

## (I) CLEARING PROCEDURES

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#### IMPORTANT NOTICE

The ICNL Rules, Procedures and Policies including the present document contain some provisions which are only relevant to markets, contract types and client categories for which ICNL does not provide services as per the date of this document (but may do so in the future). This applies in particular to: (i) provisions which support the provision of clearing services to Clearing Members which are registered as Futures Commission Merchants with the CFTC and/or as Broker-Dealers with the SEC; and (ii) to provisions supporting collateral provision by way of pledge or charge or under a Gold Addendum.

Readers of this document are requested to note that ICE Clear Netherlands is authorised as a central counterparty under EMIR to clear derivative contracts relating to equity securities (including indices of equity securities) only.

Please refer to <https://www.theice.com/clear-netherlands> for further guidance.

## 1. SYSTEMS

- 1.1 The Clearing House's primary systems, to which Clearing Members require interfaces, consist of:
- (a) Post-trade administration/clearing and settlement processing: ICE clearing systems including ECS (as defined in the Delivery Procedures), ICE FEC (as defined in the Delivery Procedures) and Guardian (or any successor system) and UCP (or any successor system) (the "**ICE Post Trade and Clearing Systems**" or the "**ICE Systems**");
  - (b) Risk management: the ICE Systems and ICE® Risk Model ("**IRM**");
  - (c) Banking: ECS;
  - (d) Deliveries: ICE in-house system and, for Financials & Softs Contracts, Guardian (or any successor system);
  - (e) Billing: ICE in-house system; and
  - (f) Reporting and data file downloads: MFT (as defined in the Delivery Procedures).
- 1.2 These Clearing Procedures deal primarily with matters relating to post-trade administration, clearing and settlement and risk management. Details relating to finance and deliveries are set out in the Finance Procedures and Delivery Procedures respectively.
- 1.3 Clearing Members should immediately inform the Clearing House of any event, system-related or otherwise, that would prevent them from operating timely and accurately on the Markets cleared by the Clearing House. Clearing Members must, at all times, ensure that they are able to continuously monitor communication facilities for receipt of communications from the Clearing House.
- 1.4 [Not Used].
- 1.5 These Clearing Procedures are "Procedures" as defined in the ICE Clear Netherlands rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. Subject to paragraphs 1.6 to 1.11 below, these Clearing Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with the laws of the Netherlands and any Dispute under these Clearing Procedures will be subject to arbitration under Rule 117.
- 1.6 Solely as between an FCM/BD Clearing Member and the Clearing House, paragraphs 3, 4 and 6 of these Clearing Procedures inasmuch as they relate solely to an issue or matter concerning:
- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
  - (b) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraphs 1.6 to 1.11 of these Clearing Procedures (such

provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- 1.7 For the avoidance of doubt, paragraph 1.6 is an exception to paragraph 1.5 and Rule 102(s) which provide that the Clearing Procedures and Rules respectively shall be governed by and construed in accordance with the laws of the Netherlands. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.6, the following are governed by and shall be construed in accordance with the laws of the Netherlands in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:
- (a) all of the provisions of these Clearing Procedures relating to the Designated System;
  - (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member on the one hand and the Clearing House on the other hand;
  - (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;
  - (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member;
  - (e) any matter relating to Charged Collateral or a Charged Collateral Addendum; and
  - (f) the Contract Terms of all Contracts.
- 1.8 Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "**New York Courts**"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:
- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
  - (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- 1.9 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.8 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to

which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 heard in the New York Courts.

- 1.10 Nothing in paragraphs 1.5 to 1.11 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- 1.11 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE CLEARING PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
  - (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.5 TO 1.11.

## **2. TRADE CLEARING AND POSITION MANAGEMENT**

### **2.1 The Clearing Systems**

- (a) The components of the ICE Systems are licensed to, and supplied and maintained for the benefit of, the Clearing House. The ICE Systems are integrated trade registration and clearing processing systems used for the clearing of the relevant Market.
- (b) The ICE Systems work together to process transactions from the time of trading and entry into the system, through the maintenance and settlement of Open Contract Positions, the calculation of Margin, and the delivery/expiry of Contracts.

### **2.2 Trade registration and clearing process**

- (a) The instant a Contract arises pursuant to Rule 401, the Clearing House becomes the buyer to the Selling Counterparty and the seller to the Buying Counterparty.
- (b) Data in relation to matched trades will automatically pass to the ICE Systems.
- (c) The ICE Systems receive details of trades in real-time from the relevant Market. It allows Clearing Members and their Representatives to perform the following functions, among others:
  - (i) assign trades to one of various sub-accounts (or position-keeping accounts) described below;
  - (ii) allocate trades to other Clearing Members as allowed under Rule 408(a)(ii) and Market Rules or between position keeping accounts;

- (iii) accept trades allocated or split by other Clearing Members (within one hour of trading) as allowed under Rule 408(a)(ii) and Market Rules;
  - (iv) allocate or split trades between different position keeping accounts;
  - (v) enter position settlement instructions; and
  - (vi) view trading history and status of trades.
- (d) Clearing Members should refer to the ICE Systems user guides for more detailed information concerning the ICE Systems' functionality.
- (e) The ICE Systems will allow Clearing Members and their Representatives to perform the following functions, among others:
- (i) monitor Open Contract Positions;
  - (ii) close out open Contracts by netting off equal and opposite Contracts in its Customer Accounts;
  - (iii) process physical delivery of Deliverables pursuant to Futures Contracts;
  - (iv) review Margin requirements; and,
  - (v) exercise or abandon Option Contracts.
- (f) A number of reports are available in the ICE Systems, the list and details of which are available in the ICE Systems user guide and other supporting Clearing House documentation.
- (g) In the event of any system errors or other systemic issues connected with the ICE Systems, Clearing Members should contact the Clearing House's operations department.
- (h) In the event of any processing errors or error in communications with the Clearing House, Clearing Members should contact the Clearing House's operations department.

### 2.3 Position keeping

- (a) Position-keeping activities are governed by Market Rules. In the event of any conflict between these Clearing Procedures and Market Rules in relation to position-keeping, Market Rules shall prevail.
- (b) Open Contract Positions can be maintained in several position-keeping accounts within the ICE Systems, identified in the ICE Systems by one letter as follows:
1. Position keeping-accounts linked to a Proprietary Account for purposes of the Rules (all Clearing Members):
    - (i) H – house;
    - (ii) L - individual trader (not available for FCM Clearing Members);
    - (iii) N – gross-maintained sub-account with no automatic contractual netting.

- (iv) G – gas associate (not available for FCM Clearing Members);
- (v) U – unallocated (for intra-day usage only);
- (vi) M – Liquidity Provider; and
- (vii) such other sub-accounts as are made available to Clearing Members for Proprietary Accounts by the Clearing House.

2. Additional position-keeping accounts linked to a separate Proprietary Account from that under 2.3(b)(1), only for FCM/BD Clearing Members:

- (viii) F – this or the next position-keeping account shall be used for all positions related to affiliates of FCM/BD Clearing Members, which positions must not be recorded in any of the accounts referred to in 2.3(b)(1); uses a gross margin model.
- (ix) R – or the previous position-keeping account shall be used for all positions related to affiliates of FCM/BD Clearing Members, which positions must not be recorded in any of the accounts referred to in 2.3(b)(1); uses a net margin model.

3. Position-keeping accounts linked to a Customer Account for FCM/BD Clearing Members:

- (x) S - maps to the Non-DCM/Swap Customer Account or General Customer Account; uses a gross margin model;
- (xi) E - maps to the Non-DCM/Swap Customer Account or General Customer Account, which if the same kind of Account will be to the same Account as that in S; uses a net margin model, and available for usage only in circumstances where net margin models are permissible under Applicable Laws;
- (xii) W – maps to DCM Customer Account; uses a gross margin model; and
- (xiii) [Not Used].

4. Position-keeping-accounts linked to a Customer Account for Non-FCM/BD Clearing Members which are regulated by the Financial Conduct Authority and to whom the client money rules in CASS apply:

- (xiv) S – maps to a Segregated Customer Omnibus Account which is different and separate from that in E, F or K, uses a gross margin model;
- (xv) E - maps to a different, separate Segregated Customer Omnibus Account from that in S, F or K, uses a net margin model;
- (xvi) F – maps to a different, separate Segregated Customer Omnibus Account from that used for S, E or K; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a gross margin model;
- (xvii) R – maps to a different, separate Segregated Customer Omnibus Account from that used for S, E or F; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a net margin model;

- (xviii) T – Segregated TTFCA Customer – maps to Segregated TTFCA Customer Omnibus Account which is different and separate from that in R; uses a gross margin model;
- (xix) K – maps to a different, separate Segregated TTFCA Customer Omnibus Account from that used in T; uses a net margin model;
- (xx) I – maps to Margin-flow Co-mingled Accounts for Segregated Customers;
- (xxi) J – maps to Margin-flow Co-mingled Accounts for Segregated TTFCA Customers;
- (xxii) O – maps to a Standard Omnibus Indirect Account; uses a gross margin model;
- (xxiii) X – maps to a different Standard Omnibus Indirect Account from that in O; uses a net margin model;
- (xxiv) P – maps to a Standard TTFCA Omnibus Indirect Account; uses a gross margin model;
- (xxv) Y – maps to a Standard TTFCA Omnibus Indirect Account; uses a net margin model;
- (xxvi) A – maps to Segregated Gross Indirect Accounts for Segregated Customers; and
- (xxvii) B – maps to Segregated Gross Indirect Accounts for Segregated TTFCA Customers.

5. Position-keeping -accounts linked to a Customer Account for a Clearing Member which is neither (i) an FCM/BD Clearing Member nor (ii) a Non-FCM/BD Clearing Members falling under (2.) above:

- (xxviii) S – maps to a Segregated Customer Omnibus Account which is different and separate from that in E, F, K, T or R, uses a gross margin model;
- (xxix) T – as S, but maps to a different, separate Customer Account from that in S, E, K, F or R;
- (xxx) E – maps to a different, separate Segregated Customer Omnibus Account or Segregated TTFCA Customer Omnibus Account from that in S, T, K, F or R; uses a net margin model;
- (xxxi) K – as E, but maps to a different, separate Account from that in S, T, E, F or R;
- (xxxii) F – maps to a different, separate Segregated Customer Omnibus Account or Segregated TTFCA Customer Omnibus Account from that in S, T, E, K or R; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a gross margin model;
- (xxxiii) R – maps to a different, separate Segregated Customer Omnibus Account or Segregated TTFCA Customer Omnibus Account from that in S, E, F, T or K; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a net margin model;
- (xxxiv) I – maps to Margin-flow Co-mingled Accounts;
- (xxxv) J – maps to different Margin-flow Co-mingled Accounts to those in I;



- (xxxvi) O – maps to a Standard Omnibus Indirect Account or Standard TTFCOA Omnibus Indirect Account, which is different and separate from that in X, P or Y; uses a gross margin model;
  - (xxxvii) X – maps to a different, separate Standard Omnibus Indirect Account or Standard TTFCOA Omnibus Indirect Account, from that in O, P or Y; uses a net margin model;
  - (xxxviii) P – as O, but maps to a different Standard Omnibus Indirect Account or Standard TTFCOA Omnibus Indirect Account, from that in O, X or Y; uses a gross margin model;
  - (xxxix) Y – as X but maps to a different Standard Omnibus Indirect Account or Standard TTFCOA Omnibus Indirect Account, from that in O, X or P; uses a net margin model;
  - (xl) A – maps to Segregated Gross Indirect Accounts; and
  - (xli) B - maps to different Segregated Gross Indirect Accounts to those in A.
- (c) Clearing Members may maintain separate position-keeping accounts for each Exchange member for whom they provide clearing services. Where this is the case, a series of additional position-keeping accounts of the Clearing Member that are referable solely to the Exchange member may be established within the Clearing House's systems. These Exchange member specific position-keeping accounts shall exist in addition to the position-keeping accounts of the Clearing Member (of which that Exchange member is a Customer) and may use some of the same terminal codes (e.g. N, H, U, S) or a different three-letter mnemonic from that of the Clearing Member. Notwithstanding paragraph 2.3(b) and even if the terminal codes of such position-keeping accounts would otherwise refer to a Proprietary Account of the Clearing Member under paragraph 2.3(b), such Exchange member-related position-keeping accounts shall all link solely to the relevant Customer Account of the Clearing Member in which the Exchange member is interested and will not link to the Clearing Member's Proprietary Account (unless the Clearing Member is an FCM/BD Clearing Member and the Exchange member is one in respect of which, under the Rules and Clearing Procedures, the Clearing Member may record positions in the Proprietary Account).
- (d) Where a Clearing Member holds accounts of Exchange members who are not Clearing Members, the mapping of these accounts to a Customer Account or Proprietary Account will be determined by the Clearing Member in conjunction with the relevant Market.
- (e) [Not Used].
- (f) In paragraph 2.3(b)(2), the term "affiliate" with respect to an FCM/BD Clearing Member means a Person (other than the FCM/BD Clearing Member) that is an owner or holder of a "proprietary account" (as defined in CFTC Rule 1.3) or "cleared swaps proprietary account" (as defined in CFTC Rule 22.1) carried by such FCM/BD Clearing Member. In paragraphs 2.3(b)(4) and 2.3(b)(5), the term "affiliate" means an undertaking that is in the same "group" (as defined in EMIR) as the Clearing Member.

## 2.4 Open Contract Positions and Close-outs

- (a) The H, L, M and G sub-accounts will only reflect net Open Contract Positions. Systematic netting will take place before any Option exercise or delivery allocation.



- (b) The N sub-account and all Customer Accounts hold gross Contracts, showing all sell and all buy positions that have not been netted or closed out (in the case of position-keeping sub-accounts linked to Customer Accounts to the extent that there is more than one Customer interested in the Account). The ICE Systems and Rule 406 allow Clearing Members to close out opposite Contracts that are held gross in certain circumstances. In order to ensure a true representation of Open Contract Positions, Clearing Members may be required to perform manual close-outs (netting) in the sub-accounts where gross Open Contract Positions are maintained. Clearing Members are responsible for inputting any required manual netting or close-out instructions in relation to such sub-accounts.
- (c) Any close-outs should be performed in a fashion and at a time in accordance with Market Rules and in any event before Options expire or delivery processes commence. Position transfers between sub-accounts in the ICE Systems must be complete at or before the time specified by the relevant Market from time to time in order to be reflected in Open Contract Positions and Margin calls calculated at the end of that day.
- (d) For Non-FCM/BD Clearing Members, Customer-CM Transactions arise only in respect of transactions recorded in a position-keeping account linked to a Customer Account.

## 2.5 Invoicing Back, Void Contracts, etc.

- (a) Any Contracts which are subject to Invoicing Back will be reflected by the entry into by the Clearing House through the ICE Systems of a new Contract of opposite effect to the original Contract (or pursuant to such other terms or prices as are determined by the Clearing House pursuant to the Rules). Clearing Members will be notified of Contracts subject to Invoicing Back or amendment by the Clearing House's operations department. Each such event will be confirmed in writing.
- (b) Any Contracts which are void or voided will be deleted from the ICE Systems by the Clearing House. Clearing Members will be notified of Contracts which are void or voided by the Clearing House's operations department. Each such event will be confirmed in writing.
- (c) The Clearing House may make other trade or Open Contract Position adjustments as directed by the relevant Market. In each such event, the Clearing House's operations department will contact the Clearing Member and confirm such a djustment in writing.

## 2.6 Clearing Members shall bear the risk of any instructions which are given incorrectly or late to the Clearing House.

## 2.7 Message Format

- (a) This paragraph 2.7 applies to all Contracts. This paragraph 2.7 sets forth examples of situations in which Contracts will be rejected by the Clearing House as void Contracts pursuant to Rule 403(a) or Contracts that the Clearing House has the discretion to avoid pursuant to Rule 404(a).
- (b) A Contract may be rejected by the Clearing House, if:
  - (i) the Clearing Member to be recognised by its trader initials is unknown;
  - (ii) the Clearing Member is not approved and/or no longer admitted by the Clearing House;

- (iii) the relevant market member code is unknown or not approved or no longer admitted by the Clearing House; or
  - (iv) the ISIN code of the underlying is not of a type recognised by the Clearing House.
- (c) In the case of a rejected Contract, the Clearing House will contact the relevant Market in order for the Market to provide details of a new Contract or corrected details to the Clearing House for both sides of the Contract. The Clearing House will make available to Clearing Members intra-day and end-of-day reports on the Contract so made.

### 3. FINANCIAL ACCOUNTS

#### 3.1 Margining accounts

- (a) While Open Contract Positions are held in several different sub-accounts through the ICE Systems, the margining of Open Contract Positions will take place as follows:
- (i) H, L, G, M, N and U will be margined together via the house account (referred to as a "Proprietary Account" under the Rules), with F and R for FCM/BD Clearing Members margined via a separate Proprietary Account;
  - (ii) S and O will be margined via a General Customer Account or Non-DCM/Swap Customer Account of FCM/BD Clearing Members; or in the case of S only, to the relevant Customer Account for Non-FCM/BD Clearing Members; and for FCM/BD Clearing Members, E will be margined via the same Accounts as that used for S and O;
  - (iii) for Non-FCM/BD Clearing Members, E, F, K, T, R, O, X, P and Y will each be margined separately via the relevant Customer Account, which is a separate Customer Account in each case;
  - (iv) payments and collections on I and J will be margined on a net or gross basis across all Margin-flow Co-mingled Accounts in the relevant sub-account of the Clearing Member or on an Account by Account basis, in accordance with Rule 302;
  - (v) payments and collections on A and B will be margined on a net or gross basis across all Segregated Gross Indirect Accounts in the relevant sub-account of the Clearing Member or on an Account by Account basis, in accordance with Rule 302;
  - (vi) W and P will be margined via a "DCM Customer Account" under the Rules (this may also be referred to as CSEGW); and
  - (vii) [Not Used].
- (b) Save as provided for I, J, A and B sub-accounts of the same Clearing Member in paragraph (a) and Rule 302, each separate Proprietary Account and Customer Account will be subject to calculations and calls for Margin separately. Transfers or offsets between any two such Accounts will not be possible. These Accounts are also all treated separately following any Event of Default, under Part 9 of the Rules. Where a Clearing Member requests more than one Proprietary Account or more than one Customer Account of the same Customer Account Category, the Clearing Member may request to be set up on the Clearing House's systems as if it were two Clearing Members and, where this approach is adopted, each Account of the same

Customer Account Category will use the same sub-account code but with a different Clearing Member mnemonic (see paragraph (c) below). Any such additional Customer Account may be dedicated for purposes of indirect clearing of positions relating to the indirect clients of a Customer of the Clearing Member.

- (c) Records of all financial information including, but not limited to, Margin requirements, cash balances, collateral, contingent Margin, Buyer's security and Seller's security will be held in ECS within the ICE Systems. The naming convention for the sub-accounts in ECS used for Contracts will be the Clearing Member's three letter mnemonic followed by the sub-account code (e.g. XXXH for house / linked to a Proprietary Account). Margin-flow Co-mingled Accounts may also be established operationally using a dedicated three letter mnemonic referencing the Customer.
- (d) Clearing Members can find more information about ECS functions and facilities in the ICE Systems user guide.

### 3.2 Guaranty Fund account

- (a) Each Clearing Member's Guaranty Fund Contribution will be recorded in a separate sub-account, recorded in ECS under the name XXXH-GUAR.

**Table A: Summary of sub-account Codes**

Position Account	ICE Systems Term	ECS Term	ECS Account name	Rulebook
N/A	N/A	Guaranty Fund Account	XXXH-GUAR	Guaranty Fund Contribution
H L G M U N	House Individual Trader Gas Associate Liquidity Provider Unallocated Non-segregated	House Account (H)	XXXH (may also be referred to as HOUSE segregation)	Proprietary Account
F	Affiliates	Affiliate Account (F or R)	XXXF XXXR	Proprietary Account for FCM/BD Clearing Member affiliate business. Customer Account for non-FCM/BD Clearing Members: see paragraph 2.3.
S E K T	Segregated Customer or Segregated TTFC Customer	Client Account (C)	XXXC (may also be referred to as CSEG segregation) (and for those accounts available to FCMs only, may be referred to as Secured or 30.7 segregation) XXXS XXXE	A Customer Account: see paragraph 2.3.

Position Account	ICE Systems Term	ECS Term	ECS Account name	Rulebook
			XXXX XXXT	
I or J	Individually Segregated Operationally Co-mingled (ISOC)	ISOC	XXXI or XXXJ (whether using Clearing Member's or Customer's mnemonic)	Customer Accounts that are Margin-flow Co-mingled Accounts
W	DCM Client	DCM Client Account (W)	XXXW (may also be referred to as CSEGW segregation, or Regulated or 4d(a) segregation)	DCM Customer Account
O X P Y	Indirect Clearing – Standard Omnibus (Non-FCM/BD Clearing Members)  Indirect clearing position accounts (FCM/BD Clearing Members)	O X P Y	XXXO XXXX XXXP XXXY (may also be referred to as CSEGO, CSEGX, CSEGP or CSEGY segregation) (and for those accounts available to FCMs only, may be referred to as Secured or 30.7 segregation)	For non-FCM/BD Clearing Members, a Customer Account that is a Standard Omnibus Indirect Account.  For FCM/BD Clearing Members, a position keeping an account linked to a Customer Account.
A B	Indirect Clearing – Segregated Accounts	A B	XXXA XXXB	Customer Accounts that are Segregated Gross Indirect Accounts.

#### 4. MARGIN PROCEDURES

##### 4.1 General

The matters described in this paragraph 4 will be recorded through ECS and will form part of the Clearing House's daily Margin processes. Margin requirements will determine whether funds are needed to be paid to, or received from, the relevant Clearing Member. Any required payments will be effected through Target2 Central Banks or Approved Financial Institutions that participate in the assured payment system (APS), as described in the Finance Procedures.

##### 4.2 Original Margin

- (a) Original Margin calculations are made separately in respect of each of a Clearing Member's Proprietary Accounts and Customer Accounts. No Margin offset is possible between any of these accounts. Original Margin calculations for each Proprietary Account will be based on the

net positions for each Contract Set, rather than the sum of the gross positions for a Set. Customer Accounts are margined either on the basis of the net risk position across all Customers with related positions in the Account or on the basis of the gross positions of each Customer with related positions in the Account, in each case based on the records submitted by the relevant Clearing Member under Rule 401 and in the way set out in paragraph 2.3(b).

- (b) Original Margin parameters are set by the Clearing House within the framework of the policy reviewed by the Clearing House's risk committee.
- (c) The Clearing House will notify Clearing Members of any change to Original Margin parameters by Circular no later than the day before calls are made based on the new parameters. For routine changes, the Clearing House will provide five Business Days' advance notice of changes to Margin parameters, unless another period is specified in the relevant Circular.
- (d) Original Margin requirements will be calculated at close of business on a daily basis, for both Proprietary Accounts and Customer Accounts. Original Margin is calculated using the IRM algorithm

#### 4.3 Variation Margin

With the exception of Premium Up-Front Options (discussed in paragraph 4.4(c) below), all open Contracts are marked to market daily in accordance with the Contract Terms (which includes any applicable Market Rules). Profits and losses are credited to or debited from the relevant Nominated Customer Bank Account or Nominated Proprietary Bank Account of each Clearing Member as set out in the Finance Procedures.

#### 4.4 Options Premium

- (a) The Clearing House clears two types of Options, both of which are types of Contracts with different margining methodology, "**Premium Up-Front**" and "**Future-Style**".
- (b) Future-Style Options (e.g. Brent) are marked to market and subject to Variation Margin calls daily in the same way as for Future Contracts.
- (c) Premium Up-Front Options (e.g. emissions) are subject to a full premium charge or credit on the day on which the Option Contract first arises under the Rules (i.e. the day of trading) as part of the overnight margining process. After the premium has been paid, net liquidating value ("NLV") will be calculated on each Business Day based on the relevant Exchange Delivery Settlement Prices. For persons who are Long in respect of an Option, any positive value in respect of NLV will be applied against the requirement for Original Margin. For persons who are Short in respect of an Option, any negative value in respect of NLV shall contribute to the requirement for Original Margin. For the accounts listed at paragraphs 2.3(b)(4) to (5) which use a gross margin model, NLV will be held on a gross basis and there will be no offset between different Customers interested in such account.
- (d) Clearing Members are referred to the applicable Contract Terms for details on the premium types for the Options currently cleared by the Clearing House as well as their exercise style (discussed further in paragraph 5).

#### 4.5 Cash Settlement

- (a) When it reaches maturity, a Contract can give rise either to cash settlement (if determined by the Contract Terms or, where permitted by the Contract Terms for Contracts if the Clearing Member opts out of the delivery via EFP) or delivery obligations.
- (b) Cash settlement for Contracts entered into prior to the last day of trading, will be determined by the difference between the Exchange Delivery Settlement Price and the previous day's Exchange Delivery Settlement Price, as determined in accordance with Part 7 of the Rules.
- (c) Cash settlement for Contracts entered into on the last day of trading, will be determined by the difference between the trade price and the Exchange Delivery Settlement Price, as determined in accordance with Part 7 of the Rules.
- (d) Details relating to deliveries for Contracts are set out in the Delivery Procedures.

#### 4.6 Contingent Variation Margin

- (a) A contingent Variation Margin amount will be calculated and called daily for certain Contracts under tender. This contingent Variation Margin will result from the difference between the Exchange Delivery Settlement Price for the Contract under tender and the Exchange Delivery Settlement Price for the next maturing Contract Set of otherwise equivalent specifications, or by other method prescribed by the Clearing House from time to time.
- (b) Clearing Members will not receive repayment in respect of any credit contingent Variation Margin in cash. However, they will be able to use any excess against Margin requirements on the Contracts in respect of which contingent Variation Margin is called and other Contracts. If contingent Variation Margin is a debit, it will be possible for Clearing Members to use assets, as permitted by these Procedures and updated by Circular, as Permitted Cover.
- (c) Contingent Variation Margin will be released:
  - (i) for the Buyer, on payment of the Buyer's security; and
  - (ii) for the Seller, once all relevant deliveries are completed,as detailed or otherwise specified in the Delivery Procedures.

#### 4.7 [Not Used].

#### 4.8 Buyer's security and Seller's security

In accordance with Market Rules and where specified in the Delivery Procedures, Clearing Members will be liable for Buyer's security and Seller's security in respect of Contracts undergoing deliveries. Such amounts will be included in the Margin call process.

#### 4.9 Intra-day or *ad hoc* margin calls

If market conditions dictate, the Clearing House may decide to proceed to an intra-day or *ad hoc* Margin call for certain, or all, Contract Sets or for all or particular Clearing Members. In the event of an intra-day or *ad hoc* call applying, any increased Margin requirements will be reflected in ECS. If there is a shortfall, ECS will generate a call which must be met in accordance with the Finance Procedures. Affected



Clearing Members will be informed of the call by the Clearing House and such call will be confirmed by email to a designated e-mail account of each affected Clearing Member.

#### 4.10 Contingency Holidays

If there is a bank holiday in the country of a particular currency, the Clearing House will call cash in another currency, as described in the Finance Procedures.

### 5. OPTIONS EXERCISE AND EXPIRY

#### 5.1 Definitions

This paragraph 5 applies only to Options that are Contracts. In these Clearing Procedures:

- (a) The term "**American-Style Option**" means an Option that can be exercised at any time between the purchase date and the expiration date under its Contract Terms.
- (b) The term "**European-Style Option**" means an Option that can only be exercised on the expiry date under its Contract Terms.
- (c) The term "**In The Money**", in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option, means where the Strike Price is greater than the Exchange Delivery Settlement Price; and, for a Call Option, means where the Strike Price is less than the Exchange Delivery Settlement Price.
- (d) The term "**Out Of The Money**", in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option means, where the Strike Price is less than the Exchange Delivery Settlement Price; and, for a Call Option, means where the Strike Price is greater than the Exchange Delivery Settlement Price.
- (e) The term "**At The Money**", in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option and a Call Option means, where the Strike Price is exactly equal to the Exchange Delivery Settlement Price.

#### 5.2 General

- (a) Options may only be exercised by Clearing Members in accordance with the Rules, the applicable Contract Terms and these Procedures.
- (b) Options may be exercised either:
  - (i) by the submission of an elective notification to the ICE Systems (as described in the ICE Systems user guide and relevant technical specifications);
  - (ii) automatically through the ICE Systems (as described in the ICE Systems user guide);  
or
  - (iii) automatically in accordance with the Contract Terms.

Those Options which are not so exercised by the time of expiry will expire (be abandoned) and will terminate.



- (c) The Contract Terms determine the days on which, and the times by which, notification of exercise of an Option may, or must, be made, as well as the default settings to be applied by the ICE Systems for the purposes of automatic exercise.
- (d) When an Option whose Deliverable is a Future Contract is exercised, a Contract at the Strike Price of the Option will arise in accordance with Rule 401.

### 5.3 Early Exercise

- (a) It is possible for Clearing Members to exercise Long American-Style Options at any time when the ICE Systems are open. Such exercises must be input by Clearing Members before the daily exercise cut-off time specified in the Contract Terms.
- (b) Clearing Members may not submit an elective early exercise notification to the ICE Systems for Options other than American-Style Options.

### 5.4 Elective Exercise

- (a) Clearing Members are permitted to submit elective exercise notifications to the ICE Systems in the manner set out in the ICE Systems user guide and relevant technical specifications at any time within the deadlines specified in the Contract Terms.
- (b) Where permitted by the Contract Terms, Clearing Members wishing to exercise an Option which is Out Of The Money, or an Option that will not automatically exercise, must submit an elective exercise notification in respect of that Option in accordance with the ICE Systems user guide and relevant technical specifications.

### 5.5 Automatic exercise

- (a) On the relevant expiry day, once the exercise deadline has passed for an Option Set, the Clearing House will input into the ICE Systems the Exchange Delivery Settlement Price communicated by the relevant Market and will instruct the ICE Systems to process an Option Set expiry. The ICE Systems will affect the automatic exercise of all Options in the relevant Set meeting the criteria in the automatic exercise instruction facility and the relevant Contract Terms.
- (b) The settings of the automatic exercise instruction facility for particular Options are set out in the Contract Terms. For several Contracts, including ICE Brent Options, those Options that are one minimum price variation (or 'tick') or more In The Money will be subject to automatic exercise. The Contract Terms for some, but not all, Option Sets include settings for the automatic exercise of At The Money Call Options, in addition to In The Money Options. Clearing Members not wishing automatic exercise to take place should submit, where permitted by the Contract Terms, an abandon instruction via ICE Systems prior to the exercise deadlines specified in the Contract Terms.
- (c) Where permitted by the Contract Terms, Clearing Members wishing to exercise an Option that will not be automatically exercised must do so by submitting, before the deadline is applied, an elective exercise notification in respect of that Option as described above.
- (d) Clearing Members experiencing difficulties with any aspect of an Option exercise or who have any doubt about how to carry out specific exercise or abandonment instructions must contact the Clearing House's operations department in advance of the expiry deadline.

## 5.6 Exchange Delivery Settlement Price for Options

- (a) The Exchange Delivery Settlement Price used by the ICE Systems automatic Option exercise facility to determine whether an Option is In The Money, At The Money or Out Of The Money will be determined in accordance with the Contract Terms, and will be made available to Clearing Members via ICE Systems in advance of the relevant exercise deadline.

## 5.7 Exercise Deadlines on Expiry Day

- (a) Clearing Members are referred to in the Contract Terms and subject to the operation of the automatic Option exercise facility (as applicable) of a particular Option Set to determine whether elective exercise and/or abandon notifications can be submitted on the relevant expiry day. Pursuant to Market Rules and the Contract Terms, where elective exercise and/or abandon notifications can be submitted on the expiry day, Clearing Members have a limited period after the time when trading in an Option Set ceases to submit such notifications. Once the ICE Systems deadline has passed for the exercise or abandon of an Option Set, it will not be possible to submit any exercise or abandon instructions. Options which have not been exercised in accordance with these Clearing Procedures at that time will expire.
- (b) Clearing Members are advised via ICE Systems messages of the time by which all position maintenance instructions for expiring Options must be submitted and when the ICE Systems Exercise/Assignment report is available by selecting the relevant menu item in the ICE Systems.
- (c) Clearing Members are referred to the applicable Contract Terms for details on the deadlines for exercise of the Options currently supported by the Clearing House.
- (d) In the event that a Clearing Member's ICE Systems Options Exercise facilities are unavailable, it is essential that the Clearing House's operations department and the relevant Market's compliance department are informed. In such circumstances the Clearing House will determine appropriate steps to be taken in order to ensure exercise instructions can be processed, as appropriate.
- (e) The Clearing House can modify any exercise deadline at its discretion in accordance with the Rules. Any such modification shall take effect as an amendment to Contract Terms pursuant to Rule 109. Amendments to deadlines may occur following a Force Majeure Event and otherwise at the Clearing House's discretion.

## 5.8 Allocation of exercises

- (a) If, in relation to exercise of a particular Option Set, there are more open Short Options than are exercised by the holders of Long Options, the Clearing House will select Clearing Members with Short Open Contract Positions in the same Option Set against which to exercise a corresponding Option or Options and subsequently become party to a Future Contract or Contracts, or Contract of Sale.
- (b) Option allocation is performed by reference to each Clearing Member's ICE Systems position-keeping accounts i.e. allocations are made separately for each Proprietary Account and each Customer Account of a Clearing Member, as follows:

### Equity Options – Random

Where the volume available for assignment exceeds the exercised volume, the available lots are assigned on a random basis, one lot at a time. Each short lot therefore has an equal chance of being selected for assignment. If the volume available for assignment in an option contract exactly matches the volume which has been exercised (i.e. if the short volume equals the exercised volume), all the short volume is assigned.

### Non-Equity Options – Pro Rata

- (i) Clearing Members holding Short Open Contract Positions in the same Option Set will first be allocated with the following number of exercised Short Options (and hence, Future Contracts):

$$\text{SOCP (CM)} \times \text{LOCP (all)} / \text{SOCP (all)}$$

where:

SOCP (CM) = the Short Open Contract Position for the relevant position-keeping account of the relevant Clearing Member;

LOCP (all) = the total number of Long Options of the relevant Option Set being exercised from all relevant position-keeping accounts by all Clearing Members; and

SOCP (all) = the total number of Short Open Contract Positions in the relevant Option Set in all relevant position-keeping accounts of all Clearing Members,

- (ii) any fractions produced by the calculation in paragraph (i) shall be rounded down and Clearing Members shall not be allocated fractions of a Future Contract; and
- (iii) remaining unallocated Future Contracts following completion of the processes described in paragraphs (i) and (ii) shall be distributed among position-keeping accounts of Clearing Members with unallocated Short Aggregated Contract Positions, one lot at a time, to the largest remaining fractional quantities until the whole quantity is allocated.

- (c) Below is an example of this allocation method, where 71 of 111 Contracts are exercised:

Clearing Member	Short Open Contract Position	Calculated allocation	Rounded allocation	Residual	Fraction remaining	Residual allocation	Total allocated
AAA-H	13	8.8153	8	-	0.8153	1	9
AAA-S	13	8.8153	8	-	0.8153	1	9
BBB-H	18	11.5135	11	-	0.5135	-	11
CCC-H	45	28.7838	28	-	0.7838	-	28
DDD-H	22	14.0721	14	-	0.0721	-	14
Total	111	71	69	2	2.00	2	71

## 6. CUSTOMER CLEARING

### 6.1 Open Contract Positions and accounts:

- (a) Provided that no Event of Default has been declared with respect to the Clearing Member, in the event of the termination of a Customer-CM Transaction (including but not limited to as a result of a default by a Segregated Customer under the terms of a Cleared Transactions Master Agreement), the Clearing Member may, to the extent permitted under Applicable Law:
  - (i) request of the Clearing House that a Customer Account Position or any part thereof be transferred into one of its Proprietary Accounts (in which case, for the avoidance of doubt, the Proprietary Position Account will reflect, and Rule 406 will apply to, such transferred Contracts); or
  - (ii) submit to the Clearing House particulars in respect of offsetting Transactions, one leg of which is to be recorded in a Customer Position Account (in which case, for the avoidance of doubt, the resultant Contract may be offset against Contracts in the same sub-account which relate to such Customer, pursuant to Rule 406).

For the avoidance of doubt, Rule 302 and the Finance Procedures apply in relation to the return of any Surplus Collateral at the Clearing House resulting from the termination of any Contract.

### 6.2 Transfer of Contracts absent an Event of Default:

- (a) Each Clearing Member (other than a Defaulter) with a Customer Account (the "**Transferor Clearing Member**") shall be required, upon request of a Customer to transfer such Clearing Member's rights and obligations with respect to Contracts recorded in a Customer Account (and, in the case of Non-FCM/BD Clearing Members, any related Customer-CM Transactions) to one or more other Clearing Member (the "**Transferee Clearing Member**") designated by such Customer subject to the provisions of this paragraph 6.2 and, to the extent not inconsistent with this paragraph 6.2, to any terms agreed between the Transferor Clearing Member and Customer. Such transfer shall be effected as soon as practicable following satisfaction of the conditions set forth in paragraph 6.2(b).
- (b) A transfer pursuant to paragraph 6.2(a) shall be subject to the following conditions:
  - (i) the Transferor Clearing Member shall have no obligation to locate or identify a Transferee Clearing Member (which shall be the responsibility of the Customer);
  - (ii) the transfer must be in accordance with Applicable Laws, including any applicable Market Rules, and, to the extent permitted thereunder, any applicable agreement between the Transferor Clearing Member and Customer;
  - (iii) the Transferor Clearing Member, Transferee Clearing Member and Customer shall, through a Market or the ICE Systems, have agreed and executed and submitted to the Clearing House an electronic transfer confirmation (the "**Transfer Confirmation**") in a form approved by the Clearing House (which may be written or electronic) which may include the following:
    - (A) the relevant Contracts to be transferred (the "**Transferred Contracts**") and the corresponding Customer-CM Transactions, if any, to be transferred;

- (B) the proposed transfer date (the "**Transfer Date**"), which shall be no earlier than the Business Day of submission of the Transfer Confirmation to the Clearing House and shall be a Business Day;
  - (C) whether relevant Original Margin of the Transferor Clearing Member recorded in the relevant Margin Account in respect of the Transferred Contracts is to be transferred to or to the account of the Transferee Clearing Member or returned to the Transferor Clearing Member for distribution to the Customer or to its account or order;
  - (D) the amount of such Original Margin, if any, to be so transferred or returned in respect of the Transferred Contracts; and
  - (E) such other matters as the Clearing House may specify;
- (iv) prior to the applicable transfer time determined by the Clearing House on the Transfer Date (such time, the "**Transfer Time**"), if required by the Clearing House, each of the Transferor Clearing Member and the Transferee Clearing Member shall have transferred an additional Margin in the amount specified by the Clearing House to satisfy any additional Margin requirements as a result of the proposed adjustments in Open Contract Positions in relevant Accounts resulting from the proposed transfer; and
  - (v) the Clearing House has accepted such Transfer Confirmation, and the Transferor Clearing Member and Transferee Clearing Member have satisfied such other conditions as the Clearing House may have specified.
- (c) If such conditions are satisfied, then as of the Transfer Time, the transfer shall occur as set forth in the Transfer Confirmation in relation to the Transferred Contracts and corresponding Customer Transactions, if any, and Rule 408(a)(i), and the Clearing House shall:
    - (i) adjust the records of the Open Contract Positions in the relevant Account of the Transferor Clearing Member so as to reflect the transfer of the Transferred Contracts;
    - (ii) adjust the records of the Open Contract Positions in the relevant Account of the Transferee Clearing Member so as to reflect the transfer of the Transferred Contracts;
    - (iii) adjust the Margin requirements of relevant Accounts to reflect such adjustments of Open Contract Positions; and
    - (iv) record the transfer of any Margin to be transferred from an Account of the Transferor Clearing Member to an Account of the Transferee Clearing Member or return such Margin to the Transferor Clearing Member for distribution to the relevant Customer or to its account or order, as specified in the Transfer Confirmation.
  - (d) Notwithstanding anything to the contrary herein, no Clearing Member shall be required to accept a transfer of any Transferred Contracts as a Transferee Clearing Member without such Clearing Member's consent.
  - (e) Following the Transfer Time, the Clearing House may, in accordance with the Procedures, make submissions of data to, or amendments or terminations of data at, the relevant Repository to reflect the adjustments to Open Contract Positions in the affected Accounts. The Clearing House may require each of the Transferor Clearing Member and Transferee Clearing Member

(and may also require any affected Customers) to make appropriate such submissions, amendments and terminations to reflect such transfer.

- (f) Notwithstanding anything to the contrary herein or in any Transfer Confirmation, if an Event of Default occurs with respect to a Transferor Clearing Member prior to the transfer becoming irrevocable pursuant to Part 12 of the Rules, such transfer (and any related Transfer Confirmation) will be cancelled and of no effect and the Clearing House will not adjust the related Open Contract Positions pursuant to this paragraph 6.2.
- (g) Unless otherwise agreed between the Transferor Clearing Member and the Customer and subject to any applicable legal or regulatory requirements, the Customer must satisfy in full, at or prior to the proposed Transfer Time, any margin requirements ("**Pre-Transfer Margin Requirements**") imposed by the Transferor Clearing Member with respect to:
  - (i) any remaining Customer-CM Transactions; and
  - (ii) if the Customer and Transferor Clearing Member have expressly agreed (whether orally or in writing) to determine the margin requirements for contracts, transactions or positions of that Customer other than Customer-CM Transactions or Contracts (collectively, "**Non-cleared Positions**") by taking into account the margin requirements for the Customer-CM Transactions being transferred, such Non-cleared Positions;

in each case calculated after giving effect to such transfer. If there is an express agreement (whether written or oral) between the Transferor Clearing Member and the Customer with respect to the margining that will be imposed on Customer Transactions or Non-cleared Positions, the Transferor Clearing Member shall determine the Pre-Transfer Margin Requirements in accordance with the terms of such agreement. So long as (x) the Pre-Transfer Margin Requirements specified in this paragraph 6.2(g) are satisfied and (y) no event of default has occurred with respect to the Customer under the applicable Cleared Transactions Master Agreement, no consent of the Transferor Clearing Member shall be required for such transfer.

### 6.3 Margin

- (a) If Customer-CM Collateral is not in the form of Permitted Cover, the relevant Clearing Member shall remain obliged to transfer only Permitted Cover to the Clearing House and to account accordingly for any transformation of assets with its Customer (without prejudice to arrangements under which fees or rates of return may be determined) in accordance with the relevant Standard Terms.
- (b) Any additional Customer-CM Collateral (beyond the Clearing House's requirement) required by a Clearing Member of a Customer may be held in any lawful manner as agreed between a Customer and Clearing Member. Subject to such agreement, such collateral may, but is not required hereunder to, be transferred to a Customer Margin Account of the Clearing Member and will, if so transferred, be treated as Surplus Collateral to the extent that a greater value of Permitted Cover is credited to the relevant Customer Margin Account than the Margin requirement for that Customer Margin Account.

### 6.4 Data in relation to Customer Clearing

- (a) Each Clearing Member shall keep and maintain written or electronic records showing, with respect to each of its Customer Accounts:

- (i) the identity of each of its Customers;
  - (ii) all Default Portability Preferences of each of its Customers; and
  - (iii) such other information as may be requested by the Clearing House in accordance with the Rules or these Procedures from time to time.
- (b) Each Clearing Member shall provide any data of a nature described in paragraph 6.4(a) to the Clearing House promptly upon demand. Data relating to the identity of Customers or Default Portability Preferences may be requested by the Clearing House with reference to anonymous customer serial codes. Each Clearing Member shall provide accurate information to any Market for purposes of identifying its Customers. Each Clearing Member and Customer consents to a Market providing all such information as is referred to in paragraph 6.4(a) to the Clearing House.
- (c) Each Clearing Member that has a Customer Account shall request each of its Customers to specify a Default Portability Preference or confirm that it has not specified a Default Portability Preference. Clearing Members and the Clearing House acknowledge that a Customer may designate permitted Transferee Clearing Members at any time prior to or after an Event of Default being declared in relation to a Clearing Member.
- (d) [Not Used]

## 7. TERMS APPLICABLE TO POSITION TRANSFERS

### 7.1 Additional defined terms

In this paragraph 7 only:

- (a) The term "**Novation**" or "**Position Transfer**" means a transfer by way of novation of Novating Contracts from a Position Transferor to a Position Transferee pursuant to Rule 408(a)(i), Part 12 of the Rules or paragraph 6 of these Clearing Procedures and this paragraph 7 of the Clearing Procedures.
- (b) The term "**Novation Time**" means the novation time specified by the Clearing House for a Novation of particular Novating Contracts which will be communicated to the Position Transferor and Position Transferee by the Clearing House.
- (c) The term "**Novating Contract**" means a Contract between a Position Transferor and the Clearing House which is open immediately prior to the Novation Time and which has not, as at the Novation Time, been cash settled or otherwise performed, discharged or closed out, void, voided, terminated or rescinded in full, and which is to be subject to a Novation, or a Contract between a Position Transferee and the Clearing House arising as a result of the same Novation (as applicable).
- (d) The term "**Position Transferee**" means a Clearing Member which is party to a Position Transfer as transferee.
- (e) The term "**Position Transferor**" means a Clearing Member which is party to a Position Transfer as transferor.



## 7.2 General

- (a) Rules 408(a)(i) and Part 12 of the Rules set out various provisions applicable to the transfer or novation of Contracts between Position Transferors and Position Transferees and to Position Transfer Orders. This paragraph 7 sets out the terms of the novation and transfer under which all Position Transfers will take place.
- (b) Each Position Transferor and Position Transferee will be deemed to agree to the application of the terms set out in this paragraph 7 in respect of each Position Transfer to which it is a party.
- (c) Each Position Transferor and Position Transferee shall ensure that immediately prior to the time at which any Position Transfer Order becomes irrevocable:
  - (i) it has made all due payments to the Clearing House in respect of Margin, including, if it is a Position Transferee, any additional pre-funded Margin required by the Clearing House in respect of the Contracts expected to arise as a result of the Novation, or if it is a Position Transferor, any additional pre-funded Margin required by the Clearing House arising from the proposed termination of the Novating Contracts recorded in its accounts; and
  - (ii) legally binding and enforceable agreements are in place to the extent necessary with all third parties that are affected by the Position Transfer and all necessary notices have been served on such third parties in order for the Position Transfer to take place at the Novation Time in accordance with the Rules and this paragraph 7.

## 7.3 Novation Terms

- (a) On and as from the Novation Time, the following shall take place by operation of this provision:
  - (i) the Position Transferor releases and discharges the Clearing House from all covenants, undertakings, warranties and other obligations of the Clearing House pursuant to each of the Novating Contracts and (subject to paragraph 7.3(a)(vii)) from all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
  - (ii) the Clearing House releases and discharges the Position Transferor from all covenants, undertakings, warranties and other obligations of the Position Transferor pursuant to each of the Novating Contracts and (subject to paragraph 7.3(a)(viii)) from all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
  - (iii) the Position Transferee assumes in favour of the Clearing House and shall be vested with all the liabilities of the Position Transferor to the Clearing House whatsoever arising out of or under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time, agrees to perform all the duties and to discharge all the obligations of the Position Transferor under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time and agrees to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;

- (iv) the Clearing House agrees to perform all its duties and discharge all its obligations under the Novating Contracts and to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
  - (v) subject to paragraphs 7.3(a)(vii) and (viii), the Position Transferor and the Position Transferee shall be deemed to acknowledge and agree that the Clearing House shall on and as from the Novation Time have the right to enforce each of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
  - (vi) subject to paragraphs 7.3(a)(vii) and (viii), the Clearing House and the Position Transferor shall be deemed to acknowledge and agree that the Position Transferee shall on and as from the Novation Time have the right to enforce all of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to the Novating Contracts from inception instead of the Position Transferor;
  - (vii) the Novation shall not affect any complaints made prior to the Novation Time or to be made by the Position Transferor against the Clearing House in relation to any matter or event occurring or circumstance arising prior to the Novation Time (in either case in connection with the Complaint Resolution Procedures) or any Dispute relating to any matter or event occurring or circumstance arising prior to the Novation Time, other than a claim or demand for payment of an amount due but unpaid at the Novation Time pursuant to the terms of a Novating Contract;
  - (viii) the Novation shall not affect any disciplinary, legal or other proceedings commenced against the Position Transferor by the Clearing House prior to the Novation Time or the right of the Clearing House to bring disciplinary, legal or other proceedings against the Position Transferor in relation to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time or any Dispute relating to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time, other than a claim or demand for payment of an amount due but unpaid at the Novation Time pursuant to the terms of a Novating Contract; and
  - (ix) the Clearing House, Position Transferor and Position Transferee shall each be deemed to agree that all materials, communications and instructions (whether written, electronic or oral) relating to or made in connection with any Novating Contract produced or used by any of them and all references in any Novating Contract to such contract shall be construed as a reference to the relevant Novating Contract after the Novation.
- (b) Subject to paragraphs 7.3(a)(vii) and (viii), the Clearing House, Position Transferor and Position Transferee each shall be deemed hereby to agree and acknowledge that, as between them, each Novating Contract shall be construed for all purposes on and after the Novation Time as if it had, from its inception, always been the subject of the Novation and the amendments given effect to pursuant to this paragraph 7, regardless of the date on which any event, matter, notice, circumstance, dispute or difference under the Novating Contract occurred or arose or was or is deemed to occur or arise.

- (c) The Position Transferor and the Clearing House, and the Position Transferee and the Clearing House shall each hereby be deemed to agree and acknowledge to each other that, at the Novation Time and without the need for any further act on behalf of either of them, any and all requirements of the Rules or Applicable Law and all requirements for notices and other formalities in relation to the Novation of the Novating Contracts pursuant to this paragraph 7 under the terms of such Novating Contracts have been satisfied or, to the extent not satisfied, are hereby waived. As from the time at which the Position Transfer Order becomes irrevocable, the Clearing House shall be deemed to have provided its consent to the Novation for purposes of Rule 408(a)(i).
- (d) The Position Transferor shall make available to the Clearing House such data relating to the Novation and Novating Contracts that is in the Position Transferor's control as the Clearing House may reasonably request in order to give effect expeditiously to the Novation or to carry out its obligations under the Rules or Applicable Law.
- (e) Notwithstanding any communication that the Position Transferor or Position Transferee may have had with any other party, each of the Position Transferor and Position Transferee shall hereby be deemed to represent and warrant to the Clearing House as at the Novation Time that:
  - (i) it is not relying upon any representation or warranty of the Clearing House or any other Clearing Member except a representation or warranty expressly set out in the Rules or Procedures;
  - (ii) it has consulted with its own legal, regulatory, tax, business, financial and accounting advisers to the extent that it has deemed necessary and agrees to the Novation based upon its own judgment and upon any advice from its advisors as it has deemed necessary and not upon any view or advice expressed by the Clearing House;
  - (iii) it is entering into the Novation with a full understanding of the terms and conditions and risks thereof and it is capable of and willing to assume those risks.
  - (iv) it has the power to execute and effect the Novation and any documents that may be required to effect the Novation, and to perform its obligations under the Rules, all Contracts to which it is party and this paragraph 7 and all necessary action to authorise such execution, delivery and performance has been taken;
  - (v) the execution, delivery and performance of the Novation do not violate or conflict with any Applicable Law applicable to it, any provision of its constitutional documents, any order or judgment of any court or Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting any of its assets; and
  - (vi) all consents of any Governmental Authority or other Person that are required to have been obtained by it with respect to the Novation have been obtained and are in full force and effect and all conditions of any such consents have been complied with.