

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

As of 01.04.2019

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

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[...]

## **Part 1 General Clearing Provisions**

[...]

### **2 Clearing Members**

#### **2.1 Clearing License**

[...]

##### **2.1.2 General Prerequisites for Clearing Licenses**

[...]

(3) The applicant for a Clearing License must

[...]

(d) [...]

Securities collateral shall be posted by transfer of ownership for security purposes (*Eigentumsübertragung zu Sicherungszwecken*) into a custody account with Clearstream Banking AG (in Xemac the relevant transfer is being effected by labelling the relevant Securities with "pledge" by way of Earmarking), Clearstream Banking S.A. (also using the Triparty Collateral Management Service CmaX of Clearstream Banking S.A. ("**CmaX**") or SIX SIS AG.

Eurex Clearing AG may, in its reasonable discretion, decide that the Clearing Member may, for the purpose of transferring full title in such Securities, use securities accounts of a third party with Clearstream Banking AG. Number 3.6 shall apply accordingly.

(4) The applicant (other than an applicant that intends to become an OTC IRS U.S. Clearing Member) shall have available the following accounts:

(a) Securities Accounts:

[...]

(bb) for purposes of providing Segregated Margin in the form of Securities pursuant to the Individual Clearing Model Provisions through accounts with Clearstream Banking AG:

- (i) one or several securities accounts with Clearstream Banking AG for each of its ICM Clients pursuant to the Individual Clearing Model Provisions and/or
- (ii) a securities account with Clearstream Banking AG for several of its ICM Clients pursuant to the Individual Clearing Model Provisions,

in each case if applicable and if the Clearing Member does not use Xemac in order to transfer title to the Securities which form part of the Segregated Margin to Eurex Clearing AG; the Securities are attributed to the relevant ICM Client, respectively, in the case of (i), by booking them into the securities account and in the case of (ii), by booking them into the securities account and stating the specific customer identifier pursuant to Part 3 Subpart A Number 4.3 (such account held by the Clearing Member, or, in accordance with Chapter I Part 1 Number 3.6, by a Third-Party CM Account Holder the “**Securities Margin Account**”);

(cc) for purposes of providing Margin in the form of Securities pursuant to the ISA Provisions:

[...]

- (ii) in case the Eligible Margin Assets in the form of Securities shall be provided to Eurex Clearing AG by transferring title:

[...]

- (B) a securities account with Clearstream Banking AG for several of its Disclosed Direct Clients pursuant to the ISA Provisions,

in each case if applicable and if the Clearing Member does not use Xemac in order to transfer title to the Securities which form part of the Margin pursuant to the ISA Provisions to Eurex Clearing AG; the Securities are attributed to the relevant Disclosed Direct Client, respectively, in the case of (A), by booking them into the securities account and in the case of (B), by booking them into the securities account and stating the specific customer identifier pursuant to Part 4 Number 3.6 (such account held by the Clearing Member, or, in accordance with Chapter I Part 1 Number 3.6, by a Third-Party CM Account Holder the “**ISA Securities Margin Account**”); or

[...]

### 3 General Provisions regarding Margin

[...]

#### 3.6 Use of third-party securities accounts to provide Eligible Margin Assets in the form of Securities by way of pledges or by way of full title transfer

(1) If the Clearing Member, pursuant to the applicable provisions of the Clearing Conditions, is required to provide Eligible Margin Assets in the form of Securities to Eurex Clearing AG by way of pledge or by way of full title transfer, Eurex Clearing AG may, in its ~~free-reasonable~~ discretion, decide that the Clearing Member may, for the purpose of granting such pledges or transferring full title in such Securities, use securities accounts of a third party with Clearstream Banking AG (such third party, a “**Third-Party CM Account Holder**” and the decision to allow a specific Third-Party CM Account Holder a “Third-Party CM Account Holder Permission”).

(2) [...]

(3) Unless explicitly waived by Eurex Clearing AG with respect to the relevant Third-Party CM Account Holder, a Clearing Member may only use any securities account of a Third-Party CM Account Holder if such Third-Party CM Account Holder has entered with the Clearing Member and Eurex Clearing AG into (i) a pledge agreement in the form appended to the Clearing Conditions as set out in Appendix 7 or in such form as may be required by Eurex Clearing AG (if Eligible Margin Assets in the form of Securities are provided by way of pledge) or (ii) a title transfer agreement in the form appended to the Clearing Conditions as set out in Appendix 14 or in such form as may be required by Eurex Clearing AG (if Eligible Margin Assets in the form of Securities are provided by way of title transfer), as applicable.

~~The Clearing Member shall ensure that, if it uses any securities account of a Third-Party CM Account Holder, the Third-Party CM Account Holder grants all relevant authorisations to the Clearing Member that are necessary or expedient to effect any pledge of Eligible Margin Assets credited to such securities account.~~

(4) In preparation of its decision pursuant to Paragraph (1), Eurex Clearing AG may rely on external legal advice, and any costs incurred by Eurex Clearing AG in connection therewith shall be borne by the Clearing Member that intends to use a Third-Party CM Account Holder.

(5) Eurex Clearing AG may revoke the Third-Party CM Account Holder Permission at any time by giving notice to the Clearing Member. If, in respect to the Third-Party CM Account Holder, an event occurs that would, in respect to a Clearing Member, constitute an insolvency related event pursuant to Number 7.2.1 (5) or an Insolvency Termination Event pursuant to Number 7.2.2, the Third-Party CM Account Holder Permission is automatically revoked. Eurex Clearing AG may decide on a case by case basis whether the Securities pledged to/transferred to Eurex Clearing using an

account of the Third-Party CM Account Holder after a revocation of the Third-Party CM Account Holder Permission are recognized as collateral. Eurex Clearing AG shall notify the Clearing Member of each such decision.

### Part 3 Subpart A: General Provisions for ICM-ECD and ICM-CCD

#### 5 Segregated Margin

[...]

#### 5.1 General obligation to provide Segregated Margin and transfer of Securities to the Securities Margin Account or the Eurex Clearing Securities Margin Account

[...]

5.1.2 To provide Eligible Margin Assets in the form of Securities to Eurex Clearing AG on the Securities Margin Account with Clearstream Banking AG other than pursuant to Number 5.5, the Clearing Member shall instruct Clearstream Banking AG to (i) transfer all right, title and interest in and to the Securities to Eurex Clearing AG by crediting such Securities to the Securities Margin Account of the Clearing Member or, if applicable, of the Third-Party CM Account Holder for the benefit of Eurex Clearing AG and (ii) apply the customer identifier of the relevant ICM Client in accordance with Number 4.3 (a “**CBF Instruction**”).

#### 5.1.3 If the Clearing Member is the account holder of the Securities Margin Account, the following applies:

(1) In the case of a transfer of Securities in form of co-ownership interests (Miteigentumsanteilen), the Clearing Member makes an offer to transfer the relevant Securities to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer in advance subject to the credit of such Securities to the Securities Margin Account with Clearstream Banking AG. ~~Section §~~ 151 BGB applies.

[...]

(2) ~~5.1.4—(2)~~In the case of a transfer of Securities in form of German book-entry securities (Gutschriften in Wertpapierrechnung), the Clearing Member makes an offer to transfer by assigning its corresponding claim for surrender (*Herausgabeanspruch*) against Clearstream Banking AG relating to such German book-entry Securities to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer to assign in advance subject to the credit of the relevant book-entry securities to the Securities Margin Account with Clearstream Banking AG. ~~Section §~~ 151 BGB applies.

[...]

5.1.4 If the Third-Party CM Account Holder is the account holder of the Securities Margin Account, the transfer shall be carried out in accordance with the provisions of Appendix 14.

5.1.55.1.5 To provide Eligible Margin Assets in the form of Securities to Eurex Clearing AG to the relevant Eurex Clearing Securities Margin Account with Clearstream Banking S.A., the Clearing Member shall instruct Clearstream Banking S.A. to (i) transfer all right, title and interest in and to the Securities to Eurex Clearing AG by crediting such Securities to such Eurex Clearing Securities Margin Account and (ii) apply the customer identifier of the relevant ICM Client in accordance with Number 4.3 (a "CBL Instruction"). In the case of any such transfers of Securities to a Eurex Clearing Securities Margin Account, the Clearing Member makes an offer to transfer the relevant Securities to Eurex Clearing AG by means of the CBL Instruction. Eurex Clearing AG hereby accepts any such offer in advance subject to the credit of such Securities to the relevant Eurex Clearing Securities Margin Account.

[...]

## **Part 4 Individual Segregated Account Provisions**

[...]

### **6 Margin**

[...]

#### **6.3 Delivery and Booking of Eligible Margin Assets**

[...]

##### **6.3.2 Delivery of Eligible Margin Assets in the form of Securities**

[...]

6.3.2.3 If the Clearing Member, with respect to the relevant Internal ISA Margin Account, has submitted a Title Transfer Margin Election, the following applies:

[...]

(3) With respect to a transfer of Securities to an ISA Securities Margin Account with Clearstream Banking AG of which the Clearing Member is the account holder:

(a) In the case of a transfer of Securities in form of co-ownership interests (Mit-eigentumsanteilen), the Clearing Member makes an offer to transfer the relevant Securities to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer in advance subject to the credit of such Securities to the Securities Margin Account. ~~Section §~~ 151 BGB applies. [...]

- (b) In the case of a transfer of Securities in the form of German book-entry securities (*Gutschriften in Wertpapierrechnung*), the Clearing Member makes an offer to transfer by assigning its corresponding claim for surrender (*Herausgabeanspruch*) against Clearstream Banking AG relating to such German book-entry securities to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer to assign in advance subject to the credit of the relevant book-entry securities to the Securities Margin Account. ~~Section §~~ 151 BGB applies. [...]
- (4) With respect to a transfer of Securities to an ISA Securities Margin Account with Clearstream Banking AG of which the Third-Party CM Account Holder is the account holder, the transfer shall be carried out in accordance with the provisions of Appendix 14.
- (5) With respect to a transfer of Securities to a Eurex Clearing ISA Securities Margin Account, the Clearing Member makes an offer to transfer the relevant Securities to Eurex Clearing AG by means of the CBL Instruction. Eurex Clearing AG hereby accepts any such offer in advance subject to the credit of such Securities to the relevant Eurex Clearing ISA Securities Margin Account.
- (65) The Clearing Member may provide Eligible Margin Assets or may have Eligible Margin Assets provided in the form of Securities by way of full title transfer in accordance with Paragraph (1) by using Xemac on the basis of the applicable SC Xemac. In that case the title transfer is being effected by a respective labelling of the Securities in the system (“appropriation”) and modification of the bailment intention (*Besitzmittlungswille*) by Clearstream Banking AG in favour of Eurex Clearing AG (“Earmarking”). With respect to a Xemac account of which the Clearing Member is the account holder, Paragraph (3) otherwise applies *mutatis mutandis*. With respect to a Xemac account of which the Third-Party CM Account Holder is the account holder, the transfer shall be carried out in accordance with the provisions of Appendix 14.

[...]

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