

PART EDX.5 DEFAULT RULES

EDX.5.1 Definitions and Interpretation

In this Part EDX.5:

"Account" means an Account opened in accordance with the LCH Regulations;

"Declared a defaulter" in relation to a Member or a designated non-member, means declared a defaulter under Rule EDX.5.4.1 or deemed to have been declared a defaulter by virtue of Rule EDX.5.4.2;

"Default" or **"in default"** in relation to a Member or designated non-member, means that an event or circumstance referred to in Rules EDX.5.3 or EDX.5.4.1 has occurred in respect of such Member or designated non-member;

"Defaulter" means a Member or designated non-member whom EDX London has declared a defaulter;

"Default Rules" has the meaning ascribed to it in Part EDX.1;

"Default Settlement Amount" means the amount arrived at on each account drawn up under Rule EDX.5.5.6 by, on each such account, aggregating all settlement amounts credited and all settlement amounts debited to such account and setting-off the aggregated amounts of such credits against the aggregated amount of such debits;

"designated non-member" means a person designated or a person falling within a description of persons designated from time to time by EDX London as a person or persons in respect of whom action may be taken under Rules EDX.5.4 and EDX.5.5;

"Market Maker" has the meaning given in Part EDX.1;

"Associated Clearing House" means any clearing house which EDX London designates as such from time to time;

"Associated Exchange" means any exchange which EDX London designates as such from time to time;

"Member" has the meaning given in Part EDX.1;

"Market Contract" for the purposes of these Default Rules means a Futures Contract or an Options Contract or any other Contract, whether exchange traded a bilateral Contract reported to EDX London in accordance with its Rules for Cleared Only Contracts, registered under the terms of the Rules of EDX London (including the Rules for Cleared Only Contracts) and the Clearing House Regulations including, without limitation, the default Rules incorporated in the Clearing House Regulations;

Every Market Contract is a 'market contract' on EDX London under section 155(2)(a) of the Companies Act 1989. The principals to each such Market Contract are the Member, or the Member's General Clearing Member, and the Designated Clearing House. The Designated Clearing House enters into each such contract for the purpose of the provision of clearing services to EDX London. Every Market Contract is also a market contract at the Designated Clearing House under section 155(3) of the Companies Act 1989.

"Relevant office-holder" has the meaning given in section 189 of the Companies Act 1989;

"Settlement amount" in relation to an unsettled Market Contract means the amount determined as being due to or from the Designated Clearing House in accordance with the Default Rules or, where applicable, the corresponding provisions of the Rules governing the unsettled Market Contract in question;

"Unsettled Market Contract" means a Market Contract in respect of which the rights and liabilities of the parties thereto have not been discharged whether by performance, compromise or otherwise.

EDX.5.2 Application

EDX.5.2.1 Rules EDX.5.4, EDX.5.5 and all other provisions of the Default Rules other than Rule EDX.5.14 shall apply to Members and designated non-members who are defaulters.

EDX.5.2.2 The provisions of the Default Rules other than Rules EDX.5.4 and EDX.5.5 shall apply to Members and designated non-members who are not defaulters.

EDX.5.2.3 This Part EDX.5 is without prejudice to, but in the case of any conflict takes precedence over, any other provisions of these Rules or of any other rules or the terms of any other agreement which provide for the settlement of Market Contracts whether on a default or otherwise.

EDX.5.3 Events of Default

EDX.5.3.1

If:

- (a) a Member or designated non-member fails to fulfil any obligations arising from Futures and Options Contracts registered in his Account whether arising under these Rules or otherwise; or
- (b) a Member is in breach of these Rules, the Membership Agreement (where applicable), the Market Maker Agreement (where applicable) or any other rules or regulations from time to time applicable to trading in and/ or clearing of the Contracts or any other contracts made with Designated Clearing House or any other agreement entered into between EDX London and a Member relating thereto or to the provision of trading and clearing services by EDX London or fails to pay any sums due to EDX London pursuant to the Rules or any other such agreements, rules or regulations; or
- (c) a Member or designated non-member fails to pay any sum due and payable or is otherwise in default under the terms of any agreement; or
- (d) a Member or designated non-member generally not paying its debts as such debts become due, or admitting its inability to pay its debts generally or becoming or being deemed to have become unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or making a general assignment for the benefit of creditors or any proceedings being instituted or steps being taken by or against a Member or a designated non-member seeking to adjudicate it bankrupt or insolvent, or seeking liquidation, winding-up, re-organisation, dissolution, administration, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or re-organisation or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, administrative receiver, liquidator, provisional liquidator, administrator, trustee or other similar official for it or for any substantial part of its revenues and assets (except, in each case, for the purpose of a reconstruction or amalgamation by a member, the terms of which have previously been approved by EDX London in writing); or
- (e) a Member or designated non-member taking any corporate action or other step to authorise, institute or commence any of the actions referred to in paragraph (d) above; or
- (f) an execution distress sequestration attachment or other process being levied or enforced against a Member or designated non-member or against any substantial part of its revenues and assets and not being discharged within seven days of being so levied or enforced; or
- (g) any event occurs or proceedings are brought in respect of a Member or designated non-member analogous to any of those referred to in paragraphs (d) to (f) inclusive in any jurisdiction outside England and Wales; or
- (h) a Member or designated non-member being in breach of the terms of its membership of, or being refused an application for or being suspended or expelled from membership of, a regulatory body or being in breach of the rules of a regulatory body to which he is subject or a regulatory body taking or threatening to take any action in relation to the member or designated non-member under the Financial Services and Markets Act 2000 or taking or threatening to exercise its powers under its rules to restrict or prohibit the Member or designated non-member from entering into transactions or carrying on its business or dealing with its assets; or
- (i) any licence authorisation consent or registration at any time necessary to enable a Member or designated non-member to comply with its obligations to EDX London or to any other Member or designated non-member or to carry on its business in the normal course being revoked, withheld or materially modified or failing to be granted or perfected or ceasing to remain in full force and effect ; or
- (j) a Member becoming or being declared in default under the default rules of any Recognised Investment Exchange or a Recognised Clearing House or being declared in breach of the terms of membership of, or being suspended or expelled from membership of, any recognised, designated or overseas investment exchange or clearing house or any Associated Clearing House or Associated Exchange or any action being taken by any such body in relation to such Member which is similar to the action which may be taken by EDX London under this Rule; or

- (k) any other event or circumstance arising or occurring which may give grounds for EDX London to determine in its opinion that a Member may not (or may be or become unable to) perform or comply with its obligations under one or more Market Contracts; or
- (l) a Member fails to provide Collateral to the Designated Clearing House as required by the Rules or the LCH Regulations; or
- (m) EDX London considers it necessary or desirable to take action under this Part EDX.5 for its own protection

then, on the occurrence of any such event, EDX London shall (subject to Rules EDX.5.2 and EDX.5.8) be entitled without giving notice to the Member or designated non-member in question to take at its absolute discretion any one or more of the steps set out in this Part EDX.5.

EDX.5.3.2 A Member shall notify EDX London immediately if any of the events referred to in paragraphs (a) to (m) of Rule EDX.5.3.1 occur in relation to it and shall respond promptly to all enquiries or requests for information made by EDX London pursuant to the Default Rules.

EDX.5.4 Declaration of Member or Designated Non-Member to be a Defaulter

EDX.5.4.1 Subject to Rule EDX.5.4.2, in the event of a Member or designated non-member appearing to EDX London to be unable, or to be likely to become unable, to meet his obligations in respect of one or more Market Contracts, EDX London may, in its absolute discretion and without giving prior notice to such Member or designated non-member, if it considers such action to be appropriate in the interests of EDX London and/ or its marketplace, declare such Member or such designated non-member to be a defaulter.

EDX.5.4.2 EDX London may be directed by the FSA pursuant to the provisions of Section 166 of the Companies Act 1989 to take action or not to take action in respect of a Member or designated non-member under these Default Rules. If EDX London is directed by the FSA pursuant to the aforesaid provisions to take one or more of the steps referred to in Rule EDX.5.5 in relation to a Member or designated non-member, that Member or designated non-member shall (if not already declared a defaulter) be deemed to be declared a Defaulter under Rule EDX.5.4.1.

EDX.5.4.3 As soon as reasonably practicable after a Member or designated non-member has been declared a defaulter, EDX London shall take steps to bring this to the attention of:

- (i) the defaulter;
- (ii) such other persons as it thinks fit.

EDX.5.4.4 Without prejudice to the generality of Rule EDX.5.4.1, EDX London may take the occurrence of any of the events set out in Rule EDX.5.3 as grounds for forming the view that a Member or designated non-member appears to be unable or is likely to become unable to meet his obligations in respect of one or more Market Contracts.

EDX.5.5 Default Proceedings in respect of a Defaulter

- EDX.5.5.1 Subject to Rule EDX.5.4.1, EDX London shall, in its absolute discretion, immediately following or at any time after a Member or designated non-member has been declared a defaulter take any one or more of the steps referred to in Rule EDX.5.5.2 in order:
- (i) that the rights and liabilities between the defaulter and the Designated Clearing House under all Unsettled Market Contracts to which the defaulter is a party as principal are discharged pursuant to Rule EDX.5.5.5 and a settlement amount (if any) payable by one party to the other is determined in respect of each such Contract in accordance with this Rule EDX.5.5;
 - (ii) for there to be certified by or on behalf of EDX London, the net sum (if any) due to or from the defaulter as determined in accordance with Rule EDX.5.5.6 or that no such sum is due, as the case may be.
- EDX.5.5.2 The steps referred to in Rule EDX.5.5.1 are to implement or to direct that there be implemented any one or more the steps set out in Rules EDX.5.7 to EDX.5.13 inclusive or any other steps set out in these Rules, or to implement or direct that there be implemented any provision of the rules governing other financial products handled by EDX London or the terms of any other agreement between EDX London and the defaulter as in the circumstances appear to it best calculated to complete the process set out in Rule EDX.5.5.1.
- EDX.5.5.3 Where in accordance with Rule EDX.5.5.2 above, EDX London implements or directs that there be implemented any one or more of the steps set out in Rules EDX.5.7 to EDX.5.13 inclusive in respect of a Market Contract, the settlement amount (if any) for such Contract shall be determined in the manner prescribed in the Rule or Rules under which such steps have been taken. In determining the settlement amount EDX London shall take into account any arbitration, award or judgement obtained in respect of any proceedings arising from any dispute, claim or other matter concerning any such Market Contract. The settlement amount so determined by EDX London shall be final, conclusive and binding. The defaulter shall be liable to pay or shall be entitled to receive, as the case may be, the settlement amount so determined in respect of each such Contract.
- EDX.5.5.5 The rights and liabilities of the defaulter under a Contract to which he is party as principal and which is the subject of one or more steps taken under Rule EDX.5.5.1 shall be discharged upon the later of the completion of the steps taken under such Rule with respect to such Contract or the making of any arbitration, award or judgement resulting from any proceedings being commenced in respect of any dispute, claim or matter arising out of or in connection with such Contract.
- EDX.5.5.6 An account shall be drawn up under to which all settlement amounts owed to or by the defaulter in respect of Market Contracts to which the defaulter is party as principal shall be credited or debited, as appropriate so as to produce the Default Settlement Amount payable by or to the defaulter on the Account.
- EDX.5.5.8 EDX London shall be entitled in its discretion and without notice to the defaulter to make any currency conversions which EDX London considers necessary or desirable for the purposes of these Default Rules at such rate or rates as EDX London may reasonably determine.

EDX.5.6 Default by a Member or Designated Non-Member who is not declared a Defaulter

EDX.5.6.1 If any of the events set out in Rule EDX.5.3.1 or any other event or circumstance occurs in relation to a Member or a designated non-member where such Member or designated non-member is not declared a defaulter, EDX London shall be entitled to take any one or more of the following steps in relation to the Member or designated non-member in question without giving notice to such party:

- (i) terminate all outstanding registered Contracts pursuant to Rule EDX.5.8; or
- (ii) exercise its rights under Rule EDX.5.12.

- EDX.5.7** **Defaulter also declared to be in default by the Designated Clearing House**
- EDX.5.7.1 In the event that the defaulter is also declared to be in default by the Designated Clearing House any Unsettled Market Contracts will be dealt with in accordance with the default LCH Regulations with such rules having priority over these Default Rules.
- EDX.5.7.2 For the avoidance of doubt, Rule EDX.5.7.1 does not preclude EDX London from taking any action which EDX London may be required or deems necessary to take either under these Default Rules or in order to assist the Designated Clearing House in dealing with Unsettled Market Contracts under its default rules.
- EDX.5.7.3 The Designated Clearing House may delegate to EDX London the performance of any function in respect of Unsettled Market Contracts which the Designated Clearing House may be required or deem necessary to exercise under the default LCH Regulations.
- EDX.5.7.4 Any Unsettled Market Contract dealt with in accordance with the default LCH Regulations under this Rule EDX.5.7 will be deemed to have been dealt with in accordance with these Default Rules.

EDX.5.8 Termination of Futures and Options Transactions

EDX.5.8.1 In the circumstances described in this Part EDX.5, EDX London may at such times and at such transaction prices as it may at its absolute discretion determine, buy or sell as many Futures, or Options Contracts, from or to the relevant Member, as EDX London considers necessary and to close any of the outstanding Contracts of such Member. Any such Contract entered into by EDX London shall be entered into it by it for the account of the Member in question. The settlement amount for a Contract closed-out under this Rule shall be:

- (i) in the case of a Futures Contract, the difference between the Daily Settlement Sum for the most recent Daily Cash Settlement and the agreed Futures Contract Price at which the closing-out Contract was made, or where the closing-out Contract is effected prior to the First Daily Cash Settlement for the contract in question, the difference between the agreed Futures Contract Price and the agreed Futures Contract Price at which the closing-out Contract was made; or
- (ii) in the case of an Options Contract, if the Premium under such Contract is due but unpaid, the difference between such Premium and the Premium payable in respect of the closing-out Contract or, if the Premium under such Contract has been paid, the Premium payable in respect of the closing-out;

EDX.5.8.2 In addition, EDX London is entitled prematurely to make cash settlement of registered Futures Contracts. Where in relation to such Contracts the Member is a seller, EDX London shall be entitled to register a new Contract with the Member as buyer that is equivalent in all material respects to such existing Contract. Where in relation to such Contracts the Member is a buyer, EDX London shall be entitled to register a new Contract with the Member as seller equivalent in all material respects to such existing Contracts. Any sum credited pursuant to action taken under this Rule may be applied towards satisfaction of any amount due or payable by the Member to the Designated Clearing House.

EDX.5.8.3 The settlement amount for a Contract terminated under this Rule shall be the difference between, in the case of each Contract which is cash-settled under such Rule, the agreed Contract Price under the Contract settled under such Rule and the agreed Contract Price under the new Contract entered into under such Rule. Each such settlement amount shall be credited or debited to the relevant Account as appropriate.

EDX.5.9 Exercise of Options

- EDX.5.9.1 In the circumstances described in this Part EDX.5, EDX London may on behalf of the Member in question exercise any American Style Option held by the Member as buyer.
- EDX.5.9.2 Any such exercise on behalf of a Member shall be deemed to have been effected by such Member.
- EDX.5.9.3 EDX London may exercise an American Style Option held by it as buyer against such Member.

EDX.5.10 Non-fulfilment of Delivery

- EDX.5.10.1 If a Member who has sold a Futures Contract, has written a Call Option and has received notice that exercise has been demanded, or has exercised a Put Option and fails to provide Deliverable Stock, Deliverable Bonds or Deliverable Bills as the case may be in accordance with EDX London's instructions and these Rules, EDX London may require payment by the Member of the difference between the cost to EDX London of acquiring the relevant Stock, Bonds or Bills as the case may be and the Strike Price or the agreed Futures Contract Price for the number of shares, bonds or bills as the case may be underlying the Futures or Options Contract, and or the cost to EDX London of borrowing the relevant Stock, Bonds or Bills as the case may be and/or a special set fee for non-fulfilment of delivery determined by EDX London and EDX London shall be entitled to retain for its own account sums received by it on the Exercise Settlement Day or Expiration Settlement Day (as appropriate) in relation to delivery of the relevant Stock, Bonds, Bills or as the case may be. In cases of non-fulfilment of delivery to EDX London resulting in EDX London being unable to deliver promptly to the Member entitled to receive delivery from EDX London, the special set fee for non-fulfilment of delivery shall, if charged by EDX London, be transferred in full to the Member not receiving prompt delivery from EDX London due to such non-fulfilment.
- EDX.5.10.2 The settlement amount in respect of each Contract in respect of which EDX London takes action under this Rule shall be the difference between the cost to EDX London of acquiring such Stock, Bonds, Bills as the case may be and the agreed Futures Contract Price or the Strike Price, as the case may be, under such Contract and or the cost to EDX London of borrowing the relevant instrument and or a special set fee for non-fulfilment of delivery as determined by EDX London.
- EDX.5.10.3 This Rule does not apply to Index Contracts.

EDX.5.11 Sale of Stock, Deliverable Bonds or Deliverable Instruments

EDX.5.11.1 If a Member, who is due to receive the underlying Instrument in question pursuant to a Futures Contract or has written a Put Option and received notice that Exercise has been demanded or has exercised a Held Call Option, in accordance with these Rules, does not pay on the Exercise Settlement Day or the Expiration Settlement Day (as appropriate) for the Stock, Deliverable Bonds, Deliverable Instruments as the case may be related to the Options or the Futures or Contract, EDX London is entitled to sell the relevant instrument if held by the Designated Clearing House. If the amount received from such a sale is less than the agreed Futures Contract Price or the Strike Price as stated in the Option for the number of instruments underlying the relevant Contract, EDX London is entitled to require payment by the Member of the difference between the amount received and the agreed Futures Contract Price or the Strike Price of the relevant Contract.

EDX.5.11.2 The settlement amount in respect of a Contract in respect of which EDX London takes action under this Rule shall be the difference between the Strike Price or, as the case may be, the agreed Futures Price and the amount received by EDX London for such instrument (if less than such agreed Futures Price or Strike Price).

EDX.5.11.3 This Rule does not apply to Index Contracts.

EDX.5.12 Other Actions

EDX.5.12.1 Notwithstanding the specific provisions of this Part EDX.5, EDX London may in the circumstances described in Rule EDX.5.6 take any action it deems necessary for the protection of EDX London in the name of and at the expense of the relevant Member.

EDX.5.13 Prohibition on Further Trading

EDX.5.13.1 In addition to any steps taken under this Part EDX.5, EDX London may also prohibit a defaulter from further trading or registering Contracts with EDX London.

EDX.5.14 Settlement of Open Contracts

- EDX.5.14.1 On the occurrence of any event referred to in Rule EDX.5.3.1 (d) to (g) inclusive and Rule EDX.5.3.1 (i) in relation to a Member, EDX London may by notice in writing to such party or to the Broker of the customer or client in question require settlement of all Contracts registered in the Account or Accounts in question to take place in accordance with this Rule EDX.5.14 on the default settlement date which for this purpose shall be the date on which such notice is given. On the occurrence of any of the events set out in Rule EDX.5.3.1 (d), (e) or (g) EDX London and the Member shall automatically become obliged to settle all Contracts registered in the relevant Account or Accounts in accordance with this Rule EDX.5.14 on the default settlement date which for this purpose shall be the first London Bank Day after the date of the order or resolution for winding up of the defaulter or other relevant event. In these circumstances each Contract shall be settled forthwith by the establishment of the settlement amount in respect of such Contract in accordance with Rule EDX.5.14.2 and by payment in the manner provided for in Rule EDX.5.14.3.
- EDX.5.14.2 The settlement amount in respect of each open Contract for the purposes of this Rule shall be calculated by EDX London whose calculation in the absence of manifest error shall be conclusive. With respect to each open Contract EDX London shall calculate the difference between:
- (i) the value at the agreed Options Contract the value of the Option at the Premium for such Option as stated in the Contract or the value of the Futures Contract at the last successfully settled Daily Settlement Price; and
 - (ii) the value of the Futures Contract at the official quotation as at close of trading on the default settlement date for such Futures Contract as published by EDX London, or in the case of an Options Contract, the value of the Option at the official quotation as at close of trading on the default settlement date for such Option as published by EDX London, such official quotation being in the case of a Futures Contract or an Options Contract either the published bid or the published offer price as EDX London in its absolute discretion may determine to be appropriate.
- EDX.5.14.3 In the case of an open Contract under the terms of which the Member is a buyer, if the value of the Futures Contract or the Options Contract calculated under Rule EDX.5.14.2(i), is less than its value calculated under Rule EDX.5.14.2(ii), or in respect of an open Contract under the terms of which the Member is seller, if the value of the Futures Contract or Options Contract calculated pursuant to Rule EDX.5.14.2(i) is greater than its value calculated pursuant to Rule EDX.5.14.2(ii), the Member may be shall be entitled to receive (subject to EDX London's rights of set-off under Rule EDX.1.8) an amount equal to the difference between the two values.
- EDX.5.14.4 In respect of an open Contract under the terms of which the Member is a seller, if the value of the Futures Contract or the value of the Option calculated under Rule EDX.5.14.2(i) is less than its value calculated under Rule EDX.5.14.2(ii) or in respect of an open Contract under the terms of which the Member is the buyer, the value of the Futures Contract or value of the Option calculated under Rule EDX.5.14.2(i) is greater than its value calculated under Rule EDX.5.14.2(ii) the Member shall pay to EDX London an amount equal to the difference between the two values.
- EDX.5.14.5 EDX London and the Member hereby agree that the amount payable under this Rule EDX.5.14 represents a reasonable pre-estimate of the loss which would have been suffered as a result of the occurrence of the events specified in any of paragraphs (d) to (i) of Rule EDX.5.3 and is not a penalty. No proof of evidence of actual loss may be required in respect of such amount. Such amount represents the amount which would have been payable as damages as a consequence of such loss from the other party.

EDX.5.15 **Procedures**

EDX.5.15.1 EDX London may from time to time prescribe procedures for the purposes of these Default Rules and to provide for the manner in which its rights or obligations under the Companies Act 1989 or the Financial Services and Markets Act 2000 in relation to such rules or proceedings may be exercised by or on behalf of EDX London.

EDX.5.15.2 EDX London may from time to time prescribe procedures for the designation of persons as designated non-members, for reviewing or withdrawing any such designation and for notifying persons of such designation, or the withdrawal of such designation. Such procedures shall ensure that:

- (i) no person or description of persons shall be so designated or remain designated if the failure by such person or description or persons to meet its obligations in respect of one or more Market Contracts would be unlikely adversely to affect the operation of EDX London's Market;
- (ii) a person so designated or a person within the description of persons in question is notified promptly that it or the description of persons in question has been designated or that the designation of such person or description of person has been withdrawn;
- (iii) where a description of persons is so designated or such designation withdrawn, procedures are in place to enable EDX London to ascertain which persons fall within such description for the time being. EDX London shall publish its procedures for the designation of persons or descriptions of persons from time to time.

EDX.5.15.3 The defaulter shall co-operate fully at all times with EDX London and shall promptly provide such information as EDX London or its employees or agents may request in connection with the implementation by EDX London of these Default Rules or the exercise by it of its rights or the fulfilment by it of its obligations under the Companies Act 1989 or the Financial Services and Markets Act 2000 in respect of such Rules.

EDX.5.16 Delegation of Functions

EDX.5.16.1 EDX London may from time to time appoint one or more persons to perform on its behalf any of the functions which it may be required or deem necessary to exercise under these Default Rules and may engage the services of any professional adviser to advise or assist EDX London with regard thereto.

EDX.5.16.2 The Designated Clearing House may be appointed under rule EDX.5.16.1.

EDX.5.17 **Costs**

EDX.5.17.1 The defaulter shall be liable to indemnify EDX London in respect of EDX London's costs, charges and expenses in taking any action under the Default Rules, including the costs of any person appointed to perform functions on behalf of EDX London pursuant to Rule EDX.5.16 or any professional adviser engaged pursuant to Rule EDX.5.16.

EDX.5.18 Co-operation with Other Bodies

EDX.5.18.1 EDX London may pass on any details of or other information in its possession relating to a Member or designated non-member or its Market Contracts to the Secretary of State, to the FSA, to any Recognised Investment Exchange or Recognised Clearing House or regulatory body, or to any other exchange or clearing house approved under the Companies Act 1989 for the purposes of Part VII of that Act, or to any relevant office-holder or any other authority or body having responsibility for any matter arising out of, or in connection with, the default of a Member or designated non-member and otherwise co-operate with such persons in connection with such default.

THIS PAGE IS INTENTIONALLY LEFT BLANK