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CHAPTER 1
DEFINITIONS AND INTERPRETATION

1.1 Unless the context otherwise requires, for all purposes of these Rules, the following words shall have the meanings specified:

**Account** means any or all of the House Accounts, Non-Segregated Client Accounts, Omnibus Client Accounts and Individual Client Accounts as the context requires;

**Adopting Clearing Member** means, in relation to a Client, each Clearing Member which has agreed to accept any of the Contracts relating to the Client in accordance with Rule 3A.6 and, in the event of a Declaration of Default being issued to the Client’s Clearing Member which is currently party to such Contract, Rule 8.4;

**Affected Contract** means each Contract to which a Defaulting Clearing Member is a party and any Corresponding Contract to such Contract to which the Defaulting Clearing Member is a party;

**Affected Contract Transfer** has the meaning given in Rule 10.3.1(e);

**Affected Party** has the meaning given in Rule 2.9.1;

**Affiliate** means, when applied to any person, any subsidiary undertaking or parent undertaking of that person and any subsidiary undertaking of any such parent undertaking, and the terms subsidiary undertaking and parent undertaking shall have the meanings given to them in section 1162 of the Companies Act 2006;

**Aggregate IRS Collects** means the aggregate of all the IRS Collects with respect to IRS Accounts;

**Aggregate IRS Pays** means the aggregate of all the IRS Pays with respect to IRS Accounts;

**Aggregate Subordinated Amount** has the meaning given in the IRS Default Management Guidelines;

**Aggregate Seniorised Amount** has the meaning given in the IRS Default Management Guidelines;

**Allocated IRS Collect** has the meaning given in Rule 8.6.3(e);

**Allocated Precious Metals Account** means an account held with one of the members of LPMCL for the purposes of holding allocated Precious Metal and shall include any sub-account opened within it;
Appeals Body has the meaning given in Rule 9.5.1;

Applicable Law means all law, statutory provisions and other rules, regulations and instruments in force from time to time, including the rules, guidance, principles and codes of practice of any Regulatory Authority;

Assessments means amounts the Clearing House may assess with respect to Clearing Members in accordance with Rule 8.7 or the amount paid by a Clearing Member to satisfy such assessment, as the context requires, and includes all Eligible Assets comprising such Assessment and any rights relating to, and the proceeds of, any such Eligible Assets;

Auction Portfolio has the meaning given in the IRS Default Management Guidelines;

Bank Account means one or more bank accounts capable of holding Eligible Cash opened and maintained by the Clearing Member with a Settlement Bank for the purposes set out in Rule 4.2.2;

Banking Day means any day on which banks in London are open for business;

Bid Ratio has the meaning given in the IRS Default Management Guidelines;

Board of Directors means the Board of Directors of the Clearing House whose names have been submitted to Companies House as such from time to time;

Business Day means any day on which the Clearing House is open for business as set out on the Clearing House’s Website or as communicated toClearing Members from time to time by any other means;

Cash Collateral Return has the meaning given in Rule 10.3.1(k);

Cash Collateral Transfer has the meaning given in Rule 10.3.1(j);

Cash Reinvestment Agent has the meaning given in Rule 10.2;

Cash Reinvestment Agreement has the meaning given in Rule 10.1.1;

CCP Regime means any resolution, insolvency or administration regime which is applied to the Clearing House in accordance with secondary legislation made under the Banking Act 2009;

CEO means the chief executive officer of the Clearing House from time to time;

Chairman means the chairman of the Board of Directors from time to time;

CHAPS means the inter-bank Clearing House Automated Payment System;
Clearing and Settlement Procedure means the Clearing and Settlement Procedure in the Procedures;

Clearing House means CME Clearing Europe Limited;

Clearing House Complaint means a Complaint made by a Clearing Member that arises in connection with the performance of the Clearing House, or an alleged failure to perform any of the Clearing House functions so far as relating to the obligations to which it is subject under or by virtue of FSMA or to matters arising out of such obligations;

Clearing Member means any person that has been granted membership of the Clearing House pursuant to Chapter 3 and includes a Defaulting Clearing Member;

Clearing Member Complaint means a Complaint made by a Clearing Member that relates to the conduct or behaviour or other actions of another Clearing Member in relation to that Clearing Member’s clearing activities with the Clearing House;

Clearing Membership Agreement means the agreement of the same name entered into between the Clearing House and each Clearing Member setting out each party’s obligations in respect of the services of the Clearing House;

Clearing Services means the services provided to Clearing Members by the Clearing House (acting in such capacity) as contemplated by the Rules;

Clearing System means the system (including hardware, software, website and networks) owned by or licensed to the Clearing House and used by the Clearing House for the provision of the Clearing Services;

Client means a person for which a Clearing Member clears Transactions through the Clearing House;

Client Account means each account opened for the Clearing Member in the books and records of the Clearing House in accordance with Rule 4.2.1 in respect of Contracts entered into by a Clearing Member on behalf of one or more Clients which the Clearing Member has requested the Clearing House to open as such and shall include an Omnibus Client Account and an Individual Client Account but shall not include a Non-Segregated Client Account, save that for the purposes of the Client Protection Agreement and the Security Trust Deed and with respect to an Omnibus Client Account, the term “Client Account” shall be construed to mean the Notional Sub-Account within the Omnibus Client Account rather than the Omnibus Client Account itself;
**Client Acknowledgement** means the agreement referred to in Rule 3A.4.1(b) which is in the form prescribed by the Clearing House;

**Client Agreement** means an agreement between a Clearing Member and a Client in relation to the submission of Transactions by the Clearing Member to the Clearing House on behalf of the Client and which governs their respective rights and obligations in relation to Corresponding Transactions pursuant to Rule 3A.2;

**Client Protection Agreement** means the agreement referred to at Rule 3A.4.1(a) which is in the form prescribed by the Clearing House;

**Collateral** means:

(a) any Eligible Assets deposited with the Clearing House in accordance with Chapter 6 and the Clearing and Settlement Procedure and in respect of which the Clearing House has not returned Equivalent Assets or other assets in accordance with the Rulebook to the Clearing Member;

(b) any other asset standing to the credit of the relevant Account of the Clearing Member which the Clearing House may reasonably consider to be Collateral; and

(c) where the context requires, any rights relating to, and the proceeds of, any assets referred to in subparagraphs (a) and (b);

**Collateral Value** means at any time, in respect of Eligible Assets provided as Collateral by a Clearing Member, the value of the Equivalent Assets that are credited to the Clearing Member's Accounts;

**Committee** means each committee of the Clearing House established for the purpose set out in the Rules;

**Commodity Assessment** means an Assessment with respect to a Commodity Clearing Member in accordance with Rule 8.7.1;

**Commodity Clearing Member** means a Clearing Member that has been accepted by the Clearing House as a Commodity Clearing Member and remains as such;

**Commodity Collateral** means Collateral relating to a Commodity Contract;

**Commodity Contract** means a Contract satisfying a Contract Specification contained in the Contract Module for OTC Commodity Contracts;
**Commodity Contribution Formula** means a Commodity Clearing Member’s share of the average daily Margin Requirement for all Commodity Clearing Member’s in the previous quarter, weighted at 85% (eighty five per cent.), and its share of gross volume in the previous quarter, weighted at 15% (fifteen per cent.), in each case in respect of Commodity Contracts;

**Commodity Cooling Off Period** means the period starting on the date of the first Commodity Declaration of Default and ending on:

(a) if there are no further Commodity Declarations of Default during the five Business Days following the original Commodity Declaration of Default, the fifth Business Day after the date of the original Commodity Declaration of Default, and

(b) if one or more Commodity Declarations of Default are issued during the five Business Days following the first Commodity Declaration of Default, or any subsequent Commodity Declaration of Default issued during the five Business Days following any such previous Commodity Declaration of Default, the fifth Business Day following the issuance of the last such Commodity Declaration of Default regardless of the number of Commodity Declarations of Default that may be issued during such period;

**Commodity Declaration of Default** means a Declaration of Default in relation to which at least one Affected Contract is a Commodity Contract;

**Commodity Guarantee Fund** means the fund established by the Clearing House in respect of Commodity Contracts pursuant to Chapter 7;

**Commodity House Account** means the account opened for the Clearing Member in the books and records of the Clearing House in accordance with Rule 4.2.1 in respect of all Commodity Contracts other than the Contracts recorded in any Client Account or the Non-Segregated Client Account;

**Commodity Individual Client Account** means a Client Account which relates to Commodity Contracts entered into by a Commodity Clearing Member on behalf of a single Client;

**Commodity Interim Asset** has the meaning given in Rule 8.5.3

**Commodity Interim Liability** has the meaning given in Rule 8.5.3;

**Commodity Membership Termination Date** means the date specified by the Clearing House when the Clearing House is satisfied that the Commodity Clearing Member has
fully discharged all its obligations under the Rules in respect of its membership as a Commodity Clearing Member and ceased to be a party to any Commodity Contract following the giving or receiving of a notice to terminate the membership of such Commodity Clearing Member and which is notified to the Commodity Clearing Member as its Commodity Membership Termination Date and is likely to be the date of the first re-assessment of the Commodity Clearing Members’ Contributions after the Commodity Clearing Member has fully discharged all its obligations other than the provision of any Contribution that would otherwise be reassessed to the Clearing Member on such date and has ceased to be a party to any Commodity Contracts;

**Commodity Notional Sub-Account** means, with respect to a Commodity Omnibus Client Account, a notional sub-account which relates to:

(a) Commodity Contracts entered into by a Commodity Clearing Member on behalf of one Client only within that Commodity Omnibus Client Account; or

(b) Commodity Contracts, if any, entered into by a Commodity Clearing Member on behalf of one or more Clients within that Commodity Omnibus Client Account which the Clearing House cannot identify as relating to a particular Client;

**Commodity Omnibus Client Account** means a Client Account which relates to Commodity Contracts entered into by a Commodity Clearing Member on behalf of more than one Client;

**Commodity Portable Contract Net Sum** has the meaning given to it in Rule 8.4.3;

**Commodity Portable Interim Asset** has the meaning given to it in Rule 8.4.5;

**Commodity Portable Interim Liability** has the meaning given to it in Rule 8.4.5;

**Commodity Single Net Sum** has the meaning given to it in Rule 8.5.5;

**Competitive Auction** has the meaning given to it in the IRS Default Management Guidelines;

**Complaint** means either or both of a Clearing House Complaint or a Clearing Member Complaint, as the context requires;

**Complaints Procedure** means the Complaints Procedure in the Procedures;

**Contract** means a contract entered into between the Clearing House and a Clearing Member pursuant to Rule 5.2;
Contract Module means the part of the Rules setting out the Contract Specifications and any additional provisions that apply in respect of a particular type of Transaction;

Contract Order has the meaning given in Rule 10.3.1(c);

Contract Specification means the part of the Contract Module setting out the terms of a particular type of Transaction;

Contract Transfer has the meaning given in Rule 10.3.1(d);

Contribution means either the amount that a Clearing Member is required to contribute to the relevant Guarantee Fund or the amount contributed by a Clearing Member to such Guarantee Fund, as the context requires, from time to time and includes all Eligible Assets comprising such Contribution and any rights relating to, and the proceeds of, any such Eligible Assets;

Cooling Off Period means a Commodity Cooling Off Period or an IRS Cooling Off Period;

Corresponding Contract has the meaning given in the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001;

Corresponding Transaction means each transaction that is entered into between the Clearing Member and a Client with commercial terms which correspond to the commercial terms of a Contract cleared by the Clearing Member on behalf of a Client;

Custodian means a custodian with which the Clearing House may deposit Collateral and/or Contributions, and/or Assessments and/or IRS Optional Payments made by the Clearing Member from time to time;

Custody Agreement has the meaning given in Rule 10.1.1;

Custody Cash Transfer has the meaning given in Rule 10.3.1(l);

Declaration of Default has the meaning given in Rule 8.2.1;

Defaulting Clearing Member means a Clearing Member on which the Clearing House has served a Declaration of Default in accordance with Rule 8.2.1;

Defaulting Commodity Clearing Member means a Defaulting Clearing Member which is a Commodity Clearing Member;

Defaulting IRS Clearing Member means a Defaulting Clearing Member which is an IRS Clearing Member;
**Default Rules** means the Rules in Chapter 8 and the IRS Default Management Guidelines;

**Defence** has the meaning given in Rule 9.4.7;

**Designated System** has the meaning given in Rule 10.2;

**Direct Debit Authority** means a form of agreement which, when executed by the Clearing Member in favour of a Settlement Bank with which the Clearing Member has a Bank Account, gives authority to the Clearing House to provide instructions in relation to such Bank Account, in a form acceptable to the Clearing House;

**Disciplinary Notice** has the meaning given in Rule 9.4.6;

**Disciplinary Panel** has the meaning given in Rule 9.4.3;

**Disciplinary Proceedings** has the meaning given in Rule 9.4.1;

**Distribution** means at any time, in respect of an Eligible Security, all interest, dividends and other property received by the Clearing House in respect of such Eligible Security;

**Eligible Assets** means Eligible Cash, Eligible Securities and/or (as the context requires) Eligible Commodities;

**Eligible Cash** means cash in a currency which the Clearing House has determined to be eligible for depositing as Collateral as set out in the Clearing and Settlement Procedure and may include different currencies in respect of different categories of Contract;

**Eligible Commodities** means allocated Gold that the Clearing House has determined to be eligible for depositing as Collateral as set out in the Clearing and Settlement Procedure;

**Eligible Security** means a security that the Clearing House has determined to be eligible for depositing as Collateral as set out in the Clearing and Settlement Procedure and Eligible Securities shall be construed accordingly and may include different securities in respect of different categories of Contract;

**Emergency Committee** means the committee formed for the purpose set out in Rule 8.1.3;

**Encumbrance** means any mortgage, charge, pledge, lien, option, restriction, right of set-off, right of first refusal, right of pre-emption, claim, right, interest or preference
granted to any third party, or any other encumbrance or security interest of any kind (or an agreement or commitment to create any of the same);

**Equivalent Assets** means:

(a) in respect of Eligible Cash, Eligible Cash in the same currency;

(b) in respect of Eligible Securities, securities of the same type, nominal value, description and amount as the Eligible Securities or, if the Eligible Securities have been redeemed or undergone some other change after their transfer or delivery to the Clearing House, the proceeds of such redemption or other relevant asset; and

(c) in respect of Eligible Commodities, commodities of the same type, nominal value, description and amount as the Eligible Commodities, or, if the Eligible Commodities have been redeemed or undergone some other change after their transfer to the Clearing House, the proceeds of such redemption or other relevant asset;

**Equivalent Distribution** means interest, dividends and other property of the same type, nominal value, description and amount as Distributions on Eligible Assets the value of which:

(a) is credited to any of the Clearing Member’s Accounts as Collateral; and

(b) is comprised in the Clearing Member’s Contribution and any Assessments and any IRS Optional Payments the Clearing Member has provided to the Clearing House;

**Euro** means the common single currency of the member states of the European Union that have adopted and continue to retain such currency in accordance with European Treaty law (as amended from time to time);

**Event of Default** has the meaning given in Rule 8.1.1;

**Excess Collateral** means, in relation to a Client Account, such value of Eligible Assets provided to the Clearing House as Collateral which is greater in value than the Collateral which the Clearing Member is required to provide to the Clearing House in respect of the Client Account and identified as Excess Collateral by the Clearing Member;

**Fees and Charges Notice** means the Notice setting out the fees and charges of the Clearing House from time to time;
**Force Majeure Event** means any event outside the control of the Clearing House or the Clearing Member, as the case may be, which hinders or prevents the performance in whole or in part of any of its obligations under these Rules (other than an obligation of a Clearing Member to make payments which, for the avoidance of doubt, includes the provision of Collateral, Contributions and Assessments) including any breakdown, delay, malfunction or failure of transmission, communication or computer facilities or other systems or software, industrial action, act of terrorism, civil unrest, embargoes, strike, lack of energy supply, act of God, change in the Applicable Law or act and requirement of any Regulatory Authority or the failure by a Settlement Bank or Custodian or other provider of services on which the Clearing House relies for any reason, to perform its obligations;

**FSA** means the Financial Services Authority, including any successor body thereto;

**FSMA** means the Financial Services and Markets Act 2000;

**Gold** means either allocated or unallocated gold complying with the rules of the London Bullion Market Association relating to good delivery and fineness in effect from time to time as the context requires;

**Guarantee Fund** means the Commodity Guarantee Fund and the IRS Guarantee Fund;

**Guarantee Fund Procedure** means the Guarantee Fund Procedure in the Procedures;

**Guarantor** means any person that provides a guarantee to the Clearing House in respect of the Clearing Member’s obligations under the Rules;

**House Account** means the Commodity House Account and/or the IRS House Account as the context requires;

**Individual Client Account** means a Commodity Individual Client Account and/or an IRS Individual Client Account as the context requires;

**Insolvency Event** means, in relation to a person, that the person ceases to trade, or is unable to pay its debts as they fall due or has a petition presented or a meeting convened for the purpose of its winding up (provided that such petition is not merely frivolous) or if it enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or an administration order is made in relation to it or it has a receiver or administrative receiver appointed over all or a substantial part of its assets or distraint is levied over any of its assets or any similar or analogous order is made or proceeding is commenced or officer is appointed or action is taken in the United Kingdom or in any jurisdiction or outside the United Kingdom in consequence of debt;
**Investigation** has the meaning given in Rule 9.2.1;

**Investigation Notice** has the meaning given in Rule 9.3.1;

**Investment Agent** means the agent used to invest Eligible Cash received as Collateral in accordance with the Clearing House’s investment policy;

**IRS Account** means an IRS House Account, an IRS Individual Client Account or an IRS Notional Sub-Account;

**IRS Active Default Committee** has the meaning given to it in the IRS Default Management Guidelines;

**IRS Assessment** means an Assessment made with respect to an IRS Clearing Member in accordance with Rule 8.7.3;

**IRS Clearing Member** means a Clearing Member that has been accepted by the Clearing House as an IRS Clearing Member and remains as such;

**IRS Collateral** means Collateral relating to an IRS Contract;

**IRS Collect** means the Clearing House’s net obligation to pay an amount in respect of Variation Requirement to an IRS Clearing Member;

**IRS Contract** means a Contract satisfying a Contract Specification contained in the Contract Module for OTC IRS Contracts;

**IRS Contribution Formula** means an IRS Clearing Member’s share of the total potential residual loss based on a 30-day trailing average, weighted at 90% (ninety per cent.), and its share of total gross notional open interest at the Clearing House based on the 30-day trailing average, weighted at 10% (ten per cent.), in each case in respect of IRS Contracts;

**IRS Cooling Off Period** means the period starting on the date of the first IRS Declaration of Default and ending on:

(c) if there are no further IRS Declarations of Default during the 25 Business Days following the original IRS Declaration of Default, the 25th Business Day after the date of the original IRS Declaration of Default, and

(d) if one or more IRS Declarations of Default are issued during the 25 Business Days following the first IRS Declaration of Default or any subsequent IRS Declaration of Default during the 25 Business Days following any such previous IRS Declaration of Default, the 25th Business Day following the issuance of the
last IRS Declaration of Default regardless of the number of IRS Declarations of Default that may be issued during such period;

**IRS Default Management Committee** means the IRS Default Management Committee established by the Clearing House acting in accordance with the terms of reference for the IRS Default Management Committee;

**IRS Default Management Guidelines** means the IRS Default Management Guidelines of the Clearing House as made available to each IRS Clearing Member;

**IRS Declaration of Default** means a Declaration of Default in relation to which at least one Affected Contract is an IRS Contract;

**IRS Guarantee Fund** means the fund established by the Clearing House in relation to IRS Contracts pursuant to Chapter 7;

**IRS House Account** means the account opened for the Clearing Member in the books and records of the Clearing House in accordance with Rule 4.2.1 in respect of all IRS Contracts other than the IRS Contracts recorded in any Client Account;

**IRS Individual Client Account** means a Client Account which relates to IRS Contracts entered into by an IRS Clearing Member on behalf of a single Client;

**IRS Interim Asset** has the meaning given to it in Rule 8.5.4;

**IRS Interim Liability** has the meaning given to it in Rule 8.5.4;

**IRS Limited Recourse Termination Event** means the occurrence of any of the following events or circumstances:

(a) the Clearing House determines that, but for the effect of Rules 2.4, 8.6.3 and 8.10.8 (and any other Rule which has comparable effect to limited recourse and Variation Requirement haircutting), it would be unable to perform a payment obligation in relation to an IRS Contract or to an IRS Clearing Member in relation to an IRS Contract, and all relevant IRS Collateral, IRS Guarantee Fund and IRS Assessments and IRS Optional Payments have been exhausted;

(b) the Clearing House determines (after consultation with the IRS Risk Committee) that the available IRS Collateral, IRS Guarantee Fund, IRS Assessments and IRS Optional Payments relating to IRS Contracts would be insufficient to satisfy auction bid results for the sale of Affected Contracts in the Defaulting IRS Clearing Member’s portfolio;
(c) the Clearing House determines (after consultation with the IRS Risk Committee) that there may be an IRS Shortfall; or

(d) reasonable (in the opinion of the Clearing House) written notice is given by the Clearing House to all IRS Clearing Members (after consultation with the IRS Risk Committee) on or following an IRS Declaration of Default during an IRS Cooling Off Period;

**IRS Membership Termination Date** means the date the Clearing House is satisfied that the IRS Clearing Member has fully discharged all its obligations in respect of its membership as an IRS Clearing Member under the Rules and ceased to be a party to any IRS Contract following the giving or receiving of a notice to terminate the membership of such IRS Clearing Member and which is notified to the IRS Clearing Member as its membership termination date and is likely to be the date of the first reassessment of the IRS Clearing Members’ Contributions after the IRS Clearing Member has fully discharged all its obligations other than the provision of any Contribution that would otherwise be reassessed to the Clearing Member on such date and has ceased to be a party to any IRS Contracts;

**IRS Notional Sub-Account** means a notional sub-account of an IRS Omnibus Client Account which relates to IRS Contracts entered into by an IRS Clearing Member on behalf of one Client within that IRS Omnibus Client Account;

**IRS Omnibus Client Account** means a Client Account which relates to IRS Contracts entered into by an IRS Clearing Member on behalf of more than one Client;

**IRS Optional Payment** has the meaning given to it in Rule 8.6.4;

**IRS Pay** means an IRS Clearing Member’s obligation to pay an amount in respect of Variation Requirement to the Clearing House;

**IRS Planned Termination Event** means the Clearing House, in consultation with the IRS Risk Committee, on not less than 90 days’ written notice to all IRS Clearing Members, decides for any reason to terminate all IRS Contracts;

**IRS Portable Interim Asset** has the meaning given to it in Rule 8.4.5;

**IRS Portable Interim Liability** has the meaning given to it in Rule 8.4.5;

**IRS Risk Committee** means the IRS Risk Committee from time to time;

**IRS Shortfall** means, at any time, the amount (if any) by which:

(a) the Aggregate IRS Collects
are less than

(b) the Aggregate IRS Pays received by the Clearing House,

or (if the steps under Rule 8.10 have not been completed at such time) the amount that the Clearing House determines would have been the relevant shortfall if the steps under Rule 8.10 had been completed at that time;

**IRS Single Net Sum** has the meaning given to it in Rule 8.5.6;

**IRS Termination Date** means the date specified by the Clearing House as being the IRS Termination Date in the notice delivered in accordance with Rule 8.10.5 or 8.10.7, as applicable;

**IRS Variation Margin Requirement Haircut** has the meaning given to it in Rule 8.6.3(d),

**IRS VM Haircut Settlement Cycle** has the meaning given to it in Rule 8.6.3;

**LIBOR** means the London Interbank Offered Rate;

**LPMCL** means London Precious Metals Clearing Limited;

**Margin Requirement** means the amount of Eligible Assets required by the Clearing House in respect of each Account to reflect the risks specific to the Contracts relating to that Account;

**Membership Criteria** means the criteria set out in Rule 3.2;

**Membership Procedure** means the Membership Procedure in the Procedures;

**Membership Termination Date** means either a Commodity Membership Termination Date or an IRS Membership Termination Date as the context requires;

**Net Settlement Amount** has the meaning set out in Rule 6.1.5;

**Nominee** has the meaning set out in Rule 3.2.1(l);

**Non-Segregated Client Account** means the account opened for a Commodity Clearing Member in the books and records of the Clearing House in accordance with Rule 4.2.1 in respect of Commodity Contracts entered into by a Commodity Clearing Member on behalf of a Client other than Commodity Contracts which are recorded in a Commodity Omnibus Client Account or a Commodity Individual Client Account;

**Notice** means any Notice published by the Clearing House as such;
**Notional Sub-Account** means a Commodity Notional Sub-Account and/or an IRS Notional Sub-Account as the context requires;

**Omnibus Client Account** means a Commodity Omnibus Client Account and/or an IRS Omnibus Client Account as the context requires;

**Opening Hours** means the hours during which the Clearing House is open for operations as set out on the Clearing House’s Website or as communicated to Clearing Members from time to time by any other means;

**Palladium** means unallocated palladium complying with the rules of the London Platinum and Palladium Market Association relating to good delivery in effect from time to time as the context requires;

**Parent Undertaking** has the meaning given in section 1162 of the Companies Act 2006;

**Participant** has the meaning given in Rule 10.2;

**Payment** has the meaning given in Rule 10.3.1(i);

**Payment Transfer Order** has the meaning given in Rule 10.2;

**Platinum** means unallocated platinum complying with the rules of the London Platinum and Palladium Market Association from time to time as the context requires;

**Portable Contract Net Sum** has the meaning given to it in Rule 8.4.3;

**Portable Net Sum** has the meaning given to it in Rules 8.4.6 and 8.4.7;

**Position Limit** means the limit set by the Clearing House on the risk exposure of Contracts existing between a Clearing Member and the Clearing House;

**Precious Metal** means Gold, Silver, Platinum and Palladium;

**Precious Metal Forward Contracts** means OTC precious metal forward contracts as set out in the Contract Module from time to time;

**Procedures** means the procedures of the Clearing House published as such;

**Receipt** has the meaning given in Rule 10.3.1(h);

**Recipient** has the meaning given it in Rule 6.3.9;
**Regulatory Authority** means any relevant government entity or other authority, in any jurisdiction, which is responsible for authorising, supervising or otherwise regulating any part of the Clearing House or its services or the Clearing Member or its business, as appropriate, or has any other regulatory, investigative, administrative or quasi-judicial jurisdiction, power or other similar function in relation to any part of the Clearing House or its services or the Clearing Member or its business, as appropriate;

**Reinvestment Cash Transfer** has the meaning given in Rule 10.3.1(m);

**Representative** means, when applied to any person, any person which carries out or is responsible for any of its functions and shall include each director, officer, employee or agent of such person;

**Risk Committee** means the Risk Committee of the Clearing House from time to time;

**Risk Management Procedure** means the Risk Management Procedure in the Procedures;

**Rulebook** means the rules of the Clearing House as set out herein as they may be amended from time to time;

**Rules** means:

(a) where used in reference to one or more provisions of the Rulebook, those provisions of the Rulebook; or

(b) otherwise, the Rulebook, the Contract Modules, Procedures and any Notices issued pursuant to the Rulebook and, for the purposes of any Rules concerning non-compliance with or breach of or failure to discharge any of the Rules, shall include the provisions of the Clearing Membership Agreement;

**Securities** has the meaning given in Rule 10.2;

**Securities Collateral Return** has the meaning given in Rule 10.3.1(g);

**Securities Collateral Transfer** has the meaning given in Rule 10.3.1(f);

**Securities Return** has the meaning given in Rule 10.3.1(b);

**Securities Substitution** has the meaning given in Rule 10.3.1(a);

**Securities Transfer Order** has the meaning given in Rule 10.2;
**Security Trustee** means the security trustee who holds on trust the assets assigned to it by way of a Client Protection Agreement on behalf of a class of Clients, each of whom has elected to benefit from such trust in its Client Acknowledgement;

**Security Trust Deed** means the deed referred to at Rule 3A.4.1(a) which is in the form prescribed by the Clearing House;

**Settlement Agent for Precious Metals** means a bank which is a member of the LPMCL and acts as a settlement and custodian bank in relation to the delivery and safekeeping of allocated or unallocated Precious Metal (as the context requires);

**Settlement Bank** means a bank which has been approved by the Clearing House to receive Eligible Cash into and pay Eligible Cash from a Bank Account, for the purposes of the Rules;

**Settlement Bank Agreement** has the meaning given in Rule 10.1.1;

**Settlement Cycle** has the meaning given to it in Rule 6.1.6 and, in relation to Rule 8.10 only, also includes any other determination of the Clearing House in relation to the rights and obligations of each IRS Clearing Member under Rule 8.10;

**Settlement Finality Regulations** has the meaning given in Rule 10.1.1;

**Settlement Finality Rules** has the meaning given in Rule 10.1.1;

**Silver** means unallocated silver complying with the rules of the London Bullion Market Association relating to good delivery in effect from time to time as the context requires

**Single Net Sum** means a Commodity Single Net Sum or an IRS Single Net Sum;

**Stress Test Methodology** means a model used by the Clearing House which estimates losses following default by various IRS Clearing Members and which assumes Defaulting IRS Clearing Members fail to make further Contributions or such other model as may be selected by the IRS Risk Committee from time to time;

**Subordinated Bidder** means a Category 1 Bidder or a Category 2 Bidder both as defined in the IRS Default Management Guidelines;

**Third Party Trade Delegate** means a Person authorised by the Clearing Member to the Clearing House to submit Transactions to the Clearing House on behalf of a Clearing Member and/or a Client;

**Transaction** means:
(a) a transaction entered into by two Clearing Members, each Clearing Member acting on its own account;

(b) a transaction that is deemed to exist between two Clearing Members on the submission to the Clearing System of matching details of a transaction entered into between a Client of each Clearing Member or one of the Clearing Members and a Client of the other; or

(c) a transaction that is deemed to exist on the submission to the Clearing System of matching details of a transaction entered into between a Clearing Member acting on behalf of a Client and the same Clearing Member acting on its own account or on behalf of another Client

in each case, which satisfies the term of a Contract Specification;

Transaction Manager has the meaning set out in Rule 3.2.1(m);

Transfer Order has the meaning given in Rule 10.2;

Transferee Clearing Member has the meaning given in Rule 5.3;

Transferor has the meaning given in Rule 6.3.9;

Transferor Clearing Member has the meaning given in Rule 5.3;

Unallocated Precious Metals Account means an account held with one of the members of LPMCL for the purposes of holding unallocated Precious Metal and shall include any sub-account opened within it;

User Licence Agreement means the agreement of the same name entered into between the Clearing House and each Clearing Member;

Variation Requirement means the amount of Eligible Assets payable as Collateral to the Clearing House, or the amount payable to the Clearing Member, in accordance with Rule 6.1.3 in respect of each Account to reflect the marking to market of the Contracts relating to that Account including any final settlement amounts;

Winning Bidder has the meaning given to it in the IRS Default Management Guidelines; and

1.2 In the Rules unless otherwise specified:

1.2.1 the table of contents and the headings are inserted for convenience only and do not affect the interpretation of the Rules;

1.2.2 references to Chapters are to the chapters of this Rulebook;

1.2.3 references to Rules are to the Rules or any particular one of the Rules;

1.2.4 references to any document are to that document as from time to time amended, restated, novated or replaced, however fundamentally;

1.2.5 references to a person include an individual, partnership, company, corporation, unincorporated body of persons and any government entity;

1.2.6 references to any statute or statutory provision include any subordinate legislation made under it;

1.2.7 references to any statute or statutory provision include any provision amending it or re-enacting it (whether with or without modification) which is the same as, or substantially similar to, the obligations imposed by the specified statute or statutory provision;

1.2.8 references to time are to London time unless otherwise specified and are set out in the 24 hour clock convention;

1.2.9 words importing the plural include the singular and vice versa and the use of any gender includes the other gender;

1.2.10 the words other, including and in particular shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;

1.2.11 any reference to the discretion exercised by the Clearing House shall mean the Clearing House’s sole, unfettered and absolute discretion;

1.2.12 references to a negative sum means a sum due from a Defaulting Clearing Member and a positive sum means a sum due to a Defaulting Clearing Member.

1.3 When such term is used in a Rule, “net sum” is not a new obligation but the aggregate or reduction of existing obligations between the Clearing Member and the Clearing House in accordance with the Rule.

1.4 The Board of Directors of the Clearing House shall have the authority to interpret the Rules. Save as otherwise provided, any such interpretations shall be final and conclusive.
1.5 This Rulebook shall be interpreted in conjunction with any Contract Module, Procedure and Notice. Each Clearing Member will be bound by such Contract Modules, Procedures and Notices as may be relevant to it which shall be set out on the Clearing House’s Website.

1.6 In the event of any conflict between the Rulebook and the Clearing Membership Agreement, the Rulebook shall take precedence. In the event of any conflict between the Rulebook and the Procedures, the Rulebook shall take precedence. In the event of any conflict between the Rulebook and a Notice, the Rulebook shall take precedence except to the extent a Notice amends the Rulebook. In the event of any conflict between the Rulebook and a Contract Module, the Contract Module shall take precedence insofar as the conflict relates to the Contract Specification for the type of Contract governed by the Contract Module. In the event of any conflict between the Rules and the User Licence Agreement, the Rules shall take precedence.

1.7 In the event of any conflict between:

1.7.1 the Rules or the Clearing Membership Agreement, and

1.7.2 the Client Agreement or the Client Protection Agreement or the Security Trust Deed or the Client Acknowledgement,

the Rules or the Clearing Membership Agreement shall take precedence.

1.7.3 In the event of any conflict between the Client Agreement, the Client Protection Agreement, the Security Trust Deed and the Client Acknowledgement, the Client Protection Agreement and the Security Trust Deed will take precedence over the Client Agreement and the Client Acknowledgement, and the Client Acknowledgement will take precedence over the Client Agreement.

1.8 If the Clearing House is unable to ascertain any amount or sum for any purpose including for any set-off, netting or aggregation under the Rules, the Clearing House may in good faith estimate that obligation (whether matured or contingent) and set-off, net or aggregate in respect of the estimate, subject to the Clearing House accounting to the Clearing Member or vice versa when the obligation is ascertained.
CHAPTER 2
GENERAL PROVISIONS

2.1 General

2.1.1 The Rules, together with the Clearing Membership Agreement and any other documentation given contractual force pursuant to these Rules, form a contract between the Clearing House and each Clearing Member. No person other than the Clearing House has any obligation to Clearing Members under these Rules, the Clearing Membership Agreement or any Contract. No person who is not a Clearing Member, including for the avoidance of doubt a Client and a Third Party Trade Delegate, shall have any rights pursuant to the Contract (Rights of Third Parties) Act 1999 to enforce any provision of these Rules or the Clearing Membership Agreement.

2.1.2 A Clearing Member shall not assign, transfer or create any Encumbrance in relation to any of its rights or obligations under the Rules, the Clearing Membership Agreement or any Contract save as otherwise set out in the Rules.

2.2 Amendments

2.2.1 The Clearing House may amend the Rulebook at any time by issuing a Notice setting out the text of the amended Rules and, where appropriate, a brief explanation of the reason for the amendment.

2.2.2 The Clearing House will publish any proposed amendment to the Rulebook for consultation and will invite Clearing Members to submit comments in writing within a specified deadline save that the Clearing House shall not be required to consult on any amendments to the Rulebook which:

(a) are minor changes of an administrative or commercial character or where the Clearing House reasonably considers that the amendment would not significantly affect the rights, obligations or liabilities of Clearing Members or that consultation is otherwise not appropriate;

(b) are considered by the Clearing House necessary to ensure compliance with the Applicable Laws or a requirement of a Regulatory Authority by the Clearing House or any Clearing Member;

(c) are considered by the Clearing House necessary as a result of an Event of Default or Force Majeure Event; or
(d) are otherwise considered by the Clearing House to be necessary for the purpose of mitigating a significant risk to the Clearing House (including by mitigating a significant risk to a Clearing Member) or for the purposes of Rule 3.7.

2.2.3 The Clearing House may consult on a proposed amendment to the Rulebook with only a limited number of Clearing Members if it reasonably considers it appropriate to do so including where, in the Clearing House’s reasonable opinion, a proposed amendment will affect a limited number of Clearing Members or in the Clearing House’s reasonable opinion, is a limited technical amendment.

2.2.4 Subject to Rule 2.2.5, a Notice setting out an amendment to the Rulebook shall state the date from which such amendment comes into effect, which shall not be earlier than ten (10) Business Days from the date of the Notice except that any of the amendments set out in Rule 2.2.2 may take immediate effect on the date of the Notice.

2.2.5 The Clearing House may amend the Contract Module, any Contract Specification, the Procedures and Notices at any time by issuing a Notice setting out the text of the amended Contract Module, Contract Specification, Procedure or Notice. Any such amendment shall have immediate effect unless otherwise stated in the Notice.

2.2.6 No amendment to the Rules shall have the effect of extinguishing any right or discharging any liability incurred under the Rules before such amendment came into effect.

2.2.7 The Clearing House shall notify Clearing Members of any changes in its Business Days and Opening Hours from time to time by Notice.

2.2.8 Subject to Rule 8.10, if at any time the Clearing House decides to cease acting as a clearing house, either generally or in relation to a particular type of Contract, it shall give prior notice to Clearing Members where possible and as soon as reasonably practicable of the proposed withdrawal date. Where any Contract has not been closed out or settled, subject to any restriction under Applicable Law, the Clearing House shall use reasonable endeavours to give six (6) months’ notice. If at any withdrawal date, any Affected Contracts remain open and in force or not otherwise closed pursuant to Rule 5.2.6, the Clearing House shall be entitled to offset, liquidate or require any such Contracts to cash settle on terms specified by the Clearing House.

2.3 Limitations of liability and indemnity

2.3.1 Each Clearing Member shall indemnify the Clearing House, Chicago Mercantile Exchange, Inc and any of its Parent Undertakings and each of their respective Representatives against any and all losses, liabilities, damages, claims, costs or
expenses suffered or incurred by the Clearing House, Chicago Mercantile Exchange, Inc any of its Parent Undertakings or any of their Representatives arising out of or in connection with the Clearing Member’s conduct or its breach of these Rules, any Contract, any reasonable action taken by the Clearing House in relation to the operation of the Clearing House or the Applicable Law.

2.3.2 To the extent that the Clearing Member is required to indemnify the Clearing House, Chicago Mercantile Exchange, Inc. its Parent Undertakings or any of their Representatives, it shall only be required to indemnify the Clearing House provided that:

a) the Clearing House notifies the Clearing Member as soon as reasonably practicable if it intends to claim under any such indemnity; and

b) the Clearing House takes reasonable steps to minimise its loss.

2.3.3 Neither the Clearing House nor any of its Affiliates or Representatives shall have any liability or obligation under or in respect of a Transaction unless and until a Contract arises. The Clearing House's liabilities and obligations under any Contract will be limited to those set out in these Rules and the terms of the Contract.

2.3.4 Neither the Clearing House nor any of its Affiliates or Representatives shall be liable for any losses, liabilities, damages, claims, costs or expenses, whether in contract, tort or breach of statutory duty or otherwise, arising from or in connection with:

(a) any suspension or closure of the Clearing House;

(b) any failure or malfunction or defect or delay or interruption in, or inability to use, any systems or communications necessary for use of the Clearing House (whether or not such systems or communications are under the control of the Clearing House);

(c) any errors or inaccuracies in any information used in any systems of the Clearing House or provided by the Clearing House;

(d) any warranties, representations and undertakings which might be implied, whether by statute or otherwise, in respect of any systems used or provided by the Clearing House including as to fitness for purpose or for a particular use;

(e) any exercise or failure to exercise any discretion or right conferred upon the Clearing House pursuant to the Rules;

(f) any error, delay or inaccuracy in the submission of a Transaction or the transmission of information to the Clearing House and any unauthorised access to or use of the Clearing House;
(g) the performance of any obligation of a Clearing Member or Client or Third Party Trade Delegate or other person;

(h) the acts or omissions of, or an Insolvency Event affecting, any third party including the Security Trustee, any Settlement Bank, Custodian, Central Security Depository, settlement agent or provider of data or other services or systems to the Clearing House, warehouse, shipping station or similar organisation or entity that may be involved with a delivery of any physically settled Contract, or any of their affiliates, sub-contractors or delegates;

(i) any dispute relating to the validity, existence or terms of any Contract; or

(j) any loss or diminution in the value of, or depreciation in or in connection with any, Collateral, Contributions, Assessments or IRS Optional Payments provided to the Clearing House pursuant to the Rules.

2.3.5 Neither the Clearing House nor any of its Affiliates or Representatives shall in any circumstances be liable to a Clearing Member or any other person for:

(a) loss of or anticipated loss of profit, loss of or anticipated loss of revenue, loss of use, business interruption, loss of use of any equipment, loss of any contract or other business opportunity or goodwill or punitive loss; or

(b) indirect loss or consequential loss,

regardless of whether the Clearing House has been advised of the possibility of such loss or whether such loss otherwise could have been foreseen.

2.3.6 Neither this Rule 2.3 nor any other Rule shall affect the application of section 291 FSMA nor exclude or restrict the liability of the Clearing House or any other person:

(a) in respect of fraud, bad faith or wilful default;

(b) in respect of personal injury or death resulting from negligence, recklessness or an intentional act or omission; or

(c) otherwise to the extent it cannot be excluded or restricted in accordance with the Applicable Law.

2.3.7 Nothing in these Rules shall require the Clearing Member to indemnify the Clearing House to the extent not permissible in accordance with the Applicable Law.

2.3.8 The Clearing House shall not be liable to any person which is not a Clearing Member.
2.3.9 The Clearing Member shall notify the Clearing House in writing of any possible action, claim or proceeding against the Clearing House and the details thereof as soon as reasonably practicable.

2.4 **IRS Limited recourse**

2.4.1 This Rule 2.4 overrides all other provisions of the Rules, each Clearing Member Agreement and any other agreement or arrangement.

2.4.2 At any time:

(a) the aggregate amounts payable by (and any other obligations of) the Clearing House (in each case, whether present, future or contingent or otherwise and including, without limitation, the obligation to return Equivalent Assets) under, or in respect of all IRS Contracts, IRS Collateral, IRS Guarantee Fund, IRS Assessments and IRS Optional Payments shall be recoverable only from and to the extent of:

(i) the Eligible Assets comprising the IRS Guarantee Fund (other than Contributions that the Clearing House has applied or has determined to apply under the Rules) that are available to the Clearing House at any Custodian;

(ii) the Eligible Assets comprising the aggregate of all IRS Collateral (other than Collateral that the Clearing House has applied or has determined to apply under the Rules) that are available to the Clearing House at any Custodian;

(iii) the Eligible Assets comprising the aggregate of all IRS Assessments made (other than IRS Assessments that the Clearing House has applied or has determined to apply under the Rules) that are available to the Clearing House at any Custodian;

(iv) the Eligible Assets comprising the aggregate of all IRS Optional Payments (other than IRS Optional Payments that the Clearing House has applied or has determined to apply under the Rules) that are available to the Clearing House at any Custodian;

(v) amounts received from non-defaulting IRS Clearing Members by the Clearing House under IRS Contracts; and
(vi) any Contribution of a Defaulting Clearing Member to the Commodity Guarantee Fund which remains after such Contribution has been applied pursuant to Rule 8.5.5;

(b) no Clearing Member shall have further recourse to the Clearing House in respect of IRS Contracts, IRS Collateral, IRS Guarantee Fund, IRS Assessments and IRS Optional Payments; and

(c) the maximum liability of the Clearing House to an IRS Clearing Member in relation to IRS Contracts, IRS Collateral, IRS Guarantee Fund, IRS Assessments and IRS Optional Payments on an Account of that IRS Clearing Member is:

(i) on and after an IRS Termination Date, the amount equal to the sum, at that time, of;

(A) the IRS Collect, the Allocated IRS Collect or, as the context requires, zero if there is no IRS Collect or Allocated IRS Collect; and

(B) the obligation of the Clearing House to return Equivalent Assets in respect of:

1) any IRS Collateral relating to Margin Requirement of the IRS Clearing Member;

2) the Contribution of the IRS Clearing Member to the IRS Guarantee Fund;

3) any IRS Assessments made by the IRS Clearing Member; and

4) any IRS Optional Payments made by the IRS Clearing Member; and

(ii) before an IRS Termination Date, the amount equal to the sum, at that time, of:

(A) the amount, including Variation Requirement, which the Clearing House determines to be the net obligations in relation to IRS Contracts, if any, of the Clearing House to the Clearing Member as indicated in the books and records of the Clearing House; and
the obligation of the Clearing House to return Equivalent Assets in respect of:

1) any IRS Collateral relating to Margin Requirement of the IRS Clearing Member;

2) the Contribution of the IRS Clearing Member to the IRS Guarantee Fund;

3) any IRS Assessments made by the IRS Clearing Member; and

4) any IRS Optional Payments made by the IRS Clearing Member;

in each case, at that time.

2.4.3 If a Clearing Member receives any payment or asset (including by way of set-off or by way of enforcement of any Encumbrance) under the Rules or its rights under the Rules are otherwise discharged in breach of this Rule 2.4, then it will immediately pay such amount or asset (or an amount equal to the discharged amount) to the Clearing House to be applied in accordance with these Rules.

2.4.4 For the purposes of Rules 2.4.2(c)(i)(B)2) and 2.4.2(c)(ii)(B)2) the Clearing House may, in its reasonable discretion, determine the proportion of the relevant Guarantee Fund to be applied in relation to each Account of the relevant Clearing Member.

2.5 Clearing House Insolvency

2.5.1 Subject to Rule 2.5.2, if the Clearing House:

(a) enters into liquidation;

(b) enters into administration; or

(c) fails to pay on the due date any amount in excess of £500,000 (or its equivalent in other currencies) payable by it under the Rules unless such payment is being disputed in good faith by the Clearing House,

all Contracts shall terminate automatically and the following steps shall be taken by the Clearing House as soon as reasonably practicable with respect to each non-defaulting Clearing Member, the rights and liabilities of the Clearing House and the Clearing Member with respect to each of the Clearing Member’s Accounts will be calculated in
accordance with Rules 8.3, 8.5, 8.6 and 8.7 as if a Declaration of Default has been issued with respect to each Clearing Member.

2.5.2 Rule 2.5.1 shall not apply if the Clearing House enters into a CCP Regime.

2.6 Currency of payment and currency conversion

2.6.1 For the purposes of any calculation under these Rules, the Clearing House may convert amounts denominated in one currency into another currency at such rate prevailing at the time of the calculation as it shall reasonably select.

2.6.2 Amounts payable to the Clearing House shall be paid in the currency specified in the relevant Contract Specification or in the currency otherwise required by the Rules. If the Clearing House receives payment in another currency, it may convert such amount at such rate prevailing at the time of the calculation as it shall reasonably select. The Clearing Member shall indemnify the Clearing House against any loss which the Clearing House may suffer as a result of such conversion.

2.7 Confidentiality

2.7.1 The Clearing House will treat as confidential all information received from a Clearing Member or which is held by the Clearing House and relates to Contracts which the Clearing Member has entered into and shall not disclose it to any other person except:

(a) where the Clearing House is in possession of the information free of any obligation of confidence to the Clearing Member at the time it is received by the Clearing House or obtains it from a third party which is not under a duty of confidence to the Clearing Member in respect of such information;

(b) where the Clearing House develops the information independently and without reference to any of the Clearing Member’s confidential information;

(c) where it has the Clearing Member’s consent to do so;

(d) where required to do so by a Regulatory Authority, pursuant to the order of a competent court, or pursuant to the Applicable Law;

(e) to any Affiliate, any Committee, the Appeals Body or any professional advisers to enable them to provide services to the Clearing House which are necessary or expedient for the operation of the Clearing House;

(f) to any Client or Third Party Trade Delegate to which the information relates;
(g) to the Security Trustee, any Settlement Bank, Custodian or other person which provides data, services or systems to the Clearing House and any of their Affiliates, sub-contractors and delegates to the extent necessary or expedient for the purpose of the provision of those services;

(h) to any other Clearing Member for the purposes of a potential transfer, novation or assignment of a Transaction, a Contract or Collateral to such Clearing Member;

(i) to any person or to the public if the information is or comes into the public domain other than as a result of a breach of this Rule by the Clearing House or its Representatives; or

(j) to any other person to which, and on such terms as, the Clearing House considers it appropriate to disclose such information.

2.7.2 Rule 2.7.1 shall not operate to restrict, diminish or affect:

(a) the rights of the Clearing House in relation to Clearing Data (as defined in the User Licence Agreement);

(b) or the IPRs (as defined in the User Licence Agreement) of the Clearing House.

2.7.3 Clearing Members shall be deemed to consent to any disclosure or non-disclosure of information by the Clearing House that is required or permitted by section 348 of FSMA.

2.8 Data protection

2.8.1 The Clearing House is a data controller in relation to personal information provided by the Clearing Members and their Representatives. Each Clearing Member shall ensure that any of its Representatives whose personal data is provided to the Clearing House has consented in advance to such data being controlled and processed by the Clearing House and that the disclosure of such personal data is lawful.

2.8.2 The Clearing House shall be entitled to disclose personal data to such persons and for such purposes as set out in Rule 2.7 and the Clearing House and any such person to which personal data is provided may transfer it outside the European Economic Area for processing.

2.8.3 Each data subject may, on application to the Clearing House’s Company Secretary and payment of a small fee to the Clearing House, receive a copy of the personal data held by the Clearing House in respect of it and require the Clearing House to correct any errors or inaccuracies.
2.8.4 In this Rule 2.8, the terms “personal data”, “controller” and “data subject” have the meanings given to such terms in the Data Protection Act 1998.

2.9 Force majeure

2.9.1 If and to the extent that either the Clearing House or the Clearing Member is hindered or prevented by a Force Majeure Event from performing any of its obligations under these Rules, then the party so affected (the Affected Party) shall not be liable to the other for failure to perform such obligations provided that the Affected Party takes the steps set out in Rule 2.9.2.

2.9.2 On the occurrence of a Force Majeure Event, the Affected Party shall:

(a) immediately notify the other party of the same in writing and, if the Clearing House is the Affected Party, it shall do so by issuing a Notice;

(b) use reasonable endeavours to minimise the effects of the Force Majeure Event on the performance of its obligations under the Rules and resume full performance of such obligations without avoidable delay;

(c) keep the other party informed of the development of the circumstances of the Force Majeure Event and the performance of its obligations under the Rules, including, without limitation, when it is no longer affected by the Force Majeure Event and, if the Clearing House is the Affected Party, it shall do so by issuing a Notice; and

(d) if the Clearing House is the Affected Party, require any Clearing Member to take such action as the Clearing House may direct in relation to any Contracts or Collateral deposited with the Clearing House affected by the Force Majeure Event.

2.10 Severability

2.10.1 Each of the Rules is severable and distinct from the others. It is intended that every Rule and every part of each Rule shall be and remain valid and enforceable to the fullest extent permitted by law. If any Rule or part of a Rule is or at any time becomes to any extent invalid, illegal or unenforceable for any reason, it shall to that extent be deemed not to form part of these Rules but the validity, legality and enforceability of the remaining Rules and parts of these Rules shall not be thereby affected or impaired.

2.11 Waiver

2.11.1 Except as specifically provided for in these Rules, no waiver of any of these Rules or any part thereof shall be effective unless the same shall be in writing, and then such waiver
shall be effective only in the specific instance, for the purpose for which the same is
given, and such waiver shall not operate as a waiver of any future application of such
Rule or part thereof.

2.11.2 The waiver of any right, and the failure to exercise any right or to insist on the strict
performance of any of the Rules, shall not operate as a waiver of, or preclude any further
or other exercise or enforcement of that or any other right.

2.11.3 Any times fixed by these Rules for the doing of any act or acts required by these Rules
may be extended, waived or suspended by the Clearing House, the Board of Directors
or such Committee as the Board of Directors may designate, whenever, in its, judgment,
such extension, waiver or suspension is necessary or expedient.

2.12 Governing law and arbitration

2.12.1 The Rules shall be governed by and construed in accordance with the laws of England
and Wales.

2.12.2 Subject to Rule 2.12.4, any dispute between the Clearing House and Clearing Member
arising out of or in connection with the Rules or any Contract, including any question
regarding the validity of the Clearing Membership Agreement shall be referred to and
finally resolved by arbitration under the Rules of the London Court of International
Arbitration, which Rules are deemed to be incorporated by reference into this Rule.

2.12.3 The number of arbitrators shall be three (3). Each party shall appoint one (1) arbitrator
and the remaining arbitrator shall be appointed by agreement between the arbitrators
appointed by each party. The third arbitrator shall serve as chairman. The seat, or legal
place, of arbitration shall be London. The language to be used in the arbitral proceedings
shall be English.

2.12.4 A Clearing Member may not submit a dispute, the subject matter of which could
constitute a Complaint, to be resolved by arbitration in accordance with Rule 2.12.2
unless and until it has submitted a Complaint on such subject in accordance with the
Rules and that Complaint has been subjected to the procedures set out in the Rules.

2.12.5 The commencement of any arbitral proceedings pursuant to Rule 2.12.2 shall be without
prejudice to and shall not limit in any way the right of the Clearing House to instigate any
procedure under the Rules, including without limitation in relation to any Event of Default
or any Investigation or Disciplinary Proceedings.

2.12.6 The Clearing House will not be responsible for compliance or non-compliance by any
person with the requirements under the FSA's Prospectus Rules concerning offers made
to the public.
2.13 Waiver of sovereign immunity

2.13.1 In the event that a Clearing Member purports to be a state entity, such entity irrevocably acknowledges and accepts that the Rules and all agreements entered into or in connection herewith (including all appendices, schedules and exhibits thereto) and the performance or non-performance of its obligations under the Rules are commercial rather than public or governmental acts. In any event, the Clearing Member hereby waives in relation to any disputes arising out of or in connection with the Rules under any law or in any jurisdiction, notwithstanding the dispute(s) relate(s) to acts of a sovereign or governmental character, any claim the Clearing Member may have or may acquire to immunity on the grounds of sovereignty or otherwise (for itself/themselves and its/their property, present or subsequently acquired) from:

(a) any jurisdiction and the service and pursuit of any proceedings in that jurisdiction

(b) procedural privileges relating to the obligation to disclose documents or information; and

(c) any relief, before or after proceedings have been commenced, including but not limited to orders for injunction, specific performance, or recovery of land; any set off, attachment or execution or enforcement of a judgment or arbitral award against its sovereign property (or in an action in rem for the arrest, detention or sale of its sovereign property) irrespective of that property’s use or intended use, whether commercial or otherwise, including without prejudice to the generality of sovereign property, any assets held on behalf of a central bank, diplomatic assets, tax revenues or other payments to the sovereign or cultural, historic or scientific collections.

2.14 No proceedings

2.14.1 No Clearing Member shall take any action to commence an insolvency or reorganisation proceeding (including, without limitation, by presentation of a winding up petition) in relation to the Clearing House.

2.14.2 No Clearing Member shall take any action (including, but not limited to, commencing a court or arbitral proceeding) with the intention of or that would limit or interfere with the ability of the Clearing House to exercise its rights and perform its obligations (in each case, as interpreted by the Clearing House) under or in connection with the Rules.
CHAPTER 3
MEMBERSHIP

3.1 Types of membership and application

3.1.1 A clearing member applicant must, at a minimum, demonstrate to the Clearing House that it can satisfy the Membership Criteria. The process for applying for clearing membership is set out in the Membership Procedure. A copy of the application form is available on request. Subject to advice from the Risk Committee, the Board of Directors determines whether a commodity clearing member applicant satisfies the Membership Criteria. Subject to advice from the IRS Risk Committee, the Board of Directors determines whether an IRS clearing member applicant satisfies the Membership Criteria.

3.1.2 The Clearing House has the following categories of membership; Commodity Clearing Members and IRS Clearing Members. The Clearing House may create additional categories of membership depending on the types of Transaction to be cleared. The Clearing House may apply different Membership Criteria in respect of different categories of Clearing Member. A Clearing Member may only clear those types of Transaction in respect of which it is a Clearing Member of the relevant category. A Clearing Member may belong to multiple membership categories.

3.1.3 A Clearing Member must continue to satisfy the Membership Criteria applicable to its category of membership for so long as it remains a Clearing Member of that category.

3.1.4 The Rules apply to Clearing Members. Each Clearing Member shall, and shall use reasonable endeavours to procure that its Representatives and, where appropriate, its Clients and any Third Party Trade Delegate, act in accordance with the Rules. Different Rules may apply to different categories of Clearing Member and the applicable Rules may include a Contract Module that is specific to the type of Transaction cleared by a particular category of Clearing Member.

3.1.5 The Clearing House has no contractual relationship with Clients (save as set out in any Client Protection Agreement which the Clearing House may have entered into with a Client) or any Third Party Trade Delegate. The Clearing Member will be party to and liable as a principal in respect of any Contracts. Clients and Third Party Trade Delegates are not subject to the Rules and do not have any of the rights or benefits of a Clearing Member. The Clearing House has no obligations or liabilities under the Rules to any person other than a Clearing Member.
3.2 Membership Criteria

3.2.1 To become a Clearing Member and maintain membership of the Clearing House, a person must at all times:

(a) be incorporated as a body corporate, partnership or other business organisation or entity in any jurisdiction;

(b) have all necessary authorisations, licences, permissions, approvals or equivalent in respect of each Regulatory Authority required to enter into and clear through the Clearing House Transactions, including, where relevant, Transactions on behalf of Clients and Third Party Trade Delegates, in any jurisdictions in which it and such counterparties, Clients and Third Party Trade Delegates are incorporated or otherwise carry on business;

(c) be in good standing under, and comply with, all Applicable Law and the requirements of each Regulatory Authority which has jurisdiction over the Clearing Member;

(d) be subject to Applicable Law relating to money laundering and terrorist financing that requires it to undertake due diligence and identity verification measures on its Clients;

(e) not be subject to an Insolvency Event or an Event of Default or any circumstances pursuant to which either an Insolvency Event or an Event of Default could be declared;

(f) comply with all regulatory capital requirements applicable to it;

(g) maintain capital of at least the type and amount set out in the Membership Procedure;

(h) in the case of a Commodity Clearing Member, have provided to the Clearing House its Contribution to the Commodity Guarantee Fund and, in the case of an IRS Clearing Member, have provided to the Clearing House its Contribution to the IRS Guarantee Fund, in each case in accordance with the Rules and the Membership Procedure;

(i) have provided to the Clearing House all Collateral as required in accordance with the Rules;

(j) have the Bank Accounts set out in Rule 4.2.2;
(k) be party to an executed Clearing Membership Agreement and such other agreements as set out in the Membership Procedure;

(l) have nominated a Representative to be responsible for the Clearing Member’s actions and represent the Clearing Member before the Clearing House and its Committees (a Nominee);

(m) have nominated a Representative to be the Clearing House’s key contact person and to register such of its and its Clients’ Representatives as will be permitted to submit Transactions to the Clearing House (the Transaction Manager);

(n) ensure that a Representative, who is sufficiently senior and familiar with the Rules and the Clearing Member’s activities in relation to the Clearing House, is available to deal with any query or issue raised by the Clearing House;

(o) with respect to an IRS Clearing Member only:

(i) have nominated at least two officers or employees to be members of the IRS Default Management Committee, one of which may be required to serve on the IRS Active Default Committee at any time, in accordance with its terms of reference and the IRS Default Management Guidelines; and

(ii) upon request of the Clearing House, submit nominations for an independent member of the IRS Risk Committee;

(p) not have been, or have any senior Representative (in director position or above) who has been, convicted of any offence involving fraud, theft, false accounting, offences against the administration of public justice, serious tax offences or other dishonesty or an offence relating to companies, insurance, banking, other financial services, consumer credit or consumer protection, money laundering, market abuse or insider dealing or be, or have any senior Representative (in director position or above) who is, under investigation for committing such an offence if, in each case, such circumstance has or would be likely to have an adverse effect on the Clearing Member’s ability to comply with the Rules;

(q) satisfy the Clearing House as to its fitness and propriety, financial, operational, technical and risk management capacity and competence and have such personnel, facilities and organisational arrangements to be able to satisfy its obligations under the Rules;
(r) satisfy the Clearing House that it has in place adequate written anti-money laundering, risk management and disaster recovery, business continuity, record keeping and reporting policies and procedures to ensure that it is able to perform its obligations under the Rules;

(s) be engaged in or demonstrate immediate capacity to engage in the conduct of a Clearing Member in respect of the Transactions to be cleared and the performance of all the obligations of a Clearing Member set out in the Rules;

(t) have available to the Clearing House for inspection, upon reasonable request by the Clearing House, its books and records regarding Transactions cleared by the Clearing House;

(u) demonstrate that it is in compliance with the Rules; and

(v) satisfy any further requirements which the Clearing House may reasonably impose on a Clearing Member from time to time.

3.2.2 Without prejudice to Rule 3.2.1(s), and subject to the conditions set out in the Membership Procedure, in the event that a Clearing Member does not have the capability to perform all of its responsibilities or obligations in relation to default management set out in the Rules, such Clearing Member may contract with a third party (including an Affiliate) for the provision of certain material operational and risk functions provided that any such agreement shall be subject to prior review and approval by the Clearing House in consultation with the Risk Committee or the IRS Risk Committee, as applicable, and such Clearing Member shall remain fully responsible and liable for any action taken by the third party on its behalf.

3.2.3 The Membership Criteria set out in Rules 3.2.1(b) to 3.2.1(e) shall also apply to each of the Clearing Member’s Parent Undertaking and Guarantors.

3.3 Provision of information

3.3.1 Each Clearing Member shall provide to the Clearing House in accordance with the Membership Procedure:

(a) its annual audited financial statements prepared in accordance with Applicable Law within five (5) Business Days of submission of the same to its primary Regulatory Authority for financial services or, if it does not have such a Regulatory Authority, within sixty (60) Business Days of its financial year end; and
(b) any other financial statements as are provided to the Clearing Member’s primary Regulatory Authority for financial services within thirty (30) calendar days of such financial statements having been provided to such Regulatory Authority or, if it does not have such a Regulatory Authority, monthly unaudited financial reports within fifteen (15) Business Days of the relevant month end.

3.3.2 Each Clearing Member agrees that the Clearing House may at any time request information to which it is entitled under the Rules from a Regulatory Authority and that the Clearing House may receive such information and disclose it to any of its Affiliates and any Settlement Bank, Custodian or other person which provides data, services or systems to the Clearing House and any of their Affiliates, sub-contractors and delegates to the extent necessary or expedient for the purpose of the provision of those services. To the extent such information is confidential in accordance with Rule 2.7.1, the Clearing House shall use its reasonable endeavours to ensure that any person receiving such information will keep that information confidential on equivalent terms to those set out in Rule 2.7.1.

3.4 Notification Requirements

3.4.1 Each Clearing Member shall notify the Clearing House in writing immediately in the event of any of the following:

(a) it ceases to be able to satisfy any of the Membership Criteria or reasonably believes it may cease to be able to do so;

(b) any material changes are made to the information previously provided to the Clearing House including that relating to its Nominee and Transaction Manager;

(c) the Clearing Member is notified that a Regulatory Authority shall investigate any of its affairs or those of any of its Parent Undertakings or Guarantors which is material in terms of the overall size of its group or take disciplinary or other formal action against it or a Parent Undertaking or Guarantor or the Clearing Member has reason to believe that a Regulatory Authority is considering the same; or

(d) of anything relating to the Clearing Member of which the Clearing House would reasonably expect notice.

3.4.2 Each Clearing Member shall give the Clearing House prompt prior written notice of any material change in its form or organisation, ownership structure, or business operations, including:
(a) a merger, combination or consolidation between the Clearing Member and another person;

(b) a change in the direct or indirect beneficial ownership of 10% (ten per cent.) or more of the equity of the Clearing Member;

(c) the sale of a significant part of the Clearing Member's business or assets to another person; and

(d) a material change in its business operations.

3.4.3 The Clearing House shall be entitled to require each Clearing Member to provide it with a report on its large positions, as and when requested.

3.4.4 All information provided to the Clearing House shall be in English.

3.4.5 Each Clearing Member shall furnish to the Clearing House such documents in a timely manner with respect to any of the foregoing events as the Clearing House may from time to time require.

3.4.6 All information provided to the Clearing House by or on behalf of the Clearing Member shall be accurate, complete and not misleading and shall be provided in a format approved by the Clearing House.

3.5 Prohibitions

3.5.1 A Clearing Member shall not:

(a) breach any Applicable Law or requirements of a Regulatory Authority or any of these Rules which, in the reasonable opinion of the Clearing House, would be likely to have a material adverse effect on the Clearing Member’s suitability as a Clearing Member;

(b) engage in any behaviour which amounts to market abuse, insider dealing, market manipulation, money laundering, fraud or which is in breach of any similar Applicable Law and which, in the reasonable opinion of the Clearing House, would be likely to have a material adverse effect on the Clearing Member’s suitability as a Clearing Member;

(c) engage in any other practice which the Clearing House reasonably considers to be capable of impairing the financial integrity of the Clearing House;
(d) take any action which in the reasonable opinion of the Clearing House is likely to bring the Clearing House or any of the Clearing Members into disrepute or otherwise damage the reputation of the Clearing House;

(e) provide to the Clearing House, report or disseminate false, misleading or inaccurate information about a Transaction or Contract;

(f) breach any terms of a Contract or enter into any Contract intending to default on the same or having no reasonable grounds for believing that it would be possible to avoid such a default;

(g) use any of the facilities provided by the Clearing House in contravention of the Rules or other than for the purpose of conducting its business as a Clearing Member; or

(h) fail to supervise properly its Representatives, Clients and Third Party Trade Delegates in their use of the Clearing House in the reasonable opinion of the Clearing House.

3.6 Right to audit

3.6.1 The Clearing House shall be entitled to conduct audits on each Clearing Member’s compliance with the Clearing Rules. Each Clearing Member shall:

(a) provide such information, books and records as the Clearing House may, on prior notice, reasonably request; and

(b) cooperate with the Clearing House in the same way as set out in Rule 9.2.2 for such purposes save that the Clearing Member shall not be required to permit access without notice to its business premises if the Clearing House has not provided reasonable prior notice.

3.7 Actions available to the Clearing House

3.7.1 Notwithstanding any other Rule, in order to protect the integrity of its clearing arrangements or to avoid the introduction of uncertainty, volatility or risk into the financial markets, the Clearing House may, in its absolute discretion, take any of the following actions:

(a) require a Clearing Member to increase its capital;

(b) require a Clearing Member to deposit additional Collateral with the Clearing House;
(c) require a Clearing Member to decrease the size or volume of its Contracts;

(d) prohibit a Clearing Member from entering into any new Contracts;

(e) require a Clearing Member to cease to take any action in respect of the Contracts to which it is party save as directed by the Clearing House;

(f) close out, settle, transfer to or reopen with another Clearing Member or Clearing Members some or all of its Contracts (ensuring that any Contracts recorded in a Client Account remain recorded in a Client Account of the same type) provided, in the case of a transfer or reopening, that such other Clearing Member(s) consent(s);

(g) transfer any Collateral relating to a Contract which is transferred to or reopened with another Clearing Member or Clearing Members to the relevant Account or Accounts relating to such other Clearing Member or Clearing Members (ensuring that any Collateral relating to Contracts recorded in a Client Account remains recorded in a Client Account of the same type);

(h) determine the settlement price at which Contracts are to be liquidated;

(i) suspend a Clearing Member in accordance with Rule 3.9; and

(j) not perform its obligations under Rule 8.4 if it reasonably believes that doing so would introduce an unacceptable level of risk or volatility to the Clearing System;

(k) amend the Rules to the extent it reasonably considers necessary in accordance with Rule 2.2.2(d); and/or

(l) issue such other instructions and impose such other requirements and prohibitions as it considers appropriate to protect the integrity of the Clearing House or avoid the introduction of uncertainty, volatility or risk in the financial markets.

3.7.2 Where the Clearing House requires the deposit of additional Collateral pursuant to Rule 3.7.1, it may require Eligible Assets to be delivered as Collateral within one (1) hour of notification of such amount if notification is received during the hours when CHAPS is open and otherwise, within one (1) hour of the time at which CHAPS first opens after such notification.

3.7.3 The Clearing House may take the actions set out in Rule 3.7.1 in respect of any Clearing Member, any category of Clearing Members or all Clearing Members as it reasonably considers appropriate.
3.8 Termination of clearing membership

3.8.1 Without prejudice to Rule 8.8, a Clearing Member may give written notice of its application to terminate its membership or a particular category of membership of the Clearing House at any time. The Clearing Member agrees that such termination shall become effective on the Commodity Membership Termination Date and/or IRS Membership Termination Date as the case may be.

3.8.2 Subject to Rule 8.2.6 and Rule 9.4.16 the Clearing House may terminate the membership or a particular category of membership of any Clearing Member by providing the Clearing Member with not less than thirty (30) Business Days notice in writing.

3.8.3 Following the giving of notice by a Clearing Member of its intention to terminate its membership or a particular category of membership of the Clearing House pursuant to Rule 3.9.1, or receipt of notice of termination of membership or a particular category of membership of the Clearing House pursuant to Rules 3.8.2, 8.2.6 and 9.4.16(e) and until the relevant Membership Termination Date, the Clearing Member shall, in respect of each category of membership to be terminated:

(a) continue to pay all Collateral and its required Contribution to each relevant Guarantee Fund and any Assessments and make all other payments due pursuant to these Rules or any Contracts to which it is party;

(b) make settlement in respect of, transfer to another Clearing Member or Clearing Members, close out or liquidate any Contracts and follow any directions given by the Clearing House in respect of such Contracts;

(c) cooperate in the transfer of any Collateral deposited with the Clearing House relating to a Contract which is transferred to another Clearing Member or Clearing Members to the relevant Account relating to such other Clearing Member or Clearing Members;

(d) remain subject to claims against its Contribution and make any Assessments pursuant to Rules 7.2 and 8.7;

(e) remain subject to the Clearing House’s jurisdiction as set out in Chapter 8 until any actions arising as a result of a Declaration of Default having been served on the Clearing Member have been completed; and

(f) take such other actions as the Clearing House deems necessary or appropriate to satisfy or discharge any of its remaining obligations under the Rules.
3.8.4 Following notice of the termination of a Clearing Member’s membership or a particular category of membership of the Clearing House, the Clearing House may, at its reasonable discretion and in the interests of risk management, establish, amend or revoke Position Limits for the Clearing Member. The Clearing House will inform the Clearing Members of their Position Limits as soon as reasonably practicable. In the event the Clearing House reduces a Clearing Member’s Position Limits, it shall allow the Clearing Member reasonable time to properly manage its Contracts accordingly.

3.8.5 A Clearing Member shall remain subject to the Rules in Chapter 9 with respect to matters that occurred prior to the relevant Membership Termination Date provided that the Clearing House gives written notice of the commencement of an inquiry into such matters to the former Clearing Member within one (1) year of the relevant Membership Termination Date.

3.9 Suspension

3.9.1 A Clearing Member which is suspended may not submit Transactions to the Clearing House for clearing but shall continue to comply with the Rules and take such actions as the Clearing House deems necessary or appropriate.

3.10 Refund of Collateral, Contribution, Assessments and IRS Optional Payments

3.10.1 Without prejudice to Rule 8.8, if a Clearing Member terminates its membership of the Clearing House in respect of a category of Contracts or the Clearing House terminates all IRS Contracts pursuant to Rule 8.10, the Clearing House shall return that part of the terminating Clearing Member’s Collateral, Contribution in respect of the relevant Guarantee Fund, Assessments or IRS Optional Payments that:

(a) has not been applied pursuant to the Rules as at:

(i) the Membership Termination Date; or

(ii) as the context requires, the date that the Clearing House certifies as being the date on which all steps under Rule 8.10 have been completed; and

(b) is not required by the Clearing House pursuant to the Rules.

3.10.2 The amount calculated pursuant to Rule 3.10.1 shall be returned to the terminating Clearing Member within thirty (30) Business Days of:

(a) the Membership Termination Date; or
(b) as the context requires, the date that the Clearing House certifies as being the
date on which all steps under Rule 8.10 have been completed.

3.10.3 All amounts chargeable against a Clearing Member's Collateral, Contribution,
Assessments and IRS Optional Payments on account of Contracts of the relevant
category entered into while it was a Clearing Member shall be deducted from the amount
returned.

3.10.4 A Clearing Member’s entitlement to repayment of its Collateral, Contribution,
Assessments or IRS Optional Payments received by the Clearing House or any part of it
shall not be capable of assignment or transfer by the Clearing Member or made subject
to any Encumbrance that purports to rank in priority over, pari passu with, or subsequent
to, the rights of the Clearing House. Any purported Encumbrance that is made by a
Clearing Member in respect of Collateral, Contribution, Assessments or IRS Optional
Payments shall be null and void.

3.10.5 Notwithstanding any other provision of the Rules, no Clearing Member shall have any
right, title or interest in any Collateral, Contribution, Assessments or IRS Optional
Payments that have been transferred to the Clearing House or to its Custodian. A
Clearing Member will, subject to the provisions of the Rules (in particular, the Default
Rules), only have a right to return of Equivalent Assets. If the Clearing House is
expressed to have an obligation (pursuant to this Rule 3.10 or otherwise) to transfer to
the Clearing Member an amount of cash or an asset in respect of Collateral, Contribution,
Assessments or IRS Optional Payments received by the Clearing House, the Clearing
House shall only be obliged to transfer an Equivalent Asset to the Clearing Member’s
Bank Account or the account for Eligible Securities referred to in Rule 4.2.4.
Notwithstanding the foregoing, the Clearing House reserves the right to transfer Eligible
Cash in respect of Eligible Securities and Eligible Commodities if it is unable, using
reasonable endeavours, to locate or obtain Equivalent Securities or Eligible
Commodities and in any event to value such Eligible Assets as it may reasonably
determine in accordance with the Clearing and Settlement Procedure.
CHAPTER 3A
CLIENT CLEARING

3A.1 Clearing for Clients

3A.1.1 The Clearing Member if permitted to do so under Applicable Laws, may clear Transactions through the Clearing House on behalf of any of its Clients provided it satisfies the provisions of this Chapter 3A and each other relevant provision of the Rules.

3A.1.2 Before a Clearing Member accepts any Transactions for a Client it shall ensure a written agreement is in place with that Client, pursuant to which the Client agrees that:

(a) the Clearing Member acts as principal at all times to each Contract;

(b) the Client has no contractual relationship with the Clearing House (save as set out in any Client Protection Agreement which the Clearing House may have entered into in relation to a Client); and

(c) the Client shall not have any rights under the Rules, any Contract, the Clearing Membership Agreement or otherwise, save for any liability which by law may not be excluded.

3A.1.3 Where a Clearing Member accepts any Transactions for a Client:

(a) it shall provide such information about the Client as the Clearing House may reasonably request to the Clearing House promptly on request by the Clearing House, including an authorised signatory list for each Client.

(b) it must require each Client to comply with such security obligations as the Clearing House may reasonably request or are otherwise prudent to protect the financial integrity of the Clearing House;

(c) it must satisfy itself that the acts and omissions of its Clients will not prevent it from complying with the Rules and it must impose the prohibitions set out in Rule 3.5 as amended below on each Client in relation to the Client’s submission of Transactions to the Clearing House and its activities in relation to the clearing of the Contracts that result from such Transactions:

(i) in Rules 3.5.1(a) and 3.5.1(b), the references to the Clearing Member are references to the Client;

(ii) Rule 3.5.1(f) is deleted;
(iii) in Rule 3.5.1(g) the words “or other than for the purpose of conducting its business as a Clearing Member” are deleted; and

(iv) Rule 3.5.1(h) does not refer to Clients and Third Party Trade Delegates; and

(d) it must use its reasonable endeavours to procure that each Client cooperates with the Clearing House in the event of any action being taken against the Clearing Member in the same way as set out in Rule 9.2.2 save that the Clearing Member shall be required to give reasonable notice to the Client of any such cooperation it requires and, in particular, the Client shall not be required to permit access to its business premises without reasonable notice.

3A.1.4 The Clearing Member shall ensure that the Clearing House has at all times an accurate, current and complete list of its Clients. If a Clearing Member proposes to begin clearing through the Clearing House on behalf of a Client, or ceases to do so, it shall update its list of Clients by giving notice to the Clearing House on a monthly basis or as requested from time to time by the Clearing House. No cessation of Clearing Services shall affect the Clearing Member’s obligations in respect of Contracts arising prior to the date and time of such cessation.

3A.1.5 The Clearing House will not have any obligations or liabilities to persons other than the Clearing Member save as explicitly set out in the Rules. The consequences of any Contracts arising, existing or being settled or subject to delivery are the sole responsibility of the Clearing Member.

3A.1.6 The Clearing Member is responsible for all acts and omissions of each of its Clients and their Representatives in relation to the submission of Transactions to the Clearing House and the clearing of the Contracts resulting from such Transactions to the same extent that it is responsible for the acts and omissions of itself and its Representatives.

3A.1.7 Where a Clearing Member accepts a Transaction for a Client, the Clearing Member shall require the Client to provide it with collateral with a value not less than the value of Collateral which the Clearing Member is obliged to provide to the Clearing House in respect of such Transaction, which may not necessarily take the same form of such Collateral, or the Clearing Member shall advance credit in respect of the Client of not less than the value of such Collateral.

3A.1.8 The Clearing Member shall, at the request of the Clearing House, immediately deny access to the Clearing System or the Clearing House to any Client and cease to submit or clear Transactions on behalf of such Client. The Clearing House shall only make
such request in the event it reasonably believes the Client is in breach of any of the prohibitions referred to in Rule 3A.1.3(c).

3A.1.9 The Clearing Member represents and warrants that each of its Clients and Third Party Trade Delegates is an eligible counterparty or a professional client as defined by the Financial Services Authority.

3A.2 Client Agreement

3A.2.1 The Clearing Member shall be party to a Client Agreement with each Client for which it holds an Individual Client Account or which is part of an Omnibus Client Account. The Client Agreement shall incorporate provisions with the following effect:

(a) Corresponding Transactions shall be transacted pursuant to the terms of the Client Agreement and be segregated (contractually or otherwise) from any other transactions entered into between the Clearing Member and the Client;

(b) the Client must have the right to terminate all Corresponding Transactions in the event the Clearing House issues a Declaration of Default to a Clearing Member in accordance with the Default Rules;

(c) if a Corresponding Transaction is terminated due to the Clearing House issuing a Declaration of Default in accordance with the Default Rules, the net replacement value of the Corresponding Transaction shall be:

(i) where due to the Client, equal or be greater than; or

(ii) where due from the Client, equal or be less than;

the value attributed by the Clearing House to the Contract to which the Corresponding Transaction relates following the issuance of such Declaration of Default;

(d) the Clearing Member shall have the right:

(i) in the event of an Insolvency Event relating to the Clearing House, to terminate the Corresponding Transaction; and

(e) that "two way payments" arise in the event of a termination of all Corresponding Transactions, the substantive effect of which is that either a Clearing Member or a Client will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated Corresponding Transactions effected under the Client Agreement is in its favour.
3A.2.2 If a Contract is transferred to an Adopting Clearing Member in accordance with Rule 8.4.12 or 8.4.13, the Corresponding Transaction entered into by the Client and the Defaulting Clearing Member will also terminate and a new Corresponding Transaction will be entered into between the Client and the Adopting Clearing Member.

3A.2.3 Any changes made to the terms of a Contract by the Clearing House shall be deemed to be reflected in the Corresponding Transaction.

3A.2.4 To the extent there is no Client Agreement in full force and effect or there is any deficiency in the Client Agreement, the Clearing Member and the Client will be deemed to have entered into a binding agreement into which the terms set out in Rule 3A.2.1 shall be deemed to have been incorporated.

3A.2.5 The Clearing Member shall notify the Clearing House in the event that any Client either appoints it as an Adopting Clearing Member or terminates an existing appointment as an Adopting Clearing Member.

3A.3 Collateral

3A.3.1 The arrangements for collateral in relation to Corresponding Transactions with Clients who have an Individual Client Account or which are part of an Omnibus Client Account must provide that collateral is provided by a Client to a Clearing Member in such form as agreed between the Client and the Clearing Member free and clear of any Encumbrances of the Client or of any other person (other than a lien routinely imposed on all securities in a relevant settlement system or central securities depository, not being the Clearing House) so that the Clearing Member has the right to deal with the collateral in any manner and an obligation to return equivalent collateral or the value thereof, in the form of cash or securities, to a Client. For the avoidance of doubt, the Clearing House will not hold any securities as custodian, nor any cash as client money pursuant to the FSA’s client assets handbook.

3A.3.2 The Clearing House shall treat Excess Collateral relating to an Individual Client Account in the same way as Collateral recorded in that Individual Client Account for all purposes including under the Default Rules save as set out in Rule 8.3.11.

3A.3.3 The Clearing House shall treat Excess Collateral relating to an Omnibus Client Account in the same way as Collateral recorded in that Omnibus Client Account save as set out in Rule 8.3.9.

3A.4 Other agreements
3A.4.1 Before accepting any Transactions for a Client which will be recorded in either an Individual Client Account or an Omnibus Client Account, to be submitted for clearing by the Clearing House, the Clearing Member shall:

(a) enter into a Client Protection Agreement with the Clearing House and either;

(i) the Client and return a copy of the Client Protection Agreement to the Clearing House; or

(ii) the Security Trustee, in which case the Clearing Member shall also enter into a Security Trust Deed with the Security Trustee and return a copy of the Client Protection Agreement and Security Trust Deed to the Clearing House; and

(b) where the Client is intended to benefit from the Security Trust Deed, enter into a Client Acknowledgement with the Clearing Member and the Client and return a copy of the Client Acknowledgement to the Clearing House: where a Client Protection Agreement has been entered into with the Client, a Client Acknowledgement will be deemed to have been entered into.

3A.4.2 Where any formalities or registration requirements apply in respect of the Client Protection Agreement (and any other document which the Clearing House may from time to time determine), a Clearing Member is required to comply with such obligations or to procure that such requirements are complied with. The Clearing Member shall provide such confirmation as may be required by the Clearing House to demonstrate compliance with such obligations.

3A.5 Clearing Member’s records and information

3A.5.1 The Clearing Member shall keep accurate and up-to-date records of the Contracts and Collateral relating to each Client in respect of which Contracts are recorded in an Individual Client Account or an Omnibus Client Account and the Collateral in respect of such Contracts. The Clearing Member shall provide information about the Contracts and Collateral relating to each Client to the Clearing House at its reasonable request, including at the end of each Business Day. In particular, the Clearing Member or its insolvency practitioner shall promptly provide such information to the Clearing House in the event the Clearing House issues a Declaration of Default in respect of the Clearing Member.

3A.5.2 The Clearing House shall provide to the Clearing Member on each Business Day information on the Contracts and the value of Collateral recorded in its books and records in relation to each of its Individual Client Accounts and Omnibus Client Accounts. The Clearing House shall be entitled to assume that the Clearing Member
agrees that such information is correct if it does not receive written notice from the Clearing Member otherwise within twenty-four (24) hours of the date when the information was published by the Clearing House. The Clearing House may correct its reports and make any adjustment for the relevant Account on the next Business Day following the receipt of notice from the Clearing Member.

3A.6 Transfer

3A.6.1 In relation to Clients in respect of which Contracts are recorded in a Client Account, the Clearing House will, notwithstanding Rule 5.3.1, effect a transfer of all rights and liabilities of a Clearing Member under a portfolio of Contracts relating to a Client and the Collateral relating to such portfolio of Contracts to another Clearing Member if requested to do so by the Client and provided:

(a) the Transferor Clearing Member consents to such transfer, such consent to be promptly given where there are no conditions to such a transfer or where any conditions to such a transfer set out in the Client Agreement have been satisfied, which the Clearing House shall be entitled to assume provided the Clearing Member does not notify it otherwise within two (2) Business Days of the Clearing House notifying the Clearing Member of the Client’s request;

(b) the Transferee Clearing Member and the Clearing House consent to the transfer of such Contracts and the transfer would not cause the credit limits or Position Limits applicable to either the Transferee Clearing Member or the Client pursuant to Rules 5.1.6 and 5.1.7 to be exceeded; and

(c) the Transferor Clearing Member, the Transferee Clearing Member and the Clearing House agree on the Collateral to be transferred in respect of the Contracts unless the Transferor Clearing Member or the Transferee Clearing Member agrees to provide alternative Eligible Assets to the Clearing House as Collateral in respect of the Contracts;

(d) the Transferor Clearing Member, the Transferee Clearing Member and the Clearing House agree which of the Transferor Clearing Member and the Transferee Clearing Member will be responsible for providing any additional Assets that may be required as Collateral by the Clearing House as a result of the transfer; and

(e) the Clearing House has not issued a Declaration of Default in respect of either the Transferor Clearing Member or the Transferee Clearing Member.

3A.6.2 The Clearing House shall use reasonable endeavours to facilitate a transfer under Rule 3A.6.1:
(a) in respect of some but not all of the Contracts and Collateral related to any Client Account; or

(b) in relation to more than one Transferee Clearing Member

in each case at the request of the Client to which such Contracts relate.

3A.7 Amendments to Client Protection Agreement and Security Trust Deed

3A.7.1 The Clearing House may publish revised standard forms of the Client Protection Agreement and Security Trust Deed from time to time. To the extent that the Clearing House publishes a proposed amendment to an existing Client Protection Agreement and/or Security Trust Deed which has been entered into by a Clearing Member and (if relevant) a Security Trustee, the Clearing Member shall grant its consent to such proposed amendment if the Clearing House is of the reasonable opinion that such amendment:

(a) will not be materially prejudicial to the relevant Client(s) which benefit from such Client Protection Agreement and/or Security Trust Deed;

(b) is of a formal, minor or technical nature or to correct a manifest error;

(c) is necessary to cure an ambiguity or inconsistency;

(d) is necessary to reflect a change in the Rules; or

(e) is as a result of an Applicable Law.
CHAPTER 4
ACCOUNTS

4.1 Fees

4.1.1 Each Clearing Member shall pay such fees and charges to the Clearing House as shall be specified by the Clearing House in the Fees and Charges Notice. The Clearing House may amend its fees and charges at any time by way of a Notice and shall endeavour, but shall not be obliged, to give prior notice of any amendment.

4.1.2 The Clearing House shall invoice each Clearing Member on a monthly basis for fees and charges incurred during the preceding month. All such fees and charges shall be reflected as a charge to, and deducted from, any House Account on such date as may be specified by the Clearing House.

4.1.3 The Clearing Member shall pay interest to the Clearing House on any due but unpaid amount from the date on which the amount becomes due and payable under the Rules until the date of delivery at such rate per annum as is set out on its Website and in the Fees and Charges Notice, compounded daily.

4.1.4 All amounts set out in the Rules and elsewhere as being payable to the Clearing House shall be deemed to be exclusive of any value added tax which is chargeable on the supply to which that amount relates. Accordingly, if value added tax is chargeable on any such supply and the corresponding amount, the relevant Clearing Member shall be responsible for paying it in addition to the amount stated as payable.

4.1.5 All amounts payable to the Clearing House in connection with these Rules and any Contract shall be paid without any deduction or withholding for or on account of tax unless such deduction or withholding is required by Applicable Law, in which case the amount of the payment due shall be increased to an amount which (after making the deduction or withholding) leaves an amount equal to the payment which would have been due if no deduction or withholding had been required.

4.1.6 Any stamp duty or stamp duty reserve tax (or any similar tax or duty) arising on, or in connection with, the transfer of Eligible Securities as Collateral, Contribution or Assessments is for the account of the Clearing Member.

4.2 Accounts

4.2.1 The Clearing House shall maintain in its books and records a Commodity House Account and/or an IRS House Account and, for each Clearing Member which clears Contracts on behalf of Clients, such number and type of Client Accounts as the Clearing Member may request and, if requested, a Non-Segregated Client Account. Any
Accounts maintained by the Clearing House are for administrative purposes only and will not affect the Clearing Member’s liability for all accounts opened pursuant to its membership.

4.2.2 Each Clearing Member shall maintain a Bank Account with one or more Settlement Banks and procure that each Settlement Bank shall act on the Clearing House’s instructions with respect to such Bank Account in accordance with the Clearing Membership Agreement. Such instructions shall include instructions to debit the Bank Account for any amounts pursuant to the Rules including in respect of fees and charges, Collateral, Contributions, Assessments, IRS Optional Payments, amounts due pursuant to the Contracts and penalties and instructions to provide information to the Clearing House as to whether the Settlement Bank is able to make such payments in relation to the Bank Account. The Clearing Member must ensure that each Bank Account is credited with adequate Eligible Cash or has appropriate arrangements in place in respect of it to enable the Settlement Bank to debit the Bank Account with such amounts at any time such amounts become due, notwithstanding any arrangements the Clearing Member may have in place with the Settlement Bank in relation to other amounts owing by the Clearing Member or other accounts of the Clearing Member.

4.2.3 In order to deposit allocated Gold as Collateral to the Clearing House, a Clearing Member shall open and maintain one or more Allocated Precious Metals Accounts.

4.2.4 Each Clearing Member that wishes to substitute Eligible Securities or Eligible Commodities for Eligible Cash shall maintain an account which is capable of holding Eligible Securities or Eligible Commodities and in respect of which the Clearing Member has authorised the transfer of Eligible Securities to the Custodian or the transfer of Eligible Commodities to the Settlement Agent for Precious Metals, on the instructions of the Clearing House.

4.2.5 The Clearing House may, in its absolute discretion, decline to accept any transfer of Eligible Cash, Eligible Securities or Eligible Commodities.

4.2.6 All amounts payable to the Clearing House shall, unless otherwise agreed by the Clearing House, be payable by electronic transfer from the Clearing Member’s Bank Account at a Settlement Bank. The Clearing Member shall continue to be liable for such amounts unless and until actually received by the Clearing House in unencumbered, fully cleared and fully available funds.

4.2.7 Upon notice from the Clearing House that a transfer of funds from the Clearing Member’s Bank Account has not been effected as instructed by the Clearing House, the Clearing Member shall deliver the amount required to the Clearing House on demand.
4.3 **Set off**

4.3.1 The Clearing House may set off any obligation (whether matured or contingent) due to it from a Clearing Member against any obligation (whether matured or contingent) owed by the Clearing House to the Clearing Member, regardless of the place of payment, account, branch or currency of either obligation save that the Clearing House may not set off money credited to any Individual Client Account or Omnibus Client Account against any sum owed to the Clearing House in respect of any other Account.

4.3.2 If the obligations in relation to Rule 4.3.1 are in different currencies, the Clearing House may convert either obligation at such rate of exchange prevailing at the time of the calculation for the purpose of the set off. The Clearing House shall be entitled to make any necessary adjustments to the Clearing Member’s Accounts resulting from the exercise of its rights of set off.

4.3.3 Nothing in this Rule 4.3 will be effective to create a charge or other security interest. The rights of the Clearing House under Rule 4.3.1 and 4.3.2 are without prejudice to and in addition to any rights of set-off, lien, netting, liquidation, combination of accounts or appropriation under the Rules or otherwise.

4.4 **Direct Debit Authority**

4.4.1 Pursuant to Rule 4.2.2, a Clearing Member shall at all times be party to a Direct Debit Authority in respect of each of its Bank Accounts at each Settlement Bank. The Clearing Member shall ensure that each Settlement Bank will act upon any instructions received from the Clearing House in relation to each Bank Account, notwithstanding that such instructions may result in an overdraft on any Bank Account, without any further reference to or authority from the Clearing Member.

4.4.2 A Clearing Member shall provide a copy of each Direct Debit Authority to the Clearing House. The Clearing Member shall promptly notify the Clearing House if the Direct Debit Authority is revoked, terminated or amended. The Clearing Member may not revoke or otherwise terminate any Direct Debit Authority unless and until it has notified the Clearing House of its intention to do so and set up a Bank Account at another Settlement Bank in respect of which it has entered into a Direct Debit Authority with that Settlement Bank.
CHAPTER 5
CLEARING

5.1 Submission of Transactions to the Clearing House

5.1.1 Transactions may be submitted to the Clearing House by one of the routes set out in the Procedures or the relevant Contract Module.

5.1.2 Each Transaction must be designated as relating to the relevant Account of the Clearing Member.

5.1.3 The Clearing House may only accept a Transaction:

(a) which satisfies the relevant Contract Specification;

(b) which is included in the Clearing House’s product referential file and conforms to the Clearing House’s specified fluctuation rates;

(c) in respect of which each party is a Clearing Member or authorised by a Clearing Member to submit the Transaction to the Clearing House; and

(d) which satisfies the Clearing House’s credit checks (subject to Rule 5.2) and does not cause the Clearing Member’s Position Limit to be exceeded.

5.1.4 The Clearing House may decline to accept any Transaction if it:

(a) conflicts or appears to conflict with information received by the Clearing System from another source;

(b) is or appears to be incomplete or erroneous in any way or results or appears to result from a communications or information technology error or other problem;

(c) is a Transaction in respect of which the Clearing Member is, or the Clearing House reasonably considers that the Clearing Member is, in breach of any of the Rules including Rule 3.5;

(d) is one which any Regulatory Authority requires or requests the Clearing House to treat as void or voided; or

(e) is otherwise made or received in such circumstances or such manner that acceptance of the Contract would, in the Clearing House’s discretion, be inadvisable.
5.1.5 The Clearing House will, where permitted by Applicable Law, notify the Clearing Member in the event that it exercises its discretion to decline a Transaction.

5.1.6 The Clearing House may at any time impose a credit limit on each Clearing Member beyond which the Clearing House will not automatically accept Transactions for clearing in accordance with Rule 5.2.2(b) and the Clearing House may at any time reduce or increase such credit limit. The Clearing Member may allocate its credit limit among its Accounts as it considers appropriate and shall notify the Clearing House of such allocation and any changes in it through the Clearing System.

5.1.7 The Clearing House may, at its discretion, establish, amend or revoke Position Limits for any Clearing Members, and shall give notice to such Clearing Member as soon as reasonably practicable. The Clearing House shall use its reasonable endeavours to notify the Clearing Member as soon as reasonably practicable if the Clearing Member exceeds its Position Limits. In exercising its discretion under this Rule 5.1.7, the Clearing House may take into account such factors as it considers appropriate, including the financial, operational and risk management capacity and competence of the Clearing Member. In the event the Clearing House reduces a Clearing Member’s Position Limits it shall allow the Clearing Member reasonable time to properly manage its Contracts accordingly.

5.1.8 A Clearing Member will be bound by any Contract that results from a Transaction as a result of the acts or omissions of any of its Representatives or Clients or Third Party Trade Delegates regardless of the circumstances including whether the person submitting the Transaction was authorised to do so or whether the Transaction caused the Clearing Member to breach any credit limit or Position Limit or was in breach of any requirements or restrictions of the Rules.

5.2 Novation of Transactions

5.2.1 Each Transaction submitted to the Clearing House which reflects prevailing market price at the time of submission shall be novated upon:

(a) receipt of the Transaction by the Clearing House;

(b) successful completion of credit checks on each Clearing Member which is a party to the Transaction (including any credit limits applicable to a person on whose behalf the Clearing Member is acting) or acceptance by each Clearing Member which is a party to the Transaction; and

(c) registration of the Transaction in the Clearing System.
5.2.2 Each Transaction submitted to the Clearing House which does not reflect prevailing market price at the time of submission shall be novated upon:

(a) receipt of the Transaction by the Clearing House;

(b) successful completion of credit checks on each Clearing Member which is, or is acting on behalf of, a party to the Transaction (including any credit limits applicable to a person on whose behalf the Clearing Member is acting) or acceptance by each Clearing Member which is, or is acting on behalf of, a party to the Transaction; and

(c) registration of the Transaction in the Clearing System,

but such novation shall be conditional on the Clearing House holding sufficient Collateral in respect of the Transaction or on receipt of confirmation from the Settlement Bank of the Clearing Member which is, or is acting on behalf of, a party to the Transaction of payment of any Net Settlement Amount in respect of such Transaction.

5.2.3 Upon novation as set out in Rules 5.2.1 and 5.2.2, two Contracts are created on identical terms to the Transaction and:

(a) the Clearing House shall assume, for one Contract, the position of seller to the buyer and, for the other Contract, the position of buyer to the seller, in each case in respect of the Transaction;

(b) the Clearing House shall have all the rights and be subject to all the liabilities of each Clearing Member which was, or was deemed to be, party to the Transaction with respect to such Contract; and

(c) each Clearing Member which has, or is deemed to have, any rights or obligations under the Transaction shall be released and discharged from all such rights and liabilities.

5.2.4 For the purposes of Rules 5.2.1 and 5.2.2, the Clearing House shall determine in good faith whether any Transaction submitted to the Clearing House reflects prevailing market price at the time of submission.

5.2.5 Each Clearing Member shall act as principal (and not as agent) to each Contract to which it is party. The Clearing House will treat each Clearing Member as being fully, legally and beneficially entitled to the rights pursuant to the Contracts and each Contract as being free from Encumbrances in favour of any person other than the Clearing House.
5.2.6 Each Contract shall remain open and in force and shall continue to be binding on the Clearing Member and the Clearing House until:

(a) it expires or is settled;

(b) it is transferred to another Clearing Member; or

(c) it is closed out or otherwise liquidated,

whichever is the earliest.

5.2.7 The terms of any Contract may only be amended, waived or varied with the prior written consent of the Clearing House.

5.3 Transfer of Contracts

5.3.1 All rights and liabilities of a Clearing Member (the Transferor Clearing Member) under a Contract, which shall include the Collateral relating to such Contract, may be transferred to another Clearing Member (the Transferee Clearing Member) with the prior agreement of the Transferor Clearing Member, the Transferee Clearing Member and the Clearing House. The Clearing House will normally only agree to a transfer if:

(a) the Client to which the Contract relates will remain the same;

(b) the transfer is being made to correct an error in the clearing of a Contract and the transfer is completed within two (2) Business Days of the date of novation;

(c) the transfer is in connection with, or as a result of a non-recurring transaction pursuant to which the business of one Clearing Member is acquired by, merged with or assumed by the business of another Clearing Member; or

(d) the Clearing House reasonably considers that the transfer is in the interests of the Clearing House.

5.3.2 Upon transfer of a Contract pursuant to Rule 5.3.1, the Contract is novated from the Transferor Clearing Member to the Transferee Clearing Member so that the rights and obligations of the Clearing House and the Transferor Clearing Member under the original Contract are released and discharged and a new Contract on the same terms is created between the Clearing House and the Transferee Clearing Member.

5.4 Avoidance of Contracts

5.4.1 The Clearing House shall have the discretion to avoid any Contract if such Contract, whether in whole or in part, is or reasonably appears to the Clearing House to be void, voidable or unenforceable (whether by virtue of being connected with fraud, illegality,
insider dealing, market abuse, money laundering or any other breach of Applicable Laws or otherwise). In such circumstances, the Clearing House may, at its discretion, take either or both of the following steps:

(a) direct the Clearing Member who was party to the void or voided Contract to enter into a replacement contract of equal or as near equal as possible economic terms to the void or voided Contract as a replacement contract; and/or

(b) enter into such contracts for its own account as necessary for the Clearing House to achieve a balanced book of the relevant Contract for the account and risk of the Clearing Member, including any associated costs, expenses and losses incurred in establishing such contracts.

5.5 Information and reporting

5.5.1 The Clearing House shall make available to the Clearing Member information about each Transaction it has submitted to the Clearing House and each Contract. The Clearing House shall report any error in any such information within twenty-four (24) hours of the date of the Contract to which the error relates.

5.5.2 The Clearing Member shall be permitted to manage the information about each Transaction that is made available to it pursuant to Rule 5.5.1.
CHAPTER 6
COLLATERAL

6.1 General

6.1.1 Each Clearing Member shall deposit with the Clearing House in respect of each Account such amounts of Eligible Assets as set out in this Chapter 6 and the Clearing and Settlement Procedure to reflect Margin Requirement and Variation Requirement (Collateral).

6.1.2 The Clearing Member shall designate, by value, in respect of which Account the Collateral is deposited and whether the Collateral constitutes Excess Collateral.

6.1.3 The Clearing House shall determine the Variation Requirement, where relevant, in respect of each Account by marking to market the Contracts relating to that Account since the previous Settlement Cycle. Any profit arising as a result of marking Contracts to market shall be credited to the relevant Account and, subject to any rights of the Clearing House pursuant to the Rules, shall be paid to the Clearing Member. Any loss arising in respect of a Contract shall be debited to the Clearing Member's Account to which that Contract relates and shall be payable to the Clearing House.

6.1.4 The Clearing House shall determine the Margin Requirement in respect of each Account and shall take into account any Collateral held by the Clearing House in relation to that Account.

6.1.5 The aggregate of the Variation Requirement and Margin Requirement is the Net Settlement Amount.

6.1.6 The Clearing House shall determine the Variation Requirement and Margin Requirement in respect of each Account at least twice daily but may at its discretion only settle or require settlement of the Net Settlement Amount once daily, each such determination process (regardless of whether it involves settlement) being a Settlement Cycle. Notwithstanding the foregoing, the Clearing House reserves the right to run a Settlement Cycle and require the deposit of Collateral by any Clearing Member in respect of any Account at any time.

6.1.7 The Margin Requirement and Variation Requirement for each Account will be determined in the manner designated by the Clearing House for such Account from time to time and in accordance with the Risk Management Procedure; provided that when deemed necessary, at the discretion of the Clearing House, in order to protect the interests of the Clearing House and Clearing Members, the Clearing House may set the Margin Requirement and the Variation Requirement for any Account on the basis of a
price determined by the Clearing House at its sole discretion provided that the Clearing House shall use its reasonable endeavours to notify Clearing Members of such price.

6.1.8 Where the Net Settlement Amount is payable to the Clearing House, it shall be provided in the form of Eligible Cash. The Clearing Member may subsequently substitute part or all of such Collateral with an amount of Eligible Securities or Eligible Commodities which is of an equivalent value as at the date of the substitution.

6.1.9 Each Clearing Member may at any time deposit with the Clearing House any additional amount of Collateral as it may wish in respect of each Account. Such Collateral (including any Excess Collateral) shall be deposited in the form of Eligible Assets or as otherwise specified in the Clearing and Settlement Procedure.

6.1.10 If, at any time, the Clearing House has Excess Collateral on deposit in respect of an Account, the Clearing Member may, save as otherwise agreed, request the transfer of Equivalent Assets in an amount equal to such Excess Collateral (or the substitution of Eligible Securities or Eligible Commodities of a lower market value to reduce the Excess Collateral).

6.1.11 The market value of all Contracts and Collateral shall be determined by the Clearing House in such manner and at such intervals as set out in the Rules, the Clearing and Settlement Procedure and otherwise at the Clearing House’s discretion. In particular, the Clearing Member acknowledges that:

(a) the Clearing House may attribute a value to any Eligible Securities or Eligible Commodities which is less than the face or market value of such Eligible Securities or Eligible Commodities;

(b) the Clearing House may, from time to time, change the way in which it values Eligible Securities or Eligible Commodities or the extent to which the value it attributes to Eligible Securities or Eligible Commodities is less than the face or market value of such Eligible Securities or Eligible Commodities; and

(c) this may affect the Clearing Member’s obligations to transfer amounts of Eligible Assets as Collateral.

6.1.12 When determining whether an IRS Clearing Member has sufficient IRS Collateral to meet the requirements set out in this Chapter 6, the Clearing House shall not include in its calculation any IRS Collateral deposited by an IRS Clearing Member during an IRS Cooling Off Period pursuant to an election made under Rule 6.1.13.

6.1.13 If, during an IRS Cooling Off Period, the Clearing House determines that there has been a material change in the business of an IRS Clearing Member which results in an
increase (from the beginning of the IRS Cooling Off Period to the date of determination) of 10% (ten per cent.) or more in the aggregate Margin Requirement in respect of that IRS Clearing Member’s IRS Contracts, then, in addition, to such increased Margin Requirement:

(a) the Clearing House may (in accordance with Rule 7.2.2) assess that IRS Clearing Member for an amount in excess of the limits set out in Rule 8.7 and such IRS Clearing Member shall provide the required Contribution to the IRS Guarantee Fund; and

(b) the IRS Clearing Member may satisfy its obligations under Rule 6.1.13(a) by delivering Eligible Assets as Collateral to the Clearing House on the following terms:

(i) during the IRS Cooling Off Period, such Eligible Assets shall be treated for all purposes as Collateral (not Contribution) of the IRS Clearing Member except that it shall not satisfy any Margin Requirement or Variation Requirement but it shall satisfy the requirement to provide Contribution under Rule 6.1.13(a) and calculations of IRS Assessments shall be made accordingly; and

(ii) on the first Business Day following the IRS Cooling Off Period, the Clearing House shall recalculate the IRS Guarantee Fund and transfer to the IRS Guarantee Fund the relevant amount of Eligible Assets provided as IRS Collateral pursuant to Rule 6.1.13(b)(i) as needed to satisfy the Clearing Member’s revised Contribution and such transferred amount shall thereafter form part of and be treated for all purposes as a Contribution to the IRS Guarantee Fund.

6.2 Collateral reports

6.2.1 The Clearing House shall make available to each Clearing Member a report showing the Collateral Value, Margin Requirement, Variation Requirement and Net Settlement Amount in respect of each of the Clearing Member’s Accounts at the end of each Business Day.

6.2.2 The Clearing Member shall report any error in any report made available by the Clearing House within twenty-four (24) hours of the date of the Contract to which the error relates, and the Clearing House may correct its reports and make any adjustment to the Net Settlement Amount for the relevant Account on the following Business Day.
6.3 **Holding of Collateral**

6.3.1 Unless otherwise agreed in writing with the Clearing House, the Clearing Member shall provide Collateral by way of outright transfer of full ownership of such cash or title to securities, to or to the order of the Clearing House.

6.3.2 The Clearing House shall deposit Eligible Cash received as Collateral in a bank account and it may be invested through an Investment Agent. The Clearing House shall deposit Eligible Securities received as Collateral with its Custodian. The Clearing House shall deposit Eligible Commodities received as Collateral with its Settlement Agent for Precious Metals. Such Eligible Assets and Eligible Securities will be held in the name of the Clearing House unless the Clearing House determines otherwise.

6.3.3 Subject to Rule 6.3.2, the Investment Agent, the Custodian or the Settlement Agent for Precious Metals (as applicable) may hold all Eligible Assets received as Collateral in respect of all the Clearing Members’:

(a) House Accounts in one commingled account;

(b) Non-Segregated Client Account in one commingled account; and

(c) Individual Client Accounts and Omnibus Client Accounts in one commingled account.

6.3.4 The Clearing House will maintain records of its redelivery obligations in respect of Collateral received from the Clearing Member.

6.3.5 All rights, title and interest in:

(a) Eligible Cash and Eligible Securities that are transferred to or to the order of the Clearing House as Collateral; and

(b) an Equivalent Asset that is transferred to the Clearing Member;

shall vest in the Clearing House or Clearing Member as the case may be, free and clear of any Encumbrances of the transferor or of any other person (other than a lien routinely imposed on all securities in a relevant settlement system or central securities depository, not being the Clearing House). All Distributions shall belong to the Clearing House.

6.3.6 The Clearing House shall have the right to deal with any Eligible Cash, Eligible Securities and Distributions in any manner including (without limitation) by partially or wholly investing Eligible Cash for its own account or partially or wholly lending Eligible
Securities for its own account pursuant to the investment policy adopted by the Clearing House.

6.3.7 The Clearing House shall:

(a) transfer to the Clearing Member an Equivalent Distribution in respect of each Distribution irrevocably received by the Clearing House; and

(b) transfer to the Clearing Member interest on Eligible Cash transferred to the Clearing House as Collateral at such rate as the Clearing House shall in its discretion determine from time to time.

unless an Event of Default has occurred with respect to the Clearing Member, in which case the Clearing House shall have the right to withhold the transfer to the Clearing Member until such time as the Event of Default has been remedied or a Declaration of Default is issued.

6.3.8 Nothing in these Rules is intended to or does create an Encumbrance or give the Clearing Member a proprietary interest in respect of any Eligible Cash, Eligible Securities or Distribution.

6.3.9 On each day that either the Clearing Member or the Clearing House as the case may be (the Transferor), transfers an asset to the other (the Recipient) under the Rules, the Transferor represents to the Recipient that it is the sole legal and beneficial owner of that asset free of any Encumbrance.

6.3.10 The provisions of this Rule 6.3:

(a) create a title transfer financial collateral arrangement under the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226); and

(b) relate to the provision of margin in relation to market contracts under Part VII of the Companies Act 1989.
CHAPTER 7
GUARANTEE FUND

7.1 General

7.1.1 The Clearing House shall maintain a Commodity Guarantee Fund to which each Commodity Clearing Member shall contribute as provided in this Chapter 7 and the Guarantee Fund Procedure.

7.1.2 The use of the Commodity Guarantee Fund shall be limited to the satisfaction of claims against, or obligations of, the Clearing House arising from the issuance of a Declaration of Default in respect of a Commodity Clearing Member including the costs associated with the application of the Default Rules in relation to such Defaulting Commodity Clearing Member. The Contributions to the Commodity Guarantee Fund of non-defaulting Commodity Clearing Members shall not be used to satisfy any claims against, or obligations of, the Clearing House arising in relation to IRS Contracts.

7.1.3 The Clearing House shall maintain an IRS Guarantee Fund to which it and each IRS Clearing Member shall contribute as provided in this Chapter 7 and the Guarantee Fund Procedure.

7.1.4 The use of the IRS Guarantee Fund shall be limited to the satisfaction of claims against, or obligations of, the Clearing House arising from the issuance of an IRS Declaration of Default including the costs associated with the application of the Default Rules in relation to such Defaulting IRS Clearing Member. The Contributions to the IRS Guarantee Fund of non-defaulting IRS Clearing Members shall not be used to satisfy any claims against, or obligations of, the Clearing House arising in relation to Commodity Contracts.

7.1.5 If there is any dispute, the Clearing House shall allocate obligations and claims between the Guarantee Funds in its discretion.

7.2 Calculation of Contributions

7.2.1 Each Commodity Clearing Member shall be required to provide to, and maintain with, the Clearing House a Contribution to the Commodity Guarantee Fund of such amount as is notified to the Clearing Member from time to time. The Guarantee Fund Procedure contains an explanation of the calculation of the Commodity Guarantee Fund.

7.2.2 Each IRS Clearing Member shall be required to make to, and maintain with, the Clearing House a Contribution to the IRS Guarantee Fund of such amount notified to the IRS Clearing Member from time to time. The Guarantee Fund Procedure contains an explanation of the calculation of the IRS Guarantee Fund.
7.2.3 Each Commodity Clearing Member’s Contribution shall be re-assessed at the end of each calendar quarter or more frequently if the Clearing House so determines (including after each Commodity Cooling Off Period). The Commodity Clearing Member’s Contribution shall be re-assessed at the above intervals throughout a Commodity Cooling-Off Period but, without prejudice to Rule 8.7, the Commodity Clearing Member shall not be required to make any Contribution during this period. The Clearing House shall notify the Commodity Clearing Member of any change in the amount of the Contribution to the Commodity Guarantee Fund which the Commodity Clearing Member is required to make.

7.2.4 Each IRS Clearing Member’s Contribution shall be re-assessed at the end of each calendar month or more frequently if the Clearing House so determines (including after each IRS Cooling Off Period with respect to the IRS Guarantee Fund). The IRS Clearing Member’s Contribution shall be re-assessed at the above intervals throughout an IRS Cooling-Off Period but, save as set out in Rule 6.1.13 and without prejudice to Rule 8.7, the IRS Clearing Member shall not be required to make any Contribution during this period. The Clearing House shall notify the IRS Clearing Member of any change in the amount of the Contribution to the IRS Guarantee Fund which the IRS Clearing Member is required to make.

7.2.5 The Clearing Member shall provide any additional Contribution to the Clearing House before 15:00 on the next Banking Day following the date on which the Clearing House makes such notification pursuant to Rules 7.2.3 and 7.2.4 and agrees that the Clearing House may debit any such additional Contribution from the Clearing Member’s Bank Account in accordance with Rule 4.2.2.

7.2.6 If, following a re-assessment of a Clearing Member’s Contribution to a Guarantee Fund, the Contribution such Clearing Member has already made to a Guarantee Fund is greater than the Contribution the Clearing House requires, the Clearing Member may request the Clearing House to return excess Eligible Cash and may make arrangements with the Clearing House to substitute Eligible Securities of a lower market value.

7.3 Form of Contributions, Assessments and IRS Optional Payments

7.3.1 Unless otherwise agreed in advance with the Clearing House, the required Contribution to a Guarantee Fund, any required Assessment and any IRS Optional Payment shall be provided in the form of Eligible Cash. The Clearing Member may subsequently substitute part or all of a Contribution with an amount of Eligible Securities which is of an equivalent value as at the date of substitution.

7.3.2 The Clearing Member acknowledges, in relation to Contributions that:
(a) the Clearing House may attribute a value to any Eligible Securities which is less than their face or market value;

(b) the Clearing House may, from time to time, change the way in which it values Eligible Securities or the extent to which the value it attributes to Eligible Securities is less than their face or market value; and

(c) this may affect the Clearing Member's obligations to transfer amounts of Eligible Assets as Contributions.

7.4 Holding of Contributions, Assessments and IRS Optional Payments

7.4.1 The Clearing Member shall provide Contributions, Assessments and IRS Optional Payments to the Clearing House by way of outright transfer of full ownership of such cash or title to such securities, as appropriate, to or to the order of the Clearing House.

7.4.2 Rules 6.3.5 to 6.3.10(a) shall apply to Contributions, Assessments and IRS Optional Payments provided to the Clearing House in the same way as such Rules apply to Collateral.

7.5 Recourse to a Guarantee Fund

7.5.1 If, after the Clearing House has applied in accordance with Rule 7.1.2 part or all of the Contribution of a non-defaulting Commodity Clearing Member to discharge some or all of the Defaulting Commodity Clearing Member's liabilities in relation to Commodity Contracts, the Clearing House makes a recovery in respect of those liabilities, the amount of such recovery (net of any deductions made at the discretion of the Clearing House to reflect its costs of recovery and any related tax liability) shall be credited to the non-defaulting Commodity Clearing Members whose Contributions were applied in relation to such Defaulting Commodity Clearing Member in proportion to (but not exceeding) the amounts so applied from the Commodity Guarantee Fund, whether or not they are still Commodity Clearing Members.

7.5.2 If, after the Clearing House has applied in accordance with Rule 7.1.4 part or all of the Contribution of a non-defaulting IRS Clearing Member to discharge some or all of the Defaulting IRS Clearing Member's liabilities in relation to IRS Contracts, the Clearing House makes a recovery in respect of those liabilities, the amount of such recovery (net of any deductions made at the discretion of the Clearing House to reflect its costs of recovery and any related tax liability) shall be credited to the non-defaulting IRS Clearing Members whose Contributions were applied in relation to such Defaulting IRS Clearing Member in proportion to (but not exceeding) the amounts so applied from the IRS Guarantee Fund, whether or not they are still IRS Clearing Members.
7.5.3 If there is any dispute, the Clearing House shall allocate liabilities and Contributions between the Guarantee Funds in its discretion.
CHAPTER 8
DEFAULT

8.1 Application of the Default Rules

8.1.1 The Clearing House may take the actions set out in the remainder of these Default Rules in respect of a Clearing Member in the event of any of the following circumstances (each an Event of Default):

(a) the Clearing Member fails to discharge any obligation to the Clearing House, whether under the Clearing Membership Agreement, the Rules or any Contract or otherwise;

(b) the Clearing Member notifies the Clearing House that it is, or is likely to be, unable to discharge any obligation to the Clearing House, whether under the Clearing Membership Agreement, the Rules or any Contract or otherwise; or

(c) the Clearing House believes that a Clearing Member is, or is likely to be, unable to discharge any obligation to the Clearing House, whether under the Clearing Membership Agreement, the Rules or any Contract or otherwise.

8.1.2 Without prejudice to the generality of Rule 8.1.1, the Clearing House may take into account any or all of the following events in determining whether an Event of Default has occurred:

(a) the Clearing Member or any of its Affiliates is subject to an Insolvency Event; or

(b) the Clearing House reasonably considers that the financial condition of the Clearing Member or any of its Affiliates is such that to allow the Clearing Member to continue its operation as such would introduce an unacceptable level of risk to the Clearing House or its Clearing Members.

8.1.3 The CEO, or any other executive director of the Clearing House whom the CEO has authorised for the purpose, has absolute discretion to determine whether an Event of Default exists and, if such a determination is made, whether to take the actions set out in the remainder of the Default Rules. The CEO or such other executive director may consult the Emergency Committee for both purposes. The composition of the Emergency Committee shall be determined by the Clearing House from time to time.
8.2 Actions on a Declaration of Default

8.2.1 If, being satisfied that an Event of Default has occurred, the CEO or other executive director decides to take the actions set out in the remainder of the Default Rules, the Clearing House shall:

(a) notify such decision in writing to the Defaulting Clearing Member (a Declaration of Default);

(b) provide a copy of the Declaration of Default to the FSA; and

(c) publish a Notice of the Declaration of Default on the Website.

8.2.2 A Declaration of Default will be given by the Clearing House by:

(a) email to the email address provided by the Defaulting Clearing Member for service of notices under the Clearing Membership Agreement or the email address of any member of the board of directors or any other person specified by the FSA and the Declaration of Default will be deemed to be issued on receipt by the Clearing House of an automated delivery receipt or confirmation of receipt from the relevant server if given by email;

(b) fax to the fax number provided by the Defaulting Clearing Member for service of notices under the Clearing Membership Agreement and the Declaration of Default will be deemed to be issued on a confirmed completion of transmission if given by fax; or

(c) publication of a Notice on the Website.

Notwithstanding the foregoing, the Clearing House may give confirmation of a Declaration of Default to the Defaulting Clearing Member by personal delivery or recorded or special delivery post in accordance with the Clearing Membership Agreement.

8.2.3 Upon the Clearing House issuing a Declaration of Default, the Defaulting Clearing Member shall:

(a) subject to Rule 8.2.3(c), cease to take any action in respect of its Contracts;

(b) subject to Rule 8.2.3(c), not enter into any new Contracts; and

(c) comply with directions of the Clearing House.

8.2.4 Upon the Clearing House issuing a Declaration of Default, each non-defaulting Clearing Member shall work cooperatively with the Clearing House, the Risk Committee or the
IRS Risk Committee (as applicable) and, if an IRS Clearing Member, the IRS Default Management Committee. In particular, each non-defaulting Clearing Member shall:

(a) if an IRS Clearing Member, cooperate in convening the IRS Default Management Committee and, if applicable, the IRS Active Default Committee, in accordance with its terms of reference and the IRS Default Management Guidelines including, if applicable, by procuring that any individual referred to in Rule 3.2.1(o) that is a member of the IRS Active Default Committee performs his or her role as such;

(b) if requested, provide commercially reasonable bids for Contracts hedging Affected Contracts, in the case of an IRS Clearing Member, in accordance with the IRS Default Management Guidelines;

(c) participate in any auction of the Defaulting Clearing Member’s open positions under any Affected Contracts, in the case of an IRS Clearing Member, in accordance with the IRS Default Management Guidelines;

(d) comply with any reasonable directions of the Clearing House; and

(e) take any other reasonable steps to mitigate any losses that may occur as a result of the issuance of the Declaration of Default.

8.2.5 Upon the Clearing House issuing an IRS Declaration of Default, an IRS Active Default Committee shall be convened.

8.2.6 Upon the Clearing House issuing a Declaration of Default or at any time afterwards, the Clearing House may terminate the Defaulting Clearing Member’s membership of the Clearing House by giving written notice to the Defaulting Clearing Member. The Defaulting Clearing Member shall remain subject to Rules 3.8.3 and 3.8.5.

8.2.7 Upon or shortly after the Clearing House issuing a Declaration of Default, it shall specify on the Website the timetable according to which it expects to be able to take the actions set out in Rules 8.4 and 8.5.

8.2.8 The Default Management Guidelines are incorporated by reference into this Chapter 8.

8.3 Segregation between House Account and each Client Account when applying the Default Rules

Segregation of Accounts when calculating Portable Net Sums and Single Net Sums

8.3.1 A separate Portable Net Sum shall be calculated in accordance with Rule 8.4 in respect of Affected Contracts which relate to each of the Defaulting Clearing Member’s Individual
Client Accounts and each Notional Sub-Account within each of its Omnibus Client Accounts and related rights and liabilities.

8.3.2 A separate Single Net Sum shall be calculated in accordance with Rule 8.5 in respect of:

(a) Affected Contracts which relate to each of the Defaulting Clearing Member’s House Accounts and related rights and liabilities; and

(b) if required under Rules 8.4.2 or 8.4.10, Affected Contracts which relate to each of the Defaulting Clearing Member’s Individual Client Accounts or Notional Sub-Accounts and related rights and liabilities.

8.3.3 A separate IRS Collect, IRS Pay or Allocated IRS Collect shall be calculated in accordance with Rules 8.6.3 and 8.10 in respect of IRS Contracts which relate to each IRS Clearing Member’s IRS House Account and each of its IRS Individual Client Accounts and IRS Notional Sub-Accounts and the related rights and liabilities in each case.

Set off of Collateral relating to different Accounts

8.3.4 To the extent that the Clearing House applies or includes an amount as part of the calculations of each Portable Net Sum and Single Net Sum pursuant to Rules 8.4 or 8.5:

(a) Commodity Collateral credited to the Commodity House Account of the Defaulting Commodity Clearing Member may be applied against or included as part of the calculation of Single Net Sums in respect of the following Accounts of the Defaulting Commodity Clearing Member in the following order to the extent that there is sufficient surplus Collateral after completion of each step:

(i) the Commodity House Account;

(ii) each Commodity Individual Client Account and Commodity Omnibus Client Account; and

(iii) each IRS Individual Client Account and IRS Omnibus Client Account;

(b) IRS Collateral credited to the IRS House Account of the Defaulting Clearing Member may be applied against or included as part of the calculation of Single Net Sums in respect of the following Accounts of the Defaulting IRS Clearing Member in the following order to the extent that there is sufficient surplus Collateral after completion of each step:

(i) the IRS House Account;
(ii) each IRS Individual Client Account and IRS Omnibus Client Account; and

(iii) each Commodity Individual Client Account and Commodity Omnibus Client Account;

(c) Collateral, including Excess Collateral, credited to each Individual Client Account of the Defaulting Clearing Member may only be applied against or included as part of the calculation of the Single Net Sum or Portable Net Sum, as the case may be, in respect of Contracts credited to that Individual Client Account of that Defaulting Clearing Member;

(d) Collateral, excluding Excess Collateral, credited to each Notional Sub-Account of the Defaulting Clearing Member may only be applied against or included as a part of the Single Net Sum or Portable Net Sum, as the case may be, in respect of Contracts credited to that Notional Sub-Account of that Defaulting Clearing Member or as contemplated in Rule 8.4.6(b), 8.4.7(b), 8.5.5(b) and 8.5.6(b); and

(e) Notwithstanding Rule 3A.3.3., Excess Collateral credited to an Omnibus Client Account may be included as part of the calculation of a Single Net Sum or a Portable Net Sum in accordance with Rules 8.4.6(b), 8.4.7(b), 8.5.5(b) and 8.5.6(b).

8.3.5 For the purposes of Rules 8.4.6, 8.4.7, 8.5.5 and 8.5.6, the Collateral credited to each:

(a) Commodity Individual Client Account is a proportion (determined by the Clearing House in accordance with the Rules and the Procedures) of the Collateral provided by the Clearing Member in respect of all its Commodity Individual Client Accounts.

(b) Commodity Notional Sub-Account in a Commodity Omnibus Client Account is a proportion (determined by the Clearing House in accordance with the Rules and Procedures) of the Collateral provided by the Clearing Member in respect of all its Commodity Omnibus Accounts.

(c) IRS Individual Client Account is a proportion (determined by the Clearing House in accordance with the Rules and the Procedures) of the Collateral provided by the Clearing Member in respect of all its IRS Individual Client Accounts.

(d) IRS Notional Sub-Account in an IRS Omnibus Client Account is a proportion (determined by the Clearing House in accordance with the Rules and the
Procedures) of the Collateral provided by the Clearing Member in respect of all its IRS Omnibus Client Accounts.

Set off of other amounts

8.3.6 Notwithstanding any law, regulation (including, without limitation, the Insolvency Rules 1986) or otherwise, when calculating each Portable Net Sum and Single Net Sum and any other amount under these Rules:

(a) a liability of the Clearing House to a Clearing Member may only be set off against or netted with a liability of such Clearing Member to the Clearing House in accordance with these Rules, the relevant Clearing Membership Agreement and as otherwise agreed by the Clearing House and the Clearing Member; and

(b) a liability of a Clearing Member to the Clearing House under or in connection with an Individual Client Account or an Omnibus Client Account (and any related Contract and Collateral) may only be set off against or netted with a liability of the Clearing House to a Clearing Member under or in connection with the same Account or the House Account, save that costs and expenses arising from actions taken under Rule 8.5.2 may be included in the rights and liabilities calculated with respect to each Client Account pursuant to Rule 8.5.2.

8.3.7 For the purposes of Rules 8.5.5 or 8.5.6, the Clearing House may, in its reasonable discretion, determine the proportion of:

(a) the Commodity Guarantee Fund in relation to Commodity Contracts;

(b) the IRS Guarantee Fund in relation to IRS Contracts; and

(c) the Single Net Sum relating to each House Account of the Defaulting Clearing Member,

to be applied in relation to each of the Defaulting Clearing Member's Client Accounts and, except in relation to Rule 8.3.7(c), each House Account, as applicable.

8.3.8 Any amounts owing to the Clearing House by the Defaulting Clearing Member in respect of fees, costs and expenses relating to Clearing Services provided by the Clearing House to such Defaulting Clearing Member (including any costs and expenses arising from the implementation of the Default Rules, but excluding those costs and expenses attributable to a Client Account arising from actions taken under Rule 8.5.2 which shall be included in the rights and liabilities calculated with respect to each Client Account) and any amount owing to the Security Trustee (or any delegate of the Security Trustee) by the Defaulting Clearing Member pursuant to a Security Trust Deed shall be for the
account of the Defaulting Clearing Member and to the extent any amounts are due from
the Defaulting Clearing Member they shall be aggregated and;

(a) the resulting sum shall be set off against the Defaulting Clearing Member’s
Collateral credited to its House Account and Contribution to the Guarantee
Fund; and

(b) to the extent any amount remains outstanding, the assets set out in Rule 8.6
shall be applied in the order set out in such Rule to satisfy the outstanding
amount.

8.3.9 If the Clearing House issues a Declaration of Default in respect of a Clearing Member,
the Clearing House shall not use Excess Collateral received by the Clearing House in
respect of an Omnibus Client Account save as set out in Rules 8.4.6(b), 8.4.7(b), 8.5.5(b)
and 8.5.6(b) and the Clearing House shall return to the Defaulting Clearing Member or
the relevant office holder Equivalent Assets to any Excess Collateral not so used.

8.3.10 For the purposes of Rules 8.4.6, 8.4.7, 8.5.5 and 8.5.6 the Clearing House may:

(a) liquidate Collateral and Contributions in the form of Eligible Securities; and

(b) convert amounts denominated in one currency into another currency,
in each case at such time and at such rate as the Clearing House shall in its
reasonable discretion determine.

8.3.11 Without prejudice to Rule 8.3.10, the Clearing House may determine the value of any
Excess Collateral delivered to it with respect to any Individual Client Account as being
equal to the value attributable to such Excess Collateral as at the immediately preceding
Settlement Cycle. As a result of any such valuation of Excess Collateral, the value of
Collateral which is not Excess Collateral may be adversely affected.

8.4 Porting of Individual Client and Omnibus Client Accounts

Conditions to porting

8.4.1 This Rule 8.4 applies in respect of each Individual Client Account and each Notional
Sub-Account within each Omnibus Client Account of a Defaulting Clearing Member and
the related Affected Contracts and Collateral if, subject to Rule 8.4.2, in relation to such
Account:

(a) the Clearing House is satisfied:
(i) that a Client Agreement, a Client Protection Agreement and a Client Acknowledgement is in full force and effect at the date of the proposed actions under this Rule 8.4; and

(ii) it is under no obligation which would require the payment under the Client Protection Agreement and/or the Security Trust Deed to be returned to a third party;

(b) the Clearing House has the information, which may be that provided in accordance with Rule 3A.5, it requires to make the calculations set out in this Rule 8.4 and is satisfied as to its accuracy;

(c) an Adopting Clearing Member which is not a Defaulting Clearing Member agrees to accept all relevant Contracts and related Collateral and doing so will not cause the credit limits applicable to either the Adopting Clearing Member or the Client pursuant to Rule 5.1.6 to be exceeded;

(d) the relevant Client has requested that the Clearing House takes the steps in Rules 8.4.12 or 8.4.13; and

(e) the Clearing House is satisfied that sufficient additional Eligible Assets have been or (on or before the recording of the Portable Net Sum under Rule 8.4.13(a)) will be provided to it as Collateral by the relevant Adopting Clearing Member in accordance with the Rules,

in which case, the Clearing House shall use all reasonable endeavours to perform the actions set out in this Rule 8.4.

8.4.2 If any of the conditions set out in Rule 8.4.1 are not satisfied in relation to any Individual Client Account or Notional Sub-Account, or if the Clearing House reasonably believes that taking any of the actions in this Rule 8.4 in relation to any Individual Client Account or Notional Sub-Account would introduce an unacceptable level of risk or volatility to the Clearing System, then Rule 8.5 shall apply to that Individual Client Account or Notional Sub-Account. Clearing Members should be aware that it may be significantly more difficult for the Clearing House to take the actions set out in this Rule 8.4.2 in relation to Commodity Contracts, including those recorded in relation to a Commodity Omnibus Client Account of the type referred to in paragraph 2.12 of the Risk Management Procedure.

Discharge of Defaulting Clearing Member’s rights and liabilities

8.4.3 Following the issuance by the Clearing House of a Declaration of Default, the Clearing House shall, subject to Rule 8.3 and separately in relation to each Individual Client Account
Account and each Notional Sub-Account, seek to discharge all of the Defaulting Clearing Member’s rights and liabilities under the relevant Affected Contracts by closing out, settling, termination and/or offsetting all such Affected Contracts and aggregating any obligations for the payment of money, whether present or future, actual or contingent, in respect of such Affected Contracts and the Rules and set off the aggregated amounts against each other so as to produce a single net sum (the **Portable Contract Net Sum**) in relation to each such Individual Client Account or Notional Sub-Account, determined as of the date on which the Clearing House intends to re-establish the Affected Contracts and on such terms as the Clearing House shall determine.

8.4.4 The rights and liabilities of the Defaulting Clearing Member shall include all those arising in consequence of any action taken by the Clearing House under Rule 8.4.3.

8.4.5 If the Portable Contract Net Sum in relation to an Individual Client Account or a Notional Sub-Account is due from the Defaulting Clearing Member, then it is the **IRS Portable Interim Liability** or the **Commodity Portable Interim Liability**, as the case may be (expressed as a negative sum). If the Portable Contract Net Sum is due to the Defaulting Clearing Member, then it is the **IRS Portable Interim Asset** or the **Commodity Portable Interim Asset**, as the case may be (expressed as a positive sum).

**Commodity Portable Net Sum calculation**

8.4.6 The following steps shall be taken with respect to each Commodity Individual Client Account and Commodity Notional Sub Account of the Defaulting Commodity Clearing Member:

(a) the Commodity Collateral relating to the relevant Commodity Individual Client Account or Commodity Notional Sub-Account shall be set off against the relevant Commodity Portable Interim Liability or aggregated with the relevant Commodity Portable Interim Asset; and

(b) in relation to a Commodity Notional Sub-Account, in the absolute discretion of the Clearing House, any negative sum produced under Rule 8.4.6(a) relating to that Commodity Notional Sub-Account may be set off against:

(i) any Excess Collateral relating to the Omnibus Client Account of which that Commodity Notional Sub-Account forms part; and

(ii) any positive sum produced under Rule 8.4.6(a) relating to any other Commodity Notional Sub-Account in the same Commodity Omnibus Client Account,

the result being a **Commodity Portable Net Sum**.
**IRS Portable Net Sum calculation**

8.4.7 The following steps shall be taken with respect to each IRS Individual Client Account and each IRS Notional Sub-Account of the Defaulting IRS Clearing Member:

(a) the IRS Collateral relating to the relevant IRS Individual Client Account or IRS Notional Sub-Account shall be set off against the relevant IRS Portable Interim Liability or aggregated with the relevant IRS Portable Interim Asset; and

(b) in relation to an IRS Notional Sub-Account, in the absolute discretion of the Clearing House, any negative sum produced under Rule 8.4.7(a) relating to that IRS Notional Sub-Account may be set off against:

   (i) any Excess Collateral relating to the Omnibus Client Account of which that IRS Notional Sub-Account forms part; and

   (ii) any positive sum produced under Rule 8.4.7(a) relating to any other IRS Notional Sub-Account in the same IRS Omnibus Client Account,

the result being an **IRS Portable Net Sum**.

**Portable Net Sum calculations - General**

8.4.8 The Clearing House will exercise its discretion in Rules 8.4.6 and 8.4.7 in such a way as to seek to achieve a fair and equitable allocation of any Excess Collateral and any positive or negative sums, as applicable, relating to an Omnibus Client Account.

8.4.9 In Rule 8.4, a reference to closing out, settling, terminating, offsetting, aggregating or any other action includes the Clearing House calculating the rights and obligations of the Clearing House in relation to any relevant Clearing Member or Client as if the Clearing House had taken such action.

**Conditions to porting no longer satisfied**

8.4.10 If, after the calculation of the Portable Net Sum, any of the conditions set out in Rule 8.4.1 are no longer satisfied in relation to any Individual Client Account or Notional Sub-Account, the Clearing House shall not undertake the steps in Rules 8.4.11 to 8.4.13 and shall instead follow the provisions set out in Rule 8.5 with respect to that Individual Client Account or Notional Sub-Account. In such case, any action taken pursuant to this Rule 8.4 shall be deemed not have been taken.

**Certification and porting of each Portable Contract Net Sum and Portable Net Sum**
8.4.11 The Clearing House shall, if required, in relation to each Individual Client Account and each Notional Sub-Account in respect of which the Clearing House calculates a Portable Net Sum and all of the conditions set out in Rule 8.4.1 are satisfied, certify the Portable Contract Net Sum and the Portable Net Sum to:

(a) the relevant office holder acting in relation to the Defaulting Clearing Member; and

(b) the Clearing House’s Regulatory Authority.

8.4.12 If the Portable Net Sum in relation to an Individual Client Account or Notional Sub-Account is due to the Defaulting Clearing Member, then the Clearing House shall in relation to such Individual Client Account or Notional Sub-Account:

(a) debit an amount equal to the Portable Net Sum from the Defaulting Clearing Member’s relevant Client Account and credit an equivalent amount in the Adopting Clearing Member’s relevant Client Account relating to that Client; and

(b) on the same day, replace such Portable Net Sum with Contracts and Collateral in the Adopting Clearing Member’s relevant Client Account which differ from the Affected Contracts and Collateral which had been credited to the Defaulting Clearing Member only to the extent that the Adopting Clearing Member shall be the counterparty of the Clearing House in place of the Defaulting Clearing Member and to reflect an adjustment which has been made in accordance with Rules 8.4.6 and 8.4.7 to the Collateral that had been credited to the Defaulting Clearing Member’s Client Account.

8.4.13 If the Portable Net Sum in relation to an Individual Client Account or a Notional Sub-Account is zero or is due from the Defaulting Clearing Member, then the Clearing House shall in relation to such Individual Client Account or Notional Sub-Account:

(a) credit an amount equal to the Portable Net Sum to the Defaulting Clearing Member’s relevant Client Account and debit an equivalent amount in the Adopting Clearing Member’s relevant Client Account relating to that Client; and

(b) on the same day, replace such Portable Net Sum with Contracts and Collateral in the Adopting Clearing Member’s relevant Client Account which differ from the Affected Contracts and Collateral which had been credited to the Defaulting Clearing Member only to the extent that the Adopting Clearing Member shall be the counterparty of the Clearing House in place of the Defaulting Clearing Member and to reflect an adjustment which has been made in accordance with Rules 8.4.6 and 8.4.7 to the Collateral that had been credited to the Defaulting Clearing Member’s Client Account.
8.4.14 The Defaulting Clearing Member consents to the steps in this Rule 8.4. The Adopting Clearing Member will have the rights and be bound by the obligations of the Contracts and Collateral described in Rules 8.4.12 and 8.4.13, as the case may be. If the Portable Net Sum in relation to an Individual Client Account or a Notional Sub-Account is due from the Defaulting Clearing Member and the actions set out in Rule 8.4.13 are taken, the Adopting Clearing Member will be required to provide sufficient additional Collateral to the Clearing House in respect of the Contracts referred to in Rule 8.4.13(b) in accordance with the Rules.

8.4.15 The Clearing House shall use reasonable endeavours to perform its obligations and exercise its powers under Rule 8.4:

(a) in respect of some but not all of the Contracts and Collateral related to any Individual Client Account or Notional Sub-Account: or 

(b) in relation to more than one Adopting Clearing Member,

in each case at the request of the Client to which such Individual Client Account or Notional Sub-Account relates. In any such case, the Client, the Clearing House and each relevant Adopting Clearing Member shall agree on the Contracts and Collateral to be transferred.

Security Trustee

8.4.16 The Security Trustee may take such actions and exercise such powers as are set out in the Security Trust Deed in relation to any Individual Client Account or Notional Sub-Account relating to a Client on whose behalf the Security Trustee has entered into a Client Protection Agreement.

Clearing House may rely on information

8.4.17 In taking the actions in this Rule 8.4 or Rule 8.5, the Clearing House may rely on the information provided by the Clearing Member to the Clearing House or by the Clearing House to the Clearing Member pursuant to Rule 3A.5.

8.5 Calculation and certification of Single Net Sum - House, Omnibus Client and Individual Client Accounts

Discharge of Defaulting Clearing Member’s rights and liabilities

8.5.1 Following the issuance by the Clearing House of a Declaration of Default, the Clearing House shall, subject to Rule 8.3, in relation to each of the Defaulting Clearing Member’s House Accounts and (to the extent required by Rule 8.4) each Notional Sub Account within an Omnibus Client Account and Individual Client Account of the Defaulting
Clearing Member, take the steps set out in this Rule 8.5. The Clearing House shall, in respect of each such Account or Notional Sub-Account, seek to discharge all of the Defaulting Clearing Member’s rights and liabilities under all of the Affected Contracts by taking any of the actions set out in Rule 8.5.2, and thereafter by aggregating any obligations for the payment of money, whether present or future, actual or contingent, by the Defaulting Clearing Member under such Affected Contracts and the Rules, aggregating any such obligations to the Defaulting Clearing Member under each Affected Contract and the Rules, and offsetting the two aggregated amounts against one another so as to produce a **Single Contract Net Sum** in respect of each such Account or Notional Sub-Account.

### 8.5.2
For the purposes of discharging a Defaulting Clearing Member’s rights and liabilities and calculating a Single Contract Net Sum and a Single Net Sum, the Clearing House may take any of the following actions or any combination of the following actions with respect to each of the relevant Accounts or Notional Sub-Accounts of the Defaulting Clearing Member:

(a) closing out, settling, terminating and/or offsetting any Affected Contract including the application of Eligible Cash or the proceeds of the realisation of any Eligible Assets constituting Collateral credited to the Defaulting Clearing Member’s Account or Notional Sub-Account in respect of such Affected Contract;

(b) effecting Corresponding Contracts to any Affected Contracts;

(c) exercising any option granted by an Affected Contract;

(d) entering into hedging transactions in relation to any Affected Contracts, in the case of the Affected Contracts which are IRS Contracts, in accordance with the IRS Default Management Guidelines; and/or

(e) auctioning any of the Defaulting Clearing Member’s open positions under any Affected Contracts, in the case of the Affected Contracts which are IRS Contracts, in accordance with the IRS Default Management Guidelines,

in each case and in respect of each Single Contract Net Sum, on such terms as the Clearing House shall determine and the rights and liabilities of the Defaulting Clearing Member referred to in Rule 8.5.1 shall include all rights and liabilities arising and any costs and expenses incurred in consequence of any such action.

### 8.5.3
If the Single Contract Net Sum with respect to all Affected Contracts which are Commodity Contracts is due from the Defaulting Clearing Member, then it is the **Commodity Interim Liability**. If the Single Contract Net Sum with respect to all Affected
Contracts which are Commodity Contracts is due to the Defaulting Clearing Member, then it is the **Commodity Interim Asset**.

8.5.4 If the Single Contract Net Sum with respect to all Affected Contracts which are IRS Contracts is due from the Defaulting Clearing Member, then it is the **IRS Interim Liability**. If the Single Contract Net Sum with respect to all Affected Contracts which are IRS Contracts is due to the Defaulting Clearing Member, then it is the **IRS Interim Asset**.

**Commodity Single Net Sum calculation**

8.5.5 The following steps shall be taken with respect to each Commodity House Account and (to the extent required by Rule 8.4) Commodity Notional Sub-Account and Commodity Individual Client Account of the Defaulting Commodity Clearing Member:

(a) the Defaulting Commodity Clearing Member’s Commodity Collateral relating to the relevant Commodity House Account, Commodity Individual Client Account or Commodity Notional Sub-Account (as applicable) shall be set off against the Commodity Interim Liability or aggregated with the Commodity Interim Asset relating to such Account;

(b) in relation to a Commodity Notional Sub-Account, in the absolute discretion of the Clearing House, any negative sum produced under Rule 8.5.5(a) relating to that Commodity Notional Sub-Account may be set off against:

   (i) any Excess Collateral relating to the Omnibus Client Account of which the Notional Sub-Account forms part; and

   (ii) any positive sum produced under Rule 8.5.5(a) relating to any other Commodity Notional Sub-Account in the same Commodity Omnibus Client Account;

(c) a proportion of the Defaulting Commodity Clearing Member’s Contribution to the Commodity Guarantee Fund and any Commodity Single Net Sum relating to the Commodity House Account of the Defaulting Commodity Clearing Member shall be set off against any negative sum produced under Rule 8.5.5(a) and 8.5.5(b), as applicable, or in relation to the Commodity House Account, such Commodity Guarantee Fund shall be aggregated with any positive sum produced under Rule 8.5.5(a); and

(d) a proportion of any Contribution of the Defaulting Clearing Member to the IRS Guarantee Fund which remains after such Contribution to the IRS Guarantee Fund has been applied pursuant to Rule 8.5.6 shall be set off against any
negative sum produced under Rules 8.5.5(a), 8.5.5(b) and 8.5.5(c), as applicable,

the result being the **Commodity Single Net Sum**.

**IRS Single Net Sum calculation**

8.5.6 The following steps shall be taken with respect to each IRS House Account and (to the extent required by Rule 8.4) IRS Notional Sub-Account and IRS Individual Client Account of the Defaulting IRS Clearing Member:

(a) the Defaulting IRS Clearing Member’s IRS Collateral relating to the relevant IRS House Account, IRS Individual Client Account and IRS Notional Sub-Account shall be set off against the IRS Interim Liability or aggregated with the IRS Interim Asset relating to such Account;

(b) in relation to an IRS Notional Sub-Account, in the absolute discretion of the Clearing House, any negative sum produced under Rule 8.5.6(a) relating to that IRS Notional Sub-Account may be set off against:

(i) any Excess Collateral relating to the IRS Omnibus Client Account of which that IRS Notional Sub-Account forms part; and

(ii) any positive sum produced under Rule 8.5.6(a) relating to any other IRS Notional Sub-Account in the same IRS Omnibus Client Account;

(c) a proportion of the Defaulting IRS Clearing Member’s Contribution to the IRS Guarantee Fund and any IRS Single Net Sum relating to the IRS House Account of the Defaulting IRS Clearing Member shall be set off against any negative sum produced under Rule 8.5.6(a) and 8.5.6(b), as applicable, or in relation to the IRS House Account, such IRS Guarantee Fund shall be aggregated with any positive sum produced under Rule 8.5.6(a);

(d) a proportion of any Contribution of the Defaulting Clearing Member to the Commodity Guarantee Fund which remains after such Contribution to the Commodity Guarantee Fund has been applied pursuant to Rule 8.5.5 shall be set off against any negative sum produced under Rules 8.5.6(a), 8.5.6(b) and 8.5.6(c), as applicable,

the result being the **IRS Single Net Sum**.

**Single Net Sum calculations - General**

8.5.7 The Clearing House may in its discretion decide to:
(a) delay the calculation of the Single Net Sums in relation to Individual Client Accounts and Notional Sub-Accounts until it has calculated the Commodity Single Net Sum relating to the Commodity House Account, the IRS Single Net Sum relating to the IRS House Account and/or any Portable Net Sum, as the case may be, so that the Commodity Single Net Sum or the IRS Single Net Sum in the relevant House Account may be applied in accordance with Rules 8.5.5(c) or 8.5.6(c); or

(b) apply the Clearing House’s resources in accordance with Rule 8.6 without having first set off amounts pursuant to Rules 8.5.5(d) and/or 8.5.6(d).

8.5.8 The Clearing House will exercise its discretion in Rules 8.5.5 and 8.5.6 in such a way as to seek to achieve a fair and equitable allocation of any IRS Interim Assets or Commodity Interim Assets and IRS Interim Liabilities or Commodity Interim Liabilities, as applicable, relating to each Omnibus Client Account.

Certification of each Single Net Sum

8.5.9 The Clearing House shall certify the following in relation to each House Account and (to the extent required by Rule 8.4) each Individual Client Account or Notional Sub-Account:

(a) the fact that the Portable Net Sum has not been transferred to an Adopting Clearing Member pursuant to Rules 8.4.12 or 8.4.13;

(b) Single Contract Net Sum; and

(c) Single Net Sum as the amount payable by or to the Defaulting Clearing Member or, if no amount is payable, zero,

and each such certificate shall be conclusive. The Clearing House shall make the certification to:

(a) the relevant office holder acting in relation to the Defaulting Clearing Member; and

(b) the Clearing House’s Regulatory Authority.

Payment of each Single Net Sum

8.5.10 In respect of an Individual Client Account or Notional Sub-Account, the Clearing House shall, if a positive sum, pay the Single Net Sum:

(a) to the relevant Client (or to its order) or, if a Security Trustee has been appointed with respect to that Client, to the Security Trustee (or to its order) on
trust for that Client, in each case if the Clearing House is satisfied that a Client Agreement, a Client Protection Agreement and a Client Acknowledgement is in full force and effect with respect to the relevant Client and no other Applicable Law or regulation would require the payment returned to another party; or

(b) to the Defaulting Clearing Member or a relevant office holder acting in relation to the Defaulting Clearing Member, for the account of the relevant Client, if the Clearing House is not satisfied that a Client Agreement, a Client Protection Agreement and a Client Acknowledgement is in full force and effect with respect to the relevant Client or an Applicable Law or regulation would require the payment returned to the Defaulting Clearing Member.

8.5.11 In respect of a House Account or Net Client Account, the Clearing House shall, if a positive sum, pay the Single Net Sum to the Defaulting Clearing Member or the relevant office holder acting in relation to the Defaulting Clearing Member.

Notification to the Defaulting Clearing Member

8.5.12 The Clearing House shall notify the Defaulting Clearing Member or a relevant office holder acting in relation to the Defaulting Clearing Member or its estate of the actions taken in relation to the Defaulting Clearing Member under the Default Rules.

Liquidity of Collateral and Contributions

8.5.13 For the purposes of Rules 8.5.5 and 8.5.6, the Clearing House may liquidate Collateral and Contributions in the form of Eligible Securities at such time and at such rate as the Clearing House shall in its reasonable discretion determine.

8.6 Application of Clearing House resources and IRS Optional Payments

Clearing House resources

8.6.1 To the extent that the assets referred to in Rules 8.5.5 or 8.5.6 are insufficient or if the Clearing House is required to pay an amount under Rule 8.3.8, the Clearing House shall use the following assets to satisfy any outstanding amount in the order set out below:

(a) to satisfy any outstanding amount in relation to a Commodity Single Net Sum:

(i) the Clearing House’s contribution to the Commodity Guarantee Fund;

(ii) the Contributions of the non-defaulting Commodity Clearing Members to the Commodity Guarantee Fund; and
(iii) Commodity Assessments received by the Clearing House pursuant to Rule 8.7.1; and

(b) to satisfy any outstanding amount in relation to an IRS Single Net Sum:

(i) the Clearing House’s contribution to the IRS Guarantee Fund;

(ii) the Contributions of the non-defaulting IRS Clearing Members to the IRS Guarantee Fund;

(A) first, Contributions of a Subordinated Bidder (if any) up to an amount equal to the Aggregate Subordinated Amount for such Subordinated Bidder and where there is more than one Subordinated Bidder, an amount of the Contribution of each Subordinated Bidder equal to the relevant Aggregate Subordinated Amount will be applied pro rata;

(B) secondly, the remaining IRS Guarantee Fund of all non-defaulting IRS Clearing Members (excluding the Contributions to the IRS Guarantee Fund of each Winning Bidder equal to the Aggregate Seniorised Amounts for such Winning Bidders) will be applied pro rata; and

(C) thirdly the remaining IRS Guarantee Fund of all Winning Bidders will be applied pro rata; and

(iii) IRS Assessments received by the Clearing House pursuant to Rule 8.7.3.

8.6.2 The obligations of the Clearing House to make payments in respect of IRS Contracts are limited as set out in Rule 2.4, and the IRS Clearing Members shall have no recourse to the Clearing House other than as set out in Rule 2.4.

**IRS VM Haircut Settlement Cycle and IRS Optional Payments**

8.6.3 If, at any time, the Clearing House determines that less than 25% (twenty five per cent.) of the IRS Assessments, whether or not already collected, remains available to the Clearing House or is likely to be available once the Clearing House has met its obligations arising from IRS Contracts with non-defaulting IRS Clearing Members, the Clearing House may take the actions set out in either or both this Rule 8.6.3 and Rule 8.6.4 in any order it may reasonably determine. Subject to Rule 8.6.6, the Clearing House may:

(a) run a Settlement Cycle;
(b) notify each non-defaulting IRS Clearing Member holding such Account of any Variation Requirement determined by the Settlement Cycle which the non-defaulting IRS Clearing Member will pay in accordance with Rule 6.1.1;

(c) on the basis of the Settlement Cycle, determine the IRS Collect or the IRS Pay;

(d) deduct the Aggregate IRS Pays received by the Clearing House (and those that the Clearing House reasonably believes will be received in accordance with the Rules) from the Aggregate IRS Collects (the difference between the Aggregate IRS Collects and the Aggregate IRS Pays being the IRS Variation Margin Requirement Haircut); and

(e) allocate the IRS Variation Margin Requirement Haircut pro rata to each Account with an IRS Collect (the Allocated IRS Collect);

on such terms as the Clearing House shall determine (such Settlement Cycle, an IRS VM Haircut Settlement Cycle). The Clearing House may, in its sole discretion, run an IRS VM Haircut Settlement Cycle more than once provided the condition in this Rule 8.6.3 is met.

8.6.4 Subject to Rule 8.6.6, if, having run one or more IRS VM Haircut Settlement Cycles, the Clearing House determines, in consultation with the IRS Risk Committee, that to run another IRS VM Haircut Settlement Cycle would result in insufficient additional resources to satisfy the losses incurred by the Clearing House as a result of one or more Defaults, the Clearing House may request that each non-defaulting IRS Clearing Member makes a payment to the Clearing House (an IRS Optional Payment). The Clearing House will request that each IRS Optional Payment is at least equal to the amount which would be such IRS Clearing Member’s Contribution to the IRS Guarantee Fund at the end of the current IRS Cooling Off Period, assuming the Clearing House does not issue any further Declarations of Default, but the IRS Clearing Member may contribute any higher or lower amount. The following terms shall apply to each IRS Optional Payment:

(a) no Clearing Member shall be obliged to make an IRS Optional Payment;

(b) the Clearing House shall notify each non-defaulting IRS Clearing Member in writing of the requested amount of the IRS Optional Payment;

(c) payment of an IRS Optional Payment shall be made:

(i) in accordance with the provisions set out in Chapter 7; and
(ii) before the deadline for payment specified by the Clearing House in accordance with Rule 8.6.6;

(d) no IRS Optional Payment may be withdrawn once made;

(e) no IRS Optional Payment may be used by the Clearing House until all other resources of the Clearing House specified in Rule 8.6.1(b) have been exhausted in accordance with the Rules; and

(f) an IRS Optional Payment may only be used to satisfy any losses to, or to meet any obligations of, the Clearing House incurred with respect to IRS Contracts.

8.6.5 Subject to Rule 8.6.6, if the Clearing House determines that the IRS Optional Payments it has received (and those it is reasonably likely to receive) will be insufficient to satisfy the losses it has incurred, the Clearing House may run a final IRS VM Haircut Settlement Cycle in accordance with Rule 8.6.3.

8.6.6 In order to take each of the actions set out in Rules 8.6.3, 8.6.4 and 8.6.5, the Clearing House shall publish a Notice on the Website stating:

(a) that it may have insufficient resources;

(b) in the case of action to be taken under Rule 8.6.3, specifying the date on which an IRS VM Haircut Settlement Cycle will take place (which may be the date on which such Notice is published on the Website); and

(c) in the case of action to be taken under Rule 8.6.4, specifying the deadline by which the Clearing House must receive any IRS Optional Payment.

8.6.7 Any failure by the Clearing House to take any action under Rules 8.6.3 and/or 8.6.5 will not invalidate any action taken by the Clearing House pursuant to any other Rule nor give rise to any liability whatsoever on the part of the Clearing House.

8.6.8 If, having requested an IRS Optional Payment, the Clearing House determines it is again able to meet its obligations arising from IRS Contracts with non-defaulting IRS Clearing Members and all or part of the IRS Optional Payments received by the Clearing House have not been used, such unused IRS Optional Payments shall be returned to the relevant IRS Clearing Members in accordance with Rule 3.10 and if some but not all of the IRS Optional Payments received have not been used, IRS Optional Payments shall be returned to the relevant IRS Clearing Members pro-rata to the amount of each IRS Clearing Member’s IRS Optional Payment.
8.6.9 If, having taken the actions set out in Rules 8.6.3 to 8.6.5, the Clearing House determines that an IRS Limited Recourse Termination Event has occurred, the Clearing House may then take the actions set out in Rules 8.10.7 to 8.10.14.

8.6.10 Notwithstanding that this Rule 8.6 refers and gives rights and liabilities to “non-defaulting IRS Clearing Members”, the Clearing House may (in its sole discretion) determine at any time that all or any part of this Rule 8.6 (and the resulting rights and obligations) shall also apply to a Defaulting IRS Clearing Member.

8.7 Assessments following a Declaration of Default

Commodity Assessment

8.7.1 During each Commodity Cooling Off Period, the Clearing House shall have a right to collect from each non-defaulting Commodity Clearing Member an amount (in addition to the Contribution) that does not exceed a total of 550% (five hundred and fifty per cent) of its Contribution to the Commodity Guarantee Fund as at the date on which that Commodity Declaration of Default is issued.

8.7.2 The Clearing House may only use the amount referred to in Rule 8.7.1 if there remains an unsatisfied obligation after the Clearing House has used in full the contributions set out in Rules 8.6.1(a)(i) and 8.6.1(a)(ii) and in the following circumstances:

(a) if there are no further Commodity Declarations of Default during the relevant Commodity Cooling Off Period, the Clearing House may only use a total of 275% (two hundred and seventy five per cent) of each non-defaulting Commodity Clearing Member’s Contribution to the Commodity Guarantee Fund as at the date on which the first Commodity Declaration of Default in the relevant Commodity Cooling Off Period was issued; and

(b) if there are one or more further Commodity Declarations of Default during the relevant Commodity Cooling Off Period, the Clearing House may use a total of 550% (five hundred and fifty per cent) of each non-defaulting Commodity Clearing Member’s Contribution to the Commodity Guarantee Fund as at the date on which the first Commodity Declaration of Default in the Commodity Cooling Off Period was issued.

IRS Assessment

8.7.3 During each IRS Cooling Off Period, the Clearing House shall (subject to Rule 6.1.13) have a right to collect from each non-defaulting IRS Clearing Member an amount (in addition to the Contribution) determined by the Clearing House, using its Stress Test Methodology, that does not exceed such IRS Clearing Member’s proportionate share of
the theoretical third and fourth largest IRS Clearing Members’ losses produced by such Stress Test Methodology (such amount and proportionate share as determined by the Clearing House), provided that the theoretical third and fourth largest IRS Clearing Members’ losses produced by such Stress Test Methodology is subject to a minimum of 50% (fifty per cent.) of the total IRS Guarantee Fund prior to the start of the IRS Cooling Off Period.

8.7.4 The Clearing House may only use the amount referred to in Rule 8.7.3, if there remains an unsatisfied obligation after the Clearing House has used in full the Contributions set out in Rule 8.6.1(b)(i) and 8.6.1(b)(ii).

Assessments - General

8.7.5 Each non-defaulting Clearing Member is required to provide the Assessments to the Clearing House within one (1) hour of notification of such amount if notification is received during the hours when CHAPS is open and otherwise, within one (1) hour of the time at which CHAPS first opens after such notification. The Clearing Member agrees that the Clearing House may debit such amount from its Bank Account. Subject to the limits set out in Rules 8.7.1 and 8.7.3, a Clearing Member may be required to pay the Assessments in more than one instalment during a Cooling Off Period.

8.7.6 With respect to Assessments, the Clearing House shall use its reasonable endeavours to notify non-defaulting Clearing Members and provide estimates of the amounts required in advance of any formal notifications.

8.7.7 After each Cooling Off Period, each non-defaulting Clearing Member’s Contribution will be assessed pursuant to the Clearing House’s assessment methodology. The Clearing House shall notify each Clearing Member of the new amount of Contribution in accordance with Rule 7.2.

8.8 Termination relating to an Event of Default

8.8.1 During a Cooling Off Period, a non-defaulting Clearing Member may give written notice of its application to terminate its membership or a particular category of membership of the Clearing House in accordance with Rule 3.8. The Clearing House shall use reasonable endeavours to facilitate (but shall have no obligation to ensure) the termination of such non-defaulting Clearing Member’s membership during that Cooling Off Period.

8.8.2 A non-defaulting Clearing Member shall not have any obligations (and none of its assets, Contribution, Assessments or IRS Optional Payments shall be applied) in respect of any Event of Default occurring after the Membership Termination Date relating to that non-defaulting Clearing Member.
8.9 Notification to other Clearing Members and Clients and cooperation with the Regulatory Authorities

8.9.1 The Clearing House may notify the non-defaulting Clearing Members and their Clients of the actions taken under the Default Rules at various points in the process.

8.9.2 The Clearing House may share information (including information received from or about any Clearing Member), and otherwise cooperate, with any Regulatory Authority, clearing house or exchange and any insolvency practitioner in relation to the issue of a Declaration of Default.

8.10 Termination of all IRS Contracts

8.10.1 This Rule 8.10 is intended to form part of the default rules of the Clearing House (as contemplated in the Companies Act 1989, Part VII) to the extent that it relates to a Defaulting IRS Clearing Member.

Termination of IRS clearing services

8.10.2 The Clearing House may terminate all IRS Contracts in accordance with this Rule 8.10 at any time on or following:

(a) an IRS Planned Termination Event; or

(b) an IRS Limited Recourse Termination Event.

8.10.3 On and after the IRS Termination Date, each IRS Clearing Member shall:

(a) subject to Rule 8.10.3(c), cease to take any action in respect of its IRS Contracts;

(b) subject to Rule 8.10.3(c), not enter into any new IRS Contracts; and

(c) comply with any directions of the Clearing House.

IRS Planned Termination Event

8.10.4 Following an IRS Planned Termination Event, the Clearing House shall use its reasonable endeavours to transfer all or some IRS Contracts and related IRS Collateral of non-defaulting IRS Clearing Members to another clearing house which has agreed to accept such IRS Contracts. The Clearing House shall conduct any such transfer on such terms as may be agreed between it and the other clearing house. The IRS Clearing Members shall promptly take such actions as are reasonably requested by the Clearing House for this purpose.
8.10.5 If the Clearing House determines that a transfer pursuant to Rule 8.10.4 is not practicable in respect of all or some IRS Contracts, it shall give written notice to all IRS Clearing Members of the date of termination of all IRS Contracts and shall seek to discharge all of the non-defaulting IRS Clearing Members’ rights and liabilities under the IRS Contracts pursuant to Rule 8.10.6. Such written notice shall be given by the Clearing House publishing a Notice on the Website.

8.10.6 On or as soon as reasonably practicable after the IRS Termination Date with respect to an IRS Planned Termination Event, the Clearing House may take the following steps:

(a) run a final Settlement Cycle;

(b) terminate all IRS Contracts at the price determined in the final Settlement Cycle;

(c) notify each non-defaulting IRS Clearing Member of any Variation Requirement determined by the final Settlement Cycle which the non-defaulting IRS Clearing Member will pay in accordance with Rule 6.1.1; and

(d) on the basis of the final Settlement Cycle, determine the IRS Collect or the IRS Pay with respect to each Account of each non-defaulting IRS Clearing Member, on such terms as the Clearing House shall determine and the rights and liabilities of each IRS Clearing Member shall include all those arising in consequence of any such action taken by the Clearing House.

IRS Limited Recourse Termination Event

8.10.7 On or as soon as reasonably practicable after an IRS Limited Recourse Termination Event, the Clearing House may:

(a) publish a Notice on the Website informing IRS Clearing Members and specifying the date of the termination of all IRS Contracts; and

(b) seek to discharge all of the non-defaulting IRS Clearing Members’ rights and liabilities under the IRS Contracts pursuant to Rule 8.10.8.

8.10.8 On or as soon as reasonably practicable after the IRS Termination Date with respect to an IRS Limited Recourse Termination Event, the Clearing House may take the following steps:

(a) run a final Settlement Cycle (which may take place at any time of day);

(b) terminate all IRS Contracts at the price determined in the final Settlement Cycle;
(c) notify each non-defaulting IRS Clearing Member of any Variation Requirement determined by the final Settlement Cycle which the non-defaulting IRS Clearing Member will pay in accordance with Rule 6.1.1;

(d) on the basis of the final Settlement Cycle, determine the IRS Collect or the IRS Pay with respect to each Account of each non-defaulting IRS Clearing Member;

(e) calculate the IRS Variation Margin Requirement Haircut; and

(f) calculate the Allocated IRS Collect for each Account with an IRS Collect, on such terms as the Clearing House shall determine and the rights and liabilities of each IRS Clearing Member shall include all those arising in consequence of any such action taken by the Clearing House.

8.10.9 The obligations of the Clearing House to make payments in respect of IRS Contracts are limited as set out in Rule 2.4 and the IRS Clearing Members shall have no further recourse to the Clearing House other than as set out in Rule 2.4.

Payments following the IRS Termination Date

8.10.10 The Clearing House shall notify each non-defaulting IRS Clearing Member of the IRS Pay, IRS Collect or Allocated IRS Collect with respect to each of its Accounts.

8.10.11 Each non-defaulting IRS Clearing Member with an IRS Pay shall pay such amount to the Clearing House. Once the Clearing House is satisfied it has received all the IRS Pays, it shall make payment to each non-defaulting IRS Clearing Member with an IRS Collect or Allocated IRS Collect.

8.10.12 The Clearing House may adjust payments to account for the default of any IRS Clearing Member in settling an IRS Pay.

8.10.13 This Rule 8.10.13 applies if (having completed the process in Rule 8.10.8) the amount received by the Clearing House in respect of Aggregate IRS Pays exceeds the aggregate amount of Allocated IRS Collects. The Clearing House shall pay an amount equal to such excess in the following order:

(a) first, to reimburse non-defaulting IRS Clearing Members for an amount up to the amount by which their Allocated IRS Collect was less than their IRS Collect; and

(b) secondly, to reimburse amounts to the Clearing House and non-defaulting IRS Clearing Members in reverse order to the order in which assets were used in
accordance with Rule 8.6.1(b), starting with Rule 8.6.1(b)(iii) and ending with Rule 8.6.1(b)(i).

8.10.14 Notwithstanding that this Rule 8.10 refers and gives any liabilities to “non-defaulting IRS Clearing Members”, the Clearing House may (in its sole discretion) determine that at any time all or any part of this Rule 8.10 (and the resulting rights and obligations) shall also apply to a Defaulting IRS Clearing Member.

8.11 Following termination of all IRS Contracts

If, following termination of all IRS Contracts pursuant to Rule 8.10, the Clearing House decides to recommence clearing IRS Contracts, it will publish a Notice on its Website to that effect and IRS Clearing Members will be able to clear IRS Contracts provided that such IRS Clearing Members fulfil the Membership Criteria and otherwise comply with the Rules, including, without limitation, by making the required contribution to the Guarantee Fund(s) as recalculated at the appropriate time.
CHAPTER 9
COMPLAINTS AND ENFORCEMENT

9.1 Complaints

9.1.1 Any Complaint shall be made in accordance with the Complaints Procedure.

9.1.2 The Clearing House shall consider a Complaint in accordance with this Chapter 9 of the Rules and the Complaints Procedure:

   (a) a Clearing House Complaint shall be dealt with in accordance with the Complaints Procedure; and

   (b) if a Clearing Member Complaint alleges a breach of the Rules, the Clearing House will commence an Investigation and may commence Disciplinary Proceedings in accordance with the Rules.

9.1.3 The Clearing House shall notify a Clearing Member which makes a Clearing Member Complaint of the steps it has taken to review such Complaint and the outcome.

9.1.4 If the Clearing House, in its discretion, considers it appropriate or if it is otherwise required to do so under Applicable Law, the Clearing House may provide details to a Regulatory Authority about any Complaint, matter or concern which it considers requires investigation and about any outcome of an Investigation or Disciplinary Proceeding.

9.2 Investigations

9.2.1 The Clearing House may investigate breaches or alleged breaches of the Rules, whether or not such breaches or alleged breaches have arisen as a result of a Clearing Member Complaint, at its own instigation or otherwise in accordance with the provisions of Rule 9.3 (the Investigation).

9.2.2 A Clearing Member shall cooperate fully with any Investigation irrespective of whether such Clearing Member is the subject of or otherwise involved in the Investigation. Without limitation, each Clearing Member shall:

   (a) provide to the Clearing House such information in whatsoever form as the Clearing House may reasonably request, within the timescale specified;

   (b) permit Representatives of the Clearing House access, with or without notice, during business hours to any of the Clearing Member's business premises (which for the avoidance of doubt includes those premises in which records are stored) in order to carry out the Investigation;
(c) make its Representatives readily available for meetings with the Representatives of the Clearing House conducting the Investigation, as the Clearing House may reasonably request, and use its best endeavours to procure that such persons answer truthfully, fully and promptly, all questions that are put to them;

(d) produce and give the Representatives of the Clearing House conducting the Investigation reasonable access to documents, records, files, tapes and computer systems which are within the Clearing Member’s possession or control and provide any facilities which such Representatives may reasonably request; and

(e) print information in the Clearing Member’s possession or control which is held on computer or otherwise convert it into a readily legible document or any other record that may be reasonably requested by the Representatives of the Clearing House conducting the Investigation.

9.3 Investigation process

9.3.1 If the Clearing House considers that a Complaint, matter or concern requires investigation, the Clearing House shall issue a notice of Investigation (Investigation Notice) to the Clearing Member concerned to the effect that an Investigation has been commenced and setting out a brief description of the matter under Investigation.

9.3.2 Once the Clearing House has carried out the Investigation it shall send to the relevant Clearing Member a preliminary letter that describes its preliminary factual conclusions and the action it proposes to take in the light of such breach.

9.3.3 The Clearing House shall also invite the Clearing Member to either attend a meeting or to send written comments to the Clearing House, in each case, to enable the Clearing Member to correct any factual error that it reasonably considers has been made in the preliminary letter. After the meeting or the receipt of written comments from the Clearing Member, as the case may be, the Clearing House shall finalise its initial findings and present them in writing to the Clearing Member.

9.3.4 After sending its initial findings to the Clearing Member, the Clearing House may exercise one (1) or more of the following powers in relation to the Clearing Member concerned:

(a) decide that no further action should be taken against the Clearing Member;

(b) issue a private written warning to the Clearing Member;
(c) instigate Disciplinary Proceedings in accordance with Rule 9.4;

(d) carry out further enquiries if the Investigation indicates that this is necessary in order to conclude satisfactorily the Investigation; or

(e) refer all or a portion of the investigation to a Regulatory Authority.

9.3.5 The Clearing House shall notify the Clearing Member in writing of the power to be exercised. The Clearing House may, in an appropriate case, take different actions in relation to Clearing Members concerned in the same Disciplinary Proceedings or in different Disciplinary Proceedings on the same or similar facts.

9.4 Disciplinary Proceedings

9.4.1 The Clearing House shall commence the disciplinary proceedings set out in this Rule 9.4 (the Disciplinary Proceedings) only when it is reasonably satisfied that the Clearing Member has breached the Rules, whether as a result of an Investigation or otherwise.

9.4.2 The Clearing House may decide at any time to terminate the Disciplinary Proceedings or reach a settlement with the Clearing Member on such terms as it considers appropriate, at any stage during the Disciplinary Proceedings.

9.4.3 For the purposes of each Disciplinary Proceeding the Board of Directors shall nominate the members of a disciplinary panel, as it deems appropriate, which shall accordingly be referred to for the purposes of this Rule 9.4 as the Disciplinary Panel. The Disciplinary Panel will be comprised in accordance with 9.4.3(a) to 9.4.3(f) below:

(a) Each Disciplinary Panel shall consist of a chairman sitting with two other persons. Such persons, including the chairman, that are appointed to the Disciplinary Panel may be market practitioners, members of the Risk Committee, experts, lawyers or other suitable persons at the discretion of the Clearing House.

(b) Neither employees nor directors of the Clearing House shall be appointed to a Disciplinary Panel.

(c) No Clearing Member subject to disciplinary proceedings or any of their Affiliates, Representatives or customers shall be appointed to a Disciplinary Panel.

(d) No person shall serve on or sit with a Disciplinary Panel if he has a personal or financial interest in, or has been involved in any investigation into the matter under consideration.
(e) No person shall serve on or sit with a Disciplinary Panel if an undertaking with which he is associated has any commercial relationship with any of those parties listed in Rule 9.4.3(c) that may cause actual or potential material conflict.

(f) Expert assessors may be appointed, at the discretion of the Disciplinary Panel itself, to sit with and advise the Disciplinary Panel but not to vote.

9.4.4 In the event of any member of the Disciplinary Panel having or acquiring a personal, or financial interest in the outcome, or a commercial relationship as described in Rule 9.4.3(e), or in any other way being or becoming incapacitated or permanently unavailable, the chairman of the Disciplinary Panel (or in the case of the chairman of the Disciplinary Panel, the Chairman of the Board of Directors of the Clearing House) may direct that the Disciplinary Panel shall continue to act with a reduced number or appoint another person to take the place of the retiring member of the Disciplinary Panel (and the disciplinary proceedings shall then proceed as if such person had been originally appointed in lieu of the first person) or may direct that a new Disciplinary Panel should be appointed to rehear the matter.

9.4.5 In the event of equality of votes, the chairman shall have a second or casting vote in reaching any determination.

9.4.6 To commence the Disciplinary Proceedings the Clearing House shall send to the Clearing Member concerned a written notice (the Disciplinary Notice), which contains details of the alleged breach of the Rules and sufficient information to enable the Clearing Member to understand and respond to such allegations.

9.4.7 The Clearing Member shall have twenty (20) Business Days from receipt of the Disciplinary Notice to provide a statement of defence (the Defence) in respect of the allegations. The Defence shall set out the plea that the Clearing Member intends to make and any admissions of fact. If no Defence has been served within that timeframe the Clearing Member shall be deemed to have accepted the facts and matters alleged in the Disciplinary Notice.

9.4.8 After due consideration of the Defence, the Clearing House may either:

(a) proceed with the Disciplinary Proceedings;

(b) terminate the Disciplinary Proceedings; or

(c) amend the Disciplinary Notice in accordance with Rule 9.4.9.

9.4.9 The Clearing House may at any time amend a Disciplinary Notice provided that:

(a) the amendment is relevant to the allegation or breach of the Rules;
(b) the essential character of the allegation or the breach of the Rules has not been changed; and

(c) the Clearing Member would not be substantially prejudiced in any defence it may put before the Disciplinary Panel.

9.4.10 The Disciplinary Panel may order an adjournment at any stage upon an application by the Clearing House to enable an alleged separate or unrelated breach of the Rules which it reasonably believes the Clearing Member to have committed to be investigated further.

9.4.11 Following the amendment of a Disciplinary Notice, the Clearing Member shall have ten (10) Business Days to make any necessary changes to its Defence. If no amended Defence has been served within that timeframe the Clearing Member will be deemed to have accepted the facts and matters alleged in the amended Disciplinary Notice and indicated that its original Defence stands.

9.4.12 The Disciplinary Panel shall hear submissions on the matter of the alleged breach of the Rules and shall determine whether there has been a breach of the Rules and, if so, the appropriate sanction that shall be imposed. In carrying out this function, the Disciplinary Panel may adopt such procedure as it thinks fit. The Disciplinary Panel may:

(a) order the disclosure by the Clearing House or Clearing Member of such further information, documents or other evidence as may be necessary;

(b) issue directions and take such other steps as it considers appropriate to clarify the facts and issues and determine the case;

(c) if it considers appropriate, but only with the express agreement of the Clearing House and the Clearing Member concerned, decide to determine the case upon written submissions and evidence placed before it;

(d) in all other cases, give the opportunity to, or require, the Clearing House and the Clearing Member to attend hearings before the Disciplinary Panel and the Clearing House and the Clearing Member may call witnesses to give evidence and be questioned;

(e) allow the Clearing Member and the Clearing House to be assisted or represented by any person, whether or not legally qualified;

(f) require hearings to be held in private unless the Clearing Member or Clearing House requests otherwise and the other party consents; and

(g) appoint its own legal advisers.
9.4.13 The Disciplinary Panel shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged breach.

9.4.14 The Disciplinary Panel shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact made by a court or any other Regulatory Authority.

9.4.15 The Disciplinary Panel shall communicate in writing its findings and particulars of any sanction determined to the Clearing House and to the Clearing Member concerned. Such findings and sanctions shall be deemed conclusive and binding upon expiry of the time permitted for appeal or receipt by the Clearing House of any earlier written notice from the Clearing Member that such right of appeal will not be exercised. Subject to Rule 9.4.16(b), such findings and sanctions shall not be made public.

9.4.16 The Disciplinary Panel may impose one or more of the following sanctions:

(a) issue a private written warning to the Clearing Member;

(b) issue of a public notice of censure;

(c) impose a fine of any amount;

(d) require the disgorgement of any gain made by the Clearing Member or its Representatives in connection with the breach of the Rules;

(e) recommend to the Clearing House to suspend or terminate the membership, or a particular category of membership of the Clearing Member with immediate effect; or

(f) issue an order requiring the Clearing Member to take such steps including making an order for compensation, as the Disciplinary Panel may direct, to remedy the situation caused by the breach of the Rules.

9.4.17 The Disciplinary Panel has discretion as to the appropriate sanction in each case and such differentiation may take into account factors including whether the breach was deliberate or negligent, the seriousness of the consequences and whether the Clearing Member has since taken action to remedy the breach or prevent a recurrence.

9.4.18 The contravention of any sanction imposed or direction made under or pursuant to Rule 9.4.16 may be treated for all purposes as a breach of the Rules.

9.4.19 A Disciplinary Panel may order any party to the Disciplinary Proceedings to pay costs related to such proceedings as it thinks appropriate, including, but not limited to the
costs of running the Disciplinary Panel and including the reasonable costs of the Clearing House's and Disciplinary Panel's external advisers.

9.5 Appeals

9.5.1 Within ten (10) Business Days of receiving notice in writing of a decision of a Disciplinary Panel, or a notice of sanction (whichever is the later), a Clearing Member (whether current or former in the case of expulsion) or the Clearing House, or both, may appeal to the appeals body (the Appeals Body) by lodging with the Clearing House a notice of appeal in writing and by delivering a copy thereof to any other party to the Disciplinary Proceedings. The Clearing House shall refer the appeal to the Appeals Body within ten (10) Business Days of receipt of the appeal.

9.5.2 A notice of appeal shall set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the appellant. The grounds of the appeal may be any one or more of the following:

(a) the Disciplinary Panel's decision was:
   (i) arbitrary, capricious, or an abuse of its discretion; or
   (ii) based on a clearly erroneous application or interpretation of the Rules; or

(b) the sanction imposed by the Disciplinary Panel was excessive or, in the case of an appeal by the Clearing House, was insufficient or inappropriate.

9.5.3 In the case of appeal against a sanction, the Appeals Body may affirm, vary or revoke the sanction. The Appeals Body may make such order or give such direction as it considers fit including a direction for a rehearing of the case by another newly constituted Disciplinary Panel.

9.5.4 The Appeals Body shall consist of one (1) or more than one (1) persons who shall be nominated for the purposes of this Rule 9.5.4 by the Centre for Effective Dispute Resolution in London. Such person shall:

(a) be independent of the Clearing House, meaning for the purposes of these Rules, that such person is not and has not ever been an officer, director or employee of the Clearing House or an Affiliate;

(b) have appropriate experience of the clearing market and normal clearing operations; and

(c) have appropriate knowledge of the Clearing House, the Rules and relevant Applicable Law.
9.5.5 An Appeals Body may adopt such procedure as it thinks fit and just, including, without limitation, the procedures described in Rule 9.4.12 and shall notify the Clearing Member accordingly. The Appeals Body shall be bound by Rule 9.4.13. The appellant and the respondent shall be entitled to appear, make representations and (subject to any restriction on adducing new evidence), call witnesses, who may be examined and cross-examined at any hearing, which will not be held in public.

9.5.6 The decision of an Appeals Body shall be final and binding and there shall be no further appeal. The decision shall be supported with reasons and shall be notified to the appellant and respondent in writing without undue delay. The decision of an Appeals Body shall not be made public unless otherwise agreed between the appellant and the respondent.

9.6 Fines

9.6.1 The proceeds of any fine imposed by the Clearing House shall be used for the following purposes only:

(a) to meet expenses incurred by the Clearing House in the course of the Investigation, Disciplinary Proceeding or appeal from a Disciplinary Proceeding in respect of which it has been imposed;

(b) for the benefit of the Clearing Members generally; or

(c) for charitable purposes.
10.1 Introduction and Definitions

10.1.1 The Clearing House is a designated system for the purposes of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (the Settlement Finality Regulations) in respect of Transfer Orders and default arrangements and certain other matters relating to the Clearing House. In addition, Part VII of the Companies Act 1989 (the Companies Act 1989) applies in respect of Contracts, the Default Rules and certain other matters relating to the Clearing House. The rules of the Designated System comprise this Chapter 10 (Settlement Finality) and the custody agreement the Clearing House has entered into with the Custodian (the Custody Agreement), the settlement bank agreements the Clearing House has entered into with the Settlement Banks (the Settlement Bank Agreements) and the cash reinvestment agreements the Clearing House has entered into with the Cash Reinvestment Agreements (the Cash Reinvestment Agreements) (together these shall be known as the Settlement Finality Rules).

10.1.2 The purpose of the Settlement Finality Regulations is to allow a system which effects securities and payments transfers to apply to be a designated system and thereby to have the benefit of certain modifications to the general law of insolvency. The modifications seek to minimise the disruption to a system caused by insolvency proceedings brought against a participant in such system. The aim is to ensure that in insolvency proceedings transactions that have been settled in the system are final and irrevocable and to strengthen the enforceability of collateral security. In order to receive these protections, a system must meet the criteria set out in the Settlement Finality Regulations and be designated by the FSA or the Bank of England.

10.1.3 Clearing Members, being participants of the Designated System, are also subject to various obligations and requirements as a result of the Settlement Finality Regulations and Companies Act 1989. Clearing Members must comply with, facilitate compliance by the Clearing House with, and comply with any action taken by the Clearing House pursuant to, the Settlement Finality Regulations and the Companies Act 1989.

10.2 Definitions

Cash Reinvestment Agent means an agent through which the Clearing House invests Collateral and/ or Contributions;
**Designated System** means the standardised formal arrangements, common rules and procedures as set out in the Rules and the Settlement Finality Rules (to the extent applicable), and related functionality which:

(a) enables the Clearing House to give instructions to transfer to Clearing Members amounts of money on the accounts of certain banks, credit institutions, investment firms or settlement agents;

(b) enables the Clearing House to give instructions on behalf of Clearing Members and to transfer to the Clearing House amounts of money on the accounts of certain banks, credit institutions, investment firms or settlement agents;

(c) enables the Clearing House to give instructions to a Custodian to arrange for the transfer of title to, and interest in, Securities and cash;

(d) enables Clearing Members to give instructions to any of their custodians or the operators of securities depositories to transfer title to, and interest in, Securities and cash;

(e) enables the Clearing House to give instructions to any of its Cash Reinvestment Agents to arrange for the transfer of title to, and interest in, cash;

(f) enables the Clearing House to become central counterparty to Clearing Members in respect of Transactions;

(g) enables the Clearing House and Clearing Members to fulfill the obligations they incur in respect of Contracts and otherwise to one another pursuant to the Rules;

(h) enables transfers, assignments and novations, however effected, of Contracts between Clearing Members in accordance with the Rules including following a Declaration of Default; and

(i) facilitates supplementary and incidental matters to the satisfaction of obligations pursuant to Contracts and the collection and payment of amounts due in accordance with the Rules.

**Participant** means the Clearing House, each Clearing Member, each Settlement Bank, each Custodian and each Cash Reinvestment Agent that are participants (as defined in the Settlement Finality Regulations) in the Designated System (and this Chapter 10 shall apply equally to any insolvency practitioner appointed for, or with powers in respect of, a Participant).
Payment Transfer Order has the same meaning as in the Settlement Finality Regulations.

Securities has the same meaning as in the Settlement Finality Regulations.

Securities Transfer Order has the same meaning as in the Settlement Finality Regulations.

Transfer Order means a Payment Transfer Order or a Securities Transfer Order.

10.3 Transfer Orders Arising

10.3.1 The points at which a Transfer Order takes effect as having been entered into the Designated System are when:

Securities Transfer Orders

(a) the Clearing House sends an instruction to a Custodian by SWIFT message or such other form as set out in the Custody Agreement to receive title to, and interest in, Eligible Securities from an account of the Clearing Member in an account of the Clearing House pursuant to Rule 6.1.6 (a Securities Substitution);

(b) the Clearing House sends an instruction to a Custodian by SWIFT message or such other form as set out in the Custody Agreement to transfer the title to, and interest in, Eligible Securities from an account of the Clearing House to an account of the Clearing Member pursuant to Rule 6.1.6 (a Securities Return);

(c) a Contract is registered by the Clearing House in the Clearing System in accordance with Rule 5.2 (a Contract Order);

(d) the transfer, assignment or novation of any Contract from a Clearing Member to a Transferee Clearing Member occurs pursuant to Rule 5.3 (a Contract Transfer);

(e) the transfer of an Affected Contract from the Defaulting Clearing Member to another Clearing Member occurs (an Affected Contract Transfer);

(f) the transfer of Eligible Securities by the Clearing House from a Clearing Member or a Defaulting Clearing Member to another Clearing Member occurs in respect of a Contract Transfer or an Affected Contract Transfer (a Securities Collateral Transfer);
(g) the Clearing House sends an instruction to a Custodian by SWIFT message or such other form as set out in the Custody Agreement to transfer the title to, and interest in, Eligible Securities from an account of the Clearing House to an account of the Defaulting Clearing Member or its insolvency practitioner pursuant to the Default Rules (a Securities Collateral Return);

**Payment Transfer Orders**

(h) the Clearing House sends an instruction to a Settlement Bank, by SWIFT message or such other form as set out in the relevant Settlement Bank Agreement, to transfer to the Clearing House an amount of money to be debited from an account of the Clearing Member with the Settlement Bank pursuant to the Rules including in respect of Contracts, Collateral, Contribution, fees and charges, interest on Eligible Cash and Equivalent Distributions (a **Receipt**);

(i) the Clearing House sends an instruction to a Settlement Bank, by SWIFT message or such other form as set out in the relevant Settlement Bank Agreement, to transfer to a Clearing Member an amount of money to be debited from an account of the Clearing House pursuant to the Rules including in respect of Contracts, Collateral, Contribution, interest on Eligible Cash and Equivalent Distributions from the Clearing House’s account at the Settlement Bank to the Clearing Member’s account at the Settlement Bank (a **Payment**);

(j) the transfer of Eligible Cash by the Clearing House from a Clearing Member or a Defaulting Clearing Member to another Clearing Member occurs in respect of a Contract Transfer or an Affected Contract Transfer (a **Cash Collateral Transfer**);

(k) the Clearing House sends an instruction to a Settlement Bank, by SWIFT message or such other form as set out in the relevant Settlement Bank Agreement, to transfer to a Defaulting Clearing Member or its insolvency practitioner an amount of money to be debited from an account of the Clearing House pursuant to the Default Rules (a **Cash Collateral Return**);

(l) the Clearing House sends an instruction to the Custodian, by SWIFT message or such other form as set out in the Custody Agreement, to transfer to the Clearing House or a Clearing Member an amount of money to be debited from an account of the Clearing House with the Custodian as permitted by the Custody Agreement (a **Custody Cash Transfer**);
(m) the Clearing House sends an instruction to the Cash Reinvestment Agent, by SWIFT message or such other form as set out in the Cash Reinvestment Agreement, to transfer to the Clearing House an amount of money to be debited from an account of the Clearing House with the Cash Reinvestment Agent or an account of the Cash Reinvestment Agent as permitted by the Cash Reinvestment Agreement (a Reinvestment Cash Transfer).

10.4 Transfer Orders Irrevocable

10.4.1 The points at which a Transfer Order may not be revoked are:

**Securities Transfer Orders**

(a) in respect of a Securities Substitution, the time at which the Securities are transferred to an account in respect of which the Clearing House is beneficially entitled by settlement system or book transfer or the time at which the Custodian confirms to the Clearing House by SWIFT message or such other form as set out in the Custody Agreement that such transfer will be made or that such transfer has been made, whichever is earlier;

(b) in respect of a Securities Return, the time at which the Securities are transferred from an account in respect of which the Clearing House is beneficially entitled by settlement system or book transfer or, provided it is later, the time at which the Custodian confirms to the Clearing House by SWIFT message or such other form as set out in the Custody Agreement that such transfer has been made;

(c) in respect of a Contract Order, from the time of its registration by the Clearing House in the Clearing System in accordance with Rule 5.2;

(d) in respect of a Contract Transfer, the time at which the Clearing House’s books and records are updated to reflect a successful Contract Transfer;

(e) in respect of an Affected Contract Transfer, the time at which the Clearing House’s books and records are updated to reflect a successful Affected Contract Transfer;

(f) in respect of a Securities Collateral Transfer, the time at which the Clearing House’s books and records are updated to reflect a successful Securities Collateral Transfer;

(g) in respect of a Securities Collateral Return, the time at which the Securities are transferred from an account in respect of which the Clearing House is beneficially entitled by settlement system or book transfer or, provided it is later,
the time at which the Custodian confirms to the Clearing House by SWIFT message or such other form as set out in the Custody Agreement that such transfer has been made;

**Payment Transfer Orders**

(h) in respect of a Receipt, the time at which the Settlement Bank gives confirmation to the Clearing House by SWIFT message type MT910 (Confirmation of Credit) or, in the event of a failure of the SWIFT system or access to the SWIFT system failing, by fax or in another form agreed in the relevant Settlement Bank Agreement, that such payment will be made or that such payment has been made by book transfer, whichever is earlier;

(i) in respect of a Payment, the time at which the Settlement Bank gives confirmation to the Clearing House by SWIFT or, in the event of a failure of the SWIFT system or access to the SWIFT system failing, by fax or in another form as agreed in the relevant Settlement Bank Agreement, that such payment has been made by book transfer;

(j) in respect of a Cash Collateral Transfer, the time at which the Clearing House's books and records are updated as a result of a successful transfer to reflect the Cash Collateral Transfer;

(k) in respect of a Cash Collateral Return, the time at which Settlement Bank gives confirmation to the Clearing House by SWIFT or, in the event of a failure of the SWIFT system or access to the SWIFT system failing, by fax or in another form as agreed in the relevant Settlement Bank Agreement, that such payment has been made by book transfer;

(l) in respect of a Custody Cash Transfer, the time at which the Custodian gives confirmation to the Clearing House by SWIFT or, in the event of a failure of the SWIFT system or access to the SWIFT system failing, by fax or in another form as agreed in the Custody Agreement of such debit of cash from the account of the Clearing House with the Custodian;

(m) in respect of a Reinvestment Cash Transfer, the time at which the Cash Reinvestment Agent gives confirmation to the Clearing House by SWIFT or, in the event of a failure of the SWIFT system or access to the SWIFT system failing, by fax or in another form as agreed in the Cash Reinvestment Agreement of such credit of cash to the account of the Clearing House or such other account as instructed by the Clearing House;
10.4.2 A Transfer Order shall not be revoked or purport to be revoked by any Participant (or any insolvency practitioner appointed in relation to the Participant), and shall be binding on all such persons, after the times specified in this Rule 10.4 as being the time at which such Transfer Order becomes irrevocable.

10.4.3 If two or more Transfer Orders exist in respect of the same obligation before becoming irrevocable, all such Transfer Orders shall be valid. No duplication of an obligation to pay should be considered valid and should not be considered as duplicate solely on the grounds that they relate to the same obligation.

10.5 Further provisions on Transfer Orders

10.5.1 No Transfer Order shall arise, enter the Designated System or become irrevocable except as set out in the Settlement Finality Rules.

10.5.2 A Transfer Order and the provisions relating to it under this Chapter 10 of the Rules are not dependent on the validity of the Contract to which it relates.

10.6 Provision of Information

10.6.1 The Clearing House and any Participant must provide, upon payment of a charge as may be required by the Clearing House or a Participant, the following information to any person who requests it, save where the request is frivolous or vexatious, within fourteen (14) days of a request being made:

(a) details of the Designated System; and

(b) information about the main rules governing the functioning of the Designated System.

10.6.2 The Clearing House will provide a copy of the information referred to in Rule 10.6.1 to any Clearing Member upon request.

10.6.3 Each Participant will provide to the Clearing House such information as the Clearing House may reasonably require from time to time in order to meet its obligations as operator of the Designated System.

10.7 Notice to the FSA and Bank of England

10.7.1 Each Participant shall notify the Chief Operating Officer of the Clearing House, the Manager of the Markets Division of the FSA and the Manager of the Payment Systems Oversight Financial Resilience Division of the Bank of England forthwith in the event that:
(a) a creditors’ voluntary winding up resolution is passed in respect of the Participant;

(b) a trust deed granted by the Participant becomes a protected trust deed; or

(c) any analogous event occurs in respect of the Participant under the laws of a jurisdiction other than England.

10.7.2 Any such notice shall be given in writing and delivered in person or sent by recorded or special delivery post to the recipient. If delivered in person, it shall be deemed to be given when left at the relevant address. If sent by recorded or special delivery post, it shall be deemed to be given two Business Days after posting.

10.7.3 The addresses for notices are set out below:

CME Clearing Europe Limited
One New Change
London EC4M 9AF

Financial Services Authority
25 The North Colonnade
London E14 5HS

Bank of England
Threadneedle Street
London EC2R 8AH
CHAPTER 11
CONTRACT PERFORMANCE

11.1 Cash Settlement

11.1.1 A Contract shall be settled only in cash on its expiration if pursuant to the applicable Contract Specification there is an obligation to make or receive a payment in cash.

11.1.2 Where a Clearing Member enters into a Contract subject to cash settlement and such Contract is not closed out prior to its expiration, the Clearing Member with an obligation to make a payment under the Contract shall pay all amounts due in accordance with the Contract Specification and the applicable Procedures.

11.2 Physical Delivery

11.2.1 A Clearing Member shall have in place all necessary arrangements with delivery facilities and/or settlement agents as described in the Delivery Procedures and/or the Contract Specification to facilitate the delivery of the underlying commodity, asset or instrument before the Clearing Member is eligible to clear a Transaction subject to physical delivery with the Clearing House.

11.2.2 A Contract shall be subject to physical delivery on its expiration if pursuant to the applicable Contract Specification there is an obligation to make or to take delivery of a commodity, asset or other such instrument, as described in the relevant Contract Specification.

11.2.3 Where a Clearing Member enters into a Contract subject to physical delivery and such Contract is not closed out prior to its expiration, the Clearing Member shall be liable to make delivery or receive delivery, as appropriate, of the commodity, asset or other such instrument and/or to make any corresponding cash payment in accordance with the Contract Specification and the applicable Procedures.

11.2.4 Where a Clearing Member enters into a Contract subject to physical delivery, the Clearing Member shall provide to the Clearing House all information relating to delivery facilities, locations, accounts and other relevant information as requested by the Clearing House to be used to fulfil delivery, as set out in the applicable Procedures.

11.3 Option Premium

11.3.1 A Clearing Member entering into a Transaction in respect of an option with an obligation to pay shall pay the option premium amount in accordance with the Contract Specification.
11.4 Delivery Failure

11.4.1 A Clearing Member shall ensure that any settlement and/or delivery obligations in respect of a Contract shall occur in accordance with the timings as described in the Contract Specification.

11.4.2 In the event a Clearing Member fails to perform its delivery obligations to the Clearing House:

(a) The Clearing Member shall indemnify the Clearing House in accordance with Rules 2.3.1 and 2.3.2;

(b) The Clearing House may declare an Event of Default in accordance with Rule 8.2.1; and

(c) The Clearing House may, at its absolute discretion, take any other action as it deems appropriate to remedy the delivery failure at any stage (including but not limited to the right to purchase or sell, as applicable, the commodity, asset or other such instrument subject to delivery).

11.4.3 Without prejudice to the generality of Rules 2.3.1 and 2.3.2, in the event a Clearing Member fails to fulfil its specific delivery obligations, the sole obligation of the Clearing House is to pay reasonable damages proximately caused by such delivery obligation failure to Clearing Members which are adversely affected by the delivery obligation failure, in an amount which shall not exceed the difference between the delivery price of the specific commodity and the reasonable market price of such commodity at the time delivery is required according to the Contract Specification. The Clearing House shall not be obliged to:

(a) make or accept delivery of the actual commodity; or

(b) pay any damages relating to the accuracy, genuineness, completeness, or acceptability of certificates, instruments, warehouse receipts, shipping certificates, or other similar documents.

11.4.4 For the avoidance of doubt, the Clearing House’s liability in relation to the delivery failure will be limited to those liabilities as set out in the Rules.

11.4.5 Notwithstanding any provisions in the Rules, with respect to Contracts where delivery obligations are fulfilled directly between Clearing Members in accordance with the Procedures, the Clearing House shall have no obligation or liability to any Clearing Member or any other person relating to a failure to fulfil a delivery obligation unless it is notified by the Clearing Member that performed, or was in a position to perform its
delivery obligations, that a failure occurred, as soon as possible, but in no event later than sixty minutes after the time the delivery obligation was to have been fulfilled according to the Rules.