

Notice No.: RISK-2019-020

Issue Date: 08 April 2019

Subject: Netting

Notice to all Members,

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Pursuant to the DGCX By-Laws and Clearing Rules of the DCCC, Clearing Members (“Members”) are hereby advised of the following.

Members will be aware that Federal Decree-by-Law No. (10) of 2018 “Regarding Netting” (“the Law”) came into effect on and from 30 October 2018. This Law was drafted to meet international standards on close out netting in financial markets.

DCCC has sought external legal advice with respect to the Law and the impact it may have on DCCC operations and those of its Members. This Notice summarises the advice that DCCC has received. However, Members are encouraged to seek their own legal advice should they wish to understand the impact as it relates to their own specific areas of activity.

The Law provides for parties to a Netting Agreement to terminate outstanding agreements, set-off their dues and realise any netted amount, without being drawn into lengthy and potentially restrictive insolvency proceeding if one of the parties becomes insolvent (i.e. “close-out netting”). This is an efficient way of reducing both settlement and counterparty risk.

DCCC already operates a close-out process on a daily basis, in accordance with relevant SCA regulations, whereby open positions are settled at the relevant Daily Settlement Price and the net position “rolled-over” to the following business day. In addition, in the event of a Clearing Member default, DCCC has powers that allow it to undertake close-out netting as described above.

The legal advice received by DCCC confirms that: the products cleared by DCCC qualify as Qualified Financial Contracts which fall within the scope of the Law; that the daily close-out process effectively amounts to a form of netting, which is a concept that is now officially recognized by the Law; and that the settlement risk associated with the enforcement of close-out netting has been extinguished. Therefore, it is considered that the Law constitutes a statutory guarantee of the effectiveness of Part H of the DCCC’s Clearing Rules, and in particular those sections that cover “Procedures on Default” and “Actions Following a Default”. Finally, as a result of the enforceability for post-insolvency close-out netting, credit risk is greatly reduced. The mitigation of insolvency-related risks may result in a recalculation of regulatory capital requirements, depending on a Member’s specific circumstances.

In summary, the Law enhances the legal framework governing trading on DGCX, and strengthens the enforceability of DCCC’s Clearing Rules.

For Dubai Commodities Clearing Corporation

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