

Via CFTC Portal

12nd December 2016

Mrs. Parisa Abadi

Commodity Futures Trading Commission
1155 21st Street NW
Three Lafayette Centre
Washington DC 20581

Dear Mrs. Abadi,

Pursuant to CFTC regulation §40.6(a), LCH SA (“**LCH**”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “**CFTC**”), is submitting for self-certification the amendments to the CDS Clearing Rule Book and Procedures (the “**Rules**”) related to the LCH’s application for registration with the US Securities and Exchange Commission (“**SEC**”) as a clearing agency under the Securities Exchange Act of 1934 (“**Act**”).

The registration with the SEC is expected around 22 December 2016 but in no event, the amendments made to the Rules will be implemented earlier than 10 business days after they are filed with the CFTC.

The submission changes made to the Rules are attached hereto as Appendix.

Part I: Explanation and Analysis

The purpose of these amendments is mainly to ensure that clearing members will not clear single names for US clients as we are applying for a clearing agency licence with the SEC for house activity only and to add relevant references to the future status of LCH SA as a Clearing Agency, relevant rules applicable to a Clearing Agency and the SEC as the future competent authority of LCH SA.

Part II: Description of Rule Changes

The following Rules have been amended:

(i) CDS Clearing Rule Book :

- Section 1.1.1: new definitions of “Clearing Agency”, “Exchange Act”, “Non-U.S. CCM”, “Non-U.S. CCM Client”, “SBS”, “SEC”, “SEC Regulations”, “U.S. CCM” and “U.S. CCM Client” and amendments to the definition of “CFTC Regulations” and “Competent Authority”
- Article 2.3.5.1
- Article 3.1.11.2
- Article 4.3.3.5
- Article 5.1.1.2
- Article 6.1.1.2

- Article 6.2.5.1
- Clause 3.3 of Appendix 1 of the CDS Clearing Rule Book

(ii) Section 4 of the Procedures

- Amendments to indents (A) and (B) of Paragraph 4.1 (c) (iii)
- New indents (iv), (v) and (ix) in Paragraph 4.1 (c)
- New sub-paragraph at the end of Paragraph 4.1 (c)

Part III: Core Principle Compliance

LCH will continue to comply with all Core Principles following the introduction of this change and has concluded that its compliance with the Core Principles would not be adversely affected by this change.

Part IV: Public Information

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

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

Part V: Opposing Views

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

Certification

LCH hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in the Commission regulation § 40.6, that attached rule submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated there under.

Should you have any questions please contact me at: françois.faure@lch.com.

A handwritten signature in blue ink, appearing to read 'Faure', is written over a horizontal line.

Francois Faure
Chief Compliance Officer
+33 1 70 37 65 96

APPENDIX

- 1) Extracts of the draft CDS Clearing Rule Book including the amendments related to Clearing Agency licence;
- 2) CDS Clearing Procedures.

Extracts of the draft CDS Clearing Rule Book including the Clearing Agency licence related amendments

Amended provisions
CFTC Regulations: The rules and regulations promulgated by the CFTC and <u>any interpretive guidance issued by the CFTC or its staff.</u>
Clearing Agency: A clearing agency as defined in Section 3(a)(23) of the Exchange Act and registered as such with the SEC.
Competent Authority: Other than for LCH SA, any authority which: (i) is recognised as such by a Person’s home Member State under the terms of CRD or MiFID; or (i) has concluded a cooperation agreement with the French Competent Authorities in respect of exercising a regulatory or supervisory function under the laws of any jurisdiction to which a Person is subject, and for LCH SA, each of the AMF, the <i>Autorité de Contrôle Prudentiel et de Résolution</i> , the <i>Banque de France</i> , the CFTC, <u>the SEC</u> , any successor body of any of the foregoing and any other body which has concluded a cooperation agreement with the AMF, the <i>Autorité de Contrôle Prudentiel et de Résolution</i> , the <i>Banque de France</i> in respect of exercising a regulatory or supervisory function under the laws of any jurisdiction and designated as such by LCH SA from time to time.
Exchange Act: <u>The U.S. Securities Exchange Act of 1934, as amended.</u>
Non-U.S. CCM: <u>When used in the context of an Original Transaction that is an SBS, a “Non-U.S. CCM” shall mean a CCM that is not a U.S. Person as that term is defined under SEC Regulations. When used in the context of an Original Transaction that is not an SBS, a “Non-U.S. CCM” shall mean a CCM that is not a U.S. Person as that term is defined under CFTC Regulations.</u>
Non-U.S. CCM Client: <u>When used in the context of an Original Transaction that is an SBS, a “Non-U.S. CCM Client” shall mean a CCM Client that is not a U.S. Person as that term is defined under SEC Regulations. When used in the context of an Original Transaction that is not an SBS, a “Non-U.S. CCM Client” shall mean a CCM Client that is not a U.S. Person as that term is defined under CFTC Regulations.</u>
SBS: <u>Any security-based swap, as that term is defined in Section 3(a)(68) of the Exchange Act and the SEC Regulations thereunder.</u>
SEC: <u>The U.S. Securities and Exchange Commission.</u>

SEC Regulations: The rules and regulations promulgated by the SEC and any interpretive guidance issued by the SEC or its staff

U.S. CCM: When used in the context of an Original Transaction that is an SBS, a “U.S. CCM” shall mean a CCM that is a U.S. Person as that term is defined under SEC Regulations. When used in the context of an Original Transaction that is not an SBS, a “U.S. CCM” shall mean a CCM that is a U.S. Person as that term is defined under CFTC Regulations.

U.S. CCM Client: When used in the context of an Original Transaction that is an SBS, a “U.S. CCM Client” shall mean a CCM Client that is a U.S. Person as that term is defined under SEC Regulations. When used in the context of an Original Transaction that is not an SBS, a “U.S. CCM Client” shall mean a CCM Client that is a U.S. Person as that term is defined under CFTC Regulations.

Article 2.3.5.1

Each Clearing Member shall maintain current written risk management policies and procedures that address the risks that it may pose to the CDS Clearing Service provided by LCH SA, including any policies and procedures that LCH SA may reasonably request be incorporated therein. Upon the request of LCH SA (or the CFTC, [the SEC](#), the AMF or the *Autorité de Contrôle Prudentiel et de Résolution*, as applicable), a Clearing Member shall promptly provide LCH SA (or the CFTC, [the SEC](#), the AMF or the *Autorité de Contrôle Prudentiel et de Résolution*, as applicable) with a copy of its current policies and procedures, along with relating information and documents including, without limitation, information and documents relating to the liquidity of the Clearing Member’s financial resources and its settlement procedures.

LCH SA shall periodically review the risk management policies, procedures, and practices of each Clearing Member, which address the risks that such Clearing Member may pose to LCH SA. All such reviews shall be documented and maintained in accordance with LCH SA’s recordkeeping policy.

Article 3.1.11.2

LCH SA shall submit any report required under Part 45 of the CFTC Regulations [and/or applicable SEC Regulations for SBS trade reporting](#) in respect of any Cleared Transactions, in accordance with Section 5 of the Procedures.

Article 4.3.3.5

To the extent that:

- (i) the porting of the Relevant Client Cleared Transactions of the Defaulting Clearing Member, pursuant to the CDS Default Management Process;
- (ii) liquidation of the Defaulting Clearing Member’s House Cleared Transactions, pursuant to the CDS Default Management Process; or
- (iii) liquidation of the Non-Ported Cleared Transactions, pursuant to the CDS Default Management Process;

requires new Cleared Transactions to be created in the TIW reflecting another Clearing Member as counterparty to the Cleared Transaction, LCH SA will have to submit these Cleared Transactions to DTCC in accordance with Article 3.1.10.2 (or Article 3.1.10.3, as the case may be), provided that LCH

SA will submit any reports required under Part 45 of the CFTC Regulations and/or applicable SEC Regulations for SBS trade reporting in accordance with Section 5 of the Procedures.

Article 5.1.1.2

CDS Client Clearing Services may be provided by a CCM to its CCM Clients on whatever terms the CCM decides should apply provided, however, that:

- (i) if that CCM is a Select Member, it shall not provide CDS Client Clearing Services to any CCM Client;
- (ii) each CCM shall, before providing CDS Client Clearing Services to any client, ensure that it has entered into a CDS Client Clearing Agreement pursuant to which the CCM Client agrees, among others, to be bound by the Mandatory Client Clearing Provisions;
- (iii) Client Cleared Transactions, Collateral provided by a CCM to LCH SA in respect of Client Cleared Transactions and CCM Client Excess Collateral if any, shall always be separately identified by the CCM to LCH SA, in accordance with Section 3 of the Procedures;
- ~~(iv) each CCM shall be obliged to provide LCH SA with any information that LCH SA may reasonably require in relation to the CDS Client Clearing Services provided by that CCM to its CCM Clients;~~
- ~~(v) a Non-U.S. CCM shall not provide CDS Client Clearing Services to any U.S. CCM Client with respect to an Original Transaction that is an SBS, as set out in Section 4 of the Procedures, and a U.S. CCM shall not provide CDS Client Clearing Services to any CCM Client with respect to an Original Transaction that is an SBS, as set out in Section 4 of the Procedures; and~~
- ~~(vi) a CCM shall not provide CDS Client Clearing Services to any U.S. CCM Client (other than a U.S. CCM Client that is an Affiliate of the CCM) with respect to an Original Transaction that is not an SBS, unless the CCM:
 - ~~(a) is registered with the CFTC as an FCM; and~~
 - ~~(b) has provided LCH SA with an opinion of counsel confirming that the provision of CDS CCM Client Clearing Services to any U.S. CCM Client would not be contrary to Applicable Law, in form and content acceptable to LCH SA.~~~~

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Article 6.1.1.2

An FCM Clearing Member may provide CDS Clearing Services to a Client (or, if permitted pursuant to Article 6.1.1.1, an Affiliate) on any terms and conditions mutually agreed to by it and such Person; provided, however, that:

- (i) if that FCM Clearing Member is a Select Member, it shall not provide CDS Client Clearing Services to any FCM Client;
- ~~(ii) an FCM Clearing Member shall, before providing CDS Clearing Services to any Client or Affiliate, ensure that it has entered into an agreement, or an addendum to an existing agreement, with such Person, that binds such Person to the applicable provisions of the CDS Clearing Rules (including the FCM CDS Clearing Regulations) by direct reference thereto or~~

otherwise, and any other provisions as shall be agreed from time to time between LCH SA and FCM Clearing Members, or as may be prescribed by LCH SA;

(iii) an FCM Clearing Member shall notify LCH SA of each Affiliate for which it provides CDS Clearing Services;

(iv) an FCM Clearing Member shall provide, and separately identify, to LCH SA Client Cleared Transactions and Collateral in respect of Client Cleared Transactions (in the aggregate);

~~(v) an FCM Clearing Member may deliver, and shall separately identify, to LCH SA Collateral as FCM Client Collateral Buffer; and~~

~~(vi) an FCM Clearing Member shall not (1) provide CDS Client Clearing Services to any FCM Client or (2) submit for clearing any Original Transaction to be registered in its House Account Structure for any person other than itself, with respect to any Original Transaction that is an SBS, as set out in Section 4 of the Procedures.~~

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Article 6.2.5.1

[...]

(iii) FCM Client Collateral Buffer. An FCM Clearing Member may deposit Collateral that is the property of such FCM Clearing Member (and not of any of its FCM Clients) with LCH SA as FCM Client Collateral Buffer for the benefit of all of its FCM Clients, subject to the following provisions and the provisions of Article 6.2.4.4 (ii):

(a) The FCM Clearing Member shall not, and represents to LCH SA that it shall not, deposit an amount of FCM Client Collateral Buffer with LCH SA that, in combination with any other money, securities or other property deposited by it with any other Derivatives Clearing Organization or Clearing Agency, in a manner whereby such FCM Clearing Member is assumed to be the sole legal and beneficial owner of such property, to meet the aggregate obligations of its Cleared Swaps Customers, exceeds its residual financial interest in its aggregate Cleared Swaps Customer Collateral. For purposes of this provision, the terms “Cleared Swaps Customer” and “Cleared Swaps Customer Collateral” have the meaning set out in CFTC Regulation 22.1 and the term “residual financial interest” has the meaning as contemplated in CFTC Regulation 22.2(e)(4) and (g).

Appendix 1

3.3 FCM Clearing Members

LCH SA and Clearing Members agree that, where an Event of Default as defined in Article 4.3.3.1 (v) or (vi) has been declared in respect of an FCM Clearing Member in accordance with the CDS Clearing Rule Book, this CDS Default Management Process shall be carried out:

- 3.3.1** in accordance with Regulation 4 of the FCM CDS Clearing Regulations, applicable US law and regulation (including but not limited to, as applicable, the requirements of the CEA, CFTC Regulations, the Exchange Act, SEC Regulations and applicable bankruptcy laws regarding the liquidation or transfer of FCM Cleared Transactions) and any directions issued by a Competent Authority and/or a duly appointed trustee for the liquidation of the Defaulting FCM Clearing Member; and
- 3.3.2** in a manner that ensures the segregation of Client Assets attributable to FCM Cleared Transactions cleared on behalf of FCM Clients as is required by the CEA and CFTC Regulations, in accordance with Regulation 6 of the FCM CDS Clearing Regulations.

DRAFT FOR DISCUSSION PURPOSES ONLY



CDSClear

LCH SA CDS Clearing Procedures

Section 4 - Eligibility Requirements, Eligible Index Versions and Eligible Reference Entities

 **2016**

Supprimé: 18 April

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**SECTION 4 – ELIGIBILITY REQUIREMENTS, ELIGIBLE INDEX VERSIONS
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Capitalised terms used in this Eligibility Requirements, Eligible Index Versions and Eligible Reference Entities Procedure and not otherwise defined herein shall have the meaning given pursuant to the remainder of the CDS Clearing Documentation or the ISDA Credit Derivatives Definitions, as such terms are defined in the document entitled "CDS Clearing Rule Book" published by LCH SA, as amended from time to time.

4.1 ELIGIBILITY REQUIREMENTS

- (a) LCH SA provides CDS Clearing Services in relation to Original Transactions which comply with the requirements set out in paragraph 4.1(c) below (the "**Eligibility Requirements**").
- (b) Following receipt from DTCC of the Gold Records File on a Weekly Backloading Start Day, LCH SA will extract the Original Transaction Data in relation to the relevant Backloading Transaction. Such Backloading Transaction will then be subject to the Eligibility Controls pursuant to Article 3.1.1.3 of the CDS Clearing Rule Book.
- (c) The following criteria shall constitute the Eligibility Requirements of an Original Transaction for the purposes of Section 3.1.1 (*Weekly Backloading Cycle*), Section 3.1.2 (*Daily Backloading Cycle*) and Section 3.1.4 (*Intraday Process*) of the CDS Clearing Rule Book:
 - (i) the relevant Clearing Member is not: (I) a Clearing Member that has been suspended in accordance with Section 2.4.1 (*Suspension*) of the CDS Clearing Rule Book; (II) a Defaulting Clearing Member; (III) a Clearing Member in respect of which a Payment Failure has occurred and is continuing; or (IV) a Clearing Member that is no longer permitted to introduce risk to LCH SA in accordance with Section 2.2.4 of the CDS Clearing Rule Book;
 - (ii) LCH SA is permitted, pursuant to Applicable Law, to clear such Original Transaction for the relevant Clearing Member's own account (or for that of its Client or Affiliate, as applicable);
 - (iii) the Original Transaction is:
 - (A) subject to [paragraphs 4.1\(c\)\(iv\)-\(v\) and](#) paragraph 4.2 below, a CDS referencing an Index Version provided that the following requirements, as set out in the Eligible Index Versions List (as such terms are defined in paragraph 4.2(d) below) are met:
 - (1) the Index Version is an Eligible Index Version (as such terms are defined in paragraph 4.2(b) below);
 - (2) the term is an Eligible Term (as such term is defined in paragraph 4.2(c) below); and
 - (3) the currency of the Original Notional Amount is eligible for clearing; or

- (B) subject to [paragraphs 4.1\(c\)\(iv\)-\(v\) and paragraph 4.3](#) below, a CDS referencing a single Reference Entity [\(a "Single Name CDS"\)](#), provided that the following requirements are met:
- (1) the Reference Entity is an Eligible Reference Entity (as such term is defined in paragraph 4.3(a) below) in respect of the relevant ISDA Credit Derivatives Definitions;
 - (2) the Reference Obligation is an Eligible Reference Obligation (as such term is defined in paragraph 4.3(b)(ii) below) for such Reference Entity in respect of the relevant ISDA Credit Derivatives Definitions;
 - (3) in respect of an Original Transaction which incorporates the Credit Derivatives Physical Settlement Matrix: the Transaction Type is an Eligible Transaction Type (as such term is paragraph 4.3(b)(iv) below);
 - (4) in respect of an Original Transaction which does not incorporate the Credit Derivatives Physical Settlement Matrix: such Original Transaction is documented by a master confirmation which sets out terms which are substantially similar to those provided for in the Credit Derivatives Physical Settlement Matrix in respect of an Eligible Transaction Type;
 - (5) in respect of an Eligible Transaction Type which is "Standard North American Corporate" (as such term is defined in the Physical Settlement Matrix), "Restructuring" is not specified as "Applicable";
 - (6) the currency of the Floating Rate Payer Calculation Amount is eligible for clearing;
 - (7) the Fixed Rate is an Eligible Fixed Rate for such Reference Entity (as such term is defined in paragraph 4.3(b)(i) below);
 - (8) the Fixed Rate Payer Payment Dates are 20 March, 20 June, 20 September and 20 December (each such date, a "**Standard Payment Date**");
 - (9) the Scheduled Termination Date is an Eligible Scheduled Termination Date (as such term is defined in paragraph 4.3(b)(vii) below); and
 - (10) the Reference Entity is neither the relevant Clearing Member, an Affiliate of the relevant Clearing Member nor, where the relevant Clearing Member has also entered into a Client Transaction corresponding to such Original Transaction, the relevant Client or an Affiliate of the Client.

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The requirements mentioned in sub-paragraphs (1), (2), (6) and (8) are set out in the Eligible Reference Entities List (as such term is defined in paragraph 4.3(c) below).

For the avoidance of doubt, the requirements set out in this sub-paragraph 4.1(c)(iii) are checked solely on the basis of the Original Transaction Data received from an Approved Trade Source System or DTCC, as applicable. LCH SA is not aware of, and does not check, the actual terms of the confirmation of the Original Transactions;

(iv) in respect of an FCM Client, a U.S. CCM Client of a Non-U.S. CCM or a CCM Client of a U.S. CCM, the Original Transaction may not be a Single Name CDS or any other SBS identified as such in a Clearing Notice;

(v) in respect of a Non-U.S. CCM Client, the Original Transaction may not be a Single Name CDS or any other SBS identified as such in a Clearing Notice unless such transaction is cleared through a Non-U.S. CCM;

(vi) the Original Transaction references an Eligible Index Version or an Eligible Reference Entity which has a First Novation Date that has occurred on or prior to the Clearing Day on which the Original Transaction is received by LCH SA and a Novation Cut-off Date that has not occurred on or prior to such Clearing Day;

(vii) in respect of an Intraday Transaction, the trade reference for each of the protection buyer and protection seller, in respect of such Original Transaction, to be used when booking the trade in DTCC has been included together with the Transaction Data;

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(viii) in respect of a Daily Backloading Transaction, the Daily Backloading Novation Day does not fall on the day preceding a Standard Payment Date; and

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(ix) the clearing of the Original Transaction by LCH SA will not result in a breach by a Clearing Member of its obligations under any Applicable Law.

For the purpose of the application of sub-paragraphs (iv) and (v) above, a CCM (and not LCH SA) shall be responsible for (i) determining whether each of its CCM Clients is a Non-U.S. CCM Client or a U.S. CCM Client, and (ii) informing the CDS Clear Business Development & Relationship Management team of such determination when providing the Client Clearing Form (as such term is defined in Section 1 of the Procedures), or thereafter by email at cdsclearbusinessdevrm@lch.com if a change of status occurs in respect of a CCM Client. LCH SA shall not be held liable for any such determinations made by a CCM.

(d) The Eligibility Requirements shall be deemed satisfied if the relevant Original Transaction is not rejected, pursuant to the CDS Clearing Rule Book, prior to the Novation Time.

(e) If the Eligibility Requirements set out in paragraphs 4.1(c) above are deemed satisfied at the Novation Time in respect of an Original Transaction, pursuant to paragraph 4.1(d) above, then LCH SA shall, in accordance with Section 3.1.1 (*Weekly Backloading Cycle*), Section 3.1.2 (*Daily Backloading Cycle*) and Section 3.1.4

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(*Intraday Process*) of the CDS Clearing Rule Book, as applicable, novate such Original Transaction in accordance with Section 3.1.6 (*Novation Process*) of the CDS Clearing Rule Book.

- (f) For the avoidance of doubt, Article 3.1.6.4 of the CDS Clearing Rule Book shall apply regardless of whether the Eligibility Requirements were in fact satisfied.

4.2 ELIGIBLE INDEX VERSIONS

- (a) “**Index Version**” is defined as a version of a CDS index series as issued by the Index Publisher.
- (b) LCH SA will, in consultation with the CDSClear Product Committee, identify the Index Versions which shall be considered as “**Eligible Index Versions**”.
- (c) With respect to each Eligible Index Version, LCH SA will, in consultation with the CDSClear Product Committee, determine, without limitation:
 - (i) each term which is eligible for clearing (an “**Eligible Term**”); and
 - (ii) the currency of the Original Notional Amount which is eligible for clearing.
- (d) The Eligible Index Versions identified in accordance with paragraph 4.2(a) as well as the Eligible Terms shall be set out in a table published on the Website (the “**Eligible Index Versions List**”).
- (e) LCH SA may, in consultation with the CDSClear Product Committee, amend the Eligible Index Versions List and following such amendment will inform the Clearing Members of:
 - (i) in the case of an addition of an Eligible Index Version to such list, the relevant First Novation Date; or
 - (ii) in the case of a deletion of an Eligible Index Version from such list, the relevant Novation Cut-off Date.
- (f) Notwithstanding the above:
 - (i) a Novation Cut-off Date or a First Novation Date arising as a result of the occurrence of a Credit Event or a Succession Event shall be determined in accordance with the CDS Clearing Supplement; and
 - (ii) if and for so long as any Clearing Member has one or more Open Position(s) registered in any of its Margin Accounts, such Clearing Member may submit for clearing an Original Transaction which does not meet the Eligibility Requirements set out in paragraph 4.1(c)(iv) pursuant to the CDS Clearing Documentation if such Original Transaction is a risk reducing transaction (as determined by LCH SA) in respect of the relevant Margin Account and it is not unlawful or illegal for LCH SA to accept such Original Transaction for clearing.

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4.3 ELIGIBLE REFERENCE ENTITIES

- (a) LCH SA will, in consultation with the CDSClear Product Committee, identify the Reference Entities which shall be considered as “**Eligible Reference Entities**” under each of the 2003 ISDA Credit Derivatives Definitions and the 2014 ISDA Credit Derivatives Definitions.
- (b) With respect to each Eligible Reference Entity under the 2003 ISDA Credit Derivatives Definitions and/or the 2014 ISDA Credit Derivatives Definitions, LCH SA will, in consultation with the CDSClear Product Committee, determine, without limitation, the following characteristics:
- (i) each Fixed Rate that is eligible for clearing (an “**Eligible Fixed Rate**”);
 - (ii) each Reference Obligation that is eligible for clearing (an “**Eligible Reference Obligation**”);
 - (iii) the Reference Obligation under which the Cleared Transaction(s) on the Eligible Reference Entity will be registered (the “**CDSClear Preferred Reference Obligation**”) where no Standard Reference Obligation is published for this Eligible Reference Entity;
 - (iv) the Transaction Type that will be eligible for clearing with respect to each relevant Eligible Reference Entity (the “**Eligible Transaction Type**”);
 - (v) the currency(ies) of the Floating Rate Payer Calculation Amount that is, or are, eligible for clearing with respect to each relevant Eligible Reference Entity;
 - (vi) the date of publication of the Credit Derivatives Physical Settlement Matrix which the Cleared Transaction(s) on the Eligible Reference Entity will reference (the “**Relevant Physical Settlement Matrix**”); and
 - (vii) each Scheduled Termination Date that is eligible for clearing (the “**Eligible Scheduled Termination Date**”).
- (c) The Eligible Reference Entities identified in accordance with paragraph 4.3(a) above as well as the characteristics mentioned in paragraph 4.3(b) above shall be set out in a table published on the Website (the “**Eligible Reference Entities List**”).
- (d) LCH SA may, in consultation with the CDSClear Product Committee, amend the Eligible Reference Entities List by issuing a Clearing Notice. Any such Clearing Notice shall specify:
- (i) in the case of an addition of an Eligible Reference Entity to such list, the relevant First Novation Date;
 - (ii) in the case of a deletion of an Eligible Reference Entity from such list, the relevant Novation Cut-off Date; or
 - (iii) in the case of an amendment to the characteristics of any Eligible Reference Entity, the Clearing Day on which such amendment shall take effect in accordance with Article 1.2.2.8 of the CDS Clearing Rule Book.

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- (e) Notwithstanding the above:
- (i) a Novation Cut-off Date or a First Novation Date arising as a result of the occurrence of a Credit Event, a Succession Event or a Rename Event shall be determined in accordance with the CDS Clearing Supplement; and
 - (ii) if and for so long as any Clearing Member has one or more Open Position(s) registered in any of its Margin Accounts, such Clearing Member may submit for clearing an Original Transaction which does not meet the Eligibility Requirements set out in paragraph 4.1(c)(iv) pursuant to the CDS Clearing Documentation if such Original Transaction is a risk reducing transaction (as determined by LCH SA) in respect of the relevant Margin Account and it is not unlawful or illegal for LCH SA to accept such Original Transaction for clearing.