect the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and generally would be consistent with the public interest in the sound operation of the Clearing House. As a result, the amendments are consistent with the requirements of Section 17A(b)(3)(F) of the Act.

4. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments to the Finance Procedures are intended to reduce the number of cash flows, improve payment efficiency and to reduce the (low) risk of payment failure with respect to transaction fees, by changing the interest payment date to be consistent to that of the transaction fee payment date. The amendments would not otherwise change the rights or obligations of market participants. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

5. Self-Regulatory Organization's statement on Comments on the Proposed Rule Change Received from Members, participants, or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

6. Extension of Time Period for Commission Action

ICE Clear Europe does not consent to the extension of the time period listed in Section 19(b)(2) of the Securities Exchange Act of 1934<sup>6</sup> for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

(a) ICE Clear Europe is filing the proposed rule change for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(4)(i).<sup>7</sup>

(b) ICE Clear Europe believes that summary effectiveness is warranted because the proposed rule does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the Clearing Members, within the meaning of Rule 19b-4(f)(4)(i).

Specifically, as discussed above, the proposed rule changes would revise only the timing for monthly payments of interest relating to cash margin and Guaranty Fund contributions, to be consistent with the timing of payments of transaction fees. The amendments do not adversely affect the safeguarding of such margin and contributions, and do not otherwise affect the rights or obligations of Clearing Members.

(c) Not applicable.

(d) Not applicable

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

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<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 240.19b-4(f)(4)(i).

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Not applicable

Exhibit 1A. Notice of proposed rule change for publication in the Federal Register

Exhibit 2. Not applicable

Exhibit 3. Not applicable

Exhibit 4. Not applicable

Exhibit 5. Text of amendments to the Finance Procedures.

**Exhibit 1A****SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-\_\_\_\_\_; File No. SR-ICEEU-2022-026]

**SELF-REGULATORY ORGANIZATIONS**

Self-Regulatory Organizations; ICE Clear Europe Limited; Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Amendments Finance Procedures.

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice**

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) proposes to amend its Finance Procedures in order to align the timing at which monthly interest payments and monthly transaction fees are processed.

**II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice**

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



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proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

ICE Clear Europe is proposing to amend its Finance Procedures to align the timing for payment of the return on cash margin and Guaranty Fund deposits of Clearing Members with that for payment of monthly transaction fees. Under existing Finance Procedures paragraph 6.1(i)(vi), transaction fees are payable through the overnight payment call or return by the fifth Business Day after the end of each month. ICE Clear Europe is proposing to amend Finance Procedures paragraph 6.1(i)(iv) to provide that interest on margin and Guaranty Fund contributions will be credited by the fifth Business Day after the end of each month, rather than the fourth Business Day after the end of each month. ICE Clear Europe proposes to implement the change on or about December 14, 2022.

ICE Clear Europe believes that processing interest and transaction fees on the same day as part of the same net overnight payment calculation will reduce the number and size of overall cash flows and thus improve overall payment efficiency. The change will also reduce unnecessary potential liquidity demands on the Clearing House and Clearing Members to the extent of offsetting interest and transaction fees and reduce the risk to the Clearing House of a failure or default in payment of transaction fees by a Clearing Member after payment by the Clearing House of interest. ICE Clear Europe believes that the benefits of improving payment efficiency in this manner will be more significant in the current rising interest rate environment,

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as increases in ICE Clear Europe's ICE Deposit Rate have resulted in an increase in monthly interest payments due from ICE Clear Europe to Clearing Members.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Finance Procedures are consistent with the requirements of Section 17A<sup>3</sup> of the Act and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act<sup>4</sup> requires that "[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants." ICE Clear Europe believes that the proposal is a reasonable and appropriate change to the timing of payment of return on cash margin and Guaranty Fund contributions, in order to enhance overall settlement efficiency. This is particularly so, in ICE Clear Europe's view, in light of the current interest rate environment which has led to increases in the ICE Deposit Rate. The amendment also reduces liquidity demands and reduces the risk of a payment failure or default with respect to the payment of transaction fees. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.<sup>5</sup>

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act which requires, among other things, that "[t]he rules of a clearing agency [...] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency."<sup>6</sup> As noted above, the Finance Procedures,

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<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

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as proposed to be amended, would apply to all Clearing Members and the amendments would not otherwise the rights or obligations of the Clearing House or Clearing Members with respect to the payment of transaction fees or the payment of interest on cash margin and Guaranty Fund contributions. Section 17A(b)(3)(F) also requires that the “[t]he rules of a clearing agency [...] are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities or funds which are in the custody or control of the clearing agency or for which it is responsible . . . and, in general, to protect investors and the public interest.”<sup>7</sup> As set forth above, ICE Clear Europe believes the amendments will enhance payment efficiency and reduce payment risks. As such, the amendments, in ICE Clear Europe’s view, would be consistent with prompt and accurate clearance and settlement, would not adversely affect the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and generally would be consistent with the public interest in the sound operation of the Clearing House. As a result, the amendments are consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>8</sup>

(B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments to the Finance Procedures are intended to reduce the number of cash flows, improve payment efficiency and to reduce the (low) risk of payment failure with respect to transaction fees, by changing the interest payment date to be consistent to that of the

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<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

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transaction fee payment date. The amendments would not otherwise change the rights or obligations of market participants. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and paragraph (f) of Rule 19b-4<sup>10</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).

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advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2022-026 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICEEU-2022-026. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, N.E., Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 pm. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/notices/Notices.shtml?regulatoryFilings>.

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All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2022-026 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).

**(II) FINANCE PROCEDURES****INDEX**

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1. **GENERAL**

1.1 **These Finance Procedures are 'Procedures' as defined in the ICE Clear Europe rules (the "Rules") and are subject to the Rules, including, without limitation, Rule 102. These Finance Procedures set out details on how Clearing Members' and Sponsored Principals' financial obligations are met, including the provision of cash and securities to the Clearing House.**

1.2 The Clearing House will execute and initiate a range of financial transactions on a daily basis to manage Clearing Members' and Sponsored Principals' requests, rights, liabilities and obligations. Such transactions will result in payments being made to cover Margin obligations and to pay fees, among others. ICE Clear Europe has established a network of Approved Financial Institutions for this purpose. This is also known as the "Assured Payment System" or "APS".

1.3 These Finance Procedures apply in relation to F&O Clearing, CDS Clearing and FX Clearing.

1.4 Subject to paragraph 1.5 to 1.10 below, these Finance Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Finance Procedures will be subject to arbitration under Rule 117.

1.5 Solely as between an FCM/BD Clearing Member and the Clearing House, those provisions of these Finance Procedures inasmuch as they relate solely to an issue or matter concerning:

- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
- (b) the application of any net sum owed in favour of the FCM/BD 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 paragraph 1 of these Finance Procedures (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.

1.6 For the avoidance of doubt, paragraph 1.5 is an exception to paragraph 1.4 and Rule 102(s) which provide that the Finance Procedures and Rules respectively shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.5, 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:

- (a) all of the provisions of these Finance Procedures relating to the Designated System;
- (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
- (c) 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;
- (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or a Sponsored Principal;



- (e) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
  - (f) the Contract Terms of all Contracts.
- 1.7 Where a dispute between an FCM/BD 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 FCM/BD Clearing Member hereby:
- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
  - (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- 1.8 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.7 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.7 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 paragraph 1.7 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 paragraph 1.7 heard in the New York Courts.
- 1.9 Nothing in paragraphs 1.4 to 1.10 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.
- 1.10 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 FINANCE PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
- (a) 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
  - (b) 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 PARAGRAPHS 1.4 to 1.10.
- 1.11 The following terms shall have the meaning specified below where they are used in these Procedures:

- (a) “CZK” means the lawful currency from time to time of the Czech Republic;
- (b) “DKK” means the lawful currency from time to time of the Kingdom of Denmark;
- (c) “HUF” means the lawful currency from time to time of Hungary;
- (d) “JPY” means the lawful currency from time to time of Japan;
- (e) “NOK” means the lawful currency from time to time of the Kingdom of Norway;
- (f) “PLN” means the lawful currency from time to time of the Republic of Poland;
- (g) “TRY” means the lawful currency from time to time of the Republic of Turkey; and
- (h) “ZAR” means the lawful currency from time to time of the Republic of South Africa.

## 2. CASH COLLATERAL

- 2.1 The Clearing House will support transactions and account holdings in six currencies: USD, GBP, EUR, CAD, CHF and SEK. Initial Margin, Original Margin and FX Original Margin obligations may be met only in USD, GBP and EUR. Other currencies may be used by Clearing Members and Sponsored Principals only for the receipt of income on non-cash Permitted Cover with coupons payable in those currencies. CAD may also be used for Variation Margin and settlement payments only for Energy Contracts which settle in CAD (whether in whole or in part). AUD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK TRY and ZAR may also be used for Variation Margin and settlement payments only for Financials & Softs Contracts which settle in such currencies (whether in whole or in part).
- 2.2 The Clearing House supports cross currency collateral, which means that it is not necessary to cover Margin requirements in the same currency as the underlying Contract (other than Variation Margin in accordance with Rule 502(c)). The relevant exchange rate applied is the rate determined by the daily concertation procedure between central banks within and outside the European System of Central Banks (currently published by the European Central Bank at <http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html#latest>) on the day or business day prior to the date on which the exchange rate is calculated by the Clearing House or, in the event that such rate is not available, a reasonable exchange rate determined by the Clearing House at its discretion. The Clearing House may impose a “haircut” on any Original Margin provided in a currency other than the reference currency to cover fluctuations in exchange rates. Applicable exchange rate haircuts will be published from time to time by Circular. Haircuts will be determined as set out in paragraph 13.7 of these Finance Procedures.
- 2.3 Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin is transferred to and from the Clearing House by way of outright transfer. Accordingly: (i) no Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin is subject to any Pledged Collateral Addendum or the pledge referred to in paragraph 7.2; and (ii) there is excluded from the requirement in Rule 1603(c) for Margin to be provided by an FCM/BD Clearing Member in respect of a Customer Account in the form of Pledged Collateral, any Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin so provided to or by the Clearing House by outright transfer of cash.

## 3. TRIPARTY COLLATERAL

### General

- 3.1 Clearing Members may use Triparty Collateral to cover Original Margin, Initial Margin and FX Original Margin requirements for certain Accounts, as specified in Circulars concerning the use of Permitted Cover. This facility is available to Clearing Members at the discretion of the Clearing House. The facility is available, and this paragraph 3 applies equally, to Sponsored Principals in the same way as it applies to Clearing Members, save as expressly set out in paragraph 3.2, subject to Part 19 of the Rules.

The Clearing House reserves the right to terminate this arrangement at any time. The service is provided in cooperation with the following Triparty Collateral Service Providers:

Euroclear Bank

Clearstream Banking.

- 3.2 These Finance Procedures should be read in conjunction with the Terms and Conditions and the Operational Procedures of the Triparty Collateral Service Providers. The legal basis underpinning the collateral consists of (i) the Collateral Service Agreement (or equivalent document) (CSA) of the Triparty Collateral Service Provider; (ii) the Clearing Membership Agreement (CMA, for Clearing Members) or Sponsored Principal Clearing Agreement (SPCA, for Sponsored Principals); and (iii) in respect of securities collateral which is transferred pursuant to a Pledged Collateral Addendum, such Pledged Collateral Addendum. The Collateral Giver (under the CSA) must be the same legal entity as the Clearing Member (under the CMA) or, in respect of an Individually Segregated Sponsored Account, the Disclosed Principal (under the SPCA).
- 3.3 The following definitions apply to these Triparty Collateral Procedures:
- (a) The term “Triparty Collateral Service Provider” or “Provider” means the institution offering the Triparty Collateral Service.
  - (b) The term “Triparty Collateral Instruction” or “Instruction” means: (i) the instruction to transfer to or withdraw from the Clearing House, sent to the Clearing House by the Clearing Member, or (ii) the initiation, amendment or closure instructions sent by the Clearing House or the Clearing Member to the Triparty Collateral Service Provider.
  - (c) The term “Triparty Collateral Transaction” or “Transaction” means the transaction which is created after matching and settlement of the instructions from both the Clearing House and the Clearing Member at the Triparty Collateral Service Provider.
  - (d) The term “Fill” or “Filling” means the transfer of eligible securities and cash from the Clearing Member to the Clearing House in accordance with the Triparty Collateral Transaction.

#### **Collateral Service Agreement**

- 3.4 In order to use Triparty Collateral a CSA must be executed between the Clearing Member, the Clearing House and the Provider. This CSA contains terms and conditions, eligible securities and cash (Annex I), Eligibility Set profiles (Annex II) and Fee specifications (Annex III).
- 3.5 The Clearing House retains the right to add, adjust or remove any currency or any collateral type from the relevant list of eligible securities or change other components in the Eligibility Set profile at any time. The Clearing House will inform the Clearing Member and provide him with revised documentation as appropriate. The Clearing Member will be deemed to accept the revision proposed by the Clearing House and must inform the Provider of its acceptance within five business days. Rejection or delay in informing the Provider may result in a reduction in collateral value of the Triparty Collateral.
- 3.6 A Clearing Member may request an exclusion of asset types from the list of eligible securities and cash. Adjustments to other parts of the CSA will not be accepted by the Clearing House.

#### **Triparty Collateral Service**

- 3.7 The Clearing Member is allowed to transfer to the Clearing House Triparty Collateral in the three currencies currently supported by the Clearing House for Original Margin, Initial Margin and FX Original Margin (USD, GBP and EUR).

- 3.8 Instructions can be given for same day or for next business day settlement. Same day instructions will adjust the relevant collateral value when the Instructions are matched and settled and the Transaction is filled. Transfers for next day settlement will receive collateral value in the next overnight clearing process of the Clearing House. Withdrawals for next day settlement will have an immediate effect on the value of the Clearing Member's collateral but will actually settle in the market in the next overnight settlement process of the Provider.
- 3.9 The Clearing House has opened accounts with each Triparty Collateral Service Provider, the account numbers of which will be confirmed, from time to time, by the Clearing House along with the details, if applicable, of how Clearing Members are able to use a Pledged Collateral Addendum (other than a Pledged Collateral Addendum relating to Customer Account Margin of an FCM/BD Clearing Member) in connection therewith.

**Instruction**

- 3.10 In order to initiate, amend or close a Transaction the Clearing Member must instruct the Clearing House using ECS (as defined in the Delivery Procedures). The mandatory fields to be completed are:
- (a) Asset type
  - (b) Service provider
  - (c) Risk profile
  - (d) Settlement date (instruction date or next business day)
  - (e) Currency
  - (f) Amount of adjustment
- 3.11 Settlement accounts and the risk profile are considered to be static data and are stored in ECS. Clearing Members are not required to include this information in the initial instruction, amendment or closure towards the Clearing House. The static data is used by the Clearing House to create instructions to the Provider.
- 3.12 Please note that in ECS the Clearing Member must enter the increase or decrease in value of the Transaction. This is in contrast with the Instruction to the Triparty Collateral Service Provider which quotes the new Transaction value.
- 3.13 In ECS an entry in "add new collateral" will generate an initiation of a Triparty Collateral Transaction, an adjustment ("+" or "-") will create an adjustment to the value of an existing Transaction and a reduction to zero will result in a closure.

**Matching or Settlement Instructions**

- 3.14 Matching and settlement can only take place during the normal settlement window of the Provider. Unmatched instructions will be cancelled after the last matching possibility on the day on which the relevant instructions are issued has elapsed.
- 3.15 The Clearing House will provide updated information on the settlement status of Instructions through ECS. Clearing Members are responsible for monitoring the status of the Instructions. The status of an instruction as matched or not matched is not advised by the Clearing House and the Clearing Member must confirm this directly with the relevant Provider.
- 3.16 It is the responsibility of the Clearing Member to ensure that instructions from ECS and the matching instruction to the Provider match correctly. The Clearing House will not be liable for any losses of

Clearing Members or third parties caused by non-settlement or a delay in settlement as a result of the actions or omissions of a settlement system, Provider or the Clearing Member.

#### **Cancellation requests and cancellation of pending instructions**

- 3.17 Clearing Members can only cancel an instruction prior to the time that the Clearing House sends the instruction to the Provider. After the Clearing House has sent the Instruction, the Clearing House will assume that the Instruction has been completed.
- 3.18 All unmatched Instructions are automatically cancelled at the end of each day in ECS. If the Instruction is unmatched and cancelled but the Clearing Member still wishes to initiate, amend or close the Transaction then the Clearing Member has to re-instruct the following business day.

#### **Settlement deadlines**

- 3.19 Deadlines will be set out and updated in the Clearing House's Circulars.
- 3.20 Based on the market deadlines, the Clearing House has set the following deadlines for Triparty Collateral Instructions:  
  
SAME DAY settlement 15.00 pm (UK TIME)  
  
NEXT DAY settlement 16.00 pm (UK TIME)
- 3.21 Any instruction after this time will not be accepted by ECS. Instruction prior to the deadline will be released to the Provider and have the possibility to match and settle until the end of the Provider's business day.

#### **Holidays affecting settlement systems**

- 3.22 On bank holidays and other days on which payments are required to be made in another currency pursuant to paragraph 6.1(h)(viii), it will or may not be possible to create Instructions. These dates will be advised by Circular from the Clearing House. On these days, Clearing Members will need to use alternative settlement systems and/or types of collateral to cover relevant Margin requirements.

#### **Collateral transfers (transaction filling)**

- 3.23 It is the Clearing Member's responsibility to make sufficient cash or securities available to transfer to the account of the Clearing House up to the value of the Transaction. The Clearing House will have the right to raise an additional margin requirement when insufficient cash or securities are transferred to the Clearing House to Fill in accordance with the Transaction.
- 3.24 An intra-day requirement will be raised for the value of the uncovered part of the Transaction. After the deadline has passed the Clearing House will calculate and raise the intra-day requirement using the information provided by the Triparty Collateral Service Provider.  
  
Deadline Triparty Collateral 9.00 am (UK TIME).
- 3.25 The additional requirement will not be released before the next end-of-day clearing process.
- 3.26 Cash might be used as collateral for the Triparty Collateral during the day. Cash remaining in a Transaction overnight on the account of the Clearing House will not be treated as cash collateral upon completion of the relevant transfer to the Clearing House and no interest return will be paid.

#### **Collateral value of Triparty Collateral**

- 3.27 The Clearing House is allowed to adjust the collateral value of the Triparty Collateral Transaction by applying a haircut to the Triparty Collateral. Notification in advance by the Clearing House will not be provided.

#### **Termination of the Collateral Service Agreement**

- 3.28 The Clearing House reserves the right to terminate a Collateral Service Agreement at any time at its own discretion. Pending Triparty Collateral Transactions must be replaced by alternative permitted cover before the Transactions are closed.

#### **Corporate actions**

- 3.29 Transfer of cash (including the cash proceeds of any securities) into the Clearing House accounts may only be executed through a transfer of title pursuant to the Clearing Membership Agreement. Transfer of securities into the Clearing House accounts may be executed either (i) through a transfer of title pursuant to the Clearing Membership Agreement or (ii) through delivery of possession pursuant to a Pledged Collateral Addendum. The Clearing House will become beneficial owner of all proceeds resulting from any holdings of securities. All proceeds from Triparty Collateral, less any deduction or withholding for or on account of tax required by Applicable Law, will be passed on to the member by the Triparty Collateral Service Provider in satisfaction of the Clearing House's obligations in respect of such proceeds under clause 4.4 of the Clearing Membership Agreement. The Clearing House, as collateral taker, provides access to information on income payments, redemptions or corporate events in relation to collateral securities provided to the collateral taker.
- 3.30 The Clearing House will be the beneficial owner of all securities title to which is transferred to the Clearing House and the withholding of tax is based on the tax status of the Clearing House. We strongly recommend that the Clearing Member should withdraw or exclude the collateral which is subject to the corporate action as the Clearing House is not liable for any deviations in taxation and does not assist in the reclaiming of tax.

#### **Default**

- 3.31 The Clearing House will inform the Triparty Collateral Service Provider of an event of default of the Clearing Member according to the terms and regulations of the CSA. The Clearing House Rules regarding the liquidation of the collateral can be found in the Clearing Member Agreement.
- 3.32 At the request of an F&O Clearing Member, the Clearing House may, in its sole discretion, agree to enter into a collateral purchase agreement with a third party collateral purchaser and such F&O Clearing Member (and in the case of an Individually Segregated Margin-flow Co-mingled Account, the relevant Customer), under which the Clearing House will agree to offer for sale to the third party collateral purchaser Triparty Collateral transferred to the Clearing House by such F&O Clearing Member for a Proprietary Account or Individually Segregated Margin-flow Co-mingled Account in respect of F&O Contracts, in the event of the F&O Clearing Member being declared a Defaulter under the Rules. Any proceeds of such sale will be included in the relevant net sum pursuant to Rules 905(b)(vii) and 906(a). The Clearing House shall have no obligation to enter into any such agreement, and the identity of any such third party collateral purchaser (and, in the case of an Individually Segregated Margin-flow Co-mingled Account, the relevant Customer) must be approved by the Clearing House pursuant to criteria established by the Clearing House. Any such collateral purchase agreement must be in the form approved by the Clearing House for such purposes from time to time.

#### **4. ASSURED PAYMENT SYSTEM: ACCOUNTS**

- 4.1 Each Clearing Member must as a minimum maintain the following accounts at one or more Approved Financial Institutions:

- (a) up to six Nominated Proprietary Bank Accounts (also known as 'house' accounts) linked to each Proprietary Account, denominated in up to one each of USD, GBP, EUR, CAD, CHF and SEK as follows, subject to paragraph 4.2:
  - (i) all Clearing Members must have an account, denominated in USD;
  - (ii) all CDS Clearing Members must have an account denominated in EUR;
  - (iii) all F&O Clearing Members and FX Clearing Members must additionally have at least one further account denominated in either GBP or EUR;
  - (iv) a Clearing Member which has an Open Contract Position in a contract for which EUR, GBP, USD or CAD is the settlement currency must have an account denominated in such currency;
  - (v) a Clearing Member that transfers non-cash Permitted Cover to the Clearing House which pays a coupon, interest or redemptions must have an account in the currency of such coupon, interest or redemption; and.
  - (vi) an F&O Clearing Member that is a Financials & Softs Clearing Member and is party to Financials & Softs Contracts which settle in AUD, CAD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY or ZAR must have an account in each such currency.
- (b) for an F&O Clearing Member that is a Non-FCM/BD Clearing Member, additional Nominated Customer Bank Accounts (also known as 'client' accounts), one for each currency used by it for each of its different Customer Accounts (other than Margin-flow Co-mingled Accounts, in respect of which a single Nominated Customer Bank Account shall be used), the relevant currencies being USD, GBP, EUR, AUD, CAD, CHF, SEK, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY and ZAR, based on the same principles as set out in 4.1(a)(i) to (vii);
- (c) for an F&O Clearing Member that is an FCM/BD Clearing Member and which has one or more Customer Accounts, additional Nominated Customer Bank Accounts (also known as 'client' accounts), one for each currency for each of its Non-DCM/Swap Customer Accounts, Swap Customer Accounts, DCM Customer Accounts and General Customer Accounts, the relevant currencies being USD, GBP, EUR, AUD, CAD, CHF, SEK, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY and ZAR, based on the same principles as set out in 4.1(a)(i) to (v) for each such Customer Account;
- (d) for F&O Clearing Members, a Guaranty Fund account denominated in USD (which may be the same account as a USD Nominated Proprietary Bank Account or a USD guaranty fund account for CDS);
- (e) for CDS Clearing Members, a Guaranty Fund account, denominated in EUR for CDS (which may be the same account as a EUR Nominated Proprietary Bank Account);
- (f) if a CDS Clearing Member is approved to become party to Sovereign Contracts, an additional Guaranty Fund account denominated in USD (which may be the same account as a USD Nominated Proprietary Bank Account or the USD Guaranty Fund account for F&O Guaranty Fund Contributions or FX Guaranty Fund Contributions); and
- (g) for FX Clearing Members, a Guaranty Fund account, denominated in USD (which may be the same account as a USD Nominated Proprietary Bank Account or the USD Guaranty Fund account for CDS Guaranty Fund Contributions or FX Guaranty Fund Contributions);
- (h) if a Non-FCM/BD Clearing Member is a Sponsor in respect of an Individually Segregated Sponsored Account and is appointed by the Sponsored Principal and agrees to operate

Nominated Bank Accounts for the Individually Segregated Sponsored Account, such further accounts as would be required of each such Sponsored Principal pursuant to paragraph 4.4.

- 4.2 If a Clearing Member is more than one of: (i) an F&O Clearing Member; or (ii) a CDS Clearing Member, that Clearing Member is treated for the purposes of the Clearing House's banking systems as if it were two Clearing Members. Such a Clearing Member may specify the same Nominated Bank Accounts for a particular Nominated Bank Account for both CDS and F&O or may use different Nominated Bank Accounts for the different product classes. Accordingly, it may have up to twelve Nominated Proprietary Bank Accounts, one for each currency for each of CDS and F&O. Where a Clearing Member requests more than one Proprietary Account or more than one Customer Account of the same Customer Account Category (other than Individually Segregated Sponsored Accounts, Margin-flow Co-mingled Accounts or by using "F" for an additional omnibus Customer Account), the Clearing Member will be set up on the Clearing House's systems as if it were two Clearing Members and each account of the same Customer Account Category will use the same account code but with a different Clearing Member mnemonic. Any such additional Customer Account may be dedicated for purposes of indirect clearing of positions relating to the indirect clients of a Customer of the Clearing Member.
- 4.3 Nominated Proprietary Bank Accounts, Nominated Customer Bank Accounts and Guaranty Fund accounts must be accounts at Approved Financial Institutions but need not all be at the same Approved Financial Institution.
- 4.4 Each Sponsored Principal must as a minimum maintain (or procure that its Sponsor, if it is a Non-FCM/BD Clearing Member maintains) the following accounts at one or more Approved Financial Institutions:
  - (a) up to six Nominated Bank Accounts linked to the Individually Segregated Sponsored Account, denominated in up to one each of USD, GBP, EUR, CAD, CHF and SEK as follows, subject to paragraph 4.2:
    - (i) all Sponsored Principals must have an account denominated in USD;
    - (ii) all Sponsored Principals that clear CDS must have an account denominated in EUR;
    - (iii) all Sponsored Principals that clear F&O or FX must additionally have at least one further account denominated in either GBP or EUR;
    - (iv) all Sponsored Principals that have an Open Contract Position in a contract for which EUR, GBP, USD or CAD is the settlement currency must have an account denominated in such currency;
    - (v) a Sponsored Principal which transfers non-cash Permitted Cover to the Clearing House which pays a coupon, interest or redemptions in USD, EUR, GBP, CAD, CHF or SEK must have an account in that currency; and.
    - (vi) a Sponsored Principal that clears Financials & Softs Contracts which settle in AUD, CAD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY or ZAR must have an account in each such currency.
- 4.5 ECS will be used for payments. Successful applicants for membership or Sponsored Principal status will be issued with log-ins and given training in the use of ECS. ECS will be used by Clearing Members and Sponsored Principals to give instructions in respect of certain transactions relating to the transfer of cash and securities to the Clearing House and when there is excess Permitted Cover in place that the Clearing Member or Sponsored Principal requests be returned. The Clearing House will be entitled to act upon instructions made through ECS by the Clearing Member or any of its Representatives. In respect of an Individually Segregated Sponsored Account, the Clearing House will be entitled to act upon instructions made through ECS by either the Sponsor or the Sponsored Principal or any of their Representatives. The



accounts described in paragraph 4.1 are the only accounts that may be used for day-to-day transfers to and from the Clearing House through ECS.

4.6 The Clearing House operates Clearing House Accounts in each of the currencies at each Approved Financial Institution and separately for each different Customer Account and Proprietary Account business of Clearing Members and separately for F&O, CDS and FX, as mentioned in paragraph 4.2. Such separation by the Clearing House is undertaken to comply with Applicable Laws and provide administrative benefits to Clearing Members. Upon an Event of Default being declared, amounts in all Proprietary Accounts of a Clearing Member may be combined and set off (subject to and in accordance with the Rules and paragraph 4.2), and amounts relevant to a single separate Customer Account may be combined and set off with one another but not with any other Account, as set out in the Rules.

4.7 Additionally, the Clearing House will hold Clearing House Accounts at Concentration Banks in order to facilitate transfers between accounts at Approved Financial Institutions.

## 5. ASSURED PAYMENT SYSTEM: PROCEDURES

5.1 Each Clearing Member and Sponsored Principal (or, if a Sponsor operates a Nominated Bank Account for the Sponsored Principal, the Sponsor) will be required to have in place at all times a standard debit mandate, allowing the Clearing House to call funds from its Nominated Bank Accounts, established in the relevant Approved Financial Institution's standard form ("**Third Party Authority Form**"). Pursuant to the Clearing Membership Agreement, each Clearing Member must at all times have in place a duly executed Third Party Authority Form in favour of each Approved Financial Institution used by it and in respect of each of its Nominated Bank Accounts. Pursuant to the Sponsored Principal Clearing Agreement and Sponsor Agreement, each Sponsored Principal must at all times have in place a duly executed Third Party Authority Form executed by the Sponsored Principal or Sponsor in favour of each Approved Financial Institution used by it and in respect of each of its Nominated Bank Accounts. Pursuant to Clearing Membership Agreements (and, where applicable, Sponsored Principal Clearing Agreements and Sponsor Agreements) and arrangements between the Clearing House and Approved Financial Institutions, the Clearing House is given various powers, including to take any action as it in its discretion determines in the Clearing Member's (or, where applicable Sponsor's and Sponsored Principal's) or the Clearing House's name in connection with a Clearing Member's (or, where applicable Sponsor's and Sponsored Principal's) Nominated Bank Accounts. Approved Financial Institutions will act upon any instructions received from the Clearing House in relation to the Nominated Bank Accounts without any further reference to, or authority from, a Clearing Member.

5.2 Changes in APS account details must be notified at least five Business Days in advance.

5.3 It is the responsibility of each Clearing Member and Sponsored Principal to have sufficient funds in its Nominated Bank Accounts to enable all cash transfers required under the Rules to be settled. Approved Financial Institutions will not be able to reverse any payment from or to a Clearing House Account without receipt of authorisation from the Clearing House evidenced in writing.

5.4 Clearing Members and Sponsored Principals (or their Sponsors) will be advised of debits from or credits to their physical accounts by the standard SWIFT advices of debit and credit (MT900 and MT910 respectively) or otherwise in accordance with arrangement established with Approved Financial Institutions.

5.5 Clearing Members and Sponsored Principals must ensure that Approved Financial Institutions make payment to the Clearing House Account at the same Approved Financial Institution within the time periods specified in Table 1. The Clearing House will notify all affected Approved Financial Institutions if a contingency method is to be invoked, which will occur if an Approved Financial Institution or the Clearing House experiences a technology failure that affects either of their ability to send or receive SWIFT messages. In the event that no payment notification is received from an Approved Financial Institution by the time specified in Table 1, the Clearing House will be permitted to act as if the funds have not and will not be received, which includes the declaration of an Event of Default in respect of any

affected Clearing Member or Sponsored Principal. In such circumstances, the Clearing House will use its reasonable endeavours to determine the cause of the late notification with the relevant Approved Financial Institutions. The remittance of funds remains at all times the responsibility of Clearing Members. The Clearing House may otherwise treat funds as not having been received and take similar actions as a result of Rule 301(f). In the case of the failure or Insolvency of an Approved Financial Institution used by a Clearing Member or Sponsored Principal in circumstances in which an amount is not treated as having been paid as a result of Rule 301(f), the amount must still be paid (through a further payment, if necessary) by a Clearing Member or Sponsored Principal using alternative methods or a different Approved Financial Institution, in order to discharge the Clearing Member's or Sponsored Principal's liabilities.

- 5.6 If the Clearing House has been transferred excess cash (beyond applicable Margin requirements) by any Clearing Member or Sponsored Principal, the Clearing Member or Sponsored Principal in question is entitled to request repayment through ECS, either on an *ad hoc* basis or automatically on a daily or other regular basis. Such repayments will take place through the same systems and accounts as for payments to the Clearing House.

**TABLE 1: TIME PERIODS FOR DELIVERY OF FUNDS AND SWIFT MT900/MT910**

Type of Instruction	Time for Receipt of Instruction	Latest time for APS Bank to make payment of amount specified in Instruction and send SWIFT MT900/MT910
Routine End-of-day Instruction	For Contracts other than F&O Contracts: On or after 00:00:00 London Time on Business Day X+1 but on or before 07:59:59 on Business Day X+1  For F&O Contracts: On or after 00:00:00 London Time on Business Day X+1 but on or before 07:29:59 on Business Day X+1	Before 09:00:00 London time on Business Day X+1
Routine End-of-day Instruction for Financials & Softs Contracts that settle in currencies other than EUR, USD or GBP	On or after 00:00:00 London Time on Business Day X+1 but on or before 07:29:59 on Business Day X+1	Before 09:00:00 London time on Business Day X+2
Intra-day Instruction	For Contracts other than F&O Contracts: between 09:00:00 and 19:00:00 London time on Business Day X  For F&O Contracts: between 07:30:00 and 20:00:00 London time on Business Day X	Within one hour of instruction on Business Day X
Intra-day Instruction (contingency)	For Contracts other than F&O Contracts: On or after 08:00:00 on Business Day X but on or before 21:00:00 on Business Day X  For F&O Contracts: On or after 07:30:00 on Business Day X but on or before 21:00:00 on Business Day X	Within one hour of instruction on Business Day X

## 6. PAYMENTS TO AND FROM THE CLEARING HOUSE

### 6.1 General

- (a) This paragraph 6 applies to each Sponsored Principal (or, to the extent that a Sponsor operates Nominated Bank Accounts in respect of an Individually Segregated Sponsored Account, each such Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.
- (b) Adjustments in Margin calls resulting from price changes in underlying open Contracts and other amounts due between the Clearing House and the Clearing Member will result in either a payment from the Clearing Member's relevant Nominated Bank Account by direct debit or a payment from a Clearing House Account to a Clearing Member's Nominated Bank Account (subject to Part 3 of the Rules). Pursuant to Part 3 of the Rules, payments between the Clearing

House and a Clearing Member may be set off and consolidated into end-of-day or *ad hoc* payments in respect of each Account (other than Margin-flow Co-mingled Accounts, in respect of which single combined payments may be used) pursuant to the Standard Payments Mechanism. Under the Standard Payments Mechanism, Margin payments are combined with all other amounts due and payable pursuant to the Rules and discussed further in this paragraph. As an alternative to the Standard Payments Mechanism, Clearing Members will be able to elect for upfront fees, Mark-to-Market Margin, FX Mark-to-Market Margin, Variation Margin or other payments to be excluded from the Standard Payments Mechanism by selecting the Externalised Payments Mechanism for any such classes of payments in respect of a particular Account, subject to the written consent of the Clearing House. Details of the payments to Clearing Members which can be included under the Externalised Payments Mechanism are set forth in Rule 302 and paragraph 6.1(i).

- (c) Payments will be executed as an intra-APS-bank, between accounts, book transfer from the relevant Nominated Bank Account to a Clearing House Account at the same Approved Financial Institution. Payment into Clearing Members' Nominated Bank Accounts will generally take place through a similar book transfer. However, if insufficient funds are available within the relevant Clearing House Account at that Approved Financial Institution, the remaining balance may be transferred from a Clearing House Account at another Approved Financial Institution or Institutions.
- (d) In ECS, Clearing Members have the ability to set standing instructions to return all funds above applicable Margin requirements or above a threshold (if higher). Such standing instructions can only be set for cash collateral. For currencies which can be used only for Variation Margin and settlement payments, credits are automatically returned to the Clearing Member's account regardless of any standing instructions to the contrary.
- (e) If a Clearing Member has not established standing instructions in ECS, it may manage its cash accounts by giving manual instructions. An increase in cash positions through ECS will result in a direct debit from the relevant Nominated Bank Account of the Clearing Member. A reduction in cash positions will result in a payment from a Clearing House Account to one of the Clearing Member's Nominated Bank Accounts. ECS does not permit requested reductions or standing instructions to result in a Clearing Member holding any positions below applicable Margin and Guaranty Fund Contribution requirements.

All instructions for *ad hoc* withdrawals of cash must be received by:

Currency	Instruction deadline
GBP	Same day 10.00 a.m.
EUR	Same day 10.00 a.m.
USD	Same day 11:45 a.m. (Eastern time)

No *ad hoc* withdrawals of cash will be possible on the same day if instructions are received after these deadlines. The Clearing House may require any Clearing Member to reduce excess cash on account with the Clearing House or may specify that excess cash on account above a certain threshold does not receive interest.

- (f) Clearing Members are able to enter cash transfers for value next day. These requests need to be entered and approved by Clearing Members prior to end of day, but the Clearing House will only be obliged to accept such transfers on the following morning after receipt. Following receipt and acceptance by the Clearing House in ECS, the changes resulting from *ad hoc* cash credits will take effect immediately notwithstanding the previous sentence. This paragraph 6.1(f) is subject at all times to Rule 301(f).

- (g) Overnight payments must be made to the Clearing House at or before 09:00 on the morning following a call. *Ad hoc* payments must be made within one hour of an instruction being issued by the Clearing House through ECS. In relation to overnight pending transactions, any withdrawals or transfers instructed after the relevant deadline will be rejected by ECS. For risk management reasons, the Clearing House will be entitled to delay any payments that are due to be paid to the Clearing Member pursuant to this paragraph 6.1 in any currency in respect of an Account, if the Clearing Member (or any Affiliate of the Clearing Member) has failed to pay to the Clearing House any overnight payment in any currency due following a call issued to the Clearing Member (or any Affiliate of a Clearing Member) for payment by 09:00 on the morning following the relevant call. For such purposes, the relevant Clearing Member will be deemed to be subject to an equivalent additional Margin requirement pursuant to Rule 502(g) until such time as the other payment is made or the Clearing House notifies it that the additional Margin requirement has been released.
- (h) The Clearing House will not provide Clearing Members with any specific notifications or confirmations after the execution of a cash movement. Clearing Members may instead find details of all instructions in daily and other reports available through the ECS graphical user interface (“GUI”). After execution, the status of an instruction within ECS will change from ‘pending’ to ‘processed’.
- (i) The following sub-paragraphs describe the various payments that may be included in any cash transfer:
  - (i) *Variation Margin (for F&O Contracts), Mark-to-Market Margin (for CDS Contracts) and FX Mark-to-Market Margin (for FX Contracts)*

Daily Calls: Pursuant to Rule 503, all Contracts will be revalued and subject to Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin calls and resulting settlement payments on a daily basis for settlement next day for payments in currencies other than EUR, USD and GBP or same day for payments in other currencies in accordance with Table 1. Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin requirements are calculated and settled only in cash. The standard process will be for adjustments to be calculated and payments ordinarily to be executed in the currency of the relevant Contracts (or underlying Contracts). Once the resulting settlement payments of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin in respect of the relevant daily call have been paid in cleared funds, the value of the Contracts will be reset to zero. Under the Standard Payments Mechanism, liabilities resulting from Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin requirements will be included in the overnight call or return. Where the Externalised Payments Mechanism applies in respect of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, such cash payments will be settled through a separate cash flow and not included in a combined overnight call or return as would apply under the Standard Payments Mechanism. The specific timings, payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House.

Intra-day Calls: Contracts may also be marked to market and subject to an additional Initial Margin, Original Margin or FX Original Margin call (the proceeds of which may be applied against future Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin calls) on an *ad hoc* intra-day basis. Affected Clearing Members will be informed (not in writing) by the Clearing House in the event of an intra-day call being applicable. If the call affects a significant number of Clearing Members, the Clearing House may issue a Circular. Intra-day calls will be executed via a direct debit from the Clearing Member’s Nominated Bank Account at an Approved Financial

Institution. Payment must be made within one hour. Intra-day calls will only be in USD, GBP or EUR.

Non EUR, USD or GBP payments: Any obligation to pay Variation Margin or settlement amounts on Financials & Softs Contracts in JPY must be covered with cash or non cash Original Margin in a different currency between the time of instruction and settlement.

- (ii) *Original Margin (for F&O Contracts), Initial Margin (for CDS Contracts) and FX Original Margin (for FX Contracts)*

Daily Calls: Pursuant to Part 5 of the Rules, Original Margin, Initial Margin and FX Original Margin requirements will be recalculated on a daily basis. Requirements will be calculated and payments will ordinarily be executed in the currency of the relevant Contracts (or underlying Contracts). Under the Standard Payments Mechanism, liabilities resulting from Original Margin, Initial Margin and FX Original Margin requirements will be included in the overnight call or return. When the Externalised Payments Mechanism applies in respect of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, cash payments will be settled through a separate cash flow and not included in a combined overnight call or return. The specific timings, payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House

Intra-day Calls: Original Margin, Initial Margin and FX Original Margin may also be subject to *ad hoc* intra-day recalculations and calls. Affected Clearing Members will be informed (not in writing) by the Clearing House in the event of an intra-day call being applicable. If the call affects a significant number of Clearing Members, the Clearing House may issue a Circular. Intra-day Original Margin, Initial Margin and FX Original Margin calls will be executed via a direct debit from the Clearing Member's Nominated Bank Account at an Approved Financial Institution. Payment must be made within one hour. Intra-day calls will only be in USD, GBP or EUR.

Clearing Members can specify the currency in which Original Margin, Initial Margin and FX Original Margin deficits are called. In order to enable this facility Clearing Members will have to complete and return the ICE Clear Europe Margin Deficit Currency Form.

As explained in the Clearing Procedures, in the event that an intra-day Margin call is anticipated, the Clearing House will contact the Clearing Member by phone to notify them of the requirement. This will be followed by written notification distributed by email. Intra-day Margin calls for Contracts other than F&O Contracts can be made between 09:00 and 19:00 London time. Intra-day Margin calls for F&O Contracts can be made between 07:30 and 20:00 London time. Where a contingency method applies (see paragraph 5.5), intra-day calls in respect of any Contracts may be made up to 21:00 London time. All intra-day Margin calls must be met within 60 minutes of notification by the Clearing House. Any Margin calls made outside of these hours for a particular product must be met by the later of: (x) 60 minutes after notification by the Clearing House, provided that any settlement system used by the Clearing House for the relevant currency remains open for business at that time; or (y) 60 minutes after the time at which any settlement system used by the Clearing House for the relevant currency becomes open for business following the time of the notification by the Clearing House. Clearing Members will be able to answer the call by reducing positions (e.g. reallocation of trades/clearing give-ups), or submitting new cash and/or collateral. Margin calls are rounded to the smallest major currency unit (e.g. US dollar cents).

- (iii) *Guaranty Fund adjustments*

Each relevant Guaranty Fund Period, the total value of the Guaranty Funds and required Guaranty Fund Contributions of Clearing Members are reviewed and may be amended. Each Clearing Member will be notified of its total Guaranty Fund Contribution requirements at each Guaranty Fund Period end. The Clearing House Contributions will also be notified to Clearing Members by Circular. Adjustments to Guaranty Fund Contributions will be notified to individual Clearing Members by e-mail to a nominated e-mail account of each Clearing Member prior to the end of the relevant Guaranty Fund Period. Adjustments to Guaranty Fund Contributions will be made five Business Days after the date of notification unless the relevant Circular specifies otherwise. Other than in exceptional circumstances, any additional required Guaranty Fund Contribution payments will be included together with overnight calls and details will be included in daily reports provided to Clearing Members through ECS.

(iv) *Interest and price alignment amounts*

The Clearing House will notify Clearing Members of its interest rate in each currency on the Business Day following the day to which the rate applies. The Clearing House rates payable (or deductible in the case of negative rates) on Original Margin, Initial Margin and FX Original Margin are referred to as the ICE Deposit Rate (IDR).

Payments or deductions on accounts in respect of interest will be made to or from Clearing Members in respect of cash, assets and securities held by the Clearing House as Margin, Guaranty Fund Contributions or Permitted Cover. The rate of return or loss (in the case of negative rates) may vary for different cash and asset classes and between types of cover. The IDR and accumulated interest over each month will be available to Clearing Members through the ECS-GUI.

Interest will be calculated on a simple daily basis and will become available for payment to or liable for deduction from Clearing Members, subject to any required deduction or withholding tax, monthly, by the ~~fourth~~fifth Business Day after the end of each month. Once credited, any positive interest is available to meet Margin payments or may be withdrawn by Clearing Members. If used to meet Margin payments, such positive interest then itself becomes eligible to accrue positive or negative interest.

Any deductions on account of interest may result in calls for Margin in respect of requirements under the Rules which are no longer being satisfied as a result of such deduction.

Price alignment amounts are payable in respect of CDS Contracts by Clearing Members and the Clearing House as set out in the CDS Procedures. FX Price Alignment Amounts are payable in respect of FX Contracts by Clearing Members and the Clearing House as set out in the FX Procedures.

(v) *Income (interest and collateral) and redemption*

The Clearing House will make payment to Clearing Members in respect of income and redemptions on non-cash assets transferred to the Clearing House as Margin, Guaranty Fund Contributions or Permitted Cover. Distributions will be executed direct to the Clearing Member by the relevant custodian pursuant to a standing instruction made by the Clearing House based on account information provided by the Clearing Member. Clearing Members are required to provide account details in relation to accounts in all applicable currencies to the Clearing House. Changes in account details must be notified at least five Business Days in advance.

Payments in respect of income on non-cash assets will be paid to Clearing Members in the same currency as the income is distributed by the relevant issuer or payment agent to the Clearing House or the relevant Custodian. Any required foreign exchange transaction following payment must be arranged by the Clearing Member and the costs of the same must be met by the Clearing Member. No currency exchange will be arranged by the Clearing House or its custodian.

If there is a failed payment in respect of income or redemption (e.g. as a result of account details being unavailable or incorrect), income may be retained by the Clearing House or custodian but will not be treated by the Clearing House as Permitted Cover. The Clearing House makes no representation or warranty to Clearing Members in respect of the promptness of payment by any issuer or payment agent, the custodian or any of its sub-custodians or agents (save for any liability which by Applicable Law may not be excluded).

(vi) *Fees and rebates*

All Market fees, Clearing House fees, delivery fees and other fees payable to the Clearing House or a Market will be calculated and charged to each Clearing Member as such fees accrue (typically on a monthly basis).

Rebates, fee discounts and incentive programme payments which have been directed by the payee or beneficiary to be paid to the account of a Clearing Member will be calculated and credited to the relevant account of the Clearing Member as such rebates, fee discounts and incentive programme payments accrue (typically on a monthly basis) and may include payments for which the payer is a Market, payments for which the payer is the Clearing House or both.

The following additional provisions apply in respect of rebate, fee discount or incentive programme payments except to the extent agreed or notified otherwise by the Clearing House from time to time. Terms, conditions and amounts of rebate, fee discount or incentive programmes may be periodically modified by the Clearing House at its sole discretion. In certain circumstances, the Clearing House may make the availability of a rebate, fee discount or incentive programme contingent on certain cleared volume levels. Rebate, fee discount and incentive programmes may be withdrawn by the Clearing House or any relevant Market at any time. Persons may be required to meet participation criteria, conditions and obligations applicable to participants in this scheme as the same may be amended or added to from time to time, in order to be able to continue to participate in any such programme. Where a rebate, fee discount or incentive programme relates to a service for which both Market trading, clearing or other fees or Clearing House clearing fees are applicable, the payer of the rebate, fee discount or incentive programme payment is the Clearing House as to the total amount of the Market and Clearing House rebate, fee discount or incentive programme payments multiplied by the percentage that Clearing House fees represent of the sum of Clearing House and Market fees. The legal entity operating the relevant Market will be the payer of the remainder of the rebate, fee discount or incentive programme payment. Where only Clearing House fees are charged or a rebate, fee discount, or incentive programme payment the payer of the entire rebate, fee discount or incentive programme payment is the Clearing House. The Clearing House or the operator of the relevant Market may arrange for one of its Affiliates or the Clearing House to make any payment in respect of rebates, fee discounts or incentive programmes on the payer's behalf. The payee in respect of a rebate, fee discount or incentive programme is the person who participates in the programme, regardless of whether such person is or is not a Clearing Member or member or participant of the relevant Market. A qualifying participant in a rebate, fee discount or incentive programme may from time to time direct that relevant payments be made directly to their account or to the account



of their Clearing Member, exchange member, execution platform participant or any other third party. Any payment in accordance with such instructions shall constitute due and final payment by the Clearing House or Market to the account of the rebate, fee discount or incentive programme participant. Rebate, fee discount or incentive programme participants may direct changes to such payment arrangements from time to time by providing notice in writing to the Clearing House or the relevant Market. In the absence of any payment instructions, the Clearing House shall be entitled (but shall not be required) to make payment in respect of any rebate, fee discount or incentive programme payment by crediting amounts to the Proprietary Account or Customer Account of the relevant Clearing Member and in doing so shall have made good discharge of its obligations and those of any Market in relation to the relevant rebate, fee discount or incentive programme payment.

Fee invoices will be made available via ECS by the fourth Business Day of each month. Fees and any applicable rebates, incentive payments or discounts will be included in the overnight call or return by the fifth Business Day after the end of each month. All fees are collected through a Clearing Member's Nominated Proprietary Bank Account. Rebates, incentive payments or discounts may be credited to a Clearing Member's Nominated Proprietary Bank Account or Nominated Customer Bank Account, as instructed from time to time by the payee.

Clearing Members that wish to query a fee invoice should contact the Clearing House Finance department on or before the 10th Business Day of the relevant month. Any required amendments will be reflected in the next billing cycle.

(vii) *Other amounts*

Any amount payable by a Clearing Member to the Clearing House (or *vice versa*) pursuant to the Rules or any Contract may be included within an end-of-day or *ad hoc* payment under the Standard Payments Mechanism. This may include premium payments (in the case of Options), settlement amounts, Surplus Collateral, delivery-related payments (e.g. Buyer's Security and Seller's Security), fines, damages, amounts payable as a result of arbitration or disciplinary proceedings, dividends and coupons and other corporate action payments relating to Investments being delivered under Financials & Softs Contracts, amounts resulting from reduced gain distributions, product terminations or non-default loss contributions under Part 9 of the Rules, and other amounts payable under the Rules.

(viii) *Applicability of Externalised Payments Mechanism to Part 9 Rules payments*

If the Externalised Payments Mechanism applies to Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, then:

- (A) Margin Account Adjustments applied on Loss Distribution Days in accordance with Rule 914(e) may be netted and offset or aggregated by the Clearing House against any payment from or receivable by the relevant Contributor under either the Standard Payments Mechanism or the Externalised Payments Mechanism on the relevant Account, including against any payment for MTM/VM and, accordingly, payments of Cash Gainer Adjustments and Cash Loser Adjustments pursuant to Rule 914(l) may be made under the Standard Payments Mechanism or the Externalised Payments Mechanism at the election and discretion of the Clearing House.
- (B) Product Termination Amounts may be netted and offset or aggregated by the Clearing House against any other payment from or receivable by a Clearing Member under either the Standard Payments Mechanism or the Externalised

Payments Mechanism, regardless of whether the Externalised Payments Mechanism would apply in respect of any kind of payment on the relevant Account by any other provision of these Procedures, at the election and discretion of the Clearing House.

- (C) Payments of Collateral Offset Obligations as referred to in Rule 919(m) Assessment Contributions and Guaranty Fund Contribution calls or replenishments will be made under the Standard Payments Mechanism unless the Clearing House at its discretion directs otherwise.

The specific timings, Part 9 payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House at the relevant time.

(ix) *Currency Holidays and payments in other currencies*

Before the start of each calendar year, the Clearing House will publish a Circular setting out details of bank/public holidays relevant to the currencies supported by the Clearing House in different jurisdictions (each, a “**Currency Holiday**”). Transfer of funds in a currency will not take place on a Currency Holiday for that currency.

If there is a Currency Holiday, the Clearing House will call and Clearing Members shall pay (or receive as applicable) Margin in another currency specified by the Clearing House. The sequence of alternative currencies to be used for F&O Contracts and FX Contracts in respect of Currency Holidays (in the absence of a Clearing Member specifying an alternative sequence for these three currencies in writing to the Clearing House) is as follows: USD, GBP and EUR. The sequence of alternative currencies to be used for CDS Contracts (in the absence of a Clearing Member specifying an alternative sequence for these three currencies in writing to the Clearing House) is as follows: EUR, USD and GBP.

If, due to a Force Majeure Event, Financial Emergency or otherwise, a transfer of funds of a currency is not possible or advisable, the Clearing House may call and Clearing Members shall pay (or receive as applicable) Margin, Guaranty Fund Contributions, fees, fines, interest, incentive payments, fee discount, rebates and all other payments (excluding final settlement payments under Contracts) in another currency specified by the Clearing House. If payments are to take place in a currency other than the contractual currency in circumstances other than a Currency Holiday, the Clearing House will issue a Circular or notify affected Clearing Members, specifying the currency to be used and the exchange rate to be applied.

Payments of Margin in a different currency on a Currency Holiday will not be netted against obligations in a currency other than that of the underlying Contract, nor paid in another currency. For Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin, payment in a different currency from the contractual currency due to a Currency Holiday will result in a delay of payments to the next day on which payment may be made in the contractual currency. Any obligation to pay Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin in a currency other than the contractual currency, including on a Currency Holiday, will result in an additional Original Margin, Initial Margin or FX Original Margin requirement, which must be covered with cash or non-cash collateral (which may be of, or be denominated in, a different currency). Any obligation to pay any other amount in a currency other than the contractual currency may result in an additional Original Margin, Initial Margin or FX Original Margin requirement, which must be covered with cash or non-cash collateral (which may be of, or be denominated in, a different currency) and which will be collected via the Standard Payments Mechanism, regardless of whether the

Externalised Payments Mechanism applies to such Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin (unless the Clearing House directs otherwise). In the case of payment in a currency other than the contractual currency being required in instances other than a Currency Holiday, the Clearing House will specify in the relevant Circular how applicable obligations will be margined or netted.

Transactions in collateral on bank/public holidays in a relevant jurisdiction will not necessarily be rejected upon instruction but will be cancelled at the end of day and must be re-instructed by Clearing Members on a day which is not a bank/public holiday in the relevant jurisdiction.

- (j) Clearing Members are required to provide any information to the Clearing House and complete any forms provided by the Clearing House as may be required by the Clearing House to comply with its obligations relating to FATCA. For the purposes of this Rule, FATCA means:
  - (a) sections 1471 to 1474 of the US Internal Revenue Code of 1986, as amended, and any associated legislation, regulations or guidance, or similar legislation, regulations or guidance enacted in any jurisdiction which seeks to implement similar tax reporting and/or withholding tax regimes;
  - (b) any intergovernmental agreement, treaty, regulation, guidance or any other agreement between the United Kingdom (or any UK governmental authority) and the United States or any other jurisdiction (including any governmental authority in such jurisdiction), entered into in order to comply with, facilitate, supplement or implement the legislation, regulations or guidance described in paragraph (a) above;
  - (c) any agreement pursuant to the implementation of any intergovernmental agreement, treaty, regulation, guidance or other agreement referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental authority in any other jurisdiction; and
  - (d) any legislation, regulations or guidance in the United Kingdom that give effect to the matters outlined in the preceding paragraphs.

The Clearing House's status under FATCA (and registration for any applicable Global Intermediary Identification Number, including on a protective basis) is not intended to have any effect on the Clearing House's status for the purposes of any other Applicable Law. The Clearing House's registration under FATCA shall not affect any of the rights or obligations of the Clearing House or any Clearing Member or Sponsored Principal (including, without limitation, relating to transfers of title over collateral, pledged collateral or other property rights) provided for under the Rules, Procedures, Clearing Membership Agreements, Sponsor Agreements, Sponsored Principal Clearing Agreements, Applicable Laws or otherwise, nor does it put the Clearing House on notice of any Encumbrance.

- (k) In respect of Contracts that are equity or equity index futures or options products:
  - (i) No Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall enter into any Contract in any equity or equity index futures or option product with the Clearing House unless:
    - (A) such Clearing Member has entered into a qualified intermediary agreement with the U.S. Internal Revenue Service (the "IRS") to become: (y) with respect to any Proprietary Account Contract or any other Contract in respect of which such Clearing Member considers that it is acting as principal for U.S. tax purposes, a qualified derivatives dealer ("Qualified Derivatives Dealer"); and (z) with respect to any Customer Account Contract in respect

of which such Clearing Member considers that it acts as an intermediary for U.S. tax purposes, a qualified intermediary that assumes the primary obligation for withholding under Chapters 3 and 4 of subtitle A of the Internal Revenue Code of 1986, as amended (the “Code”) and for reporting and withholding under Chapter 61 of subtitle F and Section 3406 of the Code (“Withholding Qualified Intermediary”), such that the Clearing House may make payments of dividend equivalents (as that term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto (“Dividend Equivalents”)) or deemed payments to such Clearing Member free from U.S. withholding taxes imposed pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 of subtitle F and Section 3406, of the Code arising from Contracts with the Clearing House that are entered into by the Clearing Member; and

- (B) such Contract entered into by the Clearing Member is within the scope of the exemption from withholding tax for Dividend Equivalents paid to Qualified Derivative Dealers or Withholding Qualified Intermediaries pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 of subtitle F and Section 3406, of the Code; and
- (C) such Clearing Member has qualified under such procedures promulgated by the IRS as are in effect from time to time to establish an exemption from withholding under FATCA, such that the Clearing House will not be required to withhold any amount with respect to any payment made or deemed to be made to such Clearing Member under FATCA.

A Clearing Member that enters into any Contract in breach of paragraph 6.1(k)(i)(A)-(C) must immediately bring itself into compliance or terminate the relevant Contract (without prejudice to any other rights or remedies of the Clearing House).

- (ii) On 1 January of each year, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes and that enters into any Contract in any equity or equity index futures or option product with the Clearing House in accordance with paragraph 6.1(k)(i) shall certify to the Clearing House that such Clearing Member satisfies the requirements of paragraph 6.1(k)(i) by providing to the Clearing House appropriate tax documentation attesting to such Clearing Member’s U.S. federal income tax status. Each such Clearing Member is required to promptly update its certification to the Clearing House when required by Applicable Law and, if sooner, whenever the certification is no longer accurate.
- (iii) On 1 January of each year, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall provide the Clearing House with information relating to Dividend Equivalents the Clearing House pays or is treated as paying to such Clearing Member in sufficient detail and in a sufficiently timely manner to enable the Clearing House to report on IRS Forms 1042 and 1042-S (or successor forms) under Chapters 3 and 4 of subtitle A of the Code the required amounts and other information relating to such Dividend Equivalents and transactions giving rise thereto between the Clearing House and the Clearing Member.
- (iv) Each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall promptly notify the Clearing House in writing if it undergoes a change in circumstance that would affect its compliance with this paragraph 6.1(k), or otherwise knows or has reason to know that it is not, or will not be, in compliance with this paragraph 6.1(k), but in each case, such notice must be delivered to the Clearing House no later than within two Business Days of the Clearing Member’s knowledge thereof.

- (v) The representations set forth above or for U.S. tax purposes concerning "principal" or "intermediary" status shall not affect the rights, obligations, status, position or capacity of any Clearing Member as principal or otherwise under Contracts, in respect of Margin or under the Rules or Procedures.

## 7. CUSTODY ACCOUNTS

- 7.1 Pursuant to Rule 502, Original Margin, Initial Margin and FX Original Margin requirements are payable initially in cash but a Clearing Member may at the discretion of the Clearing House substitute such cash Original Margin, Initial Margin or FX Original Margin with other Permitted Cover by delivery of the replacement Permitted Cover to the Clearing House. Such transfers must first be notified to the Clearing House by the relevant Clearing Member through ECS and will not be effective and may not be made until after the Clearing House has approved the proposed transaction in ECS. Guaranty Fund Contribution requirements may also be satisfied through non-cash assets to the extent allowed under the Rules and these Procedures. This paragraph 7.1 applies to each Sponsored Principal (or, to the extent that a Sponsor operates Nominated Bank Accounts in respect of an Individually Segregated Sponsored Account, each such Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.
- 7.2 Pursuant to Clearing Membership Agreements and Sponsored Principal Clearing Agreements, the Clearing House receives all non-cash assets provided to it as Permitted Cover in respect of Accounts that are not Pledged Collateral Accounts pursuant to title transfer arrangements. For Pledged Collateral Accounts, pursuant to the relevant Pledged Collateral Addendum, the Clearing House is beneficiary of a pledge over non-cash assets provided to it as Permitted Cover. Non-cash assets transferred to the Clearing House by way of title transfer cease to belong to the Clearing Member, Sponsored Principal or Sponsor upon transfer to the Clearing House. Accounts available to the Clearing Members in ECS will contain information concerning the amounts and kinds of non-cash Permitted Cover that have been transferred to the Clearing House in respect of both Margin and Guaranty Fund Contributions. Non-cash Permitted Cover will be held in accounts of the Clearing House at a Custodian, central securities depository ("CSD") or international central securities depository ("ICSD"), which accounts are in the name of the Clearing House, as permitted under regulatory technical standards under EMIR. Such accounts may be managed by a third party agent. If liquidity needs to be generated against any non-cash assets transferred to the Clearing House as Permitted Cover, for example in respect of a Defaulter's Margin or non-defaulting Clearing Members' Guaranty Fund Contributions following an Event of Default or when required to support liquidity funding for making payments, non-cash assets held by the Clearing House may become the subject of repurchase agreements or secured lending facilities or may be sold and as a result such assets or their proceeds may be held in other kinds of accounts. However, in the case of Margin (and Guaranty Fund Contributions which are ultimately not applied under the Rules), the Clearing House will remain liable to transfer assets of the same kind as those which were transferred, upon relevant secured obligations for the relevant Account being performed or closed out by the Clearing Member.
- 7.3 In the event that a Clearing Member wishes to lodge U.S. Government securities as Permitted Cover, Clearing Members are required to complete and return a Form W-8BEN "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" (non-U.S. entities) or a Form W-9 "Request for Taxpayer Identification Number and Certification" (U.S. entities). In the event that a Sponsored Principal or Sponsor wishes to lodge U.S. Government securities as Permitted Cover, the Sponsored Principal is required to complete and return a Form W-8BEN "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" (non-U.S. entities) or a Form W-9 "Request for Taxpayer Identification Number and Certification" (U.S. entities) specifying the name and details of the Sponsored Principal. Clearing Members, Sponsors and Sponsored Principals must inform the Clearing House of any changes in relevant tax status or the information provided in any such form. Late provision of information may result in unnecessary tax withholdings, deductions, penalties or costs. The Clearing House shall not be liable to Clearing Members, Sponsors or Sponsored Principals for any such withholdings, deductions, penalties or costs, save as provided otherwise pursuant to the CDS Procedures in relation to CDS Contracts. Where necessary, the Clearing House's custodian will make available a

tax certificate or other details which may be required for tax purposes from time to time. Declarations relating to ‘beneficial ownership’ on IRS Form W-8BEN or IRS Form W-9 are based upon U.S. tax law concepts and do not affect the transfer of title, pledge or property rights provided for under Clearing Membership Agreements, Sponsor Agreements or Sponsored Principal Clearing Agreements, nor do they put ICE Clear on notice of any Encumbrance.

## 8. **PERMITTED COVER: SECURITIES**

- 8.1 The Clearing House will publish by Circular a list from time to time setting out all security classes acceptable as non-cash Permitted Cover, specifying any restrictions for such Permitted Cover applicable by way of class or status of Clearing Member or Sponsored Principal, account or Contract. Applicable ‘haircuts’ will also be published and amended by Circular. The amount of recognised Permitted Cover at the Clearing House attributable to a particular security is the market value of the relevant security multiplied by the applicable haircut. Within ECS, details of international security identification numbers (ISINs) for all acceptable Permitted Cover will be provided. New issues are automatically added to the list and can be selected for settlement and coverage. The Clearing House is entitled to remove securities from the list of accepted Permitted Cover or to vary haircuts at any time.
- 8.2 Clearing Members and Sponsored Principals may suggest to the Clearing House’s risk department that a new class or series of permitted cover be included within the list of acceptable Permitted Cover. A request form to lodge new certificates of deposit is available on the member-only section of the Clearing House website. New classes will only be added after approval by the risk department. A limited sub-set of the acceptable securities are accepted by the Clearing House in respect of required Guaranty Fund Contributions. The Clearing House will set out and amend the list of acceptable Permitted Cover by a Circular.
- 8.3 The Clearing House does not recognise any value for non-cash collateral as from the day falling one full Business Day prior to redemption or maturity for non-cash collateral other than UK government bonds and seven full Business Days prior to redemption or maturity for non-cash collateral consisting of UK government bonds. Clearing Members and Sponsored Principals must arrange for substitute Permitted Cover on or prior to such time. The Clearing House will use endeavours (but shall not be required) to contact Clearing Members and Sponsored Principals or their Sponsors who have securities nearing maturity in order to assist with the timely lodgement of alternative Permitted Cover.
- 8.4 Notwithstanding paragraph 8.1, a Clearing Member, Sponsor or Sponsored Principal may not use any financial instrument otherwise agreed by the Clearing House to be eligible as Permitted Cover where such financial instrument is issued by such Clearing Member, Sponsor or Sponsored Principal or one of its Affiliates except in the case of a covered bond and only where the assets backing that bond are appropriately segregated within a robust legal framework which the Clearing House determines to satisfy applicable requirements under Applicable Law.

## 9. **INTENTIONALLY OMITTED.**

## 10. **PERMITTED COVER: GOLD BULLION**

### **General**

- 10.1 This paragraph 10 applies to each Sponsored Principal (or, if a Sponsor has been appointed as responsible for making and receiving transfers in respect of Permitted Cover in the form of Gold Bullion on an Individually Segregated Sponsored Account, the Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules. The following definitions apply to this part of the Finance Procedures:
- (a) The term “**Gold Bullion**” shall have the same meaning as “London Good Delivery Bars” as set by London Bullion and Metals Association (“**LBMA**”).

- (b) “**AURUM**” means the electronic matching and settlement system operated by London Precious Metal Clearing Limited (“**LPMCL**”).
  - (c) “**Market Rules**” means the rules, regulations, practices and customs of the LBMA, LPMCL, the Financial Conduct Authority, the Prudential Regulatory Authority, the Bank of England and such other regulatory authority or other body, relevant to the transfer and safekeeping of Gold Bullion.
  - (d) “**Unallocated Account**” established at the custodian for the purpose of transferring Gold Bullion between the Clearing House and the Clearing Member. Gold Bullion in the Unallocated Account will be unidentifiable, and present the contractual obligations from the custodian to the Clearing House.
  - (e) “**Allocated Account**” established at the custodian for the purpose of safekeeping Gold Bullion. Gold Bullion on the Allocated Account is physically held in the custodian’s vaults and identifiable by serial numbers.
  - (f) “**Business Day**” means a day (excluding Saturdays, Sundays and public holidays) on which AURUM, the settlement system operated by LPMCL, is open for the transfer of Gold Bullion.
- 10.2 Clearing Members may use Gold Bullion to satisfy Original Margin, Initial Margin and FX Original Margin requirements (unless agreed otherwise by the Clearing House at its discretion). The Clearing House has set a Collateral limit of the lower of 250 million US Dollar or 30% of total Initial Margin or FX Original Margin requirement, per Clearing Member.
- 10.3 Gold Bullion to be used as Permitted Cover shall conform to the eligibility criteria described by the LBMA and transfers shall be in conformance with the Market Rules. Clearing Members will be liable to the Clearing House in the event that the Clearing House incurs any loss as a result of Gold Bullion being delivered to the Clearing House as Original Margin, Initial Margin or FX Original Margin which does not comply with these Procedures
- 10.4 The Clearing House limits its liabilities for loss or damage of all Gold Bullion that has been transferred to it. Prior to the first transfer the Clearing House must have received a signed copy of the “Gold Supplement” to the Clearing Member Agreement or Sponsored Principal Clearing Agreement. A template of this agreement will be provided by the Clearing House.
- 10.5 Transfers and withdrawals of Gold Bullion must be made in increments of 1 Troy Ounce.
- 10.6 Gold Bullion received before 16:00 hours (London time) on a Business Day will be reflected in Permitted Cover on the same Business Day. Gold Bullion received after 16:00 hours (London time) will be treated as having been not received until the next Business Day.
- 10.7 Transfer of Gold Bullion to the Unallocated Account of the Clearing House, must be done in accordance with the provisions of the LBMA and LPMCL. The Clearing House is not responsible for, and/or shall have no liability whatsoever as a result of, the performance or non-performance of any settlement system or settlement party.
- 10.8 Management of the Gold Bullion as margin is only possible on Business Days as set by LPMCL. Additionally the Clearing House is not able to transfer assets on non-Clearing days or UK bank holidays in case they differ from the non-Business Days.
- 10.9 The Gold Bullion will be priced in accordance with the rules, policies and processes of ICE Benchmark Administration Limited, with price reports available at <https://www.theice.com/marketdata/reports/178>. The Gold Bullion will be quoted in US Dollars. The Clearing House retains the right to adjust the price if the Risk Department regards this as necessary.
- 10.10 Gold Bullion will be held in physical form in the vaults of our custodian JPMorgan Chase Bank NA.

### **Transfer procedure**

- 10.11 Prior to transferring Gold Bullion the Clearing Member must provide details of the standard counterparty account and the contact details of the persons authorised to instruct on behalf of the Member. This information must be provided on the standard form provided by the Clearing House and signed by two Authorised Signatories. A template of this form will be provided by the Clearing House.
- 10.12 For every transfer of Gold Bullion, the Clearing Member must instruct the Clearing House using the standard form provided by the Clearing House. Any uninstructed transfers will not be accepted as Permitted Cover and the Clearing House shall try to return the assets as soon as possible. The Clearing House is not liable for any losses resulting from transfers which do not comply with these procedures.
- 10.13 A transfer must be made to the Unallocated Account of the Clearing House as notified to Clearing Members from time-to-time. The transfer has to be made via AURUM, the electronic matching and settlement system operated by LPMCL.
- 10.14 Transfer instructions to the Clearing House have to be received prior to the:
- Instruction deadline            11:00 (London Time).
- Instructions received after the deadline or instructions pending in anticipation of the provision of alternative margin after the deadline will be rejected by the Clearing House.
- 10.15 The Clearing House has established an Allocated Account for Gold Bullion received as Permitted Cover. The Clearing House shall manage the transfers between the Allocated Accounts and Unallocated Accounts.
- 10.16 The Clearing House has the right to reject instructions in the event that: (i) insufficient information has been supplied; (ii) counterparty accounts are not pre-advised on the list with allowed counterparties; (iii) when concentration limits are exceeded; and (iv) the transfer results in uncovered liabilities towards the Clearing House; or, (v) for any other reason that places the Clearing House under additional risk.
- 10.17 The position in the Clearing House's collateral system ECS will be adjusted prior to the withdrawal or after confirmation of completion of the relevant transfer in the Clearing House's Unallocated Account by its custodian. The adjustment of the position will have immediate effect on the value of available collateral.

### **Expiry**

- 10.18 The Clearing House is entitled to remove Gold Bullion from the list of accepted Permitted Cover or to vary haircuts at any time.

## **11. SETTLEMENT PROCEDURES FOR NON-CASH COLLATERAL**

This paragraph 11 applies to each Sponsored Principal (or, if a Sponsor has been appointed as responsible for meeting obligations in respect of non-cash collateral on an Individually Segregated Sponsored Account, the Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.

### **11.1 Instruction Type**

All transactions including each transfer to or withdrawal from the Clearing House will be executed free of payment.

### **11.2 Trade and Settlement Date**



- (a) The Clearing House accepts instructions with settlement date up to two business days from trade date. The proposed settlement date shall be specified by the Clearing Member in its instruction. If this is accepted by the Clearing House, the Clearing Member must deliver the securities on settlement date.
- (b) Settlements must take place during normal opening hours of the relevant settlement or depository system. The Clearing House will not give settlement instructions in extended settlement periods such as 'daylight' or 'Real Time Settlement' periods.

### 11.3 Custody and Sub-custody

- (a) Settlement of a transfer of Permitted Cover from the Clearing House to a Clearing Member may only be effected when the relevant securities to be subject to settlement are under custody of the Clearing House's custodian at the moment that settlement instructions are made.
- (b) Each settlement between the Clearing House and a Clearing Member must be effected pursuant to a transaction within the relevant settlement or depository system.

### 11.4 Matching of Settlement Instructions

The Clearing House will support the matching mechanism of at least one major settlement system or depository for securities acceptable as Permitted Cover. ECS requires only the minimum necessary information required by such systems and depositories in order for matching of a counterparty's instruction. The Clearing House will notify Clearing Members of the relevant account details for matching. However, it is the responsibility of the Clearing Member to ensure that instructions entered into ECS are correctly matched. The Clearing House will not be liable for any losses of Clearing Members or third parties caused by non-settlement or a delay in settlement as a result of the actions or omissions of a settlement system, a depository or the Clearing Member (save for any liability which by law may not be excluded).

Matching criteria per custodian or central securities depository (and ICE settlement details) will be sent out by Circular. Settlement timing per settlement system or depository is set out below:

<b>CBF (DE)</b>	Instruction deadline:	14:30 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>EOC France (FR)</b>	Instruction deadline:	12:30 (GMT/BST)
	Trade date:	Entry day
	Contractual settlement date:	Entry day or up to two Business Days from trade date
<b>EOC GB/IE (GB)</b>	Instruction deadline:	15:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date

<b>FED (US)</b>	Instruction deadline:	17.00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>EOC bank</b>	Instruction deadline:	15:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>CBL (Clearstream Lux.)</b>	Instruction deadline:	12:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date

Direct accounts of the Clearing House at settlement systems may also be notified by the Clearing House to Clearing Members from time to time and must be used instead of any of the accounts referenced in any Circular issued by the Clearing House pursuant to this paragraph 11.4, where the Clearing House and Clearing Member are able to do so.

#### 11.5 Settlement cancellations and unsettled transactions

- (a) Clearing Members may only cancel settlement instructions prior to the time when the Clearing House sends settlement instructions to its custodian. After the Clearing House has sent instructions to its custodian, the Clearing House and ECS will assume that the transaction has been executed and settled.
- (b) All unsettled transactions are automatically cancelled at the end of each day in ECS. In the event that the relevant settlement system or depository does not support one-sided cancellations and the transaction settles after the contractual settlement date, relevant securities will not be taken into account as Permitted Cover. If same-day settlement does not occur but the Clearing Member still wishes to make settlement, it must cancel the instruction and re-enter that instruction.

#### 11.6 Settlement deadlines

All settlements will be executed by the Clearing House with a request for same-day settlement. As deadlines for settlement systems or deadlines on particular days may vary, the Clearing House will provide details of normal deadlines for free-of-payment instructions for each supported settlement system by Circular. Deadlines for settlement systems will be set out and updated in Circulars. Any adjustments of deadlines will be published by Circular. Instructions received after a specified deadline will be rejected by ECS.

#### 11.7 Holidays affecting settlement systems

- (a) If a settlement system or depository is closed, it will not be possible to transfer securities within that system. Clearing Members are allowed to use alternative settlement systems or types of collateral to cover Margin requirements or Guaranty Fund Contribution requirements. Clearing Members wishing to deliver securities through either of Euroclear Bank or Clearstream Bank Luxembourg should contact the Clearing House's Treasury department.
- (b) UK bank holidays will not affect the settlement of transaction in non-UK instruments.

#### 11.8 **Status settlement transaction**

The Clearing House will provide updated information on the settlement status of transactions through ECS. Clearing Members are responsible for monitoring the status of settlements. The status of a transaction as matched or not matched is not reported upon by the Clearing House and must be confirmed by Clearing Members directly with the relevant settlement system or depository.

#### 12. **INTENTIONALLY OMITTED.**

#### 13. **RISK MANAGEMENT**

##### 13.1 **Contacting Risk Management**

Clearing Members, Sponsors and Sponsored Principals should contact the Clearing House's Risk department to discuss any special issues relating to Margin, Permitted Cover, Guaranty Fund Contributions, Position Limits or any unusual circumstances or events.

##### 13.2 **Specific information request**

Clearing Members, Sponsors and Sponsored Principals may be required from time to time to respond to an information request made by the Clearing House. Such a request may include (but shall not be limited to) information concerning:

- (a) the nature and extent of Open Contract Positions;
- (b) identification of a Customer or Customers for whom Open Contract Positions are held;
- (c) explanation of the commercial strategy or rationale relating to Open Contract Positions;
- (d) any economically similar positions at other Clearing Organisations or Exchanges or in over-the-counter instruments; and/or
- (e) details around plans to close out or reduce any Open Contract Positions.

13.3 The Clearing House shall be entitled to require written responses and may make further or follow-up requests and visits and inspections. This paragraph 13 is without prejudice to the Clearing House's rights under the Rules, including in relation to the provision of information, audit and disciplinary proceedings.

##### 13.4 **Staff Availability**

Clearing Members, Sponsors and Sponsored Principals may be required from time to time to make staff of suitable seniority available to attend meetings, called by the Clearing House at reasonable notice, in order to assess:

- (a) the Clearing Member's, Sponsor's or Sponsored Principal's compliance with the Rules and these Procedures;
- (b) risks to which the Clearing House, Clearing Member, Sponsor or Sponsored Principal is exposed; or

- (c) any related purposes.

### 13.5 **Default Procedure**

In the case where the payment deadline is not met, the Clearing House may initiate a default procedure. Without prejudice to Part 9 of the Rules, the default procedure in general may use the following tools:

- (a) setting of final deadlines for the Clearing Member, Sponsor or Sponsored Principal to meet requirements;
- (b) imposition of Position Limits;
- (c) additional Margin requirements;
- (d) restriction of trading (e.g. new trades only allowed to liquidate existing positions);
- (e) transfer of Open Contract Positions;
- (f) liquidation of Permitted Cover;
- (g) liquidation of Guaranty Fund Contributions; or
- (h) closure of Open Contract Positions.

### 13.6 **Margin Parameters**

The Clearing House monitors market volatilities on a daily basis. The Clearing House will review Original Margin, Initial Margin and FX Original Margin rates on a periodic and *ad hoc* basis. Changes to Original Margin, Initial Margin and FX Original Margin rates will be notified to Clearing Members by Circular. With respect to F&O Contracts, *ad hoc* rate changes will become effective on the next Business Day. Routine rate changes will be implemented on the date given in the Circular announcing such changes, normally five Business Days after the date of the Circular. With respect to F&O Contracts, changes to Original Margin rates will be based on an analysis of appropriate factors as determined by the Clearing House, including market prices, historical and implied volatilities of relevant contracts, spreads and correlations between related commodities, other current and anticipated conditions (including liquidity) in the market for the contracts and other relevant information.

### 13.7 **Haircuts**

The Clearing House will review haircuts applicable for Permitted Cover on a periodic and *ad hoc* basis. Changes to haircuts will be notified to Clearing Members by Circular. With respect to Permitted Cover for F&O Contracts, *ad hoc* rate changes will become effective on the next Business Day. Routine rate changes will be implemented on the date given in the Circular announcing such changes, normally five Business Days after the date of the Circular. With respect to Permitted Cover for F&O Contracts, changes to haircuts will be based on an analysis of appropriate factors as determined by the Clearing House, including historical and implied price volatility of such assets, current and anticipated conditions in the market for those assets, spreads and correlations between relevant assets, liquidity in the trading market for those assets, composition of the relevant market, default risk (including sovereign risk) with respect to those assets, relevant foreign exchange market conditions and other relevant information.

### 13.8 **Permitted Capital Limits**

The Clearing House monitors the relationship between Capital and outstanding Original Margin, Initial Margin and FX Original Margin obligations of Clearing Members. If, on aggregate, a Clearing Member's Original Margin, Initial Margin or FX Original Margin is greater than three times the Clearing Member's Capital, the Clearing House may require that further Capital (or substitute Capital) be put in place by the Clearing Member.

The Clearing House will endeavour to contact Clearing Members that may be required to put in place additional Capital in advance of such requirement becoming necessary, in order to agree steps to be taken by the Clearing Members.

### 13.9 **Concentrated Positions**

The Clearing House monitors Open Contract Positions on a daily basis. Where the Clearing House determines an Open Contract Position to be concentrated, as defined by its large positions policy, the Clearing House may, at its discretion, require that the Clearing Member or Disclosed Principal do any of the following:

- (a) reduce an Open Contract Position; or
- (b) lodge additional Permitted Cover with the Clearing House.

Positions will be subject to an extra Margin requirement in the case that a single Clearing Member holds more than 20% of the total Margin requirement in the margined product group.

## 14. **GUARANTY FUND PARAMETERS AND RESTRICTIONS**

### 14.1 **F&O Guaranty Fund**

The following parameters apply to the F&O Guaranty Fund and F&O Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) F&O Guaranty Fund Contributions will be calculated and payable in USD;
- (b) the Clearing House will establish from time to time a minimum F&O Guaranty Fund Contribution for each Clearing Member, based on a methodology adopted by the Clearing House, of not less than USD 1 million;
- (c) minimum cash portion of F&O Guaranty Fund Contribution is 50%;
- (d) in addition to the above requirement, first USD10 million in cash (such that any F&O Guaranty Fund Contribution of less than USD10 million must be provided entirely as cash) unless agreed otherwise by the Clearing House; and
- (e) other Permitted Cover for F&O Guaranty Fund Contributions must be USD denominated for F&O Guaranty Fund Contributions.
- (f) The start and end dates of Guaranty Fund Periods will be communicated to F&O Clearing Members.

### 14.2 **CDS Guaranty Fund**

The following parameters apply to the CDS Guaranty Fund and CDS Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) CDS Guaranty Fund Contributions will be calculated and payable in EUR, except for Guaranty Fund Contributions relating to Open Contract Positions in Sovereign Contracts, which are calculated and payable in USD;

- (b) minimum CDS Guaranty Fund Contribution of EUR 15 million for CDS Contracts other than Sovereign Contracts;
- (c) minimum cash portion of CDS Guaranty Fund Contribution is 50% for each currency;
- (d) in addition to the above requirements, minimum of EUR 15 million in cash (such that any CDS Guaranty Fund Contribution of EUR 15 million must be provided entirely as cash) unless agreed otherwise by the Clearing House;
- (e) other Permitted Cover for CDS Guaranty Fund Contributions must be EUR denominated, except for Guaranty Fund Contribution in relation to Sovereign Contracts, which must be USD denominated;
- (f) the start and end dates of Guaranty Fund Periods will be communicated to CDS Clearing Members; and
- (g) the parameters for determining the CDS Guaranty Fund Contributions of CDS Clearing Members will be determined by the Clearing House in consultation with the CDS Product Risk Committee.

#### 14.3 **FX Guaranty Fund**

The following parameters apply to the FX Guaranty Fund and FX Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) FX Guaranty Fund Contributions will be calculated and payable in USD;
- (b) minimum FX Guaranty Fund Contributions are as specified by the Clearing House;
- (c) minimum cash portion of FX Guaranty Fund Contribution is 50%;
- (d) other Permitted Cover for FX Guaranty Fund Contributions must be USD denominated;
- (e) the start and end dates of Guaranty Fund Periods will be communicated to FX Clearing Members; and
- (f) the parameters for determining the FX Guaranty Fund Contributions of FX Clearing Members will be determined by the Clearing House in consultation with the FX Product Risk Committee.

### 15. **CLEARING HOUSE CONTRIBUTIONS**

#### 15.1 **Clearing House Initial Contributions**

The following provisions apply to each of the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and the Clearing House FX Initial Contribution:

- (a) The Clearing House shall keep, and indicate separately in its balance sheet, an amount of dedicated own resources as the Clearing House Initial Contributions. No resources other than capital, including retained earnings and reserves as referred to in Article 16 of EMIR, shall qualify as Clearing House Initial Contributions.
- (b) The Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and the Clearing House FX Initial Contribution shall each be constituted by two parts: (i) a minimum contribution of own resources for purposes of article 35(2) of Commission Delegated

Regulation No 153/2013 (as calculated under paragraphs 15.1(c)-(d)); and (ii) an additional voluntary contribution constituted by the remainder of the Clearing House Initial Contribution in question, as calculated in accordance with this paragraph 15.

- (c) The Clearing House shall calculate the minimum sum of Clearing House Initial Contributions by multiplying its minimum required capital (including retained earnings and reserves) to be maintained by it in accordance with article 16 of EMIR, by 25%.
- (d) The minimum sum calculated in accordance with paragraph 15.1(c) shall be allocated to the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and Clearing House FX Initial Contribution in proportion to the sizes of the CDS Guaranty Fund, F&O Guaranty Fund and FX Guaranty Fund respectively, and shall be separately indicated in the Clearing House's balance sheet.
- (e) The Clearing House shall revise the minimum sum of Clearing House Initial Contributions and breakdown of the same between the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and Clearing House FX Initial Contribution on a yearly basis.
- (f) The Clearing House may use such exchange rates as it sees fit for purposes of calculating the relative sizes of the CDS Guaranty Fund, F&O Guaranty Fund and FX Guaranty Fund.

## 15.2 Clearing House CDS Contributions

- (a) The Clearing House CDS Initial Contribution shall be at least the higher of: (i) the EUR equivalent of USD 10 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on 28 July 2009; and (ii) the minimum required under paragraph 15.1. The Clearing House may increase the Clearing House CDS Initial Contribution from time to time and shall be obliged on or prior to the first anniversary of the first date on which the Clearing of CDS Contracts recorded in CDS Customer Accounts becomes operationally available ("**Customer Integration Date**") to have made an aggregate Clearing House CDS Initial Contribution (including the initial USD 10 million equivalent) of at least the higher of: (A) the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the first anniversary of the Customer Integration Date; and (B) the minimum required under paragraph 15.1. The amount of the Clearing House CDS Initial Contribution may be further increased by the Clearing House redesignating all or part of any of the Clearing House CDS GF Contributions as Clearing House CDS Initial Contributions. Any such redesignation shall be notified by Circular. Such amounts are subject to any reduction following the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103.
- (b) If on or after the first anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS Initial Contribution is below the required amount of the Clearing House CDS Initial Contribution under paragraph 15.2(a)(i) or 15.2(a)(A) because of a decrease in the value of assets representing such Clearing House CDS Initial Contribution (including such decreases that occurred prior to such first anniversary or as the result of investments of the Clearing House CDS Initial Contribution, but excluding decreases resulting from the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103 and excluding any decreases due to exchange rate fluctuations described in paragraph 15.2(g)), the Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS Initial Contributions sufficient to cause the assets constituting the Clearing House CDS Initial Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required amount in EUR of the Clearing House CDS Initial Contribution (plus the required amount in EUR of any

amounts of Clearing House CDS GF Contributions that have been redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)).

- (c) The Clearing House may allocate amounts as Clearing House CDS GF Contributions and, by the second anniversary of the Customer Integration Date, shall be obliged to have allocated amounts as Clearing House CDS GF Contributions (net of any decreases resulting from the application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103) on or before such second anniversary of the Customer Integration Date of at least the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the second anniversary of the Customer Integration Date (from time to time, the aggregate amount of Clearing House CDS GF Contributions being reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103 for such period as is permitted under this paragraph 15.2(c) and further as a result of Clearing House CDS GF Contributions being redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)). If, prior to the second anniversary of the Customer Integration Date, the aggregate amount of Clearing House CDS GF Contributions is reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103, the Clearing House shall be required, by the open of business on the following Business Day, to allocate additional amounts as Clearing House CDS GF Contributions equal to the amount by which the Clearing House CDS GF Contribution was applied and such additional amount shall constitute part of the Clearing House CDS GF Contribution (subject to the same being redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)).
- (d) If on or after the second anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS GF Contribution (or which would have constituted the Clearing House CDS GF Contribution but for their redesignation as Clearing House CDS Initial Contribution under paragraph 15.2(a)) is below the required amount of the Clearing House CDS GF Contribution because of a decrease in the value of assets representing such Clearing House CDS GF Contribution (excluding any decreases due to exchange rate fluctuations described in paragraph 15.2(g)) or the application of any amount of Clearing House CDS GF Contribution or Clearing House CDS Initial Contribution pursuant to Rule 1103, the Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS GF Contributions sufficient to cause the assets constituting the Clearing House CDS GF Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required amount in EUR of the Clearing House CDS GF Contribution. Such assets may be redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a).
- (e) For the purposes of calculating the amount of any application of any amount of Clearing House CDS Contribution pursuant to Rule 1103, the value of the Clearing House CDS Contribution shall be determined in EUR as of the date of such application. Subject to paragraph (g), any deficiency of the actual Clearing House CDS Contributions relative to the required amounts at the time of application shall remain the liability of the Clearing House, notwithstanding anything to the contrary in the Rules or Procedures.
- (f) The Clearing House may make withdrawals from accounts containing the Clearing House CDS Initial Contribution or Clearing House CDS GF Contribution only to the extent the value of the relevant assets exceeds the required EUR requirement.
- (g) Notwithstanding any other provision of this paragraph 15.2, the Clearing House shall not be obliged to top up or redesignate any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified



in this paragraph 15.2 or otherwise (save as required pursuant to paragraph 15.1). Notwithstanding any other provision of this paragraph 15.2 the Clearing House shall not be entitled to withdraw or redesignate any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified in this paragraph 15.2 or otherwise.

### 15.3 Clearing House FX Contributions

- (a) The Clearing House FX Contributions are to be determined and allocated from time to time in accordance with the following provisions:
  - (i) the Clearing House FX Initial Contribution shall be at least the higher of: (A) USD 2.5 million; or (B) the minimum required under paragraph 15.1;
  - (ii) the Clearing House FX GF Contribution shall be at least USD 2.5 million;
  - (iii) subject to paragraph 15.1, the maximum amount of the Clearing House FX Initial Contribution shall be USD 25 million;
  - (iv) the maximum amount of the Clearing House FX GF Contribution shall be USD 25 million;
  - (v) subject to the minima in paragraphs (i) and (ii) above and any applicable maxima in paragraphs (iii) and (iv) above, the total Clearing House FX Contributions from time to time shall be at least 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);
  - (vi) subject to paragraph (vii), 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, provided that the total of the Clearing House FX Initial Contribution and Clearing House FX GF Contribution shall be capped at USD 50 million (subject to paragraph 15.1); and
  - (vii) if the calculations in paragraph (vi) 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.
- (b) 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.
- (c) 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.

**15.4 General Provisions relevant to Clearing House Contributions**

- (a) The Clearing House may substitute assets constituting Clearing House Contributions in the same way and to the same extent that assets constituting Guaranty Fund Contributions may be substituted by Clearing Members.
- (b) Without prejudice to Applicable Laws relating to insolvency, the Clearing House shall have no obligation to contribute or allocate any additional Clearing House Contributions in any situation in which either: (i) Rule 209(c)(ii) or (iii) or Rule 912 applies; or (ii) Rule 209(c)(ii) or (iii), Rule 209(f)(ii), except in either case in respect of any due but unallocated amounts at the time of such occurrence.
- (c) There shall not be any breach by the Clearing House of its obligations under this paragraph 15 solely as a result of any temporary reduction to any Clearing House Contributions as a result of the application of any amount of Clearing House Contributions pursuant to Rule 1103.