

clear to trade

# eurex clearing circular 042/16

**Date:** 30 March 2016  
**Recipients:** All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors  
**Authorized by:** Matthias Graulich

**Amendments to the Clearing Conditions of Eurex Clearing AG and other related documents with respect to direct access, consultation on proposed amendments of Special Provisions**

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**Content may be most important for:**

☞ All departments

**Attachments:**

1a–1f Updated sections of the Clearing Conditions of Eurex Clearing AG  
2a–2i Updated sections of other related documents listed in the summary

**Summary:**

This circular contains information with respect to amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other related documents regarding direct access, in detail:

1. Introduction of the ISA Direct Model, comprising the new Clearing Member type “ISA Direct Member” (legal term: “Basic Clearing Member”)
2. Amendment of the admission prerequisites for Direct Clearing Members
3. Amendment of Qualified Clearing Staff requirements
4. Amendments to other related documents:
  - a. Statutes for the EMIR Risk Committee
  - b. Default Management Committee Rules
  - c. Default Management Auction Rules
  - d. Statutes for the Disciplinary Committee
  - e. Disciplinary Procedures Rules
  - f. Statutes for the IRS Product Committee
  - g. General Terms and Conditions to the Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)
  - h. Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)
  - i. Price List of Eurex Clearing AG

The amended sections of the Clearing Conditions and other related documents, as decided by the Executive Board of Eurex Clearing, are attached to this circular.

The amendments related to **Numbers 1, 2, 3 and 4 (a, b, c, d, e, f and i)** will come into effect on **1 June 2016**.

The amendments related to **Number 4(g)** will come into effect on **12 May 2016**, while changes related to **Number 4(h)** will be effective from **1 July 2016**.

The planned amendments related to **Numbers 1 and 2, 4(b) and 4(c)** fall within the scope of Special Provisions of the Clearing Conditions and hence are subject to a consultation process to which Eurex Clearing hereby invites affected Clearing Members, affected Non-Clearing Members, affected Registered Customers and affected FCM Clients to submit comments. Further details on the consultation process are included in this circular.



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Thomas Laux,  
Erik Tim Müller

Aktiengesellschaft mit  
Sitz in Frankfurt/Main  
HRB Nr. 44828  
USt-IdNr. DE194821553  
Amtsgericht  
Frankfurt/Main

**Amendments to the Clearing Conditions of Eurex Clearing AG and other related documents with respect to direct access, consultation on proposed amendments of Special Provisions**

Eurex Clearing envisages establishing new options for buy-side clients to become direct counterparts of Eurex Clearing. This circular focuses on the legal implementation for direct access, specifically on:

1. Introduction of the ISA Direct Model, comprising the new Clearing Member type "ISA Direct Member" (legal term: "Basic Clearing Member")
2. Amendment of the admission prerequisites for Direct Clearing Members, and
3. Adjustment of QCS requirements as a further simplification step of the Eurex Clearing admission process.

This circular contains information with respect to the required amendments to the Clearing Conditions of Eurex Clearing. Moreover, amendments in other related documents will be made.

4. These other related documents are as follows:
  - a. Statutes for the EMIR Risk Committee
  - b. Default Management Committee Rules
  - c. Default Management Auction Rules
  - d. Statutes for the Disciplinary Committee
  - e. Disciplinary Procedures Rules
  - f. Statutes for the IRS Product Committee
  - g. General Terms and Conditions to the Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)
  - h. Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)
  - i. Price List of Eurex Clearing AG

The amended sections of the Clearing Conditions and other related documents, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

The amendments related to **Numbers 1, 2, 3 and 4 (a, b, c, d, e, f and i)** will come into effect on **1 June 2016**. The amendments related to the General Terms and Conditions to the Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) (**Number 4(g)**) will come into effect on **12 May 2016**, while changes affecting the a) Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) (**Number 4(h)**) will be effective from **1 July 2016**.

The planned amendments related to the Clearing Conditions of Eurex Clearing (**Numbers 1 and 2**), Default Management Committee Rules (**Number 4(b)**) and Default Management Auction Rules (**Number 4(c)**) fall within the scope of Special Provisions of the Clearing Conditions and hence are subject to a consultation process to which Eurex Clearing hereby invites all affected Clearing Members, affected Non-Clearing Members, affected Registered Customers and affected FCM Clients to submit comments. The consultation on the proposed changes or amendments to Special Provisions of Eurex Clearing will start on **30 March 2016** and will end on **30 April 2016** at midnight. This will be followed by a shortened publication period of at least 15 business days, after which the proposed changes will come into effect on **1 June 2016**, provided that in total no more than two affected Clearing Members, affected Non-Clearing Members, affected Registered

Customers or affected FCM Clients object to the application of such shortened publication period during the consultation.

If Eurex Clearing receives such objections from more than two affected Clearing Members, affected Non-Clearing Members, affected Registered Customers or affected FCM Clients during the consultation, Eurex Clearing will notify all Clearing Members, Non-Clearing Members, Registered Customers and FCM Clients promptly upon receipt of such objections in a further electronic circular.

During the consultation period, comments on proposed changes will be submitted through a web-based commenting service provided by Eurex Clearing. Any affected Clearing Member, affected Non-Clearing Member, affected Registered Customer or affected FCM Client intending to submit comments is kindly requested to appoint one or more individuals for the consultation who will submit comments on behalf of the respective affected Clearing Members, Non-Clearing Members and Registered Customers via the form in attachment 3 to this circular. The form has to be signed and returned to Eurex Clearing, via e-mail to [SpecialProvisions@eurexclearing.com](mailto:SpecialProvisions@eurexclearing.com) or via fax to +49-69-211-1 84 40, in order to obtain a User ID and Password together with a Link for accessing a web-based commenting service.

Eurex Clearing cannot guarantee consideration of comments if they are submitted in a different way than through the web-based service provided by Eurex Clearing.

Following the assessment of the comments that were received during the Consultation period, Eurex Clearing will decide on the changes to the Special Provisions.

To the extent Eurex Clearing decides to implement comments of affected Clearing Members, affected Non-Clearing Members, affected Registered Customers or affected FCM Clients to the proposed amendments under Numbers **1, 2, 4(b) and 4(c)**, the so amended version of the changes will be published again at least 15 business days prior to the effective date stipulated in such notice via electronic Eurex Clearing circular and on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com).

**1. Introduction of the ISA Direct Model comprising a new Clearing Member type: “ISA Direct Member” (in legal terms: “Basic Clearing Member”)**

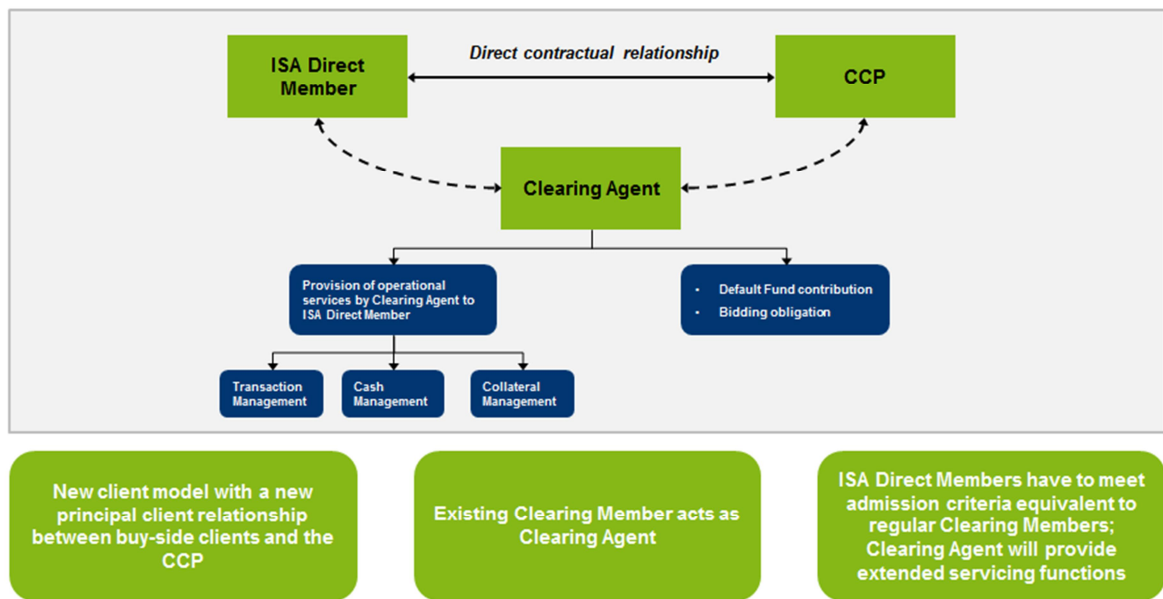
Eurex Clearing will introduce a direct access model, the “ISA Direct Model”. The ISA Direct Model will allow buy-side participants (“ISA Direct Members” (which, in this circular, is used synonymously with the legal term “Basic Clearing Member”)) to have a direct contractual relationship with Eurex Clearing facilitated by a clearing agent.

The principal relationship to the client under the traditional client clearing moves from the existing Clearing Member directly to the CCP, and the Clearing Member takes over the role of the Clearing Agent under the ISA Direct Model.

The Clearing Agent will act as agent and will provide mandatory core services (default fund contribution and default management (DMP) obligations) and optionally certain operations and financing functions, e.g. cash or collateral management, for the ISA Direct Member.

Overview of the ISA Direct Model:

**Direct contractual relationship between ISA Direct Member and CCP with Clearing Agent providing certain service functions on behalf of the ISA Direct Member**



ISA Direct Members are legally responsible to meet the admission criteria, equivalent to regular Clearing Members. The Clearing Agent provides extended servicing functions. The new service will be initially offered for the clearing of Repo transactions at Eurex Repo GmbH as well as for OTC Derivative Transactions. The technical launch for OTC IRS and Eurex Repo is envisaged for summer 2016.

From a functional point of view, ISA Direct Members will be set up like regular Registered Customers/Non-Clearing Members, whereas Clearing Agents will be set up like regular Clearing Members. This purely functional view has no legal relevance. Further information on the ISA Direct Model will be as well published on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com).

To implement the changes, the following provisions in the Clearing Conditions will be amended (attachments 1a–1e):

- Chapter I: Introduction of a new Part 6 (Basic Clearing Member Provisions)
- Chapter I Part 1: Amendment of the General Provisions to reflect the addition of Part 6
- Chapter I Parts 2-4: Minor amendments
- Chapter IV: Necessary changes to reflect the new Basic Clearing Member type
- Chapter VIII: Necessary changes to reflect the new Basic Clearing Member type
- Appendix: New Clearing Agreement (Appendix 11)

## **2. Amendment of the admission prerequisites for Direct Clearing Members**

Selected admission criteria for Direct Clearing Members have been amended (identical with the admission criteria for Basic Clearing Members, such that banks, financial institutions, funds, pension funds and insurance companies may be admitted as Direct Clearing Members in order to further foster direct access for the buy-side clients (alignment of the group of eligible entities).

To implement the changes, the following provisions in the Clearing Conditions will be amended (attachment 1b):

- Chapter I Part 1 Number 2.1.2

## **3. Amendment of the Qualified Clearing Staff requirements**

There will be an adjustment of Eurex Clearing's Qualified Clearing Staff (QCS) framework by downsizing the QCS (qualification) requirements to a minimum for a more effective admission process while still maintaining high qualification and allowing Members more flexibility as to their own qualification requirements.

A Clearing Member will name one QCS (in case of outsourcing, the insourcer or the Clearing Member will name a QCS). Qualification will be deemed if the company's Compliance Officer confirms the respective knowledge, the staff member has passed the QCS Basic Module Test or Certified Clearing Specialist Exam, or has attended the Core Clearing Knowledge seminar offered by Deutsche Börse Capital Markets Academy. Furthermore, the Qualified Backoffice Staff (QBO) requirement for Eurex Clearing's Non-Clearing Members will be adjusted accordingly.

To implement these changes, the following provisions in the Clearing Conditions will be amended (attachments 1b and 1f):

- Chapter I Part 1 Number 2.1.2
- Chapter II Part 1 Number 1.11

#### 4. Amendments to other related documents

The above-mentioned changes have to be reflected accordingly in other related documents as well.

##### a. Statutes for the EMIR Risk Committee (amendments subject to approval by the EMIR Risk Committee)

The new Clearing Member type Basic Clearing Member ("BCM") can become a member of the EMIR Risk Committee, equal to GCMs and DCMs.

To implement these changes, the following provisions in the statutes of the EMIR Risk Committee (attachment 2a) will be amended (subject to approval by the EMIR Risk Committee which is expected to decide on this matter on 20 May 2016):

- § 1 (6) (a) and (b)
- § 2 (1) (c)
- § 4 (2) (c) and (d)

##### b. Default Management Committee Rules (amendments subject to public consultation)

The Default Management Committee Rules will apply in case of a BCM default. BCMs are not eligible to participate in the Default Management Committee. No further content related changes will be required.

To implement the recommended changes, the following provisions in the Default Management Committee Rules (attachment 2b) will be amended (subject to consultation):

- Numbers 1.1 and 1.3
- Numbers 3.1.1 und 3.2.3
- Appendix 1 (under "whereas", point "(B)")

##### c. Default Management Auction Rules (amendments subject to public consultation)

The Default Management Auction Rules provide for a voluntary participation of BCMs. The Mandatory Participation is the responsibility of the Clearing Agent only and cannot be taken over by the BCM.

To implement the changes, the following provisions in the Default Management Auction Rules (attachment 2c) will be amended (subject to consultation):

- Number 1.1
- Numbers 3.1, 3.2 (including Numbers 3.2.1 and 3.2.2) and Number 3.3
- Number 4.1
- Number 5.1.3 and 5.6
- Number 10.3.9

##### d. Statutes for the Disciplinary Committee

The new Clearing Member type BCM may be appointed as a member of the Disciplinary Committee, equal to GCMs and DCMs.

To implement these changes, the following provisions in the Statutes for the Disciplinary Committee will be amended (attachment 2d):

- § 1 (4)
- § 3 (2)
- § 4 (2) (d)

e. Disciplinary Procedures Rules

The Disciplinary Procedures Rules are applicable for the new Clearing Member type BCM, equal to GCMs and DCMs as well as to the Clearing Agent. No further content related changes will be required.

To implement these changes, the following provisions in the Disciplinary Procedures Rules will be amended (attachment 2e):

- Chapter I Number 1 (2) (a), (3) (a) and (3) (b)
- Chapter II Number 1 (d) and (e) as well as Number 2 (1) (a)

f. Statutes for the IRS Product Committee

The new Clearing Member type BCM can become a member of the IRS Product Committee, equal to GCMs and DCMs.

To implement these changes, the following provisions in the Statutes for the IRS Product Committee will be amended (attachment 2f):

§ 1 (6) (a) and (b)

g. General Terms and Conditions to the Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)

Technical requirements for the new BCM are reduced to a minimum, i.e. access to the Common Report Engine. Moreover, upcoming changes due to the decommissioning of the @X-pert GUI and VALUES API as well as reduced functionality of the @X-tract GUI will be included. Lastly, requirements for Interim Participants have been defined more clearly.

To implement these changes, the following provisions in the General Terms and Conditions to the Agreement on the Technical Connection on the Clearing EDP of Eurex Clearing AG (Connection Agreement) will be amended (attachment 2g):

- § 1 (3) and (4)
- § 2 (6) [deleted] and (10)
- § 4 (1) and (2)
- § 5 (1), (3) [deleted] and (12) [deleted], and
- §§ 7, 20, 21, 23, 24, 25, 27, 29, 33, 41 and 44 [including section headings C, E and F]

h. Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)

The price for the usage of @X-pert GUI will be removed, effective from 1 July 2016.

To implement these changes, the following provisions will be amended in the Price List to the Connection Agreement (attachment 2h):

- § 2 (Monthly fees for the usage of the Clearing System)

i. Price List of Eurex Clearing AG

A new pricing model with regards to BCM will be introduced.

To implement these changes, the following provisions in the Price List of Eurex Clearing AG will be amended (attachment 2i):

- Preamble
- Number 1 (2) and (3)
- Numbers 3.1.1 and 3.1.2
- Number 5
- Number 9
- Number 11
- Number 12 (1)
- Number 14 (3)

As of the effective date **1 June 2016**, the full updated Clearing Conditions and other clearing related documents (other than 4(g) and 4(h)) will be published on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**Resources > Rules and Regulations**

As of the effective dates **12 May 2016** and **1 July 2016**, the updated version of the General Terms and Conditions to the Agreement on the Technical Connection on the Clearing EDP of Eurex Clearing AG (Connection Agreement) (4 g)) and the Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) (4(h)) will be published on the Eurex Clearing website under the following link:

**Resources > Forms**

Pursuant to Chapter I Part 1 Number 17.2.3 of the Clearing Conditions, the changes and amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless it objects in writing to Eurex Clearing before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions. The right to terminate the Clearing Agreement or the Clearing License according to Chapter I Part 1 Number 2.1.4 Paragraph 2 Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions remains unaffected.

Pursuant to Number 14 Paragraph 3 of the Price List, the amendments and additions to the Price List as communicated with this circular will be deemed to have been accepted by the respective Clearing Member unless such Clearing Member's written objection is submitted to Eurex Clearing AG within ten (10) business days after publication.

If you have any questions or require further information, please contact Group Client Services & Administration at tel. +49-69-211-1 17 00 or send an e-mail to: [memberservices@eurexclearing.com](mailto:memberservices@eurexclearing.com).

30 March 2016



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Chapter I Part VI is being newly inserted.

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## **Part 6 Basic Clearing Member Provisions**

### **1 Application of the Basic Clearing Member Provisions**

- 1.1 The provisions set forth in this Part 6 (the “**Basic Clearing Member Provisions**”) apply to entities other than a Clearing Member that participate in the Clearing of certain Transactions as a Basic Clearing Member (as defined in Part 1 Number 1.1.4) through a clearing agent (“**Clearing Agent**”) by entering into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 11 (each a “**Basic Clearing Member Clearing Agreement**”).
- 1.2 Any Transaction between the Basic Clearing Member and Eurex Clearing AG shall be concluded only as a proprietary Transaction of the Basic Clearing Member (each a “**Basic Clearing Member Transaction**”). The Basic Clearing Member may not clear Transactions for clients, but only for its own account.
- 1.3 Basic Clearing Member Transactions may only be Market Transactions (except for Eurex Transactions, Eurex Bonds Transactions, FWB Transactions and ISE Transactions) or OTC Interest Rate Derivative Transactions. Market Transactions and OTC Transactions are concluded in accordance with the following provisions:
- (1) Whenever an order or quote entered into the trading systems of a Market by a Basic Clearing Member or a Clearing Agent acting on behalf of the Basic Clearing Member is matched with another order or quote, in each case a Market Transaction with identical terms shall be concluded between Eurex Clearing AG and the relevant Basic Clearing Member.
  - (2) Whenever
    - (i) an Original OTC Transaction to which a Basic Clearing Member is a party is submitted to Eurex Clearing AG by a Clearing Agent on behalf of such Basic Clearing Member, either directly or via a third party information provider, as provided for in the Special Clearing Provisions, and
    - (ii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing Procedures in accordance with the Special Clearing Provisions,

Eurex Clearing AG will, subject to the following provisions, interpose itself by means of a novation as central counterparty between the parties of the Original OTC Transaction.

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Any novation of Original OTC Transactions shall be subject to the novation procedures, criteria and effectiveness requirements specified in the Special Clearing Provisions. The OTC Transactions resulting from the novation shall not be subject to the valid existence of the Original OTC Transaction (abstract novation).

The Original OTC Transaction shall – subject to the Special Clearing Provisions – upon the novation becoming effective be replaced by two OTC Transactions, each on terms that are identical to the terms of the other OTC Transaction, one of which shall exist directly between Eurex Clearing AG and the Basic Clearing Member.

## **2 Admission Criteria; Continuing Obligations**

An entity may enter into a Basic Clearing Member Clearing Agreement as a Basic Clearing Member or as a Clearing Agent in accordance with the following conditions.

### **2.1 Basic Clearing Member**

#### **2.1.1 Granting of Clearing Licence**

- (1) The participation in the Clearing of Basic Clearing Member Transactions as a Basic Clearing Member requires a license issued by Eurex Clearing AG for each applicable Transaction Type (each a “**Basic Clearing Member Clearing License**”).
- (2) Eurex Clearing AG may grant a Basic Clearing Member Clearing License for a Transaction Type if the applicant meets the general prerequisites pursuant to Number 2.1.2 and the special prerequisites for the relevant Transaction Type set forth in the Special Clearing Provisions.
- (3) A Basic Clearing Member Clearing License for a Transaction Type will be granted upon the conclusion of (or an amendment to this effect of) the Basic Clearing Member Clearing Agreement.
- (4) Basic Clearing Member Clearing Licenses as well as any rights and obligations resulting therefrom may not be assigned or transferred by way of contractual agreement or otherwise without the consent of Eurex Clearing AG.

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

- (1) The Basic Clearing Member must be a credit institution, financial institution, investment firm, insurance undertaking, reinsurance undertaking, collective investment undertaking (in the case of an Unincorporated Fund, Sub-Fund or Fund Segment, acting through an Authorised Manager) as defined in Article 4(1) of the CRR or an institution for occupational retirement provision as defined in Article 6(a) of Directive 2003/41/EC, in each case domiciled in a member state of the EU or in Switzerland.
- (2) The Basic Clearing Member must have a technical connection to the systems of Eurex Clearing AG on the basis of the Basic Clearing Member Clearing Agreement,

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which shall incorporate the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG.

- (3) The Basic Clearing Member must have available own funds and provide evidence thereof in accordance with the requirements and procedures for Clearing Members set out in Part 1 Number 2.1.2 Paragraph (3), except that Part 1 Number 2.1.2 Paragraph (3) (d) shall not apply. If the own funds of the Basic Clearing Member fall below the minimum amount so required by Eurex Clearing AG from time to time, Eurex Clearing AG shall be entitled to require the Basic Clearing Member to provide Supplementary Margin; for the avoidance of doubt, non-compliance by the Basic Clearing Member with such requirement to provide Supplementary Margin shall constitute a Basic Clearing Member Termination Event.
- (4) Applicants not subject to own fund requirements under the CRD IV and the CRR must (i) have available equivalent regulatory capital and provide evidence thereof in accordance with the requirements and procedures for Clearing Members set out in Part 1 Number 2.1.2 Paragraph (3) (except that Part 1 Number 2.1.2 Paragraph (3) lit. (d) shall not apply) or (ii) where Eurex Clearing AG determines that the financial resources of the applicant shall be assessed on the basis of the assets under management of the applicant (including in the case of collective investment undertakings and in the case of applicants with assets being subject to certain forms of segregation), provide evidence of a value in respect of their assets under management in an amount and frequency as determined by Eurex Clearing AG in its sole discretion from time to time. If the equivalent regulatory capital or the value of the assets under management, as applicable, falls below the minimum value so required by Eurex Clearing AG from time to time, Eurex Clearing AG shall be entitled to require the Basic Clearing Member to provide Supplementary Margin; for the avoidance of doubt, non-compliance by the Basic Clearing Member with such requirement to provide Supplementary Margin shall constitute a Basic Clearing Member Termination Event.
- (5) Eurex Clearing AG must have conducted a positive internal assessment of the creditworthiness of the Basic Clearing Member prior to its admission and at least annually thereafter in accordance with the procedures and criteria defined for Clearing Members in Part 1 Number 1.6. The Basic Clearing Member is obliged to provide the data relevant to perform the respective assessments upon request of Eurex Clearing AG. Eurex Clearing AG determines dedicated thresholds or limits for each of the monitored risks. The Basic Clearing Member is required to comply with these thresholds and limits at all times.
- (6) The Basic Clearing Member must, upon admission and at all times thereafter, have a General Clearing Member appointed to act as its Clearing Agent in accordance with a Basic Clearing Member Clearing Agreement and such Clearing Agent must satisfy all requirements with respect to a Clearing Agent stipulated in these Clearing Conditions.

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### **2.1.3 Rejection and Termination of Basic Clearing Member Clearing Licenses**

- (1) Part 1 Number 2.1.4 Paragraph (1) shall apply *mutatis mutandis* to a Basic Clearing Member Clearing License.
- (2) Basic Clearing Member Clearing Licenses may be terminated by Eurex Clearing AG or the Basic Clearing Member in accordance with Part 1 Number 13.1.
- (3) Upon the occurrence of a Basic Clearing Member Termination Date, all Basic Clearing Member Clearing Licenses of the affected Basic Clearing Member shall automatically expire.

### **2.1.4 Certain continuing Obligations of Basic Clearing Members**

- (1) Each Basic Clearing Member shall ensure that, at any time, sufficient funds are credited to the Basic Clearing Member Cash Accounts and that sufficient amounts of Securities and cash amounts for the settlement of Settlement Claims are credited to relevant security accounts and the corresponding cash accounts.
- (2) Each Basic Clearing Member shall – in accordance with any mandatory laws applicable to it – promptly inform Eurex Clearing AG if it is no longer in compliance with any of the prerequisites for any Basic Clearing Member Clearing License granted to it or if any other circumstances prevail, which might render any of these prerequisites no longer satisfied or if a Basic Clearing Member Termination Event or Basic Clearing Member Insolvency Termination Event has occurred.
- (3) Basic Clearing Members are obliged, at the request of Eurex Clearing AG, to provide Eurex Clearing AG with evidence of continued compliance with the prerequisites for a Basic Clearing Member Clearing License.
- (4) Each Basic Clearing Member shall notify Eurex Clearing AG immediately and without request if it is unable to fulfil any obligations under a Basic Clearing Member Transaction or any other obligations under a Basic Clearing Member Standard Agreement or Basic Clearing Member Clearing Agreement, including its obligations to deliver Basic Clearing Member Margin or Basic Clearing Member Variation Margin, if it becomes aware that its Clearing Agent is unable to fulfil any of the Clearing Agent's obligations under the Basic Clearing Member Clearing Agreement or any of the Basic Clearing Member's obligations that shall be performed through the Clearing Agent.

## **2.2 Clearing Agent**

2.2.1 The Clearing Agent must be a Clearing Member, hold a General Clearing License and meet the general and special prerequisites for each Transaction Type that the Basic Clearing Member intends to clear.

2.2.2 Eurex Clearing AG retains the right to reject a Clearing Agent for a Basic Clearing Member in order to prevent and control adverse risk constellations in accordance with Eurex Clearing AG's risk management policy.

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### 3 Role of Clearing Agent

3.1 The Clearing Agent acts on behalf and for the account of the Basic Clearing Member with respect to the rights and obligations of the Basic Clearing Member towards Eurex Clearing AG under the Basic Clearing Member Clearing Agreement and any Basic Clearing Member Transaction as further set out in this Part 6. Subject to Number 3.7, the entire clearing relationship between the Basic Clearing Member and Eurex Clearing AG shall accordingly be administered and settled through the Clearing Agent as further set out in these Basic Clearing Member Provisions.

The Clearing Agent shall, without prejudice to the right of Eurex Clearing AG pursuant to Number 7.3.1 Paragraph (2) and Number 7.3.2 Paragraph (2) to directly debit a Basic Clearing Member Cash Account held by the Clearing Agent, not have any obligation to provide Basic Clearing Member Margin or Basic Clearing Member Variation Margin and any failure to provide Basic Clearing Member Margin or Basic Clearing Member Variation Margin shall not constitute a Termination Event in respect of the Clearing Agent. The Clearing Agent shall also not be liable for any failure to satisfy any Settlement Claims in respect of any Basic Clearing Member Transactions.

3.2 By entering into the Basic Clearing Member Clearing Agreement with the Clearing Agent and Eurex Clearing AG, subject to Number 3.7, the Basic Clearing Member irrevocably authorizes (*bevollmächtigt*) the Clearing Agent to submit and receive, also on behalf of the Basic Clearing Member, all statements (including, without limitation, any notice, termination notice or other declaration to and from Eurex Clearing AG) and to take and accept all other acts on behalf of the Basic Clearing Member that are necessary or expedient to effect Basic Clearing Member Transactions and for the performance by or to the Basic Clearing Member of obligations arising thereunder or under the Basic Clearing Member Clearing Agreement. The Clearing Agent shall be entitled to grant sub-authorisations (*Untervollmachten*).

3.3 The Basic Clearing Member agrees that Eurex Clearing AG is entitled to discharge (*erfüllen*) all present and future delivery and payment obligations which may arise under the relevant Basic Clearing Member Clearing Agreement or any Basic Clearing Member Transaction by payment or delivery, respectively, to the Clearing Agent. Any such payment or delivery by Eurex Clearing AG to the Clearing Agent will discharge (*erfüllen*) the relevant payment or delivery obligation of Eurex Clearing AG to the Basic Clearing Member.

3.4 Eurex Clearing AG agrees that the Clearing Agent is entitled to discharge (*erfüllen*) all present and future delivery and payment obligations of the Basic Clearing Member which may arise under the relevant Basic Clearing Member Clearing Agreement or any Basic Clearing Member Transaction by payment or delivery, respectively, to Eurex Clearing AG. Any such payment or delivery by the Clearing Agent to Eurex Clearing AG will discharge (*erfüllen*) the relevant payment or delivery obligation of the Basic Clearing Member to Eurex Clearing AG.

3.5 Unless otherwise set out in these Basic Clearing Member Provisions, any recourse, reimbursement or other claims of the Clearing Agent against the Basic Clearing Member

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resulting from the performance by the Clearing Agent of any claims arising under the relevant Basic Clearing Member Clearing Agreement or of any obligations of the Basic Clearing Member are solely a matter of, and subject to, any additional terms to the Basic Clearing Member Clearing Agreement, as such additional terms may be agreed on a bilateral basis between the Clearing Agent and the Basic Clearing Member in accordance with Number 4.1.5.

- 3.6 The Clearing Agent shall, subject to and in accordance with the General Clearing Provisions, participate in any default management process with respect to all Basic Clearing Member Transactions of a particular Basic Clearing Member (for which it acts as Clearing Agent) with respect to which a Basic Clearing Member Termination has occurred. Subject to and in accordance with the DM Auction Rules, the Basic Clearing Member may, upon invitation by Eurex Clearing AG, participate in any default management process itself (with its Clearing Agent acting on behalf and in the name of the Basic Clearing Member) or indirectly through its Clearing Agent.
- 3.7 The Basic Clearing Member may, subject to the Clearing Agent's prior written consent, upon at least five (5) Business Days' prior written notice to Eurex Clearing AG and the Clearing Agent, limit the role, tasks, functions and authorities of the Clearing Agent to only some of the tasks, functions and authorities of the Clearing Agent set out or referred to in this Part 6 (the "**Clearing Agent Limitation Notice**"), except that a Clearing Agent Limitation Notice may not limit any of the Clearing Agent's tasks, functions and authorities set out or referred to in Number 3.6 or Number 9. The Clearing Agent Limitation Notice must set out the tasks, functions and authorities of the Clearing Agent that shall be subject to such limitation (and, as relevant, the scope of such limitation in respect to a particular task, function and authority) and the point in time at which such limitation shall take effect. Upon a limitation having become effective in accordance with the preceding sentences, the tasks, functions and authorities of the Clearing Agent specified in the Clearing Agent Limitation Notice shall be transferred to the Basic Clearing Member, and the relevant provisions of the Clearing Conditions shall be read accordingly. Upon the Clearing Agent Limitation Notice becoming effective, the relevant Basic Clearing Member Clearing Agreement shall automatically be amended accordingly.
- 3.8 If the Basic Clearing Member Cash Account is an account held by the Clearing Agent, upon the occurrence of a Basic Clearing Member Default Information Event, the Clearing Agent shall be entitled to withdraw, by written notice to Eurex Clearing AG (a "**Clearing Agent Debit Withdrawal Notice**"), the right of Eurex Clearing AG to debit such Basic Clearing Member Cash Account and Eurex Clearing AG shall, without undue delay (*unverzüglich*) after receipt of such Clearing Agent Debit Withdrawal Notice, cease to debit such Basic Clearing Member Cash Account for any payments owed by such Basic Clearing Member.
- 3.9 The Clearing Agent shall notify Eurex Clearing AG and the Basic Clearing Member immediately and without request if it is, or becomes aware that it will be, unable to fulfil any of its obligations under the Basic Clearing Member Clearing Agreement.

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## 4 Content of Basic Clearing Member Clearing Agreement and the Basic Clearing Member Standard Agreement

### 4.1 Construction

4.1.1 If a Basic Clearing Member Clearing Agreement is entered into by Eurex Clearing AG, a Clearing Agent and a Basic Clearing Member, such Basic Clearing Member Clearing Agreement will provide for terms and conditions applying (i) between Eurex Clearing AG, the Clearing Agent and the Basic Clearing Member and (ii) between Eurex Clearing AG and the Basic Clearing Member with respect to the Basic Clearing Member Standard Agreement (as defined below) and the Basic Clearing Member Transactions of such Basic Clearing Member.

4.1.2 All rights and obligations between Eurex Clearing AG and the Basic Clearing Member with respect to Basic Clearing Member Transactions under the Basic Clearing Member Clearing Agreement shall constitute a separate arrangement (each such arrangement a "**Basic Clearing Member Standard Agreement**"). All Basic Clearing Member Transactions and all Redelivery Claims between Eurex Clearing AG and the relevant Basic Clearing Member arising pursuant to the Basic Clearing Member Provisions under the relevant Basic Clearing Member Standard Agreement form a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to the provisions in these General Clearing Provisions on the termination of individual Basic Clearing Member Transactions) can be terminated only in its entirety.

4.1.3 Basic Clearing Member Transactions and all corresponding rights and obligations under the Basic Clearing Member Standard Agreement relating to the relevant Basic Clearing Member will be separate from:

- (a) all Basic Clearing Member Transactions and all corresponding rights and obligations under any other Basic Clearing Member Standard Agreement relating to any other Basic Clearing Member of the Clearing Agent,
- (b) all Own Transactions and all corresponding rights and obligations under the Elementary Proprietary Standard Agreement between the Clearing Agent (acting in its capacity as Clearing Member) and Eurex Clearing AG, and
- (c) any other rights and obligations under any other Standard Agreement established under any other Clearing Agreement between the Clearing Agent (acting in its capacity as Clearing Member) and Eurex Clearing AG pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions.

4.1.4 References in these Basic Clearing Member Provisions to a Basic Clearing Member Standard Agreement shall be construed solely by reference to the Basic Clearing Member Clearing Agreement and a certain Basic Clearing Member (and shall therefore exclude any other Basic Clearing Member Standard Agreement or any other Standard

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Agreement established under any other Clearing Agreement pursuant to the Clearing Conditions).

- 4.1.5 The Clearing Agent and the Basic Clearing Member may separately agree on additional terms to the Basic Clearing Member Clearing Agreement to the extent those additional terms do not conflict with the Basic Clearing Member Clearing Agreement. In the event of any inconsistencies between any such additional terms and the Basic Clearing Member Clearing Agreement, the Basic Clearing Member Clearing Agreement shall prevail.

**4.2 General principles applicable to the settlement of Basic Clearing Member Transactions and any Delivery and Redelivery of Basic Clearing Member Margin or Basic Clearing Member Variation Margin**

- 4.2.1 Eurex Clearing AG and the Basic Clearing Member shall be obliged to fulfil any payment obligations under the Basic Clearing Member Transactions or obligations to deliver or redeliver cover in respect of either the Basic Clearing Member Margin (as defined in Number 7.1) or the Basic Clearing Member Variation Margin (as defined in Number 8.1) under the relevant Basic Clearing Member Standard Agreement by transferring to the transferee all right, title and interest in and to the Eligible Margin Assets in the form of cash free and clear of any and all rights and claims of the transferring party and of any third person, howsoever arising, including, without limitation, pursuant to applicable law or regulation or under any statutory or other trust. The value of such assets shall, as of the date the transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

- 4.2.2 The actual payment of Eligible Margin Assets in the form of cash in respect of Basic Clearing Member Margin or Basic Clearing Member Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for repayment of equivalent assets in the same amount as such Eligible Margin Assets actually delivered (or increases an already existing repayment or redelivery claim; each such claim shall be referred to as a **"Redelivery Claim"**). Each such Redelivery Claim shall be allocated to the relevant Basic Clearing Member Standard Agreement.

In the case of Basic Clearing Member Margin in the form of cash, only the Basic Clearing Member may be the creditor of the relevant Redelivery Claim and in the case of Basic Clearing Member Variation Margin, Eurex Clearing AG or the Basic Clearing Member may be the creditor of the relevant Redelivery Claim.

For the purpose of the relevant Redelivery Claim, the term **"equivalent"** means the same amount in the same currency as such Eligible Margin Assets actually delivered in respect of the Basic Clearing Member Margin or the Basic Clearing Member Variation Margin.

A Redelivery Claim will become due with respect to (i) Basic Clearing Member Margin in the form of cash upon receipt of a respective declaration from the Clearing Agent (acting on behalf and for the account of the Basic Clearing Member) by Eurex Clearing AG prior to the then applicable cut-off time of any Business Day, as specified by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) for cash with respect to the relevant currency, if and to the extent the relevant applicable Default Basic Clearing Member Margin



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Requirement (as defined in Number 7.2.1) is below the aggregate value of all Eligible Margin Assets actually delivered in respect of the Basic Clearing Member Margin, and with respect to (ii) Basic Clearing Member Variation Margin in accordance with Number 8, in each case provided that no Termination Date with respect to the Clearing Agent and no Basic Clearing Member Termination Date has occurred, respectively.

- 4.2.3 Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the term “**actually delivered**” when used in the Basic Clearing Member Provisions means (i) the actual credit of an Eligible Margin Asset in the form of cash to the relevant Eurex Clearing AG cash account, (ii) the actual credit of an Eligible Margin Asset in the form of Securities to the relevant Basic Clearing Member Pledged Securities Account and such Eligible Margin Asset being subject to a valid pledge in accordance with Number 7.6.1 Paragraph (3), or (iii) in the event of a set-off pursuant to Number 6, the legal effectiveness of such set-off. The term “**actual delivery**” shall be interpreted accordingly.

Where reference is made in the Basic Clearing Member Provisions to the “**aggregate value**” of Eligible Margin Assets in connection with the assessment of compliance with the Default Basic Clearing Member Margin Requirement or an obligation to deliver or redeliver cover in respect of the Basic Clearing Member Margin or the Basic Clearing Member Variation Margin, as applicable, the aggregate value will be determined by Eurex Clearing AG in accordance with Number 3.2.2 of the General Clearing Provisions.

## 5 Internal Accounts

In addition to the internal accounts set out in Number 4 of the General Clearing Provisions, Eurex Clearing AG establishes and maintains with respect to each Basic Clearing Member the following internal accounts:

### 5.1 Transaction Accounts

Eurex Clearing AG opens and maintains for each Basic Clearing Member one transaction account (each a “**Basic Clearing Member Own Account**”) in which the Basic Clearing Member Transactions of the relevant Basic Clearing Member shall be booked.

### 5.2 Internal Cash Accounts

- 5.2.1 With respect to each currency accepted by it, Eurex Clearing AG establishes and maintains for each Basic Clearing Member one internal cash account for the settlement of claims into which all daily settlement payments, fees and other cash payment obligations (other than any obligation to provide Basic Clearing Member Margin) arising under Basic Clearing Member Transactions or under the Clearing Conditions with respect or relating to the relevant Basic Clearing Member Standard Agreement shall be booked.

- 5.2.2 The daily balance of each internal cash account (after taking into account any set-off pursuant to the Clearing Conditions) shall be debited or credited, as the case may be, to the respective Basic Clearing Member Cash Account to the extent that Eurex Clearing AG does not claim any credit balance in such account as Basic Clearing Member Margin or Basic Clearing Member Variation Margin.

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### 5.3 Internal Margin Accounts

- 5.3.1 Eurex Clearing AG establishes and maintains for each Basic Clearing Member an internal client margin account (each an “**Internal Basic Clearing Member Margin Account**”) in which all Eligible Margin Assets that have been actually delivered to Eurex Clearing AG as Basic Clearing Member Margin in respect of the Basic Clearing Member Standard Agreement will be recorded.
- 5.3.2 For this purpose, (i) all credits and debits of Securities to the relevant Basic Clearing Member Pledged Securities Account (and, if an Accepted Collateral Management System is used, all pledges or releases of pledges of Securities made by use of such Accepted Collateral Management System), and (ii) all daily cash credits or debits in respect of Basic Clearing Member Margin to the Basic Clearing Member Cash Account will be allocated to the relevant Basic Clearing Member Standard Agreement and recorded on the relevant Internal Basic Clearing Member Margin Account.

### 5.4 Methods of assigning transfers or pledges of Eligible Margin Assets to a Basic Clearing Member Standard Agreement

Eurex Clearing AG will provide the Clearing Agent with specific customer identifiers with respect to each of such Clearing Agent’s Basic Clearing Members. Any transfer or pledge of Eligible Margin Assets to Eurex Clearing AG in respect of Basic Clearing Member Margin or Basic Clearing Member Variation Margin shall clearly refer to the applicable customer identifier.

## 6 Set-off

- 6.1 Any claim of Eurex Clearing AG and the Basic Clearing Member under a Basic Clearing Member Standard Agreement, including claims to provide cover in respect of Basic Clearing Member Margin or Basic Clearing Member Variation Margin, may only be set off against claims arising from Basic Clearing Member Transactions under the same Basic Clearing Member Standard Agreement or claims to provide cover in respect of Basic Clearing Member Margin or Basic Clearing Member Variation Margin of the respective other party under the same Basic Clearing Member Standard Agreement. Eurex Clearing AG is not entitled to set off its claims vis-à-vis the Clearing Member (acting as Clearing Agent for the Basic Clearing Member or otherwise) against claims of a Basic Clearing Member or to set off its claims vis-à-vis one Basic Clearing Member against claims of another Basic Clearing Member.
- 6.2 Any other set-off of claims between Eurex Clearing AG and the Basic Clearing Member or between Eurex Clearing AG and a Clearing Member acting as Clearing Agent for the Basic Clearing Member shall be prohibited. This does not apply to a set-off by the Basic Clearing Member or the Clearing Agent with claims which are undisputed or have been determined as legally binding.

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## **7 Basic Clearing Member Margin**

### **7.1 General Obligation to provide Basic Clearing Member Margin**

7.1.1 The Basic Clearing Member is required to provide margin for all Basic Clearing Member Transactions under the relevant Basic Clearing Member Standard Agreement (“**Basic Clearing Member Margin**”) in such amounts, in such forms and at such times as are required pursuant to this Number 7 and the Special Clearing Provisions.

7.1.2 The purpose of Basic Clearing Member Margin actually delivered under the relevant Basic Clearing Member Standard Agreement is to collateralise all claims (whether present, future, actual, contingent or prospective) of Eurex Clearing AG arising under Basic Clearing Member Transactions, any Difference Claim and any other present and future claims of Eurex Clearing AG against the Basic Clearing Member under the relevant Basic Clearing Member Standard Agreement.

### **7.2 The Margin Requirement**

7.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of the relevant Margin for each Basic Clearing Member Standard Agreement shall be determined in accordance with Number 3.1 of the General Clearing Provisions (the “**Default Basic Clearing Member Margin Requirement**”).

7.2.2 Eurex Clearing AG will determine the Default Basic Clearing Member Margin Requirement separately with respect to each Basic Clearing Member Standard Agreement, based on the margin requirement for the Basic Clearing Member Transactions included in the relevant Basic Clearing Member Standard Agreement.

7.2.3 The Default Basic Clearing Member Margin Requirement with respect to each Basic Clearing Member Standard Agreement will be notified by Eurex Clearing AG to the Clearing Agent and the relevant Basic Clearing Member.

### **7.3 Margin Call**

#### **7.3.1 Margin Calls and direct debit prior to the end of a Business Day**

- (1) If Eurex Clearing AG at any time prior to the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of Basic Clearing Member Margin is less than the applicable Default Basic Clearing Member Margin Requirement under the relevant Basic Clearing Member Standard Agreement, Eurex Clearing AG will require the Basic Clearing Member to provide (additional) Eligible Margin Assets (including via the Clearing Agent) in accordance with the delivery procedures pursuant to Numbers 7.5 and 7.6 in an amount up to the relevant Default Basic Clearing Member Margin Requirement by the time specified by Eurex Clearing AG.
- (2) Subject to Number 3.8, to the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Paragraph (1), Eurex Clearing AG will

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(without having an obligation towards the Basic Clearing Member or the Clearing Agent to do so, on or around the time specified) directly debit the relevant Basic Clearing Member Cash Account in an amount equal to the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant Basic Clearing Member Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the Basic Clearing Member).

- (3) If a Clearing Agent elects to deliver, for the account of such Basic Clearing Member, (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Basic Clearing Member Margin under a specific Basic Clearing Member Standard Agreement, then:
- (i) the Clearing Agent shall notify Eurex Clearing AG of such election;
  - (ii) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account of such Clearing Agent and the respective credit entry in the Internal Basic Clearing Member Margin Account with such cash credit being allocated to the Basic Clearing Member Standard Agreement, provided that the aggregate value of the remaining Eligible Margin Assets in respect of the Elementary Proprietary Margin would not be less than the applicable Margin Requirement; and
  - (iii) the related Redelivery Claim under the Elementary Proprietary Standard Agreement between Eurex Clearing AG and such Clearing Agent shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal Basic Clearing Member Margin Account and an equivalent Redelivery Claim arises under the Basic Clearing Member Standard Agreement.

### **7.3.2 Margin Calls and direct debit at the end of a Business Day**

- (1) If Eurex Clearing AG at the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of Basic Clearing Member Margin is less than the applicable Default Basic Clearing Member Margin Requirement under the relevant Basic Clearing Member Standard Agreement, Eurex Clearing AG will require the Basic Clearing Member to provide (additional) Eligible Margin Assets in the form of cash in the Clearing Currency in an amount sufficient to satisfy the Default Basic Clearing Member Margin Requirement by the time specified by Eurex Clearing AG.
- (2) Subject to Number 3.8, to the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Paragraph (1), Eurex Clearing AG will (without having an obligation towards the Basic Clearing Member or the Clearing Agent to do so), on or around the time specified, directly debit the relevant Basic Clearing Member Account in the amount determined pursuant to Paragraph (1) in

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accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant Basic Clearing Member Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the Basic Clearing Member).

(3) Number 7.3.1 Paragraph (3) shall apply *mutatis mutandis*.

#### **7.4 Basic Clearing Member Excess Margin**

The Basic Clearing Member or Clearing Agent (acting on behalf and for the account of the Basic Clearing Member) may provide Eligible Margin Assets to Eurex Clearing AG in excess of the Default Basic Clearing Member Margin Requirement under the relevant Basic Clearing Member Standard Agreement (the “**Basic Clearing Member Excess Margin**”). Any Basic Clearing Member Excess Margin actually delivered shall form part of the relevant Basic Clearing Member Margin and shall, if and to the extent that such Basic Clearing Member Excess Margin consists of cash, be subject to a Redelivery Claim under the relevant Basic Clearing Member Standard Agreement.

Eurex Clearing AG will book any Eligible Margin Asset delivered to it as Basic Clearing Member Excess Margin into the relevant Internal Basic Clearing Member Margin Account and shall record the Eligible Margin Asset in the Internal Basic Clearing Member Margin Account as an Eligible Margin Asset for the account of the Basic Clearing Member.

#### **7.5 Delivery of Eligible Margin Assets in the form of Cash**

Eligible Margin Assets in the form of cash shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions.

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

7.6.1 Eligible Margin Assets in the form of Securities as cover in respect of the Basic Clearing Member Margin in respect of a Basic Clearing Member Standard Agreement shall be provided by transferring Eligible Margin Assets in the form of Securities to the relevant Basic Clearing Member Pledged Securities Account.

- (1) The Clearing Agent or the Basic Clearing Member shall instruct Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG in a timely manner to transfer the relevant Securities to the Basic Clearing Member Pledged Securities Account and authorizes Clearstream Banking AG, Clearstream Banking S.A. or SIX AG to inform Eurex Clearing AG of such transfer.
- (2) In relation to Securities credited to any Basic Clearing Member Pledged Securities Account that confer voting rights or other optional rights (including, but not limited to, warrants, options, conversion and subscription rights, rights in connection with takeovers, other forms of offers or capital reorganisations, redemption rights, tenders, options to tender or non-mandatory puts or calls) or that provide for discretionary action or alternative courses of action, Eurex Clearing AG shall not be

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responsible for exercising such voting or optional rights or for taking up such discretionary actions or alternative courses of action.

- (3) The Basic Clearing Member shall, by way of one or more separate pledge agreements and in the form and upon terms satisfactory to Eurex Clearing AG, grant pledges to Eurex Clearing AG over all Securities which are at present or will in the future be credited to the relevant Basic Clearing Member Pledged Securities Account. Eurex Clearing AG may allow pledges to be granted by the Clearing Agent on behalf of the Basic Clearing Member or acting upon a disposal authorisation (*Verfügungsermächtigung*) of the Basic Clearing Member.

7.6.2 The security purpose (*Sicherungszweck*) of each pledge granted to Eurex Clearing AG in accordance with this Number 7.6 is to secure all claims (whether present, future, actual, contingent or prospective) of Eurex Clearing AG against the Basic Clearing Member arising under Basic Clearing Member Transactions, any Difference Claim and any other present and future claims of Eurex Clearing AG against the Basic Clearing Member arising under the relevant Basic Clearing Member Standard Agreement.

7.6.3 Notwithstanding Number 7.6.1, Basic Clearing Member Margin may also be provided to Eurex Clearing AG in the form of Securities by way of pledge by using an Accepted Collateral Management System.

7.6.4 To the extent required or expedient under its national laws, the Basic Clearing Member will arrange for the due filing and registration with any relevant competent authority or register of any security interest granted or to be granted pursuant to or in accordance with this Number 7.6 and will evidence the due filing and registration of such security interest to Eurex Clearing AG.

## **7.7 Redelivery and release of Eligible Margin Assets**

7.7.1 If and to the extent that the aggregate value of all Eligible Margin Assets actually delivered as Basic Clearing Member Margin in respect of the relevant Basic Clearing Member Standard Agreement exceeds the Default Basic Clearing Member Margin Requirement, the Clearing Agent (acting on behalf and for the account of the Basic Clearing Member) may either raise a Redelivery Claim or, prior to the then applicable cut-off time specified by Eurex Clearing AG with respect to any Business Day, require Eurex Clearing AG by submitting a release request to release the pledge over pledged Securities actually delivered in respect of Basic Clearing Member Margin. The release request shall be processed by Eurex Clearing AG during the same Business Day if such request is received by Eurex Clearing prior to the applicable cut-off time and, if such request is received after such cut-off time, on the next Business Day.

7.7.2 The Clearing Agent (acting on behalf and for the account of the Basic Clearing Member) may select which Eligible Margin Assets credited to the Internal Basic Clearing Member Margin Account shall be redelivered or, as applicable, released from the pledge. Eurex Clearing AG will not and shall not be obliged to check whether there is, and whether the Clearing Agent complies with, any agreement between the Clearing Agent and the Basic Clearing Member.

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7.7.3 The Redelivery Claim is discharged by Eurex Clearing AG if the relevant cash amount has been credited to the Basic Clearing Member Cash Account or to an account of a correspondent bank designated by the Basic Clearing Member (including via its Clearing Agent). Such discharge shall occur irrespective of any booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central securities depository or the correspondent bank.

## 8 Basic Clearing Member Variation Margin

### 8.1 General Obligation to provide Basic Clearing Member Variation Margin

Each of Eurex Clearing AG and the Basic Clearing Member shall be required to transfer (additional) cover in respect of daily profits or losses for all Basic Clearing Member Transactions under the Basic Clearing Member Standard Agreement (“**Basic Clearing Member Variation Margin**”) in such amounts and at such times as are required pursuant to this Number 8.

### 8.2 Basic Clearing Member Variation Margin Requirement

Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of Basic Clearing Member Variation Margin. The amount of Eligible Margin Assets in form of cash to be delivered by the party obliged to provide Basic Clearing Member Variation Margin (the “**Basic Clearing Member Variation Margin Provider**”) to the other party (the “**Basic Clearing Member Variation Margin Taker**”) as cover in respect of the relevant Basic Clearing Member Variation Margin (the “**Basic Clearing Member Variation Margin Requirement**”) shall be determined in accordance with the Special Clearing Provisions.

### 8.3 Delivery of Basic Clearing Member Variation Margin and Redelivery Claim

8.3.1 Basic Clearing Member Variation Margin shall be delivered and/or returned on each Business Day in accordance with the daily cash clearing procedure pursuant to Numbers 1.3 and 1.4.1 of the General Clearing Provisions.

8.3.2 Eligible Margin Assets in the form of cash actually delivered in respect of the Basic Clearing Member Variation Margin by the Basic Clearing Member Variation Margin Provider will give rise to or increase a Redelivery Claim of the Basic Clearing Member Variation Margin Provider against the Basic Clearing Member Variation Margin Taker. Any such Redelivery Claim shall become due if and to the extent that on any subsequent Business Day a profit amount has been determined in respect of the Basic Clearing Member Standard Agreement for the benefit of the Basic Clearing Member Variation Margin Provider in accordance with the Special Clearing Provisions (the applicable amount shall be the “**Redelivery Amount**”).

8.3.3 If equivalent Eligible Margin Assets in the form of cash have been actually delivered to the Basic Clearing Member Variation Margin Provider by the Basic Clearing Member Variation Margin Taker, the value of such Eligible Margin Assets will be applied to reduce (subject to a minimum of zero) the Redelivery Amount and the value of the Redelivery

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Claim then due. If the profit amount determined for the benefit of the Basic Clearing Member Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party itself constitutes a delivery of Basic Clearing Member Variation Margin and in this case the Basic Clearing Member Variation Margin Provider shall become the Basic Clearing Member Variation Margin Taker and vice versa.

## **9 Clearing Fund Contributions for Basic Clearing Member Transactions and DM Auctions**

### **9.1 Clearing Fund Contribution**

9.1.1 The Clearing Agent shall make Contributions to the Clearing Fund with respect to all Basic Clearing Member Transactions under each Basic Clearing Member Standard Agreement in accordance with Part 1 Number 6. Basic Clearing Members shall not be entitled or obliged to make contributions to the Clearing Fund.

9.1.2 If a Termination Date and a Realisation Event occurs with respect to a Clearing Agent (irrespective of whether the underlying Termination Event relates to a Basic Clearing Member Clearing Agreement or any other Clearing Agreement to which the Clearing Agent is a party as a Clearing Member), the Contributions paid by the Affected Clearing Agent (as defined in Number 11.1.1) that are attributable to any Basic Clearing Member shall not form part of the Affected Clearing Agent's own Contribution but shall be realised *pari passu* with the Contributions of all Non-Affected Clearing Members in accordance with Part 1 Number 6, in particular, the order of priority set out in Part 1 Number 6.2.1.

9.1.3 If a Basic Clearing Member Termination Date and a Realisation Event with respect to a Basic Clearing Member occur, the Contributions made by the Clearing Agent which are attributable to the Basic Clearing Member shall be realised in accordance with Part 1 Number 6, in particular, the order of priority set out in Part 1 Number 6.2.1.

9.1.4 If, following a Realisation Event with respect to a Basic Clearing Member, the Contribution attributable to the Basic Clearing Member is not sufficient to cover the Clearing Fund Secured Claims against the Basic Clearing Member, Eurex Clearing AG is entitled at its discretion to require from the Clearing Agent of the Basic Clearing Member further Contributions in accordance with Part 1 Number 6.3. Those further Contributions shall be used to cover the Clearing Fund Secured Claims against the Basic Clearing Member in accordance with Part 1 Number 6, in particular, the order of priority set out in Part 1 Number 6.2.1.

### **9.2 DM Auctions**

9.2.1 Basic Clearing Members are not obliged to participate in DM Auctions. Basic Clearing Members may choose to participate in DM Auctions (including through their Clearing Agent acting on their behalf), subject to certain restrictions as set forth in the DM Auction Rules and upon invitation of Eurex Clearing AG.



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9.2.2 Irrespective of any participation of its Basic Clearing Members in DM Auctions pursuant to Number 9.2.1, Clearing Agents are obliged to participate in DM Auctions in accordance with Part 1 Number 7.5 as if they (instead of the Basic Clearing Members) were party to the Basic Clearing Member Transactions of their Basic Clearing Members. For the purposes of determining whether the Clearing Agent is a Mandatory Participant and the scope of the bidding obligation of the Clearing Agent in accordance with the DM Auction Rules, the Basic Clearing Member Transactions of all Basic Clearing Members of the Clearing Agent shall be attributed to the Clearing Agent as if it (instead of the Basic Clearing Members) were party to the Basic Clearing Member Transactions of its Basic Clearing Members.

## 10 Basic Clearing Member Termination Event

10.1 If at any time a Basic Clearing Member Insolvency Termination Event has occurred, the Basic Clearing Member Standard Agreement shall terminate with immediate effect as of such time and the Clearing of new Basic Clearing Member Transactions of the Basic Clearing Member will be suspended.

**“Basic Clearing Member Insolvency Termination Event”** shall have the same meaning as the term “Insolvency Termination Event” in Part 1 Number 7.2.2, provided that references therein to the Clearing Member shall be read as references to the Basic Clearing Member.

10.2 If a Basic Clearing Member Termination Event (other than a Basic Clearing Member Insolvency Termination Event) or a Basic Clearing Member Default Information Event occurs or Disciplinary Procedures pursuant to the Disciplinary Procedures Rules (as defined in each case in Part 1 Number 14.2.1) are commenced against the Basic Clearing Member, Eurex Clearing AG may one or more times suspend or limit the Clearing of new Basic Clearing Member Transactions of such Basic Clearing Member. Eurex Clearing shall notify the affected Basic Clearing Member and its Clearing Agent of the decision to suspend or limit the Clearing and specify a reasonable period of time during which such suspension or limitation shall apply.

**“Basic Clearing Member Termination Event”** means

- (a) any of the events set out in Part 1 Number 7.2.1 Paragraphs (1) to (12), provided that references therein to the Clearing Member shall be read as references to the Basic Clearing Member;
- (b) the appointment of the Clearing Agent pursuant to the Basic Clearing Member Clearing Agreement or the granting of any authorisation by the Basic Clearing Member to the Clearing Agent pursuant to this Part 6 is or becomes invalid in whole or in part; and/or
- (c) Eurex Clearing AG has received a Clearing Agent Debit Withdrawal Notice from the Clearing Agent.

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A “**Basic Clearing Member Default Information Event**” occurs if the Clearing Agent notifies Eurex Clearing AG that (i) the Basic Clearing Member has failed to perform any of its obligations vis-à-vis the Clearing Agent (irrespective of whether such obligations arise under the Basic Clearing Member Clearing Agreement) that the Clearing Agent considers material and/or (ii) an event has occurred which entitles the Clearing Agent to terminate the bilateral agreement between itself and the Basic Clearing Member. Eurex Clearing AG may rely on, and is not obliged to verify the contents of, any such notification from the Clearing Agent.

The Basic Clearing Member and the Clearing Agent shall provide at their own expense such information and evidence as Eurex Clearing AG in its reasonable opinion may deem necessary to conduct an investigation of the facts and circumstances relating to a Basic Clearing Member Termination Event.

Before limiting or suspending the Clearing of new Basic Clearing Member Transactions, Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the Basic Clearing Member, further to which Eurex Clearing AG may in its absolute discretion set a grace period within which the Basic Clearing Member may remedy the event in question. In the case of a Clearing Agent Debit Withdrawal Notice, such remedy may be made by (i) establishing a Basic Clearing Member Cash Account held by the Basic Clearing Member itself and granting to Eurex Clearing AG a right to directly debit such account in accordance with Number 7.3.1 Paragraph (2) or (ii) a replacement of the Clearing Agent (and, except for the provisions on a Replacement Notice and a DCM Election Notice, Numbers 11.2.1, 11.2.2, 11.2.3 and 11.2.7 to 11.2.10 shall apply to such replacement).

10.3 If a Basic Clearing Member Termination Event has occurred and is continuing, Eurex Clearing AG may give a written termination notice to such Basic Clearing Member (with a copy to its Clearing Agent) (the “**Basic Clearing Member Termination Notice**”) specifying the date and time on which the termination shall take effect.

Prior to the delivery of a Basic Clearing Member Termination Notice with respect to a Basic Clearing Member Termination Event, other than a Basic Clearing Member Termination Event pursuant to lit. (a) of the definition of “Basic Clearing Member Termination Event” in conjunction with Part 1 Number 7.2.1 Paragraph (1) (Failure to Pay; Failure to Deliver Margin), Paragraph (5) (Insolvency related Events), Paragraph (7) (Regulatory Actions), Paragraph (9) (Opening of Reorganisation or Restructuring Procedures and Similar Measures) and Paragraph (12) (Termination for serious cause (*Kündigung aus wichtigem Grund*)), Eurex Clearing AG shall

- (a) attempt to notify, and consult with, the relevant Basic Clearing Member regarding the relevant event,
- (b) consider in good faith whether delivering a Basic Clearing Member Termination Notice is proportionate, having regard to

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- (aa) other courses of action available to Eurex Clearing AG (in particular the opening of Disciplinary Procedures pursuant to the Disciplinary Procedures Rules (as defined in each case in Part 1 Number 14.2.1)),
  - (bb) the interests of the Basic Clearing Member, and
  - (cc) whether the Basic Clearing Member Termination Event has a material adverse impact on the ongoing financial soundness of Eurex Clearing AG or the proper performance of the Clearing, and
- (c) ensure that the decision to deliver a Basic Clearing Member Termination Notice, as the case may be, has been approved by the chairman of the Executive Board of Eurex Clearing AG, a member of the Executive Board of Eurex Clearing AG or any other senior personnel of Eurex Clearing AG that Eurex Clearing AG deems to be appropriate.

Where Eurex Clearing has commenced Disciplinary Procedures against a Basic Clearing Member with respect to an Alleged Breach (as defined in the Disciplinary Procedures Rules), Eurex Clearing AG shall for as long as such Disciplinary Procedures are continuing, refrain from delivering a Basic Clearing Member Termination Notice to such Basic Clearing Member (or the Clearing Agent acting on its behalf) on the basis of those facts that have led to the determination of the Alleged Breach by Eurex Clearing AG.

- 10.4 If a Basic Clearing Member Termination Date has occurred in relation to a Basic Clearing Member Standard Agreement following a Basic Clearing Member Termination Event, the consequences of a Basic Clearing Member Termination as provided for in Number 10.5 shall apply.

A termination of the Basic Clearing Member Standard Agreement (the “**Basic Clearing Member Termination**”) occurs (a) if Eurex Clearing AG has set a grace period pursuant to Number 10.2, with effect from the end of such grace period if the Basic Clearing Member Termination Event specified in the notice of such grace continues and Eurex Clearing AG has notified the Basic Clearing Member and the Clearing Agent that such Basic Clearing Member Termination Event has not been remedied to Eurex Clearing AG’s satisfaction by the end of such grace period, (b) in the circumstances specified in Number 11.3.2, at the relevant time specified in Number 11.3.2 or (c) in all other cases, on the date and time specified in the Basic Clearing Member Termination Notice (the date of such Basic Clearing Member Termination being the “**Basic Clearing Member Termination Date**” and the respective termination time being the “**Basic Clearing Member Termination Time**”).

#### 10.5 **Consequences of a Basic Clearing Member Termination**

If a Basic Clearing Member Termination occurs, the following provisions shall apply.

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### 10.5.1 Termination of Basic Clearing Member Transactions and Redelivery Claims

All current and future primary obligations (including payment and delivery obligations) under the relevant Basic Clearing Member Standard Agreement between Eurex Clearing AG and the Basic Clearing Member arising from Basic Clearing Member Transactions and any Redelivery Claim under the relevant Basic Clearing Member Standard Agreement shall expire (*auflösende Bedingung*) as of the Basic Clearing Member Termination Time and shall no longer be required to be performed by the relevant obligor. Furthermore, all due but unsatisfied obligations in respect of the relevant Basic Clearing Member Margin or Basic Clearing Member Variation Margin shall expire (*auflösende Bedingung*) as of the Basic Clearing Member Termination Time. The expiration affects all claims arising from Basic Clearing Member Transactions under the relevant Basic Clearing Member Standard Agreement independent of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Difference Claim (as defined below).

### 10.5.2 Difference Claim

The difference claim of either Eurex Clearing AG or the Basic Clearing Member under the relevant Basic Clearing Member Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Part 1 Number 7.3 (applied *mutatis mutandis* as if (i) the Basic Clearing Member were a Clearing Member in respect of its Basic Clearing Member Transactions, (ii) Basic Clearing Member Transactions were Transactions and (iii) the Basic Clearing Member Termination Time were the Termination Time, and provided that the Termination Currency shall be the Clearing Currency last agreed in writing between Eurex Clearing AG and the Clearing Agent (acting on behalf of the Basic Clearing Member)) using the Liquidation Price Approach (each a "**Difference Claim**").

The Clearing Agent shall notify the applicable Clearing Currency to the Basic Clearing Member.

### 10.5.3 Notification

Eurex Clearing AG shall notify the value of the Difference Claim determined by it with respect to the relevant Basic Clearing Member Standard Agreement to the Clearing Agent and the Basic Clearing Member as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

### 10.5.4 Payment of Difference Claim

The debtor of the Difference Claim under the Basic Clearing Member Standard Agreement between Eurex Clearing AG and the relevant Basic Clearing Member shall pay the determined amount of the Difference Claim as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to

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Number 10.5.3. If Eurex Clearing AG is the debtor of the Difference Claim, Eurex Clearing AG shall pay the determined amount of the Difference Claim in accordance with the instructions of the Basic Clearing Member.

The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate (as determined by Eurex Clearing AG by reference to such overnight interest rate references and with such adjustments as Eurex Clearing AG considers appropriate) applicable to the currency of the Difference Claim.

## 11 Consequences of a Termination Event with respect to a Clearing Agent

### 11.1 Suspension or Restriction of Clearing

11.1.1 If a Termination Event or any of the following events occur with respect to a Clearing Agent, whether in relation to a Basic Clearing Member Clearing Agreement or any other Clearing Agreement to which the Clearing Agent is a party as a Clearing Member (the "**Affected Clearing Agent**"):

- (i) the existence of an unremedied breach by the Clearing Agent of a Basic Clearing Member Clearing Agreement, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;
- (ii) a determination is made by Eurex Clearing AG that a limitation or suspension of Clearing is necessary for it to contain its exposure to the Clearing Agent or its Basic Clearing Member(s);
- (iii) the suspension or termination (other than a voluntary termination) of the Clearing Agent's membership of another clearing house, provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG's reasonable opinion, material to the management of the risk of Eurex Clearing AG;
- (iv) the commencement of Disciplinary Procedures as defined in Part 1 Number 7.2.1(b)(aa) against the Clearing Agent; or
- (v) any other event in respect of the Clearing Agent that could materially impact the ability of that Clearing Agent to perform its obligations under a Basic Clearing Member Clearing Agreement,

then Eurex Clearing AG may (taking into account the interests of the Affected Clearing Agent and its Basic Clearing Members):

- (a) one or more times suspend or limit the Clearing of new Basic Clearing Member Transactions under all Basic Clearing Member Standard Agreements of the Affected Clearing Agent's Basic Clearing Members; and
- (b) refrain from paying any amounts owed to the Basic Clearing Member to any Basic Clearing Member Cash Account that is held by the Clearing Agent and

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instead pay such amounts to any account of the Basic Clearing Member notified by the Basic Clearing Member to Eurex Clearing AG from time to time.

- 11.1.2 Eurex Clearing AG shall notify the Affected Clearing Agent and its Basic Clearing Members of the decision to suspend or limit the Clearing and specify a reasonable period of time during which the suspension or limitation will apply.
- 11.1.3 The Affected Clearing Agent shall provide at its own expense such information and evidence as Eurex Clearing AG in its reasonable opinion may deem necessary to conduct an investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.
- 11.1.4 Before limiting or suspending the Clearing of new Basic Clearing Member Transactions and without limiting its rights under Part 1 Number 7.2.1, Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the Affected Clearing Agent, further to which Eurex Clearing AG may in its absolute discretion set a grace period within which the Affected Clearing Agent may remedy the event in question.

## 11.2 Replacement of Affected Clearing Agent

- 11.2.1 If a Termination Event has occurred with respect to an Affected Clearing Agent, Eurex Clearing AG shall (i) if a Grace Period Notice has been given, without undue delay after the end of the relevant Grace Period or (ii) if a Termination Notice has been given, without undue delay after the time specified in the Termination Notice or (iii) in the case of an Insolvency Termination Event with respect to the Affected Clearing Member, without undue delay after the Termination Time, give notice to the Basic Clearing Members of the Affected Clearing Agent and all Clearing Members of the occurrence of the Termination Event and that the Replacement Period commences (the "**Replacement Notice**"). Eurex Clearing AG shall also be entitled to give a Replacement Notice if any of the events set out in Number 11.1.1 (i) to (v) have occurred and Eurex Clearing AG considers the delivery of the Replacement Notice appropriate in light of the relevant event. Where Eurex Clearing AG has taken any of the measures pursuant to Number 11.1.1 but has not yet issued a Replacement Notice, the Basic Clearing Member affected by these measures shall for as long as these measures continue be entitled to provide a Replacement Election Notice or DCM Election Notice and Numbers 11.2.3 to 11.2.10 shall apply in this respect.

**"Replacement Period"** means:

- (i) if an Insolvency Termination Event has occurred with respect to the Clearing Agent, the period from the occurrence of the Insolvency Termination Event until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day; and
- (ii) if any other Termination Event has occurred with respect to the Clearing Agent, the period from the publication of the Replacement Notice until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day.

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Eurex Clearing AG may extend the Replacement Period in order to facilitate a Replacement by giving notice to all Clearing Members and the Basic Clearing Members of the Affected Clearing Agent.

11.2.2 Each Basic Clearing Member of the Affected Clearing Agent may elect, by giving notice to Eurex Clearing AG prior to the end of the Replacement Period, (i) to continue the Clearing of all its Basic Clearing Member Transactions under the Basic Clearing Member Standard Agreement with a Replacement Clearing Agent (the “**Replacement Election Notice**”), (ii) to continue the Clearing of its Transactions under a Clearing Agreement pursuant to Annex 1 of the Clearing Conditions as a Direct Clearing Member (“**DCM Election Notice**”), or (iii) to terminate and close-out its Basic Clearing Member Transactions under the Basic Clearing Member Standard Agreement (the “**Termination Election Notice**”). If Eurex Clearing AG does not receive a Replacement Election Notice or a DCM Election Notice, or receives a Termination Election Notice, prior to end of the Replacement Period, Number 11.3 shall apply.

11.2.3 If the Basic Clearing Member of the Affected Clearing Agent has provided a Replacement Election Notice and the Clearing Agent Replacement Requirements are satisfied, the Affected Clearing Agent ceases to be the Clearing Agent and another Clearing Member (the “**Replacement Clearing Agent**”) becomes the new Clearing Agent (such replacement of the existing Clearing Agent with respect to the Basic Clearing Member by the Replacement Clearing Agent, the “**Replacement**”).

“**Clearing Agent Replacement Requirements**” means all of the following requirements:

- (i) the Replacement Clearing Agent is a Clearing Member that meets the admission criteria for Clearing Agents pursuant to Number 2.2;
- (ii) the Replacement Clearing Agent and the Basic Clearing Member have entered into a Basic Clearing Member Clearing Agreement with Eurex Clearing AG or have agreed in form and substance satisfactory to Eurex Clearing AG to already be bound by the provisions set out in the form of the Basic Clearing Member Clearing Agreement appended to the Clearing Conditions of Eurex Clearing AG as Appendix 11 and to execute a Basic Clearing Member Clearing Agreement no later than five (5) Business Days after the end of the Replacement Period;
- (iii) the Basic Clearing Member has provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover Basic Clearing Member Margin and Basic Clearing Member Variation Margin in respect of all Basic Clearing Member Transactions to which the Replacement relates or committed itself in form and substance satisfactory to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets without undue delay following the Replacement, for which purposes all Eligible Margin Assets actually delivered prior to such Replacement shall also be taken into account; and
- (iv) the Replacement Clearing Agent has made the Contribution to the Clearing Fund with respect to its capacity as the Clearing Agent of the Basic Clearing Member.

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If the Clearing Agent Replacement Requirements are satisfied by the end of the Replacement Period, the existing Basic Clearing Member Clearing Agreement shall terminate at the end of the Replacement Period.

11.2.4 If the Basic Clearing Member of the Affected Clearing Agent has provided a DCM Election Notice and the DCM Requirements are satisfied, the Affected Clearing Agent ceases to be the Clearing Agent and the Basic Clearing Member shall assume the role of a Direct Clearing Member. The Basic Clearing Member Transactions shall be included in the Elementary Proprietary Standard Agreement of such new Direct Clearing Member, and henceforth the Clearing Conditions applicable to Direct Clearing Members shall apply with respect to such new Direct Clearing Member (the **“Replacement”**).

**“DCM Requirements”** means all of the following requirements:

- (i) the Basic Clearing Member meets the admission criteria for Direct Clearing Members pursuant to Number 2 of the General Provisions and has provided evidence thereof to the satisfaction of Eurex Clearing AG;
- (ii) the Basic Clearing Member has agreed with Eurex Clearing AG in writing to act as Direct Clearing Member in form and substance satisfactory to Eurex Clearing AG;
- (iii) the Basic Clearing Member has entered into a Clearing Agreement pursuant to Annex 1 with Eurex Clearing AG or has undertaken in form and substance satisfactory to Eurex Clearing AG that it will enter into a Clearing Agreement pursuant to Annex 1 no later than five (5) Business Days after the end of the Replacement Period;
- (iv) the Basic Clearing Member (acting as Direct Clearing Member) has provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover Margin and Variation Margin in respect of all Transactions to which the Replacement relates or committed itself to provide the relevant amount of Eligible Margin Assets without undue delay following the Replacement; and
- (v) the Basic Clearing Member has made the Contribution to the Clearing Fund with respect to its capacity as the new Direct Clearing Member.

If the DCM Requirements are satisfied by the end of the Replacement Period, the existing Basic Clearing Member Clearing Agreement shall terminate at the end of the Replacement Period.

11.2.5 If neither the DCM Requirements nor the Clearing Agent Replacement Requirements are satisfied by the end of the Replacement Period, Number 11.3 shall apply.

11.2.6 Each Basic Clearing Member may designate in advance by notice to Eurex Clearing AG another Clearing Agent as a potential Replacement Clearing Agent. The Clearing Agent so designated assumes no obligation to accept a Replacement. Eurex Clearing AG may provide for further or alternative procedures for the transfer of any assets that it deems necessary taking into account applicable laws with respect to any such Replacement.



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11.2.7 If Eligible Margin Assets in the form of Securities have been credited to a Basic Clearing Member Pledged Securities Account maintained in the name of the Affected Clearing Agent and the Basic Clearing Member holds title in such Securities, Eurex Clearing AG shall instruct the relevant settlement location to transfer such Securities to the relevant account(s) specified (i) in the case of a Replacement pursuant to Number 11.2.3, by the Replacement Clearing Agent (acting on behalf of the Basic Clearing Member) for the purpose of providing Basic Clearing Member Margin at the time when the Clearing Agent Replacement Requirements are fulfilled or (ii) in the case of a Replacement pursuant to Number 11.2.4, by the new Direct Clearing Member for the purpose of providing Margin at the time when the DCM Requirements are fulfilled. Such transfer shall be without prejudice to the security interest granted to Eurex Clearing AG in the relevant Securities. The Clearing Agent hereby also irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to take all acts on behalf of the Clearing Agent that Eurex Clearing AG considers necessary or expedient to effect the transfer of the relevant Securities.

11.2.8 In respect of each Basic Clearing Member Standard Agreement to which the Replacement relates, Eurex Clearing AG shall:

- (i) in the case of a Replacement of the Affected Clearing Agent by a Replacement Clearing Agent, establish a new Basic Clearing Member Own Account and a new Internal Basic Clearing Member Margin Account and book the Basic Clearing Member Transactions, Basic Clearing Member Margin and the Basic Clearing Member Variation Margin to the new Basic Clearing Member Own Account and the new Internal Basic Clearing Member Margin Account, as applicable; and
- (ii) if the Basic Clearing Member becomes a Direct Clearing Member, book the Basic Clearing Member Transactions, the Basic Clearing Member Margin and the Basic Clearing Member Variation Margin to the Own Account and the Internal Elementary Proprietary Margin Account of the new Direct Clearing Member, as applicable.

The corresponding assets shall constitute Basic Clearing Member Margin and Basic Clearing Member Variation Margin of the relevant Basic Clearing Member or Elementary Proprietary Margin and Elementary Proprietary Variation Margin of the new Direct Clearing Member, as applicable.

11.2.9 During the Replacement Period:

- (i) the Clearing of new Basic Clearing Member Transactions under each Basic Clearing Member Standard Agreement of the Affected Clearing Agent's Basic Clearing Members shall be suspended unless Eurex Clearing AG permits otherwise;
- (ii) all Redelivery Claims of the Affected Clearing Agent's Basic Clearing Members with respect to Basic Clearing Member Margin in the form of cash and Basic Clearing Member Variation Margin shall be deferred (*gestundet*); and
- (iii) Eurex Clearing AG shall not be obliged to provide any Basic Clearing Member Variation Margin to the Affected Clearing Agent's Basic Clearing Members.

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11.2.10 In the case of a Replacement, Eurex Clearing shall release the Contributions of the Affected Clearing Agent to the Clearing Fund that are attributable to the Affected Clearing Agent acting as Clearing Agent for the Basic Clearing Member without undue delay (*unverzüglich*) following receipt of the Contributions to the Clearing Fund from the Replacement Clearing Agent or the new Direct Clearing Member, as applicable.

### **11.3 Termination of Basic Clearing Member Standard Agreement**

11.3.1 Upon the occurrence of a Termination Event or an Insolvency Termination Event with respect to a Clearing Agent, unless a Replacement pursuant to Number 11.2 has already been completed, Eurex Clearing AG shall be entitled to terminate the Basic Clearing Member Clearing Agreement (including the Basic Clearing Member Standard Agreement) by submitting a Basic Clearing Member Termination Notice to the Basic Clearing Member (with a copy to the Affected Clearing Agent) specifying the date and time on which the termination shall occur.

11.3.2 The relevant Basic Clearing Member Standard Agreement shall also terminate:

- (i) if Eurex Clearing AG has not received a Replacement Election Notice or a DCM Election Notice prior to the end of the Replacement Period, with effect as of the end of the Replacement Period;
- (ii) if Eurex Clearing AG has received a Replacement Election Notice or a DCM Election Notice, but the Clearing Agent Replacement Requirements or the DCM Requirements, respectively, are not satisfied prior to the end of the Replacement Period, with effect as of the end of the Replacement Period;
- (iii) if Eurex Clearing AG has received a Termination Election Notice prior to the end of the Replacement Period, with effect as of the time of receipt of such Termination Election Notice by Eurex Clearing AG.

### **12 Replacement of Clearing Agent that is not an Affected Clearing Agent**

12.1 Without prejudice to a replacement of an Affected Clearing Agent in accordance with Number 11.2, prior to the occurrence of an Insolvency Termination Event or Termination Event with respect to its Clearing Agent, the Basic Clearing Member may effect a replacement of its Clearing Agent in accordance with this Number 12 with respect to all or some of its Basic Clearing Member Transactions under the relevant Basic Clearing Member Standard Agreement only with the prior written consent of Eurex Clearing AG, the Clearing Agent and a replacement Clearing Agent and subject to the prior conclusion of a Basic Clearing Member Clearing Agreement in the form appended to the Clearing Conditions as Appendix 11 between Eurex Clearing AG, the Basic Clearing Member and the replacement Clearing Agent. Eurex Clearing AG's consent will not be unreasonably withheld.

Such replacement shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such

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document for it to become effective, nothing in this Number 12 shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a replacement date binding on all relevant parties in such notice.

Original copies of the following documents shall be provided to Eurex Clearing AG:

- (i) a Basic Clearing Member Clearing Agreement in the form appended to the Clearing Conditions as Appendix 11 between Eurex Clearing AG, the Basic Clearing Member and the replacement Clearing Agent; and
- (ii) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such replacement,

duly executed, in each case, by or on behalf of all parties required to execute it.

12.2 In the case of a transfer of only some, but not all Basic Clearing Member Transactions, the following provisions apply in addition to the provisions of Number 12.1:

The Basic Clearing Member Transactions to which such transfer does not relate (and the relevant Redelivery Claims relating to Basic Clearing Member Margin and Basic Clearing Member Variation Margin allocated to such Basic Clearing Member Transactions) will continue to form part of the existing Basic Clearing Member Standard Agreement, and the Basic Clearing Member Transactions to which such transfer relates (and the relevant Redelivery Claims relating to Basic Clearing Member Margin and Basic Clearing Member Variation Margin allocated to such Basic Clearing Member Transactions) shall become part of the new Basic Clearing Member Standard Agreement. Following such partial transfers, the aggregate value of all Eligible Margin Assets actually delivered to Eurex Clearing AG in respect of Basic Clearing Member Margin allocated to the Basic Clearing Member Transactions that continue to form part of the existing Basic Clearing Member Standard Agreement must be equal to or exceed the applicable Default Basic Clearing Member Margin Requirement in respect of the existing Basic Clearing Member Standard Agreement.

12.3 In the case of a replacement of a Clearing Agent in accordance with this Number 12, Eurex Clearing shall, without undue delay (*unverzüglich*) following receipt of the Contributions to the Clearing Fund from the Replacement Clearing Agent, release the Contributions of the existing Clearing Agent to the Clearing Fund that are attributable to the existing Clearing Agent acting as Clearing Agent for the Basic Clearing Member in respect of the Basic Clearing Member Transactions to which such replacement relates.

Chapter I of the Clearing Conditions of Eurex Clearing AG

# General Provisions

As of 01.06.2016

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

## Clearing Conditions of Eurex Clearing AG

### Preamble

Eurex Clearing AG, having its registered office in Frankfurt am Main, acts as central counterparty for (a) (i) transactions in securities and *Wertrechte*, including German book-entry securities (*Gutschriften in Wertpapierrechnung*) and Swiss intermediated securities (*Schweizer Bucheffekten*) (hereinafter together the “**Securities**”) and (ii) futures, options and other derivative transactions, which, in each case, result from either matching orders and quotes of trading participants (the “**Matching**”) on the markets Eurex Deutschland, Eurex Zürich, Eurex Bonds, Eurex Repo, Frankfurter Wertpapierbörse and Irish Stock Exchange (hereinafter collectively referred to as “**Markets**” and each a “**Market**”, each Transaction resulting from Matching a “**Market Transaction**”), (b) novations of transactions executed over-the-counter (each transaction resulting from an over-the-counter transaction an “**OTC Transaction**”) or (c) novations of executed over-the-counter securities or cash lending transactions or securities lending transactions executed on Eurex Repo (each transaction resulting from a novation of any such **securities** (or cash) **lending transaction** a “**Securities Lending Transaction**”, and each Market Transaction, OTC Transaction and Securities Lending Transaction, a “**Transaction**”).

Hereinafter (i) the conclusion by Eurex Clearing AG as central counterparty of Transactions of one or more Transaction Types (as defined in Number 1.1.2), (ii) the processing by Eurex Clearing AG of such Transactions in preparation for the fulfilment of all obligations resulting therefrom, and (iii) the related services rendered by Eurex Clearing AG, in each case as set out in Chapters I–IX (the “**Clearing Conditions**”), shall together be referred to as “**Clearing**”.

This Chapter I forms an integral part of the Clearing Conditions and respective references in any other rules or documents to the Clearing Conditions also apply to this Chapter I.

[...]

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## Part 1 General Clearing Provisions

### 1 General Rules

#### 1.1 Scope of Application

1.1.1 The procedures maintained and operated by Eurex Clearing AG for the Clearing of the Transactions specified in Number 1.1.2 (the “**Clearing Procedures**”) shall be carried out on the basis of a Clearing Agreement to be entered into between Eurex Clearing AG and a Clearing Member and/or one or more Clearing Agreements between Eurex Clearing AG, the relevant Clearing Member and a Non-Clearing Member (as defined in Number 1.1.5) or a Registered Customer (as defined in Number 1.1.6), respectively, in the form appended hereto as Appendix 1 – 5 (as applicable) or (in the case of a Clearing Agreement with a holder of a Specific Lender License) Appendix 7 and (in the case of a Clearing Agreement with a holder of a Specific Repo License) Appendix 6 or one or more Clearing Agreements between Eurex Clearing AG, a FCM Clearing Member (as defined in Number 2.3.1) and a FCM Client (as defined in Part 5 Number 1.2) in the form appended hereto as Appendix 10 or one or more Clearing Agreements between Eurex Clearing AG, a Clearing Agent (as defined in Part 6 Number 1.1) and a Basic Clearing Member (as defined Number 1.1.4) in the form appended hereto as Appendix 11 which, in each case, incorporate the Clearing Conditions (each, a “**Clearing Agreement**”). The Transaction Types (as defined below) covered by a Clearing Agreement may be extended by execution of an amendment to such Clearing Agreement.

In case of any conflicts between the provisions contained in (i) a Clearing Agreement between Eurex Clearing AG and a Clearing Member and (ii) a Clearing Agreement between Eurex Clearing AG, such Clearing Member and a Non-Clearing Member or Registered Customer, respectively, the provisions contained in the Clearing Agreement between Eurex Clearing AG, such Clearing Member and such Non-Clearing Member or Registered Customer, respectively, prevail.

1.1.2 The Clearing Procedures refer to the following types of Transactions (each a “**Transaction Type**”): Transactions resulting from:

- (1) the matching of orders and quotes regarding futures contracts and options contracts in the trading systems of Eurex Deutschland and Eurex Zürich (together, the “**Eurex Exchanges**”) or the novation of trades concluded off-book, in each case pursuant to Chapter II (the resulting Transactions being referred to as “**Eurex Transactions**”);
- (2) the matching of orders and quotes regarding securities in the trading system of Eurex Bonds GmbH (“**Eurex Bonds**”) pursuant to Chapter III (the resulting Transactions being referred to as “**Eurex Bonds Transactions**”);
- (3) the matching of orders and quotes regarding securities in the trading system of Eurex Repo GmbH (“**Eurex Repo**”) pursuant to Chapter IV (the resulting Transactions being referred to as “**Eurex Repo Transactions**”);

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- (4) the matching of orders and quotes regarding securities in the trading system of Frankfurter Wertpapierbörse (“**FWB**”) or the novation of trades concluded off-exchange, in each case pursuant to Chapter V Part 2 (the resulting Transactions being referred to as “**FWB Transactions**”);
- (5) the matching of orders and quotes regarding securities in the trading system of the Irish Stock Exchange (“**ISE**”) pursuant to Chapter VI (the resulting Transactions being referred to as “**ISE Transactions**”);
- (6) the novation of over-the-counter transactions in interest rate derivatives pursuant to Chapter VIII Part 2 (the resulting Transactions being referred to as “**OTC Interest Rate Derivative Transactions**”);
- (7) the novation of securities lending transactions pursuant to Chapter IX (the resulting Transactions being Securities Lending Transactions).

1.1.3 Only entities which have been granted a Clearing License (as defined in Number 2.1) by Eurex Clearing AG (each a “**Clearing Member**”), and, subject to the U.S. Clearing Model Provisions, entities that have been admitted as FCM Clients (as defined in Part 5 Number 1.2) and, subject to the Basic Clearing Member Provisions, entities that have been admitted as Basic Clearing Members (as defined in Number 1.1.4) and, subject to Part 3, Interim Participants, are authorised to directly participate in the Clearing of Transactions. A Clearing Member that is legally organised and has its principal place of business in the United States of America (or any state thereof) is hereinafter referred to as a “U.S. Clearing Member”. Unless otherwise specified, references in this Part 1, in Part 2, Chapter VIII and Appendix 1 to “Clearing Member” shall include references to “U.S. Clearing Member” and/or “FCM Clearing Member”. Only a General Clearing Member (as defined in Number 2.1.1 below) may act as a Clearing Agent (as defined in Part 6 Number 1.1) with respect to the Clearing of Basic Clearing Member Transactions (as defined in Part 6 Number 1.2).

1.1.4 An entity which does not have a Clearing License may only participate in the Clearing of Transactions through a Clearing Member by entering into a Clearing Agreement with such Clearing Member and Eurex Clearing AG as set forth in Number 1.1.5 ~~and 1.1.6 below~~ to 1.1.7; the Interim Participation rules in Part 3 Subpart A Number 11.1 and the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions shall remain unaffected. A Basic Clearing Member Clearing License (as defined in Part 6 Number 2.1) entitles the holder thereof to participate in the Clearing of proprietary Transactions as a basic clearing member (hereinafter referred to as a “Basic Clearing Member”) acting through a Clearing Agent in accordance with Part 6.

1.1.5 An entity other than a Clearing Member which is a trading participant on one or more Markets may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 to 5 with a Clearing Member and Eurex Clearing AG as a non-clearing member (each a “**Non-Clearing Member**”). If the Non-Clearing-Member enters into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2, Appendix 3, Appendix 4 or Appendix 5, the Non-Clearing Member also agrees that it has a technical connection to the systems of Eurex Clearing AG in place and that the

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General Terms and Conditions on Technical Connection to the Clearing EDP of Eurex Clearing AG form part of the relevant Clearing Agreement. A Non-Clearing Member is not required to have a technical connection to the systems of Eurex Clearing AG if such Non-Clearing Member (i) outsources all its functions pursuant to Number 15 and (ii) participates in the Elementary Clearing Model or the Net Omnibus Clearing Model. Subject to the Special Clearing Provisions, a Non-Clearing Member may with respect to a certain Transaction Type enter into one Clearing Agreement with one Clearing Member only.

- 1.1.6 An entity may enter into a Clearing Agreement (Appendix 2, Appendix 3, Appendix 4 or Appendix 8) with a Clearing Member and Eurex Clearing AG as a registered customer (each a “**Registered Customer**”) in accordance with the following conditions.
- (1) The Registered Customer must be:
    - (a) a legal entity (*juristische Person*);
    - (b) an investment fund with own legal personality (an “**Incorporated Fund**”);
    - (c) an investment fund without legal personality (an “**Unincorporated Fund**”);
    - (d) a sub-fund of an Incorporated Fund or an Unincorporated Fund (a “**Sub-Fund**”);  
or
    - (e) a fund segment (i.e. a pool of assets and obligations segregated for book-keeping and technical settlement purposes) of an Incorporated Fund, an Unincorporated Fund or a Sub-Fund (a “**Fund Segment**”);
  - (2) The Registered Customer has a technical connection to the systems of Eurex Clearing AG and has executed:
    - (a) an Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG that incorporates the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG;  
or
    - (b) a Clearing Agreement that incorporates the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG;
  - (3) Only with respect to Eurex Transactions, the Registered Customer does not already participate in the Clearing through a Clearing Member as a Non-Clearing Member.
  - (4) The Registered Customer may only participate in the Clearing of Eurex Transactions and/or OTC Interest Rate Derivative Transactions (each an “**RC-Eligible Transaction Type**”).
- 1.1.7 With respect to Registered Customers or Basic Clearing Members that are Unincorporated Funds, Sub-Funds or Fund Segments, the following provisions apply:



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- (1) Each reference in a Clearing Agreement to a **“Registered Customer”** ~~or~~ an **“ICM Client”** or a **“Basic Clearing Member”** shall be to a particular Unincorporated Fund and/or Sub-Fund (a **“Relevant Fund”**) or a particular Fund Segment (a **“Relevant Fund Segment”**), in each case as listed in Annex B to the Clearing Agreement.
- (2) A Relevant Fund or Relevant Fund Segment without own legal personality may enter into the Clearing Agreement or Transactions only through a manager, general partner, trustee (or, in the case of a Sub-Fund or Fund Segment of an Incorporated Fund, the Incorporated Fund) (an **“Authorised Manager”**), in each case acting on behalf and for the account of the respective Relevant Fund or Relevant Fund Segment.
- (3) When entering into a Transaction for the account of a Relevant Fund or Relevant Fund Segment, the Authorised Manager shall inform Eurex Clearing AG and the Clearing Member or Clearing Agent for which Relevant Fund or Relevant Fund Segment that Transaction is being entered into.
- (4) The set-off of claims of a Relevant Fund or Relevant Fund Segment with or against any other claims (including those of another ICM Client ~~or~~ Registered Customer or Basic Clearing Member) is excluded.
- (5) If the Registered Customer or the Basic Clearing Member is (i) a unit trust in the form of an authorised unit trust scheme in England and Wales (as defined in Section 237 of the Financial Services and Markets Act), (ii) a unit trust established under the Irish Unit Trusts Act 1990 in Ireland or (iii) a unit trust operating as a mutual fund in compliance with the Cayman Islands Mutual Funds Law (2013 Revision) (each a **“Unit Trust”**) acting through an Authorised Manager, such Authorised Manager shall act as a trustee of that Unit Trust and the Clearing Agreement and each Transaction shall be construed accordingly.
- (6) For each Relevant Fund and each Relevant Fund Segment, the Authorised Manager acting for the account of that Relevant Fund or Relevant Fund Segment represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that:
  - (a) the Authorised Manager has the power to enter into and perform the Clearing Agreement and each Transaction, as applicable, for the account of that Relevant Fund or Fund Segment;
  - (b) the Relevant Fund or Relevant Fund Segment, as applicable, has been established in compliance with applicable law and is legally existent;
  - (c) in case the Relevant Fund is a Unit Trust, the Authorised Manager has the right to be indemnified out of the assets of the Relevant Fund or Relevant Fund Segment in respect of any obligation undertaken or to be undertaken by the Authorised Manager under a Clearing Agreement or in relation to Transactions for the account of the Relevant Fund or Relevant Fund Segment.

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- (7) Eurex Clearing AG may require the Relevant Fund or Relevant Fund Segment (or if applicable, the relevant Authorised Manager) to provide, at its own expense, a legal opinion from leading counsel approved by Eurex Clearing AG that verifies and confirms the accuracy of the representations set forth under Paragraph (6) and Number 1.7.1.
- (8) The Authorised Manager acting for the account of a Relevant Fund Segment further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG with respect to each Relevant Fund Segment that:
- (a) it has informed the investors of the Relevant Fund Segment of the contractual segregation between fund segments in connection with the Clearing and of any potential adverse economic effects that the entering into the Clearing Agreement and Transactions may have for that Relevant Fund Segment in comparison to an entering into the Clearing Agreement and Transactions without such contractual segregation;
  - (b) the investors of the Relevant Fund Segment are willing to bear the potential economic risks and adverse effects which are related to a contractual segregation of that Relevant Fund Segment; and
  - (c) to the extent applicable, the prospectus relating to the relevant funds discloses the contractual segregation of fund segments and any potential economic risk of such contractual segregation between fund segments as set forth under (a) above.
- (9) An amendment to the relevant Clearing Agreement due to an accession, change in name, termination or merger of a Relevant Fund or Relevant Fund Segment may be effected by the submission of an amended Annex B to the Clearing Agreement to Eurex Clearing AG signed by the Clearing Member and the Registered Customer or by the Clearing Agent and the Basic Clearing Member, as relevant, and acceptance thereof by Eurex Clearing AG through respective entries in its production system. In the case of an accession of a new Relevant Fund or new Relevant Fund Segment, or a merger by new establishment (*Verschmelzung durch Neugründung*) of a Relevant Fund or Relevant Fund Segment, such amendment shall constitute a new Clearing Agreement pursuant to the applicable Appendix with the new or newly established Relevant Fund or Relevant Fund Segment acting through the Authorised Manager and shall relate, with respect to a Clearing Agreement pursuant to Appendix 2 or Appendix 5, to the Standard Agreement as specified by the Authorised Manager.
- (10) The termination of the Clearing Agreement entered into by the Authorised Manager acting for the account of a Relevant Fund or Relevant Fund Segment pursuant to Number 13.2.1 in connection with Number 13.1.1 may also be effected by the Authorised Manager submitting to Eurex Clearing AG and the Clearing Member or the Clearing Agent, as relevant, an amended Annex B to the Clearing Agreement in which that Relevant Fund or Relevant Fund Segment has been deleted.

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(11) Each reference in this Number 1.1.7 and in a Clearing Agreement to Annex B of such Clearing Agreement shall be a reference to the then current version of that Annex.

1.1.8 A Registered Customer or a Basic Clearing Member which is an Incorporated Fund or another legal entity may elect to act through an Authorised Manager and shall following such election be deemed to be a Relevant Fund for the purpose of Number 1.1.7, which shall then apply *mutatis mutandis*. Such Registered Customer or Basic Clearing Member shall nonetheless make the representations and warranties set out in Number 1.1.7 (6) and Number 1.7 independently and with respect to itself each time it enters (acting through the Authorised Manager) into a Clearing Agreement or a Transaction. The election takes effect upon submission of the relevant details in Annex B to the relevant Clearing Agreement in accordance with Number 1.1.7 (9).

1.1.9 A FCM Client (~~as defined in Part 5 Number 1.2~~) may only enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 with a FCM Clearing Member and Eurex Clearing AG.

1.1.10 A Basic Clearing Member may only enter into one or more Clearing Agreements in the form appended to the Clearing Conditions as Appendix 11 with a Clearing Agent and Eurex Clearing AG.

## 1.2 Clearing Procedures

### 1.2.1 General

(1) The specific Clearing Procedures applicable to a Transaction shall be determined on the basis of:

(a) the general clearing provisions set out in ~~Chapter I Part 1 of these Clearing Conditions~~ General Provisions (the “**General Clearing Provisions**” (*Allgemeine Clearing-Bedingungen*)); and

(b) either

(aa) the elementary clearing model provisions set out in ~~Chapter I Part 2 of the Clearing Conditions~~ these General Provisions (the “**Elementary Clearing Model Provisions**”) (*Grund-Clearingmodell-Bedingungen*),

(bb) the individual clearing model provisions set out in ~~Chapter I Part 3 of the Clearing Conditions~~ these General Provisions (the “**Individual Clearing Model Provisions**”) (*Individual-Clearingmodell-Bedingungen*), either pursuant to the Individual Clearing Model Provisions under Eurex Clearing AG Documentation (as defined in ~~Chapter I Part 3 of these General Provisions~~, the “**ICM-ECD Provisions**”) or pursuant to the Individual Clearing Model Provisions under Client Clearing Documentation (as defined in ~~Chapter I Part 3 of these General Provisions~~, the “**ICM-CCD Provisions**”),

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- (cc) the net omnibus clearing model provisions set out in ~~Chapter I Part 4 of these General Provisions~~ (the “**Net Omnibus Clearing Model Provisions**” (*Net Omnibus-Clearingmodell-Bedingungen*)) as specified to be applicable in the relevant Clearing Agreement, ~~or~~
- (dd) the U.S. clearing model provisions set out in ~~Chapter I Part 5 of the Clearing Conditions~~ ~~these General Provisions~~ (the “**U.S. Clearing Model Provisions**” (*U.S.-Clearingmodell-Bestimmungen*)); ~~and, or~~
- (ee) the basic clearing member provisions set out in Part 6 of these General Provisions (the “**Basic Clearing Member Provisions**”); and
- (c) the provisions applicable to the relevant Transaction Type set out in Chapters II-IX (together with all contract specifications, rules and regulations incorporated by reference or specified therein, as applicable, the “**Special Clearing Provisions**” (*Besondere-Clearing-Bedingungen*)) which *inter alia* comprise provisions relating to the settlement of the relevant Transaction Type by payment of a cash amount determined by reference to a concerned Security or asset (“**Cash Settlement**”) or by physical delivery of the concerned Security or asset against payment or free of payment as set out in the Special Clearing Provisions (“**Physical Delivery**”).
- (2) In case of any conflicts between (i) the General Clearing Provisions and (ii) the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions~~, as applicable, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions~~, as applicable, prevail. In case of any conflicts between the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions~~, as applicable, and the Special Clearing Provisions, the Special Clearing Provisions prevail.
- (3) The Clearing Conditions provide for terms and conditions with regard to (i) the legal relationship between Eurex Clearing AG and the relevant Clearing Member ~~and, (ii) the legal relationship between the Clearing Member and a Non-Clearing Member or a Registered Customer, (iii) the legal relationship between Eurex Clearing AG and the relevant FCM Client and (iv) the legal relationship between Eurex Clearing AG and the relevant Basic Clearing Member~~, in each case in accordance with the following principles:
- (a) All rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Transactions under one or more Clearing Agreements shall be construed as rights and obligations under one or more separate arrangements (each hereinafter a “**Standard Agreement**” (*Grundlagenvereinbarung*)), in accordance with the specific provisions of the

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Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions.

- (b) If provided for in the Elementary Clearing Model Provisions, the ICM-ECD Provisions or the Net Omnibus Clearing Model Provisions all rights and obligations between the relevant Clearing Member and a Non-Clearing Member with respect to Transactions under a Clearing Agreement shall be construed as rights and obligations under a separate arrangement (hereinafter also with respect to the relationship between the Clearing Member and the Non-Clearing Member, a “**Standard Agreement**” (*Grundlagenvereinbarung*)). If the ICM-CCD Provisions apply, no Standard Agreement will be established between the Clearing Member and the Non-Clearing Member by these Clearing-Conditions.
- (c) If provided for in the Elementary Clearing Model Provisions, the ICM-ECD Provisions or the Net Omnibus Clearing Model Provisions, all rights and obligations between the relevant Clearing Member and a Registered Customer with respect to Transactions under a Clearing Agreement shall be construed as rights and obligations under a separate arrangement (hereinafter also with respect to the relationship between the Clearing Member and the Registered Customer, a “**Standard Agreement**” (*Grundlagenvereinbarung*)). If the ICM-CCD Provisions apply, no Standard Agreement will be established between the Clearing Member and the Registered Customer by these Clearing-Conditions.
- (d) If provided for in the Elementary Clearing Model Provisions and if a Clearing Member and the same entity acting as both Non-Clearing Member and Registered Customer have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2, all rights and obligations (if any) between the relevant Clearing Member and the relevant entity acting as Non-Clearing Member and Registered Customer with respect to Transactions under such Clearing Agreement shall be subject to one and the same Standard Agreement.
- (e) If provided for in the ICM-ECD Provisions and if Eurex Clearing AG, a Clearing Member and the same entity acting as both Non-Clearing Member and Registered Customer have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 3, all rights and obligations between the Clearing Member and the relevant entity acting as Non-Clearing Member and Registered Customer with respect to Transactions under such Clearing Agreement shall be subject to one and the same Standard Agreement.
- (f) If provided for in the U.S. Clearing Model Provisions, all rights and obligations between Eurex Clearing AG and a FCM Client with respect to FCM Client Transactions under a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 shall be subject to one and the same FCM Client Standard Agreement (each hereinafter also a “**Standard Agreement**” (*Grundlagenvereinbarung*)) in accordance with the U.S. Clearing Model Provisions.

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(g) If provided for in the Basic Clearing Member Provisions, all rights and obligations between Eurex Clearing AG and a Basic Clearing Member with respect to Basic Clearing Member Transactions (as defined in Part 6 Number 1.2) under a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 11 shall constitute a separate arrangement (each such arrangement hereinafter also a “Standard Agreement” (Grundlagenvereinbarung)) in accordance with the Basic Clearing Member Provisions.

### 1.2.2 Conclusion of Transactions and Transfer of Transactions

Transactions pursuant to these Clearing Conditions will be concluded and may be transferred in accordance with this Number 1.2.2. However, the conclusion of Market Transactions and OTC Transactions between Eurex Clearing AG and a Basic Clearing Member is exclusively subject to the Basic Clearing Member Provisions and the conclusion of OTC Transactions between Eurex Clearing AG and a FCM Client is exclusively subject to the U.S. Clearing Model Provisions.

#### (1) Market Transactions

Market Transactions are concluded as follows:

- (a) Whenever an order or quote entered into the trading systems of a Market by a Clearing Member is matched with another order or quote, in each case a Market Transaction with identical terms shall be concluded between Eurex Clearing AG and the relevant Clearing Member(s) (each hereinafter also an “**executing Clearing Member**”).
- (b) All entries made by a Non-Clearing Member in its capacity as such into the trading system, if applicable, shall be directly binding for and against its Clearing Member. Whenever an order or quote entered into the trading systems of a Market by a Non-Clearing Member is matched with another order or quote, in each case a Market Transaction with identical terms shall be concluded between Eurex Clearing AG and the relevant Clearing Member(s) and a corresponding Transaction shall be concluded simultaneously between such Non-Clearing Member (hereinafter also an “**executing Non-Clearing Member**”) and its Clearing Member.
- (c) Whenever after conclusion of a Market Transaction pursuant to Paragraph (a) or (b) above,
  - (aa) the executing Clearing Member requests Eurex Clearing AG to book the relevant Market Transaction from a Customer Account (pursuant to Number 4.2.1 Paragraph (1) below) to an internal transaction account of the Clearing Member relating to a specific Registered Customer (pursuant to Number 4.2.1 Paragraph (3) below), either by way of an account booking within the same Standard Agreement or by way of a transfer to

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another Standard Agreement of such Clearing Member in accordance with the Special Clearing Provisions and Number 1.2.2 Paragraph (5) (a) or

- (bb) another Clearing Member requests Eurex Clearing AG to book the relevant Market Transaction to an internal transaction account of the Clearing Member relating to a specific Registered Customer (pursuant to Number 4.2.1 Paragraph (3) below) following a transfer of the Market Transaction to it from the executing Clearing Member in accordance with the Special Clearing Provisions and pursuant to Number 1.2.2 Paragraph (5) (a)),

and Eurex Clearing AG accepts such request, a corresponding Transaction on identical terms shall be concluded between such Clearing Member and such Registered Customer.

The relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before a conclusion of the Transaction between the relevant Clearing Member and the Registered Customer pursuant to the first Sub-Paragraph.

It is the responsibility of the executing Clearing Member or the executing Non-Clearing Member and its respective customer, to agree on a bilateral basis that any back-to-back transaction concluded between them, if any, upon a matching pursuant to Paragraph (a) or (b) in accordance with their bilateral arrangement, shall be cancelled upon the conclusion of the Transaction between the relevant Clearing Member and the Registered Customer pursuant to the first Sub-Paragraph.

## (2) OTC Transactions

OTC Transactions will be concluded by way of novation, ~~provided that the conclusion of OTC Transactions between Eurex Clearing AG and a FCM Client is only subject to the U.S. Clearing Model Provisions and the Special Clearing Provisions.~~

Whenever

- (i) an over-the-counter transaction (the “**Original OTC Transaction**”) is submitted to Eurex Clearing AG by Clearing Members or by a Non-Clearing Member or a Registered Customer, respectively, either directly or via a third party information provider, as provided for in the Special Clearing Provisions, and
- (ii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing Procedures in accordance with the Special Clearing Provisions,

Eurex Clearing AG will, subject to the following provisions, interpose itself by means of a novation as central counterparty between the parties of the Original OTC Transaction.

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Any novation of Original OTC Transactions shall be subject to the novation procedures, criteria and effectiveness requirements specified in the Special Clearing Provisions. The OTC Transactions resulting from the novation shall not be subject to the valid existence of the Original OTC Transaction (abstract novation).

The Original OTC Transaction shall – subject to the Special Clearing Provisions – upon the novation becoming effective be replaced by two OTC Transactions, each on terms that are identical to the terms of the other OTC Transaction, between Eurex Clearing AG and the relevant Clearing Member(s). To the extent that a Non-Clearing Member or a Registered Customer, respectively, which is a party to a Clearing Agreement, is a counterparty to the Original OTC Transaction, upon conclusion of the OTC Transactions between Eurex Clearing AG and the Clearing Member(s) a corresponding OTC Transaction will, simultaneously, be concluded between the Non-Clearing Member or Registered Customer, respectively, and its Clearing Member.

The relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before a conclusion of an RC-Related Transaction.

Unless expressly set out otherwise in the Special Clearing Provisions, it is the responsibility of the parties to the Original OTC Transaction to agree on a bilateral basis on the effects of the novation with respect to the Original OTC Transaction, in particular whether, upon the novation becoming effective, (i) the Original OTC Transaction shall be cancelled, (ii) the parties to the Original OTC Transaction shall be released from their obligations to each other under such Original OTC Transaction and (iii) any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist in accordance with the contractual provisions of the Original OTC Transaction.

The relevant Clearing Member is obliged to obtain the required instruction from the Registered Customer before the conclusion of an RC-Related Transaction.

(3) Securities Lending Transactions

Securities Lending Transactions will be concluded by way of novation in accordance with Chapter IX.

(4) Transactions pursuant to the Default Management Process

Eurex Clearing AG may conclude Transactions of any Transaction Type with a Clearing Member, a Clearing Agent or a Basic Clearing Member pursuant to the Clearing Conditions as part of Eurex Clearing AG's default management process pursuant to Number 7.5 below and include such Transactions in the Clearing.

(5) Transfer of Transactions

(a) Subject to the terms and conditions set out in the Special Clearing Provisions and this Paragraph (5), a Clearing Member or a Basic Clearing Member (the



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“**Transferor Clearing Member**” for the purposes of Paragraph (a) through (c)) may with the consent of Eurex Clearing AG transfer a Transaction concluded with Eurex Clearing AG (for the purposes of Paragraph (c) each an “**Original Transaction**”) (i) into another Standard Agreement between such Transferor Clearing Member and Eurex Clearing AG or (ii) upon a prior agreement with another Clearing Member or a Basic Clearing Member holding the applicable Clearing License or Basic Clearing Member Clearing License, respectively, for such Transaction, to such Clearing Member or Basic Clearing Member (for the purposes of Paragraph (a) through (c) the “**Transferee Clearing Member**”).

- (b) If the Transaction to be transferred pursuant to Paragraph (a) above is an NCM-Related Transaction (as defined in Number 1.2.3 Paragraph (1) (c)) or a RC-Related Transaction (as defined in Number 1.2.3 Paragraph (1) (d)), the transfer of the relevant Transaction requires the consent of the relevant Non-Clearing Member or Registered Customer (which consent may, in each case, be generally given in the relevant Clearing Agreement); if such consent is given, the Transaction between Eurex Clearing AG and the Transferor Clearing Member and the Transaction between the Transferor Clearing Member and the Non-Clearing Member or Registered Customer, as the case may be, (for the purposes of Paragraph (c) each an “**Original Transaction**”) shall, subject to the Special Clearing Provisions, be transferred simultaneously.
- (c) Any transfer of an Original Transaction shall occur by way of novation and, subject to the provisions of the Special Clearing Provisions, (i) the parties to the relevant Original Transaction shall be released from their obligations to each other under such Original Transaction (provided that any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist under the contractual provisions of the Original Transaction, but shall be deemed to have been discharged under the newly established Transactions) and (ii), the following new Transactions shall be established on terms identical to such Original Transaction:
- (aa) in the case of a transfer pursuant to Paragraph (a), item (i) above, a Transaction between the Transferor Clearing Member and Eurex Clearing AG pursuant to the terms of such other Standard Agreement; or
- (bb) in the case of a transfer pursuant to Paragraph (a), item (i) in connection with Paragraph (b) above, a Transaction between the Transferor Clearing Member and Eurex Clearing AG and, in the case of Paragraph (b) above, a Transaction between the Transferor Clearing Member and the relevant Non-Clearing Member or Registered Customer, as the case may be, in both cases pursuant to the terms of the relevant Standard Agreement, as applicable to such Non-Clearing Member or Registered Customer; or
- (cc) in the case of a transfer pursuant to Paragraph (a), item (ii) above, a Transaction between the Transferee Clearing Member and Eurex

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Clearing AG pursuant to the terms of the relevant applicable Standard Agreement selected by the Transferee Clearing Member and Eurex Clearing AG; or

- (dd) in the case of a transfer pursuant to Paragraph (a), item (ii) in connection with Paragraph (b) above, a Transaction between the Transferee Clearing Member and Eurex Clearing AG, and- in the case of Paragraph (b) above, a Transaction between the Transferee Clearing Member and the relevant Non-Clearing Member or Registered Customer, as the case may be, in both cases pursuant to the terms of the relevant Standard Agreement, as applicable to such Non-Clearing Member or Registered Customer.

The Transactions resulting from the novation shall not be subject to the valid existence of the Original Transaction (abstract novation).

- (d) Subject to the provisions set out in the Special Clearing Provisions and if the Elementary Clearing Model Provisions or the Net Omnibus Clearing Model Provisions apply a Clearing Member may agree with a Non-Clearing Member or Registered Customer, respectively, (for the purposes of this Paragraph (d) the “**Transferor**”) on a transfer of a Transaction (for the purposes of this Paragraph (d) an “**Original Transaction**”) from the Transferor to another Non-Clearing Member or Registered Customer, respectively, (for the purposes of Paragraph (d) the “**Transferee**”) upon a prior consent by such party (which consent may be generally given in the relevant Clearing Agreements).

Any such transfer shall occur by way of novation and, and subject to the provisions of the Special Clearing Provisions, (i) the parties to the relevant Original Transaction shall be released from their obligations to each other under such Original Transaction (provided that any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist under the contractual provisions of the Original Transaction, but shall be deemed to have been discharged under the newly established Transaction) and (ii) a new Transaction between the Clearing Member and the Transferee shall be established on terms identical to such Original Transaction pursuant to the terms of the relevant Standard Agreement, as applicable to such Transferee.

The Transaction resulting from the novation shall not be subject to the valid existence of the Original Transaction (abstract novation).

- (e) Subject to the terms and conditions set out in the Special Clearing Provisions, a Non-Clearing Member or Registered Customer, respectively, (the “**Transferor**” for the purposes of this Paragraph (e)) may, with the prior consent of its Clearing Member (for the purposes of this Paragraph (e) the “**Transferor Clearing Member**”) and Eurex Clearing AG, agree on the transfer of (i) a Transaction concluded by the Transferor with the Transferor Clearing Member and (ii) the corresponding Transaction between the Transferor Clearing Member and Eurex Clearing AG (for the purposes of this Paragraph (e) each an

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“**Original Transaction**”) to another Non-Clearing Member or Registered Customer, respectively, (for the purposes of this Paragraph (e) the “**Transferee**”) and to the Transferee's Clearing Member (for the purposes of this Paragraph (e) the “**Transferee Clearing Member**”) provided that the Transferee Clearing Member holds the applicable Clearing License for such Original Transactions and has given its prior consent to the transfer.

Any such transfer shall occur by way of novation and, subject to the provisions of the Special Clearing Provisions, (i) the parties to the relevant Original Transaction shall be released from their obligations to each other under such Original Transaction (provided that any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist under the contractual provisions of the Original Transaction, but shall be deemed to have been discharged under the newly established Transactions) and (ii) new Transactions between (x) the Transferee and the Transferee Clearing Member and (y) the Transferee Clearing Member and Eurex Clearing AG shall be established on terms identical to the relevant Original Transaction pursuant to the terms of the relevant Standard Agreement, as applicable to such Transferee and Transferee Clearing Member.

- (f) (i) In the case of a transfer of a Transaction which is subject to the ICM-CCD Provisions or (ii) in the case of a transfer of a Transaction which shall become subject to the ICM-CCD Provisions after such transfer, Paragraphs (a) through (c) and Paragraph (e) shall only apply with respect to Transactions subject to a Standard Agreement pursuant to the Clearing Conditions. For the avoidance of doubt, the transfer of a Transaction by way of novation or otherwise which is or shall become subject to a Client Clearing Agreement with a Non-Clearing Member or Registered Customer, as the case may be, (as defined in Part 3 Subpart C Number 2.1.1 of the Individual Clearing Model Provisions), will be novated or established on identical terms pursuant to the terms of such Client Clearing Agreement.
- (g) Sub-paragraphs (d) to (f) do not apply in respect of any Basic Clearing Member Transactions. For transfers of FCM Client Transactions the U.S. Clearing Model Provisions apply.

(6) Restrictions

- (a) With regard to any single Transaction, unless explicitly stated in the Clearing Conditions, neither party shall have a contractual right to rescission (*Rücktrittsrecht*) or termination (*Kündigungsrecht*) for reason of errors, price corrections or similar causes or for any adjustment of such Transaction.
- (b) Any statutory rights of rescission or termination with regard to any single Transaction shall be excluded unless such right is based on a breach of duty (*Pflichtverletzung*) Eurex Clearing AG is responsible for (*Vertretenmüssen*). The

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right for termination of the Clearing Agreement for serious cause (*aus wichtigem Grund*) shall remain unaffected.

- (c) A party to a Transaction may not avoid such Transaction (*anfechten*) for mistake (*Irrtum*) or incorrect transmission (*falsche Übermittlung*). To the extent that German law governs the relevant legal relationship, the statutory right of avoidance for wilful deceit (*arglistige Täuschung*) or unlawful threat (*widerrechtliche Drohung*) shall remain unaffected.
- (d) All claims for unjust enrichment or similar claims against Eurex Clearing AG, if any, which may arise in connection with an abstract novation under these Clearing Conditions are excluded. The novation of the Original OTC Transaction shall, however, not exclude any claims for unjustified enrichment (*ungerechtfertigte Bereicherung*), or any other restitution or compensation claims under any applicable laws, between the parties to the Original OTC Transaction. Neither the valid existence of an Original OTC Transaction nor the conformity of the transmitted trade details of the Original OTC Transaction with the actual terms of the OTC Transaction shall constitute an inherent basis (*Geschäftsgrundlage*) for an OTC Transaction.

### 1.2.3 Categories of Transactions between Eurex Clearing AG and the Clearing Member, Relationship to Transactions with Non-Clearing Members and Registered Customers

- (1) A Transaction concluded between Eurex Clearing AG and a Clearing Member will, for the purpose of the Clearing Conditions, be categorised as:
  - (a) an “**Own Transaction**” if it is concluded for the relevant Clearing Member's own account;
  - (b) a “**Customer-Related Transaction**” if it refers to a corresponding transaction with a customer of such Clearing Member other than Non-Clearing Members and Registered Customers;
  - (c) a “**NCM-Related Transaction**” if it refers to a Transaction between such Clearing Member and a Non-Clearing Member; or
  - (d) a “**RC-Related Transaction**” if it refers to a Transaction between such Clearing Member and a Registered Customer.
- (2) Unless otherwise provided for in the Clearing Conditions or agreed between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively with respect to Transactions pursuant to the Elementary Clearing Model Provisions, upon conclusion or establishment of an NCM-Related Transaction or an RC-Related Transaction, any amendment to such NCM-Related Transaction or RC-Related Transaction or termination of such NCM-Related Transaction or RC-Related Transaction (except for a Termination pursuant to Number 7 which provides for specific provisions) shall have the same legal effect on the corresponding

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Transaction (and any termination notice by a Clearing Member in respect of an NCM-Related Transaction or RC-Related Transaction shall also constitute a termination notice in respect of the corresponding Transaction between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively) between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively. The relevant Clearing Member is obliged to obtain the required instruction from the relevant Non-Clearing Member or Registered Customer before initiating any such amendment or termination.

This Number 1.2.3 Paragraph (2) shall not apply in the case of the Clearing of Transactions pursuant to the ICM-CCD Provisions. For any termination or amendment of a transaction between the Clearing Member and a Non-Clearing Member or Registered Customer, as the case may be, by reference to a Covered Transaction between Eurex Clearing AG and the Clearing Member, the Clearing Member and the Non-Clearing Member or Registered Customer, as the case may be, are required to agree on a bilateral basis on such termination or amendment on or before initiating any such termination or amendment.

The Clearing Conditions do not apply to transactions between a Clearing Member and a customer corresponding to Customer-Related Transactions. It is the responsibility of the Clearing Member and its customer to agree on a bilateral basis on the terms governing such transactions (and corresponding to the terms of the Customer-Related Transaction).

- (3) The Registered Customer, by entering into the relevant Clearing Agreement, irrevocably authorises Eurex Clearing AG to receive, also on behalf of the Registered Customer, any notice, termination notice or other declaration by the Clearing Member resulting in an amendment or termination of an RC-Related Transaction and/or a corresponding Transaction between the Clearing Member and the Registered Customer.
- (4) This Number 1.2.3 does not apply with respect to Transactions between Eurex Clearing AG and a FCM Client and with respect to Basic Clearing Member Transactions.

#### 1.2.4 Certain Definitions and Interpretation

In these Clearing Conditions:

- (1) **“Business Days”** means
  - (a) for the Clearing of Eurex Transactions (Chapter II): the exchange days determined by the management boards of the Eurex Exchanges;
  - (b) for the Clearing of Eurex Bonds Transactions (Chapter III): the trading days determined by the management board of Eurex Bonds;
  - (c) for the Clearing of Eurex Repo Transactions (Chapter IV): the trading days determined by the management board of Eurex Repo;

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- (d) for the Clearing of FWB Transactions (Chapter V Part 1 and 2): the exchange days determined by the management board of FWB;
- (e) for the Clearing of ISE Transactions (Chapter VI): the days determined by Eurex Clearing AG on which a clearing of ISE Transactions is carried out;
- (f) for the Clearing of OTC Transactions (Chapter VIII): the days determined by the Executive Board of Eurex Clearing AG;
- (g) for the Clearing of Securities Lending Transactions (Chapter IX): the days determined by the Executive Board of Eurex Clearing AG; and
- (h) in any other case, a day (other than Saturday or Sunday) on which commercial banks in Frankfurt am Main, Germany, are open for general business.
- (2) **“Clearing Currency”** means either Euro (**“EUR”**) or Swiss Francs (**“CHF”**) as agreed in writing between Eurex Clearing AG and the Clearing Member in respect of each Standard Agreement or between Eurex Clearing AG and the Clearing Agent (acting on behalf of the relevant Basic Clearing Member) in respect of the Basic Clearing Member Clearing Agreement (as defined in Part 6 Number 1.1). In these Clearing Conditions **“Euro”** means the lawful currency of the member states of the European Union that continue to have adopted the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended by the Treaty on the European Union (signed in Maastricht on February 7, 1992), the Treaty of Amsterdam (signed in Amsterdam on October 2, 1997), the Treaty of Nice (signed in Nice on February 26, 2001) and the Treaty of Lisbon (signed in Lisbon on December 13, 2007).
- (3) The terms **“Margin”** or **“Variation Margin”**, **“Elementary Proprietary Margin”** or **“Elementary Proprietary Variation Margin”** and **“Elementary Omnibus Margin”** or **“Elementary Omnibus Variation Margin”** shall have the meaning given to such terms in the Elementary Clearing Model Provisions, the terms **“Segregated Margin”** or **“Segregated Variation Margin”** shall have the meaning given to such terms in the Individual Clearing Model Provisions, the ~~same~~ terms **“Net Omnibus Margin”** or **“Net Omnibus Variation Margin”** shall have the meaning given to such terms in the Net Omnibus Clearing Model Provisions ~~and~~ the terms **“FCM Client Margin”** or **“FCM Client Variation Margin”** shall have the meaning given to such terms in the U.S. Clearing Model Provisions and the terms **“Basic Clearing Member Margin”** or **“Basic Clearing Member Variation Margin”** shall have the meaning given to such terms in the Basic Clearing Member Provisions, provided that (i) **“Margin”** shall refer to **“Elementary Proprietary Margin”**, **“Elementary Omnibus Margin”**, **“Segregated Margin”**, **“Net Omnibus Margin”** ~~or~~ **“FCM Client Margin”** or **“Basic Clearing Member Margin”** and (ii) **“Variation Margin”** shall refer to **“Elementary Proprietary Variation Margin”** and **“Elementary Omnibus Variation Margin”**, **“Segregated Variation Margin”**, **“Net Omnibus Variation Margin”** ~~or~~ **“FCM Client Variation Margin”** or **“Basic Clearing Member Variation Margin”**, respectively, in the General Clearing Provisions and the Special Clearing Provisions where the context so provides or requires.

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- (4) References to laws, rules, regulations and agreements shall mean such laws, rules, regulations and agreements (that are not part of the Clearing Conditions) as they are amended and updated from time to time.

### 1.2.5 Transfer of Securities, Rights and Emission Rights

- (1) Securities which are held in collective safe custody (*Girosammelverwahrung*) pursuant to Section 5 German Safe Custody Act (*Depotgesetz*) shall be transferred by way of agreement and delivery according to property law principles of the German Civil Code (*Bürgerliches Gesetzbuch*).
- (2) Book-entry securities (*Gutschriften in Wertpapierrechnung*) which are governed by German law shall be transferred according to the principles of the law of obligation (*schuldrechtliche Grundsätze*) of the German Civil Code (*Bürgerliches Gesetzbuch*) by way of transfer of the respective legal position underlying such German book-entry securities. This transfer is effected by assignment of the return/delivery claim (*schuldrechtlicher Herausgabe-/Lieferanspruch*) to Eurex Clearing AG. Such return/delivery claim is held by the Clearing Member, the Clearing Agent or the Basic Clearing Member against the securities depository bank or the custodian or central securities depository recognised by Eurex Clearing AG (hereinafter each a “**Settlement Location**”) which holds the legal position underlying such German book-entry securities on trust and in favour of such Clearing Member, the Clearing Agent or Basic Clearing Member. This applies *mutatis mutandis* to the transfer of German book entry securities between Eurex Clearing AG and the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting for the account of the Basic Clearing Member) to whom delivery is to be made.
- (3) The transfer of securities or rights held on accounts outside of Germany, shall be carried out according to the relevant applicable local legal provisions and general conditions (usages). Insofar, the Special Clearing Provisions may provide for separate provisions in relation to such respective markets.

### 1.2.6 Mandatory Business Hours

Clearing Members, Clearing Agents, Non-Clearing Members, Registered Customers and FCM Clients and Basic Clearing Members are obliged to procure that they are prepared to handle Clearing-related business, including the assessment of reports and notifications in accordance with Number 4.6, on each Business Day (in the case of Clearing Members or Clearing Agents from 7:00 hours until 23:30 hours Frankfurt am Main time).

### 1.2.7 Default Rules

The Clearing Conditions provide for provisions relating to a default, non-performance or breach of obligations by the Clearing Member, ~~a~~ the Clearing Agent, the FCM Client, the Basic Clearing Member or Eurex Clearing AG (the “**Default Rules**”).

The Default Rules comprise (i) with respect to a Clearing Member (other than a FCM Clearing Member in relation to FCM Client Transactions), Numbers 6 and 7 in the

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General Clearing Provisions, Number 8 in the Elementary Clearing Model Provisions, Subpart A Number 7 and Number 14 of the Individual Clearing Model Provisions, Number 8 in the Net Omnibus Clearing Model Provisions ~~and the specific provisions relating thereto set out in the Specific Clearing Provisions~~, (ii) with respect to a FCM Clearing Member in relation to FCM Client Transactions, Numbers 6 and 7 of the General Clearing Provisions and Numbers 1.6.10, 7 and 8 of the U.S. Clearing Model Provisions, (iii) with respect to a FCM Client, Number 9 of the U.S. Clearing Model Provisions ~~and (iv, (iv) with respect to a Clearing Agent, Number 11 of the Basic Clearing Member Provisions, (v) with respect to a Basic Clearing Member, Number 10 of the Basic Clearing Member Provisions and (vi) with respect to Eurex Clearing AG, Number 9 of the General Clearing Provisions, as well as, in each case, the specific provisions relating thereto set out in the Specific Clearing Provisions.~~

### 1.2.8 Prohibition of Assignment

Unless otherwise provided for in the Clearing Conditions, the assignment of claims and rights arising from Transactions under a specific Standard Agreement by the relevant Clearing Member, Non-Clearing Member, Registered Customer ~~or~~ FCM Client or Basic Clearing Member shall be excluded.

Eurex Clearing AG will not assign any of its claims or rights arising from Transactions under a specific Standard Agreement against a Clearing Member, Non-Clearing Member, Registered Customer ~~or~~ FCM Client or Basic Clearing Member, unless such assignment is necessary in order to comply with statutory or regulatory requirements.

## 1.3 Set-off

### 1.3.1 Set-off of claims between the Clearing Member or Basic Clearing Member and Eurex Clearing AG

Unless otherwise provided in the relevant Special Clearing Provisions, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, Eurex Clearing AG is at any time entitled to set off its claims vis-à-vis a Clearing Member or Basic Clearing Member against claims of such Clearing Member or Basic Clearing Member vis-à-vis Eurex Clearing AG in accordance with the rules set forth below.

Subject to the limitations under Article 39 Paragraph 9 b) Regulation (EU) 648/2012 (“EMIR”) Clearing Members are entitled to set off own claims that are uncontested or have been finally and non-appealably established with claims of Eurex Clearing AG.

#### (1) Set-off Procedure within Standard Agreements

##### (a) Set-off of Cash Claims

Eurex Clearing AG shall be entitled to set off any of its cash claims under a specific Standard Agreement (other than a FCM Client Standard Agreement)



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against other cash claims of the Clearing Member or Basic Clearing Member under that Standard Agreement, in each case excluding Settlement Claims in cash and Residual Payment Claims (each as defined in Paragraph (b) below).

(b) **Set-off of Settlement Claims**

Settlement Claims against a Clearing Member or Basic Clearing Member under a specific Standard Agreement can only be set off by Eurex Clearing AG against Settlement Claims of that Clearing Member or Basic Clearing Member arising under that Standard Agreement in accordance with the following:

- (aa) only Settlement Claims arising from the same Transaction Type may be set off; and
- (bb) only Settlement Claims being part of the same Set-Off Cluster (as defined below) may be set off.

Notwithstanding Paragraph (aa) above, Eurex Clearing AG and the Clearing Member may agree in advance to include in a Set-Off Cluster Settlement Claims arising from different Transaction Types in accordance with the following provisions:

- (A) Settlement Claims pursuant to Chapter II and Settlement Claims pursuant to Chapter V Part 2;
- (B) Settlement Claims pursuant to Chapter III and Settlement Claims pursuant to Chapter IV.

Any residual cash claims resulting from a set-off within a particular Set-Off Cluster may be set off against other residual cash claims in the same currency resulting from a set-off within any other Set-Off Cluster under the same Standard Agreement (each of these cash claims resulting from such set-off a “**Residual Payment Claim**”).

“**Settlement Claims**” means, with respect to Transactions that provide for a Physical Delivery, (i) all payment and delivery claims arising from Transactions under Chapter II from, and including, the time of the exercise or assignment (*Zuteilung*) of the relevant Transaction and (ii) all payment and delivery claims arising from Transactions under Chapters III, IV and V.

Settlement Claims will be divided into one or more clusters (each a “**Set-Off Cluster**”). At any time, a Set-Off Cluster shall be composed of Settlement Claims only in accordance with the following pre-requisites:

- (I) the Settlement Claims shall relate to Securities with the same securities identifier; and
- (II) the Settlement Claims shall to be settled in the same currency; and

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- (III) the Settlement Claims shall be settled by crediting the same Securities account at the Settlement Location; and
- (IV) the set-off of the Securities delivery obligations arising under the selected Settlement Claims shall result in a full set-off of all such Securities delivery obligations; for such purposes Eurex Clearing AG may also partially include certain Settlement Claims in the relevant Set-Off Cluster.

(c) **Processing Method**

The Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) may opt to either allow Eurex Clearing AG to generally set off all Settlement Claims (the “**Net Processing**”) or to generally exclude all Settlement Claims from such set-off (the “**Gross Processing**”). The Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) is entitled to specify exemptions for certain Settlement Claims from the relevant applicable processing method.

(d) **Chaining**

The Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) may require that Settlement Claims of certain buy and sell Transactions shall form part of the same Set-Off Cluster in whole or in part.

(e) **Cash Deferral**

If a Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) elected the Positive Procedure pursuant to Number 1.4.2 Paragraph (2) (a), such Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) may require a further exemption from the Net Processing method and block the set-off of Settlement Claims from certain sell Transactions in which case Eurex Clearing AG may assign Settlement Claims from buy Transactions to such Settlement Claims from sell Transactions. Such blocked Settlement Claims from sell Transactions and assigned Settlement Claims from buy Transactions shall neither be subject to a set-off nor be fulfilled before the blocking of such Settlement Claims from sell Transactions is released by the Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member).

(f) **Declaration of Set-off**

Eurex Clearing AG shall declare the set-off by the provision (*Zurverfügungstellung*) of the daily internal cash account (set out in Number 4.3) statement with respect to any set-off pursuant to Paragraph (1) (a) above, or of the settled cash transaction report or the actual settlement delivery report (*Ist-Lieferreport*) with respect to any set-off pursuant to Paragraph (1) (b) above.

(g) **Effectiveness of Set-off**

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Each set-off effected pursuant to this Paragraph (1) shall become effective on the latest due date of any of the claims subject to such set-off.

(2) **Set-off procedure across Standard Agreements**

(a) **General Rules**

(aa) Eurex Clearing AG shall be entitled to set off cash payment claims arising from Transactions other than Settlement Claims (the “**Payment Claims**”) under a specific Standard Agreement with the Clearing Member with other Payment Claims of the Clearing Member in the same currency which, in each case, are due and payable under any other Standard Agreement.

The Clearing Member and Eurex Clearing AG may agree in writing to exclude the set-off of Payment Claims across Standard Agreements or to limit such set-off to specific groups of Standard Agreements.

(bb) Further, Eurex Clearing AG shall be entitled to set off Payment Claims and Residual Payment Claims, but excluding cash claims which are to be settled against Physical Delivery under a specific Standard Agreement with the Clearing Member with other Residual Payment Claims of the Clearing Member in the same currency which, in each case, are due and payable under any other Standard Agreement.

(b) **Set-off Declaration**

Eurex Clearing AG shall declare the set-off by the provision (*Zurverfügungstellung*) of the daily internal cash account (set out in Number 4.3) statement with respect to any set-off pursuant to Paragraph (2) (a) (aa) above, or the settled cash transaction report or the actual settlement delivery report (*Ist-Lieferreport*) with respect to any set-off pursuant to Paragraph (2) (a) (bb) above.

(c) **Effectiveness of Set-off**

Each set-off effected pursuant to Paragraph (2) (a) above shall become effective upon payment of the relevant balance resulting from such set-off in accordance with Number 1.4 or instantly if no payment is due as a consequence of such set-off.

**1.3.2 Set-off of claims between a Clearing Member and its Non-Clearing Member, Registered Customer or FCM Client and between a Clearing Agent and its Basic Clearing Member**

Unless otherwise provided for in the Clearing Conditions, (i) a Clearing Member may agree with its Non-Clearing Member, Registered Customer or FCM Client, respectively, and (ii) a Clearing Agent may agree with its Basic Clearing Member, on specific set-off provisions.

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## 1.4 Settlement of Transactions

Unless otherwise provided in the relevant Special Clearing Provisions, the following provisions shall apply in relation to the settlement of Transactions, in each case following a set-off (if any) effected pursuant to Number 1.3 or pursuant to any other provisions in the Clearing Conditions.

### 1.4.1 Cash Clearing

- (1) In order to make cash payments in Euro, the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member is obliged to instruct the bank of its relevant RTGS Account or relevant SIC Account to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG.
- (2) In order to make cash payments in Swiss Francs, the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member is obliged to instruct the Swiss National Bank (“SNB”) to honour the transfer instructions received from Eurex Clearing AG with respect to its relevant SNB Account. Clearing Members, Clearing Agents or Basic Clearing Members which are allowed to maintain the cash account at a correspondent bank recognised by Eurex Clearing AG are obliged to instruct their correspondent bank accordingly.
- (3) If Eurex Clearing AG has allowed the use of the cash accounts of a correspondent bank in accordance with Number 2.1.2 Paragraph (4) (b) ~~or~~, Number ~~2.1.3~~ 2.3.1 Paragraph (6) (b) or Number 2.4.1 Paragraph (2) (b), the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member shall procure that the transfer instructions received from Eurex Clearing AG with respect to such accounts are honoured.
- (4) In order to make cash payments in currencies other than Euro and Swiss Francs, the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member shall instruct its bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.
- (5) In order to make cash payments in respect of Margin in currencies other than Euro and Swiss Francs accepted by Eurex Clearing AG, the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member shall transfer the relevant cash amounts to the account of Eurex Clearing AG as notified to the Clearing Member-, the Clearing Agent or the Basic Clearing Member (as applicable) from time to time by the date specified by Eurex Clearing AG with respect to the relevant currency. The Clearing Member-, the Clearing Agent or the Basic Clearing Member (as applicable) may instruct its bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.

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- (6) In order to make payments in respect of Eurex-Fees (as defined in Number 5.1), the Clearing Member or, with respect to the Clearing of Basic Clearing Member Transactions, the Clearing Agent or the Basic Clearing Member may by way of derogation from Paragraphs (1) and (2) also instruct its bank for the relevant currency to honour the transfer instructions (Lastschriften) received from Eurex Clearing AG.
- (7) The debit instructions provided by the Clearing Member in accordance with this Number 1.4.1 and relating to one or more Clearing License(s) may only be revoked by the Clearing Member if the Clearing Member also terminates such Clearing License(s). If the Clearing Member has declared such revocation and termination, such revocation of debit instructions and the termination of the related Clearing License(s) shall only become effective after all Transactions of the Clearing Member (and, in the case of ~~an~~ a FCM Clearing Member, of each of its FCM Clients) of the relevant Transaction Type(s) have been cancelled, closed or fulfilled. If a Clearing License ends for any other reasons, all related debit instructions shall terminate and such termination shall become effective in accordance with the foregoing sentence.
- (8) The debit instructions provided by the Basic Clearing Member in accordance with this Number 1.4.1 and relating to one or more Basic Clearing Member Clearing License(s) may only be revoked by the Basic Clearing Member if the Basic Clearing Member also terminates such Basic Clearing Member Clearing License(s). If the Basic Clearing Member has declared such revocation and termination, such revocation of debit instructions and the termination of the related Basic Clearing Member Clearing License(s) shall only become effective after all Basic Clearing Member Transactions of the Clearing Member of the relevant Transaction Type(s) have been cancelled, closed or fulfilled. If a Basic Clearing Member Clearing License ends for any other reasons, all related debit instructions shall terminate and such termination shall become effective in accordance with the foregoing sentence.
- (9) The debit instructions provided by the Clearing Agent in accordance with this Number 1.4.1 may only be revoked by the Clearing Agent (i) if the Clearing Agent also terminates its General Clearing License or (ii) in accordance with Number 3.8 of the Basic Clearing Member Provisions. If the Clearing Agent has declared such revocation and termination pursuant to item (i) above, such revocation of debit instructions and the termination of its General Clearing License shall only become effective after all Basic Clearing Member Transactions of each of its Basic Clearing Members have been cancelled, closed or fulfilled. If the General Clearing License of the Clearing Agent ends for any other reasons, all related debit instructions shall terminate and such termination shall become effective in accordance with the foregoing sentence.

#### **1.4.2 Settlement of Transactions in Securities**

- (1) The Clearing Members or the Basic Clearing Members (acting through their Clearing Agent, as applicable) shall fulfil ~~their~~ the relevant delivery and payment obligations

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resulting from Transactions in accordance with the instructions of Eurex Clearing AG.

- (2) For Transactions to be fulfilled through delivery of Securities, Eurex Clearing AG offers an electronically supported service in order to improve the delivery process (the “**Gross Delivery Management**”).

The use of the Gross Delivery Management requires technical access to the respective interface of the network provided by Eurex Clearing AG; such access shall be in line with the specifications defined by Eurex Clearing AG.

The Gross Delivery Management includes two release methods:

- (a) The delivery of all Transactions is not released. In case individual Transactions shall be delivered, they shall be indicated by the Clearing Member or the Basic Clearing Agent (or the Clearing Agent acting on its behalf) (the “**Positive Procedure**”). The indication of parts of a Transaction is permissible.
- (b) The delivery of all Transactions is released. In case individual Transactions shall not be delivered, they shall be indicated by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on its behalf) (the “**Negative Procedure**”). The indication of parts of a Transaction is permissible.

In connection with the use of the Gross Delivery Management, Clearing Members, Clearing Agents (acting on behalf of their Basic Clearing Members) or third parties designated by the Clearing Member shall receive individual transaction data from Eurex Clearing AG.

- (3) Each Clearing Member or Basic Clearing Member (or Clearing Agent acting on its behalf) and Eurex Clearing AG shall ensure, through appropriate instruction of the respective Settlement Location, that Transactions can be processed at the time specified in the relevant Special Clearing Provisions, on the delivery days agreed, respectively. The Clearing Members or Basic Clearing Members (or the Clearing Agents acting on behalf of their Basic Clearing Members) shall authorise Eurex Clearing AG, by providing the appropriate power of attorney (or, as applicable, sub-power of attorney) for use vis-à-vis the respective Settlement Location, to give, release and transmit all delivery instructions and to supplement, change or cancel the delivery instructions as required for the timely and correct fulfilment of its delivery and payment obligations against Eurex Clearing AG. The same applies with regard to the corresponding payment instructions.
- (4) The fulfilment of delivery and payment obligations arising from Transactions with regard to Securities held in collective safe custody (*Girosammelverwahrung*), is subject to the following provisions (unless otherwise provided in the relevant Special Clearing Provisions).
- (a) All physical deliveries are carried out versus payment between the Clearing Members or the Basic Clearing Members obliged to deliver and Eurex Clearing AG and, accordingly, between Eurex Clearing AG and the Clearing

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Members or the Basic Clearing Members to whom delivery is to be made at the points in time specified in the relevant Special Clearing Provisions, respectively on the agreed delivery days. Unless otherwise provided for in the relevant Special Clearing Provisions, Eurex Clearing AG hereby acts as intermediary (*Besitzmittler*) of the Clearing Members or the Basic Clearing Members obliged to deliver in order to transfer such Securities to the Clearing Members or the Basic Clearing Members to whom delivery is to be made. The physical deliveries shall be carried out via a Settlement Location; the payment shall be effected via the respective account determined by the Settlement Location.

- (b) The transfer of ownership shall be carried out when the following prerequisites have been fulfilled:
- (aa) the Settlement Location included in the Securities transfer has, where required, carried out all bookings with regard to the Transactions having been set off or netted or not having been set off or netted by Eurex Clearing AG from the custody account of Eurex Clearing AG with the Settlement Location to the custody accounts of the Clearing Members or Basic Clearing Members (or the Clearing Agent acting on their behalf) to whom delivery is to be made with the Settlement Location; and
- (bb) the respective cash netting has been carried out by the Settlement Location; and
- (cc) the Clearing Members or the Clearing Agents (acting on behalf of their respective Basic Clearing Member) and the Basic Clearing Members have been provided with the actual settlement delivery report (*Ist-Lieferreport*) by Eurex Clearing AG, such report specifying the single transactions that have actually been delivered.
- (5) The fulfilment of delivery and payment obligations arising from Transactions with regard to German book-entry securities held in the giro trust system (*Treuhandgiroverkehr*) is subject to Paragraphs (6) and (7) (unless otherwise provided in the relevant Special Clearing Provisions).
- (6) All assignments of German book-entry securities (*Gutschriften in Wertpapierrechnung*) shall be carried out versus payment between the Clearing Members or the Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) and Eurex Clearing AG and, accordingly, between Eurex Clearing AG and the Clearing Members or Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) to whom delivery is to be made at the points in time specified in the relevant Special Clearing Provisions or on the agreed delivery days, respectively. With regard to the legal position underlying the German book-entry securities transferred to Eurex Clearing AG, Eurex Clearing AG shall for a limited period of time act as fiduciary owner in favour of the acquiring Clearing Members or Basic Clearing Members in order to transfer the legal position underlying the German book-entry securities to the Clearing Members or the Basic Clearing Members to whom delivery is to be

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made by granting the respective book-entries (*Gutschriften*) under designation of the country of custody (*Lagerland*). The respective book-entries (*Gutschriften*) shall thereby be granted by the Settlement Location, and the payment shall be effected via the respective account determined by the Settlement Location.

- (7) The assignment of the return/delivery claim under the law of obligation (*schuldrechtlicher Herausgabe-/Lieferanspruch*) of the legal position underlying the German book-entry securities is deemed to occur when the following prerequisites are cumulatively fulfilled:
- (a) The Settlement Location included in the assignment of the return/delivery claim has, where required, entered all bookings in relation to all Transactions having been set off or netted or not having been set off or netted by Eurex Clearing AG from the custody account of Eurex Clearing AG with such Settlement Location to the custody accounts of the Clearing Members or the Basic Clearing Members (or the Clearing Agents acting on behalf of their Basic Clearing Members) to whom delivery is to be made with such Settlement Location; and
  - (b) the respective cash netting has been carried out in the relevant currency by the Settlement Location.
- (8) The powers of attorney granted by the Clearing Member-, the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) in accordance with this Number 1.4.2 and relating to one or more Clearing License(s) may only be revoked by the Clearing Member or the Basic Clearing Member if the Clearing Member or the Basic Clearing Member also terminates such Clearing License(s). If the Clearing Member or the Basic Clearing Member has declared such revocation and termination, such revocation of powers of attorney and such termination of the related Clearing License(s) shall only become effective after all Transactions of the Clearing Member or all Basic Clearing Member Transactions of the Basic Clearing Member of the relevant Transaction Type(s) have been cancelled, closed or fulfilled. If a Clearing License ends for any other reasons, all related powers of attorney shall terminate and such termination shall become effective in accordance with the foregoing sentence.

### 1.4.3 Rights of appropriation of Eurex Clearing AG

- (1) Right of appropriation with regard to Securities held in collective safe custody (*Girosammelverwahrung*)
- (a) Each Clearing Member or Basic Clearing Member (or the Clearing Agent acting on behalf of such Basic Clearing Member) authorises Eurex Clearing AG to fully or partially acquire at any time the Securities held in collective safe custody (*Girosammelverwahrung*) which have been delivered by such Clearing Member or such Basic Clearing Member (or the Clearing Agent acting on behalf of such Basic Clearing Member) versus payment of the acquisition price on an account of Eurex Clearing AG at the Settlement Location in order to fulfil Transactions, respectively to transfer such acquisition right to third parties for security



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purposes. The right of appropriation of Eurex Clearing AG or of the third party it was transferred to expires either with the transfer of title in favour of the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) to whom delivery is to be made or in case Eurex Clearing AG exercises the appropriation right. The delivery of Securities pursuant to Sentence 1 of this sub-paragraph (a) occurs either in the course of the regular clearing process for Markets cleared by Eurex Clearing AG or, upon special instruction of Eurex Clearing AG, on an account of Eurex Clearing AG concurrently (*Zug um Zug*) versus payment of the purchase price in case of a default of the Clearing Member or the Basic Clearing Member to whom delivery is to be made.

- (b) In case Eurex Clearing AG or a third party to which the right of appropriation was partially or fully transferred exercises the right of appropriation, the Clearing Member or Basic Clearing Member obliged to deliver waives its claim of re-delivery of Securities of the same kind and nominal amount against Eurex Clearing AG under the condition that Eurex Clearing AG pays the purchase price to the delivering Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) concurrently (*Zug um Zug*) with the delivery of the Securities pursuant to Number 1.4.3 Paragraph (1) (a) in favour of an account of Eurex Clearing AG.
- (2) Right of appropriation with regard to German book entry securities with a Custodian outside of Germany
- (a) Each Clearing Member or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) authorises Eurex Clearing AG to partially or fully pledge for security purposes the German book entry securities with a custodian abroad and delivered by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) by way of book-entry credit in an account of Eurex Clearing AG with a Settlement Location in order to fulfil its obligations arising from securities Transactions concurrently (*Zug um Zug*) versus payment of the purchase price by Eurex Clearing AG. German book entry securities are pledged pursuant to Sentence 1 to a Settlement Location only.
  - (b) The pledge granted by Eurex Clearing AG in favour of the respective Settlement Location pursuant to Paragraph (2) (a) above expires either in case Eurex Clearing AG delivers the pledged German book entry securities with a custodian abroad to the receiving Clearing Member or Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) by book-entry credit or in case the pledge is exercised by the respective Settlement Location by means of appropriation in an event of default.

#### 1.4.4 Buy-In Right and Buy-In Auction

- (1) The Special Clearing Provisions may provide that in the event of a failure by a Clearing Member or Basic Clearing Member under a Transaction to deliver

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Securities to Eurex Clearing AG on the applicable delivery date, Eurex Clearing AG shall be entitled at the cost of the defaulting Clearing Member or the defaulting Basic Clearing Member to enter into a replacement purchase by way of a transaction with a third party or by way of an auction, as further set out in the Special Clearing Provisions. Any replacement purchase by way of an auction shall be subject to the buy-in auction rules published by Eurex Clearing AG on its website ([www.eurexclearing.com](http://www.eurexclearing.com)); such published buy-in auction rules shall form part of these Clearing Conditions.

- (2) Without prejudice to the provisions of the Special Clearing Provisions-~~Eurex Clearing AG shall be entitled to enter into a replacement purchase pursuant to Paragraph (1) above in case a Clearing Member or a Basic Clearing Member fails under a Transaction to deliver Securities to Eurex Clearing AG on the applicable delivery date, causing the inability of Eurex Clearing AG to fulfill its due delivery obligation towards another Clearing Member or Basic Clearing Member and Eurex Clearing AG has received a Second Notification pursuant to ~~Chapter 1 Part 1~~ Number 9.3.3 (3) of these General Clearing Conditions-Provisions from the respective Clearing Member or Clearing Agent (acting on behalf of the Basic Clearing Member). The respective rules of the Special Clearing Provisions regarding costs and a potential cash settlement shall apply accordingly.~~

## 1.5 EMIR Risk Committee

1.5.1 Eurex Clearing AG will establish pursuant to Art. 28 Regulation (EU) 648/2012 (“**EMIR**”) a risk committee as a comprehensive committee (*Gesamtausschuss*) (the “**EMIR Risk Committee**”) in order to advise the supervisory board of Eurex Clearing AG (the “**Supervisory Board**”) with respect to EMIR Matters (as defined in Number 1.5.2 below) and the Executive Board of Eurex Clearing AG (the “**Executive Board**”) with respect to Relevant Matters (as defined in Number 1.5.3 below) and the Additional Matters (as defined in Number 1.5.4 below) to the extent this would not constitute a breach of law, a breach of an order of a court of competent jurisdiction or applicable governmental, quasi-governmental, or regulatory body.

1.5.2 “**EMIR Matters**” shall be the following risk-related matters beyond daily-operations if and to the extent they may have an impact on the risk management of Eurex Clearing AG:

- (1) significant changes of the risk model of Eurex Clearing AG;
- (2) changes to the default procedures including the process description relating thereto as published by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) (the “**Procedures Manual**”);
- (3) changes to the categories of admissible ~~Clearing Members~~ clearing members (as defined in EMIR) and the admission criteria for ~~Clearing Members~~ clearing members (as defined in EMIR);
- (4) the Clearing of new classes of instruments;

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- (5) outsourcing of functions by Eurex Clearing AG; and
- (6) all other matters beyond daily-operations which may have an impact on the risk management of Eurex Clearing AG including, but not limited to, material changes to the Clearing Conditions, such as (without limitation)
  - (i) to the provisions regarding the Clearing Fund (as in particular defined in Number 6);
  - (ii) to the method to determine Eligible Margin Assets (as defined in Number 3.2.1) or the methods to determine haircuts; and
  - (iii) to the Interim Participation Conditions (as defined in Part 3 Subpart A Number 11.1.2) or the Immediate Re-Establishment Conditions (as defined in Part 3 Subpart A Number 11.2.2).

EMIR-Matters are also

- (7) the internal policy framework defining types of extreme but plausible market conditions Eurex Clearing AG could be exposed to;
- (8) the liquidity plan; and
- (9) a policy for the use of derivative contracts as highly liquid financial instruments for the purpose of Art. 47 (1) EMIR.

1.5.3 The Executive Board shall seek advice from the EMIR Risk Committee with respect to the following “**Consultation Matters**” (and together with the EMIR Matters the “**Relevant Matters**”):

- (1) review and material revisions and adjustments to the models, their methodologies and the liquidity risk management framework used to quantify, aggregate, and manage the risks of Eurex Clearing AG;
- (2) material revisions and adjustments to Eurex Clearing AG’s policies used to test its margins, default fund and other financial resources methodologies and framework for calculating liquid financial resources;
- (3) the systems and valuation models used for validating Eurex Clearing AG’s models where pricing data is not readily available;
- (4) review of Eurex Clearing AG’s margin model;
- (5) review of the reverse stress tests developed by Eurex Clearing AG, and
- (6) the formation of new, and changes to existing, Liquidation Groups (as defined in Number 7.5.1) (except when an existing Liquidation Group is separated into parts in accordance with Number 7.5.3 Paragraph (1) (b) and Paragraph (3)).

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- 1.5.4 The Executive Board may seek advice from the EMIR Risk Committee with respect to EMIR-Matters and all other matters which, in the view of the Executive Board, may have an impact on the risk management of Clearing Members and/or of Non-Clearing Members, Registered Customers or their clients (the “**Additional Matters**”).
- 1.5.5 The statutes for the EMIR Risk Committee as published by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) represent an integral part of the Clearing Conditions.
- 1.5.6 The Executive Board will promptly inform the BaFin (as defined in Number 2.1.2) of any decision of the Supervisory Board or the Executive Board in which the Supervisory Board or the Executive Board decided not to follow advice given by the EMIR Risk Committee with respect to any Relevant Matter.

## 1.6 **Additionally Monitored Risks and Risk Mitigating Measures**

In respect of a FCM Clearing Member references in this Number 1.6 to Transactions of the Clearing Member shall include FCM Client Transactions to which the FCM Clearing Member Guarantee of such FCM Clearing Member relates. References in this Number 1.6 to Clearing Members shall, as relevant, include Clearing Members acting as Clearing Agents.

### 1.6.1 **General Rules**

- (1) Eurex Clearing AG monitors and, when necessary, mitigates the following risks that Eurex Clearing AG is exposed to in relation to the Clearing Member or the Basic Clearing Member, including its Clearing Agent; the assessment will take into account risks resulting from an entity acting in more than one capacity under the Clearing Conditions:
- (a) the potential loss which Eurex Clearing AG may suffer if a Clearing Member or Basic Clearing Member fails to fulfil its contractual obligations under its Transactions (“**Credit Risk**”),
  - (b) the potential loss which Eurex Clearing AG may suffer during the default management process, due to insufficient diversification in respect of the Eligible Margin Assets provided by the Clearing Member or Basic Clearing Member or in respect of the instruments underlying the Clearing Member’s Transactions or the Basic Clearing Member’s Basic Clearing Member Transactions (“**Concentration Risk**”), and
  - (c) the potential loss which Eurex Clearing AG may suffer during the default management process, due to an unfavourable interrelatedness between the Clearing Member’s or Basic Clearing Member’s creditworthiness, the value of the Eligible Margin Assets provided by the Clearing Member or Basic Clearing Member and the notional exposure arising from the Clearing Member’s Transactions or the Basic Clearing Member’s Basic Clearing Member Transactions (“**Wrong Way Risk**”, together with the Credit Risk and the Concentration Risk, the “**Additionally Monitored Risks**”).

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- (2) Eurex Clearing AG determines dedicated thresholds or limits for each of the Additionally Monitored Risks. The Clearing Member ~~is~~ and the Basic Clearing Member are required to comply with these thresholds and limits at all times.
- (3) Eurex Clearing AG will publish further details and guidelines regarding the determination of thresholds and limits and the applicable mitigation measures (together the “**Framework**”) on its homepage ([www.eurexclearing.com](http://www.eurexclearing.com)). The Framework may be amended from time to time and published accordingly.
- (4) Eurex Clearing AG conducts an internal assessment of the creditworthiness of the Clearing Member and the Basic Clearing Member (taking into account, where applicable the aggregate value of the assets under management with respect to a Basic Clearing Member). Based on this assessment, Eurex Clearing AG classifies the Clearing Member and the Basic Clearing Member into one of multiple pre-defined classification levels (the “**Clearing Member Classification**”). Eurex Clearing AG performs such Clearing Member Classification (i) prior to the granting of a Clearing Licence or a Basic Clearing Member Clearing License, (ii) at least once annually, and (iii) on an ad-hoc basis when it is deemed necessary. Eurex Clearing AG notifies the Clearing Member or the Basic Clearing Member, as relevant, about the Clearing Member Classification and any changes thereof.
- (5) Eurex Clearing AG conducts an internal assessment of the creditworthiness of each country, which is (i) the home country of any Clearing Member or Basic Clearing Member, or (ii) the home country of an issuer of securities that qualify as Eligible Margin Assets or (iii) the home country of an issuer of instruments qualifying as underlyings of Transactions. Based on this assessment, Eurex Clearing AG classifies such countries into one of multiple pre-defined classification levels (the “**Country Classification**”). Eurex Clearing AG reviews each Country Classification on a regular basis and on an ad-hoc basis when it is deemed necessary.
- (6) Eurex Clearing AG conducts an internal assessment of the creditworthiness of each supranational organisation which has issued (i) securities that qualify as Eligible Margin Assets, or (ii) instruments underlying any Transactions. Based on this assessment, Eurex Clearing AG classifies such supranational organisations into one of multiple pre-defined classification levels (the “**Supranational Organisation Classification**”). Eurex Clearing AG reviews each Supranational Organisation Classification on a regular basis and on an ad-hoc basis when it is deemed necessary.
- (7) Eurex Clearing AG will publish the Country Classification and the Supranational Organisation Classification in the member section on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).

#### 1.6.2 Assessment and Mitigation of Credit Risk

- (1) Based on the Clearing Member Classification, Eurex Clearing AG is entitled to define one or more Credit Risk thresholds for the Clearing Member and the Basic Clearing Member (“**Credit Risk Thresholds**”). Eurex Clearing AG reviews each Credit Risk

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Threshold on a regular basis and on an ad-hoc basis when it is deemed necessary. Eurex Clearing AG notifies the Clearing Member and the Basic Clearing Member about all Credit Risk Thresholds, and any changes thereof.

- (2) Credit Risk Thresholds can be defined as maximum Margin Requirement or as maximum notional exposure arising from the Clearing Member's Transactions or the Basic Clearing Member's Basic Clearing Member Transactions, in each case under the relevant Standard Agreement.
- (3) In case the Clearing Member or the Basic Clearing Member breaches any Credit Risk Threshold, applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigation measures:
  - (a) Eurex Clearing AG will notify the Clearing Member or the Basic Clearing Member (as well as its Clearing Agent) about the breach of the relevant Credit Risk Threshold and will request the reduction of the relevant Margin Requirement or notional exposure, as the case may be, within a reasonable period of time and in an amount which is necessary to remedy the relevant breach.
  - (b) In case the Clearing Member or the Basic Clearing Member does not remedy the breach of the relevant Credit Risk Threshold within the reasonable period of time pursuant to (a), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.

### 1.6.3 Assessment and Mitigation of Concentration Risk

- (1) Eurex Clearing AG defines Concentration Risk limits for any Eligible Margin Assets in the form of Securities ("**Concentration Risk Limits**").
  - (a) Eurex Clearing AG reviews each Concentration Risk Limit on a regular basis and on an ad-hoc basis when it is deemed necessary.
  - (b) Eurex Clearing AG will publish the Concentration Risk Limits, and any changes thereof on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).
  - (c) In case the Clearing Member or the Basic Clearing Member breaches any Concentration Risk Limit applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigating measures:
    - (i) Eurex Clearing AG will notify the Clearing Member or the Basic Clearing Member (as well as its Clearing Agent) about the breach of the relevant Concentration Risk Limit and will request the replacement of Eligible Margin Assets in the form of Securities by other Eligible Margin Assets ("**New Eligible Margin Assets**") within a reasonable period of time and in an amount which is necessary to remedy the relevant breach. The New Eligible Margin Assets shall be provided pursuant to the terms of the relevant Standard Agreement. Subject to the actual delivery of the New Eligible Margin Assets, the Redelivery or release of the replaced Eligible

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Margin Assets shall be effected pursuant to the terms of the applicable Standard Agreement.

- (ii) In case the Clearing Member or Basic Clearing Member does not remedy the breach of the relevant Concentration Risk Limit, within the reasonable period of time pursuant to (i), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.
- (2) Notwithstanding Paragraph (1), Eurex Clearing AG defines Concentration Risk thresholds in relation to (i) Eligible Margin Assets in the form of Securities and (ii) the notional exposure arising from the instruments underlying the Clearing Member's Transactions or the Basic Clearing Member's Basic Clearing Member Transactions ("**Concentration Risk Thresholds**").
- (a) Concentration Risk Thresholds are defined with respect to each Country Classification and Supranational Organisation Classification.
  - (b) Eurex Clearing AG reviews the Concentration Risk Thresholds on a regular basis and on an ad-hoc basis when it is deemed necessary.
  - (c) Eurex Clearing AG will publish the Concentration Risk Thresholds, and any changes thereof, on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).
  - (d) In case the Clearing Member or Basic Clearing Member breaches a Concentration Risk Threshold, applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigating measures:
    - (i) Eurex Clearing AG will notify the Clearing Member or Basic Clearing Member (as well as its Clearing Agent) about the breach of the relevant Concentration Risk Threshold and will request (i) the reduction of the relevant notional exposure or (ii) the replacement of Eligible Margin Assets in the form of Securities by New Eligible Margin Assets within a reasonable period of time and to the extent necessary to remedy the relevant breach. The provisions under Number 1.6.3 (1) (c) (i) Sentence 2 and 3 shall apply accordingly.
    - (ii) In case the Clearing Member or Basic Clearing Member does not remedy the breach of the relevant Concentration Risk Threshold within the reasonable period of time pursuant to (i), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.

#### 1.6.4 Assessment and Mitigation of Wrong Way Risk

- (1) Eurex Clearing AG defines Wrong Way Risk thresholds in relation to (i) Eligible Margin Assets in the form of Securities and (ii) the notional exposure arising from the instruments underlying the Clearing Member's Transactions or the Basic Clearing Member's Basic Clearing Member Transactions ("**Wrong Way Risk Thresholds**").

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- (2) Wrong Way Risk Thresholds are defined with respect to each Clearing Member Classification and Country Classification.
- (3) Eurex Clearing AG reviews the Wrong Way Risk Thresholds on a regular basis and on an ad-hoc basis when it is deemed necessary.
- (4) Eurex Clearing AG will publish the Wrong Way Risk Thresholds, and any changes thereof, on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).
- (5) In case the Clearing Member or Basic Clearing Member breaches any Wrong Way Risk Threshold applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigating measures:
  - (a) Eurex Clearing AG will notify the Clearing Member or Basic Clearing Member (as well as its Clearing Agent) about the breach of the relevant Wrong Way Risk Threshold and will request (i) the reduction of the relevant notional exposure, or (ii) the replacement of Eligible Margin Assets in the form of Securities by New Eligible Margin Assets within a reasonable period of time and to the extent necessary to remedy the relevant breach. The provisions under Number 1.6.3 (1) (c) (i) Sentence 2 and 3 shall apply accordingly.
  - (b) In case the Clearing Member or Basic Clearing Member does not remedy the breach of the relevant Wrong Way Risk Threshold within the reasonable period of time pursuant to (a), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.

## 1.7 Representations with respect to Clearing Agreements

1.7.1 At the time it enters into a Clearing Agreement, each Clearing Member, Clearing Agent, Non-Clearing Member, Registered Customer ~~and~~ FCM Client and Basic Clearing Member, each holder of a Specific Repo License and each holder of a Specific Lender License, severally but not jointly, represents and warrants with respect to itself by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that:

- (a) it has the power to enter into and perform the Clearing Agreement and any other documentation relating to the Clearing Agreement to which it is a party and has taken all necessary action to authorise such execution and performance;
- (b) its entry into and performance of the Clearing Agreement and any other documentation relating to this Clearing Agreement to which it is a party do not conflict with any law or regulation applicable to it, any provision of its constitutional documents, any order or judgment of any court or agency of government applicable to it or any of its assets or any agreement or instrument by which it is bound or which affects any of its assets;
- (c) it has all governmental and other consents that are required by it with respect to its entry into and performance of the Clearing Agreement and such consents are in full force and effect and all conditions of any such consents have been complied with;



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- (d) no order has been made or applied for or resolution passed for the suspension of payments or dissolution, termination of existence, liquidation, winding-up, reorganisation, bankruptcy, insolvency, judicial management or curatorship, in each case, with respect to it;
- (e) no moratorium in respect of all or any debts or a composition or an arrangement with creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered, declared or applied for, in each case, with respect to it;
- (f) no liquidator, trustee, administrator, receiver or similar officer has been appointed in respect of it or in respect of all or a substantial part of its assets;
- (g) it is able to pay its debts as and when they fall due, will not become unable to pay its debts as a consequence of entering into the Clearing Agreement and, where such entity is incorporated in Germany, is not imminent illiquid (*drohend zahlungsunfähig*) within the meaning of Section 18 German Insolvency Code (*Insolvenzordnung*, "InsO"), illiquid (*zahlungsunfähig*) within the meaning of Section 17 of the InsO or over-indebted (*überschuldet*) within the meaning of Section 19 of the InsO;
- (h) it is acting as principal in respect of the Clearing Agreement (~~including and, with the exception of the Clearing Agent, all Transactions entered into under it~~); the Clearing Agreement); and
- (i) no event has occurred or circumstance arisen with respect to it which would (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute a Termination Event or Insolvency Termination Event (or, with respect to the Basic Clearing Member, a Basic Clearing Member Termination Event or a Basic Clearing Member Insolvency Termination Event) under the Clearing Agreement.

1.7.2 At the time it enters into the Clearing Agreement, each Clearing Member, Clearing Agent and Basic Clearing Member (as relevant) further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it is entitled to pledge, or, as relevant, transfer full legal and beneficial ownership of, all assets (including, without limitation, all Eligible Margin Assets, Securities or Loaned Securities) to be so pledged or so transferred by it pursuant to the Clearing Agreement (including, in the case of a FCM Clearing Member, pursuant to its FCM Clearing Member Guarantee relating to the obligations of the relevant FCM Client), free from any liens, encumbrances, charges or other rights or claims and upon any such transfer, the transferee will receive all right, title and interest in the relevant assets free and clear of any such liens, encumbrances, charges or other rights and claims, arising, including pursuant to applicable regulation or under any statutory or other trust (save, with respect to a Net Omnibus Clearing Agreement, for any statutory trust under the Client Assets Sourcebook).

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### 1.7.3 Additional representations and undertakings

- (1) At the time it enters into an ICM Clearing Agreement, each Clearing Member and each Non-Clearing Member and Registered Customer that is an ICM Client pursuant to the Individual Clearing Model Provisions, severally but not jointly, further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it is and will be the legal and beneficial owner of the Difference Claim or Relevant Difference Claim and, to the extent applicable, no security interest (other than that provided under the Individual Clearing Model Provisions) exists over any of its rights or claims under an ICM Clearing Agreement or Transactions, as relevant, the Eligible Margin Assets transferred by it, the Difference Claim or Relevant Difference Claim, the Shortfall Claim and the Regress Claim.
- (2) At the time it enters into a Clearing Agreement in the form of Appendix 1 or (if it is a FCM Clearing Member) Appendix 10 to the Clearing Conditions, each U.S. Clearing Member further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that:
  - (i) it is not subject to a disqualification pursuant to Section 8 a of the U.S. Commodity Exchange Act ("**CEA**");
  - (ii) it has implemented risk management processes that sufficiently address operational capacity, including the ability to process expected volumes and/or values of transactions within required time frames, including at peak times, the ability to fulfil collateral, payment, and delivery obligations, and the ability to participate in default management;
  - (iii) it maintains written risk management policies and procedures which address the risks that such U.S. Clearing Member may pose to Eurex Clearing AG.

The U.S. Clearing Member further undertakes

- (a) to make such risk management policies and procedures available to Eurex Clearing AG for inspection;
- (b) to disclose to Eurex Clearing AG whether it has been audited by another derivatives clearing organisation as well as the pertinent results of any such risk management audit;
- (c) to make information and documents regarding its risk management policies, procedures and practices available to the CFTC upon the CFTC's request.

1.7.4 Each Clearing Member, each Clearing Agent, each Non-Clearing Member, each Registered Customer ~~and~~, each FCM Client and each Basic Clearing Member agrees with Eurex Clearing AG that it will repeat the representations set out in Number 1.7.1 to 1.7.3, as to the extent that they are relevant to it, to Eurex Clearing AG with regard to the facts and circumstances then existing whenever it (or, in the case of a FCM Clearing

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Member or a Clearing Agent, any of its FCM Clients or its Basic Clearing Members, respectively) enters into a Transaction, transfers Margin or Variation Margin or delivers Eligible Margin Assets in respect thereof or delivers assets equivalent to such Eligible Margin Assets.

- 1.7.5 Each Registered Customer and Non-Clearing Member that is an ICM Client pursuant to the Individual Clearing Model Provisions further agrees, when acting in its capacity as Interim Participant, with Eurex Clearing AG that:
- (a) by submitting the Re-Establishment Election Notice, it represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it has obtained and will retain all licenses and complies with all regulatory requirements applicable to an Interim Participant; and
  - (b) it will repeat the representations and warranties set out in Number 1.7.1 to Eurex Clearing AG by reference to the facts and circumstances then existing by sending the Re-Establishment Election Notice to Eurex Clearing AG and by entering into a Transaction, transferring Margin or Variation Margin or delivering Eligible Assets in respect of the Margin or the Variation Margin or delivering assets equivalent to such Eligible Assets.
- 1.7.6 Eurex Clearing AG represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to the relevant Clearing Member, the Clearing Agent, the Non-Clearing Member/Registered Customer ~~and~~ the FCM Client and the Basic Clearing Member at the time it enters into the Clearing Agreement:
- (a) it has the power to enter into and perform the Clearing Agreement and any other documentation relating to this Clearing Agreement to which it is a party and has taken all necessary action to authorise such execution and performance;
  - (b) no order has been made or applied for or resolution passed for the suspension of payments or dissolution, termination of existence, liquidation, winding-up, reorganisation, bankruptcy, insolvency, judicial management or curatorship, in each case, with respect to it;
  - (c) no moratorium in respect of all or any debts or a composition or an arrangement with creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered, declared or applied for, in each case, with respect to it;
  - (d) no liquidator, trustee, administrator, receiver or similar officer has been appointed in respect of it or in respect of all or a substantial part of its assets;
  - (e) it is able to pay its debts as and when they fall due, will not become unable to pay its debts as a consequence of entering into the Clearing Agreement and is not imminent illiquid (*drohend zahlungsunfähig*) within the meaning of Section 18 of the InsO, is

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illiquid (*zahlungsunfähig*) within the meaning of Section 17 of the InsO or over-indebted (*überschuldet*) within the meaning of Section 19 of the InsO;

- (f) it has all governmental and other consents that are required by it with respect to its entry into and performance of the Clearing Agreement under the applicable laws in Germany and such consents are in full force and effect and all conditions of any such consents have been complied with; and
- (g) no event has occurred or circumstances arisen with respect to it which would (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute a Failure to Pay Event or Insolvency Event under the Clearing Agreement.

1.7.7 Eurex Clearing AG shall promptly inform the Clearing Member or the Clearing Agent and the Basic Clearing Member if Eurex Clearing AG becomes aware that any representation or warranty in Number 1.7.6 ceases to be true. Each Clearing Member, Clearing Agent, Non-Clearing Member, Registered Customer, FCM Client, Basic Clearing Member, holder of a Specific Repo License and holder of a Specific Lender License shall promptly inform Eurex Clearing AG if it becomes aware that any of its representations or warranties in this Number 1.7 ceases to be true.

## 1.8 No Clearing of OTC Interest Rate Derivative Transactions for U.S. Persons

1.8.1 In relation to OTC Interest Rate Derivative Transactions, the Clearing Member (other than any U.S. Clearing Member) represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that, at the time it enters into a Clearing Agreement and each time when entering into an OTC Interest Rate Derivative Transaction, it (i) reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"CM- OTC U.S. Person Representation"**) and (ii) will not submit any Customer-Related Transaction for clearing to Eurex Clearing AG, unless the Clearing Member (a) has either obtained a representation from the relevant customer that such customer reasonably believes that it does not fall within any of the U.S. Person Categories and/or believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretative Guidance, or (b) in case the Clearing Member has not obtained a representation as described under (a) above, reasonably believes that the relevant customer does not fall within any of the U.S. Person Categories and believes in good faith that the relevant customer would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"CM-Customer OTC U.S. Person Representation"**). Number 7.2.1 (2) shall apply accordingly. Number 7.2.1 (2) shall apply accordingly.

1.8.2 The Clearing Member (other than a U.S. Clearing Member) shall promptly inform Eurex Clearing AG (i) if it becomes aware that its CM- OTC U.S. Person Representation ceases to be true or (ii) if the relevant customer has informed the Clearing Member that the relevant CM-Customer OTC U.S. Person Representation has ceased to be true or in any

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other case in which the Clearing Member becomes aware that the relevant CM-Customer OTC U.S. Person Representation has ceased to be true.

- 1.8.3 In relation to OTC Interest Rate Derivative Transactions, the Registered Customer represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that at the time it enters into a Clearing Agreement ~~and each time the Registered Customer directly or indirectly submits an Original OTC Transaction for clearing to Eurex Clearing AG~~, it (i) reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"RC OTC U.S. Person Representation"**) and (ii) will not submit any customer related transaction for clearing to Eurex Clearing AG, unless the Registered Customer (a) has either obtained a representation from the relevant customer that the customer reasonably believes that it does not fall within any of the U.S. Person Categories and/or believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretative Guidance, or (b) in case the Registered Customer has not obtained a representation as described under (a) above, reasonably believes that the relevant customer does not fall within any of the U.S. Person Categories and/or believes in good faith that the relevant customer would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"RC-Customer OTC U.S. Person Representation"**); the Registered Customer repeats these representations at each time the Registered Customer directly or indirectly submits an Original OTC Transaction for clearing to Eurex Clearing AG.
- 1.8.4 The Registered Customer shall promptly inform Eurex Clearing AG (i) if it becomes aware that the RC OTC U.S. Person Representation ceases to be true or (ii) if any of its customers has informed the Registered Customer that the relevant RC-Customer OTC U.S. Person Representation has ceased to be true or in any other case in which the Registered Customer becomes aware that the relevant RC-Customer OTC U.S. Person Representation has ceased to be true.
- 1.8.5 In relation to OTC Interest Rate Derivative Transactions, the Clearing Agent represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that, at the time it enters into a Basic Clearing Member Clearing Agreement, it reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"CA OTC U.S. Person Representation"**); the Clearing Agent repeats such representation each time when any of its Basic Clearing Members enters into an OTC Interest Rate Derivative Transaction. Number 7.2.1 (2) shall apply accordingly.
- 1.8.6 The Clearing Agent shall promptly inform Eurex Clearing AG (i) if it becomes aware that its CA OTC U.S. Person Representation ceases to be true or (ii) if the relevant Basic Clearing Member has informed the Clearing Agent that the relevant Basic Clearing Member OTC U.S. Person Representation (as defined in Number 1.8.7) has ceased to be

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true or in any other case in which the Clearing Agent becomes aware that the relevant Basic Clearing Member OTC U.S. Person Representation has ceased to be true.

1.8.7 In relation to OTC Interest Rate Derivative Transactions, the Basic Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that at the time it enters into a Basic Clearing Member Clearing Agreement, it reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a "U.S. person" under the Interpretive Guidance (the "**Basic Clearing Member OTC U.S. Person Representation**"); the Basic Clearing Member repeats such representations at each time when it directly or through its Clearing Agent submits an Original OTC Transaction for clearing to Eurex Clearing AG. The Basic Clearing Member shall promptly inform Eurex Clearing AG if it becomes aware that the Basic Clearing Member OTC U.S. Person Representation ceases to be true.

1.8.84.8.5 "**U.S. Person Categories**" means the enumerated categories of "**U.S. persons**" that are provided in the "**Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations**", (78 Fed. Reg. 45,292, Jul. 26, 2013) by the Commodity Futures Trading Commission (the "**CFTC**") (the "**Interpretive Guidance**") within its jurisdiction pursuant to Section 722(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as may be amended or otherwise interpreted in writing by the CFTC from time to time.

## **1.9 No Clearing of FX Options Transactions for U.S. Persons**

1.9.1 In relation to FX Options Transactions, the Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that, at the time it enters into a Clearing Agreement and each time when the Clearing Member enters an order or quote into the trading systems in relation to a FX Options Transaction, it (i) reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a "**U.S. person**" under the Interpretive Guidance (the "**CM- FX U.S. Person Representation**") and (ii) will not enter an order or quote into the trading systems in relation to a customer-related transaction, unless the Clearing Member (a) has either obtained a representation from the relevant customer that such customer reasonably believes that it does not fall within any of the U.S. Person Categories and/or believes in good faith that it would not otherwise be deemed to be a "**U.S. person**" under the Interpretive Guidance, or (b) in case the Clearing Member has not obtained a representation as described under (a) above, reasonably believes that the relevant customer does not fall within any of the U.S. Person Categories and/or believes in good faith that the relevant customer would not otherwise be deemed to be a "**U.S. person**" under the Interpretive Guidance (the "**CM-Customer FX U.S. Person Representation**"). Number 7.2.1 (2) shall apply accordingly.

1.9.2 The Clearing Member shall promptly inform Eurex Clearing AG (i) if it becomes aware that the CM-FX U.S. Person Representation ceases to be true or (ii) if the relevant

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customer has informed the Clearing Member that the relevant CM-Customer FX U.S. Person Representation has ceased to be true or in any other case in which the Clearing Member becomes aware that the relevant CM-Customer FX U.S. Person Representation has ceased to be true.

- 1.9.3 In relation to FX Options Transactions, each of the Registered Customer and the Non-Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that at the time it enters into a Clearing Agreement ~~and each time when the Non-Clearing Member enters an order or quote into the trading systems in relation to a customer-related transaction and/or each time the Registered Customer instructs its Clearing Member to book a customer-related transaction to the internal transaction account of the Registered Customer~~, it (i) reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"RC/NCM-FX U.S. Persons Representation"**) and (ii) will not enter an order or quote into the trading systems in relation to a customer-related transaction and/or will not instruct its Clearing Member to book a customer-related transaction to the internal transaction account of the Registered Customer, unless the Non-Clearing Member and/or the Registered Customer (a) has either obtained a representation from the relevant customer that such customer reasonably believes that it does not fall within any of the U.S. Person Categories and/or believes in good faith that it would not otherwise be deemed to be a **"U.S. person"** under the Interpretative Guidance, or (b) in case the Non-Clearing Member and/or the Registered Customer has not obtained a representation as described under (a) above, reasonably believes that the relevant customer does not fall within any of the U.S. Person Categories and/or believes in good faith that the relevant customer would not otherwise be deemed to be a **"U.S. person"** under the Interpretive Guidance (the **"RC/NCM-Customer FX U.S. Persons Representation"**); the Non-Clearing Member shall repeat such representation each time when it enters an order or quote into the trading systems in relation to a customer-related transaction and the Registered Customer shall repeat such representation each time when it instructs its Clearing Member to book a customer-related transaction to the internal transaction account of the Registered Customer.
- 1.9.4 The Non-Clearing Member and/or the Registered Customer shall promptly inform Eurex Clearing AG (i) if it becomes aware that the RC/NCM-FX U.S. Persons Representation ceases to be true or (ii) if any of its customers has informed the Non-Clearing Member and/or the Registered Customer that the relevant RC/NCM-Customer FX U.S. Persons Representation has ceased to be true or in any other case in which the Non-Clearing Member and/or the Registered Customer becomes aware that the relevant RC/NCM-Customer FX U.S. Persons Representation has ceased to be true.
- 1.9.5 In relation to FX Options Transactions, the Clearing Agent represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that, at the time it enters into a Basic Clearing Member Clearing Agreement , it reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it

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would not otherwise be deemed to be a "U.S. person" under the Interpretive Guidance (the "CA FX U.S. Person Representation"); the Clearing Agent repeats such representations at each time when the Clearing Agent enters an order or quote into the trading systems in relation to a FX Options Transaction. Number 7.2.1 (2) shall apply accordingly.

- 1.9.6 The Clearing Agent shall promptly inform Eurex Clearing AG (i) if it becomes aware that the CA FX U.S. Person Representation ceases to be true or (ii) if the relevant Basic Clearing Member has informed the Clearing Agent that the relevant CA Basic Clearing Member FX U.S. Person Representation (as defined in Number 1.9.7) has ceased to be true or in any other case in which the Clearing Agent becomes aware that the relevant CA Basic Clearing Member FX U.S. Person Representation has ceased to be true.
- 1.9.7 In relation to FX Options Transactions, each of the Basic Clearing Members represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that at the time it enters into a Clearing Agreement, it reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a "U.S. person" under the Interpretive Guidance (the "**Basic Clearing Member FX U.S. Persons Representation**"); the Basic Clearing Member repeats such representations at each time when it enters directly or through its Clearing Agent an order or quote into the trading systems. The Basic Clearing Member shall promptly inform Eurex Clearing AG if it becomes aware that the Basic Clearing Member FX U.S. Persons Representation ceases to be true.

## 2 Clearing Members

### 2.1 Clearing License

#### 2.1.1 Granting of Clearing License

- (1) A license issued by Eurex Clearing AG for each Transaction Type (each, a "**Clearing License**") is required in order to be authorised to participate in the Clearing of the relevant Transactions as a Clearing Member.
- (2) Upon written application, Eurex Clearing AG may grant a Clearing License for a Transaction Type if the relevant applicant meets the general prerequisites pursuant to Numbers 2.1.2, 2.1.3 or 2.3, as applicable, and the special prerequisites for the relevant Transaction Type set forth in the Special Clearing Provisions.
- (3) A Clearing License will be granted upon the conclusion of, or an amendment to this effect to, a Clearing Agreement for the relevant Transaction Type. For holders of a respective Clearing License (including FCM Clearing Members and Clearing Agents), their Non-Clearing Members, Registered Customers, ICM Clients ~~and~~, FCM Clients and Basic Clearing Members as well as Interim Participants (if applicable), this Chapter I as well as the Chapter for the relevant Transaction Types as well as any references in such Chapter to other Chapters or Annexes of the Clearing Conditions, shall be applicable.



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- (4) As specified in the relevant Clearing Agreement, a Clearing License is issued either as a general clearing license (a “General Clearing License”) or a direct clearing license (a “Direct Clearing License”). A General Clearing License entitles the holder thereof (a “General Clearing Member”) (i) to clear Own Transactions, Customer-Related Transactions as well as NCM-Related Transactions and RC-Related Transactions or, in respect of U.S. Clearing Members, Own Transactions and, if the U.S. Clearing Member is a FCM Clearing Member, also FCM Client Transactions, and (ii) to participate in the Clearing of Basic Clearing Member Transactions as a Clearing Agent subject to further requirements as set out in the Basic Clearing Member Provisions. A Direct Clearing License entitles the holder thereof (a “Direct Clearing Member”) to clear Own Transactions, Customer-Related Transactions, RC-Related Transactions and only those NCM-Related Transactions referring to Transactions by Non-Clearing Members, affiliated with it.
- (5) A Clearing Agreement may only be entered into by a Non-Clearing Member and a Direct Clearing Member if the Non-Clearing Member is an affiliated company (as determined by Eurex Clearing AG and notified to the Clearing Members) of the Direct Clearing Member. The Non-Clearing Member and the Direct Clearing Member shall be obliged to inform Eurex Clearing AG promptly in the event that they cease to meet such prerequisites.
- (6) Clearing Licenses as well as any rights and obligations resulting from a Clearing License may not be assigned or transferred by way of contractual agreement.

### 2.1.2 General Prerequisites for Clearing Licenses

- (1) A Clearing License for a Transaction Type may only be granted to an applicant if such applicant meets the general prerequisites pursuant to Paragraphs (2) to (6) below and the special prerequisites set forth in Chapters II-IX for the relevant Transaction Type. This Number 2.1.2 shall, unless otherwise provided in Part 6 Number 2, not apply to applicants for a Basic Clearing Member Clearing License. This Number 2.1.2 shall also not directly apply to applicants for a Direct Clearing License; Number 2.1.2 Paragraphs (1) to (5) of the Basic Clearing Member Provisions shall apply *mutatis mutandis* in respect of the granting of a Direct Clearing License.
- (2) Personal prerequisites
- (a) Subject to Paragraph (2) (b) and Number 2.1.3 below, a Clearing License may only be granted to:
- (aa) an institution domiciled in a member state of the European Union (“EU”) or in Switzerland which is (i) permitted in its country of domicile to provide credit to customers in relation to Transactions and receive collateral in the form of cash or securities and (ii) supervised by the competent authorities according to the applicable regulatory standards of the EU or, if domiciled in Switzerland, by the Swiss Financial Market Supervisory Authority (*Eidgenössische Finanzmarktaufsicht – FINMA*);

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- (bb) a branch or branch office of an institution within the meaning of Sections 53, 53b or 53c of the German Banking Act (*Gesetz über das Kreditwesen*, the “**KWG**”) provided that such branch or branch office and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (c) below;
- (cc) a branch within the meaning of Art. 2 Paragraph 1 of the Swiss Federal Banking and Savings-Bank Act in connection with Section 1 et seq. of the Regulation of the Swiss Financial Market Supervisory Authority (*Eidgenössische Finanzmarktaufsicht – FINMA*) concerning Foreign Banks in Switzerland, provided that such branch complies with the conditions set forth in Paragraph (2) (c) below;
- (dd) a branch of a financial institution or securities trading enterprise domiciled in a member state of the EU (“**host member state**”) provided that (i) the main office of such financial institution or securities trading enterprise is domiciled in another member state of the EU (“**home member state**”), (ii) a notification procedure has been completed in the host member state, and that (iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (c) below;
- (ee) an institution domiciled outside the EU or Switzerland which is (i) permitted in its country of domicile to provide credit to customers in relation to Transactions and receive collateral in the form of cash or securities and (ii) supervised in its country of domicile according to standards equivalent to the applicable regulatory standards of the EU as determined by Eurex Clearing AG, provided that (iii) the competent supervisory authority is a signatory to Appendix A of the IOSCO Multilateral Memorandum of Understanding or has signed an applicable bilateral memorandum of understanding with the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht – “BaFin”*); or
- (ff) a branch of an institution not falling within one of the categories pursuant to Paragraph (2) (a) (bb) to (dd) above, provided that (i) if either the branch or the main office of the institution is domiciled outside the EU or Switzerland, such branch or main office complies with the conditions set forth in Paragraph (2) (a) (ee) above, (ii) if either the branch or the main office of the institution is domiciled in a member state of the EU or Switzerland, such branch or main office complies with the conditions set forth in Paragraph (2) (a) (aa) above, and that (iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (c) below.
- (b) The license of an applicant which intends to conclude Own Transactions only does not need to cover the provision of credit to customers in relation to products cleared and/or the receipt of collateral in the form of cash or securities.
- (c) Applicants pursuant to Paragraphs (2) (a) (bb), (cc), (dd) and (ff) above must provide a written guarantee on first demand issued vis-à-vis Eurex Clearing AG

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by the institution to which the applicant belongs, to the effect that such institution will guarantee all obligations of its branches, offices or branch offices arising out of, and in connection with, the Clearing of Transactions by these branches, offices and branch offices. In order to verify the legal validity and enforceability of this guarantee, Eurex Clearing AG may demand from the relevant institution, at the institution's expense, all necessary information and evidence, including the opinion of a legal expert designated by Eurex Clearing AG.

- (d) Eurex Clearing AG may require the applicant to provide, at its own expense, a legal opinion from leading counsel approved by Eurex Clearing AG that verifies the legal validity and enforceability of the Clearing Conditions in the respective jurisdiction according to standards provided by Eurex Clearing AG from time to time.
  - (e) The granting of a Clearing License requires that Eurex Clearing AG has obtained all licenses and approvals that are required for the provision of Clearing towards the applicant in the relevant jurisdiction.
- (3) The applicant for a Clearing License must have available own funds (*Eigenmittel*) pursuant to the European Capital Requirements Directive 2013/36/EU (“**CRD IV**”) and the European Capital Requirements Regulation (EU) No. 575/2013 (“**CRR**”) in an amount determined by Eurex Clearing AG from time to time. Applicants not subject to the own fund requirements under the CRD IV and CRR must have available equivalent regulatory capital. Regulatory capital is considered equivalent when it is (i) used as a measure of adequate solvency for the applicant by its competent supervisory authority, (ii) reported to the applicant's competent supervisory authority on a regular basis and (iii) audited at least yearly.
- (a) In case an applicant applies for multiple Clearing Licenses covering multiple Transaction Types, the required own funds are calculated as follows:
    - (aa) Unless specifically provided otherwise in (bb) below, the own funds required for multiple Clearing Licenses is the sum of the own funds required for each Clearing Licence.
    - (bb) When calculating the liable equity capital for granting a Clearing License for FWB Transactions (Chapter V Part 1 and 2), those own funds shall be taken into account which the applicant has already provided evidence for due to the granting of a Clearing License for ISE Transactions (Chapter VI) and vice versa.
  - (b) The own funds or equivalent regulatory capital shall be calculated in accordance with the supervisory provisions applicable to the relevant applicant. Evidence of the amount of the own funds or equivalent regulatory capital as of 31 December of every year (*Stichtag* – “**Qualifying Date**”) shall, in an appropriate manner, be provided to Eurex Clearing AG not only together with the application but thereafter once every year during the Clearing Membership.

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Such annual evidence of the own funds or equivalent regulatory capital as of the Qualifying Date must be provided to Eurex Clearing AG by no later than 30 June of the year following the respective Qualifying Date. In case the business year of a Clearing Member deviates from the calendar year, annual evidence of the amount of the own funds or equivalent regulatory capital at the end of the respective business year has to be provided for with both the application and once every year at the latest six months after the end of the respective business year. Any change in the own funds or equivalent regulatory capital as a result of which the value of the own funds or equivalent regulatory capital determined by Eurex Clearing AG pursuant to Paragraph (3) would fall below the relevant requirements must be notified to Eurex Clearing AG immediately. Eurex Clearing AG may request such evidence at any time and may assign an auditor for verification of the own funds or equivalent regulatory capital at the expense of the applying institution.

- (c) Evidence of own funds or equivalent regulatory capital must be provided on an individual basis unless the applicant provides written confirmation that it is subject to consolidated supervision pursuant to Article 7 of the CRR or correspondent applicable legislation.
- (d) Should an applicant have insufficient own funds or equivalent regulatory capital for a Clearing License, Eurex Clearing AG may allow that the shortfall may be made up by collateral in cash or securities accepted by Eurex Clearing AG. The cash and securities collateral shall safeguard compliance with the contractual obligations of the respective Clearing Member and with all other claims of Eurex Clearing AG vis-à-vis the respective Clearing Member in connection with the Clearing of its contracts (provision of collateral).

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.

- (4) The applicant (other than an applicant that intends to become a U.S. Clearing Member) shall have available the following accounts:
  - (a) Securities Accounts:
    - (aa) (i) in case the Value Based Allocation is the Applicable Allocation Method, a securities account or sub-account with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, pledged to Eurex Clearing AG with respect to Margin in accordance with the Elementary Clearing Model Provisions (the “**Pledged Securities Account**”), unless the Clearing Member uses the Collateral Management System Xemac

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("Xemac") of Clearstream Banking AG to grant the pledges pursuant to Number 6.6 of the Elementary Clearing Model Provisions; or

(ii) in case the Asset Based Allocation is the Applicable Allocation Method, (x) a securities account or sub-account with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, pledged to Eurex Clearing AG with respect to Elementary Proprietary Margin in accordance with the Elementary Clearing Model Provisions (the "**Pledged Securities Account**"), unless the Clearing Member uses the Collateral Management System Xemac ("Xemac") of Clearstream Banking AG to grant the pledges pursuant to Number 6.6 of the Elementary Clearing Model Provisions in respect of Elementary Proprietary Margin and (y) one or more securities accounts or sub-accounts (including any subset of securities booked on an account and identified by a common identifier) with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, pledged to Eurex Clearing AG with respect to Elementary Omnibus Margin in accordance with the Elementary Clearing Model Provisions (each an "**Elementary Omnibus Pledged Securities Account**"), unless the Clearing Member uses Xemac to grant the pledges pursuant to Number 6.6 of the Elementary Clearing Model Provisions in respect of Elementary Omnibus Margin;

(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) a securities account with Clearstream Banking AG for each of its Non-Clearing Members and Registered Customers pursuant to the Individual Clearing Model Provisions and/or (ii) a securities account with Clearstream Banking AG for several of its Non-Clearing Members and/or Registered Customers 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 Non-Clearing Member or Registered Customer, 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 Number 4.3 (the "**Securities Margin Account**");

(cc) one or more securities accounts or sub-accounts (including any subset of securities booked on an account and identified by a common identifier) with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, pledged to Eurex Clearing AG with respect to Net Omnibus Margin in accordance with the Net Omnibus Clearing Model Provisions (each a "**Net Omnibus Pledged Securities Account**"), unless the Clearing Member uses Xemac to grant the pledges pursuant to Number 6.6 of the Net Omnibus Clearing Model Provisions;

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(dd) if the Clearing Member uses the Collateral Management System Xemac (“**Xemac**”) of Clearstream Banking AG on the basis of the relevant applicable provisions of the Special Conditions for Collateral Management (“SC Xemac”), a securities account with Clearstream Banking AG on which pledges are being created or title transfers effected with respect to Securities by a respective labelling of the Securities in the system and modification of the bailment intention (*Besitzmittlungswille*) by Clearstream Banking AG in favour of Eurex Clearing AG (“Earmarking”); and

(ee) settlement securities accounts required for the Physical Delivery of Securities (including German book-entry securities and Swiss intermediated securities) for the relevant Transaction Types, which shall be maintained with a Settlement Location and which must be connected with a corresponding cash account.

The applicant is not required to maintain Securities Accounts pursuant to Paragraph (4) (a) (aa) to (cc) if it provides Margin in the form of cash only.

(b) Cash Accounts:

(aa) for cash payments in Euro: an account within the payment module at a central bank of the Euro system which participates in Target2 with its Target2 component system or an account at another central bank which is not a central bank of the Euro system and, due to a special agreement, connected to Target2 (hereinafter referred to as “**RTGS Account**”);

(bb) for cash payments in CHF: an account with the Swiss National Bank (the “**SNB Account**”) and an account with SIX Interbank Clearing AG (both accounts in the following jointly “**SIC Account**”). Clearing Members located outside of Switzerland and without a branch in Switzerland which have not chosen CHF as a Clearing Currency are allowed to substitute the SIC Account with an account with a correspondent bank recognised by Eurex Clearing AG; and

(cc) if the Clearing Member wishes to pay Eurex-Fees (as defined in Number 5.1) according to Number 1.4.1 Paragraph (6), an account with a bank for the respective currency.

(together with any other cash accounts provided for in the Special Clearing Provisions, the “**Clearing Member Cash Accounts**”).

Eurex Clearing AG may, upon written request, allow the use of cash accounts required pursuant to this Paragraph (4) (b) with a correspondent bank recognised by Eurex Clearing AG.

(5) The applicant shall provide evidence for compliance with the following requirements:

(a) Technical connection to the systems of Eurex Clearing AG and, unless incorporated in the relevant Clearing Agreement, execution of the Agreement

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on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) under inclusion of the General Terms and Conditions on Technical Connection to the Clearing EDP of Eurex Clearing AG.

- (b) The use of appropriate technical equipment (back-office facilities) to ensure the orderly recording, booking and supervision of all transactions, as well as the provision of margin and the calculation of margin requirements with respect to the customers pursuant to the minimum requirements of Eurex Clearing AG (clearing obligations).
- (c) The use of at least one sufficiently qualified (as defined by Eurex Clearing AG and published pursuant to Number 16.1) clearing staff member ~~per Clearing License~~ in the back office for the orderly fulfilment of the clearing obligations; ~~a sufficient qualification is assumed if the test for clearing staff members offered by Eurex Clearing AG (clearer test) has been passed successfully.~~ Number 1.2.6 shall remain unaffected. A Clearing Member is not obliged to use a qualified clearing staff member in case of outsourcing to an ~~affiliated company Insourcer~~ according to Number 15.2 that has a qualified clearing staff member.
- (d) Payment of the Contribution to the Clearing Fund in accordance with Number 6.1.
- (e) Granting of an authorisation to Eurex Clearing AG for purposes of delivery instructions by Eurex Clearing AG vis-à-vis a Settlement Location, provided this is necessary for the Clearing of Transactions of the relevant Transaction Type.
- (f) A waiver of the obligation to pay the US American withholding tax in case of Clearing of Transactions in Securities which the US American revenue authority (Internal Revenue Service) defines as being subject to US American withholding tax. In case of Clearing of Securities being subject to US American withholding tax within the meaning of Sentence 1, Eurex Clearing AG will comply with the legal obligation to register under consideration of its fiscal status as well as the fiscal status of the respective applicant vis-à-vis the US American revenue authority (Internal Revenue Service). In case evidence pursuant to Sentence 1 is not provided by the applicant, Eurex Clearing AG shall, in case of Clearing of Transactions pursuant to Sentence 1, comply with its obligation to register vis-à-vis the US-American revenue authority (Internal Revenue Service) and retain the accrued remuneration where applicable and pay the same to the US-American revenue authority (Internal Revenue Service). In case the applicant uses one or more settlement institutions pursuant to Paragraph (7) and (8) below, it shall provide evidence pursuant to Sentence 1 with regard to the accounts and custody accounts maintained with the settlement institutions used or authorised in connection with transactions concluded on the Markets.
- (g) Each Clearing Member shall appoint at least one of his employees as emergency contact for Eurex Clearing AG to initiate necessary measures in

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emergency cases who shall be available during regular business hours; the Clearing Member needs to register the contact vis-à-vis Eurex Clearing AG.

- (6) Evidence of compliance with the general prerequisites set forth in Paragraphs (2) – (5) above must be provided upon submission of the application.
- (7) Eurex Clearing AG may, upon written application and upon submission of appropriate evidence, permit the applicant or a Clearing Member that the prerequisites for the granting of a Clearing License pursuant to Paragraph (4) (a) (dd) above as well as – optionally – the prerequisites pursuant to Paragraph (5) (c) will be fulfilled by one or more settlement institutions on behalf of and for the applicant or the Clearing Member, respectively. The Clearing Member shall ensure that the appointed settlement institution(s) complies with the Clearing Conditions. Eurex Clearing AG is authorised to request at any time written evidence regarding the compliance with the Clearing Conditions in accordance with Sentence 1 and 2; the costs shall be borne by the Clearing Member.
- (8) In case a Clearing Member or a settlement institution uses other third parties not listed in Paragraphs (5) and (7) above, it has to ensure the compliance with the Clearing Conditions also by such third parties. Paragraph (7) Sentence 3 shall apply accordingly.

### **2.1.3 Prerequisites for Governmental Entities and Supranational Organisations**

- (1) Upon request and upon the sole risk assessment of Eurex Clearing AG, certain governmental entities and supranational organisations may be admitted as Clearing Members under modified conditions. These are:
  - (a) the member countries of the EU and Switzerland as well as other non-EU countries, their central governments, regional governments and ministries, as well as their legally dependent special funds;
  - (b) the central banks of the countries named under (a);
  - (c) the European Central Bank, multilateral development banks and international organisations within the meaning of Articles 117 and 118 of the CRR, including the Kreditanstalt für Wiederaufbau (KfW);
  - (d) legally independent institutions and companies which are commissioned with or responsible for the management of assets or liabilities of one of the countries named under (a); and
  - (e) public sector entities within the meaning of Article 4 Paragraph 1 Number 8 of the CRR and comparable institutions.
- (2) Applicants within the meaning of Paragraph (1) are required to fulfil the general prerequisites set out in Number 2.1.2 Paragraphs (3) to (6) and the special prerequisites for the relevant Transaction Type, unless they have been exempted in whole or in part from the fulfilment of these prerequisites by Eurex Clearing AG.



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Applicants within the meaning of Paragraph (1) (a) to (d) may in particular be exempted from the requirement to:

- (a) have available own funds pursuant to Number 2.1.2 Paragraph (3);
- (b) have available Securities Accounts pursuant to Number 2.1.2 Paragraph (4);
- (c) pay Contributions to the Clearing Fund pursuant to Number 2.1.2 Paragraph (5) (d);
- (d) meet Margin Requirements pursuant to Number 3 for specific Transaction Types; and/or to
- (e) participate in DM Auctions pursuant to Number 7.5.3 in connection with the DM Auction Rules.

Applicants within the meaning of Paragraph (1) (e) may only be exempted from the requirements mentioned in (a), (b) and (e).

Applicants within the meaning of Paragraph (1) are exempt from the requirement to participate in a Default Management Committee pursuant to Number 7.5 unless they apply for participation and meet the participation requirements pursuant to Number 7.5 in connection with the DMC Rules.

- (3) Any exemption pursuant to Paragraph (2) will be granted only upon request and upon the sole risk assessment of Eurex Clearing with the option of revoking such exemption at any time. An exemption from the requirements mentioned in Paragraph (2) (c) and (d) presupposes that the creditworthiness of the applicant determined on the basis of Eurex Clearing AG's internal assessment pursuant to Number 1.6.1 Paragraph (4) corresponds at least to a rating of A by Standard & Poor's Financial Services LLC, a part of McGraw Hill Financial Inc. ("**S&P**"). If the applicant has an unlimited guarantee or declaration of liability from a guarantor that falls within one of the categories listed in Paragraph (1), the rating of that guarantor is decisive.
- (4) Clearing Members which have been exempted from the requirements mentioned in Paragraph (2) (c) and (d) are entitled to conclude a Clearing Agreement with a Non-Clearing Member or a Registered Customer only if such Non-Clearing Member or Registered Customer falls itself within one of the categories listed in Paragraph (1) (a) to (d) and meets the minimum rating requirement pursuant to Paragraph (3).

#### **2.1.4 Rejection and Termination of Clearing Licenses**

- (1) Eurex Clearing AG may reject to grant a Clearing Licence, if Eurex Clearing AG, based on its evaluation, determines that this is necessary to avoid or mitigate risks for Eurex Clearing AG. In respect of the evaluation pursuant to Sentence 1 Eurex Clearing AG will take the following criteria into account: (i) credit ratings by generally accepted rating agencies relating to the applicant, (ii) Eurex Clearing AG's credit ratings relating to the applicant, (iii) market indications relating to the applicant

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(e.g. share price and CDS spreads), (iv) a state guarantee or state support relating to the applicant, and (v) the type of Clearing Licence applied for.

- (2) Clearing Licenses may be terminated by Eurex Clearing AG or the Clearing Member in accordance with Number 13.
- (3) Upon the occurrence of a Termination Date (as defined in Number 7.2), all Clearing Licenses of the Affected Clearing Member (as defined in Number 6.2) shall expire automatically.

## **2.2 Certain continuing obligations of Clearing Members**

- 2.2.1 Each Clearing Member shall ensure that, at any time, sufficient funds are credited to the Clearing Member Cash Accounts and that sufficient amounts of Securities and cash amounts for the settlement of Settlement Claims are credited to relevant settlement security accounts and the corresponding cash accounts.
- 2.2.2 Each Clearing Member shall – in accordance with any mandatory laws applicable to it – promptly inform Eurex Clearing AG if it is no longer in compliance with any of the prerequisites for any Clearing License granted to it or if any other circumstances prevail, which might render any of these prerequisites no longer satisfied or if a Termination Event or Insolvency Termination Event (as defined in Number 7.2) has occurred.
- 2.2.3 Clearing Members are obliged, at the request of Eurex Clearing AG, to provide Eurex Clearing AG with evidence of continued compliance with the prerequisites for a Clearing License. Eurex Clearing AG may in particular, at the expense of the relevant Clearing Member, require an update of the legal opinion that has been provided pursuant to Number 2.1.2 Paragraph (2) (d) or retain an auditor within the meaning of the KWG or of equivalent regulations for purposes of further investigation of continued compliance.
- 2.2.4 Each Clearing Member shall promptly notify Eurex Clearing AG immediately and without request if it is unable to fulfil any obligations under a Transaction or any other obligations under a Standard Agreement or Clearing Agreement, including its obligations to deliver Margin or Variation Margin.

## **2.3 Specific Provisions and additional continuing Obligations for U.S. Clearing Members**

The general prerequisites for Clearing Licenses set out in Number 2.1.2 Paragraphs (2) (a) (ee), (2) (d) and 2 (e), (3) (b), (3) (c) and (3) (d), (5) (a) - (d) and (g), (6), (7) and (8) and the continuing obligations set out in Number 2.2 above also apply in respect of applicants applying for a participation in the Clearing as a U.S. Clearing Member (including as a FCM Clearing Member). In addition, the following provisions set out in this Number 2.3 apply with respect to such applicants.

### **2.3.1 Special prerequisites and provisions for U.S. Clearing Members**

- (1) A Clearing Licence for the participation in the Clearing as a U.S. Clearing Member may only be granted to an entity that is legally organised and has its principal place

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of business in the United States of America (or any state thereof) and only with respect to the Clearing of OTC Interest Rate Derivative Transactions.

- (2) If the applicant for a Clearing License for the participation in the Clearing as a U.S. Clearing Member intends to clear OTC Interest Rate Derivative Transactions for customers, the applicant needs to be registered with the CFTC as a "futures commission merchant" (as defined in the CEA), and such Clearing License can only be granted for the Clearing of OTC Interest Rate Derivative Transactions as an agent for FCM Clients (as defined in the U.S. Clearing Model Provisions) in accordance with the U.S. Clearing Model Provisions (each U.S. Clearing Member that is a futures commission merchant and holds such Clearing License for the Clearing of OTC Interest Rate Derivative Transactions as an agent for FCM Clients, a "**FCM Clearing Member**").
- (3) A U.S. Clearing Member that does not qualify as a FCM Clearing Member may only participate in the Clearing of OTC Interest Rate Derivative Transactions that are Own Transactions of such U.S. Clearing Member. A U.S. Clearing Member that qualifies as a FCM Clearing Member may additionally participate in the Clearing as an agent for FCM Clients as set out in Paragraph (2).
- (4) The applicant for a Clearing License must have available own funds or other regulatory capital in an amount determined by Eurex Clearing AG from time to time, provided that Eurex Clearing AG will not require a minimum capital of more than USD 50,000,000 (fifty million U.S. Dollars) at the time of the application.
- (5) Without prejudice to the obligations of the U.S. Clearing Member set out in any part of the Clearing Conditions, the U.S. Clearing Member shall ensure that it has adequate operational capacity to meet obligations arising from the participation in the Clearing with Eurex Clearing AG including (but not limited to): (i) the ability to process expected volumes and values of Transactions cleared by the U.S. Clearing Member (including in its capacity as a FCM Clearing Member) within required time frames, including at peak times and on peak days, (ii) the ability to fulfil any collateral, payment and delivery obligations imposed by Eurex Clearing AG, and (iii) the ability to participate in the default management process pursuant to Number 7.5 (subject to, in the case of a FCM Clearing Member, the U.S. Clearing Model Provisions).
- (6) Instead of the accounts set out in Number 2.1.2 Paragraph (4) the applicant shall have available the following accounts (as applicable):
  - (a) Securities Accounts:
    - (aa) with respect to the Clearing of Own Transactions: a Pledged Securities Account with Clearstream Banking AG;
    - (bb) with respect to the Clearing of Transactions for FCM Clients and for purposes of granting pledges over the Securities that shall form part of the FCM Client Margin to Eurex Clearing AG in accordance with the U.S.

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Clearing Model Provisions: one securities account or sub-account (including any subset of securities booked on an account and identified by a specific customer identifier of the relevant FCM Client pursuant to Number 3.4 of the U.S. Clearing Model Provisions) in relation to each FCM Client with Clearstream Banking AG to which the pledges with respect to FCM Client Margin in accordance with the U.S. Clearing Model Provisions relate (each such account, sub-account or subset identified by a common identifier, a **"FCM Client Pledged Securities Account"**).

The applicant is not required to maintain securities accounts pursuant to Paragraph (6) (a) (aa) and (bb) if it provides Margin only in the form of cash.

(b) Cash Accounts:

(aa) for cash payments in Euro: an RTGS Account in respect of payments relating to its Own Transactions and, in the case of a FCM Clearing Member, a further RTGS Account in respect of payments relating to the FCM Client Transactions of such FCM Clearing Member's FCM Clients; and

(bb) if the U.S. Clearing Member wishes to pay Eurex-Fees (as defined in Number 5.1) according to Number 1.4.1 Paragraph (6), an account with a bank for the respective currency

(together with any other cash accounts provided for in the Special Clearing Provisions, the "U.S. Clearing Member Cash Accounts").

Eurex Clearing AG may, upon written request, allow the use of the required cash accounts pursuant to this Paragraph (6) (b) of a correspondent bank recognised by Eurex Clearing AG.

### 2.3.2 Additional continuing obligations for U.S. Clearing Members

- (1) A U.S. Clearing Member shall promptly inform Eurex Clearing AG if it is in material non-compliance with any applicable regulations of the CFTC or with any of the prerequisites or conditions included in this Number 2.3. A U.S. Clearing Member shall provide to Eurex Clearing AG, without undue delay, information that concerns any financial or business developments that may materially affect the U.S. Clearing Member's ability to continue to comply with any prerequisites or conditions set out in Numbers 2.1, 2.2 or 2.3.
- (2) A U.S. Clearing Member is obliged to file periodic statements of their financial condition with Eurex Clearing AG within 17 days of the end of each calendar month. A FCM Clearing Member must file copies of the CFTC form "1-FR-FCM" in fulfilment of this requirement completed in accordance with 17 C.F.R. § 1.18.

**"C.F.R."** means the U.S. Code of Federal Regulations.

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- (3) A U.S. Clearing Member is obliged, at the request of Eurex Clearing AG, to provide Eurex Clearing AG with evidence of compliance with the prerequisites for a Clearing License, including, in particular, evidence of implementation of risk management processes. A U.S. Clearing Member is further obliged to respond in full and on a timely basis to requests for information about their financial condition from Eurex Clearing AG's managers or staff or from authorised agents acting on behalf of Eurex Clearing AG.
- (4) Eurex Clearing AG may, at the cost of the relevant U.S. Clearing Member, conduct audits of U.S. Clearing Members which may include financial, operational, risk management and business practice aspects. A U.S. Clearing Member is obliged to cooperate with such audits and promptly provide access to any books or records that Eurex Clearing AG's managers or staff or any authorised agents acting on behalf of Eurex Clearing AG may request as part of the audit, and to make their facilities available for review and inspection by Eurex Clearing AG's managers or staff or authorised agents acting on behalf of Eurex Clearing AG as such persons may request. Eurex Clearing AG's audit may include all such information that would allow Eurex Clearing AG to ascertain that the U.S. Clearing Member continues to fulfil the prerequisites for participation in the Clearing and compliance with the Clearing Conditions. Eurex Clearing AG may, in its discretion, have any such audit conducted by a third party.
- (5) A U.S. Clearing Members shall respond promptly and completely to requests for information from Eurex Clearing AG's chief compliance officer or the chief compliance officer's authorised designee and to provide access to books and records and operating facilities upon request from Eurex Clearing AG's chief compliance officer or the chief compliance officer's authorised designee.
- (6) A U.S. Clearing Member shall (as a prerequisite for obtaining a Clearing License and, after having obtained a Clearing License, without undue delay after any changes are made to the relevant policies, procedures or practices) provide Eurex Clearing AG with its written anti-money laundering procedures and written risk management policies and procedures and practices, addressing the risks that such U.S. Clearing Member may pose to Eurex Clearing AG, including, but not limited to, information and documents relating to the liquidity of such U.S. Clearing Member's financial resources and settlement procedures.
- (7) A FCM Clearing Member shall be obliged (to the extent permitted by applicable law) to provide Eurex Clearing AG with any information that Eurex Clearing AG may reasonably require in relation to the clearing services provided by the FCM Clearing Member to its FCM Clients, including the following information:
  - (i) the text of any FCM Client Clearing Agreement entered into between the FCM Clearing Member and the relevant FCM Client; and
  - (ii) any document reflecting the recording of the FCM Client Transactions in the different accounts held by the FCM Clearing Member per Business Day, the details of such FCM Client Transactions, the margin assets, including excess

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margin, if any, held in respect of such FCM Client Transactions (reflected on a customer-by customer basis).

## 2.4 **Specific Provisions and additional continuing Obligations for Clearing Agents and Basic Clearing Members**

The Clearing Agent must hold a General Clearing License and meet the general and special prerequisites for each Transaction Type that the Basic Clearing Member intends to clear. The Clearing Agent (in such capacity) shall comply with the obligations of Clearing Members set out in Number 2.2.

### 2.4.1 **Special prerequisites and provisions for Basic Clearing Members**

(1) Eurex Clearing AG retains the right to reject a Clearing Agent for a given Basic Clearing Member in order to prevent and control adverse risk constellations in accordance with Eurex Clearing AG's risk management policy.

(2) With respect to each applicant for a Basic Clearing License, the applicant shall procure that the following accounts are available (as applicable):

(a) Securities Accounts:

(aa) With respect to the Clearing of Transactions for Basic Clearing Members and for purposes of granting pledges over the Securities that shall form part of the Basic Clearing Member Margin to Eurex Clearing AG in accordance with the Basic Clearing Member Provisions:

(A) one securities account or sub-account of the Clearing Agent (including any subset of securities booked on an account and identified by a specific customer identifier of the relevant Basic Clearing Member pursuant to Number 5.5 of the Basic Clearing Member Provisions) in relation to such Basic Clearing Member with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, to which the pledges with respect to Basic Clearing Member Margin in accordance with the Basic Clearing Member Provisions relate; or

(B) one securities account or sub-account of the Basic Clearing Member with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS AG, to which the pledges with respect to Basic Clearing Member Margin in accordance with the Basic Clearing Member Provisions relate; and/or

(C) such other securities account or sub-account as may be agreed between the applicant and Eurex Clearing AG

(each such account, sub-account or subset identified by a common identifier, a "**Basic Clearing Member Pledged Securities Account**"). unless the Basic Clearing Member Margin shall be provided by using an Accepted Collateral Management System.

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**“Accepted Collateral Management System”** means CmaX, Xemac, the triparty collateral management service of SIX SIS (**“TCM SIX SIS”**) and any other collateral management system accepted by ECAG.

(bb) No securities accounts pursuant to Paragraph (2) (a) (aa) shall be required if Basic Clearing Member Margin is only provided in the form of cash.

(b) Cash Accounts:

(aa) for cash payments in Euro: an RTGS Account held by the Clearing Agent or the Basic Clearing Member in respect of payments relating to the Basic Clearing Member Transactions of the Basic Clearing Member; and

(bb) for cash payments in CHF: a SIC Account held by the Clearing Agent or the Basic Clearing Member in respect of payments relating to the Basic Clearing Member Transactions of the Basic Clearing Member. In case the Clearing Agent (if the Clearing Agent is the holder of the relevant account) or the Basic Clearing Member (if the Basic Clearing Member is the holder of the relevant account) is located outside of Switzerland and without a branch in Switzerland and provided CHF has not been chosen as a Clearing Currency for the Basic Clearing Member, the SIC Account may be substituted with an account with a correspondent bank recognised by Eurex Clearing AG; and/or

(cc) such other cash account as may be agreed between the applicant and Eurex Clearing AG

(the **“Basic Clearing Member Cash Accounts”**).

Eurex Clearing AG may, upon written request from the Basic Clearing Member (including via its Clearing Agent), allow the use of the required cash accounts pursuant to this Paragraph (2) (b) of a correspondent bank recognised by Eurex Clearing AG.

#### **2.4.2 Additional continuing obligations for Clearing Agents**

A Clearing Agent shall be obliged (to the extent permitted by applicable law) to provide Eurex Clearing AG with any information that Eurex Clearing AG may reasonably require in relation to the clearing services provided by the Clearing Agent to its Basic Clearing Members (excluding the content of any bilateral agreement entered into between the Clearing Agent and the relevant Basic Clearing Member pursuant to Number 4.1.5 of the Basic Clearing Member Provisions).

### **3 General Provisions regarding Margin**

The parties to a Standard Agreement are required to provide cover in respect of Elementary Proprietary Margin, Elementary Omnibus Margin, Segregated Margin, Net Omnibus Margin ~~or~~, FCM Client Margin or Basic Clearing Member Margin, as applicable, relating to that Standard Agreement as further set out in this Number 3 and the specific

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provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions, as applicable.

### 3.1 Margin Requirement and Types of Margin

- 3.1.1 The applicable margin requirement, which shall be determined by Eurex Clearing AG, shall consist of the sum of all relevant margin requirements separately calculated by Eurex Clearing AG in accordance with the relevant applicable Margin Methodology (as defined in Number 3.1.2) subject to and in accordance with the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, as applicable.
- 3.1.2 In the member section on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)), each Clearing Member (and, with respect to a Basic Clearing Member, its Clearing Agent acting on behalf of the Basic Clearing Member) may opt for any one Liquidation Group (as defined in Number 7.5.1) with respect to any particular Transaction Account whether it wants Eurex Clearing AG to calculate its (or, in the case of a Clearing Agent, its Basic Clearing Member's) respective margin requirement in accordance with the Risk Based Margining methodology or in accordance with the Eurex Clearing Prisma methodology (the "**Margin Methodologies**" and each a "**Margin Methodology**"). If no choice is made in the member section by the Clearing Member (or the Clearing Agent) for any Liquidation Group with respect to any particular Transaction Account (or, in the case of ~~an~~ (i) a FCM Clearing Member acting for the account of one or more FCM Clients, the relevant FCM Client Own Account and (ii) a Clearing Agent acting for the account of one or more Basic Clearing Members, the relevant Basic Clearing Member Own Account (as defined in Number 5.1 of Basic Clearing Member Provisions)), Eurex Clearing AG shall apply the Risk Based Margining methodology for such Liquidation Group with respect to the respective Transaction Account (or FCM Client Own Account or Basic Clearing Member Own Account, respectively) ~~of such Clearing Member~~.
- 3.1.3 With regard to the Margin Methodologies, Eurex Clearing AG will publish the relevant applicable calculation method for all relevant types of margin in Number 1.6.1 on its homepage [www.eurexclearing.com](http://www.eurexclearing.com); each published Margin Methodology shall form part of these Clearing Conditions.
- 3.1.4 Each margin requirement calculated by Eurex Clearing AG shall equal, in respect of a Transaction or a group of Transactions after a netting thereof, if applicable, the sum of the Current Liquidating Margin requirement and the Premium Margin requirement and the Spread Margin requirement and the Additional Margin requirement and the Initial Margin requirement and any other margin type requirement, as specified in the Special Clearing Provisions, (the "**Margin Type**"). The Current Liquidating Margin requirement and the Additional Margin requirement apply to all securities transactions (*Wertpapiergeschäfte*) pursuant to Chapters II through VI.
- 3.1.5 The "**Current Liquidating Margin**" requirement equals the value of loss Eurex Clearing AG would suffer as of the time of the determination of the margin requirement



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from a closing of a Transaction by entering into an inverse transaction (*Glattstellung*) being subject to such margin requirement taking into account cash and securities positions under those Transactions separately. Each cash position shall be determined by discounting it with the current market interest rate (calculation of cash value on the valuation date). Each securities position shall be valued after the end of trading of the respective Market on basis of the Daily Settlement Price (as defined in Chapter II-VI) taking into account any accrued interest, if applicable.

- 3.1.6 The “**Premium Margin**” requirement equals the aggregate value of the potential loss Eurex Clearing AG would suffer as of the time of the determination of the margin requirement from a closing of an option by entering into an inverse transaction (*Glattstellung*) with immediate premium payment obligations where Eurex Clearing AG is the buyer of the option.
- 3.1.7 The “**Spread Margin**” requirement equals the aggregate value of the potential loss Eurex Clearing AG would suffer as of the time of the determination of the margin requirement from a closing of a futures contract by entering into an inverse transaction (*Glattstellung*). When determining the Spread Margin, Eurex Clearing AG will net long and short positions with regard to identical expiration dates and, to the extent possible, net long positions and net short positions in contracts with different expiration dates.
- 3.1.8 The “**Additional Margin**” requirement equals the amount of any potential losses from a closing of the Transaction(s) by entering into (an) inverse transaction(s) (*Glattstellung*) taking into account assumed price changes due to extreme price movements in the market (worst case scenario) and shall be in addition to the amount calculated by the Current Liquidating Margin, the Premium Margin, the Spread Margin or any other Margin Type.
- 3.1.9 The “**Initial Margin**” requirement equals the amount of any potential losses Eurex Clearing AG would suffer as of the time of the determination of the margin requirement from a closing of the Transaction(s) in a particular Liquidation Group by entering into (an) inverse transaction(s) (*Glattstellung*) within the respectively applicable holding period for the respective Liquidation Group, as published by Eurex Clearing AG on its website ([www.eurexclearing.com](http://www.eurexclearing.com)), taking into account assumed price changes due to extreme price movements in the market, and shall be in addition to the amount calculated by the Premium Margin or any other Margin Type.

### 3.2 Eligible Margin Assets and Valuation

- 3.2.1 Eligible assets to be provided as cover (i) in respect of Margin, Segregated Margin ~~or~~, FCM Client Margin or Basic Clearing Member Margin are such currency amounts and such Securities, as are accepted to Eurex Clearing AG from time to time in its reasonable discretion and (ii) in respect of Variation Margin, Segregated Variation Margin ~~or~~, FCM Client Variation Margin or Basic Clearing Member Variation Margin, such currency amounts specified in the Special Clearing Provisions (the “**Eligible Margin Assets**”). Eurex Clearing AG will publish the relevant applicable list of Eligible Margin Assets in accordance with Number 16.2. Unless otherwise provided for in such list, debt securities

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that have a remaining term of 15 calendar days or less will not be accepted as Eligible Margin Assets.

3.2.2 For the purpose of assessing compliance with each of the margin requirements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, the following general provisions apply:

- (1) The value of any Eligible Margin Asset actually delivered (as defined in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions) in respect of Elementary Proprietary Margin or Elementary Proprietary Variation Margin, Elementary Omnibus Margin or Elementary Omnibus Variation Margin, Segregated Margin or Segregated Variation Margin, Net Omnibus Margin or Net Omnibus Variation Margin, FCM Client Margin or FCM Client Variation Margin, Basic Clearing Member Margin or Basic Clearing Member Variation Margin, as applicable, will be based on the latest valuation method and haircuts determined by Eurex Clearing AG from time to time in its reasonable discretion and published in accordance with Number 16.2.
- (2) If Eligible Margin Assets in the form of cash are provided in a currency other than the Clearing Currencies, the relevant cash amount shall – for the purpose of assessing compliance with the ~~Margin Requirement~~ relevant margin requirement – be deemed to have been actually delivered on the Business Day following confirmation by Eurex Clearing AG’s receiving bank of the receipt of such cash amount vis-à-vis Eurex Clearing AG.
- (3) If Eligible Margin Assets in the form of Securities are credited to the Pledged Securities Account, Elementary Omnibus Pledged Securities Account, Securities Margin Account (or, if, for the purpose of providing Segregated Margin, Eligible Margin Assets in the form of Securities are delivered to a securities account of Eurex Clearing AG with Clearstream Banking S.A., to such securities account) ~~or~~, Net Omnibus Pledged Securities Account or Basic Clearing Member Pledged Securities Account, as applicable, such Securities shall – for the purpose of assessing compliance with the margin requirement – be deemed to be actually delivered immediately after notification by Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG of such credit. If such notification occurs after the cut-off time specified by Eurex Clearing AG from time to time with respect to each of Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG, as applicable, such Securities shall – for the purpose of assessing compliance with the margin requirement – be actually delivered on the Business Day following such confirmation.
- (4) Currency amounts or Securities actually delivered in respect of Margin, Segregated Margin, Net Omnibus Margin ~~or~~, FCM Client Margin or Basic Clearing Member Margin, as applicable, which are no longer accepted by Eurex Clearing AG as Eligible Margin Assets will be disregarded for the purpose of assessing compliance

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with the margin requirement; the relevant Redelivery Claim (as defined in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, as applicable) with respect to any such assets shall remain unaffected. Eurex Clearing AG will, without undue delay, inform the Clearing Members (and in respect of (i) Covered Transactions, the ICM Clients and (ii) Basic Clearing Member Transactions, the Basic Clearing Members and their Clearing Agents) of any currency amounts or Securities that are no longer accepted in satisfaction of their respective margin requirements.

3.2.3 Deliveries of currency amounts or Securities not accepted by Eurex Clearing AG as Eligible Margin Assets to Eurex Clearing AG shall be returned without undue delay.

### 3.3 Margin Call

3.3.1 If with respect to the relevant Standard Agreement, the aggregate value of the Eligible Margin Assets actually delivered to Eurex Clearing AG in respect of Elementary Proprietary Margin, Elementary Omnibus Margin, Net Omnibus Margin, Segregated Margin ~~or~~ FCM Client Margin or Basic Clearing Member Margin, as applicable, is insufficient to provide the cover required to comply with the relevant applicable margin requirement, Eurex Clearing AG will require the Clearing Member and/or the Basic Clearing Member (in respect of its Basic Clearing Member Standard Agreement) to deliver (additional) Eligible Margin Assets in an amount up to the applicable margin requirement and by the time specified by Eurex Clearing AG (a “Margin Call”) in accordance with the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, as applicable.

3.3.2 For the purpose of delivering (additional) Eligible Margin Assets pursuant to Number 3.3.1, the Clearing Member may, in the case of a Margin Call relating to Elementary Omnibus Margin (in case the Asset Based Valuation Method is the Applicable Allocation Method), Segregated Margin, Net Omnibus Margin ~~or~~ FCM Client Margin or Basic Clearing Member Margin, by giving notice to Eurex Clearing AG, elect to specify any amount of Eligible Margin Assets in the form of cash delivered by (and not returned to) the Clearing Member to Eurex Clearing AG with respect to and as part of the Elementary Proprietary Margin in order to wholly or partially satisfy the respective Margin Call if and to the extent that the aggregate value of all Eligible Margin Assets actually delivered in respect of the Elementary Proprietary Margin exceeds the Margin Requirement applicable at such time, unless the relevant Clearing Member and Eurex Clearing AG agree otherwise.

The consequences of an election to deliver (additional) Eligible Margin Assets pursuant to this Number 3.3.2 are set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, as applicable.

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### 3.4 Currency Conversion, Use of Cash Margin and Income on Margin Assets

3.4.1 If at any time a conversion of a currency amount which is not denominated in a Clearing Currency is necessary in order to calculate the relevant margin requirement or to assess compliance therewith, Eurex Clearing AG shall use a commercially reasonable exchange rate prevailing as at such time.

3.4.2 Eurex Clearing AG reserves the right to make use of Eligible Margin Assets actually delivered in the form of cash in its sole discretion in the context of its business activity in order to ensure its capacity to operate as a clearing house as well as for investment purposes. Eurex Clearing AG shall also be entitled to use securities purchased in such investment transactions for purposes of liquidity management and liquidity generation in relation to its clearing activities in form of repo transactions with business parties according to Chapter I Part 1 Number 2.1.3 Paragraph (1) (a) – (f) or as collateral towards a central bank.

3.4.3 The use of Eligible Margin Assets in form of Securities actually delivered shall be subject to the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions.

3.4.4 Eurex Clearing AG may agree from time to time to pay interest on Eligible Margin Assets in the form of cash actually delivered by a Clearing Member or a Basic Clearing Member (or Clearing Agent acting for the account of the Basic Clearing Member) to Eurex Clearing AG in respect of Margin. Any income on Eligible Margin Assets in form of Securities actually delivered by a Clearing Member or a Basic Clearing Member to Eurex Clearing AG in respect of Margin shall be subject to the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions.

3.4.5 Eurex Clearing AG may demand from a Clearing Member or Basic Clearing Member (in respect of its Basic Clearing Member Standard Agreement), as relevant, the reimbursement of expenses arising from the investment of the cash actually delivered in respect of Margin. A liability for reimbursement exists for expenses such as charges on any account balances (including in connection with any applicable bank levies, taxes or similar regulatory instruments), negative interest rates, penalty fees, commissions and other payments with a similar effect which are determined by the accounting central bank or accounting commercial bank or governmental agencies in respect of the respective cash funds.

### 3.5 Supplementary Margin

- (1) Eurex Clearing AG shall be entitled to demand at any time during a Business Day from a Clearing Member or a Basic Clearing Member a higher or supplementary margin in the form of Eligible Margin Assets ("**Supplementary Margin**") in an amount adequate to secure all of Eurex Clearing AG's claims (including conditional claims) under any Standard Agreement with such Clearing Member or such Basic

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Clearing Member, if the prerequisites of Paragraph (2) have been fulfilled. This applies even if Eurex Clearing AG has initially refrained, wholly or partly, from demanding any Supplementary Margin. Any Supplementary Margin requested by Eurex Clearing AG with respect to a Standard Agreement will increase the margin requirement for that Standard Agreement.

Paragraphs (2) to (4) of this Number 3.5 shall also apply in respect of a Basic Clearing Member, a Basic Clearing Member Standard Agreement and Basic Clearing Member Transactions, provided that, in such case, any reference herein to the Clearing Member, a Standard Agreement and a Transaction shall be read as a references to the Basic Clearing Member, the Basic Clearing Member Standard Agreement and the Basic Clearing Member Transaction(s) of such Basic Clearing Member and any of the circumstances referred to in Paragraph (2) shall refer to the Basic Clearing Member and/or its Clearing Agent.

- (2) Eurex Clearing AG's claim for the provision of Supplementary Margin shall always be based on the precondition that Eurex Clearing AG becomes aware of any of the following circumstances, which justify a higher risk assessment of Eurex Clearing AG's claims against the Clearing Member (in case of a FCM Clearing Member, including all claims under the FCM Clearing Member Guarantee). This may, in particular, be the case, if:
- (a) the economic conditions of the Clearing Member have adversely changed or threaten to adversely change, e.g. upon the occurrence of extraordinary losses of the Clearing Member or the deterioration of the credit standing of the Clearing Member,
  - (b) portfolio risks in the form of cluster risks occur,
  - (c) the legal or regulatory framework for the exercise of rights or the fulfilment of obligations of Eurex Clearing AG or the Clearing Member under or in relation to the Clearing Agreements adversely changes (e.g. if trade restrictions are imposed, the determination of currency exchange rates is regulated or Eurex Clearing AG is required to demand additional margin),
  - (d) the liquidity of certain products or markets in or in relation to which the Clearing Member conducts business, materially decreases,
  - (e) the recognised risk models change (e.g. by inclusion of new risk factors, exclusion of existing risk factors or changes in the assessment of time-related dependencies or the correlation of risk factors), or
  - (f) unanticipated market developments or political events occur which have not been considered previously in the risk assessment of Eurex Clearing AG with respect to the Clearing Member.
- (3) Eurex Clearing AG shall have the right to demand the provision of Supplementary Margin, irrespective of whether Eurex Clearing AG has already exercised Margin Calls vis-à-vis the Clearing Member.

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- (4) Eurex Clearing AG shall, in view of the prevailing circumstances, allow a reasonable period of time for the provision of Supplementary Margin by the Clearing Member. If Eurex Clearing AG intends to make use of a termination right with respect to one or several Clearing Agreements with such Clearing Member in the event that the Clearing Member fails to fulfil its obligation to provide Supplementary Margin in due time, it shall inform the Clearing Member thereof when demanding the provision of Supplementary Margin.
- (5) Supplementary Margin shall be provided by the Clearing Member or the Basic Clearing Member in accordance with the rules applicable with respect to the provision of Margin for the relevant Standard Agreement for which Eurex Clearing has requested the Supplementary Margin set out in the Elementary Clearing Model Provisions, Individual Clearing Model Provisions, Net Omnibus Clearing Model Provisions, U.S. Clearing Model Provisions and/or ~~U.S. Basic Clearing Model Member Provisions~~, as the case may be. Supplementary Margin provided to Eurex Clearing AG shall constitute Margin in respect of the relevant Standard Agreement and be subject to the Elementary Clearing Model Provisions, Individual Clearing Model Provisions, Net Omnibus Clearing Model Provisions, U.S. Clearing Model Provisions and/or ~~U.S. Basic Clearing Model Member Provisions~~, as the case may be and the provisions of Paragraph (6), but shall not limit the right of Eurex Clearing AG to exercise Margin Calls.
- (6) After and to the extent that the risks leading to the provision of Supplementary Margin have ceased or Eurex Clearing AG has otherwise covered such risks vis-à-vis the Clearing Member or the Basic Clearing Member, Eurex Clearing AG shall – subject to the occurrence of a Termination Date – be obliged to return or, as applicable, release to the Clearing Member or the Basic Clearing Member such Supplementary Margin.

## **4 Internal Accounts**

### **4.1 Types of Accounts**

Eurex Clearing AG establishes and maintains internal accounts for each Clearing Member, on which the Transactions, cash amounts and margin of such Clearing Member (or, in the case of a FCM Clearing Member, its FCM Clients) are booked as further set out in this Number 4 and the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable. In addition, Eurex Clearing AG establishes and maintains with respect to each Basic Clearing Member the internal accounts as set out in Number 5 of the Basic Clearing Member Provisions.

### **4.2 Transaction Accounts**

- 4.2.1 Unless otherwise provided in the Special Clearing Provisions, Eurex Clearing AG opens and maintains with respect to each Clearing Member the following transaction accounts in which the Transactions of the Clearing Member to be cleared have to be booked:

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- (1) one transaction account for Own Transactions (hereinafter an “**Own Account**”) and one or more transaction accounts for Customer-Related Transactions of the Clearing Member (each a “**Customer Account**”);
- (2) two transaction accounts for NCM-Related Transactions, one transaction account with respect to own transactions of the Non-Clearing Member (hereinafter an “**Own Account**”) and one transaction account with respect to customer related transactions of the relevant Non-Clearing Member (hereinafter a “**Customer Account**”); and
- (3) two transaction accounts for RC-Related Transactions, one transaction account with respect to own transactions of the Registered Customer (hereinafter an “**Own Account**”) and one transaction account with respect to customer related transactions of the relevant Registered Customer (hereinafter a “**Customer Account**”).

4.2.2 The Clearing Member is required to account for the bookings by Eurex Clearing AG into the transaction accounts in its own records.

#### 4.3 Internal Cash Accounts

Eurex Clearing AG will establish and maintain internal cash accounts as further set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~ the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions. Eurex Clearing AG shall procure that any surplus cash balance that the Clearing Member or the Basic Clearing Member may have in its internal cash account with Eurex Clearing AG is credited to the account of the Clearing Member or, in the case of the Basic Clearing Member, the Basic Clearing Member Cash Account at the respective payment institution.

#### 4.4 Internal Margin Account

Eurex Clearing AG will establish and maintain internal margin accounts in respect of Margin as further set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~ the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions.

#### 4.5 Internal Fee Account

Eurex Clearing AG shall establish and maintain an internal fee account for each account of a Clearing Member and each account of a Basic Clearing Member in the currency in which the respective account is maintained and shall charge all fees payable with respect to any transactions to such account. Eurex Clearing AG shall inform each Clearing Member and each Basic Clearing Member (with a copy to its Clearing Agent) of the balance and the individual entries in such ~~fee accounts for each account~~.

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#### 4.6 **Objections to Notifications or Reports regarding Internal Accounts, Transactions or Margin**

Whenever Eurex Clearing AG makes available notices or reports to a Clearing Member, a Non-Clearing Member, a Registered Customer, ~~or a FCM Client~~ (or the relevant FCM Clearing Member, acting on behalf of such FCM Client) or a Basic Clearing Member (or the relevant Clearing Agent acting on behalf of such Basic Clearing Member), including with respect to any of the internal accounts set out in this Number 4, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions, the U.S. Clearing Model Provisions, the Basic Clearing Member Provisions or the Special Clearing Conditions, Transactions or Margin, such Clearing Member, Non-Clearing Member, Registered Customer ~~or FCM Client~~ (or the relevant FCM Clearing Member, acting on behalf of such FCM Client) or Basic Clearing Member (or the relevant Clearing Agent acting on behalf of such Basic Clearing Member) should check without undue delay all such notices and reports of Eurex Clearing AG, including with respect to all such information and data the Clearing Member, the Non-Clearing Member, Registered Customer ~~or FCM Client~~ (or the relevant FCM Clearing Member, acting on behalf of such FCM Client) or Basic Clearing Member (or the relevant Clearing Agent acting on behalf of such Basic Clearing Member), has given to Eurex Clearing AG or received from Eurex Clearing AG, via third parties.

The Clearing Members, Non-Clearing Members, Registered Customers ~~or FCM Client~~ Clients (or the relevant FCM Clearing Member, acting on behalf of ~~such FCM Client~~ the relevant FCM Client) or Basic Clearing Members (or the relevant Clearing Agent acting on behalf of the relevant Basic Clearing Member) should inform Eurex Clearing AG in writing or by telefax without undue delay, but in any case no later than (i) by the end of the pre-trading period (with regard to market participants) for the relevant Transaction Type of the next Business Day or (ii) by 9:00 hours (Frankfurt am Main time) on the next Business Day (in all other cases), of any mistakes, errors, omissions, deviations or irregularities that become apparent to it in such notices or reports.

#### 5 **Fees**

- 5.1 On the basis of its price list in effect (the "**Price List for Eurex Clearing AG**" (*Preisverzeichnis der Eurex Clearing AG*)), which will be published in accordance with Number 16.1, Eurex Clearing AG will charge to its Clearing Members and its Basic Clearing Members (i) a one-time fee upon conclusion of the first Clearing Agreement, (ii) an annual fee for the granting of a Clearing License or a Basic Clearing Member Clearing License, payable by the Clearing Member or the Basic Clearing Member, as applicable, on January 31 of each year, and (iii) further fees for certain actions and Transactions, as specified in the Price List for Eurex Clearing AG (together with fees payable to Eurex Frankfurt AG according to the Agreement on Technical Connection and Utilization of the Trading Systems of Eurex Deutschland and Eurex Zürich (Connection Agreement), as referred to in Chapter II Part 1 Paragraph (4), the "**Eurex-Fees**"). The Price List for Eurex Clearing AG shall form part of the Clearing Conditions.
- 5.2 In the event of a suspension or termination of a Clearing License or Basic Clearing Member Clearing License, the annual fee paid for the then current year will not be



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refunded. In case a Clearing License is terminated by a Clearing Member or a Basic Clearing License is terminated by a Basic Clearing Member, Eurex Clearing AG shall reimburse the annual fee for the then current year on a pro rata basis, as further set out in the Price List for Eurex Clearing AG.

## 6 Clearing Fund

Eurex Clearing AG maintains the general clearing fund regulated by this Number 6 which relates to Transactions pursuant to Chapters II through VII, Chapter VIII Part 2 and, unless otherwise specified in Chapter IX, Chapter IX (the **"Clearing Fund"**) to cover the Clearing Fund Secured Claims (as defined in Number 6.2) The Clearing Fund is not a legal person.

### 6.1 Contributions to the Clearing Fund

#### 6.1.1 Contributions and Calculation of the Contributions to the Clearing Fund

- (1) Notwithstanding any Margin Requirement applicable to the Clearing Member in accordance with the Clearing Conditions, (i) each Clearing Member holding a Clearing License for Transactions within the scope of the Clearing Fund and (ii) subject to Part 6 Number 9, each Clearing Agent separately with respect to each of its Basic Clearing Members with respect to Basic Clearing Member Transactions within the scope of the Clearing Fund, shall pay contributions to the Clearing Fund as further set out in this Number 6 (each such contribution to the Clearing Fund a **"Contribution"**).
- (2) Eurex Clearing AG shall from time to time determine the amount of the Contribution (s) to be paid and maintained by a Clearing Member or a Clearing Agent ~~(the each a~~ **"Contributions Requirement"**) in accordance with the relevant applicable calculation method published by Eurex Clearing AG pursuant to Number 16.1 (the **"Contributions Calculation Method"**); any such published Contributions Calculation Method shall form part of the Clearing Conditions.

Basis for the calculation of (i) the Contributions Requirement of a Clearing Member to the Clearing Fund are all ~~concluded~~ Transactions of such Clearing Member (and, in respect of a FCM Clearing Member, in addition, all Transactions ~~concluded~~ between Eurex Clearing AG and FCM Clients of such FCM Clearing Member) within the scope of the Clearing Fund and (ii) the Contributions Requirement of a Clearing Agent with respect to a Basic Clearing Member are all Basic Clearing Member Transactions of such Basic Clearing Member within the scope of the Clearing Fund. Eurex Clearing AG may re-evaluate and adjust ~~the each~~ Contributions Requirement ~~for each Clearing Member~~ any time and will at least do so by the end of each calendar quarter in accordance with the relevant Contributions Calculation Method.

- (3) The obligation to make Contributions becomes first due and payable as of the date of the granting of the first Clearing License (or, in respect of the Clearing Agent, as of the date it enters into a Basic Clearing Member Clearing Agreement with Eurex

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Clearing AG) and thereafter whenever Eurex Clearing AG has made an adjustment to the Contributions Requirement of the relevant Clearing Member.

### 6.1.2 Provision of the Contributions to the Clearing Fund

- (1) The Clearing Members or Clearing Agents shall provide the Contributions to the Clearing Fund in cash amounts and/or in Securities accepted by Eurex Clearing AG by way of a transfer of all rights, title and interest in respect of such cash amounts and/or Securities to Eurex Clearing AG using the security accounts with Clearstream Banking AG or Clearstream Banking S.A., unless otherwise specified below. In Xemac the relevant transfer is being effected by labelling the relevant Securities with “pledge” by way of Earmarking. For Contributions provided in the form of cash amounts, Numbers 3.4.4 and 3.4.5 of these General Clearing Provisions apply *mutatis mutandis*, and for Contributions provided in the form of Securities, Part 3 Subpart A Numbers 16.1, 16.2 and 16.4 apply *mutatis mutandis*.
- (2) In case the Clearing Member or Clearing Agent provides Contributions in the form of Swiss intermediated securities, the Clearing Member or Clearing Agent shall transfer the Swiss intermediated securities to the relevant pledged securities account maintained with SIX SIS AG exclusively in favor of Eurex Clearing AG (“**Swiss Clearing Fund Pledged Securities Account**”).

The Clearing Member or Clearing Agent shall instruct SIX SIS AG in a timely manner to transfer the relevant Swiss intermediated securities to the Swiss Clearing Fund Pledged Securities Account and inform Eurex Clearing AG of such transfer. In relation to voting rights or other optional rights, which may arise from the Swiss intermediated securities, Number 6.6.1 (2) of the Elementary Clearing Model Provisions applies accordingly.

The security purpose (Sicherungszweck) of the pledges granted to Eurex Clearing AG in relation to the Swiss intermediated securities is to secure all Clearing Fund Secured Claims.

The Clearing Member or Clearing Agent represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it is the owner of the pledged Swiss intermediated securities and that such Swiss intermediated securities are not subject to any prior or equal claims of third parties. The Clearing Member or Clearing Agent shall not, for the duration of such pledge, permit any such claims to arise without the prior consent of Eurex Clearing AG.

In the ~~Clearing Agreement~~ pledge agreement in the form appended to the Clearing Conditions or in such form as may be required by Eurex Clearing AG, the Clearing Member will grant a pledge to Eurex Clearing AG over all Swiss intermediated securities which are at present or will in the future be credited to the Swiss Clearing Fund Pledged Securities Account.

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- (3) If a Clearing Member or Clearing Agent does not provide its Contribution or Further Contribution (as defined in Number 6.3) within five Business Days in full, Eurex Clearing AG shall be entitled to collect the (outstanding parts of the) relevant (Further) Contributions to the Clearing Fund from the relevant Clearing Member or Clearing Agent in accordance with the daily cash clearing procedure pursuant to Number 1.4.1.

### 6.1.3 Eurex Clearing AG's dedicated own resources to the Clearing Fund

Eurex Clearing AG will dedicate own resources ~~for~~ to the Clearing Fund (the "**Dedicated Amount**") to be used if a Termination Date ~~occurs~~ with respect to one or more Clearing Members or a Basic Clearing Member Termination Date occurs. The Dedicated Amount will be published on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)).

## 6.2 Realisation of the Clearing Fund

Eurex Clearing AG shall have a claim for payment of the Clearing Fund Secured Claims (as defined below) against (i) a Clearing Member (~~x~~) with respect to which a Termination Date occurs (the "**CM Affected Clearing Member**") or (y) acting in the capacity as Clearing Agent, a particular Basic Clearing Member of which is subject to a Basic Clearing Member Termination (the Clearing Member, acting in its capacity as Clearing Agent for such Basic Clearing Member, the "**BCM Affected Clearing Member**", and each CM Affected Clearing Member and each BCM Affected Clearing Member, an "**Affected Clearing Member**", and each other Clearing Member, including any Clearing Agent not acting in respect of any Basic Clearing Member with respect to which a Basic Clearing Member Termination has occurred, a "**Non-Affected Clearing Member**"), and (ii) any ~~other Non-Affected~~ Clearing Member (provided that the claims under (ii) shall only become due following a Realisation Event (as defined below) and shall, in each case, only be payable out of the Contribution and, subject to this Number 6.2 and Number 6.3, the Further Contribution, ~~of the relevant Clearing Member to the Clearing Fund~~); the order of priority set forth in Number 6.2.1 applies.

The "**Clearing Fund Secured Claims**" shall be all claims of Eurex Clearing AG for payments of amounts which are necessary to cover the losses and financial consequences of the occurrence of a Termination or Basic Clearing Member Termination with respect to all relevant Liquidation Groups and/or Terminated Transactions (as defined in Number 7.5) within the scope of the Clearing Fund and, in particular, any outstanding Difference Claim(s) (as defined in Number 8.3.2 of the Elementary Clearing Model Provisions, Subpart A Number 7.3.2 of the Individual Clearing Model Provisions, Number 8.4.2 of the Net Omnibus Clearing Model Provisions ~~and~~, Number 8.6.3 of the U.S. Clearing Model Provisions and Number 10.5.2 of the Basic Clearing Member Provisions) of Eurex Clearing AG against the Affected Clearing Member (including, in the case of a FCM Clearing Member, any claims of Eurex Clearing AG against ~~such FCM~~ such FCM Clearing Member under its FCM Clearing Member Guarantee) ~~or its relevant Basic Clearing Member, respectively~~.

A "**Realisation Event**" shall occur if following a Termination or a Basic Clearing Member Termination the relevant provisions relating to the consequences of a Termination Date

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or Basic Clearing Member Termination Date set out in the Elementary Clearing Model Provisions (in particular, Number 8 thereof), the Individual Clearing Model Provisions (in particular, Subpart A Number 7 thereof), the Net Omnibus Clearing Model Provisions (in particular, Number 8 thereof) ~~or~~ the U.S. Clearing Model Provisions (in particular, Number 8 thereof) or the Basic Clearing Member Provisions (in particular, Numbers 10 and 11 thereof), as applicable, have been applied.

- 6.2.1 In case of a Realisation Event, the (Further) Contributions of ~~Clearing Members to the Clearing Fund~~ will be realised (with respect to Interim Participants as modified by the specific provisions set out in Subpart A Number 15 of the Individual Clearing Model Provisions) in accordance with the following order of priority with respect to each **“Relevant Liquidation Group”**, i.e. each Liquidation Group (as defined in Number 7.5.1) within the scope of the Clearing Fund to which Terminated Transactions (as defined in Number 7.5) belong (whereby each Paragraph (1) to (10) of such order of priority shall, within the scope of the Clearing Fund, be applied to all Relevant Liquidation Groups simultaneously before, in each case, the respective next paragraph is applied and whereby all Terminated Transactions within the scope of the Clearing Fund which do not form part of any Liquidation Group shall collectively be treated as one **“Relevant Liquidation Group”** within the scope of the Clearing Fund for the purposes of this Number 6):
- (1) first, the applicable Liquidation Group Ratio of the Contribution of the Affected Clearing Member and, in the case of a BCM Affected Clearing Member, the applicable Liquidation Group Ratio of its BCM Further Contributions;
  - (2) second, the applicable Liquidation Group Ratio of any remainder of the Contribution of the Affected Clearing Member and, in the case of a BCM Affected Clearing Member, the applicable Liquidation Group Ratio of any remainder of its BCM Further Contributions;
  - (3) third, the applicable Liquidation Group Ratio of the Dedicated Amount;
  - (4) fourth, the applicable Liquidation Group Ratio of any remainder of the Dedicated Amount;
  - (5) fifth, the applicable Liquidation Group Ratio of the Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1));
  - (6) sixth, the applicable Liquidation Group Ratio of any remainder of the Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) (with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1)));
  - (7) seventh, the applicable Liquidation Group Ratio of the Contributions of all other Non-Affected Clearing Members;

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- (8) eighth, the applicable Liquidation Group Ratio of any remainder of the Contributions ~~to the~~ of all other Non-Affected Clearing Members;
- (9) ninth, the applicable Liquidation Group Ratio of the Further Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1)); and
- (10) tenth, the applicable Liquidation Group Ratio of the Further Contributions of all other Non-Affected Clearing Members.

With respect to each Relevant Liquidation Group, the term “**Liquidation Group Ratio**” means the amount which may be realised, in each case, under Paragraph (1) – (10) which is to be determined as follows:

- (i) with respect to Paragraph (1), in case of a Contribution, the ratio of (A) the part of the Contribution Requirement of the relevant Affected Clearing Member applicable to such Relevant Liquidation Group and (B) its aggregate Contribution Requirement and, in case of the BCM Further Contributions, the ratio of (I) the part of the requirement to provide BCM Further Contributions of the relevant BCM Affected Clearing Member applicable to such Relevant Liquidation Group and (II) its aggregate requirement to provide BCM Further Contributions,
- (ii) with respect to ~~Paragraphs (2) (a) and (2) (b)~~ Paragraph (2), in case of a Contribution, the ratio of (A) the part of the Contribution Requirement of the relevant Affected Clearing Member applicable to such Relevant Liquidation Group and (B) its aggregate Contribution Requirement and, in case of BCM Further Contributions, the ratio of (I) the part of the requirement to provide BCM Further Contributions of the relevant BCM Affected Clearing Member applicable to such Relevant Liquidation Group and (II) its aggregate requirement to provide BCM Further Contributions (in each case, not taking into account Relevant Liquidation Groups in respect of which the relevant claims have already been discharged pursuant to Paragraph (1), ~~and in the case of Paragraph (2) (b), also Paragraph (2) (a)~~),
- (iii) with respect to Paragraph (3), the ratio of (A) the part of the Clearing Fund Related Total Margin Requirement determined for such Relevant Liquidation Group and (B) the aggregate Clearing Fund Related Total Margin Requirement,
- (iv) with respect to Paragraph (4), the ratio of (A) the part of the Clearing Fund Related Total Margin Requirement determined for such Relevant Liquidation Group and (B) the aggregate Clearing Fund Related Total Margin Requirement (not taking into account Relevant Liquidation Groups in respect of which the relevant claims have already been discharged pursuant to the respective preceding Paragraphs),

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- (v) with respect to Paragraphs (5) and (7), the ratio of (A) the part of the Contribution ~~Requirement~~ Requirements of the relevant Non-Affected Clearing Members applicable to such Relevant Liquidation Group and (B) their aggregate Contribution Requirements,
- (vi) with respect to Paragraphs (6) and (8), the ratio of (A) the part of the Contribution ~~Requirement~~ Requirements of the relevant Non-Affected Clearing Members applicable to such Relevant Liquidation Group and (B) their aggregate Contribution Requirement (in each case, not taking into account Relevant Liquidation Groups in respect of which the relevant claims have already been discharged pursuant to the respective preceding Paragraphs), and
- (vii) with respect to Paragraphs (9) and (10), the ratio of (A) the part of the requirement for ~~further~~ Further Contributions of the relevant Non-Affected Clearing Members applicable to such Relevant Liquidation Group and (B) their aggregate ~~requirement for obligation to provide~~ Further Contributions.

Where, in case of Paragraphs (5) to (10), with respect to a Relevant Liquidation Group the (Further) Contributions of several Non-Affected Clearing Members are still available and the amount needed to discharge the claims in respect of the Relevant Liquidation Group is lower than such available (Further) Contributions, with respect to each such Non-Affected Clearing Member (with respect to Paragraphs (5) and (6) and Paragraph (9) limited to Non-Bidding-Participants) only the Non-Affected Clearing Member's Ratio shall be realised under the relevant Paragraph.

The "**Non-Affected Clearing Member's Ratio**" with respect to a Non-Affected Clearing Member shall be the ratio of (A) its available (Further) Contribution with respect to the Relevant Liquidation Group and (B) all available (Further) Contributions of all Non-Affected Clearing Members (with respect to Paragraphs (5) and (6) and Paragraph (9) limited to Non-Bidding-Participants) with respect to the Relevant Liquidation Group.

- 6.2.2 If subsequently to a realisation of the Clearing Fund an Affected Clearing Member makes a payment to Eurex Clearing AG to fulfil the Clearing Fund Secured Claims, or if the Clearing Fund Secured Claims are otherwise discharged, after Eurex Clearing AG has realised the Dedicated Amount or (Further) Contributions of Non-Affected Clearing Members to the Clearing Fund, Eurex Clearing AG shall use the funds received in order to (i) repay the realised Further Contributions to the relevant Non-Affected Clearing Member(s), (ii) repay the realised Contributions to the Clearing Fund to the relevant Non-Affected Clearing Member(s) ~~and~~, (iii) reinstate the realised Dedicated Amount and (iv) repay the realised Contributions of the BCM Affected Clearing Member and BCM Further Contributions of the BCM Affected Clearing Member. The payments by Eurex Clearing AG shall be made in reverse order of Number 6.2.1 and shall in the aggregate be limited to the amounts received by Eurex Clearing AG.

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### 6.3 Further Contributions to the Clearing Fund (Assessments); Replenishment of Contributions to the Clearing Fund

If, following a Realisation Event, Eurex Clearing AG would otherwise have to apply the Dedicated Amount in accordance with Number 6.2.1, it shall be entitled to require from the BCM Affected Clearing Member, by making one or several demands, and such BCM Affected Clearing Member shall be obliged to make, further Contributions (“**BCM Further Contributions**”) to the Clearing Fund up to an aggregate amount equal to two times the originally applicable Contribution Requirement of such BCM Affected Clearing Member, in each case as soon as possible but no later than one Business Day following receipt of Eurex Clearing AG’s demand.

If, following a Realisation Event, Eurex Clearing AG determines that the Contributions of the Non-Affected Clearing Members may not be sufficient to cover the respective claims secured by the Clearing Fund in accordance with Number 6.2.1 above, it shall at its discretion be entitled to require from the Non-Affected Clearing Members, within a Capped Period, by making one or several demands, and the Non-Affected Clearing Members shall, subject to the Liability Cap, be obliged to make, further Contributions (“**Further Contributions**”) to the Clearing Fund, in each case as soon as possible but no later than one Business Day following receipt of Eurex Clearing AG’s demand.

The “**Liability Cap**” for each Non-Affected Clearing Member shall, with respect to the Clearing Fund, be two times the originally applicable Contribution Requirement to the Clearing Fund for such Non-Affected Clearing Member and shall apply for the relevant Capped Period.

A “**Capped Period**” shall, with respect to the Clearing Fund, be a period of twenty (20) Business Days which shall commence on the Termination Date or the Basic Clearing Member Termination Date and which, if one or more further Termination Date(s) or Basic Clearing Member Termination Date(s) occur within such twenty (20) Business Day period shall, in the case of each such further Termination Date or Basic Clearing Member Termination Date, be extended by twenty (20) Business Days from (and including) the relevant further Termination Date or further Basic Clearing Member Termination Date, subject to a maximum duration of three (3) months. If, following the occurrence of a Termination Date or a Basic Clearing Member Termination Date, the Clearing Fund will not be realised, the Capped Period shall end upon finalisation of the default management process with respect to such Termination Date or such Basic Clearing Member Termination Date as notified by Eurex Clearing AG to the Clearing Members.

A Non-Affected Clearing-Member shall not be obliged to pay Further Contributions, if the respective Non-Affected Clearing- Member has terminated all of its Clearing Licenses (or, if the Non-Affected Clearing Member is a Clearing Agent of a certain Basic Clearing Member whose Basic Clearing Member Clearing Licenses have been terminated) and such terminations have become effective prior to the start of the respective Capped Period.

If a Clearing Member ~~which has terminated all its~~ whose Clearing Agreements (except for its Basic Clearing Member Clearing Agreement(s)) with Eurex Clearing AG have been

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terminated has not settled all its Transactions (and, in the case of a FCM Clearing Member, all Transactions of its FCM Clients) within a Capped Period, such Clearing Member remains liable for any subsequent Capped Period(s) in accordance with the foregoing sentence until it is no longer a party to (or, in the case of a FCM Clearing Member, no longer guarantees pursuant to its FCM Clearing Member Guarantee) any Transactions with Eurex Clearing AG. If a Basic Clearing Member whose Basic Clearing Member Clearing Agreement with Eurex Clearing AG has been terminated has not settled all its Basic Clearing Member Transactions within a Capped Period, its Clearing Agent remains liable for any subsequent Capped Period(s) in accordance with the first sentence of this sub-paragraph until such Basic Clearing Member is no longer a party to any Basic Clearing Member Transactions with Eurex Clearing AG.

Without undue delay after the end of each Capped Period each Non-Affected Clearing Member shall be obliged to replenish the Clearing Fund up to the relevant Contribution Requirement applicable to it; this shall not apply if (i) a Non-Affected Clearing Member has terminated all its Clearing Licenses and the relevant such terminations have become effective before such replenishment obligation has become due and (ii) if the Basic Clearing Member Clearing Licenses of a Basic Clearing Member of the Non-Affected Clearing Member (in its capacity as a Clearing Agent) have been terminated and such terminations have become effective before such replenishment obligation has become due.

#### 6.4 Release of the Contributions to the Clearing Fund

~~If Eurex Clearing AG or a Clearing Member terminates all its Clearing Licenses~~ all Clearing Licenses of a Clearing Member or the Basic Clearing Member Clearing Licenses of a Basic Clearing Member of such Clearing Member (acting in its capacity as a Clearing Agent) have been terminated, Eurex Clearing AG shall release the relevant Contributions of the respective Clearing Member to the Clearing Fund as follows:

- (a) if no Capped Period has commenced at the time of the termination, at the later of (x) the effective date of such termination and (y) one month after the day upon which all Transactions in the accounts of the respective Clearing Member and, in the case of a FCM Clearing Member, the accounts relating to its FCM Clients or, as relevant, in the case of a Clearing Agent, all Basic Clearing Member Transactions of such Basic Clearing Member have been settled; and
- (b) if a Capped Period has commenced at the time of the termination, at the later of (i) the effective date of such termination, (ii) the end of the Capped Period, and (iii) one month after the day upon which all Transactions in the accounts of the respective Clearing Member and, in the case of a FCM Clearing Member, the accounts relating to its FCM Clients or, as relevant, in the case of a Clearing Agent, all Basic Clearing Member Transactions of such Basic Clearing Member have been settled.

The same shall apply *mutatis mutandis* to the collateral pursuant to Number 2.1.2 Paragraph (3) (d).



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## 6.5 Interpretation

(Further) Contributions to the Clearing Fund by a Clearing Member pursuant to the Clearing Conditions do not form part of the Margin, Variation Margin, Segregated Margin, Segregated Variation Margin, Net Omnibus Margin, Net Omnibus Variation Margin, FCM Client Margin or FCM Client Variation Margin provided by such Basic Clearing Member (including, if it is an FCM Margin or Basic Clearing Member, in respect of its FCM Clients) Variation Margin and a claim of a Clearing Member or Clearing Agent against Eurex Clearing AG to return (Further) Contributions does not form part of the applicable single agreement pursuant to Number 2.1.3 and Number 10.2 of the Elementary Clearing Model Provisions, Subpart A Number 2.1.3 of the Individual Clearing Model Provisions, Number 2.1.2 of the Net Omnibus Clearing Model Provisions, Number 2.1.2 of the U.S. Clearing Model Provisions or Number 2.1.2.4.1.2 of the U.S. Basic Clearing Model Member Provisions.

## 7 Termination Rules with respect to the Clearing Member

Upon the occurrence of certain termination events with respect to the Clearing Member under a Standard Agreement (or, in the case of (i) a FCM Clearing Member, under a Clearing Agreement in the form appended hereto as Appendix 10 to which such FCM Clearing Member is a party, or (ii) a Clearing Member acting as Clearing Agent, under a Basic Clearing Member Clearing Agreement) and, if provided for in these Clearing Conditions, the delivery of a corresponding notice by Eurex Clearing AG to the Clearing Member (and, in the case of an (i) a FCM Clearing Member and a termination event relating to a Clearing Agreement in the form appended hereto as Appendix 10, such FCM Clearing Member and the relevant FCM Client or (ii) a Clearing Member acting as Clearing Agent and a Termination Event relating to such Clearing Agent under a Basic Clearing Member Clearing Agreement, its Basic Clearing Members), a termination of transactions (each a "Termination"), realisation of Margin or Variation Margin, payment of a Difference Claim (as defined in Number 8.4.2 of the Elementary Clearing Model Provisions, Subpart A Number 7.3.2 or Subpart B Number 6.3.2 of the Individual Clearing Model Provisions, Number 8.3.2 of the Net Omnibus Clearing Model Provisions and Number 8.6.3 of the U.S. Clearing Model Provisions, as applicable) or a transfer of positions shall occur, as applicable and as further provided for in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable (each a "Termination") or the Basic Clearing Member Provisions.

Unless Subpart A Number 11.1.4 and 11.1.5 of the Individual Clearing Model Provisions applies, this Number 7 does not apply with respect to any default by a Non-Clearing Member or Registered Customer, respectively, under a Clearing Agreement.

Unless provided for by the U.S. Clearing Model Provisions, this Number 7 does not apply with respect to any default by a FCM Client under its FCM Client Standard Agreement with Eurex Clearing AG.

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Unless provided for by the Basic Clearing Member Provisions, this Number 7 does not apply with respect to any default by a Basic Clearing Member under its Basic Clearing Member Standard Agreement with Eurex Clearing AG.

## 7.1 Construction and Interpretation

- 7.1.1 This Number 7 provides for the general provisions that apply to a Termination pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions or, with respect to a FCM Clearing Member and a Clearing Agreement in the form appended hereto as Appendix 10 to which such FCM Clearing Member is a party, the U.S. Clearing Model Provisions or, with respect to a Clearing Member acting as Clearing Agent under a Basic Clearing Member Clearing Agreement, the Basic Clearing Member Provisions.
- 7.1.2 If the Elementary Clearing Model Provisions apply, references in this Number 7 to **“Transactions”, “Margin”, “Variation Margin” or “Standard Agreements”** shall refer respectively to the terms (i) in connection with the Elementary Proprietary Standard Agreement: **“Own Transactions”, “Elementary Proprietary Margin”, “Elementary Proprietary Variation Margin” and “Elementary Proprietary Standard Agreement”** and (ii) in connection with the Elementary Omnibus Standard Agreement: **“Elementary Omnibus Transactions”, “Elementary Omnibus Margin”, “Elementary Omnibus Variation Margin” and “Elementary Omnibus Standard Agreement”**, as defined in the Elementary Clearing Model Provisions.
- 7.1.3 If the Individual Clearing Model Provisions apply, references in this Number 7 to **“Transactions”, “Margin”, “Variation Margin” or “Standard Agreements”** shall refer respectively to the terms **“Covered Transactions”, “Segregated Margin”, “Segregated Variation Margin” and “Corresponding Standard Agreements”**, if applicable, as defined in the Individual Clearing Model Provisions.
- 7.1.4 If the Net Omnibus Clearing Model Provisions apply, references in this Number 7 to **“Transactions”, “Margin” or “Variation Margin”** shall refer respectively to the terms **“Net Omnibus Transactions”, “Net Omnibus Margin” and “Net Omnibus Variation Margin”** as defined in the Net Omnibus Clearing Model Provisions.
- 7.1.5 If and to the extent that the U.S. Clearing Model Provisions apply, references in this Number 7 to **“Transactions”, “Margin” or “Variation Margin”** shall refer respectively to the terms **“FCM Client Transactions”, “FCM Client Margin” and “FCM Client Variation Margin”** as defined in the U.S. Clearing Model Provisions.
- 7.1.6 References to **“Redelivery Claims”** in this Number 7 refer to Redelivery Claims of the Clearing Member under a Standard Agreement either pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions or to Redelivery Claims of the relevant FCM Client under a Standard Agreement pursuant to the U.S. Clearing Model Provisions, as applicable, and exclude any Redelivery Claims arising under other Standard Agreements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net

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Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions, as applicable.

## 7.2 Termination Events

7.2.1 Subject to Number 7.2.2, if at any time any of the termination events set out in Paragraphs (1) to (12) (each a “**Termination Event**”) has occurred and is continuing with respect to a Clearing Member (including, where applicable, in its capacity as a Clearing Agent), Eurex Clearing AG may either

- (i) give written notice thereof to such Clearing Member (and, if such Clearing Member (i) is a FCM Clearing Member and such Termination Event relates to any Standard Agreement between Eurex Clearing AG and a FCM Client of such FCM Clearing Member, also to such FCM Client(s) or (ii) acts as Clearing Agent, also to its Basic Clearing Members) and designate a reasonable grace period to remedy the relevant Termination Event (each a “**Grace Period**”), which may be extended by Eurex Clearing AG from time to time, (the “**Grace Period Notice**”) or
- (ii) if – taking into account all relevant circumstances of the specific case – it would be unreasonable (*unzumutbar*) to set a Grace Period or if the relevant Termination Event cannot be remedied, give a written termination notice to such Clearing Member (and, if such Clearing Member (i) is a FCM Clearing Member and such Termination Event relates to any Standard Agreement between Eurex Clearing AG and a FCM Client of such FCM Clearing Member, to such FCM Client(s) or (ii) acts as Clearing Agent, also to its Basic Clearing Members (the “**Termination Notice**”) specifying the date and time on which the Termination shall occur.

Prior to the delivery of a Grace Period Notice or Termination Notice, as the case may be, with respect to a Termination Event, other than a Termination Event pursuant to Paragraph (1) (Failure to Pay; Failure to Deliver Margin), Paragraph (5) (Insolvency related Events), Paragraph (7) (Regulatory Actions), Paragraph (9) (Opening of Reorganisation or Restructuring Procedures and Similar Measures) and Paragraph (12) (Termination for serious cause (*Kündigung aus wichtigem Grund*)) above, Eurex Clearing AG shall

- (a) attempt to notify, and consult with, the relevant Clearing Member regarding the relevant event,
- (b) consider in good faith whether delivering a Grace Period Notice or a Termination Notice is proportionate, having regard to
  - (aa) other courses of action available to Eurex Clearing AG, (in particular the opening of Disciplinary ~~Proceedings~~ Procedures pursuant to the Disciplinary Procedures Rules (as defined in each case in Number 14.2.1),
  - (bb) the interests of the Clearing Member and its clients (including the Basic Clearing Members), and

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(cc) whether the Termination Event has a material adverse impact on the ongoing financial soundness of Eurex Clearing AG or the proper performance of the Clearing, and

- (c) ensure that the decision to deliver a Grace Period Notice or Termination Notice, as the case may be, has been approved by the chairman of the Executive Board of Eurex Clearing AG, a member of the Executive Board of Eurex Clearing AG or any other senior personnel of Eurex Clearing AG that Eurex Clearing AG deems to be appropriate.

A Termination occurs (a) in the case of item (i) above, with effect from the end of the Grace Period if the Termination Event specified in the Grace Period Notice continues and Eurex Clearing AG has notified the Clearing Member (and, in the case of (i) a FCM Clearing Member, also its affected FCM Clients and (ii) a Clearing Member acting as a Clearing Agent, also its Basic Clearing Members) that such Termination Event has not been remedied to Eurex Clearing AG's satisfaction by the end of the Grace Period, or (b) in the case of item (ii) above on the date and time specified in the Termination Notice (the date of such Termination being the "**Termination Date**" and the respective termination time being the "**Termination Time**").

Where Eurex Clearing has commenced Disciplinary ~~Proceedings~~ Procedures against a Clearing Member with respect to an Alleged Breach (as defined in the Disciplinary Procedures Rules), Eurex Clearing AG shall for as long as such Disciplinary ~~Proceedings~~ Procedures are continuing, refrain from delivering a Termination Notice to such Clearing Member on the basis of those facts that have led to the determination of the Alleged Breach by Eurex Clearing AG.

**(1) Failure to Pay; Failure to Deliver Margin**

The Clearing Member fails to pay any amount due under the Clearing Conditions (including, without limitation, in the case of a FCM Clearing Member, any amount due under any of its FCM Clearing Member Guarantees relating to the obligations of its FCM Clients) to Eurex Clearing AG or fails to deliver any Eligible Margin Assets to Eurex Clearing AG in respect of a due request for delivery of Margin or Variation Margin or fails to perform any Redelivery Claim when due under a Standard Agreement between Eurex Clearing AG and the Clearing Member. The occurrence of this Termination Event with respect to a Clearing Member under a Standard Agreement entitles Eurex Clearing AG to perform its rights under this Number 7.2.1 with respect to all Standard Agreements entered into between Eurex Clearing AG and the relevant Clearing Member.

**(2) Failure to comply with Clearing Conditions**

The Clearing Member fails to comply with any of its obligations under the Clearing Agreement (incorporating the Clearing Conditions) or is in breach of any of its representations given in a Clearing Agreement.

**(3) Failure to comply with Clearing License prerequisites**

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The Clearing Member is no longer in compliance with the relevant prerequisites for the granting of any of its Clearing License(s) set forth in Number 2.1.2 Paragraphs (2) to (5), Number 2.1.3, Number 2.3.1 or in the relevant Special Clearing Provisions.

**(4) Repudiation or objection to amendments to the Clearing Conditions**

The Clearing Member (i) repudiates any of the terms and conditions of the Clearing Agreement or the Clearing Conditions or (ii) objects to an amendment to the Clearing Agreement or the Clearing Conditions and Eurex Clearing AG cannot reasonably be expected to continue its relationship with such Clearing Member, in particular, if such objections would lead to different versions of the Clearing Conditions being applicable to several Clearing Members, Non-Clearing Members, Registered Customers ~~or~~ FCM Clients or Basic Clearing Members, respectively, and the application of different versions of the Clearing Conditions would not be technically feasible.

**(5) Insolvency related Events**

(a) In relation to a Clearing Member having its registered seat and centre of main interest or, where it is a credit institution, being headquartered (*mit Hauptniederlassung*) in Germany:

(aa) any event occurs which constitutes a cause for the initiation of insolvency proceedings (*Eröffnungsgrund*) as set out in Sections 17 to 19 of the German Insolvency Code (*Insolvenzordnung*);

(bb) a petition for insolvency proceedings in respect of its assets (*Antrag auf Eröffnung eines Insolvenzverfahrens*) is filed; or

(cc) actions are taken pursuant to Section 21 of the German Insolvency Code (*Insolvenzordnung*) by a competent court;

(b) with respect to any Clearing Member not falling within the scope of Paragraph (5) (a) above, any action, legal proceedings or other procedure or step is taken in relation to any of the following events or any of the following events occurs:

(aa) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, termination of existence, liquidation, administration, reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), bankruptcy, insolvency, judicial management or curatorship;

(bb) a settlement, deferred payment, debt restructuring, transfer, restructuring, composition, compromise, assignment or similar arrangement of the Clearing Member with any of its creditors;

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(cc) the appointment of a liquidator, trustee, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Clearing Member or any of its assets; or

(dd) or any analogous procedure or step is taken in any jurisdiction,

provided that this Paragraph (5) (b) shall not apply to any procedure or step taken in relation to a solvent reorganisation of the relevant Clearing Member.

**(6) Violation of Regulatory Provisions**

Non-compliance with regulatory requirements by the Clearing Member, provided that non-compliance with such requirements may, in the reasonable opinion of Eurex Clearing AG, materially impair the proper fulfilment of the obligations under the Clearing Agreement.

**(7) Regulatory Actions**

Any administrative order issued to a Clearing Member pursuant to Sections 45 to 46g KWG, as well as any similar measures issued in relation to a Clearing Member under foreign law.

**(8) Recovery and Resolution Measures**

Any administrative order issued with respect to a Clearing Member pursuant to Sections 36 to 39 of the German Resolution and Recovery Act (*Sanierungs- und Abwicklungsgesetz – “SAG”*), any resolution order issued with respect to a Clearing Member pursuant to Section 136 SAG ordering resolution instruments pursuant to Section 89, 90 or 107 SAG, or any order issued with respect to a Clearing Member pursuant to Sections 78, 79, 82, 83, or 84 SAG, as well as any similar measures issued in relation to a Clearing Member under foreign law.

**(9) Opening of Reorganisation or Restructuring Proceedings and Similar Measures**

Any application for, commencement or order of reorganisation or restructuring proceedings (*Sanierungs- oder Reorganisationsverfahren*) according to the Act on the Restructuring of Credit Institutions (*Gesetz zur Reorganisation von Kreditinstituten*), as well as any similar measure under foreign law, in respect of the Clearing Member.

**(10) Change in Law and other similar Causes**

(a) Any change takes place in the laws of Germany or the laws applicable to the Clearing Member or the relevant Non-Clearing Member or Registered Customer, respectively, or the official interpretation or application of such laws which, in the reasonable opinion of Eurex Clearing AG, have a material adverse

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impact on the interests or services of Eurex Clearing AG under the Clearing Conditions or the interests of the other Clearing Members, or

- (b) any similar event occurs having a similar adverse impact on the interests or services of Eurex Clearing AG under the Clearing Conditions or the interests of other Clearing Members.

#### (11) **Non-Compliance with Outsourcing Requirements**

Non-compliance with the obligation to terminate the Outsourcing or to re-assume the Outsourced Functions upon the exercise of the veto right by Eurex Clearing AG pursuant to Number 15.2.10.

#### (12) **Termination for serious cause (aus wichtigem Grund)**

Eurex Clearing AG declines to continue the Clearing of Transactions with the Clearing Member due to the occurrence of an event which gives rise to a serious cause (*wichtiger Grund*) and the continuation of the Clearing Agreement, taking into account all the circumstances of the specific case and weighing the interests of both parties, cannot reasonably be expected.

- 7.2.2 If at any time an Insolvency Termination Event has occurred with respect to the Clearing Member, a Termination shall occur with immediate effect as of such time (the date of such Termination being the “**Termination Date**” and the respective termination time being the “**Termination Time**”). An “**Insolvency Termination Event**” occurs (i) with respect to a Clearing Member having its registered seat and centre of main interest in Germany or, if it is a credit institution, being headquartered in Germany, when insolvency proceedings in Germany (*Insolvenzverfahren*) within the meaning of the German Insolvency Code (*Insolvenzordnung*) are commenced over the estate of the Clearing Member (*Eröffnung des Insolvenzverfahrens*), (ii) with respect to a Clearing Member having its registered seat and centre of main interest in the Netherlands or, if it is a credit institution, being headquartered in the Netherlands, at the end of the day on which any action or step is taken in relation to such Clearing Member by itself or any other person to institute insolvency proceedings including *faillissement*, *surséance van betaling*, *noodregeling* and any of the measures referred to in Section 3:267d et seqq. of the Dutch Act on Financial Supervision (*Wet op het financieel toezicht*) (“**AFS**”), including but not limited to, the preparation of a transfer plan pursuant to Section 3:159c AFS, the order of immediate measures by the Secretary of Finance pursuant to Section 6:1 AFS and the expropriation of property and capital components by the Secretary of Finance pursuant to Section 6:2 AFS and the appointment of a *curator or bewindvoerder*, and the action, legal proceedings or other procedure or step is not dismissed on the day such action or step is taken, (iii) with respect to a U.S. Clearing Member, when a case is commenced by or against the U.S. Clearing Member under the U.S. Bankruptcy Code (including if a U.S. Bankruptcy Event (as defined in Number 8 of the U.S. Clearing Model Provisions) has occurred) or a receiver or other insolvency administrator is appointed for the U.S. Clearing Member or any of the U.S. Clearing Member's assets, or (iv) with respect to a Clearing Member not falling under (i), (ii) or (iii), when insolvency proceedings or similar proceedings under the laws of the jurisdiction where such Clearing Member has its

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registered seat and centre of main interest or, if it is a credit institution, where it is headquartered, are commenced over the estate of the Clearing Member.

### 7.3 Consequences of a Termination

The consequences of a Termination and the applicable valuation method for determining the Difference Claim (the “**Difference Claim Valuation Method**”), which is either the “**Liquidation Price Approach**” or the “**Exchange Price Approach**”, are set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or Basic Clearing Member Provisions, as applicable. Any Difference Claim pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ and the U.S. Clearing Model Provisions (as provided therein) shall be determined as follows:

- 7.3.1 Upon the occurrence of a Termination Date, the Difference Claim shall be determined for each Standard Agreement by way of combining (*Saldieren*) the Single Transaction Amounts of all Transactions under such Standard Agreement terminated as of the Termination Time and the Aggregate Value of the Redelivery Claims under such Standard Agreement, all as defined below.

The final amount of the Difference Claim resulting from such combination shall (i), if it is a positive figure for the party entitled to value the Difference Claim, be owed to it by the other party, or (ii), if it is a negative figure for the party entitled to value the Difference Claim, be owed by it to the other party.

The Difference Claim shall be denominated in the Clearing Currency last agreed in writing between Eurex Clearing AG and the Clearing Member (the “**Termination Currency**”). The Clearing Member shall notify the Clearing Currency to the Non-Clearing Member/Registered Customer and, in the case of a FCM Clearing Member, its FCM Clients.

- 7.3.2 If the “**Liquidation Price Approach**” is the applicable Difference Claim Valuation Method, the value of the Difference Claim shall be determined in accordance with this Number 7.3.2 by the party specified in Paragraph (2) on the Last Valuation Date.

- (1) The “**DMP Valuation Date**” shall, with respect to a Transaction, be any day on which a Liquidation Price is determined for such Transaction. The latest DMP Valuation Date with respect to Transactions under the same Standard Agreement shall be the “**Last Valuation Date**”. Such Last Valuation Date shall occur upon completion of the default management process pursuant to Number 7.5 below. The “**Margin Valuation Date**” shall, with respect to any Eligible Margin Assets, be any day during the default management process pursuant to Number 7.5 below on which such Eligible Margin Assets are actually realised by Eurex Clearing AG.
- (2) The party entitled to value the Difference Claim is, (i) with respect to a Standard Agreement between Eurex Clearing AG and the Clearing Member and with respect to a Standard Agreement between Eurex Clearing AG and the FCM Client, Eurex



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Clearing AG and, (ii) with respect to a Standard Agreement between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively, the Non-Clearing Member or Registered Customer, respectively.

(3) For the purpose of the determination of the Difference Claim:

(a) The **“Single Transaction Amount”** shall be determined with respect to each Transaction under the relevant Standard Agreement terminated as of the Termination Time and shall equal its Liquidation Price as of the relevant DMP Valuation Date.

Where in line with the provisions of Number 7.5 below, a group of Transactions is liquidated in a way that Eurex Clearing AG cannot determine a Single Transaction Amount for each individual Transaction in that group of Transactions, Eurex Clearing AG may include the price received for the respective group of Transactions in the respective Difference Claim.

When making such calculation, (i) any amount due to be paid as a primary obligation under the relevant Transaction, but unpaid as at the Last Valuation Date, and (ii) the value of any assets due to be delivered as a primary obligation under the relevant Transaction, but not delivered, as at the Last Valuation Date (each an **“Unpaid Amount”**) shall be taken into account.

(b) **“Liquidation Price”** means:

(aa) with respect to a Transaction, the price determined during and as part of the default management process pursuant to Number 7.5, including relevant costs and expenses incurred by Eurex Clearing AG during the respective default management process, in particular relevant DM Hedging Transaction Costs; and

(bb) with respect to an expired Redelivery Claim, as applicable:

- (1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the relevant Margin Valuation Date; or
- (2) the price realised during the default management process in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash on the relevant Margin Valuation Date.

(c) **“Aggregate Value of the Redelivery Claims”** means, with respect to a party to the relevant Standard Agreement, the sum of the Liquidation Prices of the applicable number or amount of the relevant equivalent Eligible Margin Assets to which all of its expired Redelivery Claims against the other party as of the Termination Time relate. For any number or amount of remaining equivalent Eligible Margin Assets which were not realised by Eurex Clearing AG until the end of the Last Valuation Date, if any, an Exchange Price shall be determined which shall be added to the sum of the Liquidation Prices.

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(d) **“Exchange Price”** means, with respect to an expired Redelivery Claim, as applicable:

(aa) the amount in the Termination Currency of any equivalent Eligible Margin Asset in form of cash on the Last Valuation Date; or

(bb) the market or exchange price in the Termination Currency of any equivalent Eligible Margin Assets other than cash on the Last Valuation Date.

7.3.3 If the **“Exchange Price Approach”** is the applicable Difference Claim Valuation Method, the value of the Difference Claim shall be determined in accordance with this Number 7.3.3 by the party specified in Paragraph (1) on the Termination Date.

(1) The party entitled to value the Difference Claim is, (i) with respect to a Standard Agreement between Eurex Clearing AG and the Clearing Member, Eurex Clearing AG and, (ii) with respect to a Standard Agreement between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively, the Non-Clearing Member or Registered Customer, respectively.

(2) For the purpose of the determination of the Difference Claim:

(a) The **“Single Transaction Amount”** shall be determined with respect to each Transaction under the relevant Standard Agreement terminated as of the Termination Time and shall equal its Exchange Price as of the Termination Date.

If a price has been agreed for the Transaction which is due but has neither been paid nor been taken into account yet in the Exchange Price, the Single Transaction Amount shall be adjusted to reflect such agreed price.

When making such calculation, (i) any amount due to be paid as a primary obligation under the relevant Transaction, but unpaid as at the Opening Time (as defined in Part 3 Subpart A Number 11.1.4 and Number 11.2.3, as the case may be), and (ii) the value of any assets due to be delivered as a primary obligation under the relevant Transaction, but not delivered, as at the Opening Time (each an **“Unpaid Amount”**) shall be taken into account.

(b) **“Exchange Price”** means, in case of a Termination Date with respect to a Clearing Member:

(aa) with respect to a Transaction: the settlement price as of the Termination Date published by Eurex Clearing AG; and

(bb) with respect to an expired Redelivery Claim, as applicable:

(1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the Termination Date; or

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(2) the market or exchange price in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash as of the Termination Date.

(c) “**Aggregate Value of the Redelivery Claims**” means, with respect to a party to the relevant Standard Agreement, the sum of the Exchange Prices of the applicable number or amount of the relevant equivalent Eligible Margin Assets to which all of its expired Redelivery Claims against the other party as of the Termination Time relate.

7.3.4 Upon the occurrence of a Termination with respect to a Clearing Member, all Clearing Agreements to which such Clearing Member is a party shall terminate upon all Difference Claims have been paid in full in cash or otherwise been satisfied in full as determined by Eurex Clearing AG (irrespective whether or not this results from an enforcement of Margin or a use of Contributions to the Clearing Funds) and upon the effective release of the Contributions to the Clearing Funds in accordance with the Clearing Conditions.

#### 7.4 Notification of the Markets

Eurex Clearing AG may inform the Management Board of the respective Markets of the occurrence of a Termination Event and may request such Management Board to exclude the affected Clearing Member, as well as its Non-Clearing Members and, if such Clearing Member acts as Clearing Agent, its Basic Clearing Members, from trading on the respective Market or to restrict the trading of certain Transaction Types or products (the clearing of which is carried out by Eurex Clearing AG) for the duration of the applicable Grace Period, if any, in accordance with the rules and regulations of such Market.

#### 7.5 Default Management Process

Eurex Clearing AG maintains a default management process to reduce the risks following a default by a Clearing Member or a Basic Clearing Member and the occurrence of in case of a (i) Clearing Member, a Termination Event or Insolvency Termination Event (as defined in Number 7.2.1 and 7.2.2) resulting in a Termination and or (ii) a Basic Clearing Member, a Basic Clearing Member Insolvency Termination Event or Basic Clearing Member Termination Event (as defined in Part 6 Number 10.2 and 10.1) resulting in a Basic Clearing Member Termination (as defined in Part 6 Number 10.4), and, in each case, the calculation of one or more Difference Claims, as described in these Clearing Conditions. Eurex Clearing AG establishes default management committees (each a “**DMC**”) for the purpose of advising and assisting the Executive Board of Eurex Clearing AG with respect to the consequences of a Termination or Basic Clearing Member Termination and all other matters specified in the Clearing Conditions, as further set out in this Number 7.5.

Where in this Number 7.5 reference is made to “**Terminated Transactions**”, such reference shall refer to (i) all terminated Transactions of the Affected Clearing Member (as defined in Number 6.2) in accordance with Number 8.4.1 of the Elementary Clearing Model Provisions, Subpart A Number 7.3.1 of the Individual Clearing Model Provisions (excluding Transactions which have been subject to a re-establishment pursuant to

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Subpart A Number 11 of the Individual Clearing Model Provisions), ~~and~~ Number 8.3.1 of the Net Omnibus Clearing Model Provisions ~~or~~, (ii) if the Affected Clearing Member is a FCM Clearing Member, all terminated Transactions of its FCM Client(s) pursuant to Numbers 8.6 or 9.6 of the U.S. Clearing Model Provisions or (iii) following a Basic Clearing Member Termination, all terminated Basic Clearing Member Transactions of the Basic Clearing Member(s) pursuant to Number 10.5 of the Basic Clearing Member Provisions for which the Affected Clearing Member acts as Clearing Agent.

Each Clearing Member shall appoint one of its employees as DMP-coordinator and as DMP-deputy, respectively, as a central contact for Eurex Clearing AG for all general matters relating to the default management process and register these vis-à-vis Eurex Clearing AG.

#### 7.5.1 Default Management Committees

- (1) A DMC will be established in accordance with the DMC Rules (as defined in Paragraph (4)) with respect to one or more groups of abstract Transactions cleared pursuant to the Clearing Conditions and relating to one or more Transaction Types or parts thereof, as determined and published in accordance with Number 16.2 by Eurex Clearing AG (each a "**Liquidation Group**"). Each DMC constitutes an internal advisory committee of Eurex Clearing AG (but not an independent legal person) and its members are subject to Eurex Clearing AG's direction rights.
- (2) Eurex Clearing AG has the right to convene a meeting of one or more DMCs upon the occurrence of a Termination Event ~~or~~ Insolvency Termination Event or Basic Clearing Member Termination, for Default Simulations (as defined in Number 7.5.5 below) or to obtain advice on any DMC Matters as deemed appropriate by Eurex Clearing AG. Eurex Clearing AG may convene a DMC with respect to the following matters (the "**DMC Matters**"):
  - (a) the establishment of DM Hedging Transactions pursuant to (and as defined under) Number 7.5.2, including the selection of the relevant counterparties and the relevant hedging terms and strategy, and the assistance in the execution of DM Hedging Transactions;
  - (b) the holding of one or more DM Auctions pursuant to (and as defined under) Number 7.5.3, including the timing, the procedures and the terms and conditions of a DM Auction;
  - (c) the establishment of Transactions by way of independent trades pursuant to Number 7.5.3; and
  - (d) any further matters relating to the consequences and risks of a Termination Event ~~or~~ Insolvency Termination Event or Basic Clearing Member Termination.

If there is at least one OTC Derivative Transaction (as defined in Chapter VIII Part 1) among the Terminated Transactions, Eurex Clearing AG shall, subject to Number 2.4.4 Paragraph (6) of the DMC Rules in any event convene a DMC

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Meeting for such DMC that has been established with respect to the Liquidation Group to which such OTC Derivative Transaction belongs.

- (3) Each DMC will advise and make proposals to Eurex Clearing AG with respect to the relevant DMC Matters. Eurex Clearing AG shall at all times maintain the ultimate decision on whether and under what terms and conditions the DMC proposals are implemented or not. Eurex Clearing AG will inform the BaFin (as defined in Number 2.1.2) if the Executive Board of Eurex Clearing AG decides not to follow the advice of a DMC.
- (4) Each DMC is governed by the rules set forth in the default management committees rules (the “**DMC Rules**”), as published by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com). The DMC Rules form part of these Clearing Conditions.
- (5) The members of a DMC (the “**DMC Members**”) are appointed in accordance with the DMC Rules. Unless otherwise provided for in the DMC Rules, DMC Members are employees of a Clearing Member but act under a mandate (*Auftrag*) of Eurex Clearing AG during the meetings of the relevant DMC.
- (6) Whenever a DMC Member assists Eurex Clearing AG in the execution of DM Hedging Transactions or other legal declarations, such DMC Member must act as messenger (*Bote*) and shall not have the rights of, or be deemed to be, an attorney in fact (*Stellvertreter*) of Eurex Clearing AG.
- (7) Each Clearing Member is obliged to sign an agreement for the participation in a Default Management Committee in form and substance satisfactory to Eurex Clearing AG within one month of its selection as Participating DMC Member Institution (as defined in the DMC Rules) by Eurex Clearing AG in accordance with the DMC Rules.
- (8) Eurex Clearing AG will inform each Clearing Member selected as Participating DMC Member Institution at least three months prior to the establishment of the relevant DMC. Participating DMC Member Institutions shall comply with the duties and responsibilities set out in Number 7.5.1 and the DMC Rules.

## 7.5.2 **DM Hedging Transactions**

At any time after the Termination Time (with respect to the relevant Affected Clearing Member and/or, if the Affected Clearing Member is a FCM Clearing Member, with respect to the FCM Client Standard Agreement(s) of its FCM Client(s)), or the Basic Clearing Member Termination Time, Eurex Clearing AG may in its discretion enter into transactions with respect to claims or obligations under its Transactions in order to hedge the effects of the Terminated Transactions (the “**DM Hedging Transactions**” and each a “**DM Hedging Transaction**”). DM Hedging Transactions may be of any Transaction Type. The costs and expenses incurred in connection with the entering into DM Hedging Transactions are herein referred to as “**DM Hedging Transaction Costs**”. The foregoing does not restrict the right of Eurex Clearing AG to enter into hedging or replacement transactions in the normal course of its business.

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### 7.5.3 Establishment of Transactions by way of independent trades or by conducting DM Auctions

- (1) At any time after the Termination Time (with respect to the relevant Affected Clearing Member) or the Basic Clearing Member Termination Time, Eurex Clearing AG may in its discretion
- (a) enter into independent trades to establish new Transactions equivalent to Terminated Transactions and/or reciprocal to DM Hedging Transactions, as deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s), and/or
  - (b) if it is deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s), conduct one or more auctions with respect to one or several Liquidation Groups (in whole or in part the **"DM Auctions"** or each a **"DM Auction"**) to establish new Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent to Terminated Transactions of the Affected Clearing Member (or, if the Affected Clearing Member is a FCM Clearing Member, the Terminated Transactions of the relevant FCM Client) or the relevant Basic Clearing Member and/or reciprocal to DM Hedging Transactions (together the **"DM Auction Transactions"** and each a **"DM Auction Transaction"**).

Prior to a DM Auction, Eurex Clearing AG shall enter into independent trades pursuant to paragraph (a) against the recommendation of the relevant DMC(s) only if the entering into such trades does not result in a realisation of Contributions of the Non-Affected Clearing Members in accordance with Chapter I Part 1 Number 6.2.1 and if the terms and conditions of the resulting Transactions are fixed prior to entering into the respective trades. If Eurex Clearing AG does not enter into independent trades pursuant to Paragraph (a) with respect to particular Terminated Transactions, one or more DM Auctions shall be held with respect to such Terminated Transactions.

- (2) DM Auctions are governed by the rules set forth in the default management auctions rules, as published by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) (the **"DM Auction Rules"**). The DM Auctions Rules form part of these Clearing Conditions.
- (3) Unless the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions (as defined in Chapter VIII Part 2), DM Auctions will be conducted with regard to one unit or several identically composed units of DM Auction Transactions of the relevant applicable Liquidation Group (or, in consultation with the relevant DMC(s), parts thereof), as specified by Eurex Clearing AG for each DM Auction after consultation with the relevant DMC(s) (the **"Auction Units"** or each an **"Auction Unit"**). If the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, DM Auctions will be conducted with regard to one Auction Unit per currency in which the relevant DM Auction Transactions are

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denominated. Each Auction Unit will generally consist of all DM Auction Transactions denominated in the same currency.

- (4) ~~Each Clearing Member~~ Member (i) holding a Clearing License with respect to all DM Auction Transactions comprised in the relevant Auction Unit, (ii) having the necessary account structure to settle all DM Auction Transactions comprised in the relevant Auction Unit, (iii) with respect to which within 3 months (x) prior to the relevant Termination with respect to the relevant Affected Clearing Member at least one Transaction (and/or, if the Affected Clearing Member is a FCM Clearing Member, a FCM Client Transaction of any of its FCM Clients) or (y) prior to the relevant Basic Clearing Member Termination at least one Basic Clearing Member Transaction of the Basic Clearing Member of such Clearing Member (acting as Clearing Agent) in respect of which the Basic Clearing Member Termination has occurred, in each case with respect to each Relevant Liquidation Group has been booked on a respective account, and (iv) with respect to which no Termination Event or Insolvency Termination Event has occurred and is continuing (each such Clearing Member, a **"Mandatory Participant"**) shall be obliged to participate in DM Auctions in accordance with the DM Auction Rules. Subject to certain restrictions, ~~as set forth in the DM Auction Rules, (a) Non-Clearing Members, Registered Customers and other customers of Clearing Members may participate in DM Auctions in accordance with the DM Auction Rules through their Clearing Members and (b) Basic Clearing Members may participate in DM Auctions (including through their Clearing Agents acting on their behalf) upon invitation by Eurex Clearing AG. The participation of a Basic Clearing Member in any DM Auction shall not affect the obligations of its Clearing Agent as a Mandatory Participant.~~
- (5) Unless the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, each Mandatory Participant is obliged to bid in accordance with Paragraph (7) for such minimum number of Auction Units specified by Eurex Clearing AG for such Mandatory Participant in accordance with the DM Auction Rules during a DM Auction (each a **"Mandatory Bid"**). Each Mandatory Participant that does not submit a valid Mandatory Bid for an Auction Unit in accordance with the DM Auction Rules during such DM Auction (each such Mandatory Participant, collectively in respect of all its capacities as a Clearing Member and a Clearing Agent, as applicable, a "Non-Bidding Participant") shall be subject to the following single contractual penalty which shall be paid in accordance with Number 1.4.1:
- (a) the Non-Bidding Participant shall, subject to a Residual Settlement (as defined below), pay to Eurex Clearing AG, in accordance with instructions received from Eurex Clearing AG, an amount which shall be calculated by Eurex Clearing AG as follows: the fraction of (i) the number of the Auction Units for which the Non-Bidding Participant has not submitted a valid Mandatory Bid in such DM Auction (numerator) and (ii) the total number of Auction Units offered in such DM Auction (denominator), such fraction, multiplied by 100 and further multiplied by EUR 500,000 (or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG), but subject to a maximum aggregate

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amount of EUR 5,000,000 (or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG) per DM Auction; and

- (b) if, following a Realisation Event ~~with respect to~~ in relation to the relevant Affected Clearing Member (but not with respect to any other Realisation Event) the Contributions of the Non-Affected Clearing Members to the Clearing Fund are realised, the Contributions of the Non-Bidding Participant (in respect of all its capacities as a Clearing Member and a Clearing Agent, as applicable) shall in such DM Auction, in accordance with Number 6.2.1, be realised prior to the Contributions of the other Non-Affected Clearing Members to the Clearing Fund; and
- (c) if during the DM Auction only some (but not all) Auction Units have been successfully auctioned in accordance with the DM Auction Rules (each Auction Unit which has not been so auctioned a **“Residual Auction Unit”**), the Non-Bidding Participant shall (i) pay to Eurex Clearing AG on the relevant due dates of the relevant DM Auction Transactions the amounts (subject to a maximum aggregate amount of EUR 1,000,000,000 (or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG) per DM Auction) equal to the Pro Rata Share (as defined below) of the exposure of Eurex Clearing AG as at the relevant due date to such Residual Auction Units (for which the Non-Bidding Participant failed to provide a valid Mandatory Bid) and (ii) provide collateral to Eurex Clearing AG for its obligations arising under (i) above, where Number 3 shall apply *mutatis mutandis* to the collateral.

If paragraph (c) applies, the Non-Bidding Participant shall have no obligation pursuant to paragraph (a).

The **“Pro Rata Share”** of a Non-Bidding Participant shall be the ratio of (A) the Residual Auction Units for which the Non-Bidding Participant failed to provide a valid Mandatory Bid in the relevant DM Auction and (B) the total number of valid Mandatory Bids which all Non-Bidding Participants failed to provide in the relevant DM Auction.

- (aa) Eurex Clearing AG shall offer to each Non-Bidding Participant to enter with it into its respective Pro Rata Share of the DM Auction Transactions of the relevant Residual Auction Units without undue delay after the DM Auction, at its Pro Rata Share of the highest Auction Price (as defined in the DM Auction Rules) for any Auction Unit that was accepted by Eurex Clearing AG for an Auction Unit in the respective DM Auction (the **“Residual Auction Unit Price”**).
- (bb) Thereafter Eurex Clearing AG may offer any Residual Auction Units outstanding at the time of such offer to each Non-Bidding Participant at a price determined by Eurex Clearing AG on the basis of the then prevailing market conditions. If a Non-Bidding Participant accepts any offer under (aa) or (bb) (each a **“Residual Settlement”**), no contractual penalty pursuant to paragraph (a) and (c) above shall be payable by such Non-



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Bidding Participant, provided that any contractual penalty pursuant to paragraph (a) and (c) above which has already been received by Eurex Clearing AG from such Non-Bidding Participant shall not be re-paid by Eurex Clearing AG. If the Residual Settlement results in a split of the relevant DM Auction Transactions in accordance with the relevant Pro Rata Share of any Non-Bidding Participant, Eurex Clearing AG shall, in its reasonable discretion, be entitled to allocate rumps to Non-Bidding Participants as part of a Residual Settlement.

Any amount received by Eurex Clearing AG under paragraph (a) above shall be added to, and forthwith be part of, the Dedicated Amounts of Eurex Clearing AG in accordance with Number 6.1.3.

Each Non-Bidding Participant is required to take all such steps, to make all further statements and to comply with all such formalities as may be reasonably required or desirable to perfect or more fully evidence the Residual Settlement made in accordance with this Paragraph (5).

- (6) If the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, the following shall apply:

Each Mandatory Participant is obliged to submit one Mandatory Bid for the respective Auction Unit with respect to all currencies such mandatory Participant holds a Clearing Licence for, subject to the DM Auction Rules.

Eurex Clearing AG will classify the Mandatory Bids into one of the following categories:

- (a) The Mandatory Bid qualifies as **"Sufficient Bid"**, if the difference between such Mandatory Bid and the winning Bid with respect to the relevant Auction Unit (the **"Sufficient Bid Threshold"**) is equal to or smaller than the product of (i) 0.5 and (ii) the Initial Margin requirement for all OTC Interest Rate Derivative Transactions in the relevant Auction Unit (the **"Auction Unit Margin Amount"**)
- (b) The Mandatory Bid qualifies as **"Insufficient Bid"**, if the difference between such Mandatory Bid and the winning Bid with respect to the relevant Auction Unit (the **"Insufficient Bid Threshold"**) is larger than the product of (i) 1.5 and (ii) the Auction Unit Margin Amount.
- (c) The Mandatory Bid qualifies as **"Medium Bid"**, if the difference between such Mandatory Bid and the winning Bid with respect to the relevant Auction Unit is (i) larger than the Sufficient Bid Threshold and (ii) ~~equal~~ equal to or smaller than the Insufficient Bid Threshold.

Each Mandatory Participant that does not submit a Sufficient Bid for the relevant Auction Unit in accordance with the DM Auction Rules during the relevant DM Auction shall be subject to the following contractual penalty:

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- (i) If the Mandatory Participant submits an Insufficient Bid and if, following a Realisation Event ~~with respect~~ in relation to the relevant Affected Clearing Member (but not with respect to any other Realisation Event), the Contributions of the Non-Affected Clearing Members to the Clearing Fund are realised, the Contributions of the Mandatory Participants (in respect of all their capacities as Clearing Members and Clearing Agents, as applicable) submitting an Insufficient Bid shall in such DM Auction, in accordance with Number 6.2.1, be realised prior to the Contributions of the other Non-Affected Clearing Members.
- (ii) If the Mandatory Participant submits a Medium Bid and if, following a Realisation Event with respect to the relevant Affected Clearing Member (but not with respect to any other Realisation Event), the Contributions of the Non-Affected Clearing Members to the Clearing Fund are realised, the Contributions of the Mandatory Participants (in respect of all their capacities as Clearing Members and Clearing Agents, as applicable) submitting a Medium Bid shall in such DM Auction, in accordance with Number 6.2.1, be realised prior to the Contributions of the other Non-Affected Clearing Members, but simultaneously to the Contributions of those Mandatory Participants, who have submitted Insufficient Bids in such DM Auction, up to an amount which shall be calculated by Eurex Clearing AG as follows: the difference between (i) the winning Bid minus the product of 0.5 and the Auction Unit Margin Amount and (ii) the respective Medium Bid, such difference divided by the Auction Unit Margin Amount and subsequently multiplied by the relevant Mandatory Participant's Contributions. Any remainder of the Contributions of the Mandatory Participant submitting a Medium Bid shall be considered as Contributions of a Non-Affected Clearing Member.

If a Mandatory Participant does not submit a Mandatory Bid for any relevant Auction Unit in accordance with the DM Auction Rules during such DM Auction (an "**IRS Non-Bidding Participant**"), the IRS-Non-Bidding Participant shall pay to Eurex Clearing AG in accordance with Number 1.4.1, an amount which shall be calculated by Eurex Clearing AG as follows: the fraction of (i) the IRS-Non-Bidding Participant's Contributions (in respect of all its capacities as a Clearing Member and a Clearing Agent, as applicable) with respect to the Relevant Liquidation Group and in the relevant currency (numerator) and (ii) the aggregate sum of all ~~Clearing Members'~~ Contributions with respect to the Relevant Liquidation Group and in the relevant currency (denominator), such fraction, multiplied by 100 and further multiplied by EUR 500,000 (or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG), but subject to a maximum aggregate amount of EUR 5,000,000 (or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG) per DM Auction. If, upon the occurrence of a Realisation Event, any Contributions of the IRS Non-Bidding Participant are realised, the amount calculated in accordance with the preceding sentence shall be reduced by the sum of the realised Contributions (but shall in no case be a negative amount). The provisions under Number 6.2.1 (5) and (6) shall apply accordingly with respect to the Contributions to the Clearing Fund of the relevant IRS Non-Bidding Participant. Any amount received by Eurex Clearing AG from the relevant IRS Non-

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Bidding Participant shall be added to, and forthwith be part of, the Dedicated Amount of Eurex Clearing AG in accordance with Number 6.1.3.

The provisions under Number 7.5.3 (6) (i) and (ii) above shall apply accordingly in relation to the realisation of the Further Contributions of the Mandatory Participant submitting an Insufficient Bid or a Medium Bid. The provisions under Number 6.2.1 (9) and (10) shall apply accordingly with respect to the IRS Non-Bidding Participants.

- (7) If the applicable Auction Format (as defined in the DM Auction Rules) is **“Multi Unit – Pay as you bid”** or **“Single Unit – Pay as you bid”** in accordance with the DM Auction Rules, Eurex Clearing AG shall, with respect to any particular Auction Unit, be obliged to accept the highest valid Bid.
- (8) Unless the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, a (Mandatory) Bid is only valid, if such Bid is economically reasonable (taking into account the current market conditions on the Acceptance Date), irrespective of whether Bids were submitted for all Auction Units of the respective DM Auction.

A Bid is generally economically reasonable if the relevant bidder participating in a DM Auction provides, in respect of the relevant Auction Unit, two bids on the following basis: (a) one bid for an Auction Unit based on the portfolio comprising the DM Auction Transactions and (b) one bid for an auction unit based on a portfolio comprising transactions opposite to the DM Auction Transactions, and (c) if the spread between the two Bids for the respective Auction Unit does not exceed the Maximum Spread Value. The **“Maximum Spread Value”** will be determined by Eurex Clearing AG in the Specific Terms either (i) based on the recommendation of the relevant DMC, or (ii), in case Eurex Clearing AG does not follow such recommendation, by calculating the average of all received Maximum Spread Values recommended by Mandatory Participants (Eurex Clearing AG will request such recommendations from all Mandatory Participants).

Eurex Clearing AG will not disclose to the bidders which of the two portfolios comprises the DM Auction Transactions and which comprises the opposite transactions. The binding Bid only relates to the Auction Unit.

Bids which are not valid are deemed not to have been provided and will not be accepted by Eurex Clearing AG.

If the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, each (Mandatory) Bid submitted in accordance with the DM Auction Rules is generally valid.

- (9) Before Eurex Clearing AG may terminate any Transaction in accordance with No. 7.5.4, Eurex Clearing AG shall ask all Mandatory Participants to provide offers for some or all DM Auction Transactions comprised in the Auction Units.

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## 7.5.4 Cash Settlement of a Liquidation Group

### (1) Cash Settlement of Liquidation Group Transactions

If at any time following the occurrence of a Realisation Event Eurex Clearing AG determines a Liquidation Group Deficiency with respect to the Relevant Liquidation Group, Eurex Clearing AG may terminate and settle in cash all (but not only some) Transactions of such Relevant Liquidation Group (each a **“Liquidation Group Transaction”**) with all Non-Affected Clearing Members ~~and/or~~ FCM Clients ~~and/or~~ Basic Clearing Members by giving a notice to such Clearing Members (and, as relevant, such FCM Clients or Basic Clearing Members, respectively) specifying the date and time on which the termination shall become effective (**“Liquidation Group Cash Settlement Date”**) and **“Liquidation Group Cash Settlement Time”**). At the same time, Eurex Clearing AG will suspend the Clearing with respect to all Transaction Types which are comprised in such Relevant Liquidation Group and will inform the respective Markets accordingly.

A **“Liquidation Group Deficiency”** shall occur with respect to a Relevant Liquidation Group, if Eurex Clearing AG determines on the basis of its valuation models for the Terminated Transactions falling within the Relevant Liquidation Group that all Contributions and Further Contributions to the Clearing Fund ~~of Clearing Members~~ would not be sufficient to settle all Clearing Fund Secured Claims relating to such Relevant Liquidation Group as of the time of determination by Eurex Clearing AG.

### (2) Consequences of Cash Settlement of a Liquidation Group

If a Liquidation Group Cash Settlement Time has occurred with respect to the Relevant Liquidation Group, the following provisions shall apply:

All current and future primary obligations (including payment and delivery obligations) of each party under the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member ~~or, the FCM Client or the Basic Clearing Member~~, as relevant, arising from any Liquidation Group Transactions and all Redelivery Claims relating to the Variation Margin with respect to such Liquidation Group Transactions shall expire (*auflösende Bedingung*) as of the Liquidation Group Cash Settlement Time and shall no longer be required to be performed by the relevant obligor. Further, all due but unsatisfied obligations to deliver Variation Margin under the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member ~~or, the FCM Client or the Basic Clearing Member~~, as relevant, with respect to Liquidation Group Transactions shall expire (*auflösende Bedingung*) as of the Liquidation Group Cash Settlement Time. The expiration affects all claims arising from the Liquidation Group Transactions independently of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Liquidation Group Difference Claim (as defined in Number 7.5.4 paragraph (3) below).

### (3) Liquidation Group Difference Claim

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With regard to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member ~~or, the FCM Client or the Basic Clearing Member~~, as relevant, the difference claim related to the Relevant Liquidation Group which was created by the signing of the relevant Clearing Agreement shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2) from one party to the relevant Standard Agreement to the respective other party as of the end of the Liquidation Group Cash Settlement Date (each such claim shall be a **“Liquidation Group Difference Claim”**).

The Liquidation Group Difference Claim shall be determined by Eurex Clearing AG on the Liquidation Group Cash Settlement Date for each Standard Agreement by way of combining (*saldieren*) the Single Valuation Prices of all terminated Liquidation Group Transactions under such Standard Agreement and the Aggregate Value of the Redelivery Claims relating to the Variation Margin for all such terminated Liquidation Group Transactions under such Standard Agreement. **“Single Valuation Price”** shall mean with respect to the relevant Liquidation Group Transaction the last available settlement price as determined by Eurex Clearing AG.

The final amount of the Liquidation Group Difference Claim resulting from such combination shall (i), if it is a positive figure for Eurex Clearing AG, be owed to it by the relevant Clearing Member ~~or, the FCM Client or the Basic Clearing Member~~, as relevant, or (ii), if it is a negative figure for Eurex Clearing AG, be owed by it to the Clearing Member ~~or, the FCM Client or the Basic Clearing Member~~, as relevant.

Eurex Clearing AG shall notify the value of the Liquidation Group Difference Claim determined by it to the Clearing Member, ~~to the relevant FCM Client and or the relevant Basic Clearing Member (and its Clearing Agent)~~ and, where applicable, to the Clearing Member's ICM Clients as soon as reasonably practicable, together with reasonable detail regarding the data and information forming the basis of the determination.

#### **(4) Payment of Liquidation Group Difference Claim**

Such party to the relevant Standard Agreement which is the obligor of the Liquidation Group Difference Claim shall be obliged to pay the determined amount to the other party as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount.

#### **7.5.5 Default Simulations**

Eurex Clearing AG will arrange for at least one and no more than three default simulations per year to ensure the best practicable level of preparation for any default of a Clearing Member (the **“Default Simulation”**) and the Clearing Members shall support Eurex Clearing AG in carrying out any such Default Simulation.

Upon request of Eurex Clearing AG, each Clearing Member shall in the course of such Default Simulations act as potential counterparty for a simulated DM Hedging Transaction

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and shall support any simulated DM Auction, as further described in Number 7.5.3, with respect to the Liquidation Groups that such Clearing Member is active in.

## 8 Change of Clearing Member and Clearing Model Change

This Number 8 does not apply in respect of any Basic Clearing Member Transaction and any Basic Clearing Member Standard Agreement.

### 8.1 Change of Clearing Member

A Non-Clearing Member or Registered Customer may effect a change of its Clearing Member ("**Current Clearing Member**") with respect to one or more Transaction Types as specified in an agreement to be concluded between itself, a new Clearing Member ("**New Clearing Member**") and Eurex Clearing AG in the form published by Eurex Clearing AG on its websites ([www.eurexclearing.com](http://www.eurexclearing.com)) (the "**Clearer Change Agreement**"), subject to the prior conclusion of a Clearing Agreement between itself, Eurex Clearing AG and the New Clearing Member. Whenever the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer enter into such Clearer Change Agreement, the following conditions under this Number 8.1 shall apply.

#### 8.1.1 Conditions of a Change of a Clearing Member

By entering into a Clearer Change Agreement and as per the end of the Business Day as specified therein (in this Number 8.1 and the Clearer Change Agreement the "**Change Date**"), the Non-Clearing Member/Registered Customer changes the Current Clearing Member with the New Clearing Member with effect as of the beginning of the Business Day immediately following the Change Date (in this Number 8.1 and the Clearer Change Agreement the "**Transfer Effective Date**") and the Current Clearing Member transfers to the New Clearing Member all its Transactions with Eurex Clearing AG that are NCM-Related Transactions, RC-Related Transactions or Covered Transactions, as applicable, of the Transactions Types as specified in the Clearer Change Agreement, in each case under their relevant Standard Agreement (in this Number 8.1 "**Respective Transactions**"), as well as the relevant (i) corresponding Transactions, (ii) Corresponding Covered Transactions or (iii) Client Clearing Transactions, as applicable, (in this Number 8.1 "**Respective Corresponding Transactions**"), together with all (i) Redelivery Claims or (ii) Relevant Redelivery Claims that relate to the Eligible Margin Assets specified by the Non-Clearing Member/Registered Customer in a notice to Eurex Clearing AG with a copy to the other parties of the Clearer Change Agreement no later than on the Change Date (in this Number 8.1 "**Respective Redelivery Claims**"). However, all claims resulting from such Respective Transactions or such Respective Corresponding Transactions, respectively, and such Respective Redelivery Claims which, in each case, are due and payable but not satisfied between Eurex Clearing AG and the Current Clearing Member or between the Current Clearing Member and the Non-Clearing Member/Registered Customer, respectively, until and including the Transfer Effective Date, shall be fulfilled under the terms of the relevant Clearing Agreement or, as applicable, the Client Clearing Agreement relating to the Clearing Agreement and shall not be transferred or amended hereunder (together with transactions of the Current Clearing Member with Eurex Clearing AG that are NCM-Related Transactions, RC-

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Related Transactions or Covered Transactions, respectively, of the Transactions Types (i) Chapter III Transactions at Eurex Bonds GmbH (Eurex Bonds) and (ii) Chapter V Part 2 Transactions Concluded at the Frankfurter Wertpapierbörse the "**Excluded Claims**" for the purpose of Number 8.1).

8.1.2 For such purpose, the Current Clearing Member and the New Clearing Member agree to transfer by way of novation (*Novation*), except for the Excluded Claims, from the Current Clearing Member to the New Clearing Member as of the Transfer Effective Date

- (1) all existing Respective Transactions between Eurex Clearing AG and the Current Clearing Member,
- (2) the Current Clearing Member's claims and obligations vis-à-vis Eurex Clearing AG with respect to the Respective Redelivery Claims,
- (3) the Respective Corresponding Transactions (with respect to the Respective Transactions pursuant to Paragraph (1) above), and
- (4) the Current Clearing Member's claims and obligations vis-à-vis the Non-Clearing Member/Registered Customer with respect to the Respective Redelivery Claims,

(the rights, claims and obligations pursuant to Paragraph (1) and (2) together the "**Transferred Assets**" and the rights, claims and obligations pursuant to Paragraph (3) and (4) the "**Corresponding Transferred Assets**"). The Transactions resulting from the novation (*Novation*) shall not depend on the valid existence of the original Respective Transactions (*abstract novation*). Eurex Clearing AG consents to such transfers of the Transferred Assets. The Non-Clearing Member/Registered Customer acknowledges such transfers of the Transferred Assets.

8.1.3 As of the Transfer Effective Date,

- (1) (i) the Current Clearing Member and Eurex Clearing AG, as well as (ii) the Current Clearing Member and the Non-Clearing Member/Registered Customer, shall be released from their obligations to each other under the Respective Transactions, Respective Corresponding Transactions and Respective Redelivery Claims, respectively, (provided that any Excluded Claims shall continue to exist in accordance with the contractual provisions applicable to the Respective Transactions, Respective Corresponding Transactions or Respective Redelivery Claims, respectively, under the relevant Clearing Agreement or, if applicable, Client Clearing Agreement, respectively);
- (2) (i) Transactions and Redelivery Claims between the New Clearing Member and Eurex Clearing AG as well as Corresponding Transactions and Corresponding Redelivery Claims, (ii) Corresponding Covered Transactions and Corresponding Redelivery Claims or (iii) Client Clearing Transactions and Corresponding Redelivery Claims between the New Clearing Member and the Non-Clearing-Member/Registered Customer shall be established on terms identical to the Respective Transactions, Respective Corresponding Transactions and Respective Redelivery Claims, respectively;

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- (3) the Current Clearing Member will cease to have any other rights and claims against and obligations towards Eurex Clearing AG under or in connection with the Transferred Assets (except for the Excluded Claims which shall continue to exist under the contractual provisions applicable to the Respective Transactions under the relevant Clearing Agreement);
- (4) The Current Clearing Member may request the release of Eligible Margin Assets in accordance with Number 6.7 of the Elementary Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, if applicable;
- (5) Eurex Clearing AG shall make corresponding records in the accounts of the Current Clearing Member and the New Clearing Member,

provided that if the Respective Corresponding Transactions and Respective Redelivery Claims are subject to a Client Clearing Agreement, the release set out in Paragraph (1) (ii) shall only apply if such release is not provided for by the Client Clearing Agreement; and if the New Clearing Member and the Non-Clearing Member/Registered Customer have entered into a New Client Clearing Agreement, the establishment of corresponding Client Clearing Transactions set out in Paragraph (2) (ii) shall only apply if such establishment is not provided for by the New Client Clearing Agreement.

- 8.1.4 The Current Clearing Member agrees to carry out, upon Eurex Clearing AG's written instructions, and at the Non-Clearing Member/Registered Customer's costs all such further acts and make all further declarations which Eurex Clearing AG deems necessary to achieve a full transfer of the Transferred Assets and Corresponding Transferred Assets to the New Clearing Member in accordance with the Clearer Change Agreement. To the extent the Individual Clearing Model Provisions under Client Clearing Documentation (ICM-CCD, as defined in Chapter 1 Part 3 Number 2) apply and the Corresponding Transferred Assets are, or, following the novation, will be, governed by English law, each of the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer shall undertake all further actions required or expedient to give effect to Number 8.1.3.
- 8.1.5 The Current Clearing Member and the Non-Clearing Member/Registered Customer agree and represent by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that any of the existing Respective Transactions and Respective Corresponding Transactions that cannot be transferred to the New Clearing Member due to the New Clearing Member not being appropriately licensed pursuant to the Clearing Conditions shall be closed by inverse transactions or otherwise as of the Transfer Effective Date.
- 8.1.6 Following the transfer the New Clearing-Member will be exclusively responsible for compliance with the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority Handbook in relation to any Respective Transactions that are Net Omnibus Transactions.



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### **8.1.7 Change of the Clearing Model under a Clearer Change**

- (1) Eurex Clearing AG, the Transferree Clearing Member and the Non-Clearing Member/Registered Customer agree that, if necessary and except for the Excluded Claims, the Respective Transactions and the Respective Corresponding Transactions shall be amended so that these Transactions shall become subject to the relevant New Clearing Model Provisions (as selected with respect to the relevant Transaction Type(s) in the Clearer Change Agreement) with effect as of the Transfer Effective Date and (a) the Respective Transactions shall be included in the relevant Standard Agreement between Eurex Clearing AG and the New Clearing Member established by the relevant New Clearing Agreement and (b) the Respective Corresponding Transactions shall be included in the relevant Standard Agreement between the New Clearing Member and the Non-Clearing Member/Registered Customer established by the relevant New Clearing Agreement or, if the Individual Clearing Model Provisions under ICM-CCD apply, in the relevant New Client Clearing Agreement between the New Clearing Member and the Non-Clearing Member/Registered Customer relating to the Clearing Agreement, provided that if the New Clearing Member and the Non-Clearing Member/Registered Customer have entered into a New Client Clearing Agreement, the inclusion of the Respective Corresponding Transactions in the New Client Clearing Agreement shall only occur pursuant to this Number 8.1.7 (1) if such effect is not provided for by the New Client Clearing Agreement.
- (2) To the extent the Individual Clearing Model Provisions under ICM-CCD apply and the Respective Corresponding Transactions are, or, following the novation, will be, governed by English law, each of the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer shall undertake all further actions required or expedient to give effect to the amendment of the Respective Corresponding Transactions under Number 8.1.7 (1).

### **8.1.8 Margin, Redelivery Claims**

- (1) If the relevant New Clearing Agreement (to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Elementary Clearing Model Provisions, the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Elementary Omnibus Margin and the Elementary Omnibus Variation Margin in accordance with the Elementary Clearing Model Provisions immediately following the amendments pursuant to Number 8.1.7.
- (2) Subject to Paragraph (4) below, if the relevant New Clearing Agreement (as defined in the Clearer Change Agreement and to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.1.7
  - a) the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG, and

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- b) the Non-Clearing Member/Registered Customer shall be obliged to provide cover for the relevant Respective Corresponding Transactions to the New Clearing Member, subject, if the Individual Clearing Model Provisions under ICM-CCD apply, to the terms of the New Client Clearing Agreement relating to the New Clearing Agreement

in respect of the Segregated Margin and the Segregated Variation Margin or, as applicable, Credit Support Margin or Credit Support Variation Margin in accordance with the Individual Clearing Model Provisions.

- (3) If the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Individual Clearing Model Provisions, immediately following the Transfer Effective Date the Current Clearing Member is entitled to assert any Redelivery Claims (that are not subject to the transfer by novation set out in the Clearer Change Agreement) in respect of the Segregated Margin and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.
- (4) If and to the extent that either the Current Clearing Model Provisions are the Individual Clearing Model Provisions under ICM-CCD and the New Clearing Model Provisions are the Individual Clearing Model Provisions under Eurex Clearing AG Documentation or the Current Clearing Model Provisions are the Individual Clearing Model Provisions under Eurex Clearing AG and the New Clearing Model Provisions are the Individual Clearing Model Provisions und ICM-CCD,
- (a) the Segregated Margin and Segregated Variation Margin provided by the Clearing Member to Eurex Clearing AG pursuant to the relevant Clearing Agreement shall constitute Segregated Margin and Segregated Variation Margin, respectively, pursuant to the relevant New Clearing Agreement; and
- (b) if the Individual Clearing Model Provisions under ICM-CCD apply, Credit Support Margin and Credit Support Variation Margin shall be deemed to have been provided under the terms of the New Client Clearing Agreement relating to the New Clearing Agreement accordingly.
- (5) If the relevant New Clearing Agreement (to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Net Omnibus Clearing Model Provisions, the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Net Omnibus Margin and the Net Omnibus Variation Margin in accordance with the Net Omnibus Clearing Model Provisions immediately following the amendments pursuant to Number 8.1.7.

### **8.1.9 Representations**

- (1) Each of the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer, severally, makes the representations and warranties set out in Chapter 1 Part 1 Numbers 1.1.7 and 1.7, providing that each

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reference therein to a Clearing Agreement shall be construed as a reference to the Clearer Change Agreement.

- (2) If the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Elementary Clearing Model Provisions, the Current Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that at the time it enters into the Clearer Change Agreement no security interest has been granted over any of its Transferred Assets.
- (3) Moreover, if the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Individual Clearing Model Provisions, the Current Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that, as at the Transfer Effective Date, it has passed on all cash amounts, securities and any other assets received from the Non-Clearing Member/Registered Customer or, as the case may be, Eurex Clearing AG in accordance with Subpart A Number 9 of the Individual Clearing Model Provisions, and each of the Current Clearing Member and the Non-Clearing Member/Registered Customer, severally, but not jointly, represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that, as at the Transfer Effective Date, the Respective Transactions and the Respective Corresponding Transactions are, except as provided for in the Clearing Conditions, identical as to its terms and conditions and no security interest has been granted over any of its Transferred Assets or Corresponding Transferred Assets, as applicable.

#### **8.1.10 Indemnification by the Non-Clearing Member/Registered Customer**

Subject to any mandatory provision of German law, the Non-Clearing Member/Registered Customer shall indemnify Eurex Clearing AG against damages (*Schäden*) and losses, including properly incurred legal fees (including any applicable VAT) resulting from a non-payment or non-delivery by the Current Clearing Member with respect to any Excluded Claim, provided that no indemnification shall be made to the extent such damages or losses result from Eurex Clearing AG's gross negligence (*grobe Fahrlässigkeit*) or wilful misconduct (*Vorsatz*).

#### **8.1.11 Effectiveness of the Clearer Change**

- (1) A change of a Clearing Member shall only be effective,
  - (a) if Eurex Clearing AG has received all of the documents set out in Paragraph (2) below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing in this Number 8.1.11 shall prejudice Eurex Clearing AG's decision whether or not to do so), and

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- (b) subject to the condition subsequent that Eurex Clearing AG has not notified the relevant parties in writing, by e-mail or fax that the change of the Clearing Member shall not take place.
- (2) Copies of the following documents shall be provided to Eurex Clearing AG:
- (a) Clearer Change Agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website ([www.eurexclearing.com](http://www.eurexclearing.com));
- (b) Clearing Agreement with the New Clearing Member; and
- (c) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer,
- duly executed, in each case, by or on behalf of all parties required to execute it.

## 8.2 Clearing Model Change (while retaining the Current Clearing Member)

- (1) By entering into a clearing model change agreement in the form published by Eurex Clearing AG on its websites ([www.eurexclearing.com](http://www.eurexclearing.com)) ("**Clearing Model Change Agreement**") as per the end of the Business Day specified therein (in Number 8.2 and the Clearingmodel Cange Agreement the "**Change Date**") the Parties amend
- (a) All NCM-Related Transactions or RC-Related Transactions, respectively, of the Clearing Member with Eurex Clearing AG of the Transaction Type(s) as specified in the Clearing Model Change Agreement, in each case under their relevant Standard Agreement formed by the relevant Clearing Agreement as specified in the Clearing Model Change Agreement (or, in the case of an Elementary Omnibus Standard Agreement or a Net Omnibus Standard Agreement, that are part of such Elementary Omnibus Standard Agreement or such Net Omnibus Standard Agreement, respectively) (in Number 8.2 the "**Respective Transactions**") as well as the relevant corresponding Transactions or, if and to the extent that the Current Clearing Model Provisions include the ICM-CCD, the corresponding Client Clearing Transactions, of the Clearing Member with the Non-Clearing Member/Registered Customer which are currently subject to the relevant Current Clearing Model Provisions (in Number 8.2 the "**Respective Corresponding Transactions**") so that (a) the Respective Transactions shall become subject to the relevant Standard Agreement formed by the relevant New Clearing Agreement (provided that if, under the relevant New Clearing Agreement, the Clearing Member maintains more than one Elementary Omnibus Standard Agreement or more than one Net Omnibus Standard Agreement with Eurex Clearing AG, respectively, (A) all Respective Transactions pursuant to the Elementary Clearing Model Provisions shall become subject to the Elementary Omnibus Standard Agreement between the Clearing Member and Eurex Clearing AG that is identified in the systems of Eurex Clearing AG with the identifier as specified in the Clearing Model Change Agreement and (B) all Respective Transactions pursuant to the Net Omnibus

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Clearing Model Provisions shall become subject to the Net Omnibus Standard Agreement between the Clearing Member and Eurex Clearing AG that is identified in the systems of Eurex Clearing AG with the identifier as specified in the Clearing Model Change Agreement, respectively), and (b) the Respective Corresponding Transactions shall become subject to the relevant Standard Agreement between the Clearing Member and the Non-Clearing Member/Registered Customer formed by the relevant New Clearing Agreement or, if and to the extent that the ICM-CCD applies, to the relevant New Client Clearing Agreement (in each case, as selected with respect to the relevant Transaction Type(s) in the Clearing Model Change Agreement) and, in each case, to the relevant New Clearing Model Provisions; and

- (b) if and to the extent that either (A) the Current Clearing Model Provisions include the ICM-CCD and the New Clearing Model Provisions include the Eurex Clearing AG Documentation (ICM-ECD, as defined in Chapter 1 Part 3 Number 1) or (B) the Current Clearing Model Provisions include the ICM-ECD and the New Clearing Model Provisions include the ICM-CCD - all Redelivery Claims relating to the Segregated Margin or Segregated Variation Margin (in case of a ICM Clearing Agreement pursuant to the Individual Clearing Model Provisions) between Eurex Clearing AG and the Clearing Member under their relevant Standard Agreement formed by the relevant Clearing Agreement or, if the ICM-CCD applies, relevant ICM Clearing Agreement, as well as (a) all Redelivery Claims between the Clearing Member and the Non-Clearing Member/Registered Customer relating to the Segregated Margin or Segregated Variation Margin (in case of a Clearing Agreement pursuant to the Individual Clearing Model Provisions) under their relevant Standard Agreement formed by the relevant Clearing Agreement and (b), if and to the extent that the Current Clearing Model Provisions include the ICM-CCD, all claims between the Clearing Member and the Non-Clearing Member/Registered Customer for the return of Credit Support Margin or Credit Support Variation Margin arising under the Client Clearing Agreement relating to the (ICM) Clearing Agreement (in this Number 8.2 the "**Respective Redelivery Claims**") so that (x) the Respective Redelivery Claims between Eurex Clearing AG and the Clearing Member shall become subject to the relevant New (ICM) Clearing Agreement, respectively, and (y) the Respective Redelivery Claims between the Clearing Member and the Non-Clearing Member/Registered Customer shall become subject to the relevant New Clearing Agreement or, if and to the extent that the ICM-CCD applies, the relevant New Client Clearing Agreement,

in each case with effect as of the beginning of the Business Day immediately following the Change Date (in this Number 8.2 the "**Effective Date**").

- (2) Amendments pursuant to Paragraph (1) and the Clearing Model Change Agreement shall, however, not take place if Eurex Clearing AG notifies the relevant parties no later than on the Change Date in writing, by e-mail or fax thereof.

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- (3) (i) All Respective Redelivery Claims under the relevant Standard Agreement formed by the relevant Clearing Agreement and, if the ICM-CCD applies, all claims for the return of Credit Support Margin or Credit Support Variation Margin arising under the Client Clearing Agreement relating to the ICM Participation Agreement and (ii) all claims resulting from the Respective Transactions and the Respective Corresponding Transactions which, in each case (i) and (ii) are due and payable but not satisfied between Eurex Clearing AG and the Clearing Member or between the Clearing Member and the Non-Clearing Member/Registered Customer, respectively, until and including the Effective Date shall be fulfilled under the terms of the relevant Clearing Agreement or, as applicable, the Client Clearing Agreement relating to the ICM Clearing Agreement and shall not be amended (in this Number 8.2 the "**Excluded Claims**").
- (4) The Clearing Member will remain exclusively responsible for compliance with the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority Handbook in relation to any Net Omnibus Transactions following the amendments.

### 8.2.1 Margin, Redelivery Claims

- (1) If the relevant New Clearing Agreement is an agreement pursuant to the Elementary Clearing Model Provisions, the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Elementary Omnibus Margin and the Elementary Omnibus Variation Margin in accordance with the Elementary Clearing Model Provisions immediately following the amendments pursuant to Number 8.2.
- (2) Subject to Paragraph (5) below, if the relevant New (ICM) Clearing Agreement is an agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.2
- (a) the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG, and
- (b) the Non-Clearing Member/Registered Customer shall be obliged to provide cover for the relevant Respective Corresponding Transactions to the Clearing Member, subject, if the ICM-CCD applies, to the terms of the New Client Clearing Agreement relating to the New Clearing Agreement
- in respect of the Segregated Margin and the Segregated Variation Margin or, as applicable, Credit Support Margin or Credit Support Variation Margin in accordance with the Individual Clearing Model Provisions.
- (3) If the agreement under the Current Clearing Model Provisions is either a Clearing Agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.2 the Current Clearing Member is entitled to assert any Redelivery Claims (that are not subject to the amendments set out in the Clearing Model Change Agreement) in respect of the Segregated Margin

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and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.

- (4) If and to the extent that either (A) the Current Clearing Model Provisions are subject to the ICM-CCD and the New Clearing Model Provisions are subject to the ICM-ECD or (B) the Current Clearing Model Provisions are subject to the ICM-ECD and the New Clearing Model Provisions are subject to the ICM-CCD,
- (1) the Segregated Margin and Segregated Variation Margin provided by the Clearing Member to Eurex Clearing AG pursuant to the relevant ICM Clearing Agreement shall constitute Segregated Margin and Segregated Variation Margin, respectively, pursuant to the relevant New (ICM) Clearing Agreement; and
  - (2) if ICM-CCD applies, Credit Support Margin and Credit Support Variation Margin shall be deemed to have been provided under the terms of the New Client Clearing Agreement relating to the New (ICM) Clearing Agreement accordingly.
- (5) If the relevant New Clearing Agreement is an agreement pursuant to the Net Omnibus Clearing Model Provisions, the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Net Omnibus Margin and the Net Omnibus Variation Margin in accordance with the Net Omnibus Clearing Model Provisions immediately following the amendments pursuant to Clause 2.1 of the Clearing Model Change Agreement.

### 8.2.2 Representations

Each of the Clearing Member and the Non-Clearing Member/Registered Customer, severally, makes the representations and warranties set out in Chapter 1 Part 1 Numbers 1.1.7 and 1.7, providing that each reference therein to a Clearing Agreement shall be construed as a reference to the Clearing Model Change Agreement.

## 9 Termination Rules with respect to Eurex Clearing AG

If at any time a Failure to Pay Event (as defined below) or an Insolvency Event (as defined below) has occurred with respect to Eurex Clearing AG, the following applies:

- 9.1 All current or future primary obligations (including payment and delivery obligations) arising from all Transactions and all Redelivery Claims under the relevant Standard Agreement between Eurex Clearing AG and the relevant Clearing Member ~~or FCM Client or Basic Clearing Member~~, as relevant, in accordance with Number 2.1.3 of the Elementary Clearing Model Provisions, Subpart A, Number 2.1.2 of the Individual Clearing Model Provisions, Number 2.1.3 of the Net Omnibus Clearing Model Provisions, Number 2.1.2 of the U.S. Clearing Model Provisions or Number 2.1.2.4.1.2 of the U.S. Basic Clearing Model Member Provisions, respectively, shall expire and may no longer be performed by the relevant obligor. Further all due but unsatisfied obligations to deliver Elementary Proprietary Margin or Elementary Proprietary Variation Margin, Elementary Omnibus Margin or Elementary Omnibus Variation Margin, Segregated Margin or

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Segregated Variation Margin, Net Omnibus Margin or Net Omnibus Variation Margin, FCM Client Margin or FCM Client Variation Margin, Basic Clearing Member Margin or Basic Clearing Member Variation Margin, as applicable, under the relevant Standard Agreement expire. These expired primary obligations and delivery obligations, respectively, are reflected by the difference claim pursuant to Number 9.2 below.

- 9.2 By signing the Clearing Agreement, or in the case of Part 3 Subpart A Number 11.1.5, by the Clearing Agreement to be established between the Interim Participant and Eurex Clearing AG, a difference claim of either party to the relevant Standard Agreement between Eurex Clearing AG and the relevant Clearing Member ~~or~~ FCM Client or Basic Clearing Member, as relevant, is created. This difference claim shall become unconditional and immediately due against the respective other party upon the expiry of the primary obligations and delivery obligations, respectively, referred to in Number 9.1, and shall be determined on the basis of the CCP Exchange Prices applicable with respect to the relevant terminated Transactions or Redelivery Claims on the second Business Day following (i) the Failure to Pay Event or (ii) the Insolvency Event ("**CCP Valuation Date**"). Numbers 7.3.1 and 7.3.3 shall apply *mutatis mutandis*.

"**CCP Exchange Price**" means, in case of a Failure to Pay Event or an Insolvency Event with respect to Eurex Clearing AG:

(a) with respect to a Transaction:

- (1) with respect to Eurex Transactions (Chapter II), FWB Transactions (Chapter V Part 1 and 2) and ISE Transactions (Chapter VI), in each case other than OTC Transactions, the applicable determined exchange price (*festgestellter Börsenpreis*) as of the CCP Valuation Date in the Market in which it has been concluded;
- (2) with respect to OTC Transactions described in Chapter II and V, the determined exchange price (*festgestellter Börsenpreis*) that would apply to the corresponding exchange transaction described in Chapter II and V as of the CCP Valuation Date in the relevant Market;
- (3) with respect to Transactions described in Chapter III and IV the applicable market price (*Marktpreis*) as of the CCP Valuation Date determined in the Market in which it has been concluded;
- (4) with respect to Transactions described in Chapter IX, the applicable determined exchange price (*festgestellter Börsenpreis*) or applicable market price (*Marktpreis*) of the Underlying Securities as of the CCP Valuation Date determined in the relevant market of the Underlying Securities ~~or~~ and
- (5) with respect to Transactions described in Chapter VIII or if none of the cases set forth under (1) to (4) applies, a model for the valuation of the market value (*Marktpreis*) of Transactions (which may, depending on the circumstances, be the auction price), which considers market risks and market prospects, inter alia, taking into account asset classes, volatility and liquidity.



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The valuation model referred to in Sub-Paragraph (5) above and further procedures regarding the determination by Eurex Clearing AG of the prices referred to in Sub-Paragraphs (1) to (4) above will from time to time be published in accordance with Number 16.1; such published valuation model or further procedures shall form part of these Clearing Conditions; and

(b) with respect to an expired Redelivery Claim, as applicable:

- (1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the CCP Valuation Date; ~~or~~ and
- (2) the market or exchange price in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash as of the CCP Valuation Date.

9.3 The following events shall constitute a Failure to Pay Event or an Insolvency Event with respect to Eurex Clearing AG:

- (1) A “**Failure to Pay Event**” occurs if (a) a Payment Default, (b) a Non-Payment of the Cash Settlement Amount following a Delivery Default or (c) a Redelivery Default which is set by a Clearing Member (each as defined below) occurs.
- (2) An “**Insolvency Event**” occurs if the *Bundesanstalt für Finanzdienstleistungsaufsicht* files a petition for the opening of insolvency proceedings over the assets of Eurex Clearing AG.

9.3.1 A “**Payment Default**” occurs if:

- (1) Eurex Clearing AG fails to make, when due, any payment (other than a payment of the Cash Settlement Amount following a Delivery Default) in respect of a payment claim of a Clearing Member ~~or~~ a FCM Client or a Basic Clearing Member against Eurex Clearing AG arising from a Transaction;
- (2) Eurex Clearing AG has received written notice (*Textform*) of such failure by the relevant Clearing Member or, if the relevant Standard Agreement is a FCM Client Standard Agreement, the relevant FCM Clearing Member (acting on behalf of such FCM Client) or, if the relevant Standard Agreement is a Basic Clearing Member Standard Agreement, the relevant Clearing Agent (acting on behalf of such Basic Clearing Member) (“**First Notification**”);
- (3) Eurex Clearing AG has received a further written notice (*Textform*) of such failure after the expiry of a period of not less than three (3) calendar days after receipt of the First Notification (“**Second Notification**”); and
- (4) Eurex Clearing AG's failure to make such payment to such Clearing Member ~~or~~ such FCM Client or such Basic Clearing Member continues – subject to the following paragraph – for a period of at least two (2) calendar days after the Second Notification, provided that the last day of such period shall be a Business Day.

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For the purposes of this Number 9.3.1, a payment will be considered not to have been made by Eurex Clearing AG if no corresponding amount has been credited to the relevant account of the relevant Clearing Member ~~or the~~ FCM Clearing Member (acting on behalf of the relevant FCM Client), the Basic Clearing Member or the Clearing Agent (acting on behalf of the relevant Basic Clearing Member) or to an account of a correspondent bank designated by the Clearing Member ~~or the~~ relevant FCM Clearing Member (acting on behalf of such FCM Client), the Basic Clearing Member or the relevant Clearing Agent (acting on behalf of the Basic Clearing Member). Delays in effecting such credit for technical reasons (i) which are outside the control of Eurex Clearing AG, as explained in writing (*Textform*) ~~to the such Clearing Member or the, such FCM Clearing Member acting on behalf of the relevant FCM Client, such Basic Clearing Member or such Clearing Agent, respectively,~~ without undue delay, shall only lead to a Payment Default if Eurex Clearing AG's failure to make such payment ~~to such Clearing Member or such FCM Client~~ continues for a period of one (1) calendar month after receipt of the Second Notification and (ii) which are within the control of Eurex Clearing AG shall, only lead to a Payment Default if Eurex Clearing AG's failure to make such payment ~~to such Clearing Member or to such FCM Client~~ continues for a period of ten (10) Business Days after receipt of the Second Notification. In the event of (i) Eurex Clearing AG shall use reasonable endeavours to effect such credit as soon as practicable. Eurex Clearing AG will notify the relevant Clearing Member ~~, the relevant FCM Clearing Member (acting on behalf of the relevant FCM Client), the relevant Basic Clearing Member or the relevant Clearing Agent (acting on behalf of the relevant Basic Clearing Member)~~ without undue delay whether there is a case of (i) or (ii).

9.3.2 A **"Non-Payment of the Cash Settlement Amount following a Delivery Default"** occurs if with respect to a Transaction:

- (1) a Delivery Default; and
- (2) a Cash Settlement Payment Default occurs.

9.3.3 A **"Delivery Default"** occurs if:

- (1) Eurex Clearing AG fails to satisfy, when due, any delivery obligation vis-à-vis a Clearing Member or a Basic Clearing Member arising from a Transaction;
- (2) Eurex Clearing AG has received, after the expiry of a period of not less than five (5) calendar days following the due date, written (*Textform*) notice from such Clearing Member or the Clearing Agent of such Basic Clearing Member (acting on behalf of the relevant Basic Clearing Member) making reference to this Number 9.3.3 and requesting Eurex Clearing AG to fulfil such delivery obligation ("**First Delivery Request**");
- (3) Eurex Clearing AG has received from such Clearing Member or the Clearing Agent of such Basic Clearing Member (acting on behalf of the relevant Basic Clearing Member) a further written (*Textform*) notice requesting Eurex Clearing AG to fulfil such delivery obligation after the expiry of a further period of not less than ten (10)

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calendar days after receipt of the First Delivery Request (“**Second Delivery Request**”); and

- (4) Eurex Clearing AG has, after the expiry of a further period of not less than ten (10) calendar days after receipt of the Second Delivery Request, received a written (*Textform*) request of such Clearing Member or the Clearing Agent of such Basic Clearing Member (acting on behalf of the relevant Basic Clearing Member) for cash settlement of the relevant delivery obligation from Eurex Clearing AG (“**Cash Settlement Request**”).

Delays in effecting a delivery for technical reasons shall not lead to a Delivery Default. Upon receipt of a Cash Settlement Request by a Clearing Member or a Clearing Agent (acting on behalf of the relevant Basic Clearing Member) (the date of such request, the “**Cash Settlement Request Date**”) Eurex Clearing AG shall no longer be obliged to make any delivery under the relevant Transaction. This obligation shall be replaced by an obligation of Eurex Clearing AG to pay to the Clearing Member or the Basic Clearing Member, respectively, the Cash Settlement Amount under the relevant Transaction (each a “**Cash-settled Transaction**”). For the avoidance of doubt, a failure to deliver under an Eurex Repo Transaction as described in Chapter IV Number 2.6 Paragraph (1) (a) (Failure to Deliver on the delivery date of the Front Leg) shall not give rise to a Failure to Pay Event pursuant to Number 9.3 Paragraph (1).

For the purpose of this Number 9.3.3, a delivery obligation will not be considered to be satisfied by Eurex Clearing AG if no corresponding Securities have been credited to a securities account of the Clearing Member or of the Basic Clearing Member (or of the Clearing Agent acting for the account of the relevant Basic Clearing Member) or to a securities account of a depository, a settlement institution or a custodian designated by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member) at a deposit bank or a central securities depository.

9.3.4 A “**Cash Settlement Payment Default**” occurs if:

- (1) Eurex Clearing AG has, after the expiry of a period of not less than three (3) calendar days following the Cash Settlement Request Date, received the written (*Textform*) request of the Clearing Member or the Clearing Agent (acting on behalf of the relevant Basic Clearing Member) to pay to it the Cash Settlement Amount (“**Cash Settlement Payment Request**”); and
- (2) Eurex Clearing AG fails – subject to the following paragraph –, after the expiry of a further period of not less than two (2) calendar days after the receipt of Cash Settlement Payment Request (with the proviso that the last day of such period shall be a Business Day-) to pay to such Clearing Member or such Basic Clearing Member (or the Clearing Agent acting for the account of the relevant Basic Clearing Member) the Cash Settlement Amount.

For the purposes of this Number 9.3.4, a payment will be considered not to have been made by Eurex Clearing AG if no corresponding amount has been credited to

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the relevant account of the relevant Clearing Member or the Basic Clearing Member (or of the relevant Clearing Agent acting for the account of the relevant Basic Clearing Member) or to an account of a correspondent bank designated by the Clearing Member or the Basic Clearing Member (or by the Clearing Agent acting on behalf of the relevant Basic Clearing Member). Delays in effecting such credit for technical reasons for which Eurex Clearing AG (i) is not responsible, as explained in writing (*Textform*) to the Clearing Member or the Clearing Agent (acting on behalf of the relevant Basic Clearing Member) without undue delay, shall not lead to a Cash Settlement Payment Default, (ii) is responsible shall only lead to a Cash Settlement Payment Default if Eurex Clearing AG's failure to make such payment to such Clearing Member or such Basic Clearing Member (or such Clearing Agent acting for the account of the relevant Basic Clearing Member) continues for a period of ten (10) Business Days after receipt of the Cash Settlement Request.

9.3.5 For the purposes of this Number 9.3, "**Cash Settlement Amount**" means an amount determined by the Calculating Party (as defined in Paragraph (4) below) as follows:

- (1) The Default Value of the assets which are the subject of the Delivery Default (the "**Non-Delivered Assets**") and the amount of the corresponding payment obligation of the Clearing Member or the Basic Clearing Member shall be established by the Calculating Party.
- (2) On the basis of the sums so established, account shall be taken of what is due from each party to the other under the relevant Transaction and the sums due from one party shall be set off against the sums due from the other and only the balance of the account shall be payable (by the party having the claim valued at the lower amount pursuant to the foregoing) and such balance shall be due and payable on the next following day which is a Business Day. For the purposes of this calculation, all sums not denominated in Euro shall be converted into Euro at the then current rate of exchange, as determined by the Calculating Party.
- (3) "**Default Value**" means, with respect to any Non-Delivered Assets, the value of such assets determined by the Calculating Party by applying the following method:

The basis for this calculation shall be the settlement price determined by Eurex Clearing AG for Transactions to which the Non-Delivered Assets relate on the Business Day immediately prior to the Cash Settlement Request Date. In the event that (i) Eurex Clearing AG has not determined a settlement price for Transactions to which the Non-Delivered Assets relate on the Business Day immediately prior to the Cash Settlement Request Date or (ii) Eurex Clearing AG has determined such settlement price, but such settlement price does not reasonably accurately reflect the value of such transactions that would have been obtained from the relevant market if it were operating normally, the Calculating Party shall choose from among the Clearing Members being admitted at the relevant Market three Clearing Members who shall determine a market price of the Non-Delivered Assets. The average of the quoted prices (mid market offer) shall be the Default Value of the Non-Delivered Assets. If less than three quotations are provided as requested, the Calculating Party

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shall determine a settlement price for Transactions to which the Non-Delivered Assets relate acting in good faith and by using commercially reasonable procedures expected to produce a commercially reasonable result.

- (4) “**Calculating Party**” means, for the purposes of this Number 9.3, Eurex Clearing AG unless Eurex Clearing AG is, for operational reasons, unable to make one or more calculations or determinations required to be made under this Number 9.3. In such event, Eurex Clearing AG shall promptly notify the relevant Clearing Member or the relevant Clearing Agent (acting on behalf of the relevant Basic Clearing Member) and “**Calculating Party**” then means such Clearing Member or such Clearing Agent (acting on behalf of the relevant Basic Clearing Member), respectively.

9.3.6 A “**Redelivery Default**” occurs if:

- (1) Eurex Clearing AG fails, when due, to perform a redelivery claim of a Clearing Member ~~or, a FCM Client~~ or a Basic Clearing Member against Eurex Clearing AG with respect to (i) Eligible Margin Assets provided as cover, (ii) Contributions to the Clearing Fund, or (iii) collateral to cover a shortfall of own funds or equivalent regulatory capital as prerequisite for a Clearing License, or to release the relevant Securities in case of a pledge;
- (2) Eurex Clearing AG has no right of retention, as for instance according to Part 2 Number 6.7.3 or Part 4 Number 6.7.3;
- (3) Eurex Clearing AG has received written (*Textform*) notice from such Clearing Member ~~or, the FCM Clearing Member (acting on behalf of the relevant such FCM Client-)~~ or the Clearing Agent (acting on behalf of such Basic Clearing Member) with respect to such non-performance (“**First Re-Delivery Request**”);
- (4) Eurex Clearing AG has received from such Clearing Member ~~or the, such FCM Clearing Member (acting on behalf of the relevant FCM Client-)~~ or such Clearing Agent (acting on behalf of the relevant Basic Clearing Member) a further written (*Textform*) notice requesting Eurex Clearing AG to fulfil such delivery obligation after the expiry of a further period of not less than three (3) calendar days after receipt of the First Re-Delivery Request (“**Second Re-Delivery Request**”); and
- (5) Eurex Clearing AG's failure to perform to such Clearing Member ~~or, such FCM Client~~ or such Basic Clearing Member continues – subject to the following paragraphs – for a period of at least two (2) calendar days after the Second Re-Delivery Request, provided that the last day of such period shall be a Business Day.

For the purposes of this Number 9.3.6, a performance will be considered not to have been made by Eurex Clearing AG (a) if no corresponding Securities have been credited to a securities account of the Clearing Member ~~or, of the FCM Clearing Member (acting for the account of the relevant FCM Client)~~ or of the Basic Clearing Member (or of the Clearing Agent acting for the account of the relevant Basic Clearing Member) or to a securities account of a depository, a settlement institution or a custodian designated by the Clearing Member ~~or, the relevant FCM Clearing Member (acting for the account on~~

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behalf of the relevant FCM Client) or the Basic Clearing Member (or the relevant Clearing Agent acting on behalf of the relevant Basic Clearing Member) at a deposit bank or a central securities depository or is not released in Xemac; or (b) if no corresponding amount has been credited to the relevant account of the relevant Clearing Member or the FCM Clearing Member (acting for the account of the relevant FCM Client) or the Basic Clearing Member (or the Clearing Agent acting for the account of the relevant Basic Clearing Member) or to an account of a correspondent bank designated by the Clearing Member or the relevant FCM Clearing Member (acting for the account on behalf of the relevant FCM Client) or the Basic Clearing Member (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member).

Delays in effecting such credit for technical reasons (i) which are outside the control of Eurex Clearing AG, as explained in writing (Textform) to ~~the such Clearing Member or, in the case of a FCM Client, the such FCM Clearing Member acting on behalf of such FCM Client or such Clearing Agent, respectively,~~ without undue delay, shall only lead to a Re-Delivery Default if Eurex Clearing AG's failure to make such performance to ~~such Clearing Member or such FCM Client~~ continues for a period of one (1) calendar month after receipt of the **Second Re-Delivery Request** and (ii) which are within the control of Eurex Clearing AG shall only lead to a Re-Delivery Default if Eurex Clearing AG's failure to make such performance to ~~such Clearing Member or such FCM Client~~ continues for a period of ten (10) Business Days after receipt of the **Second Re-Delivery Request**. In the event of (i) Eurex Clearing AG shall use reasonable endeavours to effect such credit as soon as practicable. Eurex Clearing AG will notify the relevant Clearing Member ~~or, in the case of a FCM Client, the relevant FCM Clearing Member (acting on behalf of such FCM Client,)~~ or the relevant Clearing Agent (acting on behalf of such Basic Clearing Member) without undue delay whether there is a case of (i) or (ii).

This Number 9.3.6 shall be applicable for ICM-Clients with respect to a Direct Segregated Margin Re-transfer, accordingly, notwithstanding the relevant rules, whereas the ICM-Client shall notify its Clearing Member before issuing a written notice in accordance with Paragraph (3) and Paragraph (4) and an expiration of claims in accordance with Number 9.1 is excluded.

## **10 Default Rules applicable to a Non-Clearing Member or a Basic Clearing Member**

- 10.1 If a Non-Clearing Member fails to provide the margin requested by its Clearing Member or fails to pay or deliver any Security or other asset or amount due under a Transaction or under the Clearing Agreement, or if an event of default occurs in respect of the Non-Clearing Member under a Client Clearing Agreement, as the case may be, the Management Board of the respective Market may – upon written request by the Clearing Member – exclude such Non-Clearing Member from trading on the respective Market or restrict the trading by the Non-Clearing Member to certain Transaction Types or specified products or, in case of FWB Transactions, to certain login names or certain identifier codes (trading locations) for the duration of such failure in accordance with the rules and regulations of such Market. The Clearing Member shall inform Eurex Clearing AG immediately about the submission of such request.

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As of the time of decision by the Management Board of the respective Market pursuant to Number 10.1, the affected Non-Clearing Member is no longer entitled to conclude Transactions included in this decision under the Clearing Agreement.

- 10.2 For Clearing Members with a Clearing License for Eurex Transactions (Chapter II), FWB Transactions (Chapter V) the following specific provisions apply:
- 10.3 In case a Non-Clearing Member which is admitted to trading on the Eurex Exchanges or the FWB does not fulfil the Additional Terms pursuant to Number 12, or if the Non-Clearing Member fails to provide the margin requested by its Clearing Member or fails to pay or deliver any amount due under Transactions or under the Clearing Agreement, or if an event of default occurs in respect of the Non-Clearing Member under a Client Clearing Agreement, as the case may be, the respective Clearing Member may – instead of a written application pursuant to Number 10.1 – declare vis-à-vis the respective Market and Eurex Clearing AG by way of a respective entry (“**Stop Button**”) in the systems of the Eurex Exchanges, the FWB or the system of Eurex Clearing AG (hereinafter jointly referred to as “**System**”) pursuant to Number 12.3 that it is no longer willing to conduct the Clearing of Eurex Transactions and FWB Transactions of the concerned Non-Clearing Member on the respective Market or the Markets. In case of FWB Transactions, the Clearing Member must notify the respective Non-Clearing Member of the use of the Stop Button without delay.
- 10.4 By way of such a system entry, the Clearing Member at the same time applies to the respective Market or Markets and Eurex Clearing AG that the respective Non-Clearing Member shall be excluded from trading on the respective Market or Markets for the duration of non-fulfilment of its above-mentioned duties and that the authorisation to participate in the Clearing of Off-Book Trades concluded off-book and novated via entry into the Eurex Trade Entry Services shall be revoked. In this case, the provisions pursuant to Number 12.6 and 12.7 shall apply.
- 10.5 If a Non-Clearing Member has been excluded from trading on one of the Markets or has been restricted to the trading of certain Transaction Types or specified products (the clearing of which is carried out by Eurex Clearing AG) or, in case of FWB Transactions, to certain login names or certain identifier codes (trading locations), the Clearing Member may, upon prior notification to Eurex Clearing AG, close the Transactions of such Non-Clearing Member itself or transfer such Transactions to another Clearing Member.

The notification to Eurex Clearing AG shall be submitted via telephone (phone: +49 (0) - 69 - 211 - 11250) or fax (fax: +49 (0) - 69 - 211 - 14334). A notification so submitted shall immediately be confirmed by mail.

The Clearing Member shall immediately inform its Non-Clearing Member about the notification on its intention to close the Transactions of this Non-Clearing Member. In this case, the Non-Clearing Member herewith declares vis-à-vis its Clearing Member its approval to the closing of its net transactions or net positions by the conclusion of inverse transactions (“**closing**”) or to the transfer of such Transactions to another Clearing Member.

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Afterwards, the Non-Clearing Member concerned itself may not close the Transactions opened by it or exercise or close positions or take measures opposing a closing or transfer of its transactions respectively positions. The Non-Clearing Member is obliged to support its Clearing Member in closing its net transactions respectively net positions or in transferring these Transactions to another Clearing Member by submission of necessary declarations (e.g. approvals) and to make all entries in the system of Eurex Clearing AG which are necessary for closing or transfer of positions.

The fees and costs charged by Eurex Clearing AG in respect of such closing shall be borne by the Clearing Member.

- 10.6 Eurex Clearing AG shall inform the Clearing Member of any measures taken with respect to one of its Non-Clearing Members to the extent that such measures may affect the risk assessment of such Non-Clearing Member and the respective measures are known to Eurex Clearing AG. Sentence 1 shall apply *mutatis mutandis* in the case of closing or transfer of Transactions of a Non-Clearing Member by its Clearing Member. In such case, the relevant Clearing Member shall immediately notify Eurex Clearing AG of the measures taken pursuant to Sentence 1.
- 10.7 Upon a termination or closing (*Glattstellung*) of Transactions between the Clearing Member and the Non-Clearing Member (other than in the case of Corresponding Covered Transactions pursuant to the Individual Clearing Model Provisions), the relevant NCM-Related Transactions shall be credited to the Own Account of the Clearing Member unless otherwise instructed by the Clearing Member. Upon a termination or closing (*Glattstellung*) of Corresponding Covered Transactions pursuant to the Individual Clearing Model Provisions between the Clearing Member and the Non-Clearing Member, the stipulations of the Individual Clearing Model Provisions shall apply to the relevant NCM-Related Transactions *mutatis mutandis*.
- 10.8 All steps, processes and mechanisms that the relevant Clearing Agreement, incorporating the Clearing Conditions, permit, or require, Eurex Clearing AG, or any other person, to undertake, following the occurrence of a default on the part of a Non-Clearing Member, shall be regarded as constituting part of the default rules of Eurex Clearing AG for the purposes of Part VII of the Companies Act 1989 (UK).
- 10.9 If a Basic Clearing Member fails to comply with any additional terms agreed by it with its Clearing Agent with respect to their Basic Clearing Member Clearing Agreement (such additional terms, the “**Additional Basic Clearing Member Terms**”), the Management Board of the respective Market may – upon written request by the Clearing Agent – exclude such Basic Clearing Member from trading on the respective Market or restrict the trading by the Basic Clearing Member to certain Transaction Types or specified products for the duration of such failure in accordance with the rules and regulations of such Market. The Clearing Agent shall inform Eurex Clearing AG immediately about the submission of such request.

As of the time of decision by the Management Board of the respective Market pursuant to this Number 10.9, the affected Basic Clearing Member is no longer entitled to conclude



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Basic Clearing Member Transactions which are subject of this decision under its Basic Clearing Member Clearing Agreement.

## **11 Default Rules applicable to Registered Customers**

- 11.1 If a Registered Customer fails to perform any of its obligations due under a Transaction or under the Clearing Agreement or if an event of default occurs in respect of the Registered Customer under a Client Clearing Agreement, as the case may be, Eurex Clearing AG will – upon written request or by using the Stop Button pursuant to Number 10.2.1 by the Clearing Member – exclude such Registered Customer in its system from the Clearing and reject novations of transactions with respect to the relevant Registered Customer for the duration of such failure or event of default.
- 11.2 If a Registered Customer has been excluded from the Clearing, the relevant Clearing Member shall close its Transactions or positions with Eurex Clearing AG with respect to such Registered Customer. The Clearing Member's costs of such closing shall be borne by the Registered Customer in accordance with the provisions of the relevant Clearing Agreement or Client Clearing Agreement. This Number 11.2 shall not affect any additional contractual or statutory rights the Clearing Member may have against the relevant Registered Customer.
- 11.3 Upon a termination or closing (*Glattstellung*) by or on behalf of the Clearing Member or the Registered Customer of Transactions between the Clearing Member and the Registered Customer (other than in the case of Corresponding Covered Transactions pursuant to the Individual Clearing Model Provisions), the relevant RC-Related Transactions shall be credited to an Own Account or Customer Account of the Clearing Member in accordance with the instructions of the Clearing Member. Upon a termination or closing (*Glattstellung*) of Corresponding Covered Transactions between the Clearing Member and the Registered Customer pursuant to the ICM-ECD Provisions or upon a Termination of a Client Clearing Transaction (as defined in Subpart C Number 2.1.2 Paragraph (2) of the Individual Clearing Model Provisions) between the Clearing Member and the Registered Customer, Subpart A Number 14.4.1 of the Individual Clearing Model Provisions shall apply to the relevant RC-Related Transactions *mutatis mutandis*.
- 11.4 All steps, processes and mechanisms that the relevant Clearing Agreement, incorporating the Clearing Conditions, permit, or require, Eurex Clearing AG, or any other person, to undertake, following the occurrence of a default on the part of a Registered Customer, shall be regarded as constituting part of the default rules of Eurex Clearing AG for the purposes of Part VII of the Companies Act 1989 (UK).

## **12 Other Agreements between Clearing Members and Non-Clearing Members with regard to the Clearing of Eurex Transactions and FWB Transactions**

### **12.1 Additional Terms**

A Clearing Member may agree with any of its Non-Clearing Members on additional terms to their existing Clearing Agreement or Client Clearing Agreement (as defined in Subpart C Number 2.1.1 of the Individual Clearing Model Provisions), as the case may

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be, for the execution of Eurex Transactions and FWB Transactions (together the “**Additional Terms**”) in accordance with the following provisions. Numbers 12.4 to 12.7 apply in the case of a non-compliance with such Additional Terms by a Non-Clearing Member. References to “**Transactions**” in this Number 12 refer to Eurex Transactions and/or FWB Transactions only.

- 12.1.1 A Clearing Member may agree with any of its Non-Clearing Members to apply the Additional Terms set out in Number 12.2 or Number 12.3 to Eurex Transactions and to apply the Additional Terms set out in Number 12.3 to FWB Transactions to ensure the fulfilment of the obligations arising under the aforementioned Transactions. The Clearing of Transactions resulting from orders and quotes entered into the systems of the Markets or from over-the-counter transactions of the respective Non-Clearing Member shall, in case of Eurex Transactions and any corresponding OTC Transactions, be subject to prior verification by the system of the full compliance with the fixed Pre-Trade-Limits (Number 12.2) and agreed Other Conditions (Number 12.3), and, in case of FWB Transactions and any corresponding OTC Transactions, be subject to prior verification of compliance with the agreed Other Conditions (Number 12.3). Only in case of fulfilment of these requirements, the orders and quotes of the Non-Clearing Members shall be matched with other orders or quotes or their Over-The-Counter Transactions shall be included in the Clearing.
- 12.1.2 In case orders or quotes of a Non-Clearing Member, which shall be or have already been entered in the system, would lead to or constitute a breach of Additional Terms pursuant to Number 12.2 or Number 12.3, the respective Market or the Markets shall, parallel to such an entry in the system, preliminarily exclude the concerned Non-Clearing Member from trading on the respective Market or restrict the trading by the Non-Clearing Member to certain Transaction Types or specified products (the clearing of which is carried out by Eurex Clearing AG) or, in case of FWB Transactions, to certain login names or certain identifier codes (trading locations) for the duration of such failure in accordance with the rules and regulations of such Market. In case the entry of a transaction via the Eurex Trade Entry Services would lead to or constitute a breach of Additional Terms pursuant to Number 12.2 or Number 12.3, the concerned Non-Clearing Member shall cease to be authorised to include such transaction(s) in the Clearing.
- 12.2 Limitation of Orders or Quotes for Eurex Transactions (Pre-Trade Limits)**
- 12.2.1 For Eurex Transactions, the Clearing Member and a Non-Clearing Member may agree on the limitation of orders or quotes which may be entered into the systems of a Market by such Non-Clearing Member or the Clearing Member (“**Pre-Trade Limits**”).
- 12.2.2 Pre-Trade Limits may include one or more restrictions or a combination thereof listed hereinafter:
- (1) Maximum number of contracts with regard to a product per order or per quote. Insofar, the following limit is considered according to the type of order:

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- (a) maximum number of contracts per order or quote ("**Maximum Order Quantity**"), provided they do not relate to combined orders or combined quotes; or
- (b) maximum number of contracts per combined order or combined quote ("**Maximum Calendar Spread Quantity**"), related to specific products.

(2) For Over-The-Counter Transactions: maximum number of contracts per transaction concluded off-exchange, related to specific products ("**Maximum Wholesale Quantity**").

(3) Maximum aggregate margin requirement or maximum margin requirement with respect to specific Eligible Margin Assets, which in each case the Clearing Member is obliged to fulfil in accordance with the Clearing Conditions as a result of the conclusion of Transactions ~~for~~ in respect of the Non-Clearing Member.

12.2.3 Upon request by its Clearing Member, a Non-Clearing Member is obliged to agree with such Clearing Member on Pre-Trade Limits. In this case, the relevant Clearing Member may enter the Pre-Trade Limits agreed upon with their respective Non-Clearing Members into the system.

### 12.3 Other Conditions

12.3.1 Upon request by its Clearing Member and in order to ensure the Clearing of Transactions, a Non-Clearing Member is obliged – in addition to the Pre-Trade Limits for Eurex Transactions set forth in Number 12.2 – to agree on additional obligations of the Non-Clearing Member vis-à-vis the Clearing Member pursuant to Number 12.1 or additional restrictions with respect to the entry or the execution of orders or quotes as well as the use of the Eurex Trade Entry Services (the "**Other Conditions**").

12.3.2 Provided that such Other Conditions agreed upon with a Clearing Member are not fulfilled by the Non-Clearing Member or the duties of a Non-Clearing Member ~~named set out in~~ Number 10.1 are not fulfilled in due time, the respective Clearing Member may, by way of a Stop Button entry in the System declare vis-à-vis the Markets and Eurex Clearing AG that it is no longer willing to ~~execute~~ perform its functions in respect of the Clearing of Transactions concluded at these Markets and of transactions concluded off-exchange of the relevant Non-Clearing Member. Thereby, the Markets and Eurex Clearing AG are requested to exclude the respective Non-Clearing Member from trading on the Markets and from the possibility of entering further Transactions into the system via the Eurex Trade Entry Services for the term of non-fulfilment of its above-mentioned duties. In substantiated exceptional cases in which the Clearing Member is unable to use the Stop Button, the declaration according to Clause 1 and Clause 2 may also be submitted in writing. In case of FWB Transactions, the Clearing Member may limit statements pursuant to Sentence 1 or requests pursuant to Sentence 2 above to certain login names or identifier codes (trading locations). In case of FWB Transactions, the Clearing Member must notify the respective Non-Clearing Member of the use of the Stop Button without delay. Upon the Clearing Member's request, the Stop Button will be provided by Eurex Clearing AG for FWB Transactions with regard to the Non-Clearing Member denominated

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by such Clearing Member to the extent that the Clearing Member is the respective Non-Clearing Member's settling agent for securities not being cleared through Eurex Clearing AG; the same applies if the Clearing Member has been authorized by the settling agent to declare on its behalf statements pursuant to Sentence 1 and make requests pursuant to Sentence 2 for the respective Non-Clearing Members.

- 12.3.3 A Clearing Member may agree with its Non-Clearing Members for Eurex Transactions that in the event of exceeding certain values which are pre-agreed in accordance with this Number 12.3 as Other Conditions, the Non-Clearing Member is restricted to enter and execute orders or quotes and to use the Eurex Trade Entry Services, during such exceedance, and that existing orders or quotes are being cancelled in the system. Subject to this Number 12.3.3, only those values may be agreed on which may be entered into the system. By way of system-entry, the Clearing Member or the Non-Clearing Member declares that an agreement has been concluded in accordance with this Number 12.3.3.

#### 12.4 Non-Fulfilment of Additional Terms

Provided that Non-Clearing Members agree with their respective Clearing Members upon one or several Additional Terms, and the Non-Clearing Member (a) has breached Pre-Trade Limits or (b) has breached Other Conditions and the Clearing Member has made a Stop Button entry in the System in accordance with Number 12.3.2, the Clearing Member declares that it is no longer willing to further ~~include~~ perform its functions relating to the inclusion of Transactions of the relevant Non-Clearing Member in the Clearing. In case of FWB Transactions, the Clearing Member may limit this declaration to certain login names of the respective Non-Clearing Member or to certain identifier codes (trading locations). The Management Boards of the Markets and Eurex Clearing AG shall decide on the consequences of a breach of Additional Terms by a Non-Clearing Member upon an according electronic declaration of the respective Clearing Member in accordance with the following provisions.

#### 12.5 Breach of Pre-Trade Limits

- 12.5.1 If, upon verification of the compliance with the Pre-Trade Limits for Eurex Transactions and ~~EEX~~-Transactions entered into the system of the respective Market by a Clearing Member for a Non-Clearing Member on a Business Day (Number 12.2), it turns out that the execution of orders, quotes entered into the system or the entry of Transactions of a Non-Clearing Member via Eurex Trade Entry Services in the system, breach the agreed Pre-Trade Limits, the Clearing Member, as a consequence, is no longer willing to ~~execute~~ perform its functions in relation to the Clearing of further Eurex Transactions of its respective Non-Clearing Member.
- 12.5.2 In case a Clearing Member is not willing to ~~execute~~ perform its functions in relation to the Clearing of Eurex Transactions of a Non-Clearing Member according to Number 12.5.1, the Markets shall – immediately and for a respective period – order the suspension of the trading admission of the ~~concerned~~ relevant Non-Clearing Member to trading in specific products with regard to a specific position account pursuant to Number 12.6.1 (Suspension of Exchange Admission). In addition, the system of the Eurex Exchanges

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guarantees that a transfer of orders or quotes of the ~~concerned~~ relevant Non-Clearing Member in the order books of the Markets and, as a result, their matching with other orders or quotes, are prevented. Orders or quotes of the ~~concerned~~ relevant Non-Clearing Member already existing in the order books of the Markets shall be deleted.

- 12.5.3 If, due to ~~non-fulfilment of non-compliance with~~ Pre-Trade Limits pursuant to Number 12.5.1, a Clearing Member is not willing to ~~execute the clearing~~ perform its functions in relation to the Clearing of Eurex Transactions, the authorisation to have over-the-counter transactions concluded off-exchange cleared by Eurex Clearing AG by using the Eurex Trade Entry Services for the ~~concerned~~ relevant Non-Clearing Member shall immediately ~~be omitted~~ lapse. At the same time, the authorisation to use the Eurex Trade Entry Services of the Markets and Eurex Clearing AG is revoked, to such extent as this would result in a non-fulfilment of the Additional Terms ~~upon~~ between Non-Clearing Member and Clearing Member. In addition, the Eurex system prevents that the respective transactions can be entered into the system and be included in the Clearing.

## 12.6 Non-Fulfilment of Other Conditions

- 12.6.1 Upon the declaration of a Clearing Member, by way of the Stop Button entry in the System, vis-à-vis the Markets and Eurex Clearing AG that it is no longer willing to ~~execute in whole~~ perform any functions in relation to the Clearing of Transactions of a certain Non-Clearing Member, because such Non-Clearing Member does not fulfil the Other Conditions agreed upon pursuant to Number 12.3, the Management Boards of these Markets shall immediately order the preliminary exclusion of the relevant Non-Clearing Member from trading pursuant to Number 12.7. With regard to FWB Transactions, the Clearing Member may limit a corresponding declaration and the Management Board of FWB may limit the temporary exclusion from trading of the respective Non-Clearing Member to certain login names of the respective Non-Clearing Member or to certain identifier codes (trading locations). Upon the Clearing Member's statement pursuant to Sentences 1 or 2 above, the authorisation of the respective Non-Clearing Member to have the Transactions concluded off-exchange cleared by Eurex Clearing AG shall cease to exist. The authorisation to use the Eurex Trade Entry Services to enter over-the-counter transactions into the System shall entirely be revoked for a limited period or, in case of FWB Transactions, be revoked with a limitation to certain login names or certain identifier codes (trading locations).

From this point onward and from the respective Non-Clearing Member's temporary exclusion from trading on, the regulations on the matching of trades pursuant to the respective rules and regulations of the Markets and the Conditions for Utilisation of the Eurex Trade Entry Services (General Conditions for Participation) of Eurex Clearing AG, with regard to orders, quotes and transactions concluded off-exchange of the ~~concerned~~ relevant Non-Clearing Member, shall not apply any more.

- 12.6.2 The preliminary exclusion from trading on the Markets and the preliminary revocation of the authorisation to have Transactions concluded off-exchange cleared by Eurex Clearing AG as well as the revocation of the authorisation to use the Eurex Trade Entry Services shall be ordered or directed by the Markets and Eurex Clearing AG until the

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Clearing Member, by way of a new system entry (deactivation of Stop Button) within the meaning of Number 10.2 declares vis-à-vis the Markets and Eurex Clearing AG that it is again willing to ~~execute the clearing~~ perform its functions in relation to the Clearing of Transactions and of over-the-counter transactions concluded off-exchange of the ~~concerned-relevant~~ Non-Clearing Member. In substantiated exceptional cases in which the Clearing Member is unable to use the Stop Button, the declaration according to Clause 1 and Clause 2 may also be submitted in writing.

- 12.6.3 From the point of ordering the suspension of the Exchange admission of the ~~concerned relevant~~ Non-Clearing Member by the Markets and of revocation of the authorisation of the Non-Clearing Member to have its Transactions concluded off-exchange cleared by Eurex Clearing AG and of revocation of the utilisation authorisation of the Eurex Trade Entry Services pursuant to Number 12.6.1, the system shall prevent other orders, quotes or Transactions of the ~~concerned-relevant~~ Non-Clearing Member from being entered into the system. Orders and quotes of the ~~concerned-relevant~~ Non-Clearing Member already existing into the System shall be deleted.

At the same time, the System ensures that the ~~concerned-relevant~~ Non-Clearing Member cannot modify or release Transactions already entered into the System. In addition, Transactions already entered into the System by this Non-Clearing Member cannot be released any more by its counterparty.

Furthermore, the relevant Non-Clearing Member shall from this point onwards not be authorised to conduct the measures for account keeping, such as ~~where applicable~~, Trade Adjustments, Closing Position Adjustments, Member Position Transfer or Give-Up Trades provided for in the rules and regulations of the Eurex Exchanges. The possibility to use the respective services of the System shall be technically prevented for the ~~concerned-relevant~~ Non-Clearing Member.

- 12.6.4 Eurex Clearing AG may request the Clearing Member to submit written documentation in relation to a Stop Button entry pursuant to Number 12.6.1. The documentation shall contain details on the facts, in particular the amount of the agreed limit(s) respectively positions, the orders/quotes, type of agreed other duties (e.g. compliance with economic stability criteria) and conditions, the time of submission of a declaration pursuant to Number 12.6.1 and the time of revocation of a declaration pursuant to Number 12.6.1.

## 12.7 **Preliminary Exclusion from Trading or from Trading of Specific Products (Suspension of Trading Admission) as well as Revocation of the Admission to Clearing of Transactions concluded off-book**

- 12.7.1 In case a Clearing Member declares vis-à-vis the Management Boards of the Markets pursuant to Number 11 that, for the period of non-fulfilment of conditions pursuant to Number 12.2 (Pre-Trade Limits) or of further Other Conditions within the meaning of Number 12.3 by one of its Non-Clearing Members, it is no longer willing to ~~execute the clearing~~ perform its functions in relation to the Clearing of Transactions or OTC Transactions of this Non-Clearing Member in whole or with regard to individual Transactions or, in case of FWB Transactions, with regard to certain login names of the respective Non-Clearing Member or to certain identifier codes (trading locations), the

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~~concerned-relevant~~ Non-Clearing Member shall, from this point onwards for a respective term and for lack of guaranteeing an orderly settlement of its Transactions, be excluded from trading on the respective Market or, if applicable to the respective Market, the trading by the Non-Clearing Member will be limited to certain Transaction Types or specified products (the Clearing of which is carried out by Eurex Clearing AG), on specific position accounts with certain login names or identifier codes (trading locations) for the duration of the non-fulfilment of conditions pursuant to Number 12.2 (Pre-Trade Limits) or of further Other Conditions within the meaning of Number 12.3 in accordance with the rules and regulations of such Market. At the same time, Eurex Clearing AG shall preliminarily revoke the authorisation of the ~~concerned-relevant~~ Non-Clearing Member to have its OTC Transactions cleared by Eurex Clearing AG. The authorisation of the Non-Clearing Member to use the Eurex Trade Entry Services of (General Conditions for Participation) Eurex Clearing AG in order to enter Transactions into the Clearing, shall entirely be revoked for a limited period.

The concerned Non-Clearing Member shall immediately be informed by the Markets about the ordered suspension of the Trading admission electronically by the System; at the same time, its access to the respective Exchange system shall be restricted accordingly.

- 12.7.2 Clearing Members who – by way of the Stop Button pursuant to Number 12.6.1 – have declared vis-à-vis the Management Boards of the Markets that they are no longer willing to ~~execute-perform their functions in relation to~~ the Clearing of Transactions of one of their Non-Clearing Members in whole or with regard to individual products or, in case of FWB Transactions, with regard to certain login names of the respective Non-Clearing Member or certain identifier codes (trading locations), are obliged to immediately revoke their declaration vis-à-vis the Management Boards of the Markets by using the same system facility, if the ~~concerned-relevant~~ Non-Clearing Member again fulfils the conditions agreed upon with the Clearing Member. In this case, the Management Boards of the Markets shall at the same time revoke the order vis-à-vis the relevant Non-Clearing Member pursuant to Number 12.7.1 (Suspension of Trading Admission), immediately announce such revocation electronically via the System and, again, technically provide respective utilisation of the system to the Non-Clearing Member.

The same applies to Clearing Members who, by way of a Stop Button entry into the System pursuant to Number 12.6.1, have declared vis-à-vis Eurex Clearing AG that they are no longer willing to ~~execute-perform their functions in relation to~~ the Clearing of Transactions of one of their Non-Clearing Members. In such case, Clearing Members are obliged to immediately revoke their declaration vis-à-vis Eurex Clearing AG by way of the same system facility, when the ~~concerned-relevant~~ Non-Clearing Member again fulfils the conditions agreed upon with the Clearing Member.

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**13 Termination of Clearing Agreements and, Clearing Licenses and Basic Clearing Member Clearing Licenses**

**13.1 Termination of Clearing Agreements and, Clearing Licenses and Basic Clearing Member Clearing Licenses**

13.1.1 Subject to the following Sub-Paragraph, Eurex Clearing AG or the Clearing Member may terminate individual or all Clearing Agreements or individual or all Clearing Licences at any time. Such termination requires written notice to the Clearing Member or Eurex Clearing AG in the case of a Clearing License and, in the case of a Clearing Agreement, to the other parties to the Clearing Agreement, respectively. The termination shall take effect on the later of the following dates: (i) 30 days after receipt of the termination notice (and, in the case of a termination notice that is to be received by Eurex Clearing AG and another party to the Clearing Agreement, only upon receipt by Eurex Clearing AG of evidence of receipt by such other party) ~~respectively and~~ (ii) after all Transactions which are subject to the respective Clearing Agreement(s) or Clearing License(s) have been cancelled, closed or fulfilled.

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Eurex Clearing AG, the Basic Clearing Member or the Clearing Agent may (each acting for itself only) terminate the Basic Clearing Member Clearing Agreements at any time. Eurex Clearing AG or the Basic Clearing Member may terminate individual or all Basic Clearing Member Clearing Licences of the Basic Clearing Member at any time. A termination requires (i) in the case of a termination of the Basic Clearing Member Clearing Agreement, written notice to the respective other parties to the Basic Clearing Member Clearing Agreement, and (ii) in the case of a termination of an individual or all Basic Clearing Member Clearing Licences of the Basic Clearing Member, written notice (in the case of a termination by or on behalf of the Basic Clearing Member) to Eurex Clearing AG and (in the case of a termination by Eurex Clearing AG) to the Basic Clearing Member and the Clearing Agent. The termination shall take effect 30 days after receipt of the termination notice (and, in the case of a termination notice relating to the Basic Clearing Member Clearing Agreement that is to be received by Eurex Clearing AG and another party to the Clearing Agreement, only upon receipt by Eurex Clearing AG of evidence of receipt by the relevant other party to the Basic Clearing Member Clearing Agreement).

13.1.2 Eurex Clearing AG is entitled to terminate a specific Clearing Licence with immediate effect if the prerequisites pursuant to Number 7.2.1 Paragraph (3) are fulfilled with respect to such ~~specific~~ Clearing Licence. Eurex Clearing AG is entitled to terminate a specific Basic Clearing Member Clearing Licence with immediate effect if the prerequisites pursuant to Part 6 Number 10 in conjunction with Number 7.2.1 Paragraph (3) (applied *mutatis mutandis*) are fulfilled with respect to such Basic Clearing Member Clearing Licence.

13.1.3 If a Clearing Agreement or the relevant Clearing License of a Clearing Member has been terminated, no new Transaction of such Clearing Member and, with respect to a FCM Clearing Member, no new FCM Client Transactions of such Clearing Member's FCM



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Client(s), may be included in the Clearing after receipt of the termination notice in accordance with Number 13.1.1.

13.1.4 If a Basic Clearing Member Clearing Agreement or a Basic Clearing Member Clearing License have been terminated, no new Basic Clearing Member Transaction (in the case of a termination of a Basic Clearing Member Clearing License, only if such new Basic Clearing Member Transaction would fall within the scope of such terminated Basic Clearing Member Clearing License) of such Basic Clearing Member may be included in the Clearing after receipt of the termination notice in accordance with Number 13.1.1. In such case, the Basic Clearing Member, as relevant and subject to Number 13.1.5, (i) may not enter new orders or quotes into the systems of the Markets, (ii) is obliged to cancel all outstanding orders and quotes, if and to extent possible under the rules and regulations of the relevant Markets, and any pending novations and (iii) is obliged to close its Basic Clearing Member Transactions or, if permitted under the Clearing Conditions, transfer its Basic Clearing Member Transactions prior to the termination becoming effective. Eurex Clearing AG shall, subject to Number 13.1.5, inform the Management Board of the relevant Market in writing about a termination of the Basic Clearing Member Clearing Agreement or relevant Basic Clearing Member Clearing License and about the time when the termination becomes effective.

13.1.5 If a Basic Clearing Member Clearing Agreement has been terminated, Eurex Clearing shall release the Contributions of the Clearing Agent (that has been a party to such Basic Clearing Member Clearing Agreement) to the Clearing Fund that are attributable to this Clearing Agent acting as Clearing Agent for the Basic Clearing Member in respect of the Basic Clearing Member Transactions to which such Basic Clearing Member Clearing Agreement related, no later than four weeks after (i) in the case of Number 13.1.4, all such Basic Clearing Member Transactions have been closed or settled and (ii) in the case of the appointment of a new Clearing Agent in respect of such Basic Clearing Member Transactions, such new Clearing Agent has made the Contributions to the Clearing Fund in respect of such Basic Clearing Member Transactions.

## **13.2 Special provisions regarding termination of Clearing Agreements involving a Non-Clearing Member, Registered Customer or FCM Client**

13.2.1 A Non-Clearing Member, Registered Customer or FCM Client, respectively, may terminate a Clearing Agreement to which it is party at any time pursuant to Number 13.1, applied *mutatis mutandis*. Number 1.1.7 Paragraph (10) shall remain unaffected.

13.2.2 If a Non-Clearing Member or Registered Customer has caused a breach of its obligations under the Clearing Agreement vis-à-vis Eurex Clearing AG and such breach continues for more than 30 calendar days after such Non-Clearing Member or Registered Customer receives written notice thereof from Eurex Clearing AG, Eurex Clearing AG may terminate such Clearing Agreement pursuant to Number 13.1, applied *mutatis mutandis*, whereas such termination shall take effect upon expiry of a period of 15 calendar days.

13.2.3 Upon receipt of a termination notice pursuant to Number 13.2.2, the relevant Non-Clearing Member (i) may not enter new orders or quotes into the systems of the Markets (other than with respect to inverse Transactions concluded with its Clearing Member), (ii)

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is obliged to cancel all outstanding orders and quotes, if and to extent possible under the rules and regulations of the relevant Markets, and any pending novations and (iii) is obliged to close its Transactions or transfer its Transactions to another Clearing Member. Eurex Clearing AG shall inform the Management Board of the respective Market in writing about a termination of a Clearing Agreement involving a Non-Clearing Member and about the time when the termination becomes effective. In addition, Number 10.5 applies *mutatis mutandis*.

13.2.4 Upon receipt of a termination notice pursuant to Number 13.2.2, (i) no new Transactions shall be included in the Clearing by the Clearing Member with respect to such Registered Customer, and (ii) the Clearing Member must close or transfer its relevant RC-Related Transactions to another Clearing Member. In addition, Number 11.3 applies *mutatis mutandis*.

13.2.5 Upon receipt of a termination notice from a FCM Clearing Member or a FCM Client by Eurex Clearing AG with respect to a Clearing Agreement in the form appended hereto as Appendix 10, no new FCM Client Transactions of such FCM Client may be included in the Clearing.

### **13.3 Reservations**

13.3.1 The right to terminate the Clearing Agreement or Basic Clearing Member Clearing Agreement for serious cause (*aus wichtigem Grund*) shall remain unaffected by this Number 13.

13.3.2 Number 7 and the other provisions relating to a Termination or Basic Clearing Member Termination pursuant to the Clearing Conditions shall remain unaffected by this Number 13.

## **14 Liabilities, Emergency Actions, Contractual Penalties (Vertragsstrafen), Delegation**

### **14.1 Liability, Emergency Actions**

14.1.1 The Clearing Members (including, for the purposes of this Number 14, in their capacity as Clearing Agents) and the Basic Clearing Members shall be liable for wilful misconduct and negligence. If a Clearing Member or a Basic Clearing Member causes any damages (*Schäden*) for Eurex Clearing AG, such damages shall in particular include any loss and properly incurred legal fees (including any applicable VAT).

14.1.2 Eurex Clearing AG shall only be liable for wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*), unless Eurex Clearing AG violates any of its essential obligations (*wesentliche Vertragspflichten*) under the Clearing Agreement (incorporating the Clearing Conditions). An essential obligation is an obligation, the performance of which is necessary for the execution of the contract and as well a performance of which the Clearing Member, Non-Clearing Member, Registered Customer or FCM Client or Basic Clearing Member, respectively, trusts in and may trust in. In case of simple negligence (*einfache Fahrlässigkeit*), the liability of Eurex Clearing AG is restricted only to damages typically foreseeable at the time of granting the Clearing License. The provision under

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Sentence 1 above shall not affect the statutory liability for damages incurred as a result of injury to life, body or health as well as the liability pursuant to the German Product Liability Act.

- 14.1.3 In case an orderly Clearing Procedure with a Clearing Member or a Basic Clearing Member is disrupted, in particular by technical disruptions, the relevant Clearing Member or Basic Clearing Member shall immediately notify Eurex Clearing AG thereof. Any respective emergency actions by Eurex Clearing AG are legally binding on all contractual parties.
- 14.1.4 Eurex Clearing AG shall not be liable for damages arising out of a business disruption as a result of *force majeure*, riots, events of war and natural events or natural phenomena, or as a result of other events outside the control of Eurex Clearing AG (e.g. strikes, lock-outs, traffic blocks, disruptions of supply chains) or events which occur as a result of actions of German or foreign governmental authorities.
- 14.1.5 Eurex Clearing AG shall, after sufficient testing, operate and maintain the equipment and systems in their sphere of responsibility, including application and communication software.
- 14.2 Disciplinary Procedures; Contractual Penalties (*Vertragsstrafen*)**
- 14.2.1 All Clearing Members and Basic Clearing Members are subject to the disciplinary procedures (the “**Disciplinary Procedures**”) as set out in the disciplinary procedures rules, which are published on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)) and shall form an integral part of these Clearing Conditions, (the “**Disciplinary Procedures Rules**”). Pursuant and subject to the Disciplinary Procedures Rules, certain Sanctions (as defined in the Disciplinary Procedures Rules) may be imposed on a Clearing Member or a Basic Clearing Member following the alleged breach of such Clearing Member or such Basic Clearing Member of any of its obligations under, or any of its representations made in, the Clearing Agreement (including the Clearing Conditions). Such Sanctions may include contractual penalties (*Vertragsstrafen*), provided that the Disciplinary Procedures Rules do not apply to contractual penalties (*Vertragsstrafen*) which are explicitly regulated in the Clearing Conditions (other than in the Disciplinary Procedures Rules).
- Eurex Clearing AG shall establish a Committee for the purpose of providing recommendations to the Executive Board of Eurex Clearing AG in connection with the Disciplinary ~~Proceedings~~ Procedures, as provided for in the statutes for the disciplinary committee (the “**Statutes of the Disciplinary Committee**”). The Statutes of the Disciplinary Committee are published on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)) and shall form an integral part of these Clearing Conditions.
- 14.2.2 If a Termination Event pursuant to Number 7.2.1 Paragraph (1) or a Basic Clearing Member Termination Event pursuant to Part 6 Number 10 in conjunction with Number 7.2.1 Paragraph (1) (applied *mutatis mutandis*) occurs or in the event of a failure to deliver Securities or other assets or a failure to provide any cash amount where a Physical Settlement shall occur in accordance with the Special Clearing Provisions –

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irrespective of whether Eurex Clearing AG has suffered any damage – unless such failure to deliver Securities or other assets or such failure to provide a cash amount results from force majeure (*höhere Gewalt*) and/or a general market or system disruption that is outside the control of the Clearing Member or Basic Clearing Member, the Clearing Member or Basic Clearing Member shall pay, in accordance with the instructions received from Eurex Clearing AG, a contractual penalty in the amount of 0.025 per cent of the relevant unpaid due amount, but no less than EUR 2,500 – or the corresponding equivalent in CHF – per calendar day, however, no more than EUR 25,000 or the corresponding equivalent in CHF. If the amount calculated from the above percentage exceeds EUR 25,000, the amount of the contractual penalty shall – notwithstanding the provisions in Sentence 1 – be calculated according to a percentage of the relevant unpaid due amount, such percentage having been fixed and notified in advance by Eurex Clearing AG. Such percentage shall be based on the effective overnight interest rate applicable to the relevant Clearing Currency.

The right of Eurex Clearing AG to claim further damages and/or default interest shall remain unaffected. Eurex Clearing AG shall, upon written notice by a Clearing Member or Basic Clearing Member which has suffered damage as a consequence of the failure to comply with the obligations referred to in Number 7.2.1 Paragraph (1) or in Part 6 Number 10 in conjunction with Number 7.2.1 Paragraph (1) (applied *mutatis mutandis*), be entitled to assign to such Clearing Member or Basic Clearing Member with discharging effect any claims it may have against the defaulting Clearing Member or Basic Clearing Member.

### 14.3 Delegation

Eurex Clearing AG shall be permitted to delegate in its own name the performance of the services assigned to it in whole or in part to third parties, provided that Eurex Clearing AG considers such delegation reasonable with regard to the interests of the Clearing Members. If Eurex Clearing AG delegates the performance of its services, it shall only remain responsible for the performance of the contractual obligations (*Primärleistungspflichten*) in respect of such services, but shall otherwise only be liable for diligently selecting and providing initial instructions to such delegate. However, upon request, Eurex Clearing AG shall assign any existing claims arising out of such delegation against such delegate to the respective Clearing Member or Basic Clearing Member.

## 15 Transmission of information by Eurex Clearing AG; Outsourcing of Clearing Functions

### 15.1 Transmission of information relating to Clearing Members, Clearing Agents, Non-Clearing Members ~~or~~, Registered Customers, FCM Clients and Basic Clearing Members by Eurex Clearing AG

15.1.1 Eurex Clearing AG treats all data and information which relate to its Clearing Members, Clearing Agents, Non-Clearing Members, Registered Customers and FCM Clients and Basic Clearing Members confidentially. Eurex Clearing AG shall be authorised – subject

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to applicable law – to transfer such data and information to competent supervisory authorities or other authorised third parties domestic or abroad which are subject to confidentiality regulations with respect to such data and information comparable to those of Eurex Clearing AG.

Other customer-related information may only be passed on by Eurex Clearing AG if it is already publicly available or if it is legally required to be passed on or if the relevant Clearing Member, Clearing Agent, Non-Clearing Member, Registered Customer ~~and FCM Clients~~, FCM Client and Basic Clearing Member has agreed to it.

15.1.2 Notwithstanding the provisions in Number 15.1.1, Eurex Clearing AG shall be entitled to pass on the following information to the exchange and off-exchange trading platforms for which the Clearing Member has applied to become a Market Participant:

- (1) granting of a Clearing License or a Basic Clearing Member Clearing License;
- (2) termination or suspension of a Clearing License or a Basic Clearing Member Clearing License;
- (3) occurrence of a Termination Event, Insolvency Termination Event and Termination Date or Basic Clearing Member Termination Event, Basic Clearing Member Insolvency Termination Event and Basic Clearing Member Termination Date; and
- (4) termination of the Clearing Agreement.

15.1.3 Notwithstanding the provisions in Number 15.1.1, Eurex Clearing AG shall also be entitled to transmit or to request from clearing and settlement institutions or independent auditors which are subject to confidentiality regulations comparable to those applicable to Eurex Clearing AG, all data and information which refer to Clearing Members, Clearing Agents, Non-Clearing Members, Registered Customers ~~and~~, FCM Clients and Basic Clearing Members and which are necessary for the orderly conduct of the Clearing and for the fulfilment of Transactions.

## 15.2 Fulfilment and partial outsourcing of Clearing-related functions

15.2.1 Subject to Numbers 15.2.2 to 15.2.12, each Clearing Member and Non-Clearing Member ~~and~~, subject to the U.S. Clearing Model Provisions, each FCM-Client ~~and~~, subject to the Basic Clearing Member Provisions, each Clearing Agent and each Basic Clearing Member has to perform itself and on its own responsibility all functions incumbent on it in the context of the Clearing. References in Numbers 15.2.2 to 15.2.12 to a Clearing Member shall include, where applicable, a Clearing Member in its capacity as a Clearing Agent.

15.2.2 A Clearing Member, a Non-Clearing Member or a ~~Non-Basic~~ Clearing Member may outsource the Clearing, risk management or back-office functions (“**Outsourced Functions**”) to be performed by it in whole or in part to another Clearing Member, Non-Clearing Member, Basic Clearing Member or third party (each an “**Insourcer**” and each outsourcing Clearing Member ~~or Non-~~, Non-Clearing Member or Basic Clearing Member an “**Outsourcer**”) by way of an outsourcing arrangement between the Outsourcer and the

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Insourcer (“**Outsourcing**”). Outsourcing may also comprise the further Outsourcing of Outsourced Functions by the Insourcer (“**Sub-Outsourcer**”) to another Insourcer (“**Sub-Outsourcing**”) with the prior approval of the relevant Outsourcer. The requirements to Outsourcing shall apply accordingly to any Sub-Outsourcing. The Outsourcer remains fully responsible towards Eurex Clearing AG for the orderly conduct of the Outsourced Functions.

15.2.3 Any Outsourcing shall fulfil the following requirements:

- (1) the Outsourcing is in compliance with the laws and regulations applicable to the Outsourcer as well as to the Insourcer and the relevant Clearing Agreement;
- (2) as a result of the Outsourcing Eurex Clearing AG will not be required to obtain any additional license or authorisation unless Eurex Clearing AG in its free discretion decides to apply for such license or authorisation;
- (3) the orderly conduct of the Outsourced Functions is ensured; in this respect, the Outsourcer is required to:
  - (a) contractually oblige the Insourcer to (i) appoint a qualified employee in the back office pursuant to Number 2.1.2 Paragraph (5) (c), applied *mutatis mutandis* (this shall only apply if the Outsourcer itself is required to comply with such requirement ~~unless outsourcing to an affiliated company~~ and shall not apply if the Insourcer is a Clearing Member or a Basic Clearing Member which is already required to comply with such requirement vis-à-vis Eurex Clearing AG directly or if the Outsourcer has a qualified clearing staff member), (ii) keep customer-related data (i.e. data relating to the Outsourcer’s customers) confidential and to implement adequate technical and organisational measures to adequately protect such customer-related data, and to (iii) only use such customer-related data for the purposes of fulfilling the Outsourced Functions;
  - (b) establish and maintain throughout the term of the Outsourcing appropriate procedures documented in writing for supervising the performance of the Outsourced Functions by the Insourcer; in this respect, the Outsourcer is required to (i) ensure access at any time to the Outsourced Functions (except in the case of an Outsourcing by a Non-Clearing Member to its Clearing Member and an Outsourcing by a Basic Clearing Member to its Clearing Agent), (ii) monitor the Insourcer’s capability to perform the Outsourced Functions on an ongoing basis, (iii) establish guidelines for each Outsourced Function that the Insourcer must follow in performing such Outsourced Function, and (iv) conduct audits at the Insourcer on a regular basis either by (a) checking, or by authorising an independent auditor to check, the documents and processes related to the Outsourced Functions in the business premises of the Insourcer, or by (b) obliging the Insourcer to certify and document the orderly performance of the Outsourced Functions in accordance with the guidelines for each Outsourced Function and the principles for Outsourcing set out in this Number 15.2.3;

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- (c) ensure that the limitations on self-contracting pursuant to Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch* - “**BGB**”) or similar provisions in other applicable laws are complied with in respect of the Outsourced Functions, in particular with respect to the establishment of Transactions;
- (d) in the case of a direct technical connection of the Insourcer to the systems of Eurex Clearing AG, procure that all consents and authorisations that are necessary for the transfer of personal data from Eurex Clearing AG to the Insourcer and for any other processing or use of personal data, in connection with the Outsourced Functions are in place; and
- (e) to provide to Eurex Clearing AG the following information in a format determined by Eurex Clearing AG: (i) a list of the Outsourced Functions, (ii) the name and registered office of the Insourcer, (iii) a confirmation that the Insourcer has adequate resources and expertise for the performance of the Outsourced Functions, (iv) the envisaged term of the Outsourcing, (v) the contact persons at the Outsourcer and the Insourcer in relation to the Outsourced Functions, including in each case at least one contact person to escalate any issues in respect of the Outsourced Functions who shall be available without interruptions during regular business hours and has sufficient German or English language skills, ~~(vi) in case of outsourcing to an affiliated company, documentation of ownership structure (e.g. annual consolidated financial statement or written confirmation from a certified accountant), and and~~ (vii) any other information as may reasonably be requested by Eurex Clearing AG for the purposes of assessing the envisaged Outsourcing;
- (4) in the case of an Outsourcing (i) by a Non-Clearing Member to an entity other than its Clearing Member, the Clearing Member and (ii) by a Basic Clearing Member to an entity other than its Clearing Agent, the Clearing Agent has consented to the Outsourcing; and
- (5) such further prerequisites as may be determined by Eurex Clearing AG in its reasonable discretion and published in accordance with Number 16.1.

15.2.4 An Outsourcing may only be commenced upon fulfilment of the following requirements:

- (1) the Outsourcer has provided the information pursuant to Number 15.2.3 Paragraph (3) (e) and confirmed to Eurex Clearing AG that the further requirements pursuant to Number 15.2.3 are fulfilled;
- (2) Eurex Clearing AG has confirmed receipt of the information pursuant to Paragraph (1) in writing and specified the date by which the Outsourcing may be commenced (the “**Outsourcing Date**”).

The confirmation pursuant to Paragraph (2) does not constitute a confirmation by Eurex Clearing AG that the requirements pursuant to Number 15.2.3 are fulfilled. Eurex Clearing AG may rely on the respective information provided by the Outsourcer and will not conduct own investigations in this regard.

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15.2.5 In the case Eurex Clearing AG becomes aware or if a probable cause exists that the prerequisites for the Outsourcing set out in Number 15.2.3 are not fulfilled, the Outsourcer is obliged to ensure immediate compliance with the prerequisites for the Outsourcing or to terminate the Outsourcing upon notification by Eurex Clearing AG.

15.2.6 Eurex Clearing AG may at any time request from the Outsourcer further information and evidence concerning the orderly conduct of Outsourced Functions, in particular (i) any Outsourcing agreements, (ii) a confirmation that the Outsourcing is in compliance with applicable laws and regulations and the Clearing Conditions, or (iii) a confirmation of the competent regulatory authorities that the Outsourcing is in compliance with applicable laws and regulations and/or will not require Eurex Clearing AG to obtain any additional licenses or authorisations.

15.2.7 Eurex Clearing AG may at any time and at its own expense check, or authorise an independent auditor to check, documents and processes related to the Clearing Procedures in the business premises of the Outsourcer and the Insourcer (each of such measures a "**Compliance Audit**"). The Outsourcer shall contractually ensure that Eurex Clearing AG is entitled to equally execute these rights vis-à-vis the Insourcer.

Any Compliance Audit is solely carried out in the interest of Eurex Clearing AG and not in the interest or for the benefit of the Outsourcer or any other person. In particular, a Compliance Audit (i) does not constitute advice to the Outsourcer or any other person as to any legal, tax, accounting, regulatory or other matters and (ii) does not relieve the Outsourcer from its duty to ensure the orderly conduct of the Outsourced Functions pursuant to Number 15.2.3, in particular from conducting its own audits of the Insourcer and its performance of the Outsourced Functions. Eurex Clearing AG is not obliged to reassess the results of any audit or any information provided by the Outsourcer.

15.2.8 Eurex Clearing AG may at any time exercise a veto right in respect of the Outsourcing if it becomes aware of a:

- (1) violation of applicable provisions of law or the relevant Clearing Agreement by the Outsourcing;
- (2) non-compliance by the Outsourcer or the Insourcer with the requirements set out in Number 15.2.3 as regards the orderly provision of the Outsourced Functions (e.g. by showing apparent absence of resources in terms of skills, response times and technical compatibility);
- (3) violation of security standards by the Insourcer within three (3) years prior to the Outsourcing Date or during the term of the Outsourcing which may have an impact on the orderly provision of the Outsourced Functions;
- (4) risk of reputational damages for Eurex Clearing AG caused by the Outsourcing (e.g. by the relevant Insourcer disclosing confidential information to third parties); or
- (5) concentration risk due to the appointment of the same Insourcer by several Outsourcers.



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- 15.2.9 Eurex Clearing AG may exercise its veto right with immediate effect (i) prior to the Outsourcing Date or (ii) following the Outsourcing Date if, in Eurex Clearing AG's determination, the incident pursuant to Number 15.2.8 may have a material adverse effect on the Clearing Procedures. In all other cases, Eurex Clearing AG shall, before exercising its veto right, grant the Outsourcer an adequate grace period to remedy the relevant issues. During such period, Eurex Clearing AG may partially restrict the Outsourcing and/or restrict the access of the Insourcer to its systems in order to ensure the orderly functioning of the Clearing Procedures, in particular with respect to the Outsourced Functions.
- 15.2.10 Upon exercise of the veto right by Eurex Clearing AG, the Outsourcer is obliged to terminate the Outsourcing and to re-assume the Outsourced Functions with immediate effect or at a time specified by Eurex Clearing AG. Non-compliance with this obligation shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (12). Eurex Clearing AG may instead terminate one or more Clearing Licenses (or, in the case of a Basic Clearing Member, one or more Basic Clearing Member Clearing Licenses) of the Outsourcer. If the Outsourcer is a Non-Clearing Member, Eurex Clearing AG may terminate the Clearing Agreement with the outsourcing Non-Clearing Member in accordance with Number 12.1 or Number 12.6.
- 15.2.11 Eurex Clearing AG's liability for any damages, losses and expenses caused by an inadequate or wrongful exercise of (i) the veto right pursuant to Number 15.2.9 or (ii) the right to conduct Compliance Audits pursuant to Number 15.2.7 shall be restricted to wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*), except for any damages incurred as a result of injury to life, body or health caused negligently or intentionally.
- 15.2.12 Eurex Clearing AG shall be entitled to transfer to the Insourcer any information and customer-related data obtained by Eurex Clearing AG in connection with the Clearing Procedures to the extent that such transfer of data is necessary for the orderly conduct of the Outsourced Functions. The Outsourcer shall indemnify Eurex Clearing AG for any damages claimed by third parties alleging the violation of applicable data protection law or any contractual provisions by such transfer. This obligation shall remain in force for a period of three (3) years after expiry or termination of the Clearing Agreement between the Outsourcer and Eurex Clearing AG.
- 16 Publications and Notices**
- 16.1 If provided for in these Clearing Conditions, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published (i) via electronic circular to the Clearing Members (which term shall, in this Number 16, include Clearing Members in their capacity as Clearing Agents), Non-Clearing Members, Registered Customers and FCM Clients and Basic Clearing Members or (ii) on the Eurex Clearing AG website ([www.eurexclearing.com](http://www.eurexclearing.com)). Unless otherwise provided for in these Clearing Conditions, such publication will be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice, except that in case of changes or amendments (x) of the Special Provisions (as defined in Number 17.3.1), such publication will be made at least three months prior to the effective date fixed in the relevant notice and (y) in the cases set

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forth in the first paragraph of Number 17.3.1 Paragraph (2), such publication will be made at least ten (10) Business Days prior to the effective date fixed in the relevant notice.

However, where changes or amendments to the Special Provisions are proposed, such publication need only be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice where Eurex Clearing AG announces in the invitation to the Consultation pursuant to Number 17.3.1 Paragraph (1) the application of a shortened publication time period of fifteen (15) Business Days prior to the effective date fixed in the relevant notice and in total no more than two affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~and/or~~ affected FCM Clients and/or affected Basic Clearing Member object to the application of such shortened time period within the Consultation as provided for in Number 17.3. If Eurex Clearing AG receives such objections from more than two affected Clearing Members, affected Non-Clearing-Members, ~~and/or~~ affected Registered Customers ~~and/or~~ affected FCM Clients and/or affected Basic Clearing Members during the Consultation, Eurex Clearing AG shall notify all Clearing Members, Non-Clearing-Members, Registered Customers ~~and/or~~ FCM Clients and/or Basic Clearing Members promptly on receipt of such objections in a further electronic circular.

- 16.2 Unless Number 16.1 is specified in these Clearing Conditions to apply, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published on the Eurex Clearing AG website under [www.eurexclearing.com](http://www.eurexclearing.com) for at least three Business Days. Such notices will become effective immediately upon publication.
- 16.3 All notices to be given between Eurex Clearing AG and a Clearing Member or a Non-Clearing Member, Registered Customer ~~or~~ FCM Client or Basic Clearing Member shall be given in such form and at such address as agreed and/or notified from time to time by the relevant party. Notices may be given in the German or in the English language. Upon written request by a Clearing Member, Non-Clearing Member, Registered Customer ~~or~~ FCM Client or Basic Clearing Member all notices from Eurex Clearing AG (except for automated reports) to such requesting party shall be given in the German and in the English language or one of these languages. Unless otherwise specified in these Clearing Conditions notices by Clearing Members, Non-Clearing Members, Registered Customers ~~or FCM Client~~, FCM Clients or Basic Clearing Members may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.
- 16.4 Each Clearing Member, Non-Clearing Member, Registered Customer ~~and~~ FCM Client and Basic Clearing Member acknowledges that Eurex Clearing AG will send to Clearing Members, Non-Clearing Members, Registered Customers ~~and~~ FCM Clients and Basic Clearing Members notices –and reports in the systems of Eurex Clearing AG in an area which is only individually accessible to it (the “**Access Area**”). Eurex Clearing AG is not entitled to access or change the Access Area of a Clearing Member, Non-Clearing Member, Registered Customer ~~or~~ FCM Client or Basic Clearing Member without its consent. Reports and notifications stored in an Access Area will regularly be exchanged against new notices or reports with 10 Business Days of their storage in the Access Area.

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16.5 Each Clearing Member, Non-Clearing Member, Registered Customer ~~and~~ FCM Client and Basic Clearing Member acknowledges that the notices and reports which are made accessible in the individual Access Area may also contain declarations (*Willenserklärungen*), in particular acceptances (*Annahmen*) of Transactions and other declarations of particular importance.

## 17 Miscellaneous

### 17.1 Governing law; Place of jurisdiction

17.1.1 Unless provided otherwise, the rights and obligations arising out of, and in connection with, these Clearing Conditions shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany. Only the German language version of these Clearing Conditions is legally binding.

17.1.2 Any non-contractual rights and obligations arising out of, and in connection with, these Clearing Conditions shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

17.1.3 Exclusive place of jurisdiction for all disputes arising out of, or in connection with, these Clearing Conditions is Frankfurt am Main.

### 17.2 Changes and Amendments to the Clearing Conditions

17.2.1 Eurex Clearing AG reserves the right to change or amend the Clearing Conditions and the Procedures Manual at any time; any changes and amendments of these Clearing Conditions shall be published in accordance with Number 16.1.

17.2.2 In case of changes or amendments of Special Provisions (as defined in Number 17.3.1) the procedures set forth in Number 17.3 shall apply. In case of all other changes and amendments of the Clearing Conditions (except for changes or amendments pursuant to Number 17.3.1 Paragraph (2)) Eurex Clearing AG shall assess whether the comments received from affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~and~~ affected FCM Clients or affected Basic Clearing Members within ten (10) Business Days of the publication of the change or amendment, taking into account the interests of Eurex Clearing AG, all Clearing Members, Non-Clearing-Members, Registered Customers ~~and~~ FCM Clients, ~~stand in the way of~~ and Basic Clearing Members prevents the published change or amendment from becoming effective. If necessary, Eurex Clearing AG will consult the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to implement comments of affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~or~~, affected FCM Clients or affected Basic Clearing Member, the relevant changes and amendments will be published again pursuant to Number 16; there will, however, be no new assessment of the comments of the Clearing Members, Non-Clearing-Members, Registered Customers ~~and~~ FCM Clients and Basic Clearing Members pursuant to this Number 17.2.2.

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17.2.3 Each Clearing Member, Non-Clearing Member, Registered Customer ~~and~~ FCM Client and Basic Clearing Member accepts each change and amendment of the Clearing Conditions, unless it objects by written notice to Eurex Clearing AG before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions. Eurex Clearing AG will inform the Clearing Members, Non-Clearing Members, Registered Customers ~~and~~ FCM Clients and Basic Clearing Members of the effects of such approval in the relevant publication of the changes and amendments of these Clearing Conditions. The right to terminate the Clearing Agreement pursuant to Number 7.2.1 Paragraph (4) shall remain unaffected.

### 17.3 Consultation in case of changes and amendments of the Clearing Conditions

#### 17.3.1 Scope of Application and Definitions

- (1) Prior to changes or amendments of the Special Provisions (as defined below), Eurex Clearing AG will, pursuant to Number 16, invite all affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~and~~ affected FCM Clients and affected Basic Clearing Members to submit comments to the proposed changes and amendments within one month after the publication of the relevant invitation (“**Consultation**”).

“**Special Provisions**” are Numbers 1.5, 6, 7, 9, 16.1, 17.2 and 17.3, Subpart C Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions, Chapter III Part 2 Number 2.4 Paragraph (1), Chapter IV Part 2 Number 2.6 Paragraph (1) (b), Chapter V Part 2 Number 2.2.1 Paragraph (4), Chapter VIII Part 2 Number 2.2.5 Paragraph (7), Chapter IX Part 2 Number 2.6.4 Paragraph (4), Chapter IX Part 2 Number 2.7.2 Paragraph (2), Appendices 1, 2, 3, 4, 5, ~~6, 7~~ and ~~7-11~~ (to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests) as well as the Procedures Manual (to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing AG, the Clearing Members, Non-Clearing-Members, Registered Customers ~~and~~ FCM Clients), and Basic Clearing Members), the DMC Rules and the DM Auction Rules and any newly added provisions relating to the subject matter of these provisions. Rules or Agreements (except for those set forth in the preceding sentence), which are referred to in these provisions, do not qualify as Special Provisions.

- (2) A Consultation pursuant to Paragraph (1) does not take place with regard to (i) editorial changes or amendments, (ii) changes or amendments necessary to comply with statutory or regulatory requirements, as well as (iii) changes or amendments (except for changes or amendments to Numbers 6, 7, 9, 17.2 or 17.3) due to Extraordinary Market Conditions (as defined below).

“**Extraordinary Market Conditions**” are, as determined by Eurex Clearing AG,

- (a) events or circumstances which affect or may affect the orderly Clearing, the orderly settlement and liquidation of Transactions or the existence or orderly functioning of the Clearing Process.

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- (b) other market disruptions which render impossible or impracticable the orderly determination of closing prices (*Schlusskursen*) or settlement prices; or
- (c) events or circumstances which establish non tolerable insecurity, volatility or risks with regard to Transactions or the Clearing which may negatively impact on the financial or commodities markets relevant for the Clearing, which, in each case, render it impractical for Eurex Clearing AG to continue to operate the Clearing in accordance with the Clearing Conditions while sufficiently managing its risks.

Extraordinary Market Conditions may ~~also even~~ occur if only a single Clearing Member, a single Basic Clearing Member (e.g. in case of a default) or a group of Clearing Members or Basic Clearing Members is/are affected, provided that any of the events or circumstances described in (a) to (c) exist. The default of a Clearing Member or a Basic Clearing Member does not per se constitute Extraordinary Market Conditions.

17.3.2 Eurex Clearing AG will, taking into account the interests of Eurex Clearing AG and all Clearing Members, Non-Clearing-Members, Registered Customers ~~and~~ FCM Clients and Basic Clearing Members assess the comments received by the affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~and~~ affected FCM Clients and affected Basic Clearing Members in the Consultation and, if necessary, consult the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to accept proposed changes or amendments by affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers ~~or~~ affected FCM Clients or affected Basic Clearing Members, an amended version of the relevant changes or amendments taking into account the proposed changes or amendments will be published pursuant to Number 16; there shall be no new Consultation pursuant to Number 17.3.

17.3.3 Eurex Clearing AG will in connection with regular meetings of the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, otherwise deliver a summary report of the comments received during the Consultation as well as on the position taken by Eurex Clearing AG.

#### 17.4 **Current Version of the Clearing Conditions**

The current valid version of the Clearing Conditions is available via the internet ([www.eurexclearing.com](http://www.eurexclearing.com)).

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## Part 2 Elementary Clearing Model Provisions

### 1 Application of the Elementary Clearing Model Provisions

- 1.1 Eurex Clearing AG and a Clearing Member may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 for the Clearing of Transactions under the Elementary Clearing Model Provisions pursuant to this Part 2. A FCM Clearing Member may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 for the Clearing of Own Transactions only.

Further, Eurex Clearing AG, a Clearing Member and a Non-Clearing Member or a Registered Customer may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 for the Clearing of Transactions under the Elementary Clearing Model Provisions pursuant to this Part 2.

- 1.2 Any Transaction between the Clearing Member and Eurex Clearing AG which is subject to the Elementary Clearing Model Provisions shall either be concluded as an Own Transaction or as an Elementary Omnibus Transaction. The term “**Elementary Omnibus Transaction**” comprises each Customer-Related Transaction, NCM-Related Transaction and RC-Related Transaction that is subject to the Elementary Clearing Model Provisions. Any NCM-Related Transaction or RC-Related Transaction concluded under an ICM Clearing Agreement is a “**Covered Transaction**”. Any Net Omnibus Eligible Transaction concluded under a Net Omnibus Clearing Agreement which has been booked to a Net Omnibus Customer Account, a Net Omnibus NCM Account or a Net Omnibus RC Account and which is therefore subject to the Net Omnibus Clearing Model Provisions is a “**Net Omnibus Transaction**”. Any Transaction concluded between Eurex Clearing AG and a FCM Client under a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 is a “**FCM Client Transaction**”. Any Transaction concluded between Eurex Clearing AG and a Basic Clearing Member under a Basic Clearing Member Clearing Agreement is a “**Basic Clearing Member Transaction**”.

### 2 Content of Clearing Agreement and the Standard Agreements

#### 2.1 Construction

- 2.1.1 The Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 between Eurex Clearing AG and a Clearing Member shall be subject to the Elementary Clearing Model Provisions. If such Clearing Agreement qualifies as a Net Omnibus Clearing Agreement, it shall in this respect be subject to the Net Omnibus Clearing Model Provisions.
- 2.1.2 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 is entered into by Eurex Clearing AG, a Clearing Member and a Non-Clearing Member or Registered Customer, such Clearing Agreement will provide for terms and conditions applying between Eurex Clearing AG, the Clearing Member and the Non-Clearing

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Member or Registered Customer as well as terms and conditions applying between Eurex Clearing AG and the Clearing Member, on the one hand, and between the Clearing Member and the Non-Clearing Member or Registered Customer, on the other hand.

2.1.3 Each of the following arrangements in paragraphs (i) – (iii) below shall for the purposes of these Clearing Conditions constitute a separate arrangement (each such arrangement hereinafter referred to as a “**Standard Agreement**”):

- (i) The “**Elementary Proprietary Standard Agreement**” comprising all rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Own Transactions under the Clearing Agreement pursuant to Number 2.1.1.
- (ii) The “**Elementary Omnibus Standard Agreement**” comprising all rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Elementary Omnibus Transactions under all Clearing Agreements pursuant to Numbers 2.1.1 and 2.1.2, or, in case of multiple Elementary Omnibus Standard Agreements pursuant to Number 2.3, each such Elementary Omnibus Standard Agreement (the Elementary Proprietary Standard Agreement and each Elementary Omnibus Standard Agreement an “**Elementary Standard Agreement**”).
- (iii) Unless otherwise agreed between the relevant Clearing Member and the relevant Non-Clearing Member/Registered Customer, all rights and obligations between the relevant Clearing Member and the relevant Non-Clearing Member or Registered Customer with respect to Transactions under a Clearing Agreement pursuant to Number 2.1.2 corresponding to the relevant NCM-Related Transactions or RC-Related Transactions of the Clearing Member.

References in the Elementary Clearing Model Provisions to a Standard Agreement shall be construed so as to exclude any Standard Agreement pursuant to the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~ any FCM Client Standard Agreement pursuant to the U.S. Clearing Model Provisions and any Basic Clearing Member Standard Agreement pursuant to the Basic Clearing Member Provisions.

2.1.4 All Own Transactions between Eurex Clearing AG and the relevant Clearing Member under the Elementary Proprietary Standard Agreement and any Redelivery Claims (as defined and set out in Number 2.2.2) arising in relation to the Elementary Proprietary Standard Agreement form a single agreement between such parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual Transactions) can be terminated only in its entirety.

All Elementary Omnibus Transactions between Eurex Clearing AG and the relevant Clearing Member under each Elementary Omnibus Standard Agreement and any Redelivery Claims arising in relation to the Elementary Omnibus Standard Agreement form a single agreement between such parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to

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provisions in this Chapter I on the termination of individual Transactions) can be terminated only in its entirety.

If a Clearing Member and the same entity acting as both Non-Clearing Member and Registered Customer have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2, all rights and obligations between the relevant Clearing Member and the relevant entity acting as Non-Clearing Member and Registered Customer with respect to Transactions under the Clearing Agreement corresponding to the relevant NCM-Related Transactions and RC-Related Transactions of the Clearing Member's Elementary Omnibus Transactions relating to such entity acting as both Non-Clearing Member and Registered Customer under the Elementary Clearing Model Provisions shall be subject to one and the same Standard Agreement.

Unless otherwise agreed between the Clearing Member and the Non-Clearing Member/Registered Customer, all Transactions and any claims for the return of margin or variation margin (or assets equivalent thereto) arising pursuant to the Standard Agreement between the relevant Clearing Member and a Non-Clearing Member/Registered Customer shall form a single agreement between such parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between them which (subject to provisions in these Clearing Conditions on the termination of individual Transactions) can be terminated only uniformly.

2.1.5 The Non-Clearing Member or Registered Customer and the Clearing Member may agree on additional terms to their Standard Agreement to the extent those additional terms do not deviate from the Clearing Agreement. Any such additional agreement shall form part of that Standard Agreement and, in the event of any inconsistencies between any such additional agreement (as amended from time to time) and the Clearing Agreement, the Clearing Agreement shall always prevail.

## **2.2 General Principles applicable to the Settlement of Own Transactions and Elementary Omnibus Transactions and any Delivery and Redelivery of Margin in form of Cash or Variation Margin**

2.2.1 Each of Eurex Clearing AG and the Clearing Member shall be obliged to fulfil any payment or delivery obligations under Own Transactions and Elementary Omnibus Transactions or obligations to deliver or redeliver cover in respect of either the relevant Margin (as defined in Number 6.1) in the form of cash or the relevant Variation Margin (as defined in Number 7.1) under the relevant Elementary Standard Agreement by transferring to the transferee all rights, title and interest in and to the concerned assets or Eligible Margin Assets in form of cash, as the case may be, free and clear from any and all rights and claims of the transferring party and of any third person, including, without limitation, pursuant to applicable regulation or under any statutory or other trust, to the transferee. The value of such assets shall, as of the date the transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

2.2.2 The actual payment or delivery of Eligible Margin Assets in form of cash in respect of Margin or Variation Margin gives rise to a corresponding contractual claim of the Margin



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Provider against the Margin Taker for repayment assets of equivalent to the relevant Eligible Margin Assets or increases an already existing repayment claim.

In case the Value Based Allocation is the Applicable Allocation Method, the following shall apply:

With respect to Eligible Margin Assets in the form of cash actually paid or delivered in respect of Margin a portion of the corresponding repayment claim at any time be allocated to each Elementary Standard Agreement. The portion allocated to each Elementary Standard Agreement may vary from time to time and shall at any time be equal to (i) the amount of the Eligible Margin Assets in the form of cash actually paid or delivered in respect of Margin multiplied by (ii) the Pro Rata Margin Share (as defined in Number 4.2.1) applicable with respect to the relevant Elementary Standard Agreement at such time, as determined by Eurex Clearing AG.

With respect to Eligible Margin Assets in the form of cash actually paid or delivered in respect of Variation Margin a portion of the corresponding repayment claim shall at any time be allocated to each Elementary Standard Agreement. The portion allocated to each Elementary Standard Agreement shall at any time be equal to (i) with respect to the Elementary Proprietary Standard Agreement, the amount of the Eligible Margin Assets in the form of cash actually paid or delivered in respect of Elementary Proprietary Variation Margin and (ii) with respect to the Elementary Omnibus Standard Agreement, the amount of the Eligible Margin Assets in the form of cash actually paid or delivered in respect of Elementary Omnibus Variation Margin, as determined by Eurex Clearing AG.

In case the Asset Based Allocation is the Applicable Allocation Method, the claim for repayment relating to the actual payment or delivery of Eligible Margin Assets in form of cash shall be allocated to (i) if the payment or delivery has been made in respect of Elementary Proprietary Margin or Elementary Proprietary Variation Margin, the Elementary Proprietary Standard Agreement or (ii) if the payment or delivery has been made in respect of Elementary Omnibus Margin or Elementary Omnibus Variation Margin, the relevant Elementary Omnibus Standard Agreement.

Any repayment claim or, in case the Value Based Approach is the Applicable Allocation Method, the relevant portion of any repayment claim allocated to each Elementary Standard Agreement from time to time in accordance with the Applicable Allocation Method shall, with respect to the relevant Elementary Standard Agreement, be referred to as a “**Redelivery Claim**”).

2.2.3 In the case of Margin, only the Clearing Member may be the creditor of the relevant Redelivery Claim and in the case of Variation Margin, either party to the relevant Elementary Standard Agreement may be the creditor of the relevant Redelivery Claim.

For the purpose of a Redelivery Claim, the term “**equivalent**” means an amount in the same currency and amount as such Eligible Margin Asset actually delivered in respect of Margin or Variation Margin.

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References in the Elementary Clearing Model Provisions to Redelivery Claims shall be construed so as to exclude any Redelivery Claim pursuant to the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions.

The relevant Redelivery Claim will become due with respect to Margin in accordance with Number 6.7.1 and with respect to Variation Margin in accordance with Number 7, provided that in each case no Termination Date (as defined in Number 7.2 of the General Clearing Provisions) has occurred with respect to the relevant Elementary Standard Agreement.

2.2.4 Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the term “**actually delivered**” when used in the Elementary Clearing Model Provisions means at any time and with respect to an Eligible Margin Asset and an Elementary Standard Agreement:

- (i) the actual credit of an Eligible Margin Asset in the form of cash to the relevant Eurex Clearing AG cash account or, as the case may be, the actual credit entry on the Internal Elementary Omnibus Margin Account pursuant to Number 6.3.1.3 or Number 6.3.2.3, or
- (ii) the actual credit of an Eligible Margin Asset in form of Securities to the Pledged Securities Account or an Elementary Omnibus Pledged Securities Account, as the case may be provided that the pledge pursuant to Number 6.6 has been granted and has not expired in whole or in part, or
- (iii) in the case of a delivery of an Eligible Margin Asset in the form of Securities pursuant to Number 6.6.3, the effectiveness of the pledge in Xemac (as defined Number 6.6.3), or
- (iv) otherwise in the event of a set-off pursuant to Number 1.4 of the General Clearing Provisions, the legal effectiveness of such set-off,

provided that, in each case, the relevant Eligible Margin Asset has been allocated to the relevant Elementary Standard Agreement in accordance with the Applicable Allocation Method at the relevant time. The term “**actual delivery**” shall be interpreted accordingly.

Where reference is made in the Elementary Clearing Model Provisions to the “**aggregate value**” of Eligible Margin Assets in connection with the assessment of compliance with a Margin Requirement or an obligation to deliver or redeliver cover in respect of Margin or Variation Margin, the aggregate value of the Eligible Margin Assets will be determined by Eurex Clearing AG in accordance with Number 3.2.2 of the General Clearing Provisions with respect to the relevant Elementary Standard Agreement to which such Eligible Margin Assets are allocated.

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## **2.3 Special Provisions for Multiple Elementary Omnibus Standard Agreements**

### **2.3.1 Construction**

Eurex Clearing AG and the Clearing Member may agree to designate multiple Elementary Omnibus Standard Agreements comprising the rights and obligations with respect to Elementary Omnibus Transactions booked on specified accounts of the Clearing Member for Customer-Related Transactions, NCM-Related Transactions and RC-Related Transactions that are allocated to the relevant Elementary Omnibus Standard Agreement pursuant to Number 2.3.2. Each such Elementary Omnibus Standard Agreement shall for the purposes of these Clearing Conditions constitute a separate Standard Agreement.

### **2.3.2 Allocation of Accounts to an Elementary Omnibus Standard Agreement**

The Clearing Member may allocate each of its accounts for Customer-Related Transactions, NCM-Related Transactions and RC-Related Transactions that are Elementary Omnibus Transactions to a specific Elementary Omnibus Standard Agreement by giving notice to Eurex Clearing AG in accordance with the following provisions:

- (i) An Elementary Omnibus Standard Agreement may consist of any combination of accounts for Customer-Related Transactions, NCM-Related Transactions and RC-Related Transactions but may not consist exclusively of accounts relating to one particular Non-Clearing Member or Registered Customer, save for the case that all Elementary Omnibus Transactions between the Clearing Member and Eurex Clearing AG relate to one particular Non-Clearing Member or Registered Customer only.
- (ii) All accounts with respect to a particular Non-Clearing Member or Registered Customer must be allocated to the same Elementary Omnibus Standard Agreement.
- (iii) The Clearing Member may change the allocation of accounts to an Elementary Omnibus Standard Agreement at any time by giving notice to Eurex Clearing AG, provided that the re-allocation does not result in a breach of the conditions referred to in (i) and (ii).
- (iv) The allocation or re-allocation of accounts to an Elementary Omnibus Standard Agreement becomes effective upon receipt of a corresponding confirmation by the Clearing Member from Eurex Clearing AG.

Eurex Clearing AG reserves the right to limit the total number of Elementary Omnibus Standard Agreements available per Clearing Member generally by publication of a corresponding notice pursuant to Part 1 Number 16.1. Eurex Clearing AG shall have the right to inform the Non-Clearing Members and Registered Customers of the Clearing Member to which Elementary Omnibus Standard Agreement they are allocated.

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### 2.3.3 Margin

The Clearing Member is required to establish one Elementary Omnibus Pledged Securities Account per Elementary Omnibus Standard Agreement. The Asset Based Allocation is the only Applicable Allocation Method in the case of multiple Elementary Omnibus Standard Agreements. The Value Based Allocation does not apply.

### 3 Conclusion of Transactions

Transactions between the parties to a Standard Agreement shall be concluded in accordance with Number 1.2.2 of the General Clearing Provisions.

### 4 Internal Accounts

In addition to the internal accounts set out in Number 4 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to each Clearing Member the following internal accounts:

#### 4.1 Internal Cash Accounts

With respect to each currency accepted by it, Eurex Clearing AG shall establish and maintain for each Clearing Member per Elementary Standard Agreement: (i) one internal cash account for the settlement of claims other than Settlement Claims, into which all daily settlement payments, option premiums, fees, contractual penalties and other cash payment obligations arising under Transactions or under the Clearing Conditions shall be booked and (ii) one internal cash account for Settlement Claims.

The daily balance of each internal cash account (after taking into account the set-offs pursuant to Number 1.3 of the General Clearing Provisions) shall be debited or credited, as the case may be, to the respective Clearing Member Cash Account of the Clearing Member to the extent that Eurex Clearing AG does not claim any credit balance in the account in respect of Margin or Variation Margin.

#### 4.2 Internal Margin Account; Allocation

Eurex Clearing AG will establish and maintain for each Clearing Member the following records and accounts to record Margin:

- (i) with respect to the Elementary Proprietary Standard Agreement, an internal elementary proprietary margin account (the “**Internal Elementary Proprietary Margin Account**”) and
- (ii) with respect to each Elementary Omnibus Standard Agreement, an internal elementary omnibus margin account (each an “**Internal Elementary Omnibus Margin Account**”, the Internal Elementary Proprietary Margin Account and each of the Internal Elementary Omnibus Margin Accounts an “**Internal Margin Account**”),

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in which all Eligible Margin Assets that have been actually delivered to Eurex Clearing AG and allocated to the relevant Elementary Standard Agreement in accordance with the Applicable Allocation Method from time to time will be recorded.

**“Applicable Allocation Method”** means Value Based Allocation, unless a Clearing Member has specified in the Clearing Agreement pursuant to Appendix 1 that Asset Based Allocation shall apply or maintains multiple Elementary Omnibus Standard Agreements, in which case Asset Based Allocation shall be the Applicable Allocation Method.

**“Asset Based Allocation”** means the method for allocations set out in these Elementary Clearing Model Provisions including, but not limited to Number 4.2.2 that applies if the Asset Based Allocation is the Applicable Allocation Method.

**“Value Based Allocation”** means the method for allocations set out in these Elementary Clearing Model Provisions including, but not limited to Number 4.2.1 that applies if the Value Based Allocation is the Applicable Allocation Method.

4.2.1 Subject to Numbers 6.3.1.3 and 6.3.2.3, in case the Value Based Allocation is the Applicable Allocation Method, the relevant Pro Rata Margin Share of

- (i) all credits and debits of Securities to the Pledged Securities Account and all pledged or released Securities using Xemac or CmaX, and
- (ii) all daily cash credits or debits in respect of Margin to the Clearing Member Cash Account or a foreign currency account of the Clearing Member,

will be allocated to the Elementary Proprietary Standard Agreement and the Elementary Omnibus Standard Agreement, as applicable, and recorded on the Internal Elementary Proprietary Margin Account and the Internal Elementary Omnibus Margin Account, respectively.

Where:

**“Pro Rata Margin Share”** means, at any time and

- (i) with respect to the Elementary Proprietary Standard Agreement, a share determined by Eurex Clearing AG equal to one (1) less the Pro Rata Margin Share determined with respect to the Elementary Omnibus Standard Agreement and
- (ii) with respect to the Elementary Omnibus Standard Agreement, a share determined by Eurex Clearing AG that corresponds to the ratio of (x) the Assigned Elementary Omnibus Margin Value and (y) the aggregate value of all Eligible Margin Assets actually delivered in respect of the Elementary Clearing Model Provisions.

**“Assigned Elementary Omnibus Margin Value”** means at any time the aggregate value of Elementary Omnibus Margin assigned to the Elementary Omnibus Standard Agreement, as determined by Eurex Clearing AG as the aggregate value of all Eligible Margin Assets actually delivered in respect of the Elementary Clearing Model Provisions

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less the Margin Requirement with respect to the Elementary Proprietary Standard Agreement, subject to a minimum of zero and a maximum equal to the Margin Requirement with respect to the Elementary Omnibus Standard Agreement.

4.2.2 Subject to Numbers 6.3.1.3 and 6.3.2.3, in case the Asset Based Allocation is the Applicable Allocation Method,

(i) with respect to the Elementary Proprietary Standard Agreement:

- (1) all credits and debits of Securities to the Pledged Securities Account and all Securities pledged or released in respect of Elementary Proprietary Margin using Xemac pursuant to Number 6.6.3, and
- (2) all daily cash credits or debits in respect of Elementary Proprietary Margin to the Clearing Member Cash Account or a foreign currency account of the Clearing Member,

will be allocated to the Elementary Proprietary Standard Agreement and recorded on the Internal Elementary Proprietary Margin Account, and

(ii) with respect to each Elementary Omnibus Standard Agreement:

- (1) all credits and debits of Securities to the Elementary Omnibus Pledged ~~Securities~~ Securities Account and all Securities pledged or released in respect of Elementary Omnibus Margin, as applicable, using Xemac pursuant to Number 6.6.3, and
- (2) all daily cash credits or debits in respect of Elementary Omnibus Margin to the Clearing Member Cash Account or a foreign currency account of the Clearing Member

will be allocated to the Elementary Omnibus Standard Agreement and recorded on the Internal Elementary Omnibus Margin Account, respectively.

### 4.3 Internal Records of the Clearing Member

The Clearing Member shall establish and maintain records detailing (i) all payments and deliveries actually made to Eurex Clearing AG, (ii) all Margin and Variation Margin actually delivered to Eurex Clearing AG and (iii) all Redelivery Claims which it has against Eurex Clearing AG, in each case in respect of the Own Transactions under the Elementary Proprietary Standard Agreement and in respect of Elementary Omnibus Transactions under each Elementary Omnibus Standard Agreement.

## 5 Set-off

### 5.1 Set-off in respect of Own Transactions and Elementary Omnibus Transactions

5.1.1 Any claim of Eurex Clearing AG and the Clearing Member under the Elementary Proprietary Standard Agreement, including claims to provide cover in respect of

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Elementary Proprietary Margin or Elementary Proprietary Variation Margin pursuant to Numbers 6 and 7, may be set-off against claims arising from Own Transactions or claims to provide cover in respect of Elementary Proprietary Margin or Elementary Proprietary Variation Margin pursuant to Numbers 6 and 7 of the respective other party.

Number 1.3.1 Paragraph (1) and (2) of the General Clearing Provisions shall apply *mutatis mutandis*.

5.1.2 Any claim of Eurex Clearing AG and the Clearing Member under an Elementary Omnibus Standard Agreement, including claims to provide cover in respect of Elementary Omnibus Margin or Elementary Omnibus Variation Margin pursuant to Numbers 6 and 7, may be set-off against claims arising from Elementary Omnibus Transactions under the same Elementary Omnibus Standard Agreement or claims to provide cover in respect of Elementary Omnibus Margin or the Elementary Omnibus Variation Margin pursuant to Numbers 6 and 7 of the respective other party under the same Elementary Omnibus Standard Agreement. Number 1.3.1 Paragraph (1) and (2) of the General Clearing Provisions shall apply *mutatis mutandis*.

5.1.3 Any other set-off of claims between Eurex Clearing AG and the Clearing Member under an Elementary Standard Agreement shall, subject to Number 8.6.3, be prohibited. This does not apply to a set-off with claims which are undisputed or have been determined as legally binding.

## 5.2 Separation on Transaction Account Level and per Non-Clearing Member

In addition to the set-off rules in Number 1.3 of the General Clearing Provisions and Number 5.1 above, the following optional additional parameters apply to the creation of the Set-Off Clusters, if selected by the Clearing Member:

Claims arising from NCM-Related Transactions shall not be set off with Customer-Related Transactions or RC-Related Transactions of the Clearing Member. Further, claims arising from NCM-Related Transactions that relate to corresponding Transactions with a specific Non-Clearing Member shall not be set off with claims arising from other NCM-Related Transactions that relate to corresponding Transactions with any other Non-Clearing Member.

Claims arising from RC-Related Transactions shall not be set-off with Customer-Related Transactions or NCM-Related Transactions of the Clearing Member. Further, claims arising from RC-Related Transactions that relate to corresponding Transactions with a specific Registered Customer shall not be set-off with claims arising from other RC-Related Transactions that relate to corresponding Transactions with any other Registered Customer.

## 6 Margin

The Margin Requirement applicable to the Clearing Member pursuant to this Number 6 shall be in addition to any other Margin Requirement of the Clearing Member vis-à-vis Eurex Clearing AG pursuant to the Individual Clearing Model Provisions and/or the Net Omnibus Clearing Model Provisions.

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## 6.1 General Obligation to Provide Margin

The Clearing Member is required to provide

- (i) margin for all Own Transactions under the Elementary Proprietary Standard Agreement (“**Elementary Proprietary Margin**”) and
- (ii) margin for the Elementary Omnibus Transactions under each Elementary Omnibus Standard Agreement separately (“**Elementary Omnibus Margin**”, the Elementary Proprietary Margin and the Elementary Omnibus Margin each being referred to as “**Margin**”)

in such amounts, in such forms and at such times as are required pursuant to this Number 6 and the Special Clearing Provisions.

## 6.2 The Margin Requirement

- 6.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of the relevant Margin for each of the Elementary Standard Agreements shall be determined in accordance with Number 3.1 of the General Clearing Provisions (hereinafter for the purpose of the Elementary Clearing Model Provisions, with respect to the relevant Elementary Standard Agreement, the “**Margin Requirement**”).
- 6.2.2 Eurex Clearing AG will determine the Margin Requirement (i) with respect to the Elementary Proprietary Standard Agreement, based on the margin requirements for the Own Transactions of the relevant Clearing Member and (ii) separately with respect to each Elementary Omnibus Standard Agreement, based on the margin requirements for the Elementary Omnibus Transactions included in the relevant Elementary Omnibus Standard Agreement.
- 6.2.3 In order to determine the relevant Margin Requirements of a Clearing Member, Eurex Clearing AG will determine separate margin requirements for (i) Own Transactions, (ii) Customer-Related Transactions, (iii) NCM-Related Transactions referring to own transactions of the relevant Non-Clearing Member, (iv) NCM-Related Transactions referring to customer related transactions of the relevant Non-Clearing Member, (v) RC-Related Transactions referring to own transactions of the relevant Registered Customer and (vi) RC-Related Transactions referring to customer related transactions of the relevant Registered Customer, provided that in each case credit balances on any internal transaction account shall not be taken into account, and then calculate the Margin Requirement for Elementary Omnibus Transactions as the sum of such separate margin requirements pursuant to (ii) – (vi) separately in respect of each Elementary Omnibus Standard Agreement.
- 6.2.4 The relevant Margin Requirement with respect to each Elementary Standard Agreement and the relevant margin requirements with respect to NCM-Related Transactions and RC-Related Transactions will be notified by Eurex Clearing AG to the relevant Clearing Member.



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## **6.3 Margin Call**

### **6.3.1 Margin Calls and direct debit prior to the end of a Business Day**

6.3.1.1 If Eurex Clearing AG at any time prior to the end of a Business Day (as defined in Number 1.2.4 Paragraph (1) of the General Clearing Provisions) determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of the Elementary Proprietary Margin or Elementary Omnibus Margin is less than the applicable Margin Requirement for the Elementary Standard Agreement to which the relevant Margin relates, Eurex Clearing AG will require the Clearing Member to provide (additional) Eligible Margin Assets in an amount up to the relevant Margin Requirement by the time specified by Eurex Clearing AG.

6.3.1.2 To the extent Eligible Margin Assets have not yet been delivered by the Clearing Member with respect to a Margin Call pursuant to Number 6.3.1.1, Eurex Clearing AG shall be entitled to (and without having an obligation towards the Clearing Member to do so, will on or around the time specified) directly debit the Clearing Member Cash Account in an amount equal to the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. In case the Asset Based Allocation is the Applicable Allocation Method, any such direct debit shall discharge the relevant Margin Call relating to the Elementary Proprietary Standard Agreement or the Elementary Omnibus Standard Agreement, as the case may be (and consequentially such direct debit will increase the respective Redelivery Claim). In case the Value Based Allocation is the Applicable Allocation Method, any such direct debit shall discharge the relevant Margin Call relating to the relevant Elementary Standard Agreement to be determined pursuant to Number 4.2.1 (and consequentially such direct debit will increase the respective Redelivery Claim).

For the avoidance of doubt, non-compliance with the applicable Margin Requirement (in whole or in part) by the Clearing Member shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Conditions.

6.3.1.3 Notwithstanding Numbers 4.2.1 and 4.2.2, if a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Elementary Omnibus Margin, then:

- (i) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account and the respective credit entry in the Internal Elementary Omnibus Margin Account with such cash credit being allocated to the Elementary Omnibus Standard Agreement; and
- (ii) the related Redelivery Claim under the Elementary Proprietary Standard Agreement shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal Margin Accounts.

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### **6.3.2 Margin Calls and direct debit at the end of a Business Day**

6.3.2.1 If Eurex Clearing AG at the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of the Elementary Proprietary Margin or Elementary Omnibus Margin is less than the applicable Margin Requirement for the Elementary Standard Agreement to which the relevant Margin relates, Eurex Clearing AG will require the Clearing Member to provide (additional) Eligible Margin Assets in the form of cash in the Clearing Currency in an amount sufficient to satisfy the relevant Margin Requirement by the time specified by Eurex Clearing AG.

6.3.2.2 To the extent Eligible Margin Assets have not yet been delivered by the Clearing Member with respect to a Margin Call pursuant to Number 6.3.2.1, Eurex Clearing AG shall be entitled to (and without having an obligation towards the Clearing Member to do so, will on or around the time specified) directly debit the Clearing Member Cash Account in an amount determined pursuant to Number 6.3.2.1 in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. In case the Asset Based Allocation is the Applicable Allocation Method, any such direct debit shall discharge the relevant Margin Call relating to the Elementary Proprietary Standard Agreement or the Elementary Omnibus Standard Agreement, as the case may be (and consequentially such direct debit will increase the respective Redelivery Claim). In case the Value Based Allocation is the Applicable Allocation Method, any such direct debit shall discharge the relevant Margin Call relating to the relevant Elementary Standard Agreement to be determined pursuant to Number 4.2.1 (and consequentially such direct debit will increase the respective Redelivery Claim).

For the avoidance of doubt, non-compliance with the applicable Margin Requirement (in whole or in part) by the Clearing Member shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Conditions.

6.3.2.3 Notwithstanding Numbers 4.2.1 and 4.2.2, if a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Elementary Omnibus Margin, then Number 6.3.1.3 shall apply *mutatis mutandis*.

### **6.4 Obligation of the Clearing Members to request Margin from the Non-Clearing Members and/or Registered Customers**

Each Clearing Member is required to separately demand margin from its Non-Clearing Members, Registered Customers and/or Customers in an amount at least equal to the Margin Requirement for the Transactions corresponding to the NCM-Related Transactions, RC-Related Transactions and/or Customer-Related Transactions between Eurex Clearing AG and the relevant Clearing Member, as determined by Eurex Clearing AG pursuant to this Number 6, also taking into account all Original OTC Transactions which are to be novated in the course of the novation process.

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## 6.5 Delivery of Eligible Margin Assets in the form of Cash

Eligible Margin Assets in form of cash shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. The purpose of the Margin actually delivered in the form of cash is to collateralise the following claims of Eurex Clearing AG (the “**Secured Claims**”):

- (1) In case the Value Based Allocation is the Applicable Allocation Method, the Secured Claims with respect to each of Elementary Proprietary Margin and Elementary Omnibus Margin, shall comprise
  - (i) all present and future claims under any Own Transactions, any Difference Claim and any other present and future claims, in each case, of Eurex Clearing AG against the Clearing Member under the Elementary Proprietary Standard Agreement (the “**Secured Elementary Proprietary Claims**”), and
  - (ii) all present and future claims under any Elementary Omnibus Transactions, any Difference Claim (the “**Secured Elementary Omnibus Difference Claim**”) and any other present and future claims, in each case, of Eurex Clearing AG against the Clearing Member under the Elementary Omnibus Standard Agreement, including for the avoidance of doubt all present and future claims of Eurex Clearing AG against the Transferee Clearing Member relating to any Elementary Omnibus Transactions that have been transferred to such Transferee Clearing Member in accordance with Number 8.3 (the “**Secured Elementary Omnibus Claims**”), and
  - (iii) (A) all present and future claims of Eurex Clearing AG against the Clearing Member under any of the Standard Agreements pursuant to the Individual Clearing Model Provisions that result from a Segregated Margin Shortfall in respect of such Standard Agreements and (B) any present and future Difference Claims then unconditional and due and payable, but unpaid, of Eurex Clearing AG against the Clearing Member pursuant to the Individual Clearing Model Provisions (the “**Secured ICM Difference Claims**”, and together with the claims under (A), the “**Secured ICM Claims**”), and
  - (iv) (A) all present and future claims of Eurex Clearing AG against the Clearing Member under the Standard Agreement pursuant to the Net Omnibus Clearing Model Provisions that result from a Net Omnibus Margin Shortfall and (B) any present and future Difference Claim then unconditional and due and payable, but unpaid, of Eurex Clearing AG against the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions (the “**Secured Net Omnibus Difference Claim**”, and together with the claims under (A), the “**Secured Net Omnibus Claims**”), and
  - (v) (A) all present and future claims of Eurex Clearing AG against the Clearing Member (in its capacity as FCM Clearing Member) or the relevant FCM Client pursuant to the U.S. Clearing Model Provisions and (B) any present and future Difference Claim then unconditional and due and payable, but unpaid, by any

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FCM Client of such FCM Clearing Member pursuant to the U.S. Clearing Model Provisions (the “**Secured U.S. Clearing Model Difference Claim**”, and together with the claims under (A), the “**Secured U.S. Clearing Model Claims**”), and

- (vi) all other present and future claims of Eurex Clearing AG against the Clearing Member under any of ~~their~~ the Clearing Agreements between Eurex Clearing AG und such Clearing Member.
- (2) In case the Asset Based Allocation is the Applicable Allocation Method, the Secured Claims shall,
- (i) with respect to Elementary Proprietary Margin, comprise the Secured Elementary Proprietary Claims, the Secured Elementary Omnibus Claims, Secured ICM Claims, the Secured Net Omnibus Claims, the Secured U.S. Clearing Model Claims and all other present and future claims of Eurex Clearing AG against the Clearing Member under any of their Clearing Agreements between Eurex Clearing AG und such Clearing Member, and
  - (ii) with respect to Elementary Omnibus Margin, comprise the Secured Elementary Omnibus Claims under the relevant Elementary Omnibus Standard Agreement.

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

6.6.1 In case the Value Based Allocation is the Applicable Method, in order to provide Eligible Margin Assets in the form of Securities as cover in respect of Elementary Proprietary Margin and/or Elementary Omnibus Margin, the Clearing Member shall transfer Eligible Margin Assets in the form of Securities to the relevant Pledged Securities Account unless otherwise provided in this Number 6.6.

In case the Asset Based Allocation is the Applicable Allocation Method, in order to provide Eligible Margin Assets in the form of Securities as cover in respect of Elementary Proprietary Margin, the Clearing Member shall transfer Eligible Margin Assets in the form of Securities to its Pledged Securities Account and in respect of Elementary Omnibus Margin to its Elementary Omnibus Pledged Securities Account, as applicable, unless otherwise provided in this Number 6.6.

- (1) The Clearing Member shall instruct Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG in a timely manner to transfer the relevant Securities to the Pledged Securities Account or Elementary Omnibus Pledged Securities Account, as applicable, and authorizes Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG to inform Eurex Clearing AG of such transfer.
- (2) In relation to Securities credited to the Pledged Securities Account or an Elementary Omnibus Pledged Securities Account, as applicable, that confer voting rights or other optional rights on the Clearing Member (including, but not limited to, warrants, options, conversion and subscription rights, rights in connection with takeovers, other forms of offers or capital reorganisations, redemption rights, tenders, options to

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tender or non-mandatory puts or calls) or that provide for discretionary action or alternative courses of action by the Clearing Member, Eurex Clearing AG shall not be entitled to exercise such voting or optional rights or to take up such discretionary actions or alternative courses of action; the Clearing Member shall remain responsible in this respect. Eurex Clearing AG will not exercise any voting rights, in particular not independently from any instructions by the Clearing Member.

- (3) In the Clearing Agreement, the Clearing Member will grant a pledge to Eurex Clearing AG over all Securities which are at present or will in the future be credited to the relevant Pledged Securities Account or Elementary Omnibus Pledged Securities Account, as applicable.

- 6.6.2 The security purpose (*Sicherungszweck*) of the pledges granted to Eurex Clearing AG pursuant to this Number 6.6 is to secure all Secured Claims, subject to the restrictions pursuant to Number 8.7.
- 6.6.3 Notwithstanding Number 6.6.1, a Clearing Member may also provide Securities or have Securities provided by pledge by using Xemac on the basis of the SC Xemac. Hereby, the creation of the pledge is being effected by a respective labelling of the Securities in the system ("pledge") and modification of the bailment intention (*Besitzmittlungswille*) by Clearstream Banking AG in favour of Eurex Clearing AG ("Earmarking"). The Clearing Member agrees to the creation of the pledges. Only for the provision of Elementary Proprietary Margin to Eurex Clearing AG via Xemac, a Clearing Member may also use Securities which it has received as collateral – in accordance with Number 3.2 of the Terms and Conditions for Participation and Trading on Eurex Repo GmbH – in relation to GC Pooling Repo transactions. Notwithstanding Number 6.6.1, a Clearing Member participating in the trading of GC Pooling Repos and using the Re-use related type of contract in Xemac may, upon request, provide Elementary Proprietary Margin in Xemac also via the account of a settlement institution within the meaning of Chapter IV Number 1.1.2 Paragraph 2 (b), provided that such settlement institution is domiciled in Germany.
- 6.6.4 Eligible Margin Assets in the form of Securities will be allocated to the Elementary Proprietary Standard Agreement and each Elementary Omnibus Standard Agreement in accordance with Number 4.2.
- 6.6.5 To the extent required or expedient under its national laws, the Clearing Member will arrange for the due filing and registration with any relevant competent authority or register of any security interest granted or to be granted pursuant to or in accordance with this Number 6.6 and will evidence the due filing and registration of such security interest to Eurex Clearing AG.

## **6.7 Redelivery or Release of Eligible Margin Assets**

- 6.7.1 The relevant Redelivery Claim pursuant to Number 2.2.2 for the transfer of assets equivalent to Eligible Margin Assets in form of cash actually delivered will become due with respect to Elementary Proprietary Margin if and to the extent the aggregate value of all Eligible Margin Assets actually delivered in respect of Elementary Proprietary Margin

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exceed the aggregate Margin Requirements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions, at such time to the extent cover has not been provided in respect of these Margin Requirements, unless the relevant Clearing Member and Eurex Clearing AG agree otherwise. The relevant Redelivery Claim pursuant to Number 2.2.2 for the transfer of assets equivalent to Eligible Margin Assets in form of cash actually delivered will become due with respect to Elementary Omnibus Margin if and to the extent the aggregate value of all Eligible Margin Assets actually delivered in respect of Elementary Omnibus Margin exceed the Margin Requirement applicable to the relevant Elementary Omnibus Standard Agreement at such time, unless the Clearing Member and Eurex Clearing AG agree otherwise.

- 6.7.2 Subject to the occurrence of a Termination Date, the release of Eligible Margin Assets in the form of Securities shall be effected if a Clearing Member, prior to the then applicable cut-off time specified by Eurex Clearing AG with respect to each of Clearstream Banking AG, Clearstream Banking S.A. and SIX SIS AG, as applicable, with respect to any Business Day, requests a release of pledged Securities by Eurex Clearing AG and if and to the extent the aggregate value of all Eligible Margin Assets actually delivered in respect of (i) Elementary Proprietary Margin exceed the aggregate Margin Requirements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions to the extent cover has not been provided in respect of these Margin Requirements and (ii) Elementary Omnibus Margin exceeds the Margin Requirement applicable to the relevant Elementary Omnibus Standard Agreement at such time.
- 6.7.3 The redelivery request pursuant to Number 6.7.2 shall be processed by Eurex Clearing AG during the same Business Day; the Eligible Margin Assets to be returned shall be selected by the Clearing Member. In the case of a pledge pursuant to Number 6.6.3 by way of Earmarking the relevant Security shall be released in Xemac by detachment of the label or respective release in the system, accordingly. In the case of using CmaX the Security shall be released according to the applicable rules for this service. The Clearing Member agrees not to dispose of any Securities credited to its Pledged Securities Account or an Elementary Omnibus Pledged Securities Account without the prior consent of Eurex Clearing AG unless Eurex Clearing AG has released its pledge over such Securities.

If (i) the fulfilment of the redelivery request would render the remaining aggregate value of the Eligible Margin Assets actually delivered inadequate or if (ii) the redelivery request is received by Eurex Clearing AG after the applicable cut-off time, Eurex Clearing AG will approve such release on the next Business Day vis-à-vis Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG, as applicable, if (x) the amount of Eligible Margin Assets required to cover such shortfall has been provided by the Clearing Member in accordance with the daily cash clearing procedure for such Business Day or that (y) the actually delivered Eligible Margin Assets are adequate at the start of such Business Day, in each case taking into account the elections made in the Annex of the Clearing Agreement appended to the Clearing Condition as Appendix 1.

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6.7.4 The relevant Redelivery Claim is ~~fulfilled-discharged~~ by Eurex Clearing AG (a) if the relevant Securities have been credited to a securities account of the Clearing Member or to a securities account of a depository, a settlement institution or a custodian designated by the Clearing Member at a deposit bank or a central securities depository or if the pledges were created in Xemac by way of Earmarking in accordance with Number 6.6.3 by detachment of the label or respective release in the system; or (b) if the relevant cash amount has been credited to the relevant account of the relevant Clearing Member or to an account of a correspondent bank designated by the Clearing Member. Booking-Such discharge shall occur irrespective of any booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central securities depository or the correspondent bank ~~are in the responsibility of the Clearing Member.~~

## 7 Variation Margin

### 7.1 General Obligation to provide Variation Margin

Each of Eurex Clearing AG and the Clearing Member shall be required to transfer

- (i) with respect to the Elementary Proprietary Standard Agreement, (additional) cover in respect of daily profits or losses for such Own Transactions ("**Elementary Proprietary Variation Margin**") and
- (ii) with respect to each Elementary Omnibus Standard Agreement separately, (additional) cover in respect of daily profits or losses for such Elementary Omnibus Transactions ("**Elementary Omnibus Variation Margin**"; Elementary Proprietary Variation Margin and Elementary Omnibus Variation Margin each a "**Variation Margin**"),

for which, in each case, Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part 2 Number 2.1.6, as the case may be, apply in such amounts and at such times as are required pursuant to this Number 7.

The Clearing Member is required to separately demand or provide (additional) cover in respect of daily profits or losses arising in respect of the corresponding Transactions with its Non-Clearing Members, Registered Customers and/or Customers in an amount not less than the Variation Margin Requirement (as defined in Number 7.2) applicable between the Clearing Member and Eurex Clearing AG.

### 7.2 Variation Margin Requirement

Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of Variation Margin. The party to the relevant Elementary Standard Agreement obliged to provide Variation Margin (the "**Variation Margin Provider**"), to the other party of such Elementary Standard Agreement (the "**Variation Margin Taker**"), and the amount of Eligible Margin Assets in form of cash to be delivered as cover in respect of the relevant Variation Margin (the "**Variation Margin Requirement**") shall be determined in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3

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Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part 2 Number 2.1.6, as applicable.

### **7.3 Delivery of Variation Margin and Redelivery Claim**

Variation Margin shall be delivered and/or returned on each Business Day in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 and Number 1.3 of the General Clearing Provisions.

Eligible Margin Assets actually delivered in the form of cash in respect of the relevant Variation Margin by the relevant Variation Margin Provider will give rise to or increases a Redelivery Claim of such Variation Margin Provider against the Variation Margin Taker in accordance with Number 2.2.2. Any such Redelivery Claim (i) shall become due if and to the extent that on any subsequent Business Day a profit amount has been determined in respect of the relevant Elementary Standard Agreement for the benefit of such Variation Margin Provider in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part 2 Number 2.1.6, as applicable, (the applicable amount shall be the “**Redelivery Amount**”) and (ii) shall be decreased and fulfilled accordingly (subject to a minimum value of “**zero**”) if and to the extent equivalent Eligible Margin Assets in form of cash have been actually delivered to it by the Variation Margin Taker. For the avoidance of doubt, if the profit amount determined for the benefit of the Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party constitutes itself a delivery of Variation Margin. In such case the roles of the parties to the relevant Elementary Standard Agreement as Variation Margin Provider and Variation Margin Taker will be reversed.

For the purpose of the Clearing Conditions, an actual delivery in respect of the relevant Variation Margin resulting in a corresponding Redelivery Claim shall take place if upon conclusion of a Transaction under an Elementary Standard Agreement the terms and conditions of such Transaction provide that due to a netting with an applicable initial consideration no actual payment in respect of such Variation Margin will occur.

## **8 Consequences of a Termination Event or Insolvency Termination Event and a Termination Date**

### **8.1 Suspension or Restriction, Termination, Porting**

Upon the occurrence of a Termination Event or Insolvency Termination Event and Termination Date (each as defined in Number 7.2 of the General Clearing Provisions) with respect to a Clearing Member,

- (i) the Clearing of (a) new Own Transactions under the Elementary Proprietary Standard Agreement and (b) new Elementary Omnibus Transactions under all Elementary Omnibus Standard Agreements shall be suspended; and/or
- (ii) the existing Own Transactions and, subject to Number 8.3.1 below (if applicable), the existing Elementary Omnibus Transactions shall be terminated (the



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“**Termination**”) and a termination payment shall fall due with respect to each such Elementary Standard Agreement,

each as further set out in this Number 8.

As regards the existing Elementary Omnibus Transactions, Number 8.1(ii) above shall only apply if the Porting Requirements (if applicable) in respect of the relevant Elementary Omnibus Standard Agreement are not fulfilled within the Porting Period.

## 8.2 **Suspension or Restriction of Clearing**

If a Termination Event or any of the following events occurs with respect to a Clearing Member:

- (i) the existence of an unremedied breach by the Clearing Member of its Clearing Agreement with Eurex Clearing AG, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;
- (ii) a determination is made by Eurex Clearing AG that limitation or suspension of Clearing is necessary for it to contain its exposure to the Clearing Member;
- (iii) the suspension or termination (other than a voluntary termination) of the Clearing Member's membership of another clearing house provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG 's reasonable opinion, material to the management of the risk of Eurex Clearing AG, and that Eurex Clearing AG first consults or attempts to consult with the Clearing Member and the competent regulatory authorities;
- (iv) the commencement of ~~a Disciplinary Process~~ Procedures as defined in Number 7.2.1(b) (aa) of the General Clearing Provisions against a Clearing Member; or
- (v) any other event in respect of the Clearing Member that could materially impact the ability of that Clearing Member to perform its obligations under the Clearing Conditions and the relevant Clearing Agreement,

then Eurex Clearing AG may (taking into account the interests of such Clearing Member and its clients and provided that such action constitutes a proportionate and reasonable action) one or more times suspend or limit the Clearing pursuant to the Elementary Clearing Model Provisions, of

- (i) new Own Transactions under the Elementary Proprietary Standard Agreement; and/or
- (ii) new Elementary Omnibus Transactions under all Elementary Omnibus Standard Agreements.

Eurex Clearing shall notify the affected Clearing Member and all affected Non-Clearing Members and Registered Customers of such Clearing Member of the decision to

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suspend or limit the Clearing. Eurex Clearing AG shall specify in the notification a reasonable period of time during which such suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant Clearing Member shall, at the Clearing Member's own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.

Upon the occurrence of a Termination Event or any of the events listed above and unless such Termination Event or other events have been remedied, the Clearing Member is – subject to Number 8.3.12 below (if applicable) and any other limitations or restrictions of the Clearing pursuant to the Clearing Conditions – only entitled to enter any order or quotes into the systems of the Markets if sufficient Margin and Variation Margin has been actually delivered to Eurex Clearing AG in advance.

Before limiting or suspending the Clearing of new Own Transactions or Elementary Omnibus Transactions under this Number 8.2, and without limiting its rights under Number 7.2.1 of the General Clearing Provisions, Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the relevant Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the Clearing Member may remedy the event in question. For the avoidance of doubt, in case the relevant event constitutes an Alleged Breach (as defined in the Disciplinary Procedures Rules) Eurex Clearing AG may commence Disciplinary Procedures in respect of the Clearing Member subject to and in accordance with the Disciplinary Procedures Rules.

### **8.3 Porting of assets and positions in relation to Elementary Omnibus Standard Agreements**

This Number 8.3 shall apply with respect to a Clearing Member (other than a FCM Clearing Member or a Clearing Member in its capacity as Clearing Agent), if Eurex Clearing AG has determined based on the legal circumstances in the jurisdiction where such Clearing Member is domiciled that the porting mechanics contemplated herein shall be applicable with respect to such Clearing Member. Eurex Clearing AG will publish a list of the relevant jurisdictions from time to time.

- 8.3.1 For the purposes of this Number 8 and solely with respect to an Elementary Omnibus Standard Agreement (including all existing Elementary Omnibus Transactions) and all Re-delivery Claims relating (or, if the Value Based Allocation is the Applicable Allocation Method, allocated) thereto, a Termination and a Termination Date shall only occur if, upon the expiry of the Porting Period in accordance with Number 8.3.3 below, the Porting Requirements are not fulfilled in respect of the relevant Elementary Omnibus Standard Agreement. Upon the occurrence of such Termination Date, Numbers 8.4 to 8.8 below shall apply.
- 8.3.2 If a Termination Event (other than an Insolvency Termination Event) has occurred with respect to a Clearing Member, Eurex Clearing AG shall (a) if a Grace Period Notice has

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been given, without undue delay after the end of the relevant Grace Period and (b) if a Termination Notice has been given, without undue delay after the time specified in the Termination Notice, give notice to all other Clearing Members in accordance with Number 16.2 of the General Clearing Provisions of (i) the occurrence of the Termination Event and (ii) that the Porting Period commences (the “**Porting Notice**”).

8.3.3 If, at or prior to the end of the Porting Period, Eurex Clearing AG determines that all Porting Requirements in respect of an Elementary Omnibus Standard Agreement are fulfilled, all rights and obligations of the defaulting Clearing Member (the “**Transferor Clearing Member**”) in respect of such Elementary Omnibus Standard Agreement (including all existing Elementary Omnibus Transactions) and all Redelivery Claims relating (or, if the Value Based Allocation is the Applicable Allocation Method, allocated) thereto shall be transferred, by way of assumption of contract (*Vertragsübernahme*) (a “**Transfer**”) to the relevant Transferee Clearing Member, and each Clearing Member (that becomes a Transferor Clearing Member) hereby expressly and irrevocably consents to such Transfer.

“**Porting Period**” means

- (i) if an Insolvency Termination Event has occurred, the period from the occurrence of the Insolvency Termination Event until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day; and
- (ii) if any other Termination Event has occurred, the period from the publication of the Porting Notice until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day.

Eurex Clearing AG may extend the Porting Period in order to facilitate a Transfer by giving notice to all Clearing Members in accordance with Number 16.2 of the General Clearing Provisions.

“**Porting Requirements**” means all of the following requirements:

- (i) a transferee Clearing Member (the “**Transferee Clearing Member**”) has agreed with Eurex Clearing AG in writing on the assumption of contract (*Vertragsübernahme*) pursuant to this Number 8.3.3 in form and substance satisfactory to Eurex Clearing AG;
- (ii) with respect to Elementary Omnibus Transactions that are NCM-Related Transactions or RC-Related Transactions, the Transferee Clearing Member and the relevant Non-Clearing Member or Registered Customer have undertaken to Eurex Clearing AG in form and substance satisfactory to Eurex Clearing AG that they will, no later than five (5) Business Days after the end of the Porting Period, enter into the Clearing Agreement(s) with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 2 unless such Clearing Agreement(s) has or have already been entered into;
- (iii) the Transferee Clearing Member has (a) confirmed to Eurex Clearing AG that all Non-Clearing Members, all Registered Customers and all other clients of the

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Transferor Clearing Member to which Elementary Omnibus Transactions under the relevant Elementary Omnibus Standard Agreement relate, have designated, and have taken all necessary steps to allow, the Transferee Clearing Member to act as their future Clearing Member in respect of their transactions that correspond to any Elementary Omnibus Transactions and (b) provided Eurex Clearing AG in writing (*Textform*) with a list of all Transactions between the Transferor Clearing Member and its clients (excluding any Non-Clearing Members and Registered Customers) that correspond to Elementary Omnibus Transactions; unless the Transferee Clearing Member has been designated as such for the relevant Elementary Omnibus Standard Agreement by the Transferor Clearing Member prior to the Termination Date pursuant to Number 8.3.4; and

- (iv) the Transferee Clearing Member has (i) provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover any shortfall in Elementary Omnibus Margin and Elementary Omnibus Variation Margin in accordance with Numbers 6 and 7 of the General Clearing Provisions in respect of all Elementary Omnibus Transactions that are subject to the Transfer or (ii) committed itself to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets without undue delay following the Transfer.

8.3.4 Each Clearing Member may designate in advance by notice to Eurex Clearing AG another Clearing Member as a potential Transferee Clearing Member for each Elementary Omnibus Standard Agreement. The requirement to provide a list of all Customer-Related Transactions between the Transferor Clearing Member and Eurex Clearing AG pursuant to Number 8.3.3 (iii) (b) does not apply if the Clearing Member so designated assumes the function of the Transferee Clearing Member in respect of the relevant Elementary Omnibus Standard Agreement(s). The Clearing Member designated as a potential Transferee Clearing Member assumes no obligation to accept a Transfer and all other Porting Requirements in respect of the relevant Elementary Omnibus Standard Agreement need to be fulfilled to effect a Transfer.

No Transfer shall affect the Elementary Proprietary Standard Agreement, any Own Transactions of the Transferor Clearing Member, any Difference Claims relating thereto or any Redelivery Claims of the Transferor Clearing Member relating (or, if the Value Based Allocation-~~Allocation~~ is the Applicable Allocation Method, allocated) thereto.

Eurex Clearing AG may provide for further or alternative procedures for the transfer of assets and positions that it deems necessary taking into account applicable laws with respect to any such transfer.

8.3.5 If the Value Based Allocation is the Applicable Allocation Method with respect to the Transferor Clearing Member,

- (i) Eurex Clearing AG shall identify certain Eligible Margin Assets in the form of Securities in such number and amount reflecting the allocation of Elementary Margin Assets in accordance with the Value Based Allocation to the Elementary Omnibus Standard Agreement with the Transferor Clearing Member transferred pursuant to Number 8.3.3 above;

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- (ii) and if the allocation of Securities by Eurex Clearing AG pursuant to Number 8.3.5 above includes fractions of the respective Securities, which are not transferable (“**Non Transferable Fractions**”), the Transferor Clearing Member hereby irrevocably authorises (bevollmächtigt) Eurex Clearing AG to liquidate such Securities on behalf of the Transferor Clearing Member and to appropriate the proceeds of the realisation of such Securities. A redelivery claim (in cash) in the amount corresponding to the proceeds of the realisation equivalent to the Non Transferable Fractions shall arise with respect to such proceeds under the Elementary Omnibus Standard Agreement already transferred or to be transferred to the Transferee Clearing Member pursuant to Number 8.3.3 above. In addition, the Transferor Clearing Member shall have an offsetable claim (in cash) in the amount of the difference between the proceeds of the realisation of such Securities and the proceeds of the realisation equivalent to the Non Transferable Fractions;
- (iii) the Transferor Clearing Member hereby irrevocably authorises (bevollmächtigt) Eurex Clearing AG to offer to transfer to the Transferee Clearing Member, on behalf of the Transferor Clearing Member, all Eligible Margin Assets in the form of Securities identified by Eurex Clearing AG in accordance with Number 8.3.5 (i) above and to issue all other statements and to take all other acts on behalf of the Transferor Clearing Member that Eurex Clearing AG considers necessary or expedient to effect the transfer of the relevant Securities to the Transferee Clearing Member;
- (iv) any transfer of such Securities to the Transferee Clearing Member shall, subject to Paragraph (v) below, be without prejudice of the security interest granted to Eurex Clearing AG in the relevant Securities; and
- (v) Eurex Clearing AG and the Transferor Clearing Member hereby agree that, following a transfer in accordance with this Number 8.3.5, the security interests held by Eurex Clearing AG in Eligible Margin Assets in the form of Securities that constitute Elementary Omnibus Margin shall no longer secure rights and claims of Eurex Clearing AG in respect of any other agreement (including any Elementary Proprietary Standard Agreement) with the Transferor Clearing Member.

8.3.6 If the Asset Based Allocation is the Applicable Allocation Method with respect to the Transferor Clearing Member, the Transferor Clearing Member hereby irrevocably offers to transfer to the Transferee Clearing Member all Eligible Margin Assets in the form of Securities that are credited to the Elementary Omnibus Pledged Securities Account at the time when the Porting Requirements are fulfilled. Such transfer shall be without prejudice to the security interest granted to Eurex Clearing AG in the relevant Securities. The Transferor Clearing Member hereby also irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to offer to transfer to the Transferee Clearing Member, on behalf of the Transferor Clearing Member, all Eligible Margin Assets in the form of Securities that are credited to the Elementary Omnibus Pledged Securities Account at the time when the Porting Requirements are fulfilled and to issue all other statements and to take all other acts on behalf of the Transferor Clearing Member that Eurex Clearing AG considers

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necessary or expedient to effect the transfer of the relevant Securities to the Transferee Clearing Member.

- 8.3.7 Eurex Clearing AG and the Transferor Clearing Member agree that, following the transfer of all Eligible Margin Assets in the form of Securities to the Transferee Clearing Member in accordance with Numbers 8.3.5 or 8.3.6 above, the security purpose of the security interests held by Eurex Clearing AG in such Securities shall also extend to all present and future claims under any Elementary Omnibus Transactions, any Difference Claim and any other present and future claims, in each case, of Eurex Clearing AG against the Transferee Clearing Member under the relevant Elementary Omnibus Standard Agreement with such Transferee Clearing Member. If a transfer of Eligible Margin Assets in the form of Securities to the securities account of the Transferee Clearing Member is impossible or impractical due to restrictions of the securities depository bank, custodian or central securities depository used by the Transferee Clearing Member or for other reasons, the Transferor Clearing Member hereby irrevocably authorises (bevollmächtigt) Eurex Clearing AG to liquidate on behalf of the Transferor Clearing Member such Eligible Margin Assets in the form of Securities and to appropriate the proceeds of the realisation of such Securities. A redelivery claim (in cash) in the amount of the value of such proceeds shall arise under the Elementary Omnibus Standard Agreement already transferred or to be transferred to the Transferee Clearing Member pursuant to Number 8.3.3 above.
- 8.3.8 As a result of a Transfer, all Elementary Omnibus Transactions and all Redelivery Claims relating (or, if the Value Based Allocation applies, allocated) thereto that have been transferred to the Transferee Clearing Member (a) will, as relevant, be subject to the Clearing Agreement between Eurex Clearing AG and the Transferee Clearing Member in the form appended to the Clearing Conditions as Appendix 1 or the relevant Clearing Agreement(s) in the form appended to the Clearing Conditions as Appendix 2 that has been, have been or will be entered into pursuant to Number 8.3.3 (ii) above and (b) will no longer be subject to any Clearing Agreement with the Transferor Clearing Member.
- 8.3.9 If, following a Transfer, the rights and obligations under each transferred Elementary Omnibus Standard Agreement, form a separate Elementary Omnibus Standard Agreement between the Transferee Clearing Member and Eurex Clearing AG and shall not be combined or included in another existing Elementary Omnibus Standard Agreement. Following the initial Transfer, the Transferee Clearing Member may re-allocate the corresponding accounts in accordance with Number 2.3.2.
- 8.3.10 After the Transfer, Eurex Clearing AG shall credit to the Transferee Clearing Member (with respect to each Elementary Omnibus Standard Agreement transferred pursuant to Number 8.3.3), by making appropriate changes to its records, all Elementary Omnibus Margin and all Elementary Omnibus Variation Margin provided to it by the Transferor Clearing Member in respect of the Elementary Omnibus Standard Agreement transferred and, following such allocation, such amounts or assets shall constitute Elementary Omnibus Margin and Elementary Omnibus Variation Margin, respectively, of the Transferee Clearing Member.

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8.3.11 It is the responsibility of the Transferor Clearing Member and/or the Transferee Clearing Member to enter into relevant agreements (if any) with their relevant customers for granting any compensation to, or obtaining any compensation from, such customers in connection with any transfers made in accordance with this Number 8.3.

8.3.12 During the Porting Period

- (i) the Clearing of Elementary Omnibus Transactions under each Elementary Omnibus Standard Agreement between Eurex Clearing AG and the Transferor Clearing Member shall always be suspended;
- (ii) neither of the Transferor Clearing Member, its Non-Clearing Member or its Registered Customers shall be entitled to enter any order or quotes into the systems of the Markets;
- (iii) all Redelivery Claims of the Transferor Clearing Member with respect to Elementary Omnibus Margin in the form of cash and Elementary Omnibus Variation Margin shall be deferred (*gestundet*);
- (iv) all claims of the Transferor Clearing Member for a release of Elementary Omnibus Margin in the form of Securities shall be deferred (*gestundet*); and
- (v) Eurex Clearing AG shall not be obliged to provide any Elementary Omnibus Variation Margin to the Transferor Clearing Member.

#### **8.4 Consequences of a Termination**

If a Termination Date has occurred with respect to a Clearing Member and an Elementary Standard Agreement, the following provisions shall apply.

##### **8.4.1 Termination of Transactions and Redelivery Claims**

All current and future primary obligations (including payment and delivery obligations) under the relevant Elementary Standard Agreement between Eurex Clearing AG and the Affected Clearing Member of the General Clearing Provisions) arising (i) in case of the Elementary Proprietary Standard Agreement from Own Transactions or (ii) in case of an Elementary Omnibus Standard Agreement from Elementary Omnibus Transactions, as the case may be, and any Redelivery Claim allocated to the relevant Elementary Standard Agreement shall expire (*auflösende Bedingung*) as of the Termination Time and shall no longer be required to be performed by the relevant obligor. Furthermore, all due but unsatisfied obligations in respect of the relevant Margin or Variation Margin shall expire (*auflösende Bedingung*) as of the Termination Time. The expiration affects all claims arising from Transactions under the relevant Elementary Standard Agreement independent of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Difference Claim, subject to and in accordance with Number 7.3 of the General Clearing Provisions.

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#### 8.4.2 **Difference Claim**

The difference claim of either Eurex Clearing AG or the Affected Clearing Member, under the relevant Elementary Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (each a “**Difference Claim**”).

#### 8.5 **Notification**

Eurex Clearing AG shall notify the determined value of the Difference Claim determined by it with respect to the relevant Elementary Standard Agreement to the Affected Clearing Member as soon as reasonable practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

#### 8.6 **Payment of Difference Claim**

8.6.1 The debtor of the Difference Claim under the relevant Elementary Standard Agreement between Eurex Clearing AG and the Affected Clearing Member shall pay the determined amount of the Difference Claim to the other party as soon as reasonable practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 8.5.

8.6.2 The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

8.6.3 Eurex Clearing AG is entitled to set-off any Difference Claim it may have against the Clearing Member under an Elementary Omnibus Standard Agreement against any Difference Claim it owes to the Clearing Member under the Elementary Proprietary Standard Agreement.

#### 8.7 **Realisation of Margin**

8.7.1 In case Eurex Clearing AG is, with respect to an Elementary Standard Agreement, the creditor of the Difference Claim against the Affected Clearing Member, Eurex Clearing AG shall be entitled to realise the pledges created by the Affected Clearing Member pursuant to Number 6.6 as further set out in this Number 8.7.

8.7.2 In case the Asset Based Allocation is the Applicable Allocation Method, Eurex Clearing AG:

(A) shall enforce and realise the Eligible Margin Assets in the form of Securities which are credited to the Pledged Securities Account and shall apply the proceeds in the following order of priority:



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- (i) first, with respect to the Difference Claim relating to the Elementary Proprietary Standard Agreement; and
- (ii) second, (only to the extent Segregated Margin, FCM Client Margin, Net Omnibus Margin and/or Elementary Omnibus Margin (as applicable) is, for whatever reason, not sufficient for such purpose) with respect to the Secured ICM Difference Claims, each Secured Net Omnibus Difference Claim, each Secured Elementary Omnibus Difference Claim (if any) and/or each Secured U.S. Clearing Model Difference Claim, and

(B) with respect to each Elementary Omnibus Standard Agreement separately shall realise the Eligible Margin Assets in the form of Securities which are credited to the Elementary Omnibus Pledged ~~Securities~~ Securities Account and apply the proceeds with respect to its Secured Elementary Omnibus Claims.

8.7.3 In case the Value Based Allocation is the Applicable Allocation Method, Eurex Clearing AG shall identify certain Eligible Margin Assets in the form of Securities actually delivered to Eurex Clearing AG in respect of Margin in such number and amount reflecting the allocation of Eligible Margin Assets in the form of Securities in accordance with the Value Based Allocation to the Elementary Omnibus Standard Agreement. Eurex Clearing AG shall be entitled to realise the pledges in respect of the so identified Securities only in satisfaction of the Difference Claim relating to the Elementary Omnibus Standard Agreement, but not in satisfaction of the Difference Claim relating to the Elementary Proprietary Standard Agreement.

#### **8.8 Return of any balance owed by Eurex Clearing AG in respect of Elementary Omnibus Standard Agreement after the completion of the default management process**

Unless a transfer of assets and positions in relation to Elementary Omnibus Standard Agreements in accordance with Number 8.3 has occurred, Eurex Clearing shall return any balance owed by it in respect of an Elementary Omnibus Standard Agreement following the completion of the default management process of Eurex Clearing AG pursuant to Part 1 Number 6 and 7 of (and as otherwise set out in) these Clearing Conditions with respect to the Clearing Member as follows:

- 8.8.1 Any Difference Claim in relation to an Elementary Omnibus Standard Agreement owed by Eurex Clearing AG shall be satisfied by a payment of the relevant due amount to the Affected Clearing Member and any such payment shall constitute a return to the Affected Clearing Member for the account of all Non-Clearing Members, Registered Customers and Customers of the Affected Clearing Member to which the Elementary Omnibus Transactions under the relevant Elementary Omnibus Standard Agreement relate.
- 8.8.2 Any release by Eurex Clearing AG, or any expiration, of any of its pledges in respect of Eligible Margin Assets in the form of Securities actually delivered to Eurex Clearing AG in respect of Elementary Omnibus Margin – and, in case the Value Base Allocation is the Applicable Allocation Method, identified by Eurex Clearing AG pursuant to Number 8.7 above - shall constitute a return to the Affected Clearing Member for the account of all

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Non-Clearing Members, Registered Customers and Customers of the Affected Clearing Member to which the Elementary Omnibus Transactions under the relevant Elementary Omnibus Standard Agreement relate.

## **8.9 Consequences of a Termination Date with respect to a Clearing Member on the Standard Agreement between such Clearing Member and its Non-Clearing Members and/or Registered Customers**

8.9.1 The consequences of the occurrence of a Termination Date with respect to a Clearing Member on the Standard Agreement between such Clearing Member and its Non-Clearing Members and/or Registered Customers shall be governed by the Standard Agreement between such Clearing Member and its Non-Clearing Members and/or Registered Customers, as applicable.

8.9.2 Unless otherwise agreed by the Clearing Member and the Non-Clearing Member/Registered Customer pursuant to Number 2.1.5 and subject to Number 8.9.3, the following applies to the Standard Agreement between the Clearing Member and the Non-Clearing Member/Registered Customer if a Termination Date has occurred with respect to the Clearing Member pursuant to Number 7.2.2 of the General Clearing Provisions:

- (1) all existing mutual payment and delivery obligations between the Clearing Member and the Non-Clearing Member/Registered Customer arising from Transactions between the Clearing Member and the Non-Clearing Member/Registered Customer under their Standard Agreement and all redelivery claims in respect of Margin and Variation Margin, if any, shall automatically expire without notice as of the Termination Time and an obligation between such two parties created by the Standard Agreement to make a unilateral difference payment in the Termination Currency shall become immediately due ("**Unilateral Difference Claim**"). The parties to these Transactions shall not be obliged to perform the original obligations and may no longer claim performance.
- (2) The Non-Clearing Member/Registered Customer shall determine the Unilateral Difference Claim, substituting the original payment and delivery obligations of the terminated Transactions between Clearing Member and Non-Clearing Member/Registered Customer under their Standard Agreement in accordance with Number 7.3.2 of the General Clearing Provisions applied mutatis mutandis using the Liquidation Price Approach. The Non-Clearing Member/Registered Customer shall immediately notify the Clearing Member of the result and provide the Clearing Member with the data forming the basis of the determination.

8.9.3 If the Clearing Member and the Non-Clearing Member/Registered Customer have made the appropriate election (i) with respect to the "**Application of Close-Out Netting Regulation pursuant to Part 2 Clause 1.4**" in any Clearing Agreement dated prior to 15 May 2015 or (ii) pursuant to Annex A to the Clearing Agreement appended to the Clearing Conditions as Appendix 2, the following shall apply with regard to Futures and Options transactions within the meaning of Chapter II Part 1 Paragraph (1) concluded between the Non-Clearing Member/Registered Customer and the Clearing Member

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(“**NCM/RC Futures and Options Transactions**”) in the case of an insolvency (as defined below) of the Non-Clearing Member/Registered Customer or the Clearing Member:

- (1) In the relationship between the Clearing Member and the Non-Clearing Member/Registered Customer, the provisions in Clause 7 Paragraph 1 Sentence 4 (Exclusion of the right to partial termination), Clause 7 Paragraphs 2 and 3 (Insolvency, Claim for compensation payment), Clause 8 (Compensation and set-off of benefits) and Clause 9 Paragraph 1 (Final Settlement) of the sample text of the German Master Agreement for Financial Derivative Transactions (Version 2001), as published by the Federal Association of German Banks (“**Master Agreement**”), shall apply with the following requirements:
  - a) References in the aforementioned provisions of the Master Agreement to the “**Agreement**” shall – provided they concern NCM/RC Futures and Options Transactions – be read as references to the separate legal arrangement between the Clearing Member and the Non-Clearing Member/Registered Customer with respect to NCM/RC Futures and Options Transactions.
  - b) For purposes of the aforementioned regulations of the Master Agreement, each NCM/RC Futures and Options Transaction is deemed to be an individual Transaction (*Einzelabschluss*) within the meaning of the Master Agreement.
- (2) In case of an insolvency of the Clearing Member, the provisions of this Number 8.9.3 shall not affect the exercise of rights of Eurex Clearing AG pursuant to the Clearing Conditions.
- (3) The obligations of the Clearing Member vis-à-vis Eurex Clearing AG resulting from the Clearing of the Transactions of the Non-Clearing Member/Registered Customer shall not be affected by the aforementioned close-out netting provisions.
- (4) “**Insolvency**” of the Non-Clearing Member/Registered Customer or the Clearing Member is given if an opening of bankruptcy proceedings or other insolvency proceedings over the assets of the Non-Clearing Member/Registered Customer or Clearing Member is applied for and either the Non-Clearing Member/Registered Customer or Clearing Member itself has filed the application or if the Non-Clearing Member/Registered Customer or Clearing Member is either insolvent or in any other situation justifying the opening of such proceedings.

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## Part 3 The Individual Clearing Model Provisions

The provisions on the Individual Clearing Model of Eurex Clearing AG (the “**Individual Clearing Model Provisions**”) are set forth below. Any entity acting as a Non-Clearing Member or a Registered Customer or acting as both a Non-Clearing Member and Registered Customer in the Clearing under the Clearing Conditions (hereinafter for the purposes of these Individual Clearing Model Provisions, an “**ICM Client**”) has the option to select the segregation and portability mechanism provided by these Individual Clearing Model Provisions on the basis of one of the following two documentation standards.

### 1 Individual Clearing Model Provisions under Eurex Clearing AG Documentation (“**ICM-ECD**”)

1.1 Eurex Clearing AG, the Clearing Member and an ICM Client have the option to apply the Individual Clearing Model Provisions on the Basis of these Clearing Conditions. For such purposes Eurex Clearing AG, the relevant Clearing Member and the relevant ICM Client will enter into the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 3 (hereinafter an “**ICM Clearing Agreement**” and “**ICM Clearing Agreement for ICM-ECD**”).

1.2 In such case, Subpart A and B of this Part 3 apply (together the “**Individual Clearing Model Provisions under Eurex Clearing AG Documentation**” or “**ICM-ECD Provisions**”).

### 2 Individual Clearing Model Provisions under Client Clearing Documentation (“**ICM-CCD**”)

2.1 Eurex Clearing AG, the Clearing Member and an ICM Client have the option to apply the Individual Clearing Model Provisions on the basis of these Clearing Conditions and a Client Clearing Agreement (as defined in Subpart C Number 2.1.1). For such purposes and in addition to the Client Clearing Agreement Eurex Clearing AG, the relevant Clearing Member and the relevant ICM Client will enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 4 (hereinafter an “**ICM Clearing Agreement**” and “**ICM Clearing Agreement for ICM-CCD**”).

2.2 In such case, Subpart A and C of this Part 3 apply (together the “**Individual Clearing Model Provisions under Client Clearing Documentation**” or “**ICM-CCD Provisions**”).

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### **3           References**

3.1           Any ICM Clearing Agreement constitutes a Clearing Agreement pursuant to the Clearing Conditions.

3.2           References to Eurex Clearing AG, the Clearing Member and the ICM Client, respectively, in this Part 3 shall be construed solely as references to the parties to the ICM Clearing Agreement (and only in their capacity as parties to that ICM Clearing Agreement) and shall exclude any other Clearing Members or ICM Clients or other customers of the Clearing Member.

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

### 1 Definitions

“**Relevant Agreement**” means, (i) in the case of the ICM-ECD Provisions, the Corresponding Standard Agreement (as defined in Subpart B Number 2.1.2) or (ii) in the case of the ICM-CCD Provisions, the corresponding Client Clearing Agreement (as defined in Subpart C Number 2.1.1);

“**Relevant Difference Claim**” means, (i) in the case of the ICM-ECD Provisions, the Difference Claim pursuant to Subpart B Number 6.3.2 under the Corresponding Standard Agreement or (ii) in the case of the ICM-CCD Provisions, the Client Clearing Termination Claim (as defined in Subpart C Number 2.1.2 Paragraph (7)) under the corresponding Client Clearing Agreement;

“**Relevant Transactions**” means, (i) in the case of the ICM-ECD Provisions, the Corresponding Covered Transactions (as defined in Subpart B Number 2.1.1) between the Clearing Member and the ICM Client or (ii) in the case of ICM-CCD Provisions, the Client Clearing Transactions (as defined in Subpart C Number 2.1.2 Paragraph (2)) under the relevant corresponding Client Clearing Agreement;

“**Relevant Redelivery Claims**” means, (i) in the case of the ICM-ECD Provisions, the Redelivery Claims (as defined in Subpart B Number 2.2 together with Subpart A Number 2.2.3) between the Clearing Member and the ICM Client under the Corresponding Standard Agreement or (ii) in the case of the ICM-CCD Provisions, all claims for the return of Credit Support Margin (as defined in Subpart C Number 2.1.2 Paragraph (3)) or Credit Support Variation Margin (as defined in Subpart C Number 2.1.2 Paragraph (4)) delivered to the Clearing Member pursuant to the corresponding Client Clearing Agreement with respect to the Client Clearing Transactions; and

“**Relevant Margin**” means, (i) in the case of the ICM-ECD Provisions, the Segregated Margin (as defined in Subpart B Number 4) and the Segregated Variation Margin (as defined in Subpart B Number 5) between the Clearing Member and the ICM Client under the Corresponding Standard Agreement or (ii) in the case of ICM-CCD Provisions, the Credit Support Margin and the Credit Support Variation Margin under the corresponding Client Clearing Agreement.

### 2 Standard Agreements between Eurex Clearing AG and the Clearing Member

#### 2.1 Construction and Prerequisites

2.1.1 Any Transaction between Eurex Clearing AG and the Clearing Member which is subject to the Individual Clearing Model Provisions shall be a “**Covered Transaction**” for the purpose of these Individual Clearing Model Provisions.

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2.1.2 Upon execution of an ICM Clearing Agreement with a specific ICM Client, all rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Covered Transactions under such ICM Clearing Agreement shall for the purpose of these Clearing Conditions constitute a separate arrangement (each such relevant separate arrangement is a Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to the Individual Clearing Model Provisions).

Covered Transactions, Segregated Margin, Segregated Variation Margin, Redelivery Claims and any other rights and obligations under such Standard Agreement relating to such ICM Client will be separate from those Covered Transactions, Segregated Margin, Segregated Variation Margin and Redelivery Claims or Non-Covered Transactions, Margin, Variation Margin and Redelivery Claims as well as other rights and obligations under any other Standard Agreement established under any other Clearing Agreement pursuant to the Clearing Conditions.

References in these Individual Clearing Model Provisions to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member or references to the Difference Claim between Eurex Clearing AG and the Clearing Member shall be construed solely by reference to the ICM Clearing Agreement and a certain ICM Client (and shall therefore exclude the relevant Standard Agreement and Difference Claims under any other ICM Clearing Agreement as well as the relevant Standard Agreement and Difference Claims pursuant to the Elementary Clearing Model Provisions and the Net Omnibus Clearing Model Provisions ~~and~~ the relevant FCM Client Standard Agreement and Difference Claims under the U.S. Clearing Model Provisions and the relevant Basic Clearing Member Standard Agreement and Difference Claims under the Basic Clearing Member Provisions).

2.1.3 All Covered Transactions and all Redelivery Claims between Eurex Clearing AG and the Clearing Member arising pursuant to the Individual Clearing Model Provisions under the relevant Standard Agreement, together the “**Covered Claims**”, form a single agreement between the parties to the relevant Standard Agreement and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual Covered Transactions) can be terminated only in its entirety.

## 2.2 **General principles applicable to the settlement of Covered Transactions and any Delivery and Redelivery of Segregated Margin or Segregated Variation Margin**

2.2.1 Each party to the relevant Standard Agreement shall be obliged to fulfil any payment or delivery obligations under Covered Transactions or obligations to deliver or redeliver cover in respect of either the Segregated Margin or the Segregated Variation Margin under the relevant Standard Agreement by transferring to the transferee all right, title and interest in and to the concerned assets or Eligible Margin Assets, as the case may be, free and clear from any and all rights and claims of the transferring party and of any third person, howsoever arising, including, without limitation, pursuant to applicable regulation or under any statutory or other trust. The value of such assets shall, as of the date the

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transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

In the case of a transfer of Eligible Margin Assets in the form of Securities by the Clearing Member to Eurex Clearing AG, the Clearing Member shall (i) if such transfer is made through the Securities Margin Account, instruct Clearstream Banking AG in a timely manner to transfer the relevant Securities to the Securities Margin Account or to have them labelled in Xemac and authorizes Clearstream Banking AG to inform Eurex Clearing AG of such transfer and (ii) if such transfer is made through accounts with Clearstream Banking S.A., instruct Clearstream Banking S.A. in a timely manner to transfer the relevant Securities to the relevant securities account of Eurex Clearing AG with Clearstream Banking S.A. (each account notified by Eurex Clearing AG to the Clearing Member for such purposes from time to time, a “**Eurex Clearing Securities Margin Account**”).

- 2.2.2 The purpose of the Segregated Margin and Segregated Variation Margin actually delivered under the relevant Standard Agreement shall be to collateralise all claims (whether present, future, actual, contingent or prospective) of the relevant margin taker arising under the Covered Transactions entered into between the parties to such Standard Agreement.
- 2.2.3 The actual payment or delivery of Eligible Margin Assets in respect of Segregated Margin or Segregated Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for repayment or redelivery, as the case may be, of equivalent assets in the same amount or the same number as such Eligible Margin Assets actually delivered (or increases an already existing repayment or redelivery claim; each such claim shall be referred to as a “**Redelivery Claim**”), subject to, in the case of a Direct Segregated Margin Transfer, Number 17.1.8. In the case of Segregated Margin, only the Clearing Member and the ICM Client, respectively and if applicable, may be the creditor of the relevant Redelivery Claim and in the case of Segregated Variation Margin, either party to the relevant Standard Agreement may be the creditor of the relevant Redelivery Claim.

For the purpose of the relevant Redelivery Claim, the term “**equivalent**” means assets of the same type, currency, description, nominal value and amount as such Eligible Margin Assets (including, in the case of debt securities, the sum of money or assets equivalent to any redemption or other proceeds therefrom) actually delivered in respect of the Segregated Margin or the Segregated Variation Margin.

References in these Individual Clearing Model Provisions to Redelivery Claims shall be construed so as to exclude any Redelivery Claim pursuant to the Elementary Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~ the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions.

A Redelivery Claim will become due with respect to the Segregated Margin (i) upon receipt of a respective declaration from the margin provider by Eurex Clearing AG prior to the then applicable cut-off time of any Business Day, as specified by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) (A) for Securities credited to the relevant



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Securities Margin Account, with respect to Clearstream Banking AG, (B) for Securities credited to the relevant Eurex Clearing Securities Margin Account, with respect to Clearstream Banking S.A., or (C) for cash with respect to the relevant currency, as applicable, and if and to the extent the relevant applicable Default Margin Requirement is below the aggregate value of all Eligible Margin Assets actually delivered in respect of the Segregated Margin or (ii) in accordance with Number 5.3.5 and with respect to the Segregated Variation Margin in accordance with Number 6, in each case provided that no Termination Date has occurred.

- 2.2.4 Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the term “**actually delivered**” when used in the Individual Clearing Model Provisions means (i) the actual credit of an Eligible Margin Asset to a cash account designated by the Clearing Member or a securities account designated by the Clearing Member, which in the case of Eurex Clearing AG shall be the relevant Eurex Clearing AG cash account and either the relevant Securities Margin Account or the relevant Eurex Clearing Securities Margin Account (as applicable) or, as the case may be, the actual entry on the Segregated Internal Margin Account pursuant to Number 5.3.3, or in the case of a delivery of an Eligible Margin Asset in the form of Securities pursuant to Number 5.5, the effectiveness of the title transfer in Xemac, or otherwise (ii) in the event of a set-off pursuant to Number 1.3 of the General Clearing Provisions, the legal effectiveness of such set-off. The term “**actual delivery**” shall be interpreted accordingly.

Where reference is made in the Individual Clearing Model Provisions to the “**aggregate value**” of Eligible Margin Assets in connection with the assessment of compliance with the Default Margin Requirement or an obligation to deliver or redeliver cover in respect of the Segregated Margin or the Segregated Variation Margin, the aggregate value will be determined by Eurex Clearing AG in accordance with Number 3.2.2 of the General Clearing Provisions.

- 2.2.5 The relevant Redelivery Claim is ~~fulfilled~~ discharged by Eurex Clearing AG (a) if the relevant Securities have been credited to a securities account of the Clearing Member or to a securities account of a depository, a settlement institution or a custodian designated by the Clearing Member at a deposit bank or a central securities depository; or (b) if the relevant cash amount has been credited to the relevant account of the relevant Clearing Member or to an account of a correspondent bank designated by the Clearing Member. ~~Booking~~ Such discharge shall occur irrespective of any booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central securities depository or the correspondent bank ~~are in the responsibility of the Clearing Member.~~

### 3 Conclusion of Covered Transactions

Covered Transactions between Eurex Clearing AG and the relevant Clearing Member shall be concluded pursuant to Number 1.2.2 of the General Clearing Provisions.

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## **4 Internal Accounts of Eurex Clearing AG and the Clearing Member**

### **4.1 Internal Accounts of Eurex Clearing AG**

In addition to the internal accounts set out in Number 4 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to the Clearing Member the following internal accounts with respect to the relevant Standard Agreement:

#### **4.1.1 Internal Cash Account**

With respect to each currency accepted by Eurex Clearing AG an internal cash account (i) for the settlement of claims arising from Covered Transactions other than Settlement Claims, into which all daily settlement payments, option premiums and other cash payment obligations arising under the Covered Transactions shall be booked and (ii) for Settlement Claims.

The daily balance of each internal cash account (after taking into account the set-offs pursuant to Clearing Conditions) shall be debited or credited, as the case may be, to the respective Clearing Member Cash Account to the extent that Eurex Clearing AG does not claim any credit balance in such account as Segregated Margin or Segregated Variation Margin.

#### **4.1.2 Internal Margin Account**

An internal margin account for the Clearing Member in which all daily credits and debits of Eligible Margin Assets pursuant to the Individual Clearing Model Provisions will be recorded (the "**Segregated Internal Margin Account**").

#### **4.1.3 Separate Accounting for Funds**

Eurex Clearing AG will separately account for the relevant positions and the relevant margin collateral provided under Covered Transactions entered into in relation to each Relevant Fund and each Relevant Fund Segment.

### **4.2 Internal Accounts of the Clearing Member**

The Clearing Member shall establish an internal accounting with respect to the Individual Clearing Model Provisions to record in relation to Eurex Clearing AG and the relevant ICM Client (i) all Covered Transactions, (ii) all payments and deliveries under Covered Transactions, (iii) all Segregated Margin and Segregated Variation Margin actually delivered and (iv) all Redelivery Claims.

The Clearing Member will furthermore separately account for the relevant positions and the relevant margin collateral provided under Covered Transactions entered into in relation to each Relevant Fund and each Relevant Fund Segment, if applicable.

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#### 4.3 **Methods of assigning transfers of Eligible Margin Assets to a Standard Agreement**

The Clearing Member shall establish and provide to Eurex Clearing AG a specific customer identifier with respect to the ICM Client. Any transfer of Eligible Margin Assets to Eurex Clearing AG in respect of Segregated Margin or Segregated Variation Margin shall clearly refer to the applicable customer identifier.

#### 5 **Segregated Margin**

The Margin Requirement applicable to the Clearing Member pursuant to this Number 5 shall be in addition to any other margin requirement of the Clearing Member or Basic Clearing Member vis-à-vis Eurex Clearing AG under the Elementary Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions.

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

5.1.1 The Clearing Member is required to transfer margin to Eurex Clearing AG for all Covered Transactions in such amounts, in such forms and at such times as are required pursuant to this Number 5 and the Special Clearing Provisions (the **"Segregated Margin"**).

5.1.2 To provide Eligible Margin Assets in the form of Securities to Eurex Clearing AG on the Securities Margin Account 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 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 In the case of a transfer of Securities in form of co-ownership interests, 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.

Possession passes by means of constituting a bailment (*Begründung eines Besitzmittlungsverhältnisses*) between Clearstream Banking AG and Eurex Clearing AG and by modification of the bailment intention (*Besitzmittlungswillen*) of Clearstream Banking AG regarding the fractions to be transferred. The transfer of possession is completed when based on the Clearing Member's Instruction a debit entry is posted into the Clearing Member's custody account and a credit entry is posted in the Securities Margin Account of the Clearing Member.

5.1.4 In the case of a transfer of Securities in form of German book-entry securities, 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

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credit of the relevant book-entry securities to the Securities Margin Account. Section 151 BGB applies.

The parties to the ICM Clearing Agreement acknowledge that, with the completion of the credit on the Securities Margin Account, Clearstream Banking AG accepts by way of abstract acknowledgement of debt (*abstraktes Schuldanerkenntnis*) the claim for surrender vis-à-vis Eurex Clearing AG.

- 5.1.5 To provide Eligible Margin Assets in the form of Securities to Eurex Clearing AG to the relevant Eurex Clearing Securities Margin Account, 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. Section 151 BGB applies.

## 5.2 Margin Requirement

- 5.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of Segregated Margin by the Clearing Member shall be determined in accordance with Number 3.1 of the General Clearing Provisions (the “**Default Margin Requirement**”) and will be notified by Eurex Clearing AG to the Clearing Member.
- 5.2.2 In order to determine the Default Margin Requirement of the Clearing Member, Eurex Clearing AG will determine separate margin requirements for (i) such Covered Transactions referring to own transactions of the relevant ICM Client and (ii) such Covered Transactions referring to customer related transactions of the relevant ICM Client, provided that in each case credit balances on any internal transaction account shall not be taken into account, and then calculate the sum of such separate margin requirements.

## 5.3 Margin Call

- 5.3.1 If Eurex Clearing AG at any time on any Business Day determines that the aggregate value of the Segregated Margin actually delivered is insufficient to meet the Default Margin Requirement, Eurex Clearing AG will require the Clearing Member to deliver (additional) Eligible Margin Assets in an amount up to the Default Margin Requirement by the time specified by Eurex Clearing AG.
- 5.3.2 The Clearing Member may provide Eligible Margin Assets to Eurex Clearing AG in excess of the Default Margin Requirement (the “**Excess Margin**”). Any Excess Margin actually delivered shall form part of the Segregated Margin and shall be subject to a Redelivery Claim which becomes due upon request by the Clearing Member.

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- 5.3.3 If a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Segregated Margin, then:
- (i) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account and the respective credit entry in the Segregated Internal Margin Account with such cash credit being allocated to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to these Individual Clearing Model Provisions; and
  - (ii) the aggregate value of Elementary Proprietary Margin actually delivered and the redelivery claim under the Elementary Proprietary Standard Agreement shall be reduced accordingly upon Eurex Clearing AG having made the corresponding records (which Eurex Clearing AG shall do without undue delay) in the Segregated Internal Margin Account pursuant to Number 4.1.2 and the Internal Elementary Proprietary Margin Account pursuant to Number 4.2 of the Elementary Clearing Model Provisions.
- 5.3.4 Non-compliance with the Default Margin Requirement by the Clearing Member shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Provisions unless such non-compliance has been remedied by the Clearing Member by the time the Termination would occur.
- 5.3.5 The Clearing Member may at any time request from Eurex Clearing AG the redelivery of assets equivalent to Eligible Margin Assets actually delivered in respect of the Segregated Margin if the aggregate value of all Eligible Margin Assets actually delivered in respect of the Segregated Margin exceeds the Default Margin Requirement applicable at the time of such request. The Clearing Member may select – in accordance with any agreement between the Clearing Member and the ICM Client, if applicable – which Eligible Margin Assets credited to the Segregated Internal Margin Account pursuant to Number 4.1.2 shall be redelivered; Eurex Clearing AG will not and shall not be obliged to check whether there is, and whether the Clearing Member complies with, any such agreement.
- 5.4 Direct Debit**
- To the extent Eligible Margin Assets have not yet been delivered by the Clearing Member with respect to a Margin Call pursuant to Number 5.3.1, Eurex Clearing AG shall be entitled to (and without having an obligation towards the Clearing Member to do so, will on or around the time specified) directly debit the Clearing Member Cash Account in an amount equal to the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall constitute fulfilment of the relevant Margin Call relating to the relevant Standard Agreement (and consequentially such direct debit will increase the Redelivery Claim).

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## 5.5 Xemac

The Clearing Member may provide Eligible Margin Assets or may have Eligible Margin Assets provided in form of Securities by way of full title transfer in accordance with Number 2.2.1 by using the Collateral Management System Xemac (“**XEMAC**”) of Clearstream Banking AG on the basis of the applicable provisions of the Special Conditions for Collateral Management (“**SC XEMAC**”). Hereby, 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”). Number 5.1.3 applies accordingly.

## 6 Segregated Variation Margin

### 6.1 General Obligation to provide Segregated Variation Margin

Each party to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member shall be required to transfer (additional) cover in respect of daily profits or losses for such Covered Transactions for which Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) and Chapter VIII Part 2 Number 2.1.6 Paragraph (3), as applicable, apply in such amounts and at such times as are required pursuant to this Number 6. Any such cover provided or to be provided with respect to the relevant Standard Agreement is herein referred to as “**Segregated Variation Margin**”).

### 6.2 Segregated Variation Margin Requirement

Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of Segregated Variation Margin. The party to the relevant Standard Agreement obliged to provide Segregated Variation Margin (the “**Segregated Variation Margin Provider**”), to the other party to such Standard Agreement (the “**Segregated Variation Margin Taker**”), and the amount of Eligible Margin Assets in form of cash to be delivered as cover in respect of Segregated Variation Margin (the “**Segregated Variation Margin Requirement**”) shall be determined in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) and Chapter VIII Part 2 Number 2.1.6 Paragraph (3), as applicable.

Number 5.3.2 applies *mutatis mutandis*.

### 6.3 Delivery of Segregated Variation Margin and Redelivery Claim

Segregated Variation Margin shall be delivered and/or returned on any Business Day in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions.

Eligible Margin Assets actually delivered in the form of cash in respect of the Segregated Variation Margin by the Segregated Variation Margin Provider will give rise to or increases a Redelivery Claim of such party against the Segregated Variation Margin Taker in accordance with Number 2.2.3. Any such Redelivery Claim (i) shall become due

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if and to the extent that on any subsequent Business Day a profit amount has been determined for the benefit of such Segregated Variation Margin Provider in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) and Chapter VIII Part 2 Number 2.1.6 Paragraph (3), as applicable, (the applicable amount shall be the “**Redelivery Amount**”) and (ii) shall be decreased and fulfilled accordingly (subject to a minimum value of “**zero**”) if and to the extent equivalent Eligible Margin Assets in form of cash have been actually delivered to it by the Segregated Variation Margin Taker. For the avoidance of doubt, if the profit amount determined for the benefit of the Segregated Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party constitutes itself a delivery of Segregated Variation Margin and the relevant party to the Standard Agreement being the Segregated Variation Margin Provider or the Segregated Variation Margin Taker shall change.

For the purpose of the Clearing Conditions, an actual delivery in respect of the Segregated Variation Margin resulting in a corresponding Redelivery Claims shall take place if upon conclusion of a Covered Transaction the terms and conditions of such Covered Transaction provide that due to a netting with an applicable initial consideration no actual payment in respect of the Segregated Variation Margin will occur.

## **7 Termination, Consequences of a Termination, Post Settlement and Re-Establishment**

### **7.1 Termination**

Upon the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date (each as defined in Number 7.2 of the General Clearing Provisions) with respect to the Clearing Member, the Clearing of new Covered Transactions under the relevant Standard Agreement may be suspended (the “**Suspension**”) and/or Covered Transactions terminated (the “**Termination**”) and, in case of a Termination, either a termination payment (the “**Termination Payment**”) shall become payable or a re-establishment of transactions with a replacement Clearing Member shall occur (the “**Re-Establishment**”) as further set out in this Number 7 and Number 11.

### **7.2 Limitation or Suspension of Clearing**

If a Termination Event or any of the following events occurs with respect to a Clearing Member:

- (i) the existence of an unremedied breach by the Clearing Member of its Clearing Agreement with Eurex Clearing AG, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;
- (ii) a determination is made by Eurex Clearing AG that limitation or suspension of Clearing is necessary for it to contain its exposure to the Clearing Member;

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- (iii) the suspension or termination (other than a voluntary termination) of the Clearing Member's membership of another clearing house provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG 's reasonable opinion, material to the management of its risk by Eurex Clearing AG, and that Eurex Clearing AG first consults or attempts to consult with the Clearing Member and the competent regulatory authorities;
- (iv) the commencement of ~~the Disciplinary Process~~ Procedures as defined in Number 7.2.1(b) (aa) of the General Clearing Provisions against a Clearing Member; or
- (v) any other event in respect of the Clearing Member that could materially impact the ability of that Clearing Member to perform its obligations under the Clearing Conditions and the relevant Clearing Agreement, then Eurex Clearing AG may

(taking into account the interests of such Clearing Member and its clients and provided that such action constitutes a proportionate and reasonable action) one or more times suspend or limit the Clearing of new Covered Transactions under any or all of the Standard Agreements between Eurex Clearing AG and the Clearing Member. Eurex Clearing AG shall notify the affected Clearing Member and the ICM Client of such decision to suspend or limit such Clearing. Eurex Clearing AG shall specify a reasonable period of time during which such Suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant Clearing Member shall, at the Clearing Member's own expense, provide such information and evidence as Eurex Clearing AG in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.

Upon the occurrence of a Termination Event or any of the events listed above and unless such Termination Event or other events have been remedied, the Clearing Member is – subject to any other limitations or restrictions of the Clearing pursuant to the Clearing Conditions – only entitled to enter any order or quotes into the systems of the Markets or clear new Transactions, as the case may be, if sufficient Segregated Margin and Segregated Variation Margin has been actually delivered to Eurex Clearing AG in advance.

Before limiting or suspending the Clearing of new Covered Transactions under this Number 7.2, and without limiting its rights under Number 7.2.1 of the General Clearing Provisions Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the relevant Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the Clearing Member may remedy the event in question. For the avoidance of doubt, in case the relevant event constitutes an Alleged Breach (as defined in the Disciplinary Procedures Rules) Eurex Clearing AG may commence Disciplinary Procedures in respect of the Clearing Member subject to and in accordance with the Disciplinary Procedures Rules.



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### 7.3 Consequences of a Termination

If a Termination Date has occurred with respect to the Clearing Member, the following provisions shall apply.

#### 7.3.1 Termination of Covered Claims

Without prejudice to the following provisions of this Number 7.3, all current and future primary obligations (including payment and delivery obligations) of each party under the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member arising from Covered Claims shall expire (*auflösende Bedingung*) as of the Termination Time and shall no longer be required to be performed by the relevant obligor. Further all due but unsatisfied obligations to deliver Segregated Margin and Segregated Variation Margin under the Corresponding Standard Agreements shall expire (*auflösende Bedingung*) as of the Termination Time. The expiration affects all claims arising from Covered Transactions independently of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Difference Claim, subject to and in accordance with Number 7.3 of the General Clearing Provisions.

#### 7.3.2 Difference Claim

With regard to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, the difference claim which was created by the signing of the relevant ICM Clearing Agreement shall become unconditional and immediately due in the Termination Currency from one party to the relevant Standard Agreement to the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (i) if no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (ii) if an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (iii) if an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date. If either (i) the Interim Participation Conditions or, as the case may be, (ii) the Immediate Re-Establishment Conditions are satisfied by the Opening Time, such difference claim shall become unconditional and immediately due in the Termination Currency from one party to the relevant Standard Agreement to the respective other party as of the Opening Time and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Exchange Price Approach. Each such claim shall be a “**Difference Claim**”.

Eurex Clearing AG shall notify the value of the Difference Claim determined by it to the Clearing Member and the ICM Client as soon as reasonably practicable and by no later than the end of the Business Day after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

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### 7.3.3 Payment of Difference Claim

- (1) Unless either (i) an IP Election is made by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date or (ii) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time and the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, such party to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member which is the obligor of the Difference Claim shall be obliged to pay the determined amount of the Difference Claim to the other party as soon as reasonably practicable following the notification by the determining party of the payable amount. If Eurex Clearing AG is the debtor of the Difference Claim, Eurex Clearing AG may on demand of the creditor of the Difference Claim discharge the Difference Claim in whole or in part by delivering Securities that have been delivered to Eurex Clearing AG as Margin under the relevant Standard Agreement; the Securities so delivered shall be taken into account with respect to the Difference Claim at the price which has been applied for the Redelivery Claim with respect to such Securities in calculating the Difference Claim.
- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.
- (3) Eurex Clearing AG is entitled to set-off the Difference Claim it may have against the Clearing Member pursuant to these Individual Clearing Model Provisions against any Difference Claim it owes to the Clearing Member pursuant to the Elementary Proprietary Standard Agreement.

### 7.4 Post Settlement

Following the Termination Date and prior to the end of the Last Valuation Date or the Opening Time, as the case may be, payment and delivery claims arising under Covered Transactions which were due and enforceable but unsettled at the Termination Date or will become due and enforceable prior to the end of the Last Valuation Date or the Opening Time, as the case may be, and for which a binding valid and irrevocable settlement has occurred between the Clearing Member and Eurex Clearing AG shall for the purpose of the Difference Claim be disregarded and deemed to have been settled (the “**Post Settlement**”).

## 8 Creation of Security Interests

By signing the ICM Clearing Agreement, the Clearing Member creates the following security interests for the benefit of Eurex Clearing AG or the ICM Client unless Eurex Clearing AG, **Eurex Clearing Security Trustee GmbH** as security trustee (the “**Security Trustee**”) and the Clearing Member have entered into a Security Trust Agreement in the

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form appended to the Clearing Conditions as Appendix 9 (the “**Security Trust Agreement**”) in which case this Number 8 shall not apply and the creation of security interests and their enforcement shall be subject to the Clearing Conditions as modified by the Security Trust Agreement.

## 8.1 Pledges

### 8.1.1 Pledge by the Clearing Member to Eurex Clearing AG

- (1) The Clearing Member pledges (*verpfändet*) to Eurex Clearing AG its Relevant Difference Claim against the ICM Client.
- (2) Eurex Clearing AG accepts the pledge granted pursuant to this Number 8.1.1 Paragraph (1).
- (3) The pledge granted pursuant to this Number 8.1.1 shall secure all of Eurex Clearing AG’s present and future Covered Claims, as defined Number 8.1.3, and the Difference Claim, as defined in Number 7.3.2, against the Clearing Member under the relevant Standard Agreement (together “**Eurex Clearing AG’s Secured Claims**”).
- (4) The Clearing Member notifies the ICM Client of the pledge granted pursuant to this Number 8.1.1. The ICM Client confirms receipt of such notification. As a consequence of the pledge, the Clearing Member shall no longer be entitled to deal with, dispose of, encumber or receive the proceeds of the Relevant Difference Claim otherwise than in accordance with the Clearing Conditions.
- (5) The pledge will become enforceable (*Pfandreife*) upon the occurrence of a Termination Date at the following points in time:
  - (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date; or
  - (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.
- (6) Waiver:
  - (i) The Clearing Member expressly waives its defence pursuant to Sections 1211, 770 Paragraph 1 BGB that any of Eurex Clearing AG’s Secured Claims against the Clearing Member may be avoided (*Anfechtung*).

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- (ii) The Clearing Member expressly waives its defence pursuant to Section 1211, 770 Paragraph 2 BGB that Eurex Clearing AG may satisfy or discharge any of Eurex Clearing AG's Secured Claims against the Clearing Member by way of set-off (*Aufrechnung*).
  - (iii) To the extent legally possible, the Clearing Member expressly waives its defences pursuant to Section 1211 Paragraph 1 Sentence 1 Alternative 1 BGB that the principal debtor of any of Eurex Clearing AG's Secured Claims against the Clearing Member has a defence against any such Eurex Clearing AG's Secured Claims (*Einreden des Hauptschuldners*).
- (7) Unless the Interim Participation pursuant to and in accordance with Number 11 becomes effective, Eurex Clearing AG shall enforce its pledge pursuant to Paragraph (1) against the ICM Client only after the full realisation of all Contributions of all Clearing Members to the Clearing Fund in accordance with the order of priority set out in Number 6.2 of the General Clearing Provisions.

#### 8.1.2 Pledge by the Clearing Member to the ICM Client

- (1) The Clearing Member pledges (*verpfändet*) to the ICM Client its Difference Claim, as defined in Number 7.3.2, against Eurex Clearing AG under the relevant Standard Agreement.
- (2) The ICM Client accepts the pledge granted pursuant to this Number 8.1.2 Paragraph (1).
- (3) The pledge granted pursuant to this Number 8.1.2 shall secure all of the ICM Client's present and future (i) payment and delivery claims under the Relevant Transactions and all Relevant Redelivery Claims, (ii) the Relevant Difference Claims and (iii) the Shortfall Claim, as defined in Number 10.1, against the Clearing Member (the "**ICM Client's Secured Claims**").
- (4) The Clearing Member notifies Eurex Clearing AG of the pledge granted pursuant to this Number 8.1.2. Eurex Clearing AG confirms receipt of such notification. As a consequence of the pledge, the Clearing Member shall no longer be entitled to deal with, dispose of, encumber or receive the proceeds of its Difference Claim otherwise than in accordance with the Clearing Conditions.
- (5) Subject to Paragraph (7), the pledge will become enforceable (*Pfandreife*) upon the occurrence of a Termination Date:
  - (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment

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Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date; or

- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

(6) Waiver:

- (i) The Clearing Member expressly waives its defence pursuant to Sections 1211, 770 Paragraph 1 BGB that any of the ICM Client's Secured Claims against the Clearing Member may be avoided (*Anfechtung*).
- (ii) The Clearing Member expressly waives its defence pursuant to Section 1211, 770 Paragraph 2 BGB that the ICM Client may satisfy or discharge any of the ICM Client's Secured Claims against the Clearing Member by way of set-off (*Aufrechnung*).
- (iii) To the extent legally possible, the Clearing Member expressly waives its defences pursuant to Section 1211 Paragraph 1 Sentence 1 Alternative 1 BGB that the principal debtor of any of the ICM Client's Secured Claims against the Clearing Member has a defence against any such ICM Client's Secured Claim (*Einreden des Hauptschuldners*).

- (7) If the Affected Clearing Member is domiciled outside the EU and an additional legal act (including but not limited to a decision or approval by a regulator, public authority, court or insolvency administrator) is necessary or expedient to give full effect to the pledge under the laws of the jurisdiction applicable to the Affected Clearing Member, the pledge will only become enforceable (*Pfandreife*) after such act has become effective.

If no such act has been taken within one month after the Termination Date, Eurex Clearing AG shall be entitled to discharge the Difference Claim owed by it by payment to the Affected Clearing Member for the account of the ICM Client. Number 7.3.3 shall apply accordingly.

## 8.2 Assignments for Security Purposes

### 8.2.1 Assignment by Clearing Member to Eurex Clearing AG

- (1) Upon the occurrence of the events specified in Paragraph (3), the Clearing Member assigns to Eurex Clearing AG its Relevant Difference Claim against the ICM Client to secure all of the present and future Eurex Clearing AG's Secured Claims against the Clearing Member (*Sicherungsabtretung*), subject to Paragraph (3),
- (2) Eurex Clearing AG accepts the assignment pursuant to this Number 8.2.1 Paragraph (1).

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- (3) The Relevant Difference Claim which is subject to the assignment for security purposes will be transferred to Eurex Clearing AG immediately (and without any further actions being required on the part of the Clearing Member) upon the pledge coming into existence in accordance with this Number 8.1.1 and the assignment for security purposes is subject to the condition precedent (*aufschiebende Bedingung*) that a Termination has occurred and the applicable Termination Event either (a) prevents Eurex Clearing AG's Difference Claim against the Clearing Member from becoming due (*fällig*) or (b) renders it temporarily legally impossible (*vorübergehend unmöglich*) for the Clearing Member to perform Eurex Clearing AG's Difference Claim.
- (4) Upon the occurrence of a Termination Date, the ICM Client shall not be entitled to make any payment on the Relevant Difference Claim towards the Clearing Member unless Eurex Clearing AG has explicitly confirmed that the Eurex Clearing AG's Secured Claims against the Clearing Member have been fully satisfied and no further security purpose exists.
- (5) Upon the occurrence of the events specified in Paragraph (7), Eurex Clearing AG re-assigns to the Clearing Member the Relevant Difference Claim assigned to it in accordance with Paragraph (3). This shall not apply if the Interim Participation Conditions in accordance with Number 11.1.2 are satisfied in respect of the ICM Client and the assignments pursuant to Number 11.1.8 have been made.
- (6) The Clearing Member accepts the re-assignment pursuant to Paragraph (5).
- (7) The assigned Relevant Difference Claim will be re-assigned to the Clearing Member upon Eurex Clearing AG's Difference Claim against the Clearing Member subsequently becoming due (*fällig*) and, if applicable, no longer being temporarily legally impossible (*vorübergehend unmöglich*) to perform and without any further actions being required on the part of Eurex Clearing AG.
- (8) The Clearing Member notifies the ICM Client of the assignments pursuant to this Number 8.2.1. The ICM Client confirms the receipt of the notification.
- (9) The assignments pursuant to this Number 8.2.1 above shall in no way affect the pledges described in this Number 8.1.1 or the assigned claims as such.
- (10) Eurex Clearing AG may enforce the relevant assigned claim upon the occurrence of a Termination Date:
  - (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment

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Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date; or

- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

Any enforcement of the relevant assigned claim does not require that the secured claim is due and payable.

## 8.2.2 Assignment by Clearing Member to ICM Client

- (1) Upon the occurrence of the events specified in Paragraph (3), the Clearing Member assigns to the ICM Client its Difference Claim, as defined in Number 7.3.2, against Eurex Clearing AG under the relevant Standard Agreement to secure all of the present and future ICM Client's Secured Claims against the Clearing Member (*Sicherungsabtretung*), subject to Paragraph (3).
- (2) The ICM Client accepts the assignment pursuant to this Number 8.2.2 Paragraph (1).
- (3) The Difference Claim which is subject to the assignment for security purposes will be transferred to the ICM Client immediately (and without any further actions being required on the part of the Clearing Member) upon the pledge coming into existence in accordance with Number 8.1.2 and the assignment for security purposes is subject to the condition precedent (*aufschiebende Bedingung*) that a Termination has occurred and the applicable Termination Event either (a) prevents the ICM Client's Relevant Difference Claim against the Clearing Member from becoming due (*fällig*) or (b) renders it temporarily legally impossible (*vorübergehend unmöglich*) for the Clearing Member to perform ICM Client's Relevant Difference Claim.
- (4) Upon the occurrence of a Termination Date, Eurex Clearing AG shall not be entitled to make any payment on the Difference Claim towards the Clearing Member unless the ICM Client has explicitly confirmed that the ICM Client's Secured Claims against the Clearing Member have been fully satisfied and no further security purpose exists.
- (5) Upon the occurrence of the events specified in Paragraph (7), the ICM Client re-assigns to the Clearing Member the Difference Claim assigned to it in accordance with Paragraph (3). This shall not apply if the Interim Participation Conditions in accordance with Number 11.1.2 are satisfied in respect of the Clearing-Member/Registered Customer and the assignments pursuant to Number 11.1.8 have been made.
- (6) The Clearing Member accepts the reassignment pursuant to Paragraph (5).
- (7) The assigned Difference Claim will be re-assigned to the Clearing Member upon the ICM Client's Relevant Difference Claim against the Clearing Member subsequently becoming due (*fällig*) and, if applicable, no longer temporarily legally impossible

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*(vorübergehend unmöglich)* to perform and without any further actions being required on the part of Eurex Clearing AG.

- (8) The Clearing Member notifies Eurex Clearing AG of the assignment pursuant to this Number 8.2.2. Eurex Clearing AG confirms the receipt of the notification.
- (9) The assignments pursuant to this Number 8.2.2 above shall in no way affect the pledges described in Number 8.1.2 or the assigned claims as such.
- (10) Subject to Paragraph (11), the ICM Client may enforce the relevant assigned claim upon the occurrence of a Termination Date:
  - (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date; or
  - (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

Any enforcement of the relevant assigned claim does not require that the secured claim is due and payable.

- (11) If the Affected Clearing Member is domiciled outside the EU and an additional legal act (including but not limited to a decision or approval by a regulator, public authority, court or insolvency administrator) is necessary to give full effect to the assignment for security purposes under the laws of the jurisdiction applicable to the Affected Clearing Member, the ICM Client may only enforce the assigned claim after such act has become effective.

If no such act has been taken within one month after the Termination Date, Eurex Clearing AG shall be entitled to discharge the Difference Claim owed by it by payment to the Affected Clearing Member for the account of the ICM Client. Number 7.3.3 shall apply accordingly.

### 8.3 Creation of Security Interest pursuant to the Security Trust Agreement

If Eurex Clearing AG, the Security Trustee and the Clearing Member have entered into the Security Trust Agreement and Pledge and Assignment Agreement for the Individual Clearing Model Provisions (Clearing Members in England and Wales) in the form appended to the Clearing Conditions as Appendix 9 (the "**Security Trust Agreement**"), by entering into the relevant ICM Clearing Agreement, Eurex Clearing AG, the Clearing Member and the ICM Client agree that the following provisions apply:



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- (1) The ICM Client confirms to have received and acknowledges the Security Trust Agreement.
- (2) The notifications of the pledges and assignments for security purposes under the Security Trust Agreement, as applicable, are given and receipt of such notifications is confirmed by each of Eurex Clearing AG and the ICM Client in accordance with the Security Trust Agreement.
- (3) The ICM Client agrees with the Clearing Member and Eurex Clearing AG that the provisions on enforcement of the security interests created in the Security Trust Agreement and on the discharge of its Relevant Difference Claim and/or Shortfall Claim (including a discharge resulting from direct payments or deliveries by Eurex Clearing AG to the ICM Client or from the discharge of the Aggregate Security Trustee Claim (as defined in the Security Trust Agreement)) against the Clearing Member shall be binding as between them.
- (4) Upon the occurrence of a Termination Date, the ICM Client shall not be entitled to make any payment on the Relevant Difference Claim towards the Clearing Member unless Eurex Clearing AG has explicitly confirmed that Eurex Clearing AG's Secured Claims against the Clearing Member have been fully satisfied and no further security purpose exists.
- (5) In case of any inconsistency between the provisions of the ICM Clearing Agreement and/or the Clearing Conditions and the provisions of the Security Trust Agreement, the Security Trust Agreement shall prevail.

## **9 Obligation of the Clearing Member to forward received Settlement Assets or Eligible Margin Assets**

### **9.1 General Obligation**

Whenever the Clearing Member has received (i) a cash amount, Securities or any other asset (the "**Settlement Assets**") to settle a Covered Transaction or an amount of Eligible Margin Assets to deliver or redeliver cover in respect of the Segregated Margin or the Segregated Variation Margin under the relevant Standard Agreement from Eurex Clearing AG or (ii) Settlement Assets to settle a Relevant Transaction or an amount of Eligible Margin Assets to deliver or redeliver cover in respect of the Relevant Margin under the Relevant Agreement from the ICM Client, as the case may be, the Clearing Member shall – always subject to Number 5.3.2 and any applicable termination provisions – promptly transfer the same amount of equivalent Settlement Assets or Eligible Margin Assets to the ICM Client or Eurex Clearing AG, respectively. The same applies with respect to a redelivery of Non-Eligible Margin Assets.

### **9.2 Exemptions**

This Number 9 shall not apply (i) if the Clearing Member's obligation under the relevant Covered Transactions or Standard Agreement between Eurex Clearing AG and the Clearing Member has already been fulfilled in accordance with the Clearing Conditions

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(by way of a set-off, a Direct Segregated Margin Transfer pursuant to Number 17.1 or otherwise) or (ii) if there has been a direct debit by Eurex Clearing AG pursuant to Number 5.4. In the case of (ii), the Clearing Member is obliged to either promptly and directly deliver to Eurex Clearing AG assets equal in amount and otherwise equivalent to the Settlement Assets or Eligible Margin Assets (or income therefrom) received from the ICM Client by reference to the relevant Standard Agreement or to exercise its option pursuant to Number 5.3.3.

### 9.3 Consequences of a set-off

If Eurex Clearing AG has declared a set-off pursuant to Number 1.3 of the General Clearing Provisions against an amount otherwise due from Eurex Clearing AG to the Clearing Member and the Clearing Member will therefore not receive (in whole or in part) a payment or delivery of Settlement Assets or Eligible Margin Assets (or income therefrom), respectively, with respect to the relevant amount from Eurex Clearing AG under the relevant Covered Transactions or relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, respectively, the Clearing Member remains nevertheless obliged to promptly pay or deliver the applicable amount of Settlement Assets or Eligible Margin Assets (or income therefrom), respectively, to the ICM Client.

## 10 Shortfall Claim of the ICM Client and Regress Claim of the Clearing Member

10.1 Upon the occurrence of a Termination Date, a claim which was created by the signing of the ICM Clearing Agreement shall become unconditional and immediately due as of the end of either (i) the Last Valuation Date in case the Liquidation Price Approach is the applicable Difference Claim Valuation Method or (ii) the Termination Date in case the Exchange Price Approach is the applicable Difference Claim Valuation Method from the Clearing Member to the ICM Client with respect to their Relevant Agreement (the "**Shortfall Claim**"). The Shortfall Claim shall be an amount in the Termination Currency equal to either:

- (a) the difference between the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement and the Relevant Difference Claim of the ICM Client against the Clearing Member (if any, and assuming that the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement is higher than the Relevant Difference Claim of the ICM Client against the Clearing Member), or
- (b) the amount of the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement where the Clearing Member is the creditor of the Relevant Difference Claim against the ICM Client or where no Relevant Difference Claim between the ICM Client and the Clearing Member exists.

10.2 The Clearing Member shall have a regress claim which was created by the signing of the ICM Clearing Agreement against the ICM Client with respect to their Relevant Agreement which becomes unconditional and immediately due if and to the extent Eurex Clearing AG has made a payment to the ICM Client with a view to satisfying the Shortfall

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Claim (the “**Regress Claim**”). The Regress Claim shall be an amount in the Termination Currency equal to either:

- (a) the difference between the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement and the Relevant Difference Claim of the ICM Client against the Clearing Member (if any, and assuming that the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement is higher than the Relevant Difference Claim of the ICM Client against the Clearing Member), or
- (b) the amount of the Difference Claim of the Clearing Member against Eurex Clearing AG under the relevant Standard Agreement where the Clearing Member is the creditor of the Relevant Difference Claim against the ICM Client or where no Relevant Difference Claim between the ICM Client and the Clearing Member exists.

## 11 **Re-Establishment of Transactions upon request by ICM-Client**

Upon the occurrence of a Termination Date, the ICM Client may elect by giving notice to Eurex Clearing AG (the “**Re-Establishment Election Notice**”) (i) to re-establish the terminated Covered Transactions as interim participant (the “**IP Election**”) or (ii) to immediately re-establish the terminated Covered Transactions with a Replacement Clearing Member (as defined in Number 11.2.2) (the “**Immediate Re-Establishment Election**”) or (iii) not to re-establish the terminated Covered Transactions, in each case as soon as possible and at the latest by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date (the “**Re-Establishment Cut-Off Time**”).

If Eurex Clearing AG does not receive a Re-Establishment Election Notice in which either an IP Election or an Immediate Re-Establishment Election was made by the Re-Establishment Cut-Off Time, there will be no re-establishment of the terminated Covered Transactions and Number 7.3.2 and 7.3.3 and Subpart B Number 6.3.2 and 6.3.3 if applicable, apply.

With respect to the Clearing of Covered Transactions for Relevant Funds, the Authorised Manager may decide separately for each Relevant Fund whether it either declares an IP Election or an Immediate Re-Establishment Election. With respect to the Clearing of Covered Transactions for Relevant Fund Segments, the Authorised Manager may only decide collectively for all such Relevant Fund Segments whether it declares an IP Election or an Immediate Re-Establishment Election.

### 11.1 **Interim Participation of the ICM Client**

11.1.1 If the ICM Client has selected the IP Election by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied, the ICM Client will be established as Interim Participant.

11.1.2 The following conditions (the “**Interim Participation Conditions**”) must be satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination

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Date or within a longer period of time specified by Eurex Clearing AG in the individual case to enable an Interim Participation of the ICM Client:

- (1) Eurex Clearing AG has received (i) all Interim Margin, (ii) all Interim Variation Margin, (iii) all Opening Margin, (iv) all Reimbursement Costs and (v) the ICM Client's contribution to the Clearing Fund determined by Eurex Clearing AG in accordance with Number 11.1.5 Paragraph (6) and Number 6 of the General Clearing Provisions;
- (2) the ICM Client has confirmed to Eurex Clearing AG that it is not (impending) illiquid (*(drohend) zahlungsunfähig*) and that no petition for the commencement of insolvency proceedings with regard to its assets or any similar petition has been filed;
- (3) in the case of the ICM-CCD Provisions, the ICM Client has confirmed to Eurex Clearing AG that the Client Clearing Agreement with the Affected Clearing Member meets the requirements of an Eligible Client Clearing Agreement;
- (4) Eurex Clearing AG has not exercised its objection right (as described in Number 11.1.7);
- (5) the ICM Client has provided evidence to Eurex Clearing AG that it has access to the systems of Eurex Clearing AG and all functions in the context of the Direct Covered Transactions can be performed;  
and
- (6) Eurex Clearing AG has given a notice to the ICM Client confirming the satisfaction of the Interim Participation Conditions and specifying the Opening Time.

If following receipt of a Re-Establishment Election Notice by the Re-Establishment Cut-Off Time in which an IP Election was made, the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date or such longer period of time specified by Eurex Clearing AG in the individual case, there will be no re-establishment of the terminated Covered Transactions and Number 7.3.2 and 7.3.3 and Subpart B Number 6.3.2 and 6.3.3, if applicable, apply.

### 11.1.3 Delivery of Interim Margin and Interim Variation Margin

- (1) Eurex Clearing AG is entitled to request cover from the ICM Client in respect of Margin for the Reference Transactions at any time between the Termination Time and the Opening Time in accordance with the Elementary Clearing Model Provisions as if a Termination Date had not occurred, provided that the ICM Client may deliver Eligible Margin Assets in the form of Securities only in accordance with Number 2.2.1 and 2.2.4.

Number 6.3 of the Elementary Clearing Model Provisions applies *mutatis mutandis* to the ICM Client if Eurex Clearing AG determines that insufficient Eligible Margin Assets are held by Eurex Clearing AG to provide cover with respect to the Reference Transactions (the "Interim Margin").

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- (2) Further, if and to the extent that Number 7 of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Reference Transactions, Eurex Clearing AG is entitled to request cover in respect of the Variation Margin from the ICM Client for the Reference Transactions, if any, at any time between the Termination Time and the Opening Time in accordance with the Elementary Clearing Model Provisions as if a Termination had not occurred (the “**Interim Variation Margin**”). The ICM Client shall be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG in respect of the Interim Variation Margin. Eurex Clearing AG shall not be required to provide cover in respect of the Interim Variation Margin to the ICM Client for the Reference Transactions between the Termination Time and the Opening Time.

#### 11.1.4 Establishment of ICM Client as Interim Participant

##### (1) Opening of Transactions

When the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or at such earlier time at which the Interim Participation Conditions are satisfied (the “**Opening Time**”), Eurex Clearing AG and the ICM Client as interim participant (the “**Interim Participant**”) shall, without any further action being required on the part of either of the parties, enter into new Transactions off-exchange directly between Eurex Clearing AG and the ICM Client (the “**Direct Covered Transactions**”) against payment of an opening consideration in the Termination Currency to be determined in accordance with this Number 11.1.4 Paragraph (1) (the “**Opening Consideration**”).

Each such Direct Covered Transaction shall have the same terms and conditions as the corresponding terminated Covered Transaction under the Standard Agreement between Eurex Clearing AG and the Affected Clearing Member (the “**Reference Transaction**”) as of the Opening Time in the absence of a Termination Date (taking into account any Interim Settlement pursuant to Number 11.3 or Post Settlement pursuant to Number 7.4).

The Opening Consideration shall equal the sum of the determined Single Transaction Amounts (as defined in Number 7.3.3 Paragraph (3) of the General Clearing Provisions) of all Reference Transactions used to calculate the Difference Claim under the relevant Standard Agreement between Eurex Clearing AG and the Affected Clearing Member using the Exchange Price Approach and shall be payable in accordance with Paragraph (3) below. Where these Individual Clearing Model Provisions provide that the Elementary Clearing Model Provisions shall apply to the provision of Margin and/or Variation Margin for Reference Transactions and/or Direct Covered Transactions, such Reference Transactions and/or Direct Covered Transactions shall for the purposes of the Elementary Clearing Model Provisions be deemed to constitute Own Transactions of the Non-Clearing Member.

##### (2) Opening Margin

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For the purpose of entering into the Direct Covered Transactions with the ICM Client, Eurex Clearing AG is entitled to request cover in respect of Margin for Direct Covered Transactions from the ICM Client in such amounts, in such forms and at such times as are required pursuant to the Elementary Clearing Model Provisions (the “**Opening Margin Requirement**”) taking into account the aggregate value of Eligible Margin Assets actually delivered in respect of the Interim Margin Number 5.3.1 applies to the ICM Client *mutatis mutandis* if Eurex Clearing AG determines that the aggregate value of the Eligible Margin Assets held by Eurex Clearing AG is insufficient to provide the cover required with respect to the Direct Covered Transactions.

Further, if and to the extent Number 7 of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Direct Covered Transactions, Eurex Clearing AG is entitled to request cover in respect of such Variation Margin from the ICM Client in accordance with the Clearing Conditions (the “**Opening Variation Margin Requirement**”) and the ICM Client shall in such case be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG taking into account the aggregate value of Eligible Margin Assets actually delivered in respect of the Interim Variation Margin.

The delivery of cover in respect of the Margin or the Variation Margin (for the purpose of the Direct Covered Transactions, Margin shall be referred to as the “**Direct Margin**” and Variation Margin shall be referred to as “**Direct Variation Margin**”) for Direct Covered Transactions remains subject to the Elementary Clearing Model Provisions.

### (3) **Settlement**

Without any further notice, the following amounts shall be set off immediately following the Opening Time and the remaining difference, if any, determined by Eurex Clearing AG and notified to the ICM Client shall be payable in the Termination Currency by the ICM Client to Eurex Clearing AG:

- (a) the cash equivalent amount of any Opening Margin Requirement and Opening Variation Margin Requirement (to the extent not yet settled due to the delivery of Interim Margin or Interim Variation Margin, if any) applicable to the ICM Client;
- (b) the amount of the Opening Consideration to be paid by Eurex Clearing AG or the ICM Client, as the case may be; and
- (c) (1) if Eurex Clearing AG is the creditor of the determined Difference Claim against the Affected Clearing Member under the relevant Standard Agreement, an amount in the Termination Currency equal to such outstanding Difference Claim in consideration of the assignment pursuant to Number 11.1.8 to be paid by the ICM Client, or

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(2) if the Difference Claim is owed by Eurex Clearing AG to the Affected Clearing Member under the relevant Standard Agreement, the amount of such Difference Claim pledged or assigned for security purposes for the benefit of the ICM Client to be paid by Eurex Clearing AG.

If Eurex Clearing AG, the Security Trustee and the Clearing Member have entered into the Security Trust Agreement, the above set-off shall be applied in accordance with the Security Trust Agreement.

Eurex Clearing AG will credit the Eligible Margin Assets actually delivered (by direct payment or delivery or as a consequence of the set-off described herein in which case the Eligible Margin Assets shall be identical to the Eligible Margin Assets forming part of the Segregated Margin and Segregated Variation Margin of the Affected Clearing Member as of the Termination Date) in respect of the Opening Margin to an internal margin account pursuant to Number 4.1.2.

(4) **Direct Redelivery Claim**

Upon effectiveness of the set-off pursuant to Paragraph (3) above and/or upon the actual delivery of the remaining difference to Eurex Clearing AG pursuant to Paragraph (3) above, corresponding Redelivery Claims with respect to the Direct Margin or Direct Variation Margin shall arise (the “**Direct Redelivery Claims**”).

**11.1.5 Further Terms and Conditions applicable during Interim Participation**

Upon the conclusion of Direct Covered Transactions, a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 between Eurex Clearing AG and the ICM Client, which shall constitute a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual Transactions) can be terminated only uniformly, shall be established pursuant to the terms of the Clearing Conditions and the Elementary Clearing Model Provisions applicable between Eurex Clearing AG and Clearing Members subject to the following provisions and exemptions:

- (1) Eurex Clearing AG shall not be required to make any payments or (re-) deliveries to the ICM Client under Direct Transactions or with respect to Direct Margin or Direct Variation Margin.
- (2) If the ICM Client is a Non-Clearing Member, it is only entitled to enter any order or quotes into the systems of the Markets if sufficient Direct Margin or Direct Variation Margin has been actually delivered to Eurex Clearing AG in advance.
- (3) The ICM Client may deliver Eligible Margin Assets in the form of Securities only in accordance with Number 2.2.1 and 2.2.4.
- (4) The ICM Client shall provide to Eurex Clearing AG such cash and securities account information required by Eurex Clearing AG for the settlement of Transactions and delivery of Direct Margin or Direct Variation Margin.

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- (5) The ICM Client is not required to comply with Number 2.1 of the General Clearing Provisions.
- (6) The ICM Client is required to pay contributions to the Clearing Fund in accordance with Number 6 of the General Clearing Provisions subject to the modifications set out in Number 15.
- (7) Eurex Clearing AG is entitled, to exclude certain Transaction Types from the Clearing as long as the Interim Participation applies.

#### 11.1.6 Re-Establishment with other Clearing Member

In addition, the ICM Client shall with respect to the clearing model selected by the ICM Client under the Clearing Conditions be obliged to enter or have been entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2, an ICM Clearing Agreement, or a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 8 with another Clearing Member and Eurex Clearing AG by not later than five Business Days after the Termination Date or such longer period of time specified by Eurex Clearing AG in its own discretion and shall transfer all Direct Covered Transactions to such Clearing Member and shall enter into transactions corresponding to all such Direct Covered Transactions with such Clearing Member by executing a transfer agreement in form and substance satisfactory to Eurex Clearing AG (the “**Transfer Agreement**”) with Eurex Clearing AG and such Clearing Member within such time. Upon such transfer the following will apply:

- (i) in the case of the Elementary Clearing Model Provisions, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation;
- (ii) in the case of the ICM-ECD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under each of the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the Corresponding Standard Agreement between such Clearing Member and the ICM Client (each as defined in the Individual Clearing Model Provisions);
- (iii) in the case of the ICM-CCD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the ICM Client will enter into transactions corresponding to all such transferred Direct Covered Transactions with such Clearing Member under their corresponding Client Clearing Agreement as of the same time as the transfer of the Direct Covered Transactions; or



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- (iv) in the case of the Net Omnibus Clearing Model Provisions, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation.

To the extent the Transfer Agreement will be concluded with an Authorised Manager, each reference in the Transfer Agreement to a “**Registered Customer**” shall be a reference to a particular Relevant Fund or Relevant Fund Segment, as stated in the Annex to the Transfer Agreement.

#### 11.1.7 **Objection Right of Eurex Clearing AG**

Eurex Clearing AG may decline to accept an ICM Client as an Interim Participant if a regulator, court or another authority has prohibited or hindered the application of any or part of the mechanics of the Individual Clearing Model Provisions (including by transferring Covered Transactions to another entity).

In addition, Eurex Clearing AG will not permit the establishment of the ICM Client as Interim Participant if it becomes aware of (i) the occurrence of any event with respect to that ICM Client which would constitute a Termination Event or Insolvency Termination Event if the ICM Client was a Clearing Member, or (ii) circumstances which, in Eurex Clearing AG’s reasonable opinion, indicate that such an event has occurred or is about to occur.

The objection rights described herein shall be exercised by giving a written notice to the ICM Client.

#### 11.1.8 **Assignment of Eurex Clearing AG’s Difference Claim**

- (1) For the purpose of the Interim Participation, Eurex Clearing AG assigns, immediately following the Opening Time, its Difference Claim against the Clearing Member (if any) together with any ancillary rights to the ICM Client (for the avoidance of doubt, such assignment shall not be considered to be made by way of security). The ICM Client accepts such assignments. Section 401 BGB does apply.
- (2) For the purpose of the Interim Participation, Eurex Clearing AG further assigns, at the time when the Direct Covered Transactions are concluded, to the ICM Client any Relevant Difference Claim of the Affected Clearing Member against the ICM Client (if any) which has been assigned to Eurex Clearing AG by the Clearing Member for security purposes pursuant to Number 8.2.1. The ICM Client accepts such assignments and acknowledges that the agreed security purpose shall continue to apply.
- (3) The assignments under Paragraph (1) and (2) are subject to the condition precedent (*aufschiebende Bedingung*) that a set-off as described in Number 11.1.4 Paragraph (3) has occurred.
- (4) For the purposes of this Number 11.1.8, “**ancillary rights**” means all existing and future claims and rights under, pursuant to, or in connection with the relevant assigned claim and its underlying agreement (if any), including, but not limited to:

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- (i) other related ancillary rights and claims, including but not limited to, independent unilateral rights (*selbständige Gestaltungsrechte*) as well as dependent unilateral rights (*unselbständige Gestaltungsrechte*), in particular the right of termination (*Recht zur Kündigung*), if any, and the right of rescission (*Recht zum Rücktritt*), but which are not of a personal nature (without prejudice to the assignment of ancillary rights and claims pursuant to Section 401 BGB); and
  - (ii) all claims and rights under any accessory security interest (*akzessorische Sicherheit*) securing such Difference Claim.
- (5) If
- (i) following the assignment set out in Paragraph (1) the ICM Client is both pledgee and third party debtor (*Drittschuldner*) of a claim, the pledge shall be automatically realised by the ICM Client declaring that it collects the amount owed to it under the pledge;
  - (ii) following the assignment set out in in Paragraph (1), the ICM Client is not both pledgee and third party debtor (*Drittschuldner*) of the claim set out under the foregoing (i), the parties agree that the pledge shall equally be automatically realised or cease to exist, respectively;
  - (iii) as long as the requirements of Numbers 8.2.1 Paragraph (3) and 8.2.2 Paragraph (3) are met, following the assignment set out in Paragraph (2), the ICM Client is both creditor and debtor of a Difference Claim, such Difference Claim shall automatically be discharged; such discharge shall constitute an enforcement of the claims that are secured by an assignment for security purposes of such Difference Claim, which enforcement shall result in a discharge of such secured claims in the same amount;
  - (iv) as long as the requirements of Numbers 8.2.1 Paragraph (3) and 8.2.2 Paragraph (3) are met, following the assignment set out in Paragraph (1), the ICM Client is not both creditor and debtor of the Difference Claim set out under the foregoing (iii), the parties agree that such Difference Claim shall equally automatically be discharged; such discharge shall constitute an enforcement of the claims that are secured by an assignment for security purposes of such Difference Claim, which enforcement shall result in a discharge of such secured claims in the same amount.
  - (v) Eurex Clearing AG notifies the Clearing Member of the assignments pursuant to Paragraph (1) and (2). The Clearing Member confirms receipt of such notification.

### 11.1.9 Specific Provisions for non-EU Clearing Members

If the Affected Clearing Member is domiciled outside the EU and an additional legal act (including but not limited to a decision or approval by a regulator, public authority, court or

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insolvency administrator) is necessary to give full effect to the pledge pursuant to Number 8.1.2 or the assignment for security purposes pursuant to Number 8.2.2 under the laws of the jurisdiction applicable to the Affected Clearing Member, the ICM Client will only be established as an Interim Participant if (i) such act has become effective by the point in time at which the Interim Participation Conditions need to be satisfied, and if (ii) Eurex Clearing has not yet discharged the Difference Claim by payment to the Affected Clearing Member in accordance with Number 8.1.2 Paragraph (7) or Number 8.2.2 Paragraph (11).

## 11.2 Immediate Re-Establishment with Replacement Clearing Member

- 11.2.1 If the ICM Client has selected the Immediate Re-Establishment Election by the Re-Establishment Cut-Off Time and the Immediate Re-Establishment Conditions are satisfied, there-establishment of Covered Transactions with a replacement Clearing Member shall occur.
- 11.2.2 The following conditions (the “**Immediate Re-Establishment Conditions**”) must be satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date or within a longer period of time specified by Eurex Clearing AG in the individual case to effect the re-establishment of Covered Transactions with a replacement Clearing Member (the “**Replacement Clearing Member**”):
- (1) subject to the clearing model selected by the ICM Client under the Clearing Conditions, Eurex Clearing AG, the Replacement Clearing Member and the ICM Client have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2, an ICM Clearing Agreement, or a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 8;
  - (2) Eurex Clearing AG, the Replacement Clearing Member and the ICM Client have entered into a Transfer Agreement;
  - (3) the ICM Client has confirmed to Eurex Clearing AG that it is not (impending) illiquid (*((drohend) zahlungsunfähig*) and that no petition for the commencement of insolvency proceedings with regard to its assets or any similar petition has been filed;
  - (4) in the case of the ICM-CCD Provisions, the ICM Client has confirmed to Eurex Clearing AG that the Client Clearing Agreement with the Affected Clearing Member meets the requirements of an Eligible Client Clearing Agreement;
  - (5) in the case of an ICM Clearing Agreement for ICM-CCD with the Replacement Clearing Member and the ICM Client, the Client Clearing Agreement between the ICM Client and the Replacement Clearing Member meets the requirements of an Eligible Client Clearing Agreement;
  - (6) the Replacement Clearing Member has confirmed to Eurex Clearing AG that no Termination Event or Insolvency Termination Event has occurred or is about to occur with respect to it;

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- (7) Eurex Clearing AG has not exercised its objection right (as described in Number 11.2.6);
- (8) Eurex Clearing AG has given a notice to the ICM Client and the Replacement Clearing Member confirming the satisfaction of the foregoing Immediate Re-Establishment Conditions and its acceptance of the immediate transfer to the Replacement Clearing Member.

If following receipt of a Re-Establishment Election Notice by the Re-Establishment Cut-Off Time in which an Immediate Re-establishment Election was made the Immediate Re-establishment Conditions set out in this Number 11.2.2 are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date or such longer period of time specified by Eurex Clearing AG in the individual case, there will be no re-establishment of the terminated Covered Transactions and Number 7.3.2 and 7.3.3 and Subpart B Number 6.3.2 and 6.3.3, if applicable, apply.

### 11.2.3 Re-Establishment of Transactions with ICM Client

#### (1) Opening of Transactions

When the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or at such earlier time at which the Immediate Re-Establishment Conditions are satisfied (the "**Opening Time**"), Eurex Clearing AG and the ICM Client shall enter into without any further action being required on the part of either of the parties new Transactions off-exchange directly between Eurex Clearing AG and the ICM Client (the "**Direct Covered Transactions**") against payment of an opening consideration in the Termination Currency to be determined in accordance with this Paragraph (1) (the "**Opening Consideration**").

Each such Direct Covered Transaction shall have the same terms and conditions as the corresponding terminated Covered Transaction (the "**Reference Transaction**") under the Standard Agreement between Eurex Clearing AG and the Affected Clearing Member as of the Opening Time in the absence of a Termination Date.

The Opening Consideration shall equal the sum of the determined Single Transaction Amounts of each Reference Transactions used to calculate the Difference Claim between Eurex Clearing AG and the Affected Clearing Member and shall be payable in accordance with Paragraph (3) below.

#### (2) Opening Margin

For the purpose of entering into the Direct Covered Transactions with the ICM Client, Eurex Clearing AG is entitled to request cover in respect of Margin for Direct Covered Transactions ("**Direct Margin**") from the ICM Client in such amounts, in such forms and at such times as are required pursuant to the Elementary Clearing Model Provisions (the "**Opening Margin Requirement**").

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Further, if and to the extent that Number 7 of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Direct Covered Transactions, Eurex Clearing AG is entitled to request cover in respect of such Variation Margin (the “**Direct Variation Margin**”) from the ICM Client in accordance with the Clearing Conditions (the “**Opening Variation Margin Requirement**”) and the ICM Client shall in such case be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG.

(3) **Settlement**

Without any further notice, the following amounts shall be set off immediately following the Opening Time and the remaining difference, if any, determined by Eurex Clearing AG and notified to the ICM Client and the Replacement Clearing Member shall be payable in the Termination Currency by the ICM Client to Eurex Clearing AG:

- (aa) the cash equivalent amount of any Opening Margin Requirement and Opening Variation Margin Requirement applicable to the ICM Client;
- (bb) the amount of the Opening Consideration to be paid by Eurex Clearing AG or the ICM Client, as the case may be; and
- (cc) (1) if Eurex Clearing AG is the creditor of the determined Difference Claim against the Affected Clearing Member under the relevant Standard Agreement, an amount in the Termination Currency equal to such outstanding Difference Claim in consideration of the assignment pursuant to Number 11.2.4 to be paid by the ICM Client, or
  - (2) if the Difference Claim is owed by Eurex Clearing AG to the Affected Clearing Member under the relevant Standard Agreement, the amount of such Difference Claim pledged or assigned for security purposes for the benefit of the ICM Client to be paid by Eurex Clearing AG.

If Eurex Clearing AG, the Security Trustee and the Clearing Member and have entered into the Security Trust Agreement, the above set-off shall be applied in accordance with the Security Trust Agreement.

Eurex Clearing AG will credit the Eligible Margin Assets actually delivered (as a consequence of the set-off described herein in which case the Eligible Margin Assets shall be identical to the Eligible Margin Assets forming part of the Segregated Margin and Segregated Variation Margin of the Affected Clearing Member as of the Termination Date) in respect of the Opening Margin to an internal margin account pursuant to Number 4.1.2.

(4) **Direct Redelivery Claim**

Upon effectiveness of the set-off and/or upon the actual delivery of the remaining difference to Eurex Clearing AG pursuant to Paragraph (3) above, corresponding

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Redelivery Claims with respect to the Direct Margin or Direct Variation Margin shall arise (the “**Direct Redelivery Claims**”).

#### 11.2.4 Assignment of Eurex Clearing AG's Difference Claim

- (1) For the purpose of the Immediate Re-Establishment, Eurex Clearing AG assigns, immediately following the Opening Time, its Difference Claim against the Clearing Member (if any) together with any ancillary rights to the ICM Client (for the avoidance of doubt, such assignment shall not be considered to be made by way of security). The ICM Client accepts such assignments. Section 401 BGB does apply.
- (2) For the purpose of the Immediate Re-Establishment, Eurex Clearing AG further assigns, at the time when the Direct Covered Transactions are concluded, to the ICM Client any Relevant Difference Claim of the Affected Clearing Member against the ICM Client (if any) which has been assigned to Eurex Clearing AG by the Clearing Member for security purposes pursuant to Number 8.2.1. The ICM Client accepts such assignments and acknowledges that the agreed security purpose shall continue to apply.
- (3) The assignments under Paragraph (1) and (2) are subject to the condition precedent (aufschiebende Bedingung) that a set-off as described in Number 11.2.3 Paragraph (3) has occurred.
- (4) For the purposes of this Number 11.2.4, “**ancillary rights**” means all existing and future claims and rights under, pursuant to, or in connection with the relevant assigned claim and its underlying agreement (if any), including, but not limited to:
  - (i) other related ancillary rights and claims, including but not limited to, independent unilateral rights (selbständige Gestaltungsrechte) as well as dependent unilateral rights (unselbständige Gestaltungsrechte), in particular the right of termination (Recht zur Kündigung), if any, and the right of rescission (Recht zum Rücktritt), but which are not of a personal nature (without prejudice to the assignment of ancillary rights and claims pursuant to Section 401 BGB); and
  - (ii) all claims and rights under any accessory security interest (akzessorische Sicherheit) securing such Difference Claim.
- (5) If
  - (i) following the assignment set out in Paragraph (1) the ICM Client is both pledgee and third party debtor (Drittschuldner) of a claim, the pledge shall be automatically realised by the ICM Client declaring that it collects the amount owed to it under the pledge;
  - (ii) following the assignment set out in Paragraph (1), the ICM Client is not both pledgee and third party debtor (*Drittschuldner*) of the claim set out under the foregoing (i), the parties agree that the pledge shall equally be automatically realised or cease to exist, respectively;

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- (iii) as long as the requirements of Numbers 8.2.1 Paragraph (3) and 8.2.2 Paragraph (3) are met, following the assignment set out in Paragraph (2), the ICM Client is both creditor and debtor of a Difference Claim, such Difference Claim shall automatically be discharged; such discharge shall constitute an enforcement of the claims that are secured by an assignment for security purposes of such Difference Claim, which enforcement shall result in a discharge of such secured claims in the same amount;
- (iv) as long as the requirements of Numbers 8.2.1 Paragraph (3) and 8.2.2 Paragraph (3) are met, following the assignment set out in Paragraph (1), the ICM Client is not both creditor and debtor of the Difference Claim set out under the foregoing (iii), the parties agree that such Difference Claim shall equally automatically be discharged; such discharge shall constitute an enforcement of the claims that are secured by an assignment for security purposes of such Difference Claim, which enforcement shall result in a discharge of such secured claims in the same amount.
- (v) Eurex Clearing AG notifies the Clearing Member of the assignments pursuant to Paragraph (1) and (2). The Clearing Member confirms receipt of such notification.

#### **11.2.5 Immediate Transfer to Replacement Clearing Member**

Immediately upon settlement pursuant to Number 11.2.3 Paragraph (3), all Direct Covered Transactions and all Direct Redelivery Claims are immediately transferred by operation of the executed Transfer Agreement to the Replacement Clearing Member, and the ICM Client shall immediately enter into new transactions corresponding to all such Direct Covered Transactions with the Replacement Clearing Member. Upon such transfer the following shall apply:

- (i) in the case of the Elementary Clearing Model Provisions, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation;
- (ii) in the case of the ICM-ECD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under each of the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the Corresponding Standard Agreement between such Clearing Member and the ICM Client (each as defined in the Individual Clearing Model Provisions), or
- (iii) in the case of the ICM-CCD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the ICM Client will enter into transactions corresponding to all such transferred Direct Covered Transactions

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with such Clearing Member under their corresponding Client Clearing Agreement as of the same time as the transfer of the Direct Covered Transactions.

#### **11.2.6 Objection Rights of Eurex Clearing AG**

Eurex Clearing AG may decline to accept the transfer to the Replacement Clearing Member if a regulator, court or another authority has prohibited or hindered the application of any or part of the mechanics of the Individual Clearing Model Provisions (including by transferring Covered Transactions to another entity).

In addition, Eurex Clearing AG will not permit the transfer to the Replacement Clearing Member if it becomes aware of circumstances which, in Eurex Clearing AG's reasonable opinion, indicate that a Termination Event or Insolvency Termination Event is about to occur with respect to the Replacement Clearing Member.

The objection rights described herein shall be exercised by giving a written notice to the ICM Client and the Replacement Clearing Member.

#### **11.2.7 Specific Provisions for non-EU Clearing Members**

If the Affected Clearing Member is domiciled outside the EU and an additional legal act (including but not limited to a decision or approval by a regulator, public authority, court or insolvency administrator) is necessary to give full effect to the pledge pursuant to Number 8.1.2 or the assignment for security purposes pursuant to Number 8.2.2 under the laws of the jurisdiction applicable to the Affected Clearing Member, the immediate re-establishment with a replacement Clearing Member will only take place if (i) such act has become effective by the point in time at which the Immediate Re-Establishment Conditions need to be satisfied, and if (ii) Eurex Clearing has not yet discharged the Difference Claim by payment to the Affected Clearing Member in accordance with Number 8.1.2 Paragraph (7) or Number 8.2.2 Paragraph (11).

#### **11.3 Interim Settlement**

Following the Termination Time and until the Opening Time, Eurex Clearing AG is entitled to undertake any necessary actions and transactions to ensure the continuation of Clearing with other Clearing Members as a result of the Termination Date with respect to the Covered Transactions between Eurex Clearing AG and the Clearing Member (the "**Interim Settlement**").

The ICM Client shall be obliged to reimburse Eurex Clearing AG for all of its expenses and costs arising from any such Interim Settlement (the "**Reimbursement Costs**") no later than the Opening Time.

### **12 Restrictions, Waivers, Undertakings**

12.1 All claims for unjust enrichment or similar claims of the Clearing Member or the ICM Client, if any, which may arise in connection with



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- (i) a Termination pursuant to Number 7.1, or Subpart B Number 6.1, if applicable, or a termination of all or some Client Clearing Transactions under the Client Clearing Agreement (however described); or
- (ii) an Interim Participation pursuant to Number 11

are excluded except if necessary to give effect to the economic intent of the Individual Clearing Model Provisions.

- 12.2 Upon satisfaction of the Interim Participation Conditions in accordance with Number 11.1.2 or the Immediate Re-Establishment Conditions in accordance with Number 11.2.2, neither the ICM Client nor the Clearing Member shall have any claim against Eurex Clearing AG under or in connection with terminated Covered Transactions.
- 12.3 Only Eurex Clearing AG may set off its Difference Claim against the Clearing Member with any other claim between the Clearing Member and Eurex Clearing AG.
- 12.4 Eurex Clearing AG shall be entitled to pay and the relevant ICM Client shall be entitled to collect the full amount of each claim that has been pledged or assigned for security purposes in the ICM Clearing Agreement to that ICM Client (as further set out in Number 8), irrespective of the actual value of the relevant secured claim and Section 1282 (1) Sentence 2 of the German Civil Code (Bürgerliches Gesetzbuch) shall not apply.
- Upon any assigned or pledged claim being paid in full to the pledgee or assignee the respective pledged or assigned claim shall be considered satisfied vis-à-vis the relevant pledgor or assignor. Any regress claim in lieu of such payment may only be brought against the relevant pledgee or assignee. For the avoidance of doubt, any recourse against Eurex Clearing AG (except for Eurex Clearing AG as pledgee) in connection with such payment shall be excluded.
- 12.5 Any pledge granted by the Clearing Member over a specific claim in the ICM Clearing Agreement to the relevant secured party pursuant to Number 8 shall be upheld and remain unaffected if and to the extent title to such specific pledged claim has been assigned or otherwise transferred to the secured party under the Individual Clearing Model Provisions, unless and until such specific pledged claim has been satisfied. Section 1256 (1) Sentence 1 of the German Civil Code (Bürgerliches Gesetzbuch) shall not apply and the pledgee shall at all times be protected by, and have a vested legal interest in the existence of, the relevant pledge.
- 12.6 Unless otherwise provided in the Individual Clearing Model Provisions and to the extent legally possible, neither party to the ICM Clearing Agreement shall assign or create any other security interest over, claims arising from the ICM Clearing Agreement. The Difference Claim pursuant to Number 7.3.2 and pursuant to Subpart B Number 6.3.2 is assignable; Section 401 BGB shall apply to any such assignment and the parties of the assignment shall ensure that this also is the case for any further assignment.
- 12.7 The exercise of retention rights (Zurückbehaltungsrecht) against any claims under the relevant Standard Agreement shall be prohibited.

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12.8 No party subject to the Individual Clearing Model Provisions shall be

- (i) required to satisfy any claims; or
- (ii) entitled to demand payment or delivery in respect of any claim

as a result of which, from an economic perspective, that would amount to a double payment or delivery or, as the case may be, to a receipt of the same amount twice by any party subject to the Individual Clearing Model Provisions.

### 13 **Default under the Relevant Agreement between the Clearing Member and the ICM Client, Termination of Relevant Transactions**

13.1 Each of the Clearing Member and the ICM Client is obliged to notify Eurex Clearing AG in text form or in writing promptly (i) if a Default with respect to the Clearing Member or the ICM Client under their Relevant Agreement has occurred and (ii) if, as a consequence of such a Default, all or only some of the Relevant Transactions between the Clearing Member and the ICM Client have been accelerated, terminated or otherwise closed-out. If Eurex Clearing AG initially received such a notice from the ICM Client, it shall request the Clearing Member to give notice to Eurex Clearing AG, confirming the content of such notice promptly. Eurex Clearing AG may make available to the Clearing Member a form of any such notice or confirmation notice pursuant to this provision in which case the Clearing Member is required to use such form only for its notice or confirmation notice to Eurex Clearing AG.

13.2 “**Default**” for the purpose of Number 13.1 means the applicable events of default and other termination events (however described) set out in the Relevant Agreement between the Clearing Member and the ICM Client, including with respect to the Clearing Member only the Termination Events pursuant to Number 7.2 of the General Clearing Provisions, and any event having a similar effect under applicable law.

13.3 Notwithstanding the occurrence of a Termination Date with respect to the relevant Clearing Member, any termination of Relevant Transactions between the Clearing Member and the ICM Client due to a Default will not terminate the relevant Covered Transactions between Eurex Clearing AG and the Clearing Member.

13.4 Following receipt by Eurex Clearing AG of a notice pursuant to Number 13.1 that all or only some of the Relevant Transactions between the Clearing Member and the ICM Client have been terminated under their Relevant Agreement by any party or by operation of law, the following applies with respect to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, unless such Default occurs by reference to a Termination Date with respect to the relevant Clearing Member:

13.4.1 All Covered Transactions between Eurex Clearing AG and the Clearing Member shall without any further action be novated and be re-entered into under the Clearing Agreement pursuant to the Elementary Clearing Model Provisions. The so novated original Covered Transactions shall be credited to an Own Account of the Clearing Member (unless Eurex Clearing AG is instructed otherwise by the Clearing Member) and

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shall constitute Own Transaction or Elementary Omnibus Transactions of the Clearing Member depending on whether they are booked to the Own Account or the Customer Account of the Clearing Member.

- 13.4.2 All Redelivery Claims relating to Eligible Margin Assets in form of cash actually delivered in respect of Segregated Margin or Segregated Variation Margin by either party shall without any further action be novated and be re-established under the Clearing Agreement pursuant to the Elementary Clearing Model Provisions.
- 13.4.3 All Eligible Margin Assets in form of Securities actually delivered in respect of the Segregated Margin by the Clearing Member shall, following receipt of any notice or confirmation notice, as the case may be, by the Clearing Member pursuant to Number 13.1, be transferred by Eurex Clearing AG to the Clearing Member and pledged by the Clearing Member to Eurex Clearing AG in accordance with the Elementary Clearing Model Provisions. For such purposes, Eurex Clearing AG shall instruct the Settlement Location to transfer Eligible Margin Assets in form of Securities actually delivered in respect of the Segregated Margin by the Clearing Member from the Securities Margin Account or the Eurex Clearing Securities Margin Account, respectively, to the Pledged Securities Account which will then constitute Margin actually delivered pursuant to the Elementary Clearing Model Provisions. All Redelivery Claims of the Clearing Member against Eurex Clearing AG with respect to the transfer of equivalent Eligible Margin Assets in form of Securities actually delivered in respect of Segregated Margin shall be settled. Number 9 shall not apply.
- 13.4.4 In the case of the ICM-ECD Provisions, any residual Covered Transactions between the Clearing Member and the ICM Client shall without any further action be novated and be re-entered into under the Clearing Agreement pursuant to the Elementary Clearing Model Provisions.

## **14 Clearing Fund**

For the purpose of the Individual Clearing Model Provisions and in addition to Number 6 of the General Clearing Provisions, the following provisions apply to all Clearing Members and ICM Clients while acting as Interim Participant under the Clearing Conditions pursuant to Number 11.1:

- (i) All references in Number 6 of the General Clearing Provisions to Clearing Member include all ICM Clients while acting as Interim Participant under the Clearing Conditions;
- (ii) Number 6.1.2 Paragraph (2) of the General Clearing Provisions does not apply to ICM Clients while acting as Interim Participant under the Clearing Conditions;
- (iii) all contributions to the Clearing Fund of a Clearing Member with respect to which a Termination has occurred shall be available to cover the Clearing Fund Secured Claims with respect to the financial consequences and losses of any one or more Terminations that may occur with respect to any of its ICM Clients while any such ICM Client is an Interim Participant and references in Number 6.2.1 of the General

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Clearing Provisions to the Affected Clearing Member shall therefore include that Clearing Member and the ICM Client acting as Interim Participant provided that the contributions of the ICM Client acting as Interim Participant to the Clearing Fund shall be used first and only thereafter the contributions of that Clearing Member;

- (iv) Number 6.2 of the General Clearing Provisions does not apply to the ICM Client as Interim Participant with respect to the Termination relating to its Clearing Member and resulting in the application of Number 11.1; and
- (v) contributions of the ICM Client shall be released at least one month following the effective date of the Transfer Agreement referred to in Number 11.1.6, subject to Number 6.4 of the General Clearing Provisions which shall apply *mutatis mutandis*.

## **15 Specific Provisions regarding Eligible Margin Assets in form of Securities**

### **15.1 Securities Income**

- 15.1.1 Any payments of interest, dividends or other distributions in the form of Securities arising in relation to Securities that constitute Segregated Margin and are credited to the Securities Margin Account or to the relevant Eurex Clearing Securities Margin Account in respect of which no payment of consideration is required as well as any other rights arising in relation to Securities credited to the Securities Margin Account of a Clearing Member or to the relevant Eurex Clearing Securities Margin Account (such as bonus shares) (the “**Securities Income**”) will be credited to the Securities Margin Account or to the relevant Eurex Clearing Securities Margin Account, respectively.
- 15.1.2 Securities Income credited to the Securities Margin Account or to the relevant Eurex Clearing Securities Margin Account constitutes Segregated Margin between Eurex Clearing AG and the Clearing Member and between the Clearing Member and the ICM Client (in the case of the ICM-ECD Provisions and, if the relevant Securities Margin Account or the relevant Eurex Clearing Securities Margin Account relates to Segregated Margin provided with respect to more than one ICM Client, only between the Clearing Member and the relevant ICM Client to which the specific customer identifier refers) and the relevant Redelivery Claims between such parties will be increased or, if any such Securities Income subsequently expires decreased accordingly.
- 15.1.3 Number 3.2.3 of the General Clearing Provisions applies accordingly if such Securities Income constitutes Non-Eligible Margin Assets.

### **15.2 Cash Income**

Upon payment of any interest, dividends or other distributions in cash in relation to Securities or Equivalent Securities (as defined in Number 15.4.2), as the case may be, that constitute Segregated Margin and are credited to the Securities Margin Account of a Clearing Member or to the relevant Eurex Clearing Securities Margin Account (the “**Cash Income**”), Eurex Clearing AG shall pay to the Clearing Member a cash amount equivalent to and in the same currency as such Cash Income (net of any withholding or deduction) (the “**Equivalent Notional Cash Income**”). Following the credit of any Cash

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Income or Equivalent Notional Cash Income, as the case may be, by Clearstream Banking AG or Clearstream Banking S.A., as the case may be, directly to a designated cash account of the Clearing Member, Eurex Clearing AG's obligation to pay the relevant Equivalent Notional Cash Income to the Clearing Member shall be fulfilled. Number 9.1 applies upon receipt by the Clearing Member of the relevant Equivalent Notional Cash Income.

### **15.3 Information in relation to the Securities held in the Securities Margin Account or the Eurex Clearing Securities Margin Account**

Eurex Clearing AG shall forward any and all information received, if any, in relation to Securities held in the relevant Eurex Clearing Securities Margin Account to the relevant Clearing Member.

The Clearing Member shall forward any information in relation to Securities held in the Securities Margin Account or the relevant Eurex Clearing Securities Margin Account it receives from Eurex Clearing AG, Clearstream Banking AG or Clearstream Banking S.A. to the ICM Client or Clearstream Banking S.A. to the ICM Client (provided that, if the relevant Securities Margin Account or the relevant Eurex Clearing Securities Margin Account relates to Segregated Margin provided with respect to more than one ICM Client, such information shall only be forwarded to the relevant ICM Client to which the specific customer identifier of such Securities refers).

### **15.4 No Obligation in relation to Corporate Actions**

15.4.1 Where any voting rights or elections in relation to corporate actions (e.g. the exercise of subscription rights) have to be exercised in relation to any Securities provided as Segregated Margin, Eurex Clearing AG shall have no obligation in respect of the exercise of such voting rights or the exercise of such elections in relation to corporate actions to be made in accordance with the instructions of the Clearing Member and the Clearing Member shall have no obligation in respect of the exercise of such voting rights or the exercise of such elections in relation to corporate actions to be made in accordance with the instructions of the ICM Client.

15.4.2 In relation to Securities credited to the Securities Margin Account or to the relevant Eurex Clearing Securities Margin Account, Eurex Clearing AG (i) shall not exercise any voting or other rights resulting from such Securities; and (ii) shall, at all times, until the Termination Time on the Termination Date has occurred, keep such Securities or Equivalent Securities in the Securities Margin Account or the relevant Eurex Clearing Securities Margin Account, respectively. The term "**Equivalent Securities**" in this context means Securities with commercially the same features (*gleicher Art und Güte*) (which is usually reflected by the same securities identification number) and in the identical amount or number, as the case may be.

If the ICM Client wishes any voting rights to be exercised or to be exercised in a particular manner or any election with respect to a specific corporate action (e.g. the exercise of subscription rights) to be made or to be made in a particular manner, it must make use of the substitution right pursuant to Number 15.5 or the Relevant Agreement. The Clearing

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Member is solely responsible for monitoring the rights and obligations arising out of or accruing in connection with the Securities provided as Segregated Margin as well as for providing any (timely) request to substitute those Securities in order to be able to exercise such rights in person.

- 15.4.3 Eurex Clearing AG shall neither be under any obligations to exercise any subscription right resulting from Securities provided as Segregated Margin nor under any obligations to sell such subscription rights and any subscription right resulting from such Securities provided as Segregated Margin which has not been exercised by the end of the subscription period (e.g. because the relevant Securities have not been released to and exercised by the ICM Client) shall lapse without the ICM Client being entitled to any compensation.

#### **15.5 Substitution of Eligible Margin Securities**

The ICM Client may request from the Clearing Member, and the Clearing Member – following a request from the ICM Client – from Eurex Clearing AG, the return of Eligible Margin Assets in form of Securities equivalent to certain Securities actually delivered as Segregated Margin (the “**Return Margin Asset**”) in exchange for other Eligible Margin Assets, subject to the requirements set out in Number 5.3.5.

#### **15.6 Indemnity from the Clearing Member and the ICM Client**

- 15.6.1 The Clearing Member shall indemnify Eurex Clearing AG in respect of all obligations and/or costs and/or liabilities arising from or in connection with the Securities provided as Segregated Margin (including any rights arising therefrom such as subscription rights) that are imposed on Eurex Clearing AG as a consequence of Eurex Clearing AG’s ownership of rights or interests in such Securities (regardless of whether such claims are made by the respective issuer of such securities, other holders of such Securities or any third parties including any public or governmental authorities). The ICM Client shall indemnify the Clearing Member in respect of all liabilities of the Clearing Member resulting from the preceding sentence.
- 15.6.2 The provisions in this Number 15 do not impose on Eurex Clearing AG any fiduciary duties in relation to the Clearing Member or the ICM Client. Moreover, they do not impose any fiduciary duties on the Clearing Member in relation to the ICM Client.

#### **15.7 Respective agreement between Clearing Member and ICM Client for ICM-CCD**

The Clearing Member and the ICM Client agree to ensure compliance with the provisions of this Number 15 in the Client Clearing Agreement, if required, with regard to income on, or corporate actions in respect to, Eligible Margin Assets.

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## 16 Direct Segregated Margin Transfers and Direct Segregated Margin Retransfers

### 16.1 Direct Segregated Margin Transfers

- 16.1.1 The ICM Client may directly transfer to Eurex Clearing AG Eligible Margin Assets in the form of cash or Securities in respect of Segregated Margin (the “**Direct Segregated Margin Transfer**”) provided that a Direct Delivery Obligation (as defined in Number 16.1.4) exists. To the extent that such Direct Segregated Margin Transfer is made, such transfer will discharge (erfüllen) (i) the Margin Requirement (pursuant to Number 5.2) of the Clearing Member to Eurex Clearing AG in respect of the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, (ii) in the case of the ICM-ECD Provisions, the obligation of the ICM Client to provide Segregated Margin (pursuant to Subpart B Number 4) to the Clearing Member in respect of the Corresponding Standard Agreement between the Clearing Member and the ICM Client or, as applicable, in the case of the ICM-CCD Provisions, the obligation of the ICM Client to provide Credit Support Margin to the Clearing Member pursuant to the corresponding Client Clearing Agreement and (iii) the Direct Delivery Obligation. In the event of a Direct Segregated Margin Transfer, title in the relevant Eligible Margin Assets shall pass directly from the ICM Client to Eurex Clearing AG.
- 16.1.2 Direct Segregated Margin Transfers may not be made by using Xemac.
- 16.1.3 A Direct Segregated Margin Transfer in the form of cash will be effected by Eurex Clearing AG, upon the request of the Clearing Member, by directly debiting an account of the ICM Client designated by the Clearing Member on behalf of the ICM Client for such purpose. The ICM Client and the Clearing Member shall ensure that all required instructions and authorisations are issued to or, as relevant, granted by any bank in order for such direct debit to become effective. Number 5.4 shall not apply to such Direct Segregated Margin Transfer of cash. The ICM Client, by entering into the ICM Clearing Agreement, irrevocably authorises the Clearing Member to designate on behalf of the ICM Client one account of the ICM Client per currency from which such direct debits shall be made and to issue the relevant instructions to the respective banks. The ICM Client shall issue all necessary instructions or authorisations to relevant banks to ensure the validity of such direct debits and provide evidence of such instructions or authorisations to Eurex Clearing AG upon request.
- 16.1.4 For purposes of the Direct Segregated Margin Transfer the ICM Client shall also have a direct obligation vis-à-vis Eurex Clearing AG to transfer to Eurex Clearing AG, when the obligation of the Clearing Member to provide Segregated Margin to Eurex Clearing AG has become due (*fällig*) and has not been discharged, Eligible Margin Assets in the same amount (the “**Direct Delivery Obligation**”). The Direct Delivery Obligation shall be reduced if and to the extent that (i) the ICM Client directly transfers Eligible Margin Assets to the Clearing Member in accordance with the terms of, in the case of the ICM-ECD Provisions, the Corresponding Standard Agreement between the Clearing Member and the ICM Client or, in the case of the ICM-CCD Provisions, in accordance with the terms of the corresponding Client Clearing Agreement and/or (ii) the Clearing Member directly transfers Eligible Margin Assets to Eurex Clearing AG in accordance with the terms of the

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Standard Agreement between the Clearing Member and Eurex Clearing AG. To the extent that the ICM Client performs the Direct Delivery Obligation, the second sentence of Number 16.1.1 applies.

- 16.1.5 The Direct Delivery Obligation and the obligation of the Clearing Member to provide Segregated Margin shall not constitute a joint and several liability (*keine Gesamtschuld*).
- 16.1.6 In the event that the ICM Client transfers Eligible Margin Assets to Eurex Clearing AG in accordance with Number 16.1.1, (A) the ICM Client shall not have any recourse claims against the Clearing Member as a result of such performance and (B) no claims of Eurex Clearing AG against the Clearing Member shall pass to the ICM Client as a result of such performance. In the event that the Clearing Member directly transfers Eligible Margin Assets to Eurex Clearing AG in accordance with Number 5.2 (A) the Clearing Member shall not have any recourse claims against the ICM Client as a result of such performance and (B) no claims of Eurex Clearing AG against the ICM Client shall pass to the Clearing Member as a result of such performance.
- 16.1.7 In the case of a Direct Segregated Margin Transfer in the form of Securities by using a Securities Margin Account, Numbers 5.1.2 to 5.1.4 shall apply *mutatis mutandis*, provided that (i) references to the Clearing Member shall be read as references to the ICM Client, (ii) references to the Securities Margin Account of the Clearing Member shall be read as references to the Securities Margin Account of the Clearing Member that is referable to the ICM Client, (iii) in the case of a transfer of Securities in the form of book-entry securities, the instruction by the ICM Client shall (either directly or indirectly through any securities depository bank, custodian, central securities depository or otherwise) constitute an offer to Eurex Clearing AG for the assignment of the claim for surrender (*Abtretung des Herausgabeanspruchs*) against Clearstream Banking AG or the relevant other depository bank, custodian or central securities depository of the ICM Client; and (iv) in the case of a transfer of Securities in the form of co-ownership interests, the instruction shall be given by the ICM Client (either directly or indirectly through any securities depository bank, custodian, central securities depository or otherwise), and possession shall pass by means of constituting a bailment (*Begründung eines Besitzmittlungsverhältnisses*) between Clearstream Banking AG and Eurex Clearing AG and by modification of the bailment intention (*Besitzmittlungswillen*) of Clearstream Banking AG regarding the fractions to be transferred. The transfer of possession is completed when the ICM Client's instruction resulted in a debit entry into the ICM Client's custody account and a credit entry regarding the respective co-ownership interests in the Securities Margin Account of the Clearing Member that is referable to the ICM Client.

In the case of a Direct Segregated Margin Transfer in the form of Securities to a Eurex Clearing Securities Margin Account, Number 5.1.5 shall apply *mutatis mutandis*, provided that references to the Clearing Member shall be read as references to the ICM Client.

By entering into the relevant ICM Clearing Agreement, Eurex Clearing AG, the Clearing Member and the ICM Client expressly agree that, in the event of a Direct Segregated Margin Transfer, title in the relevant assets shall pass directly from the ICM Client to Eurex Clearing AG. The ICM Client shall, through its relevant securities depository bank



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or custodian, a central securities depository or otherwise, procure that an instruction for such transfer to the relevant Securities Margin Account or to the relevant Eurex Clearing Securities Margin Account will be given.

- 16.1.8 Any Direct Segregated Margin Transfer shall only create (or, as applicable, increase) a Relevant Redelivery Claim of the ICM Client against the Clearing Member and a Redelivery Claim of the Clearing Member against Eurex Clearing AG and shall (without prejudice to the Direct Redelivery Obligation (as defined in Number 16.2.3)) not result in any Redelivery Claims of the ICM Client against Eurex Clearing AG.
- 16.1.9 The Clearing Member and the ICM Client may agree on a bilateral basis to narrow down the types of Eligible Margin Assets that can be transferred by the ICM Client to Eurex Clearing AG by way of a Direct Segregated Margin Transfer.

## 16.2 Direct Segregated Margin Retransfer

- 16.2.1 In respect of any Redelivery Claim of the Clearing Member with respect to Segregated Margin, Eurex Clearing AG may and, if so instructed by the Clearing Member in the relevant ICM Clearing Agreement, shall, make direct payments to the ICM Client or directly transfer to the ICM Client the relevant assets, (the "**Direct Segregated Margin Retransfer**") provided that a Direct Redelivery Obligation (as defined in Number 16.2.3) exists. To the extent that such Direct Segregated Margin Retransfer is made, such transfer will discharge (*erfüllen*) (i) the Redelivery Claim of the Clearing Member against Eurex Clearing AG in respect of the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, (ii) the Relevant Redelivery Claim of the ICM Client against the Clearing Member with respect to Segregated Margin or Credit Support Margin, as applicable, and (iii) the Direct Redelivery Obligation. In the event of a Direct Segregated Margin Retransfer, no title in the relevant asset shall pass through the Clearing Member.
- 16.2.2 Direct Segregated Margin Retransfers may not be made (i) after Eurex Clearing AG has received a notice pursuant to Number 13 of a Default (as defined in Number 13.2) of the relevant ICM Client and (ii) by using Xemac.
- 16.2.3 For purposes of the Direct Segregated Margin Retransfer Eurex Clearing AG shall also have a direct obligation vis-à-vis the ICM Client to transfer to the ICM Client, whenever a Relevant Redelivery Claim of the ICM Client against the Clearing Member with respect to Segregated Margin or Credit Support Margin, as applicable, has become due (*fällig*) and has not been discharged and if and to the extent that a corresponding Redelivery Claim of the Clearing Member against Eurex Clearing AG is due (*fällig*) and has not been discharged, the relevant Eligible Margin Assets in such amount (the "**Direct Redelivery Obligation**"). The Direct Redelivery Obligation shall be reduced if and to the extent that (i) Eurex Clearing AG directly transfers Eligible Margin Assets to the Clearing Member in performance of the corresponding Redelivery Claim of the Clearing Member in accordance with the terms of the Standard Agreement between Eurex Clearing AG and the Clearing Member and/or (ii) the Clearing Member directly transfers Eligible Margin Assets to the ICM Client in performance of the Relevant Redelivery Claim of the ICM Client in accordance with the terms of the Corresponding Standard Agreement or the

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corresponding Client Clearing Agreement, respectively, between the Clearing Member and the ICM Client. To the extent that Eurex Clearing AG performs the Direct Redelivery Obligation, the second sentence of Number 16.2.1 applies.

Any Direct Redelivery Obligation of Eurex Clearing AG in respect of Eligible Margin Assets (a) in the form of Securities shall already be discharged if a credit entry in relation to such Securities is made into a custody account of the ICM Client's securities depository bank, custodian or central securities depository that has been mandated by the ICM Client (irrespective of a credit entry in the custody account of the ICM Client) and (b) in the form of cash shall already be fulfilled if a credit entry in relation to such cash is made into a cash account of the ICM Client's correspondent bank that has been mandated by the ICM Client (irrespective of a credit entry in the cash account of the ICM Client). Any consequences of errors in the recording or on-transfer incurred by the correspondent bank, securities depository bank, custodian or central securities depository that has been mandated by the ICM Client shall be borne by the ICM Client.

For the avoidance of doubt, the Direct Redelivery Obligation shall lapse if the relevant Redelivery Claim of the Clearing Member against Eurex Clearing AG ceases to exist and the Direct Redelivery Obligation shall not be taken into account in the determination or valuation of any Difference Claim, Relevant Difference Claim, Regress Claim or Shortfall Claim.

- 16.2.4 The Direct Redelivery Obligation and the Redelivery Claim of the ICM Client against the Clearing Member shall not constitute a joint and several liability (*keine Gesamtschuld*).
- 16.2.5 In the event that Eurex Clearing AG transfers Eligible Margin Assets to the ICM Client in performance of the Direct Redelivery Obligation, (a) Eurex Clearing AG shall not have any recourse claims against the Clearing Member as a result of such performance and (b) no claims of the ICM Client against the Clearing Member shall pass to Eurex Clearing AG as a result of such performance. In the event that the Clearing Member directly transfers Eligible Margin Assets to the ICM Client in performance of the Relevant Redelivery Claim of the ICM Client in accordance with the terms of the Corresponding Standard Agreement or corresponding Client Clearing Agreement, respectively, between the Clearing Member and the ICM Client, (a) the Clearing Member shall not have any recourse claims against Eurex Clearing AG as a result of such performance and (b) no claims of the ICM Client against Eurex Clearing AG shall pass to the Clearing Member as a result of such performance.
- 16.2.6 The ICM Client, by entering into an ICM Clearing Agreement, accepts in advance any offer by Eurex Clearing AG to transfer to the ICM Client any assets (that are credited to the Securities Margin Account of the Clearing Member that is referable to the ICM Client or are credited to the relevant Eurex Clearing Securities Margin Account and refer to the ICM Client) by way of a Direct Segregated Margin Retransfer. Section 151 BGB applies. The parties to the relevant ICM Clearing Agreement expressly agree that, in the event of a Direct Segregated Margin Retransfer, no title in the relevant asset shall pass through the Clearing Member.

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## **17 Additional Confirmation vis-à-vis Irish Clearing Members**

The ICM Client acting as Non-Clearing Member acknowledges and accepts that as all payments and deliveries of cash and financial instruments by it to an Irish Clearing Member as collateral with respect to Covered Transactions, Margin Calls and Redelivery Claims are made as full title transfers to the Irish Clearing Member, such assets will not constitute the holding of client funds or client financial instruments, within the meaning of Regulation 158 of the European Communities (Markets in Financial Instruments) Regulations 2007, as amended, or the client asset requirements issued pursuant to those regulations, by the Irish Clearing Member.

## **18 Undertakings by Clearing Member and ICM Client**

- 18.1 Each of the Clearing Member and the ICM Client undertakes (i) not to create any security interests or charges over the Difference Claim or the Relevant Difference Claim and (ii) not to assign the Difference Claim or the Relevant Difference Claim, in each case other than pursuant to the Individual Clearing Model Provisions:
- 18.2 The Clearing Member undertakes not to assign, encumber, receive the proceeds of or otherwise deal with its rights under any Relevant Transactions otherwise than in accordance with the Individual Clearing Model Provisions.
- 18.3 To the extent required or expedient under its national laws, the Clearing Member and/or an ICM Client (in particular, a Clearing Member or an ICM Client established under Irish, English, Scottish or Welsh law) will arrange for the due filing and registration with any relevant competent authority or register of any security interest granted or to be granted pursuant to or in accordance with this Subpart A and will evidence the due filing and registration of such security interest under this Subpart A to Eurex Clearing AG.
- 18.4 The ICM Client undertakes to inform Eurex Clearing AG and the Security Trustee, if Eurex Clearing AG, the Security Trustee and the Clearing Member have entered into the Security Trust Agreement, without undue delay after any Client Clearing Termination Claim has been determined, of the amount of such Client Clearing Termination Claim.

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## Part 3 Subpart B: ICM-ECD Provisions

### 1 Application

These Numbers 1 through 6 of Subpart B shall apply with respect to Transactions between the Clearing Member and such ICM Client under the ICM Clearing Agreement for ICM-ECD.

### 2 Content of ICM Clearing Agreement, the Standard Agreement between Clearing Member and ICM Client

#### 2.1 Construction

2.1.1 Any Transaction between the Clearing Member and the ICM Client under the relevant ICM Clearing Agreement for ICM-ECD shall be a **“Covered Transaction”** between such parties for the purpose of these Individual Clearing Model Provisions. Any Covered Transaction between the Clearing Member and the ICM Client which corresponds to a Covered Transaction between Eurex Clearing AG and such Clearing Member under the same ICM Clearing Agreement for ICM-ECD shall be a **“Corresponding Covered Transaction”**.

2.1.2 All rights and obligations between the Clearing Member and the ICM Client with respect to Corresponding Covered Transactions shall for the purpose of these Clearing Conditions constitute a separate arrangement (hereinafter a **“Standard Agreement”** and with respect to the corresponding Standard Agreement between Eurex Clearing AG and such Clearing Member, the **“Corresponding Standard Agreement”**). If the ICM Client is a Relevant Fund or Relevant Fund Segment acting through an Authorised Manager, (i) all rights and obligations between the Clearing Member and that Relevant Fund or Relevant Fund Segment with respect to Corresponding Covered Transactions as well as (ii) all rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Covered Transactions corresponding to the Corresponding Covered Transactions described in (i) shall each constitute a separate Standard Agreement.

References in these Individual Clearing Model Provisions to a Standard Agreement or Corresponding Standard Agreement shall be construed so as to exclude a Standard Agreement pursuant to the Elementary Clearing Model Provisions, the Net Omnibus Clearing Model Provisions and the U.S. Clearing Model Provisions and the Basic Clearing Member Provisions, if any.

2.1.3 All Corresponding Covered Transactions and all Redelivery Claims between the Clearing Member and the ICM Client arising pursuant to the Individual Clearing Model Provisions (as defined and set out in Subpart A Number 2.2.3), together the **“Covered Claims”**, form a single agreement between the parties to the relevant Corresponding Standard Agreement and such agreement constitutes a separate master agreement

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(Rahmenvertrag) between such parties which (subject to provisions in this Chapter I on the termination of individual Covered Transactions) can be terminated only in its entirety.

2.1.4 The Clearing Member and the ICM Client may agree on additional terms to their Corresponding Standard Agreement to the extent those additional terms do not deviate from the ICM Clearing Agreement for ICM-ECD (incorporating the Clearing Conditions). Any such additional agreement shall form part of that Corresponding Standard Agreement and, in the event of any inconsistencies between any such additional agreement (as amended from time to time) and the ICM Clearing Agreement for ICM-ECD (incorporating the Clearing Conditions), the ICM Clearing Agreement for ICM-ECD and the Clearing Conditions shall always prevail.

## **2.2 General Principles applicable to the Settlement of Covered Transactions and any Delivery and Redelivery of Segregated Margin or Segregated Variation Margin**

Subpart A Numbers 2.2.1 through 2.2.4 shall apply to the Corresponding Standard Agreement between the Clearing Member and the ICM Client pursuant to the Individual Clearing Model Provisions, provided that the Clearing Member shall – subject to the occurrence of a Termination Date – be the determining party for the purposes of the Segregated Margin and Segregated Variation Margin and the determination of an aggregate value pursuant to Subpart A Number 2.2.4.

## **3 Conclusion of Transactions between Clearing Member and ICM Client**

Corresponding Covered Transactions shall be concluded pursuant to Number 1.2.2 of the General Clearing Provisions.

## **4 Segregated Margin between Clearing Member and ICM Client**

The Clearing Member is required to separately demand cover from the ICM Client for all Corresponding Covered Transactions in an amount not less than the applicable Default Margin Requirement (the “**Segregated Margin**”). The Clearing Member and the ICM Client agree individually on further details on the delivery and redelivery of Segregated Margin.

Subpart A Number 5.3.5 applies mutatis mutandis to Redelivery Claims of the ICM Client against the Clearing Member in accordance with the margin requirement for Segregated Margin agreed between the Clearing Member and the ICM Client.

## **5 Segregated Variation Margin between Clearing Member and ICM Client**

### **5.1 General Obligation to provide Segregated Variation Margin**

If Subpart A Number 6 applies to Covered Transactions between Eurex Clearing AG and the Clearing Member, the Clearing Member is also required to separately demand or provide (additional) cover in respect of the relevant daily profits and losses from or to the ICM Client in respect of the Corresponding Covered Transactions in an amount not less

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than the Segregated Variation Margin Requirement (as defined in Subpart A Number 6.2) applicable from time to time (the “**Segregated Variation Margin**”).

Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of Segregated Variation Margin. Subpart A Number 5.3.2 applies mutatis mutandis.

## **5.2 Redelivery Claim**

Eligible Margin Assets actually delivered in the form of cash in respect of the Segregated Variation Margin by the Segregated Variation Margin Provider (as defined in Subpart A Number 6.2) will give rise to or increases a Redelivery Claim of such party against the Segregated Variation Margin Taker (as defined in Subpart A Number 6.2) in accordance with Subpart A Number 2.2.3. Subpart A Number 6.3 second and third sub-paragraph shall apply mutatis mutandis under the Corresponding Standard Agreement.

## **6 Termination, Consequences of a Termination between Clearing Member and ICM Client**

### **6.1 Termination**

6.1.1 Upon the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date (each as defined in Number 7.2 of the General Clearing Provisions) with respect to the Clearing Member either a Termination Payment pursuant to this Number 6 shall become due or a Re-Establishment pursuant to Subpart A Number 11 shall occur with regard to the Corresponding Standard Agreement. A Termination under such Corresponding Standard Agreement pursuant to this Number 6 corresponds to the Termination with regard to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to Subpart A Number 7.

6.1.2 It is the responsibility of the Clearing Member and the ICM Client to agree on the relevant provisions regarding the termination of the Corresponding Standard Agreement with respect to the ICM Client on a bilateral basis.

### **6.2 Limitation or Suspension of Clearing**

If Eurex Clearing AG becomes aware of a Termination Event, Eurex Clearing AG may limit or suspend the Clearing of new Covered Transactions in accordance with Subpart A Number 7.2.

### **6.3 Consequences of a Termination**

If a Termination Date has occurred with respect to the Clearing Member, the following provisions shall apply.

#### **6.3.1 Termination of Covered Claims**

Without prejudice to the following provisions of this Number 6.3, all current and future primary obligations (including payment and delivery obligations) of each party under the Corresponding Standard Agreement arising from Covered Claims shall expire

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(*auflösende Bedingung*) as of the Termination Time and shall no longer be required to be performed by the relevant obligor. Further all due but unsatisfied obligations to deliver Segregated Margin and Segregated Variation Margin under the Corresponding Standard Agreement shall expire (*auflösende Bedingung*) as of the Termination Time. The expiration affects all claims arising from Corresponding Covered Transactions independently of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected in the Difference Claim (as defined in Number 6.3.2 below), subject to and in accordance with Number 7.3 of the General Clearing Provisions.

### 6.3.2 Difference Claim

With regard to the relevant Corresponding Standard Agreement referred to in Number 6.3.1, the difference claim which was created by the signing of the ICM Clearing Agreement for ICM-ECD shall become unconditional and immediately due in the Termination Currency from one party to the relevant Corresponding Standard Agreement to the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (i) if no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (ii) if an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, or (iii) if an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date. If either (i) the Interim Participation Conditions or, as the case may be, (ii) the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, such difference claim shall become unconditional and immediately due in the Termination Currency from one party to the relevant Standard Agreement to the respective other party as of the Opening Time and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Exchange Price Approach. Each such claim shall be a “**Difference Claim**”.

To determine the Difference Claim, the ICM Client will use the determinations notified to it by Eurex Clearing AG pursuant to Subpart A Number 7.3.2.

### 6.3.3 Payment of Difference Claim

- (1) Unless either (i) an IP Election is made by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date or (ii) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time and the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date, such party to the relevant Corresponding Standard Agreement which is the obligor of the Difference Claim shall be obliged to pay the determined amount of the Difference Claim to the

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other party as soon as reasonably practicable following the notification by the determining party of the payable amount.

If and to the extent upon enforcement of the ICM Client's pledge over or assignment for security purposes of the relevant Difference Claim between Eurex Clearing AG and the Clearing Member such Difference Claim between Eurex Clearing AG and the Clearing Member has been discharged in accordance with Subpart A Number 7.3.3 (1) by delivery of Securities to the ICM Client, the Difference Claim between the Clearing Member and the ICM Client pursuant to this Number 6.3.2 as well as, the Shortfall Claim pursuant to Subpart A Number 10.1 shall be discharged in the value of the so delivered Securities as of such time.

- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

#### **6.4 Post Settlement**

Following the Termination Date and prior to the end of the Last Valuation Date or the Opening Time, as the case may be, payment and delivery claims arising under Corresponding Covered Transactions which were due and enforceable but unsettled at the Termination Date or will become due and enforceable prior to the end of the Last Valuation Date or the Opening Time, as the case may be and for which a binding valid and irrevocable settlement has occurred between the ICM Client and the Clearing Member shall for the purpose of the Difference Claim be disregarded and deemed to have been settled (the "**Post Settlement**").

#### **6.5 Cash Settlement of a Liquidation Group**

##### **6.5.1 Consequences of Cash Settlement of a Liquidation Group**

If a Liquidation Group Cash Settlement Time has occurred with respect to the Relevant Liquidation Group, the following provisions shall apply with respect to Corresponding Covered Transactions of Covered Transactions being Liquidation Group Transactions ("**Corresponding Liquidation Group Covered Transactions**"):

All current and future primary obligations (including payment and delivery obligations) of each party under the relevant Corresponding Standard Agreement arising from Corresponding Liquidation Group Covered Transactions and all Redelivery Claims relating to the Variation Margin with respect to such Corresponding Liquidation Group Transactions shall expire (*auflösende Bedingung*) as of the Liquidation Group Cash Settlement Time and shall no longer be required to be performed by the relevant obligor. Further all due but unsatisfied obligations to deliver Variation Margin under the Corresponding Standard Agreement with respect to Corresponding Liquidation Group Covered Transactions shall expire (*auflösende Bedingung*) as of Liquidation Group Cash Settlement Time. The expiration affects all claims arising from Corresponding Liquidation



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Group Covered Transactions independently of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Corresponding Liquidation Group Difference Claim (as defined in Number 6.5.2. below).

#### **6.5.2 Corresponding Liquidation Group Difference Claim**

With regard to the relevant Corresponding Standard Agreement referred to in Number 6.3.1, the difference claim related to the Relevant Liquidation Group which was created by the signing of the ICM Clearing Agreement for ICM-ECD shall become unconditional and immediately due in the Termination Currency from one party to the relevant Corresponding Standard Agreement to the respective other party as of the end of the Liquidation Group Cash Settlement Date (each such claim shall be a **“Corresponding Liquidation Group Difference Claim”**).

To determine the Difference Claim, the Clearing Member will use the determinations notified to it by Eurex Clearing AG pursuant to Number 7.5.4 paragraph (3) of the General Clearing Provisions.

#### **6.5.3 Payment of Corresponding Liquidation Group Difference Claim**

Such party to the relevant Corresponding Standard Agreement which is the obligor of the Liquidation Group Difference Claim shall be obliged to pay the determined amount to the other party as soon as reasonably practicable following the notification by the Clearing Member of the payable amount.

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## Part 3 Subpart C: ICM-CCD Provisions

### 1 Application

These Numbers 1 through 5 shall apply with respect to the Transactions between the Clearing Member and the ICM Client under a Client Clearing Agreement for ICM-CCD.

### 2 Conditions for Participation

#### 2.1 Client Clearing Agreement

2.1.1 In order to participate in the Clearing of Transactions under the ICM-CCD Provisions, the Clearing Member and the ICM Client must have entered into a Client Clearing Agreement as of the time of the execution of the ICM Clearing Agreement for ICM-CCD (the “**Client Clearing Agreement**”) which must conform to the requirements on an Eligible Client Clearing Agreement as defined in Number 2.1.2 below.

2.1.2 A Client Clearing Agreement is an “**Eligible Client Clearing Agreement**” if it meets the following requirements:

- (1) **Governing Law:** The Client Clearing Agreement must be governed by English law or German law.
- (2) **Transactions:** Upon conclusion of a Covered Transaction between Eurex Clearing AG and the Clearing Member in accordance with these Individual Clearing Model Provisions, the Clearing Member and the ICM Client shall enter at the same time into a separate transaction on identical terms under the Client Clearing Agreement by reference to such Covered Transaction between Eurex Clearing AG and the Clearing Member (herein referred to as the “**Client Clearing Transaction**”) and together with all other separate Client Clearing Transactions under such Client Clearing Agreement corresponding to Covered Transactions between Eurex Clearing AG and the Clearing Member under the ICM Clearing Agreement for ICM-CCD, the “**Client Clearing Transactions**”).

Upon any amendment, modification, transfer or termination of a Covered Transaction between Eurex Clearing AG and the Clearing Member, the Clearing Member and the ICM Client shall agree in advance that the related Client Clearing Transaction shall be amended, modified, transferred or terminated accordingly by reference to such Covered Transaction.

- (3) **Margin:** The Clearing Member is required to demand from the ICM Client separate cover for all Client Clearing Transactions in an amount not less than the applicable Default Margin Requirement (the “**Credit Support Margin**”). Securities Income shall increase the Credit Support Margin in accordance with Subpart A Number 16.1.2.
- (4) **Variation Margin:** The Clearing Member is further required to demand from or to provide to the ICM Client (additional) separate cover in respect of the relevant daily

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profits and losses in respect of all such Client Clearing Transactions corresponding to Covered Transactions which are subject to a Segregated Variation Margin Requirement (as defined in Subpart A Number 6.2) in an amount not less than the Segregated Variation Margin Requirement applicable from time to time pursuant to these Individual Clearing Model Provisions (the “**Credit Support Variation Margin**”).

- (5) **Eligible Margin Assets:** Eligible assets to be provided as cover are (i) in respect of the Credit Support Margin, such currency amounts and such Securities accepted by Eurex Clearing AG from the Clearing Member under the Clearing Conditions in respect of the Segregated Margin and (ii) in respect of the Credit Support Variation Margin, such currency amounts accepted by Eurex Clearing AG from the Clearing Member under the Clearing Conditions in respect of the Segregated Variation Margin (herein also referred to as “**Eligible Margin Assets**”).
- (6) **Transfer Principles, Forwarding Obligation of Clearing Member:** Any Eligible Margin Assets in respect of the separate Credit Support Margin and separate Credit Support Variation Margin as well as any payment and settlement of Client Clearing Transactions must be delivered or redelivered in accordance with the principles set out in Subpart A Numbers 2.2.1, 2.2.2 and 2.2.4 and/or in Subpart A Number 17 (with regard to the direct transfer mechanism for delivery and, if selected in the ICM Clearing Agreement, for redelivery of Credit Support Margin). Further, any Credit Support Margin or Credit Support Variation Margin shall not be segregated as client money.

In addition, the Client Clearing Agreement must ensure compliance with the Clearing Member's forwarding obligations pursuant to Subpart A Number 9.

- (7) **Close-out Netting:** Upon the occurrence of a Termination Event, Insolvency Termination Event and a Termination Date with respect to the Clearing Member under the Clearing Conditions, the Clearing Member and the ICM Client agree by reference to such Termination Event, Insolvency Termination Event and Termination Date, however described under the Client Clearing Agreement (hereinafter a “**Client Clearing Termination Event**”), on a separate termination and on a separate, legally valid and enforceable close-out netting of all Client Clearing Transactions entered into under such Client Clearing Agreement, taking into account all Credit Support Margin and Credit Support Variation Margin actually delivered, and resulting in a separate difference claim owed by either party.

It must be legally ensured that such difference claim (i) arises and becomes due and enforceable at the same time as the Difference Claim under Subpart A Number 7.3.2 of these Individual Clearing Model Provisions, (ii) is not contingent, (iii) is determined by reference to the values of the corresponding terminated Covered Transactions between Eurex Clearing AG and the Clearing Member and the values of the corresponding equivalent Eligible Margin Assets subject to the expired Redelivery Claims under the corresponding Standard Agreement between Eurex Clearing AG and the Clearing Member (determined in accordance with the Clearing Conditions), (iv) is denominated in the Clearing Currency (using the same currency exchange

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methods as applied by Eurex Clearing AG) and (v) shall be payable in accordance with Subpart A Number 7.3.3 Paragraph (1). The resulting difference claim is herein referred to as the “**Client Clearing Termination Claim**”.

Subject to the requirements of the applicable laws, the forgoing must not apply to the occurrence of a close-out netting following a default by the ICM Client under the Client Clearing Agreement (however described in the Client Clearing Agreement).

- (8) **No Security Interests over, no Assignment and set-off of Client Clearing Termination Claim:** The Client Clearing Termination Claim must at any time not be subject to any security interests or charges (other than pursuant to these Individual Clearing Model Provisions). An assignment of the Client Clearing Termination Claim (other than pursuant to these Individual Clearing Model Provisions) and a set-off with any other payment claims between the Clearing Member and the ICM Client (other than pursuant to these Individual Clearing Model Provisions) arising under any agreement, statutory provisions or otherwise must be prohibited (in the case of statutory provisions, to the extent possible under applicable law), provided that the ICM Client may assign or set-off its Client Clearing Termination Claim against the Clearing Member if and to the extent a Re-Establishment has not occurred pursuant to Subpart A Number 11.

- 2.1.3 If the ICM Client is a Relevant Fund or Relevant Fund Segment acting through an Authorised Manager, the Client Clearing Agreement must constitute a separate Client Clearing Agreement between the Clearing Member and each Relevant Fund or Relevant Fund Segment that meets the requirements of an Eligible Client Clearing Agreement. All rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Covered Transactions corresponding to the Client Clearing Transactions between the Clearing Member and each Relevant Fund or Relevant Fund Segment shall constitute a separate Standard Agreement.

## 2.2 Governing Documentation

Client Clearing Transactions will be governed solely by the Client Clearing Agreement and not by the ICM Clearing Agreement. The **Client Clearing Agreement** is not a Standard Agreement or Corresponding Standard Agreement for the purposes of the Clearing Conditions.

## 2.3 Interpretation

For the purposes of these ICM-CCD Provisions, the term “**separate**” means with respect to a Client Clearing Agreement and the requirements under Number 2.1.2 that (i) an agreement, a transaction, a margin, a legal consequence, an amount, a right or claim expressly relates to or is expressly entered into, shall occur, is made or raised between the Clearing Member and the ICM Client by reference to the Clearing of Covered Transactions pursuant to these Individual Clearing Model Provisions and (ii) expressly excludes – and therefore any of the definitions used in this Subpart C will not comprise – any agreement, transaction, margin, legal consequence, amount, right or claim relating to, or entered into, occurred, caused, made or raised between the Clearing Member and

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the ICM Client with respect to any other cleared or non-cleared transactions between such parties of whatever nature.

## **2.4 Responsibility for Client Clearing Agreement**

It is the responsibility of the Clearing Member and the ICM Client to ensure compliance of their Client Clearing Agreement with the requirements on an Eligible Client Clearing Agreement. Eurex Clearing AG will verify compliance with these requirements in its own interest and not on behalf or for the benefit of the Clearing Member or ICM Client and will not assume any corresponding liability.

## **2.5 Publication of Market Standard Client Clearing Agreements**

Eurex Clearing AG will publish market standard templates of Eligible Client Clearing Agreements (each a "**Market Standard Client Clearing Agreement**") on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).

## **3 Specific Obligations**

### **3.1 Audit of Client Clearing Agreement**

- (1) Eurex Clearing AG may require the Clearing Member or the ICM Client to provide a copy of their Client Clearing Agreement in order to verify whether the requirements on an Eligible Client Clearing Agreement are met.
- (2) If the respective Client Clearing Agreement is not a Market Standard Client Clearing Agreement, Eurex Clearing AG may request the Clearing Member to provide a legal opinion from a counsel of recognised standing regarding the fulfilment of the requirements on an Eligible Client Clearing Agreement by the specific Client Clearing Agreement and on the validity of its provisions.
- (3) Eurex Clearing AG is entitled to reasonably request an updated legal opinion pursuant to Paragraph (2), in particular in the case of a change in law or interpretation of applicable laws or within regular or customary periods of time.

### **3.2 Notifications by the Clearing Member or the ICM Client**

The Clearing Member or the ICM Client is obliged to promptly notify Eurex Clearing AG if any of the following events occurs:

- (1) non-compliance of the Client Clearing Agreement with the requirements on an Eligible Client Clearing Agreement pursuant to Number 2.1.2 following an amendment of its terms,
- (2) a Client Clearing Transaction is no longer identical in its (economic) terms to the corresponding Covered Transaction, or

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- (3) it becomes aware of any material changes in law or legal interpretation of the opinions or of the reasoning given in the legal opinions pursuant to Number 3.1 Paragraphs (2) and (3).

### **3.3 Closing or Transfer of single Covered Transactions in the case of discrepancy**

If (i) a Client Clearing Transaction has been terminated, closed or has become subject to an unwind by agreement between the Clearing Member and the ICM Client (other than by reason of a Default as defined under Subpart A Number 14.2) (ii) or a Client Clearing Transaction is no longer identical in its (economic) terms to the corresponding Covered Transaction, the Clearing Member shall instantly close or transfer and novate the corresponding Covered Transactions into a Transaction under the Clearing Agreement pursuant to the Elementary Clearing Model Provisions.

### **3.4 Right to Refuse Payment of the Difference Claim in the case of Non-Compliance**

Eurex Clearing AG is entitled to refuse performance of the Difference Claim of the Clearing Member against Eurex Clearing AG pursuant to Subpart A Number 7.3.2 vis-à-vis the Clearing Member and the ICM Client and/or the Security Trustee, as applicable, as security taker as long as Eurex Clearing AG has not received from the relevant claiming party either a confirmation that the Client Clearing Agreement and the Client Clearing Termination Claim fulfils the respective requirements on an Eligible Client Clearing Agreement or any other evidence to the satisfaction of Eurex Clearing AG that it is entitled to claim performance from Eurex Clearing AG.

## **4 Client Clearing Agreement, Representations and Liability**

4.1 Each of the Clearing Member and the ICM Client, severally but not jointly, represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that the Client Clearing Agreement has been correctly described in the ICM Clearing Agreement for ICM-CCD and fulfils the requirements on an Eligible Client Clearing Agreement during the entire term of the ICM Clearing Agreement.

4.2 Each of the Clearing Member and the ICM Client undertakes individually and separately towards Eurex Clearing AG to indemnify Eurex Clearing AG against, and compensate Eurex Clearing AG for, any damages, losses, claims, taxes, costs, charges or fees, if any, that may have occurred as a result of a non-compliance of their Client Clearing Agreement with the requirements on an Eligible Client Clearing Agreement.

## **5 Conflicting Arrangements, Right to request amendment of Client Clearing Agreement**

5.1 In case of any inconsistency between the provisions of the ICM Clearing Agreement for ICM-CCD and/or the Clearing Conditions and the provisions of the Client Clearing Agreement specified in the ICM Clearing Agreement for ICM-CCD (as amended), the following applies:

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- (1) the provisions of the ICM Clearing Agreement for ICM-CCD (including all specified provisions of the Clearing Conditions) will prevail;
- (2) Subpart A and Subpart C of this Part 3 as a whole will prevail,
- (3) to the extent that the ICM Clearing Agreement for ICM-CCD specifies that the ICM Client acts as Non-Clearing Member with respect to a Transaction Type, the obligations and rights of a Non-Clearing Member under the Clearing Conditions will prevail if and to the extent they relate to mandatory exchange rules or mandatory statutory provisions, and
- (4) the product specific terms of the Clearing Conditions will prevail if and to the extent a mismatch exists between the terms of a Covered Transaction and the corresponding Client Clearing Transaction.

5.2 If the Client Clearing Agreement is in breach of the requirements on an Eligible Client Clearing Agreement, the provisions of Subpart B of this Part 3 shall prevail to the extent of any inconsistency between Subpart B and the Client Clearing Agreement.

5.3 Eurex Clearing AG shall have the right to request the Clearing Member and the ICM Client to amend the Client Clearing Agreement in order to ensure or restore compliance with the requirements on an Eligible Client Clearing Agreement.

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## Part 4 Net Omnibus Clearing Model Provisions

### 1 Application of the Net Omnibus Clearing Model Provisions

- 1.1 Eurex Clearing AG and the Clearing Member may agree, pursuant to the Clearing Agreement appended to the Clearing Conditions as Appendix 1, that certain Customer-Related Transactions which are Net Omnibus Eligible Transactions (as defined in Number 1.3 below) shall be cleared under the Net Omnibus Clearing Model Provisions set out in this Part 4. For this purpose, the Clearing Agreement appended to the Clearing Conditions as Appendix 1 shall qualify as a **“Net Omnibus Clearing Agreement”** and shall apply to the Clearing of Net Omnibus Eligible Transactions for customers (each a **“Net Omnibus Customer”**). Own Transactions or Elementary Omnibus Transactions entered into between Eurex Clearing AG and the Clearing Member under such Clearing Agreement shall not form part of the Net Omnibus Clearing Agreement.

Further, Eurex Clearing AG, the Clearing Member and a Non-Clearing Member (a **“Net Omnibus Non-Clearing Member”**) or a Registered Customer (a **“Net Omnibus Registered Customer”**) may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 8 for the Clearing of Net Omnibus Eligible Transactions for such Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer. Any such Clearing Agreement shall also be a **“Net Omnibus Clearing Agreement”**.

Entering into a Net Omnibus Clearing Agreement pursuant to Appendix 8 to the Clearing Conditions is subject to the Clearing Member having selected in its Clearing Agreement with Eurex Clearing AG pursuant to Appendix 1 to the Clearing Conditions that the latter shall also qualify as a Net Omnibus Clearing Agreement.

- 1.2 The Net Omnibus Clearing Agreement(s) pursuant to Appendix 1 and, if applicable, Appendix 8 to the Clearing Conditions shall enable the Clearing Member to settle Transactions under the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority Handbook (to the extent applicable). The Clearing Member shall be solely responsible for compliance with the CASS rules.
- 1.2.1 Subject to Chapter I Part 1 Numbers 1.1.5 and 1.1.6, only Customer-Related Transactions, NCM-Related Transactions or RC-Related Transactions which are Eurex Transactions or OTC Interest Rate Derivative Transactions (**“Net Omnibus Eligible Transactions”**) may be subject to these Net Omnibus Clearing Model Provisions.
- 1.2.2 A Net Omnibus Eligible Transaction, executed between Eurex Clearing AG and the Clearing Member pursuant to these Net Omnibus Clearing Model Provisions and booked on (i) an account of the Clearing Member designated by the Clearing Member and notified to Eurex Clearing AG for the Customer-Related Transactions of the Clearing Member (the **“Net Omnibus Customer Account”**), (ii) any sub-account for Net Omnibus Eligible Transactions of the relevant account of the Clearing Member for NCM-Related Transactions pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (2) (such sub-



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accounts with respect to a particular Net Omnibus Non-Clearing Member collectively a “**Net Omnibus NCM Account**”) or (iii) any sub-account for Net Omnibus Eligible Transactions of the relevant account of the Clearing Member for RC-Related Transactions pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (3) (such sub-accounts with respect to a particular Net Omnibus Registered Customer collectively a “**Net Omnibus RC Account**”), shall be a “**Net Omnibus Transaction**”. The Clearing Member shall procure that each Transaction designated as a Net Omnibus Transaction is booked in a Net Omnibus Customer Account, a Net Omnibus NCM Account or a Net Omnibus RC Account, as applicable, without undue delay. Only the booking into the relevant account shall qualify such Transaction as a Net Omnibus Transaction.

## **2 Content of the Net Omnibus Clearing Agreement and the Net Omnibus Standard Agreement**

### **2.1 Construction**

- 2.1.1 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 8 is entered into by Eurex Clearing AG, a Clearing Member and a Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, such Clearing Agreement will provide for terms and conditions applying between Eurex Clearing AG, the Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer as well as terms and conditions applying between Eurex Clearing AG and the Clearing Member, on the one hand, and between the Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, on the other hand.
- 2.1.2 References in these Net Omnibus Clearing Model Provisions to the Net Omnibus Standard Agreement shall be construed so as to exclude any Standard Agreement pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions.
- 2.1.3 All rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Net Omnibus Transactions or, in the case of multiple Net Omnibus Standard Agreements pursuant to Number 2.3, each such Net Omnibus Standard Agreement, shall constitute a separate arrangement (each a “**Net Omnibus Standard Agreement**”). Each Net Omnibus Standard Agreement forms a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between them which (subject to provisions in this Chapter I on the termination of individual Net Omnibus Transactions) can be terminated only in its entirety.
- 2.1.4 If a Clearing Member and the same entity acting as both Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 8, all rights and obligations between the relevant Clearing Member and the relevant entity acting as Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer with respect to Transactions under such Clearing Agreement corresponding to Net Omnibus

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Transactions of the Clearing Member relating to such entity shall, unless otherwise agreed between the Clearing Member and such entity acting as Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer, be subject to one and the same Net Omnibus Standard Agreement.

- 2.1.5 Unless otherwise agreed between the Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, all Transactions and any claims for the return of margin or variation margin (or assets equivalent thereto) arising pursuant to the Standard Agreement between the relevant Clearing Member and a Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer shall form a single agreement between such parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between them which (subject to provisions in these Clearing Conditions on the termination of individual Transactions) can be terminated only uniformly.
- 2.1.6 The Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer and the Clearing Member may agree on additional terms to their Standard Agreement to the extent those additional terms do not deviate from the Clearing Agreement. Any such additional agreement shall form part of that Standard Agreement and, in the event of any inconsistencies between any such additional agreement (as amended from time to time) and the Clearing Agreement, the Clearing Agreement shall always prevail.
- 2.2 General Principles applicable to the Settlement of Net Omnibus Transactions and any Delivery and Redelivery of Net Omnibus Margin or Net Omnibus Variation Margin**
- 2.2.1 Eurex Clearing AG and the Clearing Member shall be obliged to fulfil (i) any payment or delivery obligations by transferring all rights, title and interest in and to the concerned asset and (ii) any obligations to deliver or redeliver cover in respect of either Net Omnibus Margin (as defined in Number 6.1) in the form of cash or Net Omnibus Variation Margin (as defined in Number 7.1) by transferring all rights, title and interest in and to the Eligible Margin Assets in the form of cash, in each case, free and clear from any and all rights and claims of the transferring party and of any third person, including, without limitation, pursuant to applicable regulation or under any statutory or other trust. The value of such assets shall, as at the date on which the transfer is effected, be at least equal to the value at that date of the relevant payment or delivery obligation.
- 2.2.2 The actual payment or delivery of Eligible Margin Assets in the form of cash in respect of Net Omnibus Margin or Net Omnibus Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for the repayment of assets equivalent to the Eligible Margin Assets actually delivered or increases an already existing repayment claim (each such claim, which is calculated by Eurex Clearing AG in respect of all Net Omnibus Transactions under a Net Omnibus Standard Agreement, is a “**Redelivery Claim**”). In the case of Net Omnibus Margin, only the Clearing Member may be the creditor of the relevant Redelivery Claim and, in the case of Net Omnibus Variation Margin, Eurex Clearing AG or the Clearing Member may be the creditor of the relevant Redelivery Claim.

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For the purposes of the Redelivery Claim, the term “**equivalent**” means an amount in the same currency and amount as such Eligible Margin Assets actually delivered in respect of Net Omnibus Margin (in the form of cash) or Net Omnibus Variation Margin.

References in these Net Omnibus Clearing Model Provisions to a Redelivery Claim shall be only to a Redelivery Claim determined in accordance with this Number 2.2.2 in respect of all Net Omnibus Transactions under a Net Omnibus Standard Agreement, which excludes any Redelivery Claim arising pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~ the U.S. Clearing Model Provisions or the Basic Clearing Member Provisions.

2.2.3 A Redelivery Claim will become due with respect to Net Omnibus Margin in accordance with Number 6.7.1 and with respect to Net Omnibus Variation Margin in accordance with Number 7, provided that in each case no Termination Date (as defined in Number 7.2 of the General Clearing Provisions) has occurred.

Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the terms “**actual payment**” and “**actual delivery**” when used in these Net Omnibus Clearing Model Provisions are construed to occur when:

- (i) an Eligible Margin Asset in the form of cash has been credited to the relevant Eurex Clearing AG cash account or, as the case may be, the actual entry on the Internal Net Omnibus Margin Account pursuant to Number 6.3.1 Paragraph (3) and Number 6.3.2 Paragraph (3), or
- (ii) an Eligible Margin Asset in the form of Securities has been credited to the Net Omnibus Pledged Securities Account provided that the pledge pursuant to Number 6.6 has been granted and has not been released (in whole or in part), or
- (iii) in the case of a delivery of an Eligible Margin Asset in the form of Securities pursuant to Number 6.6.3, the Securities become subject to an effective pledge in Xemac (as defined in Number 6.6.3), or
- (iv) in the event of a set-off pursuant to Number 1.3 of the General Clearing Provisions, such set-off becomes legally effective.

The terms “**actually delivered**”, “**actually paid**” and similar expressions shall be interpreted accordingly.

2.2.4 Where reference is made in these Net Omnibus Clearing Model Provisions to the “**aggregate value**” of Eligible Margin Assets in connection with determining compliance with the Net Omnibus Margin Requirement or an obligation to deliver or redeliver cover in respect of Net Omnibus Margin or Net Omnibus Variation Margin, the aggregate value will be determined by Eurex Clearing AG with respect to all Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement between Eurex Clearing AG and the Clearing Member in accordance with Number 3.2.2 of the General Clearing Provisions.

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## **2.3 Special Provisions for Multiple Net Omnibus Standard Agreements**

### **2.3.1 Construction**

Eurex Clearing AG and the Clearing Member may agree to designate multiple Net Omnibus Standard Agreements comprising the rights and obligations with respect to specified Net Omnibus Customer Accounts, Net Omnibus NCM Accounts or Net Omnibus RC Accounts of the Clearing Member that are allocated to the relevant Net Omnibus Standard Agreement pursuant to Number 2.3.2. Each such Net Omnibus Standard Agreement shall for the purposes of these Clearing Conditions constitute a separate Standard Agreement.

### **2.3.2 Allocation of Accounts to a Net Omnibus Standard Agreement**

The Clearing Member may allocate each of its Net Omnibus Customer Accounts, Net Omnibus NCM Accounts or Net Omnibus RC Accounts to a specific Net Omnibus Standard Agreement by giving notice to Eurex Clearing AG in accordance with the following provisions:

- (i) A Net Omnibus Standard Agreement may consist of any combination of Net Omnibus Customer Accounts, Net Omnibus NCM Accounts or Net Omnibus RC Accounts but may not consist exclusively of accounts relating to one particular Non-Clearing Member or Registered Customer, save for the case that all Net Omnibus Transactions between the Clearing Member and Eurex Clearing relate to one particular Non-Clearing Member or Registered Customer only.
- (ii) All accounts with respect to a particular Non-Clearing Member or Registered Customer must be allocated to the same Net Omnibus Standard Agreement.
- (iii) The Clearing Member may change the allocation of accounts to a Net Omnibus Standard Agreement at any time by giving notice to Eurex Clearing AG, provided that the re-allocation does not result in a breach of the conditions referred to in (i) and (ii).
- (iv) The allocation or re-allocation of accounts to a Net Omnibus Standard Agreement becomes effective upon receipt of a corresponding confirmation by the Clearing Member from Eurex Clearing AG.

Eurex Clearing AG reserves the right to limit the total number of Net Omnibus Standard Agreements available per Clearing Member generally by publication of a corresponding notice pursuant to Part 1 Number 16.1. Eurex Clearing AG shall have the right to inform the Non-Clearing Members and Registered Customers of the Clearing Member to which Net Omnibus Standard Agreement they are allocated.

### **2.3.3 Margin**

The Clearing Member is required to establish one Net Omnibus Pledged Securities Account per Net Omnibus Standard Agreement.

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### 3 Conclusion of Transactions

Transactions between the parties to a Net Omnibus Standard Agreement shall be concluded in accordance with Number 1.2.2 of the General Clearing Provisions.

### 4 Internal Accounts

In addition to the internal accounts set out in Number 4 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain for the Clearing Member certain internal accounts with respect to Net Omnibus Transactions in accordance with this Number 4.

#### 4.1 Internal Net Omnibus Cash Accounts

4.1.1 With respect to each currency accepted by it, Eurex Clearing AG shall establish and maintain in respect of each Net Omnibus Standard Agreement, (i) one internal net omnibus cash account on which all daily settlement payments, option premiums and other cash payment obligations relating to the settlement of claims (other than Settlement Claims) under the Net Omnibus Transactions shall be recorded and (ii) one internal net omnibus cash sub-account on which all amounts in respect of Settlement Claims relating to the Net Omnibus Standard Agreement shall be recorded (each account under (i) and (ii) an “**Internal Net Omnibus Cash Account**”).

4.1.2 Subject to Number 4.1.3, an amount in respect of the daily balance of each Internal Net Omnibus Cash Account (determined after first applying set-offs as permitted pursuant to Number 1.3.1 Paragraph (1) of the General Clearing Provisions) shall be debited or credited, as the case may be, to the Clearing Member Cash Account relating to the relevant Net Omnibus Standard Agreement.

4.1.3 To the extent that the determination under Number 4.1.2 above results in a credit balance on an Internal Net Omnibus Cash Account, Eurex Clearing AG may apply all or part of such credit balance to satisfy the Net Omnibus Margin or Net Omnibus Variation Margin requirements under the relevant Net Omnibus Standard Agreement. Any amount not so applied will be credited to the Clearing Member Cash Account.

#### 4.2 Internal Net Omnibus Margin Accounts

Eurex Clearing AG shall establish and maintain an internal net omnibus margin account in respect of each Net Omnibus Standard Agreement (the “**Internal Net Omnibus Margin Account**”) on which all Eligible Margin Assets that have actually been delivered to Eurex Clearing AG and allocated to the relevant Net Omnibus Standard Agreement will be recorded.

#### 4.3 Internal Records of the Clearing Member

The Clearing Member shall establish and maintain records detailing (i) all payments and deliveries actually made to Eurex Clearing AG, (ii) all Net Omnibus Margin and Net Omnibus Variation Margin actually delivered to Eurex Clearing AG and (iii) all Redelivery

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Claims which it has against Eurex Clearing AG, in each case in respect of the Net Omnibus Transactions under each Net Omnibus Standard Agreement.

## 5 **Set-off**

Any claims of Eurex Clearing AG and the Clearing Member under each Net Omnibus Standard Agreement including claims to provide cover in respect of Net Omnibus Margin or Net Omnibus Variation Margin pursuant to Numbers 6 and 7, may be set off against claims arising from Net Omnibus Transactions under the same Net Omnibus Standard Agreement or claims to provide cover in respect of Net Omnibus Margin or the Net Omnibus Variation Margin pursuant to Numbers 6 and 7 of the respective other party under the same Net Omnibus Standard Agreement. Number 1.3.1 Paragraph (1) and (2) of the General Clearing Provisions shall apply *mutatis mutandis*.

Any other set-off of claims between Eurex Clearing AG and the Clearing Member under a Net Omnibus Standard Agreement as well as any set-off of the Difference Claim shall be prohibited, except for a set-off by the Clearing Member with claims which are undisputed or have been determined as legally binding. The rights of Eurex Clearing AG under Number 8.6 shall remain unaffected.

## 6 **Margin**

The Net Omnibus Margin Requirement applicable to the Clearing Member pursuant to this Number 6 shall be in addition to any other Margin Requirement of the Clearing Member pursuant to the Elementary Clearing Model Provisions and/or the Individual Clearing Model Provisions and/or the U.S. Clearing Model Provisions and/or the Basic Clearing Member Provisions.

### 6.1 **General Obligation to Provide Net Omnibus Margin**

The Clearing Member is required to provide margin for the Net Omnibus Transactions under each Net Omnibus Standard Agreement separately in such amounts, in such forms and at such times as are required pursuant to this Number 6 and the Special Clearing Provisions (the "**Net Omnibus Margin**").

### 6.2 **The Net Omnibus Margin Requirement**

The amount of Eligible Margin Assets required to be delivered as Net Omnibus Margin under each Net Omnibus Standard Agreement shall be determined in accordance with Number 3.1 of the General Clearing Provisions and this Number 6.2 (the "**Net Omnibus Margin Requirement**").

In order to determine the Net Omnibus Margin Requirement of the Clearing Member, Eurex Clearing AG will determine separate margin requirements for all Net Omnibus Transactions that are (i) Customer-Related Transactions, (ii) NCM-Related Transactions referring to own transactions of the relevant Net Omnibus Non-Clearing Member, (iii) NCM-Related Transactions referring to customer-related transactions of the relevant Net Omnibus Non-Clearing Member, (iv) RC-Related Transactions referring to own

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transactions of the relevant Net Omnibus Registered Customer and (v) RC-Related Transactions referring to customer related transactions of the relevant Net Omnibus Registered Customer, provided that, in each case, credit balances on internal transaction accounts shall not be taken into account, and then calculate the sum of such separate margin requirements separately in respect of each Net Omnibus Standard Agreement. The applicable Net Omnibus Margin Requirement will be notified by Eurex Clearing AG to the Clearing Member.

### **6.3 Margin Call**

#### **6.3.1 Margin Calls and direct debit prior to the end of a Business Day**

- (1) If Eurex Clearing AG at any time prior to the end of a Business Day determines that the aggregate value of the Net Omnibus Margin actually delivered in respect of a Net Omnibus Standard Agreement is less than the applicable Net Omnibus Margin Requirement for such Net Omnibus Standard Agreement, Eurex Clearing AG may require the Clearing Member to provide (additional) Eligible Margin Assets in an amount sufficient to satisfy the Net Omnibus Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets have not yet been delivered by the Clearing Member with respect to a Margin Call pursuant to Paragraph (1), Eurex Clearing AG shall be entitled to directly debit the Clearing Member Cash Account in the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant Net Omnibus Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim).

Non-compliance with the applicable Margin Requirement (in whole or in part) by the Clearing Member shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Conditions.

- (3) If a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Net Omnibus Margin, then:
  - (i) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account and the respective credit entry in the Internal Net Omnibus Margin Account with such cash credit being allocated to the relevant Net Omnibus Standard Agreement; and
  - (ii) the aggregate value of Elementary Proprietary Margin actually delivered and the redelivery claim under the Elementary Proprietary Standard Agreement shall be reduced accordingly upon Eurex Clearing AG having made the corresponding records (which Eurex Clearing AG shall do without undue delay) in the Internal Net Omnibus Margin Account and the Internal Elementary Proprietary Margin Account.

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### 6.3.2 Margin Calls and direct debit at the end of a Business Day

- (1) If Eurex Clearing AG at the end of a Business Day determines that the aggregate value of the Net Omnibus Margin actually delivered in respect of a Net Omnibus Standard Agreement is less than the applicable Net Omnibus Margin Requirement for such Net Omnibus Standard Agreement, Eurex Clearing AG will require the Clearing Member to provide (additional) Eligible Margin Assets in the form of cash in the Clearing Currency in an amount sufficient to satisfy the Net Omnibus Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets have not yet been delivered by the Clearing Member with respect to a Margin Call pursuant to Paragraph (1), Eurex Clearing AG shall be entitled to (and without having an obligation towards the Clearing Member to do so, will on or around the time specified) directly debit the Clearing Member Cash Account in an amount determined pursuant to Paragraph (1) in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the Net Omnibus Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim).

Non-compliance with the applicable Margin Requirement (in whole or in part) by the Clearing Member shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Conditions.

- (3) If a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Net Omnibus Margin, then Number 6.3.1 Paragraph (3) shall apply *mutatis mutandis*.

### 6.4 Obligation of the Clearing Members to request margin

Where the Clearing Member enters into Net Omnibus Transactions which are NCM-Related Transactions or RC-Related Transactions, the Clearing Member is required to demand margin from the relevant Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer in an amount at least equal to the margin requirement for such Net Omnibus Transactions, as calculated in accordance with the second paragraph of Number 6.2.

Where the Clearing Member enters into Net Omnibus Transactions which are Customer-Related Transactions, the Clearing Member is required to demand margin from each relevant **Net Omnibus Customer** in an amount at least equal to the margin requirement for the Net Omnibus Transactions that are attributable to such Net Omnibus Customer, as calculated in accordance with the second paragraph of Number 6.2.

### 6.5 Delivery of Eligible Margin Assets in the form of Cash

Eligible Margin Assets in the form of cash shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. The purpose of Net Omnibus Margin actually delivered in the form of cash is to collateralise all



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claims which Eurex Clearing AG has against the Clearing Member arising under all Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement.

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

6.6.1 In order to provide Eligible Margin Assets in the form of Securities as cover in respect of the Net Omnibus Margin Requirement applicable to a Net Omnibus Standard Agreement, the Clearing Member shall transfer Eligible Margin Assets in the form of Securities to the relevant Net Omnibus Pledged Securities Account unless otherwise provided in this Number 6.6.

- (1) The Clearing Member shall instruct Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG in a timely manner to transfer the relevant Securities to the Net Omnibus Pledged Securities Account and authorizes Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG to inform Eurex Clearing AG of such transfer.
- (2) In relation to Securities credited to the Net Omnibus Pledged Securities Account that confer voting rights or other optional rights on the Clearing Member (including, but not limited to, warrants, options, conversion and subscription rights, rights in connection with takeovers, other forms of offers or capital reorganisations, redemption rights, tenders, options to tender or non-mandatory puts or calls) or that provide for discretionary action or alternative courses of action by the Clearing Member, Eurex Clearing AG shall not be responsible for exercising such voting or optional rights or for taking up such discretionary actions or alternative courses of action; the Clearing Member shall remain responsible in this respect.
- (3) In the Net Omnibus Clearing Agreement, the Clearing Member will grant a pledge to Eurex Clearing AG over all Securities which are at present or will in the future be credited to its Net Omnibus Pledged Securities Account.

6.6.2 The security purpose (*Sicherungszweck*) of the pledge granted to Eurex Clearing AG pursuant to this Number 6.6 is to secure all present and future claims of Eurex Clearing AG against the Clearing Member arising under all Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement.

6.6.3 Notwithstanding Number 6.6.1, the Clearing Member may also provide Securities by pledge by using the Collateral Management System Xemac ("**Xemac**") of Clearstream Banking AG on the basis of the applicable provisions of the Special Conditions for Collateral Management.

6.6.4 To the extent required or expedient under its national laws, the Clearing Member will arrange for the due filing and registration with any relevant competent authority or register of any security interest granted or to be granted pursuant to or in accordance with this Number 6.6 and will evidence the due filing and registration of such security interest to Eurex Clearing AG.

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## 6.7 Redelivery or Release of Eligible Margin Assets

- 6.7.1 A Redelivery Claim (pursuant to Number 2.2.3) for the transfer of assets equivalent to Eligible Margin Assets in the form of cash actually delivered will become due with respect to Net Omnibus Margin if and to the extent that the aggregate value of all Eligible Margin Assets actually delivered as Net Omnibus Margin in respect of a Net Omnibus Standard Agreement exceeds the Net Omnibus Margin Requirement applicable to such Net Omnibus Standard Agreement.
- 6.7.2 Subject to the occurrence of a Termination Date and Number 6.7.3 below, the release of Eligible Margin Assets in the form of Securities provided in respect of a Net Omnibus Standard Agreement shall be effected if a Clearing Member, prior to the then applicable cut-off time specified by Eurex Clearing AG with respect to each of Clearstream Banking AG, Clearstream Banking S.A. and SIX SIS AG, as applicable, with respect to any Business Day, requests a release of pledged Securities by Eurex Clearing AG in respect of the Net Omnibus Standard Agreement and to the extent the aggregate value of all Eligible Margin Assets actually delivered as Net Omnibus Margin exceeds the Net Omnibus Margin Requirement applicable to the relevant Net Omnibus Standard Agreement. Such request shall be processed by Eurex Clearing AG during that same Business Day; the Eligible Margin Assets to be returned shall be selected by the Clearing Member. In the case of a pledge pursuant to Number 6.6.3, the relevant Securities shall be released in Xemac accordingly. The Clearing Member agrees not to dispose of any Securities credited to a Net Omnibus Pledged Securities Account without the prior consent of Eurex Clearing AG unless Eurex Clearing AG has released its pledge over such Securities.
- 6.7.3 If (i) the fulfilment of the redelivery request referred to in Number 6.7.2 above would render the remaining aggregate value of the Eligible Margin Assets actually delivered inadequate or if (ii) the redelivery request is received by Eurex Clearing AG after the applicable cut-off time, Eurex Clearing AG will approve such release on the next Business Day visà-vis Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG, as applicable, if (x) the amount of Eligible Margin Assets required to cover such shortfall has been provided by the Clearing Member in accordance with the daily cash clearing procedure for such Business Day or that (y) the actually delivered Eligible Margin Assets are adequate at the start of such Business Day, in each case taking into account the elections made in Part 3 Number 3 of the Clearing Agreement appended to the Clearing Condition as Appendix 1.
- 6.7.4 The relevant Redelivery Claim is ~~fulfilled~~ discharged by Eurex Clearing AG (a) if the relevant Securities have been credited to a securities account of the Clearing Member or to a securities account of a depository, a settlement institution or a custodian designated by the Clearing Member at a deposit bank or a central securities depository; or (b) if the relevant cash amount has been credited to the relevant account of the relevant Clearing Member or to an account of a correspondent bank designated by the Clearing Member. ~~Booking~~ Such discharge shall occur irrespective of any booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central

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securities depository or the correspondent bank ~~are in the responsibility of the Clearing Member.~~

## 7 Net Omnibus Variation Margin

### 7.1 General Obligation to provide Net Omnibus Variation Margin

Each of Eurex Clearing AG and the Clearing Member shall be required to transfer, with respect to each Net Omnibus Standard Agreement separately, (additional) cover in respect of daily profits or losses in respect of all Net Omnibus Transactions under the Net Omnibus Standard Agreement to which Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part 2 Number 2.1.6, as the case may be, apply in such amounts and at such times as are required pursuant to this Number 7 (the “**Net Omnibus Variation Margin**”).

The Clearing Member is also required to separately demand from, or provide (additional) cover in respect of daily profits or losses arising in respect of the corresponding Transactions with its Net Omnibus Non-Clearing Members, Net Omnibus Registered Customers and Net Omnibus Customers in an amount not less than the Net Omnibus Variation Margin Requirement applicable between the Clearing Member and Eurex Clearing AG.

### 7.2 Net Omnibus Variation Margin Requirement

Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of Net Omnibus Variation Margin. The party to the Net Omnibus Standard Agreement obliged to provide Net Omnibus Variation Margin (the “**Net Omnibus Variation Margin Provider**”) to the other party to the Net Omnibus Standard Agreement (the “**Net Omnibus Variation Margin Taker**”) and the amount of Eligible Margin Assets in the form of cash to be delivered as cover in respect of Net Omnibus Variation Margin (the “**Net Omnibus Variation Margin Requirement**”) shall be determined for in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part ~~2~~3 Number ~~2.1.6~~3.1.6, as applicable.

### 7.3 Delivery of Net Omnibus Variation Margin and Redelivery Claim

7.3.1 Net Omnibus Variation Margin shall be delivered and/or returned on each Business Day in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 and Number 1.3.1 Paragraph (1) of the General Clearing Provisions.

7.3.2 Eligible Margin Assets actually delivered in the form of cash in respect of Net Omnibus Variation Margin by the Net Omnibus Variation Margin Provider will give rise to or increase a Redelivery Claim of such party against the Net Omnibus Variation Margin Taker in accordance with Number 2.2.3. Any such Redelivery Claim shall become due if, and to the extent that on any subsequent Business Day a profit amount has been determined in respect of the relevant Net Omnibus Standard Agreement for the benefit

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of such Net Omnibus Variation Margin Provider in accordance with Chapter II Part 2 Number 2.1.2 Paragraph (1) and (2), Chapter II Part 3 Number 3.2.3 Paragraph (1), Number 3.3.3 Paragraph (1) or Chapter VIII Part ~~2-3~~ Number ~~2-4-63.1.6~~, as applicable. The applicable amount shall be the "**Redelivery Amount**". However, if equivalent Eligible Margin Assets in the form of cash have been actually delivered to the Net Omnibus Variation Margin Provider by the Net Omnibus Variation Margin Taker, the value of such Eligible Margin Assets will be applied to reduce (subject to a minimum of zero) the Redelivery Amount and the value of the Redelivery Claim then due. If the profit amount determined for the benefit of the Net Omnibus Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party itself constitutes a delivery of Net Omnibus Variation Margin and in this case the Net Omnibus Variation Margin Provider shall become the Net Omnibus Variation Margin Taker and vice versa.

7.3.3 An actual delivery in respect of Net Omnibus Variation Margin resulting in a corresponding Redelivery Claim shall take place if, upon conclusion of a Net Omnibus Transaction, the terms and conditions of such Net Omnibus Transaction provide that due to a netting with an applicable initial consideration no actual payment in respect of the Net Omnibus Variation Margin will occur.

## 8 **Consequences of a Termination Event or Insolvency Termination Event and a Termination Date**

### 8.1 **Suspension or Restriction, Termination, Porting**

Upon the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date with respect to the Clearing Member:

- (i) the Clearing of new Net Omnibus Transactions shall be suspended (the "**Suspension**"); and/or
- (ii) subject to Number 8.3.1 the existing Net Omnibus Transactions shall be terminated (the "**Termination**") and a termination payment shall fall due with respect to each Net Omnibus Standard Agreement,

each as further set out in this Number 8.

A Termination pursuant to Number 8.1(ii) shall only occur if the Porting Requirements in respect of the relevant Net Omnibus Standard Agreement are not fulfilled within the Porting Period.

### 8.2 **Suspension or Restriction of Clearing**

If a Termination Event or any of the following events occurs with respect to the Clearing Member:

- (i) the existence of an unremedied breach by the Clearing Member of its Clearing Agreement with Eurex Clearing AG, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;

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- (ii) a determination is made by Eurex Clearing AG that limitation or suspension of Clearing is necessary for it to contain its exposure to the Clearing Member;
- (iii) the suspension or termination (other than a voluntary termination) of the Clearing Member's membership of another clearing house provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG 's reasonable opinion, material to the management of its risk by Eurex Clearing AG, and that Eurex Clearing AG first consults or attempts to consult with the Clearing Member and the competent regulatory authorities;
- (iv) the commencement of ~~the Disciplinary Process~~ Procedures as defined in Number 7.2.1(b) (aa) of the General Clearing Provisions against a Clearing Member; or
- (v) any other event in respect of the Clearing Member that could materially impact the ability of that Clearing Member to perform its obligations under the Clearing Conditions and the relevant Clearing Agreement,

then Eurex Clearing AG may (taking into account the interests of such Clearing Member and its clients and provided that such action constitutes a proportionate and reasonable action) one or more times suspend or limit the Clearing of new Net Omnibus Transactions under all Net Omnibus Standard Agreements.

Eurex Clearing AG shall notify the affected Clearing Member as well as all Net Omnibus Non-Clearing Members and Net Omnibus Registered Customers of such Clearing Member of the decision to suspend or limit the Clearing. Eurex Clearing AG shall specify, in the notification, a reasonable period of time during which such Suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the Clearing Member shall, at the Clearing Member's own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.

Upon the occurrence of a Termination Event or any of the events listed above and unless such Termination Events or other events have been remedied, the Clearing Member is – subject to Number 8.3.12 (if applicable) or any other limitations or restrictions of the Clearing pursuant to the Clearing Conditions – only entitled to enter any order or quotes into the systems of the Markets if sufficient Net Omnibus Margin and Net Omnibus Variation Margin has been actually delivered to Eurex Clearing AG in advance.

Before limiting or suspending the Clearing of new Net Omnibus Transactions under this Number 8.2, and without limiting its rights under Number 7.2.1 of the General Clearing Provisions Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the relevant Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the Clearing Member may remedy the event in question. For the avoidance of doubt, in case the relevant event constitutes

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an Alleged Breach (as defined in the Disciplinary Procedures Rules) Eurex Clearing AG may commence Disciplinary Procedures in respect of the Clearing Member subject to and in accordance with the Disciplinary Procedures Rules.

### 8.3 Porting of assets and positions in relation to Net Omnibus Transactions

8.3.1 For the purposes of this Number 8 and solely with respect to a Net Omnibus Standard Agreement (including all existing Net Omnibus Transactions) and all Redelivery Claims relating thereto, a Termination and a Termination Date shall only occur if, upon the expiry of the Porting Period in accordance with Number 8.3.3, the Porting Requirements are not fulfilled in respect of the relevant Net Omnibus Standard Agreement. Upon the occurrence of such Termination Date, Numbers 8.4 to 8.8 shall apply.

8.3.2 If a Termination Event (other than an Insolvency Termination Event) has occurred with respect to a Clearing Member, Eurex Clearing AG shall (a) if a Grace Period Notice has been given, without undue delay after the end of the relevant Grace Period and (b) if a Termination Notice has been given, without undue delay after the time specified in the Termination Notice, give notice to all other Clearing Members in accordance with Number 16.2 of the General Clearing Provisions of (i) the occurrence of the Termination Event and (ii) that the Porting Period commences (the "**Porting Notice**").

8.3.3 If, at or prior to the end of the Porting Period, Eurex Clearing AG determines that all Porting Requirements in respect of a Net Omnibus Standard Agreement are fulfilled, all rights and obligations of the defaulting Clearing Member (the "**Transferor Clearing Member**") in respect of such Net Omnibus Standard Agreement (including all existing Net Omnibus Transactions) and all Redelivery Claims relating thereto shall be transferred, by way of assumption of contract (*Vertragsübernahme*) (a "**Transfer**") to the relevant Transferee Clearing Member, and each Clearing Member (that becomes a Transferor Clearing Member) hereby expressly and irrevocably consents to such Transfer.

"**Porting Period**" means:

- (i) if an Insolvency Termination Event has occurred, the period from the occurrence of the Insolvency Termination Event until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day; and
- (ii) if any other Termination Event has occurred, the period from the publication of the Porting Notice until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day.

Eurex Clearing AG may extend the Porting Period in order to facilitate a Transfer by giving notice to all Clearing Members in accordance with Number 16.2 of the General Clearing Provisions.

"**Porting Requirements**" means all of the following requirements:

- (i) a transferee Clearing Member (the "**Transferee Clearing Member**") has agreed with Eurex Clearing AG in writing on the assumption of contract (*Vertragsübernahme*)

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pursuant to this Number 8.3.3 in form and substance satisfactory to Eurex Clearing AG;

- (ii) with respect to Net Omnibus Transactions that are NCM-Related Transactions or RC-Related Transactions, the Transferee Clearing Member and the relevant Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer have undertaken to Eurex Clearing AG in form and substance satisfactory to Eurex Clearing AG that they will, no later than five (5) Business Days after the end of the Porting Period, enter into the Clearing Agreement(s) with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 5 unless such Clearing Agreement(s) has or have already been entered into;
- (iii) the Transferee Clearing Member has (a) confirmed to Eurex Clearing AG that all Net Omnibus Non-Clearing Members, all Net Omnibus Registered Customers and all Net Omnibus Customers to which Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement relate, have designated, and have taken all necessary steps to allow, the Transferee Clearing Member to act as their future Clearing Member in respect of their transactions that correspond to any Net Omnibus Transactions and (b) provided Eurex Clearing AG in writing (*Textform*) with a list of all Transactions between the Transferor Clearing Member and its Net Omnibus Customers (excluding any Net Omnibus Non-Clearing Members and Net Omnibus Registered Customers) that correspond to Net Omnibus Transactions, unless the Transferee Clearing Member has been designated as such for the relevant Net Omnibus Standard Agreement by the Transferor Clearing Member prior to the Termination Date pursuant to Number 8.3.4; and
- (iv) the Transferee Clearing Member has (i) provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover any shortfall in Net Omnibus Margin and Net Omnibus Variation Margin in accordance with Numbers 6 and 7 of the Net Omnibus Clearing Model Provisions in respect of all Net Omnibus Transactions that are subject to the Transfer or (ii) committed itself to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets without undue delay following the Transfer.

8.3.4 Each Clearing Member may designate in advance by notice to Eurex Clearing AG another Clearing Member as a potential Transferee Clearing Member for each Net Omnibus Standard Agreement. The requirement to provide a list of all Customer-Related Transactions between the Transferor Clearing Member and Eurex Clearing AG pursuant to Number 8.3.3 (iii) (b) does not apply if the Clearing Member so designated assumes the function of the Transferee Clearing Member in respect of the relevant Net Omnibus Standard Agreement(s). The Clearing Member designated as a potential Transferee Clearing Member assumes no obligation to accept a Transfer and all other Porting Requirements in respect of the relevant Elementary Omnibus Standard Agreement need to be fulfilled to effect a Transfer.

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The Transfer shall not affect any Own Transactions of the Transferor Clearing Member, any Difference Claims relating thereto or any Redelivery Claims of the Transferor Clearing Member relating thereto.

Eurex Clearing AG may provide for further or alternative procedures for the transfer of assets and positions that it deems necessary taking into account applicable laws with respect to any such transfer.

- 8.3.5 The Transferor Clearing Member hereby irrevocably offers to transfer to the Transferee Clearing Member all Eligible Margin Assets in the form of Securities that are credited to the Net Omnibus Pledged Securities Account at the time when the Porting Requirements are fulfilled. Such transfer shall be without prejudice to the security interest granted to Eurex Clearing AG in the relevant Securities. The Transferor Clearing Member hereby also irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to offer to transfer to the Transferee Clearing Member, on behalf of the Transferor Clearing Member, all Eligible Margin Assets in the form of Securities that are credited to the Net Omnibus Pledged Securities Account at the time when the Porting Requirements are fulfilled and to issue all other statements and to take all other acts on behalf of the Transferor Clearing Member that Eurex Clearing AG considers necessary or expedient to effect the transfer of the relevant Securities to the Transferee Clearing Member. If a transfer of Eligible Margin Assets in the form of Securities to the securities account of the Transferee Clearing Member is impossible or impractical due to restrictions of the securities depository bank, custodian or central securities depository used by the Transferee Clearing Member or for other reasons, the Transferor Clearing Member hereby irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to liquidate on behalf of the Transferor Clearing Member such Eligible Margin Assets in the form of Securities and to appropriate the proceeds of the realisation of such Securities. A redelivery claim (in cash) in the amount of such proceeds shall arise under the Net Omnibus Standard Agreement already transferred or to be transferred to the Transferee Clearing Member pursuant to Number 8.3.3 above.
- 8.3.6 Eurex Clearing AG and the Transferor Clearing Member agree that, following the transfer of all Eligible Margin Assets in the form of Securities to the Transferee Clearing Member in accordance with Numbers 8.3.5, the security purpose of the security interests held by Eurex Clearing AG in such Securities shall also extend to all present and future claims of Eurex Clearing AG under any Net Omnibus Transactions, any Difference Claims and any other present and future claims, in each case, of Eurex Clearing AG against the Transferee Clearing Member under the relevant Net Omnibus Standard Agreement with such Transferee Clearing Member.
- 8.3.7 As a result of a Transfer, all Net Omnibus Transactions and all Redelivery Claims relating thereto that have been transferred to the Transferee Clearing Member (a) will, as relevant, be subject to the Net Omnibus Clearing Agreement between Eurex Clearing AG and the Transferee Clearing Member in the form appended to the Clearing Conditions as Appendix 1 or the relevant Clearing Agreement(s) in the form appended to the Clearing Conditions as Appendix 5 that has been, have been or will be entered into pursuant to



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Number 8.3.3 (ii) of the Porting Requirements above and (b) will no longer be subject to any Clearing Agreement with the Transferor Clearing Member.

- 8.3.8 Following a Transfer, the rights and obligations under each transferred Net Omnibus Standard Agreement form a separate Net Omnibus Standard Agreement between the Transferee Clearing Member and Eurex Clearing AG and shall not be combined or included in another existing Net Omnibus Standard Agreement. Following the initial Transfer, the Transferee Clearing Member may re-allocate the corresponding accounts in accordance with Number 2.3.2.
- 8.3.9 After the Transfer, Eurex Clearing AG shall credit to the Transferee Clearing Member (with respect to each Net Omnibus Standard Agreement transferred pursuant to Number 8.3.3 above), by making appropriate changes to its records, all Net Omnibus Margin and all Net Omnibus Variation Margin provided to it by the Transferor Clearing Member in respect of the Net Omnibus Standard Agreement transferred and, following such allocation, such amounts or assets shall constitute Net Omnibus Margin and Net Omnibus Variation Margin, respectively, of the Transferee Clearing Member.
- 8.3.10 It is the responsibility of the Transferor Clearing Member and/or the Transferee Clearing Member to enter into relevant agreements (if any) with their relevant customers for granting any compensation to, or obtaining any compensation from, such customers in connection with any transfers made in accordance with this Number 8.3.
- 8.3.11 Eurex Clearing AG and the Transferee Clearing Member may, subject to the consent of all Net Omnibus Non-Clearing Members and all Net Omnibus Registered Customers and a respective confirmation of the Transferee Clearing Member of the consent of all Net Omnibus Customers, agree that the Net Omnibus Transactions to be transferred shall, after the Transfer, constitute Elementary Omnibus Transactions and form part of an Elementary Omnibus Standard Agreement with the Transferee Clearing Member. In this case, the requirements for the Transfer of Elementary Omnibus Transactions pursuant to Part 2 Number 8.3 shall apply accordingly.
- 8.3.12 During the Porting Period:
- (i) the Clearing of Net Omnibus Transactions under each Net Omnibus Standard Agreement between Eurex Clearing AG and the Transferor Clearing Member shall always be suspended;
  - (ii) neither of the Transferor Clearing Member, its Non-Clearing Members or its Registered Customers shall be entitled to enter any order or quotes into the systems of the Markets;
  - (iii) all Redelivery Claims of the Transferor Clearing Member with respect to Net Omnibus Margin in the form of cash and Net Omnibus Variation Margin shall be deferred (*gestundet*);
  - (iv) all claims of the Transferor Clearing Member for a release of Net Omnibus Margin in the form of Securities shall be deferred (*gestundet*); and

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- (v) Eurex Clearing AG shall not be obliged to provide any Net Omnibus Variation Margin to the Transferor Clearing Member.

#### **8.4 Consequences of a Termination**

If a Termination Date has occurred with respect to the Clearing Member, the following provisions shall apply.

##### **8.4.1 Termination of Transactions and Redelivery Claims**

All current and future primary obligations (including payment and delivery obligations) arising in respect of Net Omnibus Transactions and all Redelivery Claims under the relevant Net Omnibus Standard Agreement between Eurex Clearing AG and the Affected Clearing Member shall expire (*auflösende Bedingung*) as of the Termination Time and shall no longer be required to be performed by the relevant obligor. Furthermore, all due but unsatisfied obligations in respect of the Net Omnibus Margin or Net Omnibus Variation Margin shall expire (*auflösende Bedingung*) as of the Termination Time. The expiration applies to all claims arising under the Net Omnibus Standard Agreement independent of the time they came into existence or would otherwise have come into existence. The expired primary obligations and delivery obligations are reflected by the Difference Claim, subject to and in accordance with Number 7.3 of the General Clearing Provisions.

##### **8.4.2 Difference Claim**

The difference claim of either Eurex Clearing AG or the Affected Clearing Member under the relevant Net Omnibus Standard Agreement, shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (each a “**Difference Claim**”).

#### **8.5 Notification**

Eurex Clearing AG shall notify the Affected Clearing Member of the value of the Difference Claim determined by it with respect to the relevant Net Omnibus Standard Agreement as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

#### **8.6 Payment of Difference Claim**

8.6.1 The debtor of the Difference Claim under the relevant Net Omnibus Standard Agreement shall pay the amount of the Difference Claim to the other party as soon as reasonable practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 8.5.

8.6.2 The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment

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reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

8.6.3 Eurex Clearing AG is entitled to set-off any Difference Claim it may have against the Clearing Member under a Net Omnibus Standard Agreement against any Difference Claim it owes to the Clearing Member under the Elementary Proprietary Standard Agreement.

#### **8.7 Realisation of Net Omnibus Margin**

Where Eurex Clearing AG is the creditor of the Difference Claim against the Affected Clearing Member, Eurex Clearing AG shall be entitled to enforce and realise the pledges created by the Affected Clearing Member pursuant to Number 6.6.

#### **8.8 Return of any balance owed by Eurex Clearing AG in respect of Net Omnibus Transactions after the completion of the default management process**

Unless a transfer of assets and positions in relation to Net Omnibus Transactions in accordance with Number 8.3 has occurred, Eurex Clearing AG shall return any balance owed by it in respect of Net Omnibus Transactions following the completion of the default management process pursuant to Part 1 Numbers 6 and 7 of (and as otherwise set out in) these Clearing Conditions with respect to the Clearing Member as follows:

8.8.1 Any Difference Claim in relation to a Net Omnibus Standard Agreement owed by Eurex Clearing AG shall be satisfied by a payment of the relevant due amount to the Affected Clearing Member, and any such payment shall constitute a return to the Affected Clearing Member for the account of all Net Omnibus Non-Clearing Members, Net Omnibus Registered Customers and Net Omnibus Customers of the Affected Clearing Member to which the Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement relate.

8.8.2 Any release by Eurex Clearing AG, or any expiration, of any of its pledges in respect of Eligible Margin Assets in the form of Securities actually delivered to Eurex Clearing AG in respect of Net Omnibus Margin shall constitute a return to the Affected Clearing Member for the account of all Net Omnibus Non-Clearing Members, Net Omnibus Registered Customers and Net Omnibus Customers of the Affected Clearing Member to which the Net Omnibus Transactions under the relevant Net Omnibus Standard Agreement relate.

#### **8.9 Consequences of a Termination Date with respect to a Clearing Member on the Standard Agreement between such Clearing Member and its Non-Clearing Members and/or Registered Customers**

The consequences of the occurrence of a Termination Date with respect to a Clearing Member on the Standard Agreement between such Clearing Member and its Net Omnibus Non-Clearing Members and/or Net Omnibus Registered Customers shall be governed by the Standard Agreement between such Clearing Member and its Net Omnibus Non-Clearing Members and/or Net Omnibus Registered Customers, as applicable.

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## Part 5 U.S. Clearing Model Provisions

### 1 Application of the U.S. Clearing Model Provisions; General Provisions

1.1 The provisions set forth in this Part 5 apply to Clearing services provided by Eurex Clearing AG with respect to ~~Net Omnibus Margin~~ FCM-FCM Clearing Members that clear OTC Interest Rate Derivative Transactions for the account of FCM Clients (as defined below).

1.2 A FCM Clearing Member may clear OTC Interest Rate Derivative Transactions for the account of a customer in accordance with ~~Number 6.7.1 and with respect to Net Omnibus~~ this Part 5 (each such customer, a “**FCM Client**”) and only if Eurex Clearing AG, the FCM Clearing Member and the relevant FCM Client have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 and provided that the FCM Client meets the following requirements:

- (1) The FCM Client must be an entity that is legally organised and has its principal place of business in a state or district of the United States of America.
- (2) The FCM Client has a technical connection to the systems of Eurex Clearing AG.
- (3) The FCM Client may not be an Affiliate of the FCM Clearing Member. “**Affiliate**” means with respect to a FCM Clearing Member, any entity that controls, directly or indirectly, the FCM Clearing Member, any entity controlled, directly or indirectly, by the FCM Clearing Member or any entity directly or indirectly under common control with such FCM Clearing Member. For this purpose, “control” of an entity or of a FCM Clearing Member means ownership of a majority of the voting power of the entity or the FCM Clearing Member. The term Affiliate also covers any legal entity, corporation, partnership, association, trust, sovereign state, or agency whose account, when carried by the FCM Clearing Member, would be considered a proprietary account pursuant to CFTC Regulation 1.3(y) (or any successor or replacement regulation thereto).

1.3 The FCM Client Standard Agreement and any FCM Client Transaction will be directly established between Eurex Clearing AG and the FCM Client as further set out in this Part 5.

If the FCM Clearing Member clears Own Transactions, the provisions relating to Own Transactions of Clearing Members in Part 1 and Part 2 apply unless otherwise stated therein.

1.4 If OTC Interest Rate Derivative Transactions relate to FCM Clients, such OTC Interest Rate Derivative Transactions are concluded between Eurex Clearing AG and the relevant FCM Client (each a “**FCM Client Transaction**”) as follows:

- (1) Whenever

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- (i) an Original OTC Transaction to which a FCM Client is a party is submitted to Eurex Clearing AG by a FCM Clearing Member on behalf of a FCM Client or, if approved by the relevant FCM Clearing Member, by a FCM Client for the Clearing under the U.S. Clearing Model Provisions, either directly or via a third party information provider, as provided for in the Special Clearing Provisions, and
- (ii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing in accordance with the Special Clearing Provisions,

Eurex Clearing AG will, subject to the following provisions, interpose itself by means of a novation as central counterparty between the parties of the Original OTC Transaction.

Any novation of Original OTC Transactions shall be subject to the novation procedures, criteria and effectiveness requirements specified in the Special Clearing Provisions. The OTC Interest Rate Derivative Transactions resulting from the novation shall not be subject to the valid existence of the Original OTC Transaction (abstract novation).

The Original OTC Transaction shall – subject to the Special Clearing Provisions – upon the novation becoming effective be replaced by two OTC Interest Rate Derivative Transactions, each on terms that are identical to the terms of the other OTC Interest Rate Derivative Transaction, between Eurex Clearing AG and the relevant Clearing Member(s) or FCM Client(s) (as applicable).

If a FCM Client is a counterparty to the Original OTC Transaction, upon the novation becoming effective, the relevant new OTC Interest Rate Derivative Transaction shall be concluded directly between Eurex Clearing AG and the FCM Client.

Number 1.2.2 Paragraph (2) of the General Clearing Conditions shall not apply to the conclusion of OTC Interest Rate Derivative Transactions between Eurex Clearing AG and a FCM Client.

- (2) To the extent that a counterparty to the Original OTC Transaction is not a FCM Client, the provisions under Number 1.2.2 Paragraph (2) of the General Clearing Provisions remain unaffected.
- (3) Before a FCM Clearing Member submits to Eurex Clearing AG an Original OTC Transaction to which a FCM Client is a party, such FCM Clearing Member shall obtain the required instruction from the FCM Client.
- (4) The parties to the Original OTC Transaction are obliged to agree on a bilateral basis that upon the novation becoming effective, (i) the Original OTC Transaction is automatically cancelled, (ii) the parties to the Original OTC Transaction shall be released from their obligations to each other under such Original OTC Transaction and (iii) any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist in accordance with the contractual provisions of the Original OTC Transaction.

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(5) Any FCM Client Transaction shall be concluded as a proprietary Transaction of the relevant FCM Client only. The FCM Client may not clear customer-related Transactions.

1.5 The FCM Clearing Member may, subject to the provisions of this Part 5 and the Special Clearing Conditions, provide clearing services to a FCM Client on terms and conditions mutually agreed between the FCM Clearing Member and the FCM Client (the "**FCM Client Clearing Agreement**").

**1.6 Agency Relationship between FCM Clearing Member and FCM Client; FCM Clearing Member Guarantee**

1.6.1 In relation to FCM Client Transactions, the FCM Clearing Member acts as agent (for purposes of CFTC Regulation 39.12 (b) (6)) on behalf and for the account of the FCM Client and the entire clearing relationship shall be administered and settled through the FCM Clearing Member (or any Replacement FCM Clearing Member) as further set out in this Part 5.

1.6.2 Unless otherwise provided in these Clearing Conditions and subject to this Part 5, the FCM Clearing Member will, in respect of any FCM Client Transaction, act on behalf and for the account of the FCM Client.

1.6.3 By entering into the Clearing Agreement with Eurex Clearing AG and the FCM Clearing Member, the FCM Client irrevocably authorises (*bevollmächtigt*) the FCM Clearing Member to issue, submit and receive, also on behalf of the FCM Client, all statements (including, without limitation, any notice, termination notice or other declaration to and from Eurex Clearing AG) and to take and accept all other acts on behalf of the FCM Client that are necessary or expedient to effect FCM Client Transactions and for the performance by or to the FCM Client of obligations arising thereunder or under the Clearing Conditions.

1.6.4 If an Original OTC Transaction has been submitted to Eurex Clearing AG by the FCM Clearing Member (either directly or via a third party information provider) and such submission states that the FCM Client is a party to such Original OTC Transaction, the FCM Client, by entering into the Clearing Agreement, agrees to be legally bound by the OTC Interest Rate Derivative Transaction established between Eurex Clearing AG and the FCM Client in accordance with Number 1.4 above and acknowledges that no further specific agreement to be legally bound shall be required to be given by the FCM Client at the time of the conclusion of such OTC Interest Rate Derivative Transaction.

1.6.5 For as long as the FCM Clearing Member acts as agent for the FCM Client in accordance with this Part 5, the FCM Client and Eurex Clearing AG shall discharge all present and future delivery and payment obligations which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions to each other by payment and delivery, respectively, only through the FCM Clearing Member.

1.6.6 The FCM Client and Eurex Clearing AG agree that (without prejudice to Number 1.6.5) Eurex Clearing AG is entitled and obliged to discharge all present and future delivery and payment obligations (including, without limitation, any Difference Claim of the FCM Client

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against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions) which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions solely by payment and delivery, respectively, to the FCM Clearing Member and, following the occurrence of a U.S. Bankruptcy Event (as defined in Number 8.1.2) with respect to the FCM Clearing Member, to the Bankruptcy Trustee (as defined in Number 8.7.2) of the FCM Clearing Member. Any such payment or delivery by Eurex Clearing AG to the FCM Clearing Member or its Bankruptcy Trustee will discharge (*erfüllen*) the relevant payment or delivery obligation of Eurex Clearing AG to the FCM Client under the FCM Client Standard Agreement or the FCM Client Transactions. The FCM Client hereby irrevocably authorises the FCM Clearing Member to collect any Difference Claim of the FCM Client against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions and the FCM Client agrees that such authorisation may not be revoked as a result of the occurrence of a U.S. Bankruptcy Event with respect to the FCM Clearing Member.

Eurex Clearing AG agrees that (without prejudice to the FCM Clearing Member's obligations arising under the FCM Clearing Member Guarantee and to Number 1.6.5) the FCM Clearing Member is entitled to discharge (*erfüllen*) all present and future delivery and payment obligations of the FCM Client which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions by payment and delivery, respectively, to Eurex Clearing AG. Any such payment or delivery by the FCM Clearing Member to Eurex Clearing AG will discharge (*erfüllen*) the relevant payment or delivery obligation of the FCM Client to Eurex Clearing AG under the FCM Client Standard Agreement or the FCM Client Transactions.

1.6.7 By entering into the Clearing Agreement with Eurex Clearing AG and the FCM Client, the FCM Clearing Member grants the following unlimited guarantee to Eurex Clearing AG (the "**FCM Clearing Member Guarantee**"):

- (1) The FCM Clearing Member unconditionally and irrevocably guarantees (*garantiert*) upon first demand (*auf erstes Anfordern*) by Eurex Clearing AG by way of an independent abstract obligation to perform (*selbständiges, abstraktes Leistungsversprechen*) to Eurex Clearing AG the due and punctual performance by the FCM Client of all present and future obligations of the FCM Client (including, without limitation, any payment and delivery obligations, such as any Difference Claim) that are or will be owed by the FCM Client to Eurex Clearing AG under or in connection with any Clearing Agreement, the relevant FCM Client Standard Agreement and/or any FCM Client Transaction.
- (2) The FCM Clearing Member Guarantee constitutes an unsubordinated obligation of the FCM Clearing Member and shall rank at least *pari passu* with any other unsubordinated obligations of the FCM Clearing Member (save for secured obligations, to the extent of the collateral provided, and any mandatory provisions of law).



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- (3) The FCM Clearing Member Guarantee is a continuing guarantee and will extend to all obligations that are or will be owed by the FCM Client to Eurex Clearing AG under or in connection with any Clearing Agreement, any FCM Client Standard Agreement and/or any FCM Client Transaction, regardless of any intermediate payment or discharge in whole or in part. If any discharge, release or arrangement is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the FCM Clearing Member under the FCM Clearing Member Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred. Performance under the FCM Clearing Member Guarantee may also be required if Eurex Clearing AG had received any performance from the FCM Client, but was subsequently required to repay the amount received, or return the performance received, in accordance with any provisions of mandatory law (including, without limitation, insolvency, liquidation or administration provisions) and has made the relevant payment or return.
- (4) The obligations of the FCM Clearing Member under the FCM Clearing Member Guarantee shall, subject to Number 1.6.8 below, be separate and independent from the obligations of the FCM Client vis-à-vis Eurex Clearing AG and shall exist irrespective of the legality, validity and binding effect or enforceability of Eurex Clearing AG's claims against the FCM Client. The FCM Clearing Member may, in respect of its obligations under the FCM Clearing Member Guarantee, not raise any objections that the FCM Client may have in respect of its obligations vis-à-vis Eurex Clearing AG (including, without limitation, any personal defences of the FCM Client (*Einreden des Hauptschuldners*) or any right of revocation (*Anfechtung*) or set-off (*Aufrechnung*) of the FCM Client). The FCM Clearing Member Guarantee does not constitute a suretyship (*Bürgschaft*) and no rights of Eurex Clearing AG shall pass to the FCM Clearing Member upon the payment of any amount under the FCM Clearing Member Guarantee.
- (5) The FCM Clearing Member waives any right it may have of first requiring Eurex Clearing AG to proceed against or enforce any other rights or security or claim payment from any person (including the FCM Client) before claiming from the FCM Clearing Member under the FCM Clearing Member Guarantee.
- (6) If the FCM Clearing Member is required by law to make any deductions or withholdings from payments under the FCM Clearing Member Guarantee, the FCM Clearing Member shall pay such additional amounts as may be necessary in order that the net amount received by Eurex Clearing AG after such deductions or withholdings (including any required deduction or withholding on such additional amounts) shall equal the amount that Eurex Clearing AG would have received had no such deductions or withholdings been made.

1.6.8 The obligations of the FCM Clearing Member under the FCM Clearing Member Guarantee and the obligations of the FCM Client to which the FCM Clearing Member Guarantee relates shall not constitute a joint and several liability (*keine Gesamtschuld*). If and to the extent the FCM Clearing Member has discharged any obligation subsisting under the FCM Clearing

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Member Guarantee, the corresponding obligation of the FCM Client to Eurex Clearing AG shall be discharged.

- 1.6.9 Any recourse, reimbursement or other claims of the FCM Clearing Member against the FCM Client resulting from the performance by the FCM Clearing Member of any claims arising under the relevant Clearing Agreement (including under the FCM Clearing Member Guarantee) or of any obligations of the FCM Client are solely a matter of, and subject to, the FCM Client Clearing Agreement, unless otherwise set out in this Part 5.
- 1.6.10 The FCM Clearing Member shall participate in any default management process in accordance with the General Clearing Provisions. The FCM Client shall not be obliged or entitled to participate in any default management process.

## 2 Content of Clearing Agreement and FCM Client Standard Agreement

### 2.1 Construction

- 2.1.1 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 is entered into by Eurex Clearing AG, a FCM Clearing Member and a FCM Client, such Clearing Agreement will provide for terms and conditions applying (i) between Eurex Clearing AG, the FCM Clearing Member and the FCM Client and (ii) between Eurex Clearing AG and the FCM Client with respect to the FCM Client Standard Agreement and the FCM Client Transactions of such FCM Client.
- 2.1.2 All rights and obligations between Eurex Clearing AG and the FCM Client with respect to FCM Client Transactions under the Clearing Agreement pursuant to Number 2.1.1 shall constitute a separate arrangement (each such arrangement a “**FCM Client Standard Agreement**”). All FCM Client Transactions and all Redelivery Claims between Eurex Clearing AG and the relevant FCM Client arising pursuant to the U.S. Clearing Model Provisions under the relevant FCM Client Standard Agreement form a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual FCM Client Transactions and subject to the provisions of this Part 5 stipulating specific requirements for terminations) can be terminated only in its entirety.

FCM Client Transactions, FCM Client Margin, FCM Client Variation Margin, Redelivery Claims and any other rights and obligations under each FCM Client Standard Agreement relating to the relevant FCM Client will be separate from:

- (a) all FCM Client Transactions, FCM Client Margin, FCM Client Variation Margin, any Redelivery Claims, and any other rights and obligations under any other FCM Client Standard Agreement relating to any other FCM Client (if any),
- (b) all Own Transactions, Margin, Variation Margin, any Redelivery Claims and any other rights and obligations under the Elementary Proprietary Standard Agreement of the FCM Clearing Member with Eurex Clearing AG, and

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(c) all other Standard Agreements, Transactions, Margin, Variation Margin, Redelivery Claims and any other rights and obligations under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~and~~ the Net Omnibus Clearing Model Provisions and the Basic Clearing Member Provisions.

2.1.3 The FCM Clearing Member and the FCM Client may, in their FCM Client Clearing Agreement, agree on additional terms to the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 to the extent those additional terms do not conflict with such Clearing Agreement. In the event of any inconsistencies between any such FCM Client Clearing Agreement (as amended from time to time) and the Clearing Agreement, the Clearing Agreement shall always prevail.

## **2.2 General principles applicable to the settlement of FCM Client Transactions and any Delivery and Redelivery of FCM Client Margin or FCM Client Variation Margin**

2.2.1 Subject to Numbers 1.6.5 and 1.6.6, each party to the FCM Client Standard Agreement (and, with respect to any obligations of the FCM Client, the relevant FCM Clearing Member pursuant to the FCM Clearing Member Guarantee) shall be obliged to fulfil any payment obligations under the FCM Client Transactions or obligations to deliver or redeliver cover in respect of either the FCM Client Margin in the form of cash or the FCM Client Variation Margin under the relevant FCM Client Standard Agreement by transferring to the transferee all right, title and interest in and to the Eligible Margin Assets in the form of cash free and clear of any and all rights and claims of the transferring party and of any third person, howsoever arising, including, without limitation, pursuant to applicable law or regulation or under any statutory or other trust. The value of such assets shall, as of the date the transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

2.2.2 The actual payment of Eligible Margin Assets in the form of cash in respect of FCM Client Margin or FCM Client Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for repayment of equivalent assets in the same amount as such Eligible Margin Assets actually delivered (or increases an already existing repayment or redelivery claim; each such claim shall be referred to as a **"Redelivery Claim"**). Each such Redelivery Claim shall be allocated to the relevant FCM Client Standard Agreement.

In the case of FCM Client Margin in the form of cash, only the FCM Client may be the creditor of the relevant Redelivery Claim and in the case of FCM Client Variation Margin, Eurex Clearing AG or the FCM Client may be the creditor of the relevant Redelivery Claim.

For the purpose of the relevant Redelivery Claim, the term **"equivalent"** means the same amount in the same currency as such Eligible Margin Assets actually delivered in respect of the FCM Client Margin or the FCM Client Variation Margin.

A Redelivery Claim will become due with respect to (i) FCM Client Margin in the form of cash (a) upon receipt of a respective declaration from the FCM Clearing Member (on behalf of the FCM Client) by Eurex Clearing AG prior to the then applicable cut-off time of any Business

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Day, as specified by Eurex Clearing AG on its website [www.eurexclearing.com](http://www.eurexclearing.com) for cash with respect to the relevant currency and if and to the extent the relevant applicable Default FCM Client Margin Requirement (as defined in Number 5.2) is below the aggregate value of all Eligible Margin Assets actually delivered in respect of the FCM Client Margin or (b) in accordance with Number 5.3.1 Paragraph (3) and (ii) with respect to the FCM Client Variation Margin in accordance with Number 6, in each case provided that no FCM Client Termination Date or Termination Date has occurred with respect to the FCM Client or its FCM Clearing Member, respectively.

2.2.3 Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the term **“actually delivered”** when used in the U.S. Clearing Model Provisions means

- (i) the actual credit of an Eligible Margin Asset in the form of cash to the relevant Eurex Clearing AG cash account or, as the case may be, the actual entry on the Internal FCM Client Margin Account pursuant to Number 5.3.1 Paragraph (3), or
- (ii) an Eligible Margin Asset in the form of Securities has been credited to the relevant FCM Client Pledged Securities Account and such Eligible Margin Asset is subject to a valid pledge in accordance with Number 5.7.1 Paragraph (3), or
- (iii) in the event of a set-off pursuant to Number 4, the legal effectiveness of such set-off.

The term **“actual delivery”** shall be interpreted accordingly.

Where reference is made in the U.S. Clearing Model Provisions to the **“aggregate value”** of Eligible Margin Assets in connection with the assessment of compliance with the Default FCM Client Margin Requirement or an obligation to deliver or redeliver cover in respect of the FCM Client Margin or the FCM Client Variation Margin, as applicable, the aggregate value will be determined by Eurex Clearing AG in accordance with Number 3.2.2 of the General Clearing Provisions.

## 2.3 **Obligation of the FCM Clearing Member to forward Assets**

Whenever (a) the FCM Clearing Member has received from Eurex Clearing AG a cash amount to settle a FCM Client Transaction, (b) the FCM Clearing Member has received from Eurex Clearing AG Eligible Margin Assets in the form of cash to deliver or redeliver cover in respect of FCM Client Margin or FCM Client Variation Margin under the relevant FCM Client Standard Agreement or (c) a pledge over Eligible Margin Assets in the form of Securities that have been provided as FCM Client Margin to Eurex Clearing AG has lapsed or has been released, the FCM Clearing Member shall – always subject to Number 5.3.1 Paragraph (3) and any applicable termination provisions (including, without limitation, Number 8.1) – promptly transfer the same cash amount or the same amount of equivalent Eligible Margin Assets to the relevant FCM Client or credit such cash amount or such amount of equivalent Eligible Margin Assets to the FCM Client in the books and records of the FCM Clearing Member. The same applies with respect to a redelivery of non-Eligible Margin Assets.

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Whenever the FCM Clearing Member has received an amount of Eligible Margin Assets from the FCM Client for delivery of cover in respect of FCM Client Margin or FCM Client Variation Margin under the relevant FCM Client Standard Agreement to Eurex Clearing AG, the FCM Clearing Member shall promptly transfer (or, in the case of Securities, pledge) the same amount of equivalent Eligible Margin Assets to Eurex Clearing AG as FCM Client Margin or FCM Client Variation Margin, as relevant, in respect of the FCM Client Standard Agreement of such FCM Client.

### **3 Internal Accounts; Books and Records**

In addition to the internal accounts set out in Number 4.2 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to each FCM Clearing Member (acting in its capacity as agent for one or more FCM Clients pursuant to this Part 5) the following internal accounts:

#### **3.1 Transaction Accounts**

Eurex Clearing AG opens and maintains with respect to each FCM Clearing Member one transaction account with respect to own transactions of each FCM Client (each a **“FCM Client Own Account”**) in which the FCM Client Transactions of the relevant FCM Client shall be booked.

#### **3.2 Internal Cash Accounts for FCM Client Transactions**

With respect to each currency accepted by it, Eurex Clearing AG shall establish and maintain for each FCM Client of the FCM Clearing Member one internal cash account for the settlement of claims, into which all daily settlement payments, fees and other cash payment obligations arising under FCM Client Transactions or under the Clearing Conditions with respect or relating to the relevant FCM Client Standard Agreement shall be booked.

The daily balance of each internal cash account (after taking into account the set-offs pursuant to the Clearing Conditions) shall be debited or credited, as the case may be, to the respective U.S. Clearing Member Cash Account of the FCM Clearing Member to the extent that Eurex Clearing AG does not claim any credit balance in such account as FCM Client Margin or FCM Client Variation Margin.

#### **3.3 Internal Margin Accounts for FCM Client Standard Agreements**

Eurex Clearing AG will establish and maintain for each FCM Clearing Member an internal client margin account with respect to each FCM Client Standard Agreement (each an **“Internal FCM Client Margin Account”**) in which all Eligible Margin Assets that have been actually delivered to Eurex Clearing AG as FCM Client Margin in respect of such FCM Client Standard Agreement will be recorded.

Subject to Numbers 5.3.1 Paragraph (3) and 5.3.2 Paragraph (3),

- (i) all credits and debits of Securities to the relevant FCM Client Pledged Securities Account, and

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- (ii) all daily cash credits or debits in respect of FCM Client Margin to the U.S. Clearing Member Cash Accounts of the FCM Clearing Member,

will be allocated to the relevant FCM Client Standard Agreement and recorded on the relevant Internal FCM Client Margin Account.

### **3.4 Records of the FCM Clearing Member; Method of assigning Eligible Margin Assets to a FCM Client Standard Agreement**

The FCM Clearing Member shall establish and maintain records with respect to all FCM Client Transactions under each FCM Client Standard Agreement detailing (i) all FCM Client Transactions, (ii) all payments under the FCM Client Transactions, (iii) all FCM Client Margin and FCM Client Variation Margin actually delivered and (iv) all Redelivery Claims relating to such FCM Client Standard Agreement.

The FCM Clearing Member shall establish and provide to Eurex Clearing AG a specific customer identifier with respect to each of its FCM Clients. Any transfer by the FCM Clearing Member (acting for the account of an FCM Client) of Eligible Margin Assets in the form of cash to Eurex Clearing AG in respect of FCM Client Margin or FCM Client Variation Margin as well as of any Eligible Margin Assets in the form of Securities in respect of FCM Client Margin to the relevant FCM Client Pledged Securities Account shall clearly refer to the applicable customer identifier.

### **3.5 Books and Records**

Eurex Clearing AG undertakes to maintain all books and records relating to FCM Client Transactions in compliance with any applicable rules and regulations of the CFTC.

## **4 Set-off**

- 4.1 Unless otherwise provided in the relevant Special Clearing Provisions, Eurex Clearing AG is at any time entitled to set off (i) its claims vis-à-vis a FCM Clearing Member (except for any claims under or in relation to the Elementary Proprietary Standard Agreement) against claims of such FCM Clearing Member (except for any claims under or in relation to the Elementary Proprietary Standard Agreement) vis-à-vis Eurex Clearing AG or (ii) Eurex Clearing AG's claims vis-à-vis a FCM Client against claims of such FCM Client vis-à-vis Eurex Clearing AG, in each case subject to and in accordance with the rules set forth below. For the avoidance of doubt, Eurex Clearing AG is not entitled to set off its claims vis-à-vis the FCM Clearing Member against claims of a FCM Client or to set off Eurex Clearing AG's claims vis-à-vis one FCM Client against claims of another FCM Client.

FCM Clearing Members and FCM Clients are only entitled to set off own claims that are uncontested or have been finally and non-appealably established with claims of Eurex Clearing AG.

- 4.2 Any claim of Eurex Clearing AG and the FCM Client under an FCM Client Standard Agreement, including claims to provide cover in respect of FCM Client Margin or FCM Client

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Variation Margin pursuant to Numbers 5 and 6, may only be set off against claims arising from FCM Client Transactions under the same FCM Client Standard Agreement or claims to provide cover in respect of FCM Client Margin or FCM Client Variation Margin pursuant to Numbers 5 and 6 of the respective other party under the same FCM Client Standard Agreement.

- 4.3 Claims of Eurex Clearing AG arising under the FCM Clearing Member Guarantee may not be set off against any claims of the FCM Clearing Member against Eurex Clearing AG (unless such claims of the FCM Clearing Member against Eurex Clearing AG are uncontested or have been finally and non-appealably established).
- 4.4 Number 1.3.1 of the General Clearing Provisions shall not apply, provided that Number 1.3.1 Paragraph (1) sub-paragraphs (f) and (g) of the General Clearing Provisions shall apply *mutatis mutandis* to a set-off by Eurex Clearing AG in accordance with this Number 4.
- 4.5 The provisions of Number 4.1 to 4.4 shall also serve the purpose of complying with CFTC Rules 22.2 (a), (d) and 22.3 (c).

## **5 FCM Client Margin**

### **5.1 General Obligation to provide FCM Client Margin**

- 5.1.1 The FCM Client is required to provide margin for all FCM Client Transactions under the relevant FCM Client Standard Agreement ("**FCM Client Margin**") in such amounts, in such forms and at such times as are required pursuant to this Number 5 and the Special Clearing Provisions.
- 5.1.2 The purpose of FCM Client Margin actually delivered under the relevant FCM Client Standard Agreement in the form of cash is to collateralise all claims (whether present, future, actual, contingent or prospective) of Eurex Clearing AG arising under FCM Client Transactions, any Difference Claim and any other present and future claims of Eurex Clearing AG against the FCM Client under the relevant FCM Client Standard Agreement.

### **5.2 The Margin Requirement**

- 5.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of the relevant Margin for each FCM Client Standard Agreement shall be determined in accordance with Number 3.1 of the General Clearing Provisions also taking into account all Original OTC Transactions which are to be novated in the course of the novation process (the "**Default FCM Client Margin Requirement**").
- 5.2.2 Eurex Clearing AG will determine the Default FCM Client Margin Requirement separately with respect to each FCM Client Standard Agreement, based on the margin requirement for the FCM Client Transactions included in the relevant FCM Client Standard Agreement.

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5.2.3 The Default FCM Client Margin Requirement with respect to each FCM Client Standard Agreement will be notified by Eurex Clearing AG to the FCM Clearing Member and the relevant FCM Client.

5.2.4 Non-compliance with the Default FCM Client Margin Requirement by the FCM Clearing Member (under the FCM Clearing Member Guarantee) shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Provisions, unless such non-compliance has been remedied by the FCM Clearing Member by the time the Termination would occur.

### **5.3 Margin Call**

#### **5.3.1 Margin Calls and direct debit prior to the end of a Business Day**

- (1) If Eurex Clearing AG at any time prior to the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of FCM Client Margin is less than the applicable Default FCM Client Margin Requirement under the relevant FCM Client Standard Agreement, Eurex Clearing AG will require the FCM Client or the FCM Clearing Member (under the FCM Clearing Member Guarantee) to provide (additional) Eligible Margin Assets in an amount up to the relevant Default FCM Client Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Number 5.3.1 Paragraph (1), Eurex Clearing AG shall be entitled to (and without having an obligation towards the FCM Client or the FCM Clearing Member to do so, will on or around the time specified) directly debit the relevant U.S. Clearing Member Cash Account of the FCM Clearing Member in an amount equal to the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant FCM Client Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the FCM Client).
- (3) If a FCM Clearing Member elects to deliver, for the account of such FCM Client, (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to FCM Client Margin under a specific FCM Client Standard Agreement, then:
  - (i) The FCM Clearing Member shall notify Eurex Clearing AG of such election;
  - (ii) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account of such FCM Clearing Member and the respective credit entry in the Internal FCM Client Margin Account with such cash credit being allocated to the FCM Client Standard Agreement and being recorded as having been provided by the FCM Clearing Member from its own assets; and



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- (iii) the related Redelivery Claim under the Elementary Proprietary Standard Agreement between Eurex Clearing AG and such FCM Clearing Member shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal FCM Client Margin Account and an equivalent Redelivery Claim arises under the FCM Client Standard Agreement.

### 5.3.2 Margin Calls and direct debit at the end of a Business Day

- (1) If Eurex Clearing AG at the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of FCM Client Margin is less than the applicable Default FCM Client Margin Requirement under the relevant FCM Client Standard Agreement, Eurex Clearing AG will require the FCM Client or the FCM Clearing Member (under the FCM Clearing Member Guarantee) to provide (additional) Eligible Margin Assets in the form of cash in the Clearing Currency in an amount sufficient to satisfy the Default FCM Client Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Number 5.3.2 Paragraph (1), Eurex Clearing AG shall be entitled to (and without having an obligation towards the FCM Client or the FCM Clearing Member to do so, will on or around the time specified) directly debit the relevant U.S. Clearing Member Cash Account of the FCM Clearing Member in the amount determined pursuant to Number 5.3.2 Paragraph (1) in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant FCM Client Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the FCM Client).
- (3) Number 5.3.1 Paragraph (3) shall apply *mutatis mutandis*.

### 5.4 FCM Client Excess Margin

The FCM Clearing Member (for the account of the FCM Client) may provide Eligible Margin Assets to Eurex Clearing AG in excess of the Default FCM Client Margin Requirement under the relevant FCM Client Standard Agreement (the “**FCM Client Excess Margin**”). Any FCM Client Excess Margin actually delivered shall form part of the relevant FCM Client Margin and shall, if and to the extent that such FCM Client Excess Margin consists of cash, be subject to a Redelivery Claim under the relevant FCM Client Standard Agreement.

Eurex Clearing AG will book any Eligible Margin Asset delivered to it as FCM Client Excess Margin into the relevant Internal FCM Client Margin Account and shall record the Eligible Margin Asset in the Internal FCM Client Margin Account as an Eligible Margin Asset delivered by the FCM Clearing Member (either from the FCM Clearing Member's own assets or from assets obtained by the FCM Clearing Member from the FCM Client) for the account of the FCM Client.

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## **5.5 Obligation of the FCM Clearing Member to request Margin from the FCM Client; Segregation by the FCM Clearing Member**

- 5.5.1 Each FCM Clearing Member is required to separately demand margin from its FCM Client in an amount at least equal to the Default FCM Client Margin Requirement for the FCM Client Transactions under the relevant FCM Client Standard Agreement (as determined by Eurex Clearing AG pursuant to this Number 5).
- 5.5.2 Each FCM Clearing Member shall establish and maintain one or more account(s) for its FCM Clients with a permitted depository in accordance with the CEA and CFTC regulations (a "**Permitted Depository**"), which are segregated in accordance with the CEA and CFTC regulations and contain the margin collateral delivered by its FCM Clients pursuant to Number 5.5.1 in connection with FCM Client Transactions cleared for such FCM Clients by such FCM Clearing Member.
- 5.5.3 Such account(s) shall be maintained by the FCM Clearing Member with a Permitted Depository and the name of each such account shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Before depositing margin collateral delivered by FCM Clients to the FCM Clearing Member with a Permitted Depository, the FCM Clearing Member shall obtain and retain in its files a separate written acknowledgement letter from each Permitted Depository in accordance with CFTC Rule 22.5. Each FCM Clearing Member shall treat margin collateral delivered by FCM Clients as belonging to such FCM Clients. All FCM Client margin collateral shall be separately accounted for, and shall not be commingled with the money, securities or property of an FCM Clearing Member or of any other person, or be used to secure or guarantee the transactions of any other person.
- 5.5.4 Numbers 5.5.2 and 5.5.3 shall apply *mutatis mutandis* in respect of each FCM Client Pledged Securities Account of a FCM Clearing Member.

## **5.6 Delivery of Eligible Margin Assets in the form of Cash**

Eligible Margin Assets in form of cash for the purposes of granting FCM Client Margin shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. If, in the case of a Margin Call with respect to FCM Client Margin, the FCM Clearing Member (acting for the account of the relevant FCM Client) transfers Eligible Margin Assets in form of cash, the FCM Clearing Member shall transfer such cash into Eurex Clearing AG's FCM Client TARGET2 Account (as defined in Number 5.8.1 below) maintained with Deutsche Bundesbank and stating the specific customer identifier pursuant to Number 3.4.

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

- 5.7.1 In order to provide Eligible Margin Assets in the form of Securities as cover in respect of the FCM Client Margin in respect of a FCM Client Standard Agreement, the FCM Clearing

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Member (acting for the account of the relevant FCM Client) shall transfer Eligible Margin Assets in the form of Securities to the relevant FCM Client Pledged Securities Account.

- (1) The FCM Clearing Member shall instruct Clearstream Banking AG in a timely manner to transfer the relevant Securities to the relevant FCM Client Pledged Securities Account and authorises Clearstream Banking AG to inform Eurex Clearing AG of such transfer.
- (2) In relation to Securities credited to any FCM Client Pledged Securities Account that confer voting rights or other optional rights on the FCM Clearing Member (including, but not limited to, warrants, options, conversion and subscription rights, rights in connection with takeovers, other forms of offers or capital reorganisations, redemption rights, tenders, options to tender or non-mandatory puts or calls) or that provide for discretionary action or alternative courses of action by the FCM Clearing Member, Eurex Clearing AG shall not be responsible for exercising such voting or optional rights or for taking up such discretionary actions or alternative courses of action; the FCM Clearing Member shall remain responsible in this respect.
- (3) The FCM Clearing Member shall, by way of one or more separate pledge agreements and in the form and upon terms satisfactory to Eurex Clearing AG, grant pledges to Eurex Clearing AG over all Securities which are at present or will in the future be credited to the relevant FCM Client Pledged Securities Account.

5.7.2 The security purpose (*Sicherungszweck*) of each pledge granted to Eurex Clearing AG in accordance with this Number 5.7 shall be to secure all present and future claims of Eurex Clearing AG against the FCM Client arising under the relevant Clearing Agreement, the relevant FCM Client Standard Agreement and all FCM Client Transactions under the FCM Client Standard Agreement with the FCM Client.

5.7.3 To the extent required or expedient under applicable U.S. laws or regulations, the FCM Clearing Member will arrange for the due filing and registration with any relevant competent authority or register of any collateral granted or to be granted pursuant to or in accordance with this Number 5.7 and will evidence the due filing and registration of such security interest to Eurex Clearing AG.

## **5.8 Treatment of FCM Client Margin by Eurex Clearing AG**

5.8.1 Eligible Margin Assets in the form of cash delivered to Eurex Clearing AG as FCM Client Margin shall be maintained on a separate TARGET2-account of Eurex Clearing AG at Deutsche Bundesbank which is reserved for all cash delivered to Eurex Clearing AG as FCM Client Margin ("**FCM Client TARGET2 Account**").

5.8.2 The FCM Client TARGET2 Account shall, subject to the other provisions of this Number 5, be maintained in a manner compliant with applicable provisions of the CEA and the CFTC Regulations on "Cleared Swaps Customer Accounts", including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The Eligible Margin Assets booked on such account shall be maintained separately from any and all assets of the FCM Clearing Members or any other assets that Eurex Clearing AG is holding for or with respect to

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customers other than FCM Clients and shall contain no assets other than Eligible Margin Assets provided with respect to FCM Client Transactions.

5.8.3 All Eligible Margin Assets received by Eurex Clearing AG from, or for the account of, a FCM Client as FCM Client Margin shall be separately accounted for and segregated with respect to the relevant individual FCM Client. For purposes of complying with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), Eurex Clearing AG shall treat the value of all Eligible Margin Assets delivered by or for the account of each FCM Client as being allocated to such individual FCM Client and such amount shall be credited to such FCM Client's applicable Internal FCM Client Margin Account and shall not be used to margin, guarantee, or secure any Own Transaction or other obligations of the FCM Clearing Member or of any other FCM Client.

5.8.4 The name of each account in which Eligible Margin Assets delivered to Eurex Clearing AG as FCM Client Margin are deposited shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Eurex Clearing AG shall obtain and retain in its files for the period provided by CFTC Regulation 1.31 an acknowledgment from each Permitted Depository that it was informed that the Eligible Margin Assets deposited in such accounts are those allocated to FCM Clients and are being held for purpose of complying with the provisions of the CEA and the CFTC Regulations. For the purpose of CFTC Rule 22.8 the situs of the accounts referred to in this Number 5.8.4 shall be deemed to be in the United States.

## **5.9 Redelivery and release of Eligible Margin Assets**

5.9.1 If and to the extent that the aggregate value of all Eligible Margin Assets actually delivered as FCM Client Margin in respect of the relevant FCM Client Standard Agreement exceeds the Default FCM Client Margin Requirement for such FCM Client Standard Agreement, the FCM Client (or the relevant FCM Clearing Member on its behalf and for its account) may either raise a Redelivery Claim in accordance with Number 2.2.2 or, prior to the then applicable cut-off time specified by Eurex Clearing AG in relation to Clearstream Banking AG with respect to any Business Day, require Eurex Clearing AG (by submitting a release request) to release its pledge over pledged Securities actually delivered in respect of FCM Client Margin in respect of such FCM Client Standard Agreement, unless the FCM Clearing Member (acting on behalf of the relevant FCM Client) and Eurex Clearing AG agree otherwise. Such release request shall be processed by Eurex Clearing AG during that same Business Day if such request is received by Eurex Clearing prior to the applicable cut-off time and, if such request is received after such cut-off time, on the next Business Day.

5.9.2 The relevant FCM Clearing Member on behalf of the relevant FCM Client may select which Eligible Margin Assets credited to the Internal FCM Client Margin Account shall be redelivered or, as applicable, released from the pledge. Eurex Clearing AG will not and shall not be obliged to check whether there is, and whether the FCM Clearing Member complies with, any agreement between the FCM Clearing Member and the FCM Client.

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5.9.3 The relevant Redelivery Claim is ~~fulfilled-discharged~~ by Eurex Clearing AG if the relevant cash amount has been credited to the relevant account of the relevant FCM Clearing Member or to an account of a correspondent bank designated by the FCM Clearing Member. ~~Booking~~ Such discharge shall occur irrespective of any booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central securities depository or the correspondent bank ~~are in the responsibility of the FCM Clearing Member.~~

## 6 FCM Client Variation Margin

### 6.1 General Obligation to provide FCM Client Variation Margin

6.1.1 Each of Eurex Clearing AG and the FCM Client shall be required to transfer, with respect to each FCM Client Standard Agreement separately, (additional) cover in respect of daily profits or losses for all FCM Client Transactions under each FCM Client Standard Agreement (“**FCM Client Variation Margin**”) in such amounts and at such times as are required pursuant to this Number 6.

6.1.2 The FCM Clearing Member is required to separately demand cover in respect of daily profits or losses arising in respect of the FCM Client Transactions from each FCM Client in an amount not less than the FCM Client Variation Margin Requirement.

### 6.2 FCM Client Variation Margin Requirement

6.2.1 Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of FCM Client Variation Margin.

6.2.2 With respect to the relevant FCM Client Standard Agreement, the amount of Eligible Margin Assets in form of cash to be delivered by the party obliged to provide FCM Client Variation Margin (the “**FCM Client Variation Margin Provider**”) to the other party (the “**FCM Client Variation Margin Taker**”) as cover in respect of the relevant FCM Client Variation Margin (the “**FCM Client Variation Margin Requirement**”) shall be determined in accordance with Chapter VIII Part 2 Number 2.1.6 of the Clearing Conditions.

### 6.3 Delivery of FCM Client Variation Margin and Redelivery Claim

6.3.1 FCM Client Variation Margin shall be delivered and/or returned on each Business Day in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 and Number 1.3 of the General Clearing Provisions.

6.3.2 Eligible Margin Assets in the form of cash actually delivered in respect of the relevant FCM Client Variation Margin by the relevant FCM Client Variation Margin Provider will give rise to or increase a Redelivery Claim of such FCM Client Variation Margin Provider against the FCM Client Variation Margin Taker in accordance with Number 2.2.2. Any such Redelivery Claim shall become due if and to the extent that on any subsequent Business Day a profit amount has been determined in respect of the relevant FCM Client Standard Agreement for the benefit of such FCM Client Variation Margin Provider in accordance with Chapter VIII Part 2 Number 2.1.6 (the applicable amount shall be the “**Redelivery Amount**”). However, if

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equivalent Eligible Margin Assets in form of cash have been actually delivered to the FCM Client Variation Margin Provider by the FCM Variation Margin Taker, the value of such Eligible Margin Assets will be applied to reduce (subject to a minimum of zero) the Redelivery Amount and the value of the Redelivery Claim then due. If the profit amount determined for the benefit of the FCM Client Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party itself constitutes a delivery of FCM Client Variation Margin and in this case the FCM Client Variation Margin Provider shall become the FCM Client Variation Margin Taker and vice versa.

- 6.3.3 If, upon the conclusion of a FCM Client Transaction under an FCM Standard Agreement, the terms and conditions of such FCM Client Transaction provide that due to a netting with an applicable initial consideration no actual payment in respect of such FCM Client Variation Margin will occur, an actual delivery in respect of the relevant FCM Client Variation Margin resulting in a corresponding Redelivery Claim shall take place.
- 6.3.4 Eligible Margin Assets in the form of cash delivered to Eurex Clearing AG as FCM Client Variation Margin shall be maintained on the relevant FCM Client TARGET2 Account or on another relevant currency account of Eurex Clearing AG.
- 6.3.5 Each of the accounts referred to in Number 6.3.4 shall, subject to the other provisions of this Number 6, be maintained in a manner compliant with applicable provisions of the CEA and the CFTC Regulations on "Cleared Swaps Customer Accounts", including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The Eligible Margin Assets booked on such accounts shall be maintained separately from any and all assets of the FCM Clearing Members or any other assets that Eurex Clearing AG is holding for or with respect to customers other than FCM Clients and shall contain no assets other than Eligible Margin Assets provided with respect to FCM Client Transactions.
- 6.3.6 All Eligible Margin Assets received by Eurex Clearing AG from, or for the account of, a FCM Client as FCM Client Variation Margin shall be separately accounted for and segregated with respect to the relevant individual FCM Client. For purposes of complying with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), Eurex Clearing AG shall treat the value of all Eligible Margin Assets delivered by or for the account of each FCM Client as being allocated to such individual FCM Client and such amount shall not be used to margin, guarantee, or secure any Own Transaction or other obligations of the FCM Clearing Member or of any other FCM Client.
- 6.3.7 The name of each account in which Eligible Margin Assets delivered to Eurex Clearing AG as FCM Client Variation Margin are deposited shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Eurex Clearing AG shall obtain and retain in its files for the period provided by CFTC Regulation 1.31 an acknowledgment from each Permitted Depository that it was informed that the Eligible Margin Assets deposited in such accounts are those allocated to FCM Clients and are being held for purpose of complying

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with the provisions of the CEA and the CFTC Regulations. For the purpose of CFTC Rule 22.8 the situs of the accounts referred to in this Number 6.3.7 shall be deemed to be in the United States.

## 7 Clearing Fund Contributions for FCM Client Transactions

The FCM Clearing Member shall also pay Contributions to the Clearing Fund with respect to all FCM Client Transactions under each FCM Client Standard Agreement in accordance with Chapter I Part 1 Number 6 of the Clearing Conditions. A FCM Client shall not be entitled or obliged to make contributions to the Clearing Fund.

## 8 Consequences of the occurrence of a Termination Event or Insolvency Termination Event with respect to a FCM Clearing Member

### 8.1 Application

8.1.1 The provisions set forth in this Number 8 apply upon the occurrence of a Termination Event or Insolvency Termination Event with respect to a FCM Clearing ~~Member~~. The provisions of Numbers 8.2 to 8.6 are subject to the provisions of Number 8.7 if a U.S. Bankruptcy Event has occurred with respect to the FCM Clearing Member.

8.1.2 A "**U.S. Bankruptcy Event**" occurs when (a) an order for relief has been entered in a bankruptcy case commenced by or against the FCM Clearing Member under subChapter IV of Chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "**Bankruptcy Code**"), (b) if the FCM Clearing Member is also a stockbroker who is a member of Securities Investor Protection Corporation, a liquidation proceeding (a "**SIPA proceeding**") has been commenced under the U.S. Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq., in which the assets and liabilities of the FCM Clearing Member attributable to its status as a futures commission merchant are administered as a separate estate under subChapter IV, or (c) a proceeding has been commenced against the FCM Clearing Member under Title II of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. § 5301 et seq. (a "**Title II proceeding**").

### 8.2 Suspension or Restriction, Termination, Porting

Upon the occurrence of a Termination Event or Insolvency Termination Event and Termination Date with respect to a FCM Clearing Member (the "**Affected FCM Clearing Member**"),

- (i) the Clearing of new FCM Client Transactions under all FCM Client Standard Agreements of such FCM Clearing Member's FCM Clients shall be suspended; and/or
- (ii) if Eurex Clearing AG declares a Termination in accordance with Number 8.5, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement; or

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- (iii) if the relevant FCM Client submits a Termination Election Notice prior to the Replacement Cut-Off Time, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement; or
- (iv) if the relevant FCM Client does not submit a Replacement Election Notice by the Replacement Cut-off Time or the FCM Clearing Member Replacement Requirements are not met within the Replacement Period, in each case in accordance with Number 8.4, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement, or
- (v) if the relevant FCM Client submits a Replacement Election Notice at or prior to the Replacement Cut-Off Time and the FCM Clearing Member Replacement Requirements are met within the Replacement Period, the existing FCM Client Transactions shall be continued and the FCM Clearing Member will be replaced with the relevant Replacement FCM Clearing Member, in each case in accordance with Number 8.4,

in each case as further set out in this Number 8.

Eurex Clearing AG will notify the CFTC without undue delay of the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date with respect to a FCM Clearing Member and of any intended replacement of the FCM Clearing Member.

### 8.3 Suspension or Restriction of Clearing

If a Termination Event or any of the following events occurs with respect to a FCM Clearing Member:

- (i) the existence of an unremedied breach by the FCM Clearing Member of its Clearing Agreement with Eurex Clearing AG, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;
- (ii) a determination is made by Eurex Clearing AG that a limitation or suspension of Clearing is necessary for it to contain its exposure to the FCM Clearing Member or its FCM Client(s);
- (iii) the suspension or termination (other than a voluntary termination) of the FCM Clearing Member's membership of another clearing house provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG's reasonable opinion, material to the management of the risk of Eurex Clearing AG, and that Eurex Clearing AG first consults or attempts to consult with the FCM Clearing Member and the competent regulatory authorities;
- (iv) the commencement of a ~~Disciplinary Process~~ Disciplinary Procedures as defined in Number 7.2.1(b) (aa) of the General Clearing Provisions against the FCM Clearing Member; or



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- (v) any other event in respect of the U.S. Clearing Member that could materially impact the ability of that FCM Clearing Member to perform its obligations under the Clearing Conditions and the relevant Clearing Agreement,

then Eurex Clearing AG may (taking into account the interests of such FCM Clearing Member and its FCM Clients and provided that such action constitutes a proportionate and reasonable action) one or more times suspend or limit the Clearing pursuant to the U.S. Clearing Model Provisions, of new FCM Client Transactions under all FCM Client Standard Agreements of such FCM Clearing Member's FCM Clients.

Eurex Clearing AG shall notify the Affected FCM Clearing Member and all FCM Clients of such FCM Clearing Member of the decision to suspend or limit the Clearing. Eurex Clearing AG shall specify in the notification a reasonable period of time during which such suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant FCM Clearing Member shall, at the FCM Clearing Member's own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.

Before limiting or suspending the Clearing of new FCM Client Transactions under this Number 8.3, and without limiting its rights under Number 7.2.1 of the General Clearing Provisions and Number 8.5 below, Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the relevant FCM Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the FCM Clearing Member may remedy the event in question. For the avoidance of doubt, in case the relevant event constitutes an Alleged Breach (as defined in the Disciplinary Procedures Rules) Eurex Clearing AG may commence Disciplinary Procedures in respect of the FCM Clearing Member subject to and in accordance with the Disciplinary Procedures Rules.

#### **8.4 Porting in relation to FCM Client Standard Agreements**

8.4.1 For the purposes of this Number 8 and solely with respect to a FCM Client Standard Agreement (including all existing FCM Client Transactions) and all Redelivery Claims relating thereto, a Termination and a Termination Date shall only occur subject to Number 8.6 below.

8.4.2 Unless Eurex Clearing AG has exercised its termination right pursuant to Number 8.5, Eurex Clearing AG shall if

- (1) a Termination Event (other than an Insolvency Termination Event) has occurred with respect to the FCM Clearing Member,
  - (a) if a Grace Period Notice has been given, without undue delay after the end of the relevant Grace Period, and
  - (b) if a Termination Notice has been given, without undue delay after the time specified in the Termination Notice, or

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- (2) an Insolvency Termination Event has occurred with respect to the FCM Clearing Member, without undue delay after the Termination Time,

give notice to all other Clearing Members and the FCM Clients of the Affected FCM Clearing Member in accordance with Number 16.2 of the General Clearing Provisions of (i) the occurrence of the Termination Event or Insolvency Termination Event and (ii) that the Replacement Period commences (the “**Replacement Notice**”).

8.4.3 Upon the receipt of the Replacement Notice, each FCM Client may elect by giving notice to Eurex Clearing AG as soon as possible, but not later than 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date (such Termination Date, for the purpose of this Number 8.4.3 only, being determined as if Number 8.4.1 did not apply) (the “**Replacement Cut-Off Time**”):

- (i) to continue the Clearing of its FCM Client Transactions under the relevant FCM Client Standard Agreement with a Replacement FCM Clearing Member (the “**Replacement Election Notice**”); or
- (ii) not to continue the clearing of its FCM Client Transactions under the relevant FCM Client Standard Agreement and to terminate and close-out its FCM Client Transactions (the “**Termination Election Notice**”).

If Eurex Clearing AG (i) does not receive a Replacement Election Notice by the Replacement Cut-Off Time or (ii) does receive a Termination Election Notice at or prior to the Replacement Cut-Off Time, Number 8.6 below shall apply.

8.4.4 If the FCM Client has provided a Replacement Election Notice by the Replacement Cut-Off Time, this Number 8.4.4 applies.

If, at or prior to the end of the Replacement Period, Eurex Clearing AG determines that all FCM Clearing Member Replacement Requirements in respect of a FCM Client Standard Agreement are fulfilled, all rights and obligations of the Affected FCM Clearing Member arising from the relevant Clearing Agreement appended in the form of Appendix 10 entered into between Eurex Clearing AG, the Affected FCM Clearing Member and the relevant FCM Client in respect of all existing FCM Client Transactions under the relevant FCM Client Standard Agreement (including, without limitation, any obligations under the FCM Clearing Member Guarantee) shall be transferred, by way of an assumption of contract (*Vertragsübernahme*), (a “**Transfer**”) to the new FCM Clearing Member (the “**Replacement FCM Clearing Member**”), and the Affected FCM Clearing Member hereby expressly and irrevocably consents to such Transfer with respect to it in such event.

“**Replacement Period**” means

- (i) if an Insolvency Termination Event has occurred, the period from the occurrence of the Insolvency Termination Event until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day; and

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- (ii) if any other Termination Event has occurred, the period from the publication of the Replacement Notice until (and including) 13:00 hours Frankfurt am Main time on the immediately following Business Day.

Eurex Clearing AG may extend the Replacement Period in order to facilitate a Transfer by giving notice to all Clearing Members and the FCM Clients of the Affected FCM Clearing Member in accordance with Number 16.2 of the General Clearing Provisions.

**“FCM Clearing Member Replacement Requirements”** means all of the following requirements:

- (i) the Replacement FCM Clearing Member is another FCM Clearing Member;
- (ii) the Replacement FCM Clearing Member has agreed with Eurex Clearing AG and the relevant FCM Client in writing on the assumption of contract (*Vertragsübernahme*) pursuant to this Number 8.4.4 in form and substance satisfactory to Eurex Clearing AG;
- (iii) the Replacement FCM Clearing Member and the relevant FCM Client have undertaken to Eurex Clearing AG in form and substance satisfactory to Eurex Clearing AG that they will, no later than five (5) Business Days after the end of the Replacement Period, enter into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 10 unless such Clearing Agreement has already been entered into;
- (iv) the Replacement FCM Clearing Member has represented to Eurex Clearing AG that it meets the minimum funding requirements of CFTC Regulation 1.17 (a) (4); and
- (v) the Replacement FCM Clearing Member has (a) provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover (for the account of the FCM Client) any shortfall in FCM Client Margin and FCM Client Variation Margin in respect of all FCM Client Transactions to which the Transfer relates or (b) committed itself to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets without undue delay following the Transfer.

If, following the receipt of a Replacement Election Notice by the Replacement Cut-Off Time, the FCM Clearing Member Replacement Requirements are not satisfied until the end of the Replacement Period, Number 8.6 shall apply.

8.4.5 Each FCM Client may designate in advance by notice to Eurex Clearing AG another FCM Clearing Member as a potential Replacement FCM Clearing Member for its FCM Client Standard Agreement. The FCM Clearing Member designated as a potential Replacement FCM Clearing Member assumes no obligation to accept a Transfer. The FCM Clearing Member Replacement Requirements apply.

Eurex Clearing AG may provide for further or alternative procedures for the transfer of assets and positions that it deems necessary taking into account applicable laws with respect to any such transfer.

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- 8.4.6 The FCM Clearing Member hereby irrevocably offers to transfer to the Replacement FCM Clearing Member all Eligible Margin Assets in the form of Securities that are credited to the relevant FCM Client Pledged Securities Account at the time when the FCM Clearing Member Replacement Requirements are fulfilled. Such transfer shall be without prejudice to the security interest granted to Eurex Clearing AG in the relevant Securities. The FCM Clearing Member hereby also irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to offer to transfer to the Replacement FCM Clearing Member, on behalf of the FCM Clearing Member, all Eligible Margin Assets in the form of Securities that are credited to the relevant FCM Client Pledged Securities Account at the time when the FCM Clearing Member Requirements are fulfilled and to issue all other statements and to take all other acts on behalf of the FCM Clearing Member that Eurex Clearing AG considers necessary or expedient to effect the transfer of the relevant Securities to the Replacement FCM Clearing Member.
- 8.4.7 Eurex Clearing AG and the FCM Clearing Member agree that, following the transfer of all Eligible Margin Assets in the form of Securities to the Replacement FCM Clearing Member in accordance with Number 8.4.6 above, the security purpose of the security interests held by Eurex Clearing AG in such Securities shall also extend to all present and future claims of Eurex Clearing AG against the Replacement FCM Clearing Member under the relevant Clearing Agreement (in the form appended to the Clearing Conditions as Appendix 10) with such Replacement FCM Clearing Member. If a transfer of Eligible Margin Assets in the form of Securities to the securities account of the Replacement FCM Clearing Member is impossible or impractical due to restrictions of the securities depository bank, custodian or central securities depository used by the Replacement FCM Clearing Member or for other reasons, the FCM Clearing Member hereby irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to liquidate on behalf of the FCM Clearing Member such Eligible Margin Assets in the form of Securities and to appropriate the proceeds of the realisation of such Securities and such proceeds shall then constitute, and be treated as, FCM Client Margin in the form of cash with respect to the relevant FCM Client Standard Agreement (and a corresponding Redelivery Claim shall arise under such FCM Client Standard Agreement pursuant to Number 2.2.2).
- 8.4.8 As a result of a Transfer, the Affected FCM Clearing Member will be released from all its obligations (including under its FCM Clearing Member Guarantee) in relation to the FCM Client Transactions under the relevant FCM Client Standard Agreement that have been transferred to the Replacement FCM Clearing Member and the Replacement FCM Clearing Member shall have assumed such obligations (including the relevant FCM Clearing Member Guarantee) in relation to the FCM Client Transactions under the relevant FCM Client Standard Agreement.
- 8.4.9 After the Transfer, Eurex Clearing AG shall
- (i) book the relevant FCM Client Transactions from the relevant FCM Client Own Account(s) of the Affected FCM Clearing Member to the relevant FCM Client Own Account(s) of the Replacement FCM Clearing Member; and

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- (ii) with respect to the relevant FCM Client Standard Agreement to which the Transfer relates, attribute to the Replacement FCM Clearing Member (acting for the account of the relevant FCM Client), by making appropriate changes to its records, all FCM Client Margin and all FCM Client Variation Margin provided to Eurex Clearing AG in respect of such FCM Client Standard Agreement

and, following such changes to the records, such amounts or assets shall be deemed to constitute FCM Client Margin and FCM Client Variation Margin, respectively, that has been provided by the Replacement FCM Clearing Member for the account of the relevant FCM Client.

#### 8.4.10 During the Replacement Period

- (i) the Clearing of new FCM Client Transactions under each FCM Client Standard Agreement of the Affected FCM Clearing Member's FCM Clients shall always be suspended;
- (ii) all Redelivery Claims of the Affected FCM Clearing Member's FCM Clients with respect to FCM Client Margin in the form of cash and FCM Client Variation Margin shall be deferred (*gestundet*);
- (iii) Eurex Clearing AG shall not be obliged to provide any FCM Client Variation Margin to the Affected FCM Clearing Member's FCM Clients (or the Affected FCM Clearing Member acting for their account).

#### 8.4.11 Partial Transfers

Subject to appropriate arrangements between the Affected FCM Clearing Member, the FCM Client, the Replacement FCM Clearing Member and Eurex Clearing AG (upon terms satisfactory to Eurex Clearing AG), the porting and transfers set out in Numbers 8.4.1 to 8.4.9 may also be made only with respect to some, but not all, FCM Client Transactions under the relevant FCM Client Standard Agreement, provided that, following such porting and transfers, the aggregate value of all Eligible Margin Assets actually delivered to Eurex Clearing AG in respect of FCM Client Margin allocated to the FCM Client Transactions that continue to form part of the existing FCM Client Standard Agreement is equal to or exceeds the applicable Default FCM Client Margin Requirement. In the case of such partial porting and transfer, the assumption of contract by the Replacement FCM Clearing Member shall be limited accordingly and (i) the FCM Client Transactions to which such transfer does not relate (and the relevant Redelivery Claims relating to FCM Client Margin and FCM Client Variation Margin allocated to such FCM Client Transactions) will continue to form part of the existing FCM Client Standard Agreement, a Termination and Termination Date shall occur, and Numbers 8.6.2 to 8.6.5 shall apply with respect to such existing FCM Client Standard Agreement and (ii) the FCM Client Transactions to which such transfer relates (and the relevant Redelivery Claims relating to FCM Client Margin and FCM Client Variation Margin allocated to such FCM Client Transactions) shall become part of a new FCM Client Standard Agreement.

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#### 8.4.12 Other Requirements relating to U.S. Law

Notwithstanding any other requirements of this Number 8.4,

- (1) any Replacement FCM Clearing Member must meet the minimum funding requirements of CFTC Regulation 1.17 (a) (4) or otherwise be approved by the CFTC to receive the porting and transfer;
- (2) following the commencement of a bankruptcy case with respect to the FCM Clearing Member under subChapter IV of Chapter 7 of the Bankruptcy Code or otherwise following the occurrence of a U.S. Bankruptcy Event with respect to the FCM Clearing Member, (a) any FCM Client Margin ported and transferred to a Replacement FCM Clearing Member may not exceed the “funded balance” of the FCM Client Margin as provided in CFTC Regulation 190.06 (e) (2) and (b) Eurex Clearing AG may not effect any porting and transfer that has been disapproved by the CFTC; and
- (3) Eurex Clearing AG may not charge a commission for any porting and transfer.

#### 8.5 Termination Right of Eurex Clearing AG

Upon the occurrence of a Termination Event or Insolvency Termination Event, Eurex Clearing AG shall, in its discretion, unless a Termination Date has already occurred pursuant to Number 8.6 or a porting has been completed pursuant to Numbers 8.4 or 8.7, be entitled to declare a Termination by notice to the FCM Clearing Member and the FCM Client.

#### 8.6 Consequences of a Termination with respect to FCM Client Transactions

8.6.1 A Termination and a Termination Time with respect to the relevant FCM Client Standard Agreement (including all FCM Client Transactions under such FCM Client Standard Agreement) shall occur:

- (i) with effect as of the Replacement Cut-Off Time, if Eurex Clearing AG has not received a Replacement Election Notice or a Termination Election Notice by the Replacement Cut-Off Time; or
- (ii) with effect as of the end of the Replacement Period, if Eurex Clearing AG has received a Replacement Election Notice by the Replacement Cut-Off Time, but the FCM Clearing Member Replacement Requirements are not satisfied until the end of the Replacement Period; or
- (iii) if Eurex Clearing AG has received a Termination Election Notice at or before the Replacement Cut-Off Time, with effect as of the time of receipt of such Termination Election Notice by Eurex Clearing AG; or
- (iv) if Eurex Clearing AG has declared a Termination in accordance with Number 8.5, with effect as of the time of receipt of the related notice by the FCM Clearing Member and the FCM Client.

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If a Termination Date has occurred with respect to a FCM Client Standard Agreement, the following provisions shall apply.

#### 8.6.2 Termination of FCM Client Transactions and Redelivery Claims

All current and future primary obligations (including payment and delivery obligations) under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the FCM Client arising from FCM Client Transactions and any Redelivery Claim under the relevant FCM Client Standard Agreement shall expire (*auflösende Bedingung*) as of the Termination Time and shall no longer be required to be performed by the relevant obligor. Furthermore, all due but unsatisfied obligations in respect of the relevant FCM Client Margin or FCM Client Variation Margin shall expire (*auflösende Bedingung*) as of the Termination Time. The expiration affects all claims arising from FCM Client Transactions under the relevant FCM Client Standard Agreement independent of the time they came into existence or would have come into existence otherwise. These expired primary obligations and delivery obligations, respectively, are reflected by the Difference Claim.

#### 8.6.3 Difference Claim

The difference claim of either Eurex Clearing AG or (subject to the provisions on payment to the FCM Clearing Member set out in Number 1.6.6) the FCM Client under the relevant FCM Client Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 (except for Number 7.3.3) of the General Clearing Provisions using the Liquidation Price Approach (each a "**Difference Claim**") and provided that Eurex Clearing AG shall be the party entitled to value the Difference Claim.

#### 8.6.4 Notification

Eurex Clearing AG shall notify the value of the Difference Claim determined by it with respect to the relevant FCM Client Standard Agreement to the FCM Clearing Member and the FCM Client as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

#### 8.6.5 Payment of Difference Claim

- (1) The debtor of the Difference Claim under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the relevant FCM Client shall pay the determined amount of the Difference Claim as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 8.6.4.
- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

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## 8.7 Special Consequences if a U.S. Bankruptcy Event has Occurred

### 8.7.1 Application

This Number 8.7 applies if a U.S. Bankruptcy Event has occurred with respect to a FCM Clearing Member. Unless otherwise indicated in this Number 8.7, the other provisions of Number 8 also apply. However, if there is any inconsistency between a provision in this Number 8.7 and a provision in Numbers 8.2 to 8.6, the provisions in this Number 8.7 prevail.

### 8.7.2 Termination by Eurex Clearing AG

- (1) Eurex Clearing AG's right to declare a Termination set out in Number 8.5 shall also apply in the case and on account of the occurrence of the U.S. Bankruptcy Event. Upon any such declaration, the provisions of Numbers 8.6.1 (iv) to 8.6.5 will apply, subject, however, to Number 8.7.3 Paragraph (2).
- (2) If a Difference Claim is owing by Eurex Clearing AG to the FCM Client (subject to the provisions on payment to the FCM Clearing Member set out in Number 1.6.6), the FCM Client hereby irrevocably instructs Eurex Clearing AG to pay the determined amount of the Difference Claim for the account of the FCM Client to the trustee (the "**Bankruptcy Trustee**") appointed in the FCM Clearing Member's bankruptcy case or SIPA proceeding, or administering the Title II proceeding with respect to the assets and liabilities of the FCM Clearing Member, and the FCM Client and Eurex Clearing AG agree that only such payment to the Bankruptcy Trustee will discharge such Difference Claim. Any Eligible Margin Assets in the form of Securities attributable to the FCM Client that have not been realised by Eurex Clearing AG in accordance with the security purpose set out in Number 5.7.2 will be released from the pledges as a matter of law.
- (3) If a Difference Claim is owing by the FCM Client to Eurex Clearing AG, the right of Eurex Clearing AG to enforce its pledges over the relevant Eligible Margin Assets in the form of Securities that constitute FCM Client Margin of such FCM Client shall remain unaffected.

### 8.7.3 Further Termination Provisions; Porting in Lieu of Termination

If Eurex Clearing AG has not declared a Termination and a Termination Date with respect to a FCM Client Standard Agreement with a FCM Client, the following provisions apply:

- (1) Eurex Clearing AG will seek to contact the Bankruptcy Trustee to determine whether the FCM Client has chosen the liquidation or the porting of the FCM Client Transactions under the FCM Client Standard Agreement.
- (2) If the Bankruptcy Trustee timely communicates to Eurex Clearing AG that a particular FCM Client has chosen liquidation, Eurex Clearing AG will exercise its termination right pursuant to Number 8.7.2 Paragraph (1) in consultation with the Bankruptcy Trustee and with a view to the Termination of all FCM Client Transactions with the FCM Client occurring within a period (the "**Relevant Period**") of seven calendar days following the entry of the order for relief in the bankruptcy case or the commencement of the SIPA



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proceeding or Title II proceeding or within such longer period as the Bankruptcy Trustee and the CFTC, by order of the bankruptcy court, may approve.

- (3) If the Bankruptcy Trustee timely communicates to Eurex Clearing AG that a particular FCM Client has chosen porting in relation to its FCM Client Transactions or has not made a choice, Eurex Clearing AG will consult with the Bankruptcy Trustee to effect the porting of the FCM Client Transactions with the FCM Client and the porting of FCM Client Margin in the form of cash and FCM Client Variation Margin as well as the transfer of FCM Client Margin in the form of Securities in accordance with the Bankruptcy Code and CFTC Regulation 190.06. As soon as possible, and in any event within three calendar days following the commencement of the Relevant Period, Eurex Clearing AG will give the CFTC notice of Eurex Clearing AG's intent to conduct a porting in relation to the FCM Client Transactions, and, unless the porting and transfer is disapproved by the CFTC, Eurex Clearing AG will complete the porting and transfer within the Relevant Period.
- (4) If a particular FCM Client has designated to Eurex Clearing AG a potential Replacement FCM Clearing Member for its FCM Client Standard Agreement pursuant to the provisions of Number 8.4.5, Eurex Clearing AG will consult with the Bankruptcy Trustee to determine whether a porting in relation to the FCM Client Transactions with the FCM Client to the designated Replacement FCM Clearing Member may be conducted so long as the other requirements of the provisions of Number 8.4 and this Number 8.7 have been satisfied.
- (5) Notwithstanding the provisions of Number 8.4.11, no partial porting in relation to the FCM Client Transactions of any FCM Client will be made unless all of the FCM Client Transactions of the FCM Client cannot be ported or the CFTC otherwise approves of the partial porting.
- (6) Notwithstanding the provisions of Numbers 8.4.6 and 8.4.7, the Bankruptcy Trustee may require that less than all of the FCM Client Margin relating to any FCM Client Transactions with an FCM Client is ported and, as applicable, transferred to the Replacement FCM Clearing Member in order for the Bankruptcy Trustee to comply with the pro rata loss sharing provisions of §§ 766(c) and (h) of the Bankruptcy Code. The FCM Client Margin that is not subject to the porting or transfer will be held by Eurex Clearing AG at the direction of or delivered (including, in the case of Eligible Margin Assets in the form of Securities, by way of release of Eurex Clearing AG's pledges therein) to the Bankruptcy Trustee.

#### 8.7.4 Application of the Bankruptcy Code and CFTC Rule 190 to Payments and Deliveries

Any payment or delivery by Eurex Clearing AG to the Bankruptcy Trustee pursuant to Number 1.6.6 or this Number 8.7, whether as payment of a Difference Claim or any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions or, in the case of release of a pledge of Eligible Margin Assets, at the direction of the Bankruptcy Trustee, will be for the account of the bankruptcy estate of the FCM Clearing Member. The payment or delivery will be

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administered and distributed by the Bankruptcy Trustee for the benefit of those FCM Clients and other “customers” (as defined in § 761(9) of the Bankruptcy Code) of the FCM Clearing Member who have claims against the FCM Clearing Member arising out of cleared swap agreement transactions, all in accordance with the Bankruptcy Code and CFTC Rule 190 including the pro rata loss sharing provisions of §§ 766(c) and (h) of the Bankruptcy Code. No FCM Client will have any claim to or interest in the payment or delivery except in accordance with the distribution rules of the Bankruptcy Code and CFTC Rule 190.

## **9 Insolvency or Default with respect to a FCM Client**

9.1 A “**FCM Client Insolvency Termination Event**” occurs with respect to a FCM Client, when a case commenced by or against the FCM Client under the U.S. Bankruptcy Code or a receiver or other insolvency administrator is appointed for the FCM Client or any of the FCM Client’s assets.

“**FCM Client Default**” for the purpose of this Number 9 means the occurrence of one of the following events with respect to the FCM Client (unless the relevant event has already resulted in a FCM Client Insolvency Termination Event):

### **(1) Insolvency related Events**

Any action, legal proceedings or other procedure or step is taken in relation to any of the following events or any of the following events occurs with respect to the FCM Client:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, termination of existence, liquidation, administration, reorganisation or restructuring (by way of voluntary arrangement, scheme of arrangement or otherwise), bankruptcy, insolvency, judicial management or curatorship;
- (b) a settlement, deferred payment, debt restructuring, transfer, restructuring, composition, compromise, assignment or similar arrangement of the FCM Client with any of its creditors;
- (c) the appointment of a liquidator, trustee, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that FCM Client or any of its assets; or

any analogous procedure or step is taken in any jurisdiction.

### **(2) Failure to comply with Clearing Conditions**

The FCM Client fails to comply with the Clearing Agreement (incorporating the Clearing Conditions) to which it is a party or is in breach of any of its representations given in a Clearing Agreement and such failure is not remedied by the FCM Client or by the FCM Clearing Member under the FCM Clearing Member Guarantee.

### **(3) Violation of Regulatory Provisions**

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Non-compliance with regulatory requirements by the FCM Client, provided that non-compliance with such requirements may, in the reasonable opinion of Eurex Clearing AG, materially impair the proper fulfilment of the obligations of the FCM Client under the relevant FCM Client Standard Agreement.

**(4) Change in Law and other similar Causes**

- (a) Any change takes place in the laws of Germany or the laws applicable to the FCM Client, respectively, or the official interpretation or application of such laws which, in the reasonable opinion of Eurex Clearing AG, have a material adverse impact on the interests or services of Eurex Clearing AG under the Clearing Conditions or the interests of Clearing Members (other than the FCM Clearing Member of such FCM Client), or
- (b) any similar event occurs having a similar adverse impact on the interests or services of Eurex Clearing AG under the Clearing Conditions or the interests of Clearing Members (other than the FCM Clearing Member of such FCM Client).

**(5) Failure to comply with rules of other DCO(s)**

The FCM Client fails to comply in any material respect with the provisions of the rulebook(s) of any other Derivatives Clearing Organisation.

**(6) Termination for serious cause (aus wichtigem Grund)**

Eurex Clearing AG declines to continue the Clearing of FCM Client Transactions with the FCM Client due to the occurrence of an event which gives rise to a serious cause (*wichtiger Grund*) and the continuation of the Clearing of such FCM Client Transactions, taking into account all the circumstances of the specific case and weighing the interests of both parties, cannot reasonably be expected.

9.2 Upon the occurrence of a FCM Client Insolvency Termination Event or a FCM Client Default with respect to a FCM Client, the following provisions of this Number 9 shall apply, provided that if, prior to the FCM Client Insolvency Termination Event or before any of the actions set out in this Number 9 has been taken, a U.S. Bankruptcy Event with respect to the FCM Clearing Member of such FCM Client occurs, the restrictions set out in Number 8.7 shall apply *mutatis mutandis*.

9.3 If at any time a FCM Client Insolvency Termination Event has occurred with respect to the FCM Client, a termination in relation to the FCM Client Standard Agreement (as further specified in Number 9.6) (a "**FCM Client Termination**") shall occur with immediate effect as of such time (the date of such FCM Client Termination being the "**FCM Client Termination Date**" and the respective termination time being the "**FCM Client Termination Time**"). As of such time Eurex Clearing AG will suspend the Clearing pursuant to the U.S. Clearing Model Provisions of new FCM Client Transactions of such FCM Client.

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9.4 If a FCM Client Default occurs with respect to a FCM Client, Eurex Clearing AG may one or more times suspend or limit the Clearing pursuant to the U.S. Clearing Model Provisions of new FCM Client Transactions of such FCM Client.

Eurex Clearing shall notify the affected FCM Client and its FCM Clearing Member of the decision to suspend or limit the Clearing. Eurex Clearing AG shall, unless a FCM Client Default pursuant to Number 9.1 Paragraph (1) has occurred, specify in the notification a reasonable period of time during which such suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant FCM Client shall, at its own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to the FCM Client Default.

Before limiting or suspending the Clearing of new FCM Client Transactions under this Number 9.4, and without limiting its rights under Number 9.5 below, Eurex Clearing AG shall, where reasonable in the circumstances and unless a FCM Client Default pursuant to Number 9.1 Paragraph (2) has occurred, attempt to consult with the relevant FCM Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the FCM Client or its FCM Clearing Member may remedy the event in question.

9.5 If a FCM Client Default has occurred and is continuing with respect to a FCM Client, Eurex Clearing AG may give a written termination notice to such FCM Client (with a copy to its FCM Clearing Member) (the “**FCM Client Termination Notice**”) specifying the date and time on which a FCM Client Termination shall occur.

For such FCM Client Termination, the FCM Client Termination Date will be the date, and the FCM Client Termination Time will be the time, as specified in the FCM Client Termination Notice.

9.6 If a FCM Client Termination Date has occurred with respect to a FCM Client Standard Agreement, the following provisions shall apply:

9.6.1 Termination of FCM Client Transactions and Redelivery Claims

All current and future primary obligations (including payment and delivery obligations) under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the FCM Client arising from FCM Client Transactions and any Redelivery Claim under the relevant FCM Client Standard Agreement shall expire (*auflösende Bedingung*) as of the FCM Client Termination Time and shall no longer be required to be performed by the relevant obligor. Furthermore, all due but unsatisfied obligations in respect of the relevant FCM Client Margin or FCM Client Variation Margin shall expire (*auflösende Bedingung*) as of the FCM Client Termination Time. The expiration affects all claims arising from FCM Client Transactions under the relevant FCM Client Standard Agreement independent of the time they came into existence or would have come into existence otherwise. These expired primary obligations

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and delivery obligations, respectively, are reflected by the Difference Claim (as defined below).

#### 9.6.2 Difference Claim

The difference claim of either Eurex Clearing AG or the FCM Client under the relevant FCM Client Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 (except for Number 7.3.3) of the General Clearing Provisions using the Liquidation Price Approach (each a "**Difference Claim**"), provided that references in such provisions of Number 7.3 of the General Clearing Provisions to "Termination", "Termination Date" and "Termination Time" shall be read as references to "FCM Client Termination", "FCM Client Termination Date" and "FCM Client Termination Time", respectively, and Eurex Clearing AG shall be the party entitled to value the Difference Claim.

#### 9.6.3 Notification

Eurex Clearing AG shall notify the value of the Difference Claim determined by it with respect to the relevant FCM Client Standard Agreement to the FCM Client and the relevant FCM Clearing Member as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

#### 9.6.4 Payment of Difference Claim

- (1) The debtor of the Difference Claim under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the relevant FCM Client shall pay the determined amount of the Difference Claim as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 9.6.3.
- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

#### 9.6.5 Establishment of Own Transactions with the FCM Clearing Member

- (1) By signing the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10, the FCM Clearing Member agrees that, with effect as of the FCM Client Termination Time and without any further action being required, Own Transactions will be established directly between Eurex Clearing AG and the FCM Clearing Member in lieu of the terminated FCM Client Transactions. Each such Own Transaction shall have the same terms and conditions as the corresponding terminated FCM Client Transaction as of the FCM Client Termination Time as if no FCM Client Termination Date had occurred (except that the FCM Clearing Member and not the FCM Client will

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be the contractual counterparty to Eurex Clearing AG). Each Own Transaction so established will form part of the Elementary Proprietary Standard Agreement of the FCM Clearing Member and Eurex Clearing AG and be subject to the Elementary Clearing Model Provisions.

- (2) Upon the establishment of all Own Transactions that correspond to the terminated FCM Client Transactions in accordance with Paragraph (1),
  - (i) if a Difference Claim of Eurex Clearing AG against the FCM Client has been determined pursuant to Number 9.6.2, Eurex Clearing AG shall assign to the FCM Clearing Member such Difference Claim;
  - (ii) if a Difference Claim of the FCM Client against Eurex Clearing AG has been determined pursuant to Number 9.6.2, the FCM Clearing Member shall pay to Eurex Clearing AG an amount equal to such Difference Claim; and
  - (iii) Eurex Clearing AG shall release its pledges over Eligible Margin Assets in the form of Securities provided by the FCM Clearing Member as FCM Client Margin in relation to the terminated FCM Client Transactions if Eurex Clearing AG's claims secured by such pledges have been discharged or, in the case of a Difference Claim of Eurex Clearing AG, assigned to the FCM Clearing Member, unless, in each case, the relevant pledges have lapsed as a matter of law.
- (3) After the FCM Clearing Member (a) in the case of Paragraph (2) (i) above, has, through the FCM Clearing Member Guarantee, discharged all remaining Secured U.S. Clearing Model Claims of Eurex Clearing AG against the FCM Client or the FCM Clearing Member or (b) in the case of Paragraph (2) (ii) above, has paid such amount to Eurex Clearing AG and has, through the FCM Clearing Member Guarantee, discharged all remaining Secured U.S. Clearing Model Claims of Eurex Clearing AG against the FCM Client or the FCM Clearing Member, the FCM Clearing Member Guarantee shall lapse and Eurex Clearing AG shall release its pledges over any Eligible Margin Assets that form part of the FCM Client Margin of the FCM Client (unless such pledges lapse as a matter of law).

## 10 Collateralisation of FCM Client Difference Claim

Eurex Clearing AG will provide collateral to the FCM Client to secure any Difference Claim of the FCM Client against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9. The collateral will be provided by way of pledging to the FCM Client a bank account under German law (each a "**Collateral Account**") at a Permitted Depository of Eurex Clearing AG in which Eurex Clearing AG will deposit sufficient cash funds to cover the Difference Claim as determined from time to time.

The FCM Client irrevocably authorises (*bevollmächtigt*) the FCM Clearing Member to enforce, on behalf of the FCM Client, the pledge over the Collateral Account if and when such pledge becomes enforceable. The FCM Client shall, if a U.S. Bankruptcy Event has

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occurred with respect to the FCM Clearing Member, comply with any instruction of the Bankruptcy Trustee and any order of the relevant bankruptcy court in respect of the enforcement of such pledge and the proceeds of such enforcement.

## 11 Replacement of FCM Clearing Member

Without prejudice to a replacement of an Affected FCM Clearing Member in accordance with Number 8, prior to the occurrence of an Insolvency Termination Event or Termination Event with respect to its FCM Clearing Member, the FCM Client may effect a replacement of its FCM Clearing Member in accordance with this Number 11 with respect to all or some of its FCM Client Transactions under the relevant FCM Client Standard Agreement only with the prior written consent of Eurex Clearing AG, the FCM Clearing Member and a replacement FCM Clearing Member and subject to the prior conclusion of a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 between Eurex Clearing AG, the FCM Client and the replacement FCM Clearing Member. Eurex Clearing AG's consent will not be unreasonably withheld. In order to effect such replacement of a FCM Clearing Member on a Business Day, all or, in the case of a partial transfer, the relevant rights and obligations of the FCM Clearing Member in respect of such FCM Client Transactions shall be transferred, by way of assumption of contract (*Vertragsübernahme*) to the replacement FCM Clearing Member to be set out in a separate transfer agreement between the existing FCM Clearing Member, the replacement FCM Clearing Member, the FCM Client and Eurex Clearing AG. For the avoidance of doubt, the provisions under Number 8 of the General Clearing Conditions shall not apply to a replacement of a FCM Clearing Member.

Such transfer shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing in this Number 11 shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a transfer date binding on all relevant parties in such notice.

In the case of a partial transfer, Number 8.4.11 (except for any provisions on a Termination or a Termination Date) shall apply *mutatis mutandis*.

Original copies of the following documents shall be provided to Eurex Clearing AG:

- (i) a transfer agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website ([www.eurexclearing.com](http://www.eurexclearing.com));
- (ii) a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 between Eurex Clearing AG, the FCM Client and the replacement FCM Clearing Member; and

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- (iii) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer, duly executed, in each case, by or on behalf of all parties required to execute it.



Chapter IV of the Clearing Conditions of Eurex Clearing AG

# Clearing of Transactions at Eurex Repo GmbH

(Eurex Repo)

As of 01.06.2016

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

\*\*\*\*\*

## Preamble

This Chapter IV forms an integral part of the Clearing Conditions of Eurex Clearing AG and respective references in other rules or documents to the Clearing Conditions shall also apply to this Chapter IV.

In accordance with Chapter I Part 2 Number 2.1.1 or Chapter I Part 6 Number 4.1.1, as the case may be, Chapter I together with this Chapter IV and all references to other Chapters or Annexes of the Clearing Conditions shall apply for (i) all Clearing Members (including FCM Clearing Members) with a respective Clearing License, their Non-Clearing Members, Registered Customers, ICM Clients and FCM Clients ~~as well as~~, (ii) all Basic Clearing Members, (iii) all holders of a Specific Repo License and (iv) all Interim Participants (if applicable).

[...]

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## Part 1 General Provisions

[...]

[...]

### 1.1 Clearing Licenses

#### 1.1.1 Granting of Clearing Licenses

A Clearing License or Basic Clearing Member Clearing License is required in order to participate in the Clearing of Eurex Repo Transactions concluded through the System of Eurex Repo AG GmbH; Eurex Clearing AG shall grant such Clearing License or Basic Clearing Member Clearing License upon written application. For the avoidance of doubt, this Clearing License or Basic Clearing Member Clearing License does not relate to the Clearing of Securities Lending Transactions (regardless of whether these have been executed through the systems of Eurex Repo GmbH), which are subject to a separate Clearing License for the clearing of Securities Lending Transactions pursuant to Chapter IX.

#### 1.1.2 Prerequisites for Clearing Licenses

- (1) With regard to the prerequisites to be fulfilled within the scope of granting of the Clearing License, Chapter I Part 1 Numbers 2.1.1 to 2.1.3 apply. With regards to the prerequisites to be fulfilled within the scope of granting of the Basic Clearing Member Clearing License, Chapter I Part 6 Numbers 2.1.1 to 2.1.2 apply.
- (2) The applicant shall meet the following additional requirements:
  - (a) Evidence of technical connection to the systems of Eurex Clearing AG,

[...]

    - aa) either via own participation authorisation in Xemac, or
    - bb) via a respective agreement with another settlement institute which is authorised to participate in Xemac, or
    - cc) in case of Basic Clearing Members only, via their Clearing Agent.
- (3) The applicant shall – insofar as it intends to use the Gross Delivery Management service (Chapter I Part 1 Number 1.4.2 Paragraph (2) and Number 1.3.1 Paragraph (1) (b) – (e)) also optionally offered by Eurex Clearing AG vis-à-vis Clearing Members, Basic Clearing Members and settlement institutions (Chapter I Part 1 Number 2.1.2 Paragraph (7)) in connection with the implementation of the clearing of Eurex Repo Transactions – provide evidence of a technical and functional

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connection to the respective interface of the technical systems used by Eurex Clearing AG pursuant to the specifications set forth by Eurex Clearing AG.

## 1.2 Provision of Margin

- (1) In connection with GC Pooling Repo transactions, the determination of the margin requirement (including the Additional Margin), with regard to the securities assigned within the scope of the Front-Leg, also in case of cross-border collateral provision, shall be calculated directly by Xemac of CBF. During calculation, Xemac shall, according to the provisions of the Special Conditions for Collateral Management (“**SC Xemac**”), consider the respective currency in which the underlying transaction has been concluded. Also, the securities admissible as securities serving as collateral in connection with the delivery of GC Pooling Repo transactions shall be determined by Xemac on basis of the Special Conditions for SC Xemac. Other than described in Sentence 1, Eurex Clearing AG may demand that, in excess of the margin requirement calculated by Xemac, Additional Margin has to be provided in accordance with the calculation method published pursuant to Chapter I Part 1 Number 3.1.8. The possibility of requiring additional Margin pursuant to Chapter I Part 1 Number 3.3 together with Chapter I Part 2 Number 6.3 or Chapter I Part 3 Subpart A Number 5.3 or additional Basic Clearing Member Margin in accordance with Chapter I Part 6 Number 7.3, in particular for collateralisation of exchange rate risks in case of foreign currency transactions, remains unaffected. This in particular applies for the collateralisation of exchange rate risks in case of foreign currency transactions and as well for the delivery of securities as collateral which qualify as own issues in the meaning of the Terms and Conditions for Participation and Trading on Eurex Repo GmbH (“**GTC’s Repo**”) in relation to the Clearing Member or Basic Clearing Member. With regard to securities which become own issues during the term of the Transaction, this provision applies also. The Clearing Members or Basic Clearing Members are obliged to refrain from provisioning of such own securities as collateral. For the provision respectively collection of Margin, the provisions of Chapter I Part 1 Number 3.2 together with Part 2 Number 6 or Part 3 Subpart A Number 5 and Subpart B Number 4 apply or in case of Basic Clearing Member Margin, Chapter I Part 6 Number 7 apply.
- (2) With regard to GC Pooling Equity Repo transactions, Eurex Clearing AG shall – in deviation to Paragraph (1) Sentence 3 – define a list of equities included in the HDAX<sup>®</sup> which are eligible as securities serving as collateral (“**eligibility list**”) and shall review such list on a monthly basis. The equities are admitted to this list in accordance with a catalogue of criteria which takes into account the turnover volumes and risk aspects. Any changes resulting from the regular review shall be announced by Eurex Clearing AG by way of electronic circular no later than 5 Business Days prior to their effectiveness. As a rule, such changes shall take effect on the 15<sup>th</sup> day of a calendar month. If such day is not a Business Day, the changes shall take effect on the next Business Day. Irrespective of the regular review, Eurex Clearing AG shall – due to risk management reasons – be entitled at any time to exclude individual securities from the eligibility list with effect to the next Business Day. Such changes shall be announced to Clearing Members and Basic

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Clearing Members via the Eurex Clearing Newsboard at [http://www.eurexchange.com/production\\_newsboards/eurex/newsboard\\_en.html](http://www.eurexchange.com/production_newsboards/eurex/newsboard_en.html).  
The eligibility list will be made available in Xemac on a daily basis.

Regarding the selection of securities serving as collateral to be transferred from the GC Pooling Equity Basket, concentration limits of Eurex Clearing AG shall apply.

To the extent a Clearing Member or Basic Clearing Member which has available an insufficient amount of eligible securities serving as collateral for the GC Pooling Equity Basket is instead allowed to transfer ownership of securities eligible for the GC Pooling ECB Basket, the rules for settlement of GC Pooling ECB Basket Repo transactions shall apply to such securities serving as collateral.

- (3) In addition to the provisions of Paragraph 1 and 2, the provisions of Chapter I Part 1 Number 3 together with Part 2 Number 6 or Part 3 Subpart A Number 5, Subpart B Number 4 and Chapter I Part 6 Number 7 shall apply with regard to the basic principles of the margin requirement and – unless aforementioned paragraphs state otherwise – the obligation to provide margin. The provisions of Paragraph (1) Sentence 4 – 10 apply to Special and GC Repo accordingly. In the case securities collateral are qualified as own issues after the settlement of the Front-Leg, Eurex Clearing may apply an adequate haircut to cover a higher liquidation risk for Eurex Clearing AG. No automatic substitution is processed.

[...]

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## Part 2 Clearing of Transactions at Eurex Repo GmbH

### 2.1 Eurex Repo Transactions Concerned

[...]

[...]

- (3) Eurex Clearing AG shall determine in consultation with Eurex Repo GmbH, which kind of Eurex Repo Transactions or securities underlying these Eurex Repo Transactions shall be included in the Clearing. Clearing Members and Basic Clearing Members will be notified by Eurex Clearing AG via electronic publication in the internet exclusively, available on the internet pages of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)), as regards those securities transactions that are included in the Clearing. In connection with GC Pooling Repo transactions, the notification for included securities shall be carried out in Xemac.

### 2.2 General Provisions

- (1) For the settlement of Eurex Repo Transactions, Chapter I Part 1 Numbers 1.2.5 and 1.4 applies, unless otherwise provided in Paragraph 2. With regard to the securities admitted to delivery of GC Pooling Repo transactions, the participating Clearing Members and Basic Clearing Members shall receive a report on the available assets respectively held in their depositories.

- (2) [...]

- (a) Purchase Agreement (Front Leg):

All physical deliveries and payments shall be concurrently performed between the Clearing Member or Basic Clearing Member obliged to deliver and Eurex Clearing AG, and, accordingly, between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which is to receive delivery on the agreed delivery day of the Front Leg. Physical deliveries shall be made through a Settlement Location, and payments shall be made through the corresponding account determined by such Settlement Location.

- (b) Repurchase Agreement (Term Leg):

All physical deliveries and payments shall be concurrently performed between the Clearing Member or Basic Clearing Member obliged to deliver and Eurex Clearing AG, and, accordingly, between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which is to receive delivery on the agreed delivery day of the Term Leg. Physical deliveries shall be made through a Settlement Location, and payments shall be made through the corresponding account determined by such Settlement Location.

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(c) Physical Deliveries:

Eurex Clearing AG shall, with respect to the possession of the securities delivered to it pursuant to Paragraph (2) a) and b), act as an intermediary of the Clearing Members or Basic Clearing Members which are obliged to deliver in order to subsequently deliver such securities to the Clearing Members or Basic Clearing Members which are to receive delivery. With respect to the settlement of transactions concluded by Clearing Members or Basic Clearing Members, the transfer of ownership in respect of the securities to be delivered will thus be performed directly between the Clearing Members or Basic Clearing Members involved.

(d) Delivery and payment with regard to GC Pooling Repo transactions:

[...]

For the procedure regarding deliveries and payments pursuant to Paragraph (1), the following deviating provisions apply:

The transfer of ownership regarding the securities to be delivered between the Clearing Members or Basic Clearing Members and Eurex Clearing AG, and vice versa, shall be carried out, depending on the account relevant for such transfer, pursuant to German law or pursuant to the laws of the Grand Duchy of Luxembourg and pursuant to the additional contracts having been used as basis by the parties. The provision of Chapter I Part 1 Number 1.4.2 Paragraph (4) and (7) applies with the proviso that the payment is settled via the account of the Clearing Member or Basic Clearing Member which is determined for settlement in the currency of the underlying transaction.

With regard to GC Pooling transactions settled in Euro on a Business Day other than the trade date, any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG for the relevant day of performance during the first Same Day Settlement run of the day ("**SDS1**") of Clearstream Banking AG. With regard to GC Pooling Transactions, which are settled in U.S. Dollar and whose trade date equals the settlement date of the Front Leg, any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG no later than 30 minutes after the conclusion of the GC Pooling Transaction.

With regard to GC Pooling transactions settled in U.S. Dollar on a Business Day other than the trade date, any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG until 3:00 p.m. CET on the relevant

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day of performance. With regard to GC Pooling Transactions, which are settled in U.S. Dollar and whose trade date equals the settlement date of the Front Leg, any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG in a way that

- [...]
- [...]

With regard to GC Pooling transactions settled in currencies other than Euro or U.S. Dollar on a Business Day other than the trade date, any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG until 11:30 a.m. CET on the relevant day of performance.

### 2.3 Daily Settlement

- (1) [...]
- (2) The daily settlement price shall be determined by Eurex Clearing AG after close of trading and notified to the Clearing Members and Basic Clearing Members (or the Clearing Agents acting in the name of a Basic Clearing Member).

[...]

### 2.4 Performance

[...]

- (2) Eurex Clearing AG shall deliver the securities due for delivery to the Clearing Members or Basic Clearing Members entitled to delivery.

[...]

### 2.5 Payment of Interests and Dividends, as well as other Corporate Actions (Compensation)

- (1) If interests or dividends are paid on the underlying security during the term of a Eurex Repo Transaction, e.g. during the Purchase Agreement and the Repurchase Agreement, Eurex Clearing AG shall arrange for the credit of the accrued amount of interests or dividends to the Clearing Member or Basic Clearing Member which has sold the respective securities. Besides, Eurex Clearing AG shall arrange for the charge of an amount equal to the amount of interests or dividends to the Clearing Member or Basic Clearing Member which has purchased the respective securities. Cash settlement shall be made through the RTGS Accounts, the euroSIC Accounts, the accounts with Euroclear Bank S.A./N.V. in Brussels or with Clearstream



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Banking S.A. In case of Euro GC Pooling Repo transactions, the compensation payment shall be initiated via Eurex Clearing AG through Xemac.

- (2) With regard to securities serving as collateral which are involved in GC Pooling Equity Basket Repo transactions, as a rule a substitution of such securities serving as collateral is arranged in Xemac – prior to corporate actions which do not represent a cash payment, provided that the issuer of the security has informed CBF of such corporate action on time. The timely re-transfer by substitution shall remain in the sole responsibility of the Clearing Member or Basic Clearing Member which has transferred the securities serving as collateral. Such Clearing Member or Basic Clearing Member must take the necessary measures to enable a timely re-transfer, thus enabling such Clearing Member or Basic Clearing Member to exercise or respectively perform its rights relating to the respective corporate action. Irrespective of such measures and based on the SBSC Xemac CBF may decide to exclude such securities temporary as being eligible securities serving as collateral with view to upcoming corporate actions following the requirements of Eurex Clearing AG.

## 2.6 Failure to Deliver

- (1) Any failure to make a payment or delivery when due shall be governed by the following procedure:
- (a) Failure to Deliver by the delivery day of the Front Leg:

In the event that a Clearing Member or Basic Clearing Member which is obliged to deliver fails to transfer the underlying securities on the delivery day of the Front Leg (as per Number 2.2.(2) a)) of the respective Eurex Repo Transaction and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled and, on request of the Clearing Member or Basic Clearing Member (or the Clearing Agents acting in the name of the Basic Clearing Member) which did not receive delivery in time, obliged to set the present Business Day, at the latest the delivery day of the Term Leg, as an advanced repurchase date of the Term Leg. As a consequence thereto, the mutual obligations arising out of the Eurex Repo Transaction which had originally been agreed upon, shall be offset against each other so that the parties, with the exception of the Repo interests agreed upon, do not owe each other any further payment or delivery. The payable Repo interests shall be calculated on the basis of the period of default, in each case for the period from the purchase date (inclusive) until the Business Day to which the Term Leg was advanced (exclusive).

At the same time, Eurex Clearing AG shall be entitled to set an earlier date as repurchase date for the Term Leg of the equivalent Eurex Repo Transaction concerned between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which did not receive delivery from Eurex Clearing AG in time; the legal consequence thereof will be the same as described above. In connection with the delivery of GC Pooling Repo transactions the procedure pursuant to Sentence 1 to 4 shall apply, if the Clearing Member or Basic Clearing Member obliged to deliver shall not dispose of the necessary bulk of

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securities, which are admissible for the delivery in the respective basket and the underlying currency, on delivery day in its collateral pool. Eurex Clearing AG shall be, if necessary, informed of this matter by CBF.

If, as opposed to the provisions in Chapter IV Number 2.2 Paragraph (2) (d), a Clearing Member or Basic Clearing Member does not comply with its obligation to perform until the time there mentioned, it may – irrespective of the above provision – be in intraday default. To the extent a Clearing Member or Basic Clearing Member is in intraday default, Eurex Clearing AG may charge an expense allowance of EUR 2,000 for each defaulting GC Pooling Repo Transaction to cover its operative additional expenditure. Furthermore, Eurex Clearing AG shall be entitled to invoice the Clearing Member or Basic Clearing Member – until such point in time on which the obligation to perform is fulfilled – for any interim financing costs incurred, up to the value of the STOXX GC Pooling EUR ON Index (“**SGCPON**”) published by Bloomberg or Reuters plus 50 basis points p.a., in relation to the value of the underlying GC Pooling Transaction or the due cash amount respectively.

(b) Failure to Deliver by the delivery day of the Term Leg

In the event that the Clearing Member or Basic Clearing Member obliged to deliver fails to deliver the underlying securities on the delivery day of the Term Leg (as per Number 2.2.(2) b)) of the respective Eurex Repo Transaction and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled and, on request of the Clearing Member or Basic Clearing Member (or the Clearing Agents acting in the name of a Basic Clearing Member) which did not receive delivery in time, obliged to make a replacement purchase with respect to the undelivered securities as from the 5<sup>th</sup> day following the delivery date of the Term Leg and to deliver these to the Clearing Member or Basic Clearing Member (or the Clearing Agents acting in the name of a Basic Clearing Member) which did not receive delivery in time or, in the case of a wholly or partially unsuccessful replacement purchase, to perform a cash settlement. The replacement and the cash settlement are performed pursuant to Chapter V Number 2.2, the provisions on contractual penalties apply accordingly. Notwithstanding Chapter V Number 2.2.1 Paragraph (3) (b) (aa), the cash settlement amount is determined by the highest of (i) the settlement price of the respective class of securities as determined by Eurex Clearing AG, (ii) the selling price and (iii) the purchase price of the relevant Eurex Repo Transaction plus a premium of 300 basis points, accrued interest and the applicable repo rate. In connection with any default in effecting performance with regard to GC Pooling Repo Transactions, the provisions of Number 2.6 Paragraph (1) a) shall apply accordingly, taking into account that an executed Buy-In according to Number 2.6 Paragraph (1) b) Sentence 1 shall be considered equivalent to reaching the point in time on which performance is effected.

- (2) Measures set forth in Paragraph (1) shall be binding on the Clearing Member or Basic Clearing Member which did not receive delivery in time.

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- (3) The defaulting Clearing Member or Basic Clearing Member shall bear the costs arising from measures taken pursuant to Paragraph (1) of this Number.
- (4) The right to claim further damages shall be excluded for Eurex Clearing AG as well as for the Clearing Member or Basic Clearing Member which did not receive delivery in time.

## **2.7 Investment limits for pending Euro GC Pooling transactions after 4:00 p.m. CET**

[...]

The aggregate cash amount of the affected GC Pooling transactions of a Clearing Member or Basic Clearing Member, the Front Leg of which has not yet been completely fulfilled and with regard to which the respective Clearing Member or Basic Clearing Member is the buyer of the Front Leg ("**Pending Cash Provider Transactions**") is not to exceed EUR 1,000,000,000 (in words: One billion) (the "**Investment Limit**"). With regard to GC Pooling transactions in currencies other than Euro, such amount shall be determined by currency conversion of the cash amount into Euro.

If the aggregate cash amount of the Pending Cash Provider Transactions of a Clearing Member or Basic Clearing Member exceeds the Investment Limit at any point in time, the Clearing Member or Basic Clearing Member must ensure that there are sufficient amounts in the relevant currency available on the relevant accounts in order that Pending Cash Provider Transactions can be fulfilled without undue delay – and in any event, no later than 10 minutes from the time the Investment Limit has been exceeded – thus ensuring compliance with the Investment Limit thereafter. If the Clearing Member or Basic Clearing Member does not comply with such obligation, the Clearing Member or Basic Clearing Member shall have to pay to Eurex Clearing AG a contractual penalty pursuant to Chapter 1 Part 1 Number 14.2.2 on the aggregate cash amount of all Pending Cash Provider Transactions.

## **2.8 Risk limitation possibilities for Clearing Agents**

For the avoidance of doubt, the Clearing Agent shall subject to and in accordance with the rules of Eurex Repo GmbH be entitled to suspend the trading of the Basic Clearing Member at Eurex Repo GmbH. In this case no new Repo Transactions may be included in the Clearing.

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### **Part 3 Special Conditions regarding the Clearing of GC Pooling Repo Transactions with holders of a Specific Repo License and corresponding GC Pooling Repo Transactions with Clearing Members**

With regard to the Clearing of GC Pooling Repo Transactions involving holders of a Specific Repo License and corresponding GC Pooling Repo Transactions with Clearing Members, the provisions of Parts 1 and 2 shall apply unless hereinafter otherwise provided for. If, in this Part 3, reference is made to GC Pooling Repo Transactions or to Original GC Pooling Repo Transactions, such reference is always to be interpreted as a reference to GC Pooling Repo Transactions involving holders of a Specific Repo License.

#### **3.1 Specific Repo License**

- (1) Eurex Clearing AG offers a Specific Repo License in accordance with this Number 3.1 ("**Specific Repo License**"). Eurex Clearing AG may grant the Specific Repo License upon written application subject to the condition that the applicant is not a Clearing Member and does not apply for becoming a Clearing Member pursuant to Chapter I Part 1 Number 2- or a Basic Clearing Member pursuant to Chapter I Part 6 Number 2. An application for and the granting of a Specific Lender License pursuant to Chapter IX does not oppose the granting of a Specific Repo License.

[...]

#### **3.2 Conclusion of Transactions**

[...]

\*\*\*\*\*

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

# Clearing of OTC Derivative Transactions

As of 01.06.2016

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\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

[...]

## Preamble

This Chapter VIII forms an integral part of the Clearing Conditions of Eurex Clearing AG and respective references in other rules or documents to the Clearing Conditions shall also apply to this Chapter VIII.

In accordance with Chapter I Part 2 Number 2.1.1 or Chapter I Part 6 Number 2.1.1, as the case may be, Chapter I together with this Chapter VIII and all references to other Chapters or Annexes of the Clearing Conditions shall apply for (i) all Clearing Members (including FCM Clearing Members) with a respective Clearing License, their Non-Clearing Members, Registered Customers, ICM Clients and FCM Clients-, (ii) Basic Clearing Members with a respective Basic Clearing Clearing Licence and their Clearing Agents as well as (iii) all Interim Participants (if applicable).

[...]

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## Part 1 General Provisions

- (1) Eurex Clearing AG offers the Clearing and settlement of derivatives traded over-the-counter ("**OTC Derivative Transactions**"), provided that such OTC Derivative Transactions meet the applicable novation criteria set out in this Chapter VIII.
- (2) In addition to this Chapter VIII, the provisions of Chapter I, including in particular the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~ the U.S. Clearing Model Provisions, and the Basic Clearing Member Provisions shall apply to the Clearing of OTC Derivative Transactions, unless otherwise provided hereinafter.
- (3) This Chapter VIII does not apply to the Clearing of Eurex Off-Book Trades as specified in Chapter II Part 4 and the OTC Transactions specified in Chapter V Part 1 Number 1.3.

### 1.1 Clearing License

#### 1.1.1 Granting of the Clearing License

In order to participate in the Clearing of OTC Derivative Transactions, a clearing license for the relevant Transaction Types is required (each an "**OTC Clearing License**"). The OTC Clearing License may be granted by Eurex Clearing AG upon written application. Each OTC Clearing License may be restricted to certain product groups within the scope of a Transaction Type if this is provided for in respect of such OTC Clearing License. Notwithstanding Chapter I Part 1 Number 2.1.1 Paragraph (4), an OTC Clearing License will be exclusively issued (i) as a General Clearing License which entitles its holder to clear Own Transactions, Customer-Related Transactions and RC-Related Transactions (all as defined in Chapter I Part 1 Number 1.2.3) or, in respect of U.S. Clearing Members, Own Transactions and, if the U.S. Clearing Member is a FCM Clearing Member, also FCM Client Transactions or (ii) as a Basic Clearing Member Clearing License which relates to the Clearing of Derivatives Transactions and entitles its holder to clear Own Transactions.

#### 1.1.2 Prerequisites of the Clearing License

The prerequisites to be fulfilled for the granting of an OTC Clearing License are set out in Part 2 of this Chapter VIII for each relevant Transaction Type (as defined in Chapter I Part 1 Number 1.1.2).

### 1.2 Conclusion of Transactions

OTC Derivative Transactions pursuant to this Chapter VIII are concluded by way of novation in accordance with the following provisions:

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### 1.2.1 Novation

- (1) For the purposes of including OTC Derivative Transactions into the Clearing by Eurex Clearing AG, the trade record of the relevant Original OTC Transaction has to be transmitted to Eurex Clearing AG via an Approved Trade Source System (each an “**Approved Trade Information Provider**”).
- (2) Whenever:
  - (i) the trade record of an Original OTC Transaction is transmitted to Eurex Clearing AG via an Approved Trade Information Provider; and
  - (ii) (A) the parties to the Original OTC Transaction are Clearing Members or Basic Clearing Members, each holding the relevant OTC Clearing License, or FCM Clients; or  
  
(B) where any party to the Original OTC Transaction is ~~not~~ neither a Clearing Member holding the relevant OTC Clearing License nor a Basic Clearing Member, the Clearing Member holding the relevant OTC Clearing License that, based on the trade record transmitted to Eurex Clearing AG via an Approved Trade Information Provider, has been designated as a Clearing Member for such party with respect to the relevant Original OTC Transaction has accepted in the system of Eurex Clearing AG the Original OTC Transaction for Clearing; and
  - (iii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing Procedures by making an OTC Novation Report available to the Clearing ~~Members~~ Member (in the case of a FCM Clearing Member, acting on behalf of the relevant FCM Client) or Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) electronically via its system,

OTC Derivative Transactions will be concluded by way of novation (i) in accordance with Chapter I Part 1 Number 1.2.2 Paragraph (2) ~~or~~, (ii) in the case of CCP-FCM Client Transactions, Chapter I Part 5 Number 1.4, ~~as applicable~~ or (iii) in case of a Basic Clearing Member Transaction, Chapter I Part 6 Number 1.3, within a daily or weekly novation process as provided for with respect to the Transaction Type in Part 2.

- (3) Any acceptance of the Original OTC Transaction by Eurex Clearing AG for inclusion in the Clearing and the related novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2) or, in the case of CCP-FCM Client Transactions, Chapter I Part 5 Number 1.4, or, in case of a Basic Clearing Member Transaction, Chapter I Part 6 Number 1.3, as applicable, will be subject to the novation criteria pursuant to Number 1.2.3 and will be based on the trade record provided by the Approved Trade Information Provider on behalf of the parties to the Original OTC Transaction. Eurex Clearing AG relies on the accuracy of the data set out in the trade record transmitted and is neither able nor obliged to verify whether the trade record received properly



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reflects the terms of the Original OTC Transaction entered into by the relevant parties.

- (4) Under the CCP Transactions created upon novation, the relevant Clearing Member or Basic Clearing Member has, in economic terms, the same economic role (e.g. as floating rate payer or as fixed rate payer, respectively) as such Clearing Member or Basic Clearing Member (in case of Own Transactions) or ~~its~~ the Registered Customer (in case of RC-Related Transactions) or other customer (in case of Customer-Related Transactions) of the Clearing Member had under the Original OTC Transaction. The same principle applies to CM-RC Transactions *mutatis mutandis*. Under the CCP-FCM Client Transactions Transactions created upon novation, the relevant FCM Client has, in economic terms, the same economic role (e.g. as floating rate payer or as fixed rate payer, respectively) as such FCM Client had under the Original OTC Transaction.
- (5) It is the responsibility of the parties to the Original OTC Transaction to agree on a bilateral basis that the Original OTC Transaction shall be cancelled upon novation. With respect to any Original OTC Transaction to which a FCM Client is a party, this provision shall not apply and instead only Chapter I Part 5 Number 1.4 Paragraph (4) applies.
- (6) If a CM-RC Transaction, a Client Clearing CM-RC Transaction or a CM-Customer Transaction, or any provision thereof, is not valid or not enforceable vis-à-vis the respective Registered Customer or other customer, this shall not affect the validity and enforceability of the CCP Transaction between Eurex Clearing AG and the relevant Clearing Member.
- (7) For the purposes of this Chapter VIII,
  - (a) “**Approved Trade Source System**” means a provider of trade information to be appointed by each of the parties to an Original OTC Transaction, and recognised by Eurex Clearing AG, for the purpose of transmitting trade records of OTC Interest Rate Derivative Transactions for Clearing with, and receiving communications about any De-Clearing (Part 2 Number 2.7.3) of such transactions from, Eurex Clearing AG, as published on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)).
  - (b) “**CCP-FCM Client Transaction**” means with respect to a Clearing Agreement with a FCM Client in the form appended to the Clearing Conditions as Appendix 10, an OTC Derivative Transaction established between Eurex Clearing AG and the relevant FCM Client pursuant to Paragraph (2) and Chapter I Part 5 Number 1.4.
  - (c) “**CCP Transaction**” means any OTC Derivative Transaction between Eurex Clearing AG and the relevant Clearing Member created pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2) or between Eurex Clearing AG and the relevant Basic Clearing Member created pursuant to Chapter I Part 6

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Number 1.3 Paragraph (2) or a CCP-FCM Client Transaction between Eurex Clearing AG and the relevant FCM Client.

- (d) **“CM-RC Transaction”** means, with respect to a Clearing Agreement with a Registered Customer in the form appended to the Clearing Conditions as Appendix 2 or Appendix 3, an OTC Derivative Transaction corresponding to a certain CCP Transaction and which has been created between the Clearing Member and a Registered Customer pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2).
- (e) **“Client Clearing CM-RC Transaction”** means, with respect to the Individual Clearing Model Provisions under Client Clearing Documentation, a transaction corresponding to a CCP Transaction and which has been created between the Clearing Member and the Registered Customer of the Clearing Member in accordance with the Client Clearing Agreement (as defined in Chapter I Part 3 Subpart C Number 2.1.1) between the relevant Clearing Member and its Registered Customer and which are not subject to these Clearing Conditions. A Client Clearing CM-RC Transaction shall exclusively be regulated by the Client Clearing Agreement which may refer to these Clearing Conditions.
- (f) **“CM-Customer Transaction”** means a transaction corresponding to a CCP Transaction and which has been created between the Clearing Member and any customer (other than a Registered Customer or FCM Client) of the Clearing Member in accordance with the contractual arrangements between them. A CM-Customer Transaction shall exclusively be subject to the contractual arrangements between the relevant Clearing Member and its customer, which may refer to these Clearing Conditions.
- (g) **“OTC Novation Report”** means an OTC Trade Event Report.
- (h) **“OTC Trade Novation Report”** means a report produced by Eurex Clearing AG on the basis of the trade records transmitted via the relevant Approved Trade Source System which specifies the Original OTC Transactions to be novated into OTC Interest Rate Derivative Transactions (as defined in Part 2 of this Chapter VIII) as well as the respective CCP Transactions.

### 1.2.2 Legal Effectiveness of Novation

The novation becomes legally effective at the point of time when Eurex Clearing AG accepts the relevant OTC Derivative Transaction for Clearing by making the relevant OTC Novation Report available to the relevant Clearing ~~Members~~ Member (and, in the case of an CCP-FCM Client Transactions, to the FCM Clearing Member acting on behalf of the relevant FCM Client) or, as the case may be, Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) electronically via Eurex Clearing AG's system.

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### 1.2.3 Novation Criteria

- (1) Eurex Clearing AG will accept an Original OTC Transaction for inclusion in the Clearing in accordance with the daily or weekly novation process, as applicable, if the following novation criteria are fulfilled:
1. A trade record of the Original OTC Transaction must be transmitted to the system of Eurex Clearing AG via an Approved Trade Information Provider and the Original OTC Transaction was either (i) entered into between two Clearing Members-, two Basic Clearing Members or a Clearing Member and a Basic Clearing Member, in each case holding the relevant OTC Clearing License on the basis of the specifications made in such trade record, or (ii) accepted by the relevant Clearing Member(s) holding the relevant OTC Clearing License, as provided for in Number 1.2.1 Paragraph (2);
  2. The trade record transmitted to Eurex Clearing AG via an Approved Trade Information Provider must specify in respect of the relevant Original OTC Transaction (i) that it is to be cleared by Eurex Clearing AG as well as (ii) (A) if any party of the Original OTC Transaction is a Clearing Member which does not hold the relevant OTC Clearing License, the Clearing Member holding the relevant OTC Clearing License selected by such party or (B) if any party of the Original OTC Transaction is a FCM Client, the FCM Clearing Member of such FCM Client or (C) if any party of the Original OTC Transaction is a Basic Clearing Member, the Clearing Agent of such Basic Clearing Member;
  3. (i) The trade record is transmitted to Eurex Clearing AG in a format which allows Eurex Clearing AG to import the relevant data in its system, as communicated by Eurex Clearing AG to Clearing Members or Basic Clearing Members (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member) that hold an OTC Clearing License and (ii) and no information required with respect to the terms of the relevant OTC Derivative Transaction as set out in Part 2 is missing;
  4. No Termination Date has occurred with respect to a Clearing Member through which the novated Original OTC Transaction is to be cleared;
  5. No Basic Clearing Member Termination Date has occurred with respect to a Basic Clearing Member in respect of which the novated Original OTC Transaction is to be cleared;
  - ~~56.~~ No Registered Customer who is a party to the Original OTC Transaction has been excluded from the Clearing of OTC Transactions;
  - ~~67.~~ No FCM Client Termination Date has occurred with respect to a FCM Client that is a party to the Original OTC Transaction;
  - ~~78.~~ Original OTC Transactions that are transmitted to the system of Eurex Clearing AG must be of a product type recognised by Eurex Clearing AG as

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published on its website ([www.eurexclearing.com](http://www.eurexclearing.com)) and provided for in the following Part of this Chapter VIII (the “**Product Type**”);

89. The Clearing Member(s) (including, in the case of OTC Derivative Transactions that are FCM Client Transactions, the relevant FCM Clearing Member(s) acting for the account of the relevant FCM Client(s)) and Basic Clearing Member(s) seeking to clear the relevant OTC Derivative Transaction must have delivered Eligible Margin Assets to Eurex Clearing AG as required pursuant to Chapter I Part 1 Number 3, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions ~~and~~, the U.S. Clearing Model Provisions and the Basic Clearing Member Clearing Provisions, to cover the calculated risks resulting from all Transactions and the CCP Transaction to be created;

910. All applicable additional novation criteria set forth in the following part of this Chapter VIII are fulfilled.

- (2) If a novation criterion is not fulfilled but the relevant OTC Novation Report has nevertheless been made available via the system of Eurex Clearing AG and, accordingly, novation is effective, Eurex Clearing AG is entitled to terminate the CCP Transactions by notifying the relevant Clearing Member(s) (in the case of an Original OTC Transaction to which a FCM Client is a party, the relevant FCM Clearing Member acting on behalf such FCM Client) and Basic Clearing Member(s) (or the Clearing Agent(s) acting on behalf of the relevant Basic Clearing Member(s)) in writing (including by fax or e-mail) provided that none of the two CCP Transactions created upon novation of the Original OTC Transaction was subject to (i) any netting or accumulation pursuant to Part 2 Number 2.5 or (ii) a transfer or trade amendment pursuant to Part 2 Number 2.6.

Upon and with effect of such termination, any CM-RC Transaction, if applicable, shall, without further notice, be terminated simultaneously; the relevant Clearing Member(s) shall inform the relevant Registered Customer(s) thereof. Otherwise, it is the responsibility of the relevant parties to agree on a bilateral basis to what extent, as a result of the termination of the relevant CCP Transaction, any Client Clearing CM-RC Transaction or CM-Customer Transaction shall be terminated and the Original OTC Transaction shall be re-instated in accordance with its original terms.

#### 1.2.4 Special Provisions with respect to the Conclusion of CCP Transactions

- (1) If the Clearing Member or Basic Clearing Member holds an Interest Rate Derivatives Clearing License pursuant to Part 2 Number 2.1.3, the Clearing Member or Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) (i) authorises Eurex Clearing AG to capture and maintain records vis-à-vis the respective Approved Trade Source System, and (ii) confirms that it has appointed the relevant Approved Trade Source System to receive trade communications and generate and send trade communications to Eurex Clearing AG on its behalf. Eurex Clearing AG may rely on such trade communications.

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- (2) By entering into the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10, the FCM Client (i) authorises Eurex Clearing AG to capture and maintain records vis-à-vis the respective Approved Trade Source System and (ii) confirms that it has appointed the relevant Approved Trade Source System to receive trade communications and to generate and send trade communications to Eurex Clearing AG on its behalf. Eurex Clearing AG may rely on such trade communications.
- (3) The Clearing Member or the Basic Clearing Member, as the case may be, agrees that upon acceptance of an Original OTC Transaction for inclusion in the Clearing by Eurex Clearing AG based on a trade record of an Original OTC Transaction submitted by the Approved Trade Source System to Eurex Clearing AG on behalf of the Clearing Member or Basic Clearing Member pursuant to Number 1.2.1, a Transaction will be concluded between Eurex Clearing AG and the Clearing Member on terms based on the trade record pursuant to Number 1.2.1 in conjunction with Number 1.2.2 Paragraph (2) of the General Clearing Provisions or between Eurex Clearing AG and the Basic Clearing Member on terms based on the trade record pursuant to Number 1.2.1 in conjunction with Number 1.3 Paragraph (2) of the Basic Clearing Member Provisions. The Clearing Member or the Basic Clearing Member, as the case may be, agrees to be legally bound by each such Transaction and acknowledges that no further specific agreement to be legally bound shall be required to be given by the Clearing Member or the Basic Clearing Member, as the case may be, at the time of the conclusion of such Transaction.
- (4) The FCM Client agrees that upon acceptance of an Original OTC Transaction for inclusion in the Clearing by Eurex Clearing AG based on a trade record of an Original OTC Transaction submitted by the Approved Trade Source System to Eurex Clearing AG on behalf of such FCM Client (or the FCM Clearing Member acting for the account of such FCM Client) pursuant to Number 1.2.1, a Transaction will be concluded between Eurex Clearing AG and the FCM Client on terms based on the trade record pursuant to Number 1.2.1 in conjunction with Number 1.4 of the U.S. Clearing Model Provisions. The FCM Client agrees to be legally bound by each such Transaction and acknowledges that no further specific agreement to be legally bound shall be required to be given by the FCM Client at the time of the conclusion of such transaction.
- (5) The ~~Clearing Member and,~~ the FCM Client and the Basic Clearing Member should check without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct conclusion of Transactions and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.
- (6) Eurex Clearing AG does not assume any liability vis-à-vis the FCM Clearing Member or the FCM Client in respect of inaccuracies in the trade record submitted pursuant to Paragraph (4) above, or if the trade record has not been initiated by the FCM Client.

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### **1.2.5 Special Provisions with respect to the Conclusion of CM-RC Transactions**

- (1) By entering into the relevant Clearing Agreement, the Registered Customer (i) authorises Eurex Clearing AG to capture and maintain records vis-à-vis the respective Approved Trade Source System and (ii) confirms that it has appointed the relevant Approved Trade Source System to receive trade communications and to generate and send trade communications to Eurex Clearing AG on its behalf, and that the Clearing Member has agreed to this. Eurex Clearing AG may rely on such trade communications.
- (2) The Clearing Member and the Registered Customer agree that, upon conclusion of a CCP Transaction between Eurex Clearing AG and the Clearing Member based on a trade record of an Original OTC Transaction submitted by the Approved Trade Source System to Eurex Clearing AG on behalf of the Registered Customer for acceptance by the Clearing Member and Eurex Clearing AG pursuant to Number 1.2.1, a corresponding CM-RC Transaction will, simultaneously, be concluded between the Clearing Member and the Registered Customer pursuant to Number 1.2.1 in conjunction with Number 1.2.2 Paragraph (2) of the General Clearing Provisions. The Registered Customer agrees to be legally bound by each such corresponding CM-RC Transaction and acknowledges that no further specific agreement to be legally bound shall be required to be given by the Registered Customer at the time of the conclusion of such corresponding CM-RC Transaction.
- (3) The Clearing Member and the Registered Customer should check and verify without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct conclusion of Transactions and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.
- (4) Without prejudice to its obligations in respect of the relevant CCP Transaction, Eurex Clearing AG does not assume any liability vis-à-vis the Clearing Member or the Registered Customer in respect of inaccuracies in the trade record submitted pursuant to Paragraph (2) above, or if the trade record has not been initiated by the Registered Customer.
- (5) The Registered Customer, by entering into the relevant Clearing Agreement, irrevocably authorises Eurex Clearing AG to receive, also on its behalf, and for purposes of the conclusion of the corresponding CM-RC Transaction between the Clearing Member and the Registered Customer pursuant to Paragraph (2) above, any acceptance by the Clearing Member of the related Original OTC Transaction for Clearing.

### **1.2.6 Special Provisions with respect to Client Clearing CM-RC Transactions**

- (1) By entering into the relevant ICM Clearing Agreement for ICM-CCD, the Registered Customer authorises Eurex Clearing AG to capture and maintain records vis-à-vis the respective Approved Trade Source System.

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- (2) By entering into the relevant ICM Clearing Agreement for ICM-CCD, the Registered Customer confirms that (i) it has appointed the relevant Approved Trade Source System to receive trade communications and to generate and send trade communications to Eurex Clearing AG on its behalf, and that (ii) the Clearing Member has agreed to this. Eurex Clearing AG may rely on such trade communications.
- (3) The Clearing Member and the Registered Customer should check and verify without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct conclusion of Transactions and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.
- (4) Without prejudice to its obligations in respect of the relevant CCP Transaction, Eurex Clearing AG does not assume any liability vis-à-vis the Clearing Member or the Registered Customer in respect of inaccuracies in the trade record submitted pursuant to Paragraph (2) above, or if the trade record has not been initiated by the Registered Customer.

### 1.3 Transaction Accounts

- (1) With regard to the accounts of the Clearing Member (or, as relevant, the FCM Client), or the Basic Clearing Member Chapter I Part 1 Number 4 together with Part 2 Number 4, Part 3 Subpart A Number 4, Part 4 Number 4 or Part 5 Number 3 apply 3, or, in the case of a Basic Clearing Member, together with Chapter I Part 6 Number 5 apply in addition to the following provisions.
- (2) In deviation to Chapter I Part 1 Number 4 together with Part 2 Number 4, Part 3 Subpart A Number 4 and Part 4 Number 4 Eurex Clearing AG opens and maintains with respect to each Clearing Member (other than a FCM Clearing Member) the following transaction accounts in which the Transactions of the Clearing Member to be cleared have to be booked:
  - (a) with respect to Own Transactions and Customer-Related Transactions: one Own Account and, upon request, additional Customer Accounts; and
  - (b) with respect to RC-Related Transactions: one Own Account and, upon request, additional Customer Accounts.

### 1.4 Tax Gross-up Obligations of Clearing Members ~~and~~ FCM Client and Basic Clearing Members

If a Clearing Member ~~or~~ a FCM Client or a Basic Clearing Member is obliged by law to deduct or withhold a tax amount or other fiscal charge from a payment which it is to make, it shall pay to Eurex Clearing AG such additional amounts as are necessary to ensure that Eurex Clearing AG receives the full amount to which it would have been entitled at the time of such payment if no deduction or withholding were required. If a Clearing Member ~~or~~ a FCM Client or a Basic Clearing Member is obliged to pay such

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additional amounts pursuant to Sentence 1, the Clearing Member ~~or~~ FCM Client or Basic Clearing Member shall not be entitled to terminate a CCP Transaction due to such obligation.

## 1.5 Emergency Resolutions

- (1) The Executive Board of Eurex Clearing AG may adopt a resolution in response to Extraordinary Market Conditions (as defined in Chapter I Part 1 Number 17.3.1 Paragraph (2)) ("**Emergency Resolution**") which shall supersede and supplant all resolutions or provisions of Chapter VIII of the Clearing Conditions that are contrary to or inconsistent with the Emergency Resolution, except for this provision. In urgent matters such decision may also be taken by a senior officer generally appointed by the Executive Board of Eurex Clearing AG for such purposes, provided that the decision by such officer is afterwards approved by the Executive Board of Eurex Clearing AG.
- (2) Except as otherwise determined in an Emergency Resolution or in connection with a corresponding action due to Extraordinary Market Conditions, the powers exercised by Eurex Clearing AG under this Number 1.5 shall be in addition to and not in derogation of the powers granted to Eurex Clearing AG elsewhere in these Clearing Conditions.
- (3) Eurex Clearing AG will consult with the EMIR Risk Committee before any Emergency Resolution is adopted if such prior consultation is possible taking account of the circumstances of the relevant case and in accordance with the principle of good faith and if this would not constitute a breach of law or of requirements set out in an order of a court of competent jurisdiction or stipulated by a competent governmental, quasi-governmental, or regulatory body. Otherwise, the EMIR Risk Committee will be consulted after the Emergency Resolution was adopted. In this case, a decision of the Executive Board of Eurex Clearing AG or the designated Member(s) of the Executive Board of Eurex Clearing AG has to be obtained before an Emergency Resolution will be implemented and the decision may not be taken by a senior officer generally appointed by the Executive Board of Eurex Clearing AG.



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## **Part 2 Clearing of OTC Interest Rate Derivative Transactions**

### **2.1 General Provisions**

#### **2.1.1 Applicable General Provisions**

The general provisions of Part 1 apply to all OTC interest rate derivative transactions to be cleared by Eurex Clearing AG ("**OTC Interest Rate Derivative Transactions**"), except where deviating or supplementary provisions for OTC Interest Rate Derivative Transactions are set out in this Part 2.

#### **2.1.2 Consultation of Clearing Members and Basic Clearing Members/Committees**

##### **2.1.2.1 Determination of Transactions to be included in the Clearing**

- (1) On the basis of the relevant Transaction Type specific novation criteria set out in Number 2.1.4.1 below, Eurex Clearing AG determines the product types of OTC Interest Rate Derivative Transactions to be included in the Clearing of Eurex Clearing AG in consultation with the IRS Product Committee and publishes the relevant product types on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).
- (2) Where a trade record transmitted via an Approved Trade Source System containing an OTC Interest Rate Derivative Transaction which falls within a product type recognised by Eurex Clearing AG pursuant to Paragraph (1) provides for any additional terms which are not contemplated in Numbers 2.2 to 2.4 below, such as e.g. optional or mandatory early termination provisions, such additional terms will not be included in the OTC Trade Novation Report and will not become part of the terms applicable to a CCP Transaction or a CM-RC Transaction, if applicable. Eurex Clearing AG will not store or record any data relating to such additional provisions.
- (3) Eurex Clearing AG will determine those product types of OTC Interest Rate Derivative Transactions that may be cleared by FCM Clearing Members (acting for the account of FCM Clients) pursuant the U.S. Clearing Model Provisions ("**FCM OTC Interest Rate Derivatives Transactions**") in consultation with the IRS Product Committee and publish the relevant product types on its website ([www.eurexclearing.com](http://www.eurexclearing.com)).

The determination will be based upon a review of at least the following factors: (i) trading volume; (ii) liquidity; (iii) availability of reliable prices; (iv) ability of Eurex Clearing AG and the relevant U.S. Clearing Members to gain access to the relevant market for purposes of creating, liquidating, transferring, auctioning, and/or allocating positions; (v) Eurex Clearing AG's capability to measure risk for setting appropriate margin requirements; and (vi) any unusual risk characteristics of a product.

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Transactions that may be cleared by FCM Clearing Members must be within a class of contracts for which Eurex Clearing AG has been found eligible to offer clearing services by the CFTC.

FCM Clearing Members may not clear any OTC Interest Rate Derivative Transactions which are not determined to be FCM OTC Interest Rate Derivatives Transactions pursuant to this Number 2.1.2.1 Paragraph (3).

### 2.1.2.2 IRS Product Committee

If at least 3 (three) Clearing Members (including Basic Clearing Members) are holders of an Interest Rate Derivatives Clearing License, Eurex Clearing AG shall establish a committee consisting of Clearing Members and/or Basic Clearing Members which are holders of an Interest Rate Derivatives Clearing License (as defined in Number 2.1.3) with respect to the following matters in connection with the Clearing of OTC Interest Rate Derivative Transactions (hereinafter the “**IRS Product Committee**”):

1. Determination of the product types of OTC Interest Rate Derivative Transactions, and
2. material amendments to the Clearing Conditions in connection with the Clearing of OTC Interest Rate Derivative Transactions.

Eurex Clearing AG will consult with the IRS Product Committee before it takes a decision on any material changes of its procedures or methods or any amendments to the Clearing Conditions in connection with the matters set out in Numbers 1. and 2. above and in cases where the Clearing Conditions expressly provide for a consultation with the IRS Product Committee before any measures are taken.

The statutes for the IRS Product Committee as published on the website of Eurex Clearing AG ([www.eurexclearing.com](http://www.eurexclearing.com)) in the English language shall form an integral part of these Clearing Conditions.

### 2.1.3 License for the Clearing of OTC Interest Rate Derivative Transactions

The OTC Clearing License granted for the Clearing of OTC Interest Rate Derivative Transactions (the “**Interest Rate Derivatives Clearing License**”) entitles (i) the relevant Clearing Member to clear OTC Interest Rate Derivative Transactions that ~~(i)~~ are Own Transactions, RC-Related Transactions, Customer-Related Transactions or FCM Client Transactions (in respect of which the Clearing Member act as FCM Clearing Member) under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable, and ~~(ii) the currency of which is Euro (EUR), US-Dollar (USD), Pound Sterling (GBP), Swiss Franc (CHF) or Japanese Yen (JPY) and~~ (ii) the relevant Basic Clearing Member to clear OTC Interest Rate Derivative Transactions that are Own Transactions under the Basic Clearing Model Provisions and the currency of which is Euro (EUR), US-Dollar (USD), Pound Sterling (GBP), Swiss Franc (CHF) or Japanese Yen (JPY). Without prejudice to Number 2.1.2.1 Paragraph (3), the relevant Clearing Member or Basic Clearing Member may

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elect that the Interest Rate Derivatives Clearing License shall be restricted to the Clearing of OTC Interest Rate Derivative Transactions in only some or one of these five currencies.

The owner of an Interest Rate Derivatives Clearing License may additionally clear zero coupon inflation swaps (“**ZCIS**”) if the following requirements are met:

- (a) The relevant Clearing Member or Basic Clearing Member has elected whether to clear ZCIS on the indexes HICPxT and FRCPI (EUR inflation), whereas for EUR inflation it is not possible to elect only one of the two inflation indexes but only both together, and/or on the UK-RPI index (GBP inflation); and
- (b) The OTC Clearing License of the Clearing Member or Basic Clearing Member covers the currencies elected for the clearing of ZCIS.

### **2.1.3.1 Requirements for the Granting of an Interest Rate Derivative Clearing License**

The general requirements for obtaining a Clearing License set out in Chapter I Part 1 Number 2.1.1 to 2.1.3 and 2.3.1 shall apply (except for Chapter I Part 1 Number 2.1.2 Paragraph (4) (a) (ee) and Number 2.1.2 Paragraph (5) (e)). In addition, the institution applying for an Interest Rate Derivatives Clearing License shall meet the following requirements:

- (a) the institution is a participant in an Approved Trade Source System;
- (b) confirmation that a license agreement is concluded between the institution and Swaps Monitor Publications, Inc., New York for the usage of data to determine the relevant Business Day;
- (c) in addition to the cash accounts required pursuant to Chapter I Part 1 Number 2.1.2 Paragraph (4) (b), if the Interest Rate Derivatives Clearing License of the relevant Clearing Member or Basic Clearing Member covers OTC Interest Rate Derivative Transactions in USD, a bank cash account in USD;
- (d) if the Interest Rate Derivatives Clearing License of the relevant Clearing Member or Basic Clearing Member covers OTC Interest Rate Derivative Transactions in GBP, a bank cash account for GBP;
- (e) if the Interest Rate Derivatives Clearing License of the relevant Clearing Member or Basic Clearing Member covers OTC Interest Rate Derivative Transactions in JPY, a bank cash account for JPY;
- (f) in the Interest Rate Derivatives Clearing License of the relevant Clearing Member or Basic Clearing Member covers OTC Interest Rate Derivative Transactions in CHF, a bank cash account for CHF; and
- (g) evidence that each of the bank cash accounts pursuant to Paragraph (c) to (f) above is established with a bank recognised by Eurex Clearing AG.

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## 2.1.4 Novation Criteria and Process Regarding OTC Interest Rate Derivative Transactions

With regard to the novation of OTC Interest Rate Derivative Transactions, the specific novation criteria set out in the following provisions shall apply in addition to the novation criteria pursuant to Part 1 Number 1.2.3.

### 2.1.4.1 Transaction Type Specific Novation Criteria

The following Transaction Type specific novation criteria must be fulfilled for OTC Interest Rate Derivative Transactions (based on the trade record transmitted to Eurex Clearing AG via the Approved Trade Source System):

#### (1) Categories of OTC Interest Rate Derivative Transactions

The OTC Interest Rate Derivative Transactions must be (i) an interest rate swap (including “**basis**” swaps and zero coupon swaps) (“**IRS**”), (ii) an overnight index swap (“**OIS**”), (iii) a forward rate agreement (“**FRA**”), or (iv) a ZCIS and, in each case, a Product Type recognised by Eurex Clearing AG;

#### (2) Currencies

The currency must be (i) EUR, USD, GBP, CHF or JPY for IRS, FRA and OIS or (ii) EUR or GBP for ZCIS and the relevant currency must be covered by the Interest Rate Derivatives Clearing License of the relevant Clearing Member or the relevant Basic Clearing Member(s);

The payments of both parties must be made in the same currency and the floating amounts must be denominated in the same currency as the notional amount;

#### (3) Payment types

The payments by the parties must be of either of the following types:

- (a) Fixed rate or fixed amount (in each case including zero coupon payments) versus floating rate (including zero coupon payments); or
- (b) (in case of IRS only) floating rate versus floating rate (in each case including zero coupon payments);
- (c) (in case of ZCIS only) zero coupon annually compounding fixed rate versus the performance of the corresponding inflation index.

Payments of any amounts due under IRS, ZCIS or OIS (other than fees) must be in arrears (and not prior to or at the beginning of a calculation period).

Fees or other payments are defined at contract conclusion. The fees must be in trade currency.

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For IRS, OIS and FRA, in case of a termination, fees are settled one day after the termination date for EUR, USD, GBP, CHF and two days after the termination date for JPY. In case of maturity, fees are settled on the maturity date.

For ZCIS, in case of a termination, fees are settled one day after the termination date. In case of maturity, fees are settled on the maturity date.

In case of forward starting transactions, additional payments are also allowed before the transaction start date.

(4) Maximum remaining term

The remaining term of the OTC Interest Rate Derivative Transaction from the date of novation to the termination date must be (i) in case of IRS, no more than 50 years and 10 Business Days for Original OTC Transactions in EUR, USD and GBP and no more than 30 years and 10 Business Days for Original OTC Transactions in CHF and JPY, (ii) in case of OIS, no more than 30 years and 10 Business Days, (iii) in case of FRA, no more than 36 months and 10 Business Days and (iv) in case of ZCIS, no more than 30 years and 10 Business Days for transactions in EUR (indexes HICPxT and FRCPI) and no more than 50 years and 10 Business Days for transactions in GBP (index UK-RPI).

(5) Minimum residual term

In case of IRS, OIS and ZCIS, the minimum period between the date of novation and the termination date must be at least one Business Day for EUR, GBP, USD and CHF and two Business Days for JPY.

In case of FRA which are settled in advance or in arrears, the minimum period between the date of novation and the payment date must be at least one Business Day for EUR, GBP, USD and CHF and two Business Days for JPY.

(6) Minimum term

In case of ZCIS, the minimum period between the start date and the maturity date must be at least 28 calendar days.

(7) Shortened or extended calculation period (stub period)

In case of IRS and OIS, any non-standard shortened or extended calculation period ("**Stub Period**"), if any, must meet the following criteria:

(a) a short or long first calculation period ("**Front Stub Period**") and a short or long last calculation period ("**Back Stub Period**") may be specified for IRS and OIS, provided that:

(aa) For floating rate versus floating rate basis swaps and OIS both a Front Stub Period and a Back Stub Period are not eligible. If both legs have a Stub

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Period, these have to be of the same type, i.e. both Front Stub Periods or both Back Stub Periods;

(bb) For fixed rate versus floating rate IRS, up to two Stub Periods (Front Stub Periods and/or Back Stub Periods) per leg are eligible, whereby the following conditions have to be fulfilled: (i) If both legs have a Stub Period, these have to be of the same type, i.e. both Front Stub Periods or both Back Stub Periods. (ii) If a leg has both a Front Stub Period and a Back Stub Period, then the other leg must have also both a Front Stub Period and a Back Stub Period.

(cc) Stub Periods must not be specified for OTC Interest Rate Derivative Transactions with (i) payments of floating amounts which are calculated on a compounding basis (except OIS) as set out in Paragraph 16 below, or (ii) zero coupon payments.

(b) The minimum period length of short Stub Periods is one day. The maximum period length for long Stub Periods is one year and one month for (i) fixed rate payments under IRS in any eligible currency, (ii) floating rate payments under IRS in EUR or GBP and (iii) OIS. For floating rate payments under IRS in CHF, USD and JPY, the maximum length for long Stub Periods is seven months.

(c) For IRS floating payments, the floating rates for Stub Periods must be specified in the trade record submitted via the Approved Trade Source System as follows:

(aa) in case of a Front Stub Period, the applicable first fixed floating rate for the Stub Period is specified as such; or

(bb) a floating rate index tenor is specified, which is used for the fixing in respect of the Stub Period. The following tenors (W = week(s), M = month(s), Y = year) are eligible: in case the currency is EUR: 1W, 2W, 1M, 2M, 3M, 6M, 9M, 1Y; in case the currency is GBP: 1W, 1M, 2M, 3M, 6M, 1Y; in case the currency is USD, CHF or JPY: 1W, 1M, 2M, 3M, 6M. Only neighboring tenors of the stub period length are allowed (e.g. 2M or 3M for stub period length 2M+1W); or

(cc) linear interpolation is specified, i.e. the floating rate for the relevant Stub Period is to be interpolated linearly between two specified rate index tenors. The interpolation tenors must be the two neighbours of the stub period length (e.g. 2M and 3M for stub period length 2M+1W). The eligible tenors are the same as for method (bb).

(dd) a floating rate index tenor is specified, which is used for the fixing in respect of the Stub Period. The following tenors (W = week(s), M = month(s), Y = year) are eligible: in case the currency is EUR: 3W, 4M, 5M, 7M, 8M, 10M, 11M; in case the currency is GBP: 2W, 4M, 5M, 7M, 8M, 9M,

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10M, 11M; in case the currency is USD, CHF or JPY: 2W, 4M, 5M, 7M. In this case, a linear interpolation as laid out in (cc) will be applicable.

(8) Floating rate indices

The floating rate index (Floating Rate Option or base rate) must be one of the following:

- (a) EUR-EURIBOR-REUTERS
- (b) GBP-LIBOR-BBA
- (c) USD-LIBOR-BBA
- (d) CHF-LIBOR-BBA
- (e) JPY-LIBOR- BBA
- (f) CHF-TOIS-OIS-COMPOUND
- (g) USD-Federal Funds-H.15-OIS
- (h) JPY-TONA-OIS-COMPOUND
- (i) GBP-WMBA-SONIA-COMPOUND
- (j) EUR-EONIA-OIS-Compound;

where:

For Paragraphs (a) – (e), the payment is between the period end date and the second Business Day following the period end date. The fixing for Paragraphs (a) – (e) is between ten Business Days prior to the period start date and the period start date;

for Paragraph (f), the payment is between the period end date and the second Business Day following the period end date;

for Paragraph (g), payment is on the first or second Business Day following the period end date;

for Paragraphs (h) – (j), the payment is between the period end date and the second Business Day following the period end date;

- (k) Non revised Eurozone Harmonised Indices of Consumer Prices excluding Tobacco (“**HICPxT**”) (ZCIS in trade currency EUR)
- (l) Non revised French Inflation Consumer Price Index excluding Tobacco (“**FRCPIx**”) (ZCIS in trade currency EUR)
- (m) Non revised UK Retail Price Index (“**UK RPI**”) (ZCIS in trade currency GBP)

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(9) Fixed rates

Fixed rates for IRS, OIS, ZCIS and FRA can have any value specified by up to 8 decimal points and may be less than zero, equal to zero or greater than zero;

(10) Fixed rate and floating rate spread schedules

IRS (but not ZCIS, OIS or FRA) may have a fixed rate and a floating rate spread schedule, i.e. a fixed rate or floating rate spread may vary across the calculation periods relative to their value in the relevant preceding calculation period provided that any such change to the fixed rate or the floating rate spread may only occur at the start of the relevant calculation period and must be pre-determined and specified in the trade record submitted via the Approved Trade Source System. Fixed rate or floating rate spread schedules are not eligible for zero coupon payments or payments made on a compounding basis;

(11) Calculation periods

The calculation period(s) for payment(s) of floating amounts under the relevant OTC Interest Rate Derivative Transaction (other than OIS or an OTC Interest Rate Derivative Transaction in CHF, USD or JPY) must be one month, three months, six months or twelve months and the calculation period(s) for payment(s) of floating amounts under an OTC Interest Rate Derivative Transaction in CHF, USD or JPY must be one month, three months or six months (in all cases except for Stub Periods, zero coupon payments and payments on a compounding basis). Where the relevant OTC Interest Rate Derivative Transaction is an OIS, floating amounts must be payable monthly, quarterly, semi-annually, annually or at maturity (except for Stub Periods). For ZCIS, only zero coupon payments are supported.

If a payment date for a fixed or floating rate payment is adjusted in accordance with any applicable Business Day Convention, the numbers of days in the relevant calculation period may either be adjusted to the new payment date or remain unadjusted, which is to be specified in the trade record submitted via the Approved Trade Source System.

Except for ZCIS and FRA the start and end dates can be different for each swap leg.

(12) Notional amount

The minimum notional amount must be (i) 0.01 for EUR, USD, GBP, or CHF or (ii) 1.00 for JPY.

Except for ZCIS and FRA the notional amounts can be different for each swap leg and may vary across the calculation periods relative to their value in the relevant preceding calculation period. The changes in notional can only take place at the start of the calculation periods and must be pre-determined and specified in the trade record submitted via the Approved Trade Source System. Changes in the notional amount across calculation periods may not be specified for ZCIS, OIS nor for IRS with swap



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legs under which amounts are payable on a compounding basis or in the form of a zero coupon payment:

The terms of the OTC Interest Rate Derivative Transaction must not provide for an exchange of notional amounts.

(13) Day count conventions

The day count convention(s) applicable to the OTC Interest Rate Derivative Transaction (excluding ZCIS) must be one of the following (based on the 2006 ISDA Definitions or the 2000 ISDA Definitions, as specified in the trade record transmitted via the Approved Trade Source System): 30/360, 30E/360, 30E/360 (ISDA), Act/360, Act/Act (ISDA), Act/365 (ISDA), Act/Act (ICMA), Act/Act (ISMA) or Act/365 (Fixed).

The day count convention applicable to ZCIS must be 1/1.

(14) Business Days

For purposes of defining the applicable Business Day, details of the relevant financial/business centre(s) or terms, which must be TARGET (EUTA), New York (USNY), London (GBLO), Frankfurt (DEFR), Paris (FRPA), Madrid (ESMA), Brussels (BEBR), Milan (ITMI), Tokyo (JPTO) or Zurich (CHZU), must be provided;

(15) Business Day Convention

The Business Day Convention must be one of the following: (i) Following, (ii) Modified Following, or (iii) Preceding;

(16) Special eligibility criteria for FRA

In case of FRA, no spread is specified, the FRA Amount is either payable on the effective date as a discounted amount or on the termination date, the discount rate and discount rate day count fraction (if applicable) are not defined separately from the floating rate and floating rate day count fraction and the calculation period is no longer than one year, Stub Periods are not permitted;

(17) Compounding

The floating leg (incl. spread) of an IRS can be subject to **Compounding** (also referred to as "**straight compounding**" if **Flat Compounding** is not specified as applicable) or **Flat Compounding**, each as defined in Number 2.2.4 below. Only standard monthly, quarterly, semi-annual and, in case of EUR and GBP only, annual floating rate indices can be referenced for payments made on a "**straight**" Compounding or Flat Compounding basis, i.e. no Stub Periods may be specified for such OTC Interest Derivative Transactions;

For the fixed leg, neither "**straight**" Compounding nor Flat Compounding may be selected in the Approved Trade Source System. However, a fixed rate can be specified

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under the zero coupon option which would result in one fixed payment at swap maturity for the fixed leg only applying the provided fixed rate subject to the applicable terms of calculation such as business day conventions and day count fractions. Alternatively, a lump sum can be entered manually that would be paid unadjusted on the last payment date of the relevant zero coupon swap.

For zero coupon swaps the first Reset Date of the floating leg(s) should not be prior to 01.January 2005.

(18) Caps, floors, collars

OTC Interest Derivative Transactions where the floating rate is subject to a cap, floor or a collar are not eligible.

(19) Start date

IRS, OIS and FRA may be spot starting, forward starting or starting in the past (backloading). ZCIS may only be spot starting and starting in the past.

#### 2.1.4.2 Documentation of Original OTC Transactions

- (1) In the trade record submitted via an Approved Trade Source System, one of the following master agreements may be specified as the contractual basis of an Original OTC Transaction: (i) the 1992 or 2002 ISDA Master Agreement, (ii) the German Master Agreement for Financial Derivatives Transactions (*Rahmenvertrag für Finanztermingeschäfte*, the “**DRV**”) or (iii) the AFB/FBF Master Agreement.
- (2) Irrespective of the documentation of the Original OTC Transaction, the “**Terms for ISDA Interest Rate Derivative Transactions**” set out in Number 2.3 below shall apply to all CCP Transactions and CM-RC Transactions (the “**ISDA Interest Rate Derivative Transactions**”) that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the Approved Trade Source System as having been entered into under the ISDA Master Agreement or the AFB/FBF Master Agreement. The “**Terms for DRV Interest Rate Derivative Transactions**” set out in Number 2.4 below shall apply to all CCP Transactions and CM-RC Transactions (the “**DRV Interest Rate Derivative Transactions**”) that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the Approved Trade Source System as having been entered into under the DRV and which, accordingly, are designated as “**DRV-based**” in the applicable OTC Trade Novation Report.

(3) By entering into

- ~~(3) By entering into~~ the relevant Clearing Agreement, the Clearing Member and the Registered Customer ~~or~~ the FCM Client or the Basic-Clearing-Member, respectively,

~~declare~~ declare(s) vis-à-vis Eurex Clearing AG that it has received a copy of the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association,

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Inc. (“**ISDA**”), and any supplements issued thereto as of the date of such Clearing Agreement.

The Clearing Member, the Registered Customer ~~and~~, the FCM Client and the Basic Clearing Member further agree to the passing on to ISDA of their company name and their company address in the context of the delivery to it of the documents referred to in the foregoing paragraph.

### 2.1.4.3 Daily Novation Process

- (1) The novation and clearing process will be carried out on each Business Day (“**Daily Novation**”) for each Original OTC Transaction which has been submitted to Eurex Clearing AG via an Approved Trade Source System and which fulfils applicable novation criteria. The novation process will be performed pursuant to the following paragraphs.
- (2) Original OTC Transactions that are to be included in the Clearing by way of Daily Novation may be submitted to Eurex Clearing AG at any point in time. Between 8 a.m. CET and 10 p.m. CET on each Business Day, Original OTC Transactions which fulfil all novation criteria at or prior to 10 p.m. CET on a Business Day will be included in the Daily Novation on such Business Day. An OTC Trade Novation Report will be made available to the relevant Clearing Member (in respect of a FCM Client Transaction, to the relevant FCM Clearing Member acting on behalf of the relevant FCM Client) or to the relevant Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) electronically via Eurex Clearing AG's system. The last OTC Trade Novation Report will be made available at or around 11 p.m. CET.
- (3) Original OTC Transactions which, on the day of submission, fulfil all novation criteria except the provision of the required margin to Eurex Clearing AG will be included in the Daily Novation on the next Business Day, and the relevant Original OTC Transactions will be novated on such next Business Day if all of the novation criteria are fulfilled by not later than 10 p.m. CET on such Business Day.
- (4) A Clearing Member, a Registered Customer ~~or~~, a FCM Client or a Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) may subsequently cancel the submission with respect to:
  - (a) any Original OTC Transactions submitted to Eurex Clearing AG via an Approved Trade Source System and intended to be novated within the Daily Novation if the relevant Original OTC Transactions have not been novated; and/or
  - (b) any CCP Transaction intended to be transferred pursuant to Number 2.6, to be terminated or de-cleared pursuant to 2.7,

provided that (i) the cancellation request is entered by the Clearing Member (and, in respect of a FCM Client Transaction, by the relevant FCM Clearing Member acting on behalf of the relevant FCM Client), the Registered Customer ~~or~~, the FCM Client or the

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Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) into the system of, and received by, Eurex Clearing AG, and (ii) each, the responsible Clearing Member, in case the request is entered by a Registered Customer, or the relevant FCM Clearing Member (acting on behalf of the relevant FCM Client), in case the request is entered on behalf of its FCM Client, and the other Clearing Member or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) that is a party to the relevant transaction have given their prior consent in the system of Eurex Clearing AG.

#### 2.1.4.4 Scheduled Intraday Margin Calls

- (1) If Eurex Clearing AG determines that the aggregate value of the Eligible Margin Assets actually delivered to Eurex Clearing AG is insufficient to provide the cover required in order to fulfil the margin requirement (as set forth in Number 2.1.6) also taking into account all Original OTC Transactions which are to be novated in the course of the Daily Novation as well as all CCP Transactions pursuant to Numbers 2.6, 2.7 and Number 2.8. (any such shortfall the “**Shortfall Margin Requirement**”), Eurex Clearing AG will require from the Clearing Member (in the case of CCP-FCM Client Transactions, from the relevant FCM Clearing Member acting for the account of the relevant FCM Client) or from the Basic Clearing Member intra-day to provide additional Eligible Margin Assets in an amount up to the Shortfall Margin Requirement in accordance with the following provisions.
- (2) The Transactions resulting from the novation of the Original OTC Transactions as well as the CCP Transactions pursuant to Numbers 2.6, 2.7 and Number 2.8 to be covered by, as well as the amount of, the Shortfall Margin Requirement shall be notified by Eurex Clearing AG in a Preliminary OTC Margin Call Report and an OTC Margin Call Report.

A “**Preliminary OTC Margin Call Report**” means a preliminary report produced by Eurex Clearing AG and made available at 12:00 p.m. CET, 14:00 p.m. CET and 18:00 p.m. CET that specifies (i) the Original OTC Transactions to be novated into OTC Interest Rate Derivative Transactions as well as (ii) the respective CCP Transactions, to which the Shortfall Margin Requirement applies and the amount of the Shortfall Margin Requirement calculated by Eurex Clearing AG as per the time when the relevant Preliminary OTC Margin Call Report is made available (the “**Preliminary Shortfall Margin Amount**”).

An “**OTC Margin Call Report**” means a report produced by Eurex Clearing AG and made available at 13:00 p.m. CET, 15:00 p.m. CET, 19:00 p.m. CET, and 22:30 p.m. CET that specifies (i) the Original OTC Transactions to be novated into OTC Interest Rate Derivative Transactions as well as (ii) the respective CCP Transactions, to which the Shortfall Margin Requirement applies as well as the Final Shortfall Margin Amount.

The “**Final Shortfall Margin Amount**” shall be the lower of the (i) Preliminary Shortfall Margin Amount and (ii) the amount of the Shortfall Margin Requirement calculated by

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Eurex Clearing AG as per the time when the relevant OTC Margin Call Report is made available.

- (3) Eurex Clearing AG will debit the Final Shortfall Margin Amount set forth in an OTC Margin Call Report in the agreed Clearing Currency from the relevant Clearing Member Cash Account, relevant Basic Clearing Member Cash Account or relevant U.S. Clearing Member Cash Account, as relevant, in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1. If such Clearing Currency can no longer be settled, Eurex Clearing AG shall convert the Final Shortfall Margin Amount in USD at the exchange rate determined by Eurex Clearing AG (as mentioned in the relevant Preliminary OTC Margin Call Report or OTC Margin Call Report).
- (4) The payment made by direct debit of the Final Shortfall Margin Amount determined in the OTC Margin Call Report produced and made available by Eurex Clearing AG at 1 p.m. CET, 3 p.m. CET and 7 p.m. CET shall constitute cover in respect of the Margin to which the margin requirement pursuant to Number 2.1.6 relates and accordingly will constitute (i) Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) Segregated Margin delivered by the Clearing Member pursuant to the Individual Clearing Model Provisions, (iii) Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) FCM Client Margin delivered by the relevant FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions or (v) Basic Clearing Member Margin delivered by the Basic Clearing Member pursuant to the Basic Clearing Member Provisions. The payment made by direct debit of the Final Shortfall Margin Amount determined in the OTC Margin Call Report produced and made available by Eurex Clearing AG at 10:30 p.m. CET shall be treated accordingly and shall constitute cover either in respect of (i) the Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) the Segregated Margin delivered by the Clearing Member pursuant to the Individual Clearing Model Provisions. (iii) the Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) the FCM Client Margin delivered by the FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions or (v) the Basic Clearing Member Margin delivered by the Basic Clearing Member pursuant to the Basic Clearing Member Provisions.
- (5) Such amount shall be settled in full by the time when the relevant OTC Margin Call Report is published on the relevant Business Day pursuant to Paragraph (3) above.
- (6) The margin call pursuant to this Number 2.1.4.4 applies in addition to the Margin Calls pursuant to Chapter I Part 1 Number 3.3, Part 2 Number 6.3, Part 3 Subpart A Number 5.3, Part 4 Number 6.3 ~~and~~ Part 5 Number 5.3 ~~and~~ Part 6 Number 7.3.

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#### 2.1.4.5 Bulk Backloading of Original OTC Transactions

- (1) An Original OTC Transaction that has a Trade Date which falls more than ten Business Days prior to the date of submission to Eurex Clearing will be considered as a backloaded trade ("**Bulk Backloaded Original OTC Transaction**").
- (2) The novation and clearing process for Bulk Backloaded Original OTC Transactions which have been submitted to Eurex Clearing AG via an Approved Trade Source System will be carried out on each Business Day. The novation process will be performed pursuant to the following paragraphs.
- (3) Bulk Backloaded Original OTC Transactions that are to be included in the Clearing by way of novation may be submitted to Eurex Clearing AG at any point in time. Bulk Backloaded Original OTC Transactions which are submitted prior to 5 p.m. CET on a Business Day and which fulfil all applicable novation criteria will be included in the novation process on such Business Day.
- (4) The novation process for OTC Bulk Backloaded Original Transactions which are submitted beyond 5 p.m. CET on a Business Day will be carried out on the following next Business Day.
- (5) At 5 p.m. CET and 9 p.m. CET on each Business Day Eurex Clearing AG will make available to the Clearing Member (in the case of a FCM Client Transaction, to the FCM Clearing Member acting on behalf of the relevant FCM Client) and Registered Customer or the Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) a preliminary report indicating the Bulk Backloading Original OTC Transactions which have been received for Clearing and which fulfil the novation criteria pursuant to Number 2.1.4.1, the Margin Requirement as well as any shortage in actually delivered eligible Margin Assets.
- (6) Bulk Backloaded Original OTC Transactions which, on the day of submission, fulfil all novation criteria shall be novated on that Business Day. The novation will become effective when the respective OTC Trade Novation Report will be made available at or around 11 p.m. CET.
- (7) For Bulk Backloaded Original OTC Transactions which, on the day of submission, fulfil all novation criteria except for the provision of the Eligible Margin Asset necessary to cover the margin requirement Eurex Clearing AG will debit the shortfall amount set forth in the OTC Margin Call Report produced and made available at 10:30 p.m. CET in the agreed Clearing Currency from the relevant Clearing Member Cash Account ~~or~~ relevant U.S. Clearing Member Cash Account or Basic Clearing Member Cash Account, as relevant, in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1. Such payment made by direct debit shall constitute cover in respect of the Margin to which the margin requirement referred to in the foregoing sentence relates and accordingly will constitute (i) Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) Segregated Margin delivered by the Clearing

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Member pursuant to the Individual Clearing Model Provisions, (iii) Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) FCM Client Margin delivered by the FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions or (v) Basic Clearing Member Margin delivered by the Basic Clearing Member pursuant to the Basic Clearing Member Provisions. Eurex Clearing AG will make available an OTC Trade Novation Report on the Business Day following the day of submission at or around 9 a.m. CET to the Clearing Member (in the case of a FCM Client Transaction, to the FCM Clearing Member acting on behalf of the relevant FCM Client) and the Registered Customer or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member).

- (8) A Clearing Member (in the case of a FCM Client Transaction, the FCM Clearing Member acting on behalf of the relevant FCM Client) ~~or~~ Registered Customer or a Basic Clearing Member (or a Clearing Agent acting on behalf of the Basic Clearing Member) may subsequently cancel the submission with respect to any Bulk Backloading Original OTC Transaction submitted to Eurex Clearing AG via an Approved Trade Source System and intended to be novated by the latest by 9 p.m. CET on a Business Day, provided that
- (i) the cancellation request is entered by the Clearing Member (or FCM Clearing Member acting on behalf of the relevant FCM Client) ~~or~~ the Registered Customer or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) into the system of, and received by, Eurex Clearing AG, and
  - (ii) each, the responsible Clearing Member, in case the request is entered by a Registered Customer, or the relevant FCM Clearing Member (acting on behalf of the relevant FCM Client), in case the request is entered on behalf of its FCM Client, and the other Clearing Member or the other Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) that is a party to the relevant Transaction have given their prior consent in the system of Eurex Clearing AG.

### 2.1.5 Daily Evaluation Price

Eurex Clearing AG determines the daily evaluation price on the basis of the fixings published on the Reuters screen page as defined for the relevant floating rate in Number 2.2.5 Paragraph (1) below and the discount and forecast curve provided by a recognised third party provider. Where no information on the relevant rates is available on the relevant screen page, Eurex Clearing AG will determine the daily evaluation price based on quotes obtained from major banks in accordance with Number 2.2.5 Paragraph (9) below.

### 2.1.6 Margin Requirements

- (1) The basic provisions for the margin requirements are set forth in Chapter I Part 1 Number 3 together with Chapter I Part 2 Number 6, Part 3 Subpart A Number 5, Part 4 Number 6 ~~and~~ Part 5 Number 5 and Part 6 Number 7, as applicable. In addition thereto, the following provisions shall apply:

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- (2) The applicable Margin Type shall be the Additional Margin and Variation Margin.
- (3) The Variation Margin Requirement or FCM Client Variation Margin Requirement and/or any Redelivery Amount (each as defined in Chapter I Part 2 Number 7, Part 3 Subpart A Number 6, Part 4 Number 7 or Part 5 Number 6, as applicable), as the case may be, for CCP Transactions that are OTC Interest Rate Derivative Transactions shall equal the profit or loss amount determined on any Business Day on the basis of the daily evaluation price (Number 2.1.5) as follows: For each outstanding CCP Transaction concluded prior to the relevant Business Day, the relevant profit or loss amount shall be the difference between the daily evaluation prices of the CCP Transaction on the relevant Business Day and the previous Business Day. For CCP Transactions concluded on the relevant Business Day, the relevant profit and loss amount shall be the difference between zero and the daily evaluation price for such Business Day. Additionally, the Variation Margin includes two correction terms for considering the time delay between its calculation and settlement. For this purpose, the coupon payments and transaction fees on the current Business Day are added and the coupon payments and transaction fees on the next Business Day (second next Business Day for JPY) of the respective currency are subtracted.
- (4) Eurex Clearing AG will charge the price alignment interest (“**PAI**”) to the Clearing Member ~~or the~~ FCM Clearing Member (for the account of the FCM Client) or the Basic Clearing Member together with the Variation Margin ~~or the~~ FCM Client Variation Margin or the Basic Clearing Member Variation Margin, as the case may be. It corresponds to the overnight interest paid or received on the cumulative Variation Margin ~~or the~~ FCM Client Variation Margin or Basic Clearing Member Variation Margin over the lifetime of the portfolio. The cumulative Variation Margin ~~or the~~ FCM Client Variation Margin or Basic Clearing Member Variation Margin, respectively, of the previous Business Day corresponds to the present value of the IRS portfolio on the previous Business Day.

If the overnight interest rates are positive and a Clearing Member ~~(or a~~ FCM Client) or a Basic Clearing Member has a positive portfolio value, Eurex Clearing AG will charge PAI from the Clearing Member, the FCM Client or the Basic Clearing Member. If the overnight interest rates are positive and a Clearing Member ~~(or a~~ FCM Client) or Basic Clearing Member has a negative portfolio value, Eurex Clearing AG will credit PAI to the Clearing Member ~~(or the~~ FCM Client) or Basic Clearing Member. In case of negative overnight interest rates, Eurex Clearing AG will credit PAI ~~if to~~ a Clearing Member ~~(or a~~ FCM Client) or Basic Clearing Member if it has a positive portfolio value and will charge PAI ~~if a~~ from the Clearing Member ~~(or a~~ the FCM Client) or the Basic Clearing Member if the Clearing Member, FCM Client or Basic Clearing Member has a negative portfolio value.

PAI shall be calculated and payable for each currency on each Business Day with respect to each Transaction in accordance with the following formula:

$$PAI(t) = -PV(t - d^-) \cdot ON(t - d^-, t) \cdot \frac{d^-}{360}$$



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where:

“ $PV(t - d^-)$ ” means the present value on the previous Business Day

“ $ON(t - d^-, t)$ ” means the overnight interest rate of the corresponding currency for the period between today and today less  $d$  days.

“ $d^-$ ” means the number of calendar days between the current and the last derivation of the PAI.

- (5) The rules on set-off of cash claims pursuant to Chapter I Part 1 Number 1.3.1 Paragraph (1) (a) Sentence 1 and Chapter I Part 1 Number 1.3.1 Paragraph (2) (a) (aa) (subject to the limitations set out in Chapter I Part 5 Number 4) apply.

### 2.1.7 Clearing Fund

Contributions to the Clearing Fund are made in accordance with Chapter I Part 1 Number 6 and, if applicable, Chapter I Part 3 Subpart A Number 15 and Part 5 Number 7 or Chapter I Part 6 Number 9.

### 2.1.8 Calculation Agent

Eurex Clearing AG shall act as calculation agent (the “**Calculation Agent**”) with respect to the calculation of fixed and floating amounts (including the determination of the applicable floating rate/base rate) as well as any close-out amounts or cash settlement amounts that (a) are payable upon termination or novation of CCP Transactions and (b) are to be determined by the Calculation Agent pursuant to this Part 2. To the extent calculations, determinations or other action have to be made or taken under the 2006 ISDA Definitions, Section 4.14 of the 2006 ISDA Definitions shall apply provided that any notices to be given by the Calculation Agent will be made available by Eurex Clearing AG in its system for purposes of both CCP Transactions and CM-RC Transactions. For the avoidance of doubt, in its function as Calculation Agent, the liability of Eurex Clearing AG shall be restricted in accordance with the provisions set out in Chapter I Part 1 Number 14.1.2 of the Clearing Conditions.

## 2.2 General product-related terms for OTC Interest Rate Derivative Transactions

The following general product-related terms shall apply to the OTC Interest Rate Derivative Transactions provided for in Number 2.3 and 2.4.

### 2.2.1 Payment Obligations

- (1) The relevant Clearing Member ~~or~~ FCM Clearing Member (for the account of the FCM Client) or Basic Clearing Member (or its Clearing Agent acting for its account) and Eurex Clearing AG shall pay either Fixed Amounts or Floating Amounts and, if applicable, any initial amount payable under the relevant CCP Transaction, as provided for in Number 2.3 and 2.4. Eurex Clearing AG may discharge its payment obligations by way of set-off in accordance with Chapter I Part 1 Number 1.3.1 Paragraph (1) (a) and

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(f) and Chapter I Part 1 Number 1.3.1 Paragraph (2) (a) (aa), (b) and (c) (subject to the limitations set out in Chapter I Part 5 Number 4).

- (2) Payments of Fixed or Floating Amounts due on the next scheduled payment date after the date on which novation of the relevant Original OTC Transaction has taken place shall be effected in accordance with the Clearing Conditions for the entire calculation period. This also applies if part of the calculation period has already elapsed at the day of novation.
- (3) Payments under the relevant OTC Interest Rate Derivative Transaction will not be owed under the relevant CCP Transaction and are not subject to these Clearing Conditions in case these payments (i) are in EUR, USD, GBP, CHF or JPY and were due on or before the day of novation or (ii) are in JPY and will become due on the next Business Day following the day of novation.
- (4) If after adjustment in accordance with the applicable Business Day Conventions, payments of Fixed or Floating Amounts become due on a Payment Date which is not a day on which TARGET2 (the Trans-European Automated Real-time Gross settlement Express Transfer system) is open (a "**TARGET Settlement Day**"), such payments shall become payable on the next TARGET Settlement Day. For the period from (and including) the scheduled payment date until (and excluding) the next following TARGET Settlement Day, interest will be payable by the relevant fixed rate payer or floating rate payer on the relevant Fixed Amount or Floating Amount payable at a rate equal to EONIA (in case of Euro payments), SONIA (in case of GBP payments); FED FUNDS (in case of USD payments) TOIS (in case of CHF payments) or TONA (in case of JPY payments).

### **2.2.2 References to Market Standard OTC Interest Rate Derivatives Documentation**

- (1) Notwithstanding any selection of the 2000 or 2006 ISDA Definitions in the data to be transmitted via the Approved Trade Source System and subject to Number 2.2.6 (Day Count Fractions) below, (a) the 2006 ISDA Definitions, as published by ISDA, shall apply to all CCP Transactions and CM-RC Transactions that are ISDA Interest Rate Derivative Transactions and (b) the 2000 or 2006 ISDA Definitions shall not apply to DRV Interest Rate Derivative Transactions except that (i) the definitions relating to compounding set forth in Section 6.3 of the 2006 ISDA Definitions, which are referenced in the last sub-paragraph of Number 2.2.4 Paragraph 1 below, and (ii) Section 8.3 of the 2006 ISDA Definitions relating to Linear Interpolation, which is referenced in Number 2.2.4 Paragraph 4 below shall also apply to DRV Interest Rate Derivative Transactions.
- (2) All terms defined in the 2006 ISDA Definitions which are used in this Chapter VIII shall have the meaning given to them in the 2006 ISDA Definitions unless otherwise defined herein. In the event of any inconsistency between the 2006 ISDA Definitions on the one hand and the Clearing Conditions on the other hand, the Clearing Conditions shall prevail.

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- (3) For the purposes of these Clearing Conditions, references in the 2006 ISDA Definitions to a “**Swap Transaction**” shall be deemed to be references to a CCP Transaction and a CM-RC Transaction, as applicable, that are OTC Interest Rate Derivative Transactions. Any reference in the 2006 ISDA Definitions to a “**Confirmation**” shall be a reference to the Clearing Conditions in conjunction with the relevant OTC Trade Novation Report.
- (4) Notwithstanding the fact that the Clearing Conditions (including Chapter VIII and the market standard documentation incorporated therein by reference) are governed by the laws of Germany, the terms and provisions of the 2006 ISDA Definitions shall be interpreted in accordance with international market practice for OTC Interest Rate Derivative Transactions and shall be given the same meaning as they would have in English law-governed OTC interest rate derivative transactions entered into on the basis of documentation published by ISDA.

### 2.2.3 Calculation of Fixed Amount

Eurex Clearing AG will calculate a fixed amount payable by a party on a Payment Date (the “**Fixed Amount**”) as either:

- (a) if in the OTC Trade Novation Report an amount is specified as the Fixed Amount payable by that party for that Payment Date or for the related Calculation Period, such amount; or
- (b) if an amount is not specified in the OTC Trade Novation Report as the Fixed Amount and if such amount is not otherwise determined as provided in the OTC Trade Event Report, an amount calculated on the basis of the following formula for that Payment Date or for the related Calculation Period:

Fixed Amount = Notional Amount x Fixed Rate X Fixed Rate Day Count Fraction.

or in case of ZCIS as:

Fixed Amount = Notional Amount x  $((1 + \text{Fixed Rate})^{\text{Term}} - 1)$

- (c) If the Fixed Amount payable by a party on a Payment Date is negative, the Amount payable by that party on that Payment Date will be deemed to be zero and the other party is obliged to pay to that party the absolute value of the negative Amount as calculated, in addition to any amounts otherwise payable by the other party for the related Calculation Period.

### 2.2.4 Calculation of Floating Amount

- (1) Eurex Clearing AG will calculate the floating amount payable by a party on a Payment Date (the “**Floating Amount**”) as follows:
  - (a) if neither Compounding nor Flat Compounding is applicable, an amount calculated for that Payment Date or the related Calculation Period on the basis of the following formula:

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Floating Amount = Notional Amount x Floating Rate (+/- Spread) X Floating Rate Day Count Fraction.

- (b) if “**Compounding**” is specified as applicable and “**Flat Compounding**” is not specified as applicable, an amount equal to the sum of the Compounding Period Amounts for each of the Compounding Periods in the related Calculation Period;
- (c) if “**Flat Compounding**” is specified as applicable, an amount equal to the sum of the Basic Compounding Period Amounts for each of the Compounding Periods in the related Calculation Period plus the sum of the Additional Compounding Period Amounts for each such Compounding Period.

The terms “**Compounding Period**”, “**Compounding Date**”, “**Compounding Period Amount**”, “**Adjusted Calculation Amount**”, “**Basic Compounding Period Amount**”, “**Additional Compounding Period Amount**” and “**Flat Compounding Amount**” shall have the meaning given to them in Section 6.3 of the 2006 ISDA Definitions (which section shall also apply to DRV Interest Rate Derivative Transactions).

- (2) If the Floating Amount payable by a party on a Payment Date is a negative number (either due to a quoted negative Floating Rate or by operation of a negative Spread that is added to the Floating Rate) and if “**Compounding**” or “**Flat Compounding**” is not specified for that OTC Interest Rate Derivative Transaction, then the Floating Amount payable by that party on that Payment Date will be deemed to be zero and the other party will pay to that party the absolute value of the negative Floating Amount as calculated, in addition to any amounts otherwise payable by the other party for the related Calculation Period.
- (3) If either “**Compounding**” or “**Flat Compounding**” is specified in the OTC Trade Event Report to be applicable to that OTC Interest Rate Derivative Transaction and the Compounding Period Amount, the Basic Compounding Period Amount or the Additional Compounding Period Amount is a negative number (either due to a quoted negative Floating Rate or by operation of a negative Spread that is added to the Floating Rate), then the Floating Amount for the Calculation Period in which that Compounding Period or those Compounding Periods occur will be either the sum of all Compounding Period Amounts or the sum of all the Basic Compounding Period Amounts and all the Additional Compounding Period Amounts in that Calculation Period (whether positive or negative).

If such sum is positive, then the Floating Rate Payer with respect to the Floating Amount so calculated (the “**scheduled payer**”) will pay that Floating Amount to the other party (the “**scheduled payee**”). If such sum is negative, the Floating Amount payable by the scheduled payer will be deemed to be zero, and the scheduled payee will, in turn, pay to the scheduled payer the absolute value of the negative Floating Amount as calculated.

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- (4) The floating payment amount of ZCIS is calculated as:

Floating Amount = Notional Amount x (inflation index value at maturity / start inflation index value - 1).

The specified fixing lag and index interpolation method must be considered.

### 2.2.5 Rates for calculating the Floating Amount

- (1) The applicable Relevant Rate (in case of ISDA Interest Rate Derivative Transactions) or Base Rate (in case of DRV Interest Rate Derivative Transactions) applied by Eurex Clearing AG in calculating Floating Amounts will be set out in the OTC Trade Novation Report on the basis of the floating rate index specified in the trade record transmitted to Eurex Clearing AG via the Approved Trade Source System whereby:
- (a) **“EUR-EURIBOR Reuters”** means that the rate for a Reset Date will be the rate for Euro deposits for a period of the Designated Maturity which appears on the Reuters Screen EURIBOR01 Page as of 11:00 a.m., Brussels time, on the day that is two TARGET Settlement Days preceding that Reset Date.
  - (b) **“GBP-LIBOR-BBA”** means that the rate for a Reset Date will be the rate for deposits in Sterling for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01 Page as of 11:00 a.m., London time, on that Reset Date.
  - (c) **“USD-LIBOR-BBA”** means that the rate for a Reset Date will be the rate for deposits in U.S. Dollars for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01Page as of 11:00 a.m., London time, on the day that is two London Banking Days preceding that Reset Date.
  - (d) **“CHF-LIBOR-BBA”** means that the rate for a Reset Date will be the rate for deposits in Swiss Francs for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01Page as of 11:00 a.m., London time, on the day that is two London Banking Days preceding that Reset Date.
  - (e) **“JPY-LIBOR-BBA”** means that the rate for a Reset Date will be the rate for deposits in Japanese Yen for a period of the Designated Maturity which appears on the Reuters Screen 3750 Page as of 11:00 a.m., London time, on the day that is two London Banking Days preceding that Reset Date.
  - (f) **“CHF-TOIS-OIS-COMPOUND”, “USD-Federal Funds-H.15-OIS-COMPOUND”, “GBP-WMBA-SONIA-COMPOUND”, “EUR-EONIA-OIS-Compound”, “JPY-TONA-OIS-COMPOUND”** will be calculated as set out in Number 2.2.7 below.
  - (g) **“HICPxT”** means the non revised Eurozone Harmonised Index of Consumer Prices excluding Tobacco or relevant Successor Index, measuring the rate of inflation in the European Monetary Union excluding tobacco, expressed as an index and published by the relevant Index Sponsor. The first publication or announcement of

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a level of such index for a Reference Month shall be final and conclusive and later revisions to the level for such Reference Month will not be used in any calculations.

- (h) **"FRCPIx"** means the non revised French Inflation Consumer Price Index excluding Tobacco or relevant Successor Index, measuring the rate of inflation in France excluding tobacco expressed as an index and published by the relevant Index Sponsor. The first publication or announcement of a level of such index for a Reference Month shall be final and conclusive and later revisions to the level for such Reference Month will not be used in any calculations.
  - (i) **"UK RPI"** means the non revised UK Retail Price Index or relevant Successor Index, measuring the all items rate of inflation in the United Kingdom expressed as an index and published by the relevant Index Sponsor. The first publication or announcement of a level of such index for a Reference Month shall be final and conclusive and later revisions to the level for such Reference Month will not be used in any calculations.
  - (j) Fallback index level: In case one of the rates under items (a) to (i) above is not published by the relevant body at the respective usual time, Eurex Clearing AG sets the rate used for the calculation of floating amounts in its reasonable discretion.
  - (k) Successor index: In case a floating rate index is discontinued to be published by the relevant body, Eurex Clearing AG sets a successor index in its reasonable discretion taking into account relevant guidance notes of ISDA.
- (2) **"Reset Date"** means, for an OTC Interest Rate Derivative Transaction or a party, each day specified as such in the OTC Trade Novation Report for the OTC Interest Rate Derivative Transaction or that party, subject to adjustment in accordance with the applicable Business Day Convention specified in the OTC Trade Novation Report, in each case on the basis of the data relating to reset dates as transmitted to Eurex Clearing AG via the Approved Trade Source System. If an adjustment in accordance with that Business Day Convention would cause a Reset Date to fall on the Payment Date in respect of the Calculation Period to which that Reset Date relates, the Reset Date shall be the first Business Day preceding the date on which the Reset Date would have fallen without any adjustment.
- (3) **"Designated Maturity"** means, in respect of an OTC Interest Rate Derivative Transaction or a party, the period of time specified as index tenor in the OTC Trade Novation Report on the basis of the index tenor data transmitted to Eurex Clearing AG via the Approved Trade Source System.
- (4) If **"Linear Interpolation"** is specified as applicable with respect to a Calculation Period or Compounding Period, the Relevant Rate for a Reset Date shall be determined in accordance with Section 8.3 of the 2006 ISDA Definitions which shall apply to both ISDA Interest Rate Derivative Transactions and DRV Derivative Transactions, whereby the Calculation Agent will make such determination in accordance with market practice

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based on the **Best Practice Statement Linear Interpolation** published by ISDA on 19 December 2009.

If a floating rate is to be determined with respect to a Stub Period and “**Linear Interpolation**” is not specified as applicable with respect to such determination, the floating rate for such Stub Period shall be determined pursuant to Number 2.1.4.1 Paragraph (7) (c) (aa), (bb) or (dd), as applicable.

- (5) “**London Banking Day**”, “**Zurich Banking Day**”, “**New York Banking Day**”, “**Frankfurt Banking Day**”, “**Paris Banking Day**”, “**Madrid Banking Day**”, “**Brussels Banking Day**”, “**Milan Banking Day**”, “**Tokyo Banking Day**” means, in respect of any city, any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in that city “**Target Banking Day**” means any day on which TARGET 2 is open.
- (6) “**IMM Days**” means the third Wednesday of March, June, September and December (i.e., between the 15<sup>th</sup> and 21<sup>st</sup>, whichever such day is a Wednesday, and IMM stands for the International Money Market.
- (7) “**Reuters Screen**” means, when used in connection with any designated page and any Floating Rate, the display page so designated on the Reuters service, or any successor display page that has been officially designated by the sponsor of the original page or, if the sponsor has not officially designated a successor display page, the successor display page designated by the relevant information vendor or provider (if different from the sponsor).
- (8) “**Bloomberg Screen**” means, when used in connection with any designated page and any Floating Rate Option, the display page so designated on the Bloomberg service, or any successor display page that has been officially designated by the sponsor of the original page or, if the sponsor has not officially designated a successor display page, the successor display page designated by the relevant information vendor or provider (if different from the sponsor).
- (9) Where the relevant rate is not available on the relevant screen page pursuant to Paragraph (1) (a) to (e) above, Eurex Clearing AG determines the applicable rate in its reasonable discretion on the basis of the arithmetic mean of the rates at which deposits (in the relevant contractual currency, with an equivalent maturity and in the same, or approximately the same, notional amount) are offered by at least four major banks to prime banks in the relevant interbank market at approximately the time at which the relevant rate should have been available on the applicable screen.

## 2.2.6 Day Count Conventions

The following day count fraction conventions may be specified in the OTC Trade Novation Report based on the trade record transmitted via the Approved Trade Source System for determining the applicable day count fraction:

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- (1) 30/360, which shall have the meaning given to “**30/360**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (e) below.
- (2) 30E\*/360, which shall have the meaning given to “**30E/360**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (e) below.
- (3) 30E/360, which shall have the meaning given to “**30E/360 (ISDA)**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (e) below and which will be specified in the OTC Trade Novation Report if, in the trade record transmitted via the Approved Trade Source System, “**30E/360**” and “**2000 ISDA**” or “**30E/360.ISDA**” and “**2006 ISDA**” are selected.
- (4) Act/360, which shall have the meaning given to “**Act/360**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (a) below.
- (5) Act/365, which shall have the meaning given to “**Act/365 (Fixed)**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (b) below.
- (6) Act/365I, which shall have the meaning given to “**Act/Act (ISDA)**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (c) below and which, for the avoidance of doubt, will also be specified in the OTC Trade Novation Report if in the trade record transmitted via the Approved Trade Source System “**Act/365.ISDA**” and “**2000 ISDA**” are selected.
- (7) ActB/ActB, which shall have the meaning given to “**Act/Act (ICMA)**” in the 2006 ISDA Definitions and, for DRV Interest Derivative Transactions, in Number 2.4 Paragraph (6) (d) below and which, for the avoidance of doubt, will also be specified in the OTC Trade Novation Report if in the trade record transmitted via the Approved Trade Source System “**Act/Act.ISMA**” and “**2000 ISDA**” are selected.
- (8) 1/1, which is the standard daycount convention for ZCIS and which shall have the meaning given to “1/1” in the 2006 ISDA Definitions.

### 2.2.7 OIS Rate Calculation

The applicable Floating Rate for overnight interest rate swaps (OIS) pursuant to Number 2.3.4 or 2.4.2 below will be calculated in accordance with the following paragraphs of Section 7.1 of the 2006 ISDA Definitions:

“**EUR-EONIA-OIS-COMPOUND**” means that the rate for a Reset Date, calculated in accordance with the formula set forth below in this subparagraph, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the arithmetic mean of the daily rates of the day-to-day Euro-zone interbank euro money market).



**“EURO-EONIA-OIS-COMPOUND”** will be calculated as follows, and the resulting percentage will be rounded, if necessary, in accordance with the method set forth in Section 8.1(a) of the 2006 ISDA Definitions or, in the case of DRV Interest Rate Derivative Transactions, Number 2.4 Paragraph (3) below, but to the nearest one ten-thousandth of a percentage point (0.0001 per cent):

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{EONIA_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

where:

**“ $d_0$ ”**, for any Calculation Period, is the number of TARGET Settlement Days in the relevant Calculation Period;

**“ $i$ ”** is a series of whole numbers from one to  $d_0$ , each representing the relevant TARGET Settlement Days in chronological order from, and including, the first TARGET Settlement Day in the relevant Calculation Period;

**“ $EONIA_i$ ”**; for any day “ $i$ ” in the relevant Calculation Period, is a reference rate equal to the overnight rate as calculated by the European Central Bank and appearing on the Reuters Screen EONIA Page in respect of that day;

**“ $n_i$ ”**, is the number of calendar days in the relevant Calculation Period on which the rate is  $EONIA_i$ ; and

**“ $d$ ”** is the number of calendar days in the relevant Calculation Period.

**“GBP-WMBA-SONIA-COMPOUND”** means that the rate for a Reset Date calculated in accordance with the formula set forth below in this subparagraph, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the Sterling daily overnight reference rate).

**“GBP-WMBA-SONIA-COMPOUND”** will be calculated as follows, and the resulting percentage will be rounded, is necessary, in accordance with the method set forth in Section 8.1(a) of the 2006 ISDA Definitions or, in the case of DRV Interest Rate Derivative Transactions, Number 2.4 Paragraph (3) below, but to the nearest one ten-thousandth of a percentage point (0.0001 per cent):

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{SONIA_i \times n_i}{365} \right) - 1 \right] \times \frac{365}{d}$$

where:

**“ $d_0$ ”**, for any Calculation Period, is the number of London Banking Days in the relevant Calculation Period;

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“**i**” is a series of whole numbers from one to  $d_0$ , each representing the relevant London Banking Days in chronological order from, and including, the first London Banking Day in the relevant Calculation Period;

“**SONIA<sub>i</sub>**”; for any day “**i**” in the relevant Calculation Period, is a reference rate equal to the overnight rate as calculated by the Wholesale Markets Brokers’ Association and appearing on the Reuters Screen SONIA Page in respect of that day;

“**n<sub>i</sub>**”, is the number of calendar days in the relevant Calculation Period on which the rate is SONIA<sub>i</sub>; and

“**d**” is the number of calendar days in the relevant Calculation Period.

“**CHF-TOIS-OIS-COMPOUND**” means that the rate for a Reset Date, calculated in accordance with the formula set forth below in this subparagraph, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the arithmetic mean of the daily rates of the day-to-day Swiss interbank money market).

“**CHF-TOIS-OIS-COMPOUND**” will be calculated as follows, and the resulting percentage will be rounded, if necessary, in accordance with the method set forth in Section 8.1(a) of the 2006 ISDA Definitions or, in the case of DRV Interest Rate Derivative Transactions, Number 2.4 Paragraph (3) below, but to the nearest on ten-thousandth of a percentage point (0.0001 per cent):

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{TOIS_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

where:

“**d<sub>0</sub>**”, for any Calculation Period, is the number of Zurich Banking Days in the relevant Calculation Period;

“**i**” is a series of whole numbers from one to  $d_0$ , each representing the relevant Zurich Banking Days in chronological order from, and including, the first Zurich Banking Day in the relevant Calculation Period;

“**TOIS<sub>i</sub>**”; for any day “**i**” in the relevant Calculation Period, is a reference rate equal to the rate for tomorrow next deposits in Swiss Francs which appears on the Reuters Screen CHFTOIS= as of 11:00 a.m., Zurich time, on the day that is one Zurich Banking Day preceding that day;

“**n<sub>i</sub>**”, is the number of calendar days in the relevant Calculation Period on which the rate is TOIS<sub>i</sub>; and

“**d**” is the number of calendar days in the relevant Calculation Period.

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**“USD-Federal Funds-H.15-OIS-COMPOUND”** means that the rate for the Reset Date, calculated in accordance with the formula set forth below in this subparagraph, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the daily effective federal funds rate determined by the Federal Reserve as the weighted average of the rates on brokered trades).

**“USD-Federal Funds-H.15-OIS-COMPOUND”** will be calculated as follows, and the resulting percentage will be rounded, if necessary, in accordance with the method set forth in Section 8.1(a) of the 2006 ISDA Definitions or, in the case of DRV Interest Rate Derivative Transactions, Number 2.4 Paragraph (3) below:

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{FEDFUND_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

where:

**“d<sub>0</sub>”** for any Calculation Period is the number of New York Banking Days in the relevant Calculation Period;

**“i”** is a series of whole numbers from one to d<sub>0</sub>, each representing the relevant New York Banking Days in chronological order from, and including, the first New York Banking Day in the relevant Calculation Period;

**“FEDFUND<sub>i</sub>”**; for any day “i” in the relevant Calculation Period, is a reference rate equal to the rate set forth in H.15(519) in respect of that day under the caption **“EFFECT”**, as such rate is displayed on the Reuters Screen FEDFUNDS1 Page. If such rate does not appear on the Reuters Screen FEDFUNDS1 Page, in respect of any day “i”, the rate for that day will be the rate displayed on the Reuters Screen FEDFUNDS1 Page in respect of the first preceding New York Banking Day;

**“n<sub>i</sub>”** is the number of calendar days in the relevant Calculation Period on which the rate is FEDFUND<sub>i</sub>; and

**“d”** is the number of calendar days in the relevant Calculation Period.

**“JPY-TONA-OIS-COMPOUND”** means that the rate for a Reset Date, calculated in accordance with the formula set forth below, will be the rate of return of a daily compound interest investment, (it being understood that the reference rate for the calculation of interest is the arithmetic mean of the daily rates of the day-to-day interbank JPY market in Tokyo).

**“JPY-TONA-OIS-COMPOUND”** will be calculated as follows and the resulting percentage will be rounded, if necessary, in accordance with the method set forth in Section 8.1(a) of the 2006 ISDA Definitions, or in case of DRV Interest Rate Transaction, Number 2.4 Paragraph (3) below:

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{TONA_i \times n_i}{365} \right) - 1 \right] \times \frac{365}{d}$$

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where:

“ $d_0$ ” for any calculation period is the number of Tokyo Banking Days in the relevant Calculation Period; and

“ $i$ ” is a series of whole numbers from one to  $d_0$ , each representing the relevant Tokyo Banking Days in chronological order from, and including, the first Tokyo Banking Day in the relevant Calculation Period;

“ $TONA_i$ ”, for any day “ $i$ ” in the relevant Calculation Period, is a reference rate equal to the Tokyo OverNight Average rate (TONA) as published by the Bank of Japan on the Reuters Screen TONAT Page as of approximately 10:00 a.m., Tokyo time, on the Tokyo Banking Day next following that day “ $i$ ”. If such rate does not appear on Reuters Screen TONAT in respect of any day “ $i$ ”, the rate for that day will be the rate displayed on the Reuters Screen TONAT Page in respect of the first preceding Tokyo Banking Day;

“ $n_i$ ” is the number of calendar days in the relevant Calculation Period on which the rate is  $TONA_i$ ; and

“ $d$ ” is the number of calendar days in the relevant Calculation Period.

## 2.3 Terms for ISDA Interest Rate Derivative Transactions

The product-related terms set out below and the expressions defined in the 2006 ISDA Definitions are specified in the relevant OTC Trade Novation Report on the basis of the trade record transmitted via the Approved Trade Source System.

### 2.3.1 General terms for ISDA Interest Rate Swaps or Forward Rate Agreements

In the case of ISDA Interest Rate Derivative Transactions that are interest rate swaps (each an “**ISDA Interest Rate Swap**”) or forward rate agreements (each an “**ISDA Forward Rate Agreement**”), the 2006 ISDA Definitions and, on their basis, the following general terms shall apply:

- (a) Notional Amount as specified in the OTC Trade Novation Report under “**calculation period amount**” (in the case of a Swap Transaction involving one currency only), which, in case of variable Notional Amounts, can be set out in a notional schedule
- (b) Trade Date
- (c) Effective Date
- (d) Termination Date (subject to adjustment in accordance with any applicable Business Day Convention)

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- (e) Business Days
- (f) Business Day Convention
- (g) Only in case of interest rate swaps: Initial payments/fees
  - Payer of the initial payments/fees, if any
  - Amount of the initial payments/fees (specify zero, if none)
  - Payment date for the initial payment.

### **2.3.2 Terms for ISDA Fixed Rate-Floating Rate Swaps**

In addition to the general terms for ISDA Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report shall apply to ISDA Interest Rate Swaps that are fixed rate-floating rate swaps:

1. Fixed Amounts:
  - (a) Fixed Rate Payer
  - (b) Fixed Rate Payer Payment Dates (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) either:
    - (i) Fixed Amount (which may be a lump sum payable under a zero coupon swap, if applicable), or
    - (ii) Fixed Rate (which may be a zero coupon, if applicable) and Fixed Rate Day Count Fraction, or
    - (iii) a Fixed Rate Payer schedule in which the Fixed Rates applicable to the relevant Calculation Periods are specified.
2. Floating Amounts:
  - (a) Floating Rate Payer
  - (b) Floating Rate Payer Payment Dates (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) Floating Rate for initial Calculation Period, if applicable
  - (d) Floating Rate Option
  - (e) Designated Maturity
  - (f) Spread (if the Spread is variable it can be set out in a Spread schedule)

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- (g) Floating Rate Day Count Fraction
- (h) Reset Dates
- (i) Compounding (“**straight**”) or Flat Compounding, if applicable
- (j) if Compounding (“**straight**”) or Flat Compounding is applicable: Compounding Dates.

### 2.3.3 Terms for ISDA Floating Rate-Floating Rate Swaps

In addition to the general provisions for ISDA Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report, shall apply to ISDA Interest Rate Swaps that are floating rate-floating rate swaps (“**basis**” swaps):

- (a) Floating Rate Payer 1
  - (i) Floating Rate Payer Payment Dates (subject to adjustment in accordance with any applicable Business Day Convention)
  - (ii) Floating Rate for initial Calculation Period, if applicable
  - (iii) Floating Rate Option
  - (iv) Designated Maturity
  - (v) Spread (if the Spread is variable it can be set out in a Spread schedule)
  - (vi) Floating Rate Day Count Fraction
  - (vii) Reset Dates
  - (viii) Compounding (“**straight**”) or Flat Compounding, if applicable
  - (jx) if Compounding (“**straight**”) or Flat Compounding is applicable: Compounding Dates.
- (b) Floating Rate Payer 2
  - (i) Floating Rate Payer Payment Dates (subject to adjustment in accordance with any applicable Business Day Convention)
  - (ii) Floating Rate for initial Calculation Period, if applicable
  - (iii) Floating Rate Option
  - (iv) Designated Maturity
  - (v) Spread (if the Spread is variable it can be set out in a Spread schedule)

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- (vi) Floating Rate Day Count Fraction
- (vii) Reset Dates
- (viii) Compounding ("**straight**") or Flat Compounding, if applicable
- (ix) if Compounding ("**straight**") or Flat Compounding is applicable: Compounding Dates.

#### 2.3.4 Terms for ISDA Overnight Interest Rate Swap Transactions

In addition to the general terms for ISDA Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report, shall apply to ISDA Interest Rate Swaps that are overnight interest rate-swap transactions:

1. Fixed Amounts:
  - (a) Fixed Rate Payer
  - (b) Fixed Rate Payer Payment Dates or Period End Dates, if Delayed Payment or Early Payment applies (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) Fixed Rate and Fixed Rate Day Count Fraction
2. Floating Amounts:
  - (a) Floating Rate Payer
  - (b) Floating Rate Payer Payment Dates or Period End Dates, if Delayed Payment or Early Payment applies (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) Floating Rate for initial Calculation Period, if applicable
  - (d) Floating Rate Option
  - (e) Reset Dates being the last day of each Calculation Period (subject to adjustment in accordance with any applicable Business Day Convention)
  - (f) Compounding ("**straight**") or Flat Compounding shall not be applicable.

#### 2.3.5 Terms for ISDA Forward Rate Agreements

In addition to the general provisions for ISDA Forward Rate Agreements, the following product-specific terms shall apply to ISDA Forward Rate Agreements:

- (a) Fixed Rate Payer

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- (b) Fixed Rate
- (c) Floating Rate Payer
- (d) Payment Date being the Effective Date or the Termination Date as specified in the OTC Trade Novation Report (subject to adjustment in accordance with any applicable Business Day Convention)
- (e) Floating Rate Option
- (f) Designated Maturity
- (g) Spread: none
- (h) Floating Rate Day Count Fraction
- (i) Reset Date (subject to adjustment in accordance with any applicable Business Day Convention)
- (j) FRA Discounting: Applicable if the FRA Amount is payable on the Effective Date and not applicable if the FRA Amount is payable on the Termination Date
- (k) Identical financial centres for fixings and payments.

### **2.3.6 Terms for ISDA Zero Coupon Inflation Swaps**

In addition to the general terms for ISDA Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report shall apply to ISDA Zero Coupon Inflation Swaps:

1. Fixed Amounts:
  - (a) Fixed Rate Payer
  - (b) Fixed Rate Payer Payment Date (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) Fixed Rate (zero coupon) and Fixed Rate Day Count Fraction, or
2. Floating Amounts:
  - (a) Floating Rate Payer
  - (b) Floating Rate Payer Payment Date (subject to adjustment in accordance with any applicable Business Day Convention)
  - (c) Initial Inflation Index Level, if applicable
  - (d) Inflation Index Name



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- (e) Floating Rate Day Count Fraction
- (f) Inflation Index Fixing Lag
- (g) Inflation Index Interpolation Method

## 2.4 Terms for DRV Interest Rate Derivative Transactions

The product-related terms for DRV Interest Rates Derivative Transactions set out below are specified in the relevant OTC Trade Novation Report on the basis of the trade record transmitted via the Approved Trade Source System.

The following definitions and general provisions shall apply to DRV Interest Rate Derivative Transactions:

- (1) If a Due Date is not a Business Day, each payment shall be made and any other obligation shall be performed under the relevant OTC Interest Rate Derivative Transaction as follows (the “**Business Day Convention**”), as specified in the OTC Trade Novation Report:
  - (a) on the immediately preceding Business Day (“**Preceding**”); or
  - (b) on the immediately following Business Day (“**Following**”); or
  - (c) on the immediately following Business Day unless that day falls in the next calendar month, in which case the relevant payment or other performance is to be made on the immediately preceding Business Day (“**Modified Following**”).
- (2) “**Business Day**” means any day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the place(s) specified in the OTC Trade Novation Report or, if EUTA is specified in the OTC Trade Novation Report, a TARGET Settlement Day.
- (3) Any Base Rate (as defined below) will be rounded (*kaufmännisch gerundet*), if necessary, to the nearest 1/100 000 of a percentage point.
- (4) The “**Fixed Rate**” (*Festsatz*) shall be the rate, expressed as a decimal, that is specified as fixed rate in the OTC Trade Novation Report.
- (5) The “**Floating Rate**” (*Variabler Satz*) shall be a rate expressed as a decimal equal to:
  - (a) the floating rate specified as such in the OTC Trade Novation Report (the “**Base Rate**”) or,
  - (b) in case of DRV Interest Rate Derivative Transactions in the form of forward rate agreements, the rate determined as follows:

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- (i) for payments by the Seller, the Base Rate minus the Forward Rate (*Terminsatz*); and
- (ii) for payments by the Buyer, the Forward Rate minus the Base Rate.

(6) “**Day Count Fraction**” (*Zinstagesquotient*) means any of the following:

- (a) If “**Act/360**” is specified in the OTC Trade Novation Report, the actual number of days in the Calculation Period in respect of which payment is being made divided by 360.
- (b) If “**Act/365 (Fixed)**” is specified in the OTC Trade Novation Report, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365.
- (c) If “**Act/Act (ISDA)**” applies pursuant to Number 2.2.6, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365).
- (d) If “**Act/Act (ICMA)**” applies pursuant to Number 2.2.6, a fraction equal to “**number of days accrued/number of days in year**”, as such terms are used in Rule 251 of the statutes, by-laws, rules and recommendations of the International Capital Markets Association (the “**ICMA Rule Book**”), calculated in accordance with Rule 251 of the ICMA Rule Book as applied to non US Dollars denominated straight and convertible bonds issued after December 31, 1998, as though the interest coupon on a bond were being calculated for a coupon period corresponding to the Calculation Period in respect of which payment is being made.
- (e) If “**30/360**” or “**30E/360**” or “**30E/360 (ISDA)**” applies pursuant to Number 2.2.6, the number of days in the Calculation Period in respect of which payment is being made divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)\} \text{ divided by } 360$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

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“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D<sub>1</sub>**” is:

- (i) in case of 30/360 and 30E/360, the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case **D<sub>1</sub>** will be 30; or
- (ii) in case of 30E/360 (ISDA), the first calendar day, expressed as a number, of the Calculation Period, unless (A) that day is the last day of February or (B) such number would be 31, in which case **D<sub>1</sub>** will be 30; and

“**D<sub>2</sub>**” is:

- (i) in case of 30/360, the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and **D<sub>1</sub>** is greater than 29, in which case **D<sub>2</sub>** will be 30; or
- (ii) in case of 30E/360, the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31, in which case **D<sub>2</sub>** will be 30; or
- (iii) in case of 30E/360 (ISDA), the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (A) that day is the last day of February but not the Termination Date (*Enddatum*) or (B) such number would be 31, in which case **D<sub>2</sub>** will be 30.

- (7) “**Calculation Period**” (*Berechnungszeitraum*) means the period from, and including, the Effective Date (*Anfangsdatum*) or a Payment Date (*Zahlungstermin*) to, but excluding, the next following Payment Date or the Termination Date (*Enddatum*). “**Payment Date**” means a day on which a payment has actually to be made after, if necessary, an adjustment was made pursuant to Paragraph (1) above. “**Due Date**” means the scheduled payment date without such an adjustment.

#### 2.4.1 General terms for DRV Interest Rate Swaps

In the case of DRV Interest Rate Derivative Transactions that are interest rate swaps according to the relevant OTC Trade Novation Report (each a “**DRV Interest Rate Swap**”), the fixed rate payer (*Zahler der Festbeträge*) (if any) shall pay the Fixed Amounts (*Festbeträge*) on the fixed rate payer payment date (*Fälligkeitstag für Festbeträge*) and the relevant floating rate payer (*Zahler der variablen Beträge*) shall pay the Floating Amounts on the floating rate payer payment date (*Fälligkeitstag für variable Beträge*), each such amount being payable in the contractual currency.

In this context, the following general terms to be derived from the OTC Trade Novation Report shall apply:

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- (a) Notional amount (*Bezugsbetrag*) as specified in the OTC Trade Novation Report under “**calculation period amount**” (the “**Notional Amount**”), which, in case of variable notional amounts, can be set out in a notional schedule.
- (b) Contractual currency (*Vertragswährung*), which shall be the currency of the Notional Amount.
- (c) Trade Date (*Abschlussdatum*)
- (d) Effective Date (*Anfangsdatum*)
- (e) Termination Date (*Enddatum*)
- (f) If applicable: the Business Day Convention with respect to the Termination Date and any other due date.

#### 2.4.2 Terms for Fixed Rate-Floating Rate DRV Interest Rate Swaps

In addition to the general terms for DRV Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report, shall apply to fixed rate-floating rate DRV Interest Rate Swaps (including OIS):

- (a) Fixed rate payer (*Zahler der Festbeträge*)
- (b) either
  - (i) Fixed Rate (*Festsatz*), which may be a zero coupon (if applicable) and Fixed Rate Day Count Fraction (*Quotient für Festbeträge*); or
  - (ii) in case of IRS other than OIS, fixed amount (which may be a lump sum payable under a zero coupon swap, if applicable); or
  - (iii) in case of fixed rates that may change across the Calculation Periods, a fixed rate payer schedule in which the fixed rates applicable to the relevant Calculation Periods are specified.
- (c) Fixed rate payer payment dates (*Fälligkeitstage für Festbeträge*)
- (d) Business Day for fixed rate payments
- (e) Floating rate payer (*Zahler der variablen Beträge*)
- (f) Base Rate (*Basis-Satz*)
- (g) Spread (if the Spread is variable it can be set out in a Spread schedule)
- (h) Floating rate payer payment dates (*Fälligkeitstage für variable Zahlungen*)
- (i) Floating Rate Day Count Fraction (*Zinstagesquotient für variable Beträge*)

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- (j) Business Day for floating rate payments
- (k) Compounding (“**straight**”) or Flat Compounding, if applicable
- (l) if Compounding (“**straight**”) or Flat Compounding is applicable: Compounding Dates.

### 2.4.3 Terms for Floating Rate-Floating Rate DRV Interest Rate Swaps

In addition to the general terms for DRV Interest Rate Swaps, the following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report, shall apply to floating rate-floating rate swaps (“**basis**” swaps):

- (a) Floating rate payer 1 (*Zahler der variablen Beträge 1*)
  - (i) Base Rate (*Basis-Satz*)
  - (ii) Spread (if the Spread is variable it can be set out in a Spread schedule)
  - (iii) Floating rate payer Payment Dates (*Fälligkeitstage für variable Zahlungen*)
  - (iv) Floating Rate Day Count Fraction (*Zinstagesquotient für variable Beträge*)
  - (v) Business Day for floating rate payments
  - (vi) Compounding (“**straight**”) or Flat Compounding, if applicable
  - (vii) if Compounding (“**straight**”) or Flat Compounding is applicable: Compounding Dates.
- (b) Floating rate payer 2 (*Zahler der variablen Beträge 2*)
  - (i) Base Rate (*Basis-Satz*)
  - (ii) Spread (if the Spread is variable it can be set out in a Spread schedule)
  - (iii) Floating rate payer Payment Dates (*Fälligkeitstage für variable Zahlungen*)
  - (iv) Floating Rate Day Count Fraction (*Zinstagesquotient für variable Beträge*)
  - (v) Business Day for floating rate payments
  - (vi) Compounding (“**straight**”) or Flat Compounding, if applicable
  - (vii) if Compounding (“**straight**”) or Flat Compounding is applicable: Compounding Dates.

### 2.4.4 Terms for DRV Forward Rate-Agreements

The following product-specific terms, which are specified in, or may be derived from, the relevant OTC Trade Novation Report shall apply to forward rate agreements that are DRV Interest Rate Derivative Transactions:

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- (a) Notional amount (*Bezugsbetrag*) as specified in the OTC Trade Novation Report under “**calculation period amount**” (the “**Notional Amount**”)
- (b) Contractual currency (*Vertragswährung*), which shall be the currency of the Notional Amount.
- (c) Trade Date (*Abschlussdatum*)
- (d) Effective Date (*Anfangsdatum*)
- (e) Termination Date (*Enddatum*)
- (f) If applicable: the Business Day Convention with respect to the Termination Date and any other due date.
- (g) Payment obligations: On the Due Date for the FRA Amount (*Fälligkeitstag für den FRA-Ausgleichsbetrag*), the payer of the FRA Amount shall pay the FRA Amount (*FRA-Ausgleichsbetrag*) to the other party.
- (h) Provisions relating to the payment of the Floating Amount (the “**FRA Amount**”):

Payer of the FRA Amount: the party specified as floating rate payer (“**Seller**”) if the Base Rate is greater than the Forward Rate;

or

the party specified as fixed rate payer (“**Buyer**”) if the Base Rate is less than the Forward Rate.

Forward Rate (*Terminsatz*): the rate, expressed as a decimal, that is specified as fixed rate in the OTC Trade Novation Report (the “**Forward Rate**”).

Base Rate (*Basis-Satz*)

Spread: none

Due Date for the FRA Amount: the Effective Date (on which the FRA Amount shall be paid in one payment) or the Termination Date, as applicable

Calculation of the FRA Amount: The FRA Amount shall be calculated as a Floating Amount in accordance with Number 2.2.4 Paragraph (1) provided that: (i) the Floating Rate shall be determined pursuant to Number 2.4 Paragraph (5) (b);

and

(ii) in case the Due Date of the FRA Amount is the

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Effective Date the Floating Amount shall be discounted by dividing it by an amount determined in accordance with the following formula (in case of a Calculation Period not longer than one year):

$$1 + (RM \times D/B)$$

Where:

“**RM**” means the Base Rate for the relevant Calculation Period;

“**D/B**” means the Floating Rate Day Count Fraction.

Floating Rate Day Count Fraction (*Zinstagesquotient für variable Beträge*)

Business Day.

## 2.5 Multilateral Compression

- (1) Eurex Clearing AG may from time to time agree with one or more Clearing Members on the termination of CCP Transactions that are OTC Interest Rate Derivative Transactions and their subsequent replacement with other CCP Transactions whose combined notional value is less than that of the terminated CCP Transactions (a “**Multilateral Compression**”). Multilateral Compression may only include CCP Transactions that are Own Transactions.
- (2) Multilateral Compression takes place by way of novation on the terms of a proposal of TriOptima AB (Accepted Unwind Proposal) and as of the time when TriOptima AB receives the respective clearing confirmation from Eurex Clearing AG (Eurex Clearing Confirmation) (the “**Compression Time**”).

### 2.5.1 Compression Run

- (1) The process leading to a Multilateral Compression (a “**Compression Run**”) is operated by a third party compression services provider appointed by Eurex Clearing AG (a “**CSP**”) and carried out on the basis of documentation as agreed between Eurex Clearing AG, the relevant CSP and the Clearing Members participating in the Compression Run (the “**Compression Documentation**”).
- (2) Participation in a Compression Run presupposes that the Clearing Member:
  - (a) is a party to the Compression Documentation up to and including the Compression Time;
  - (b) eligible to participate in the Compression Run according to the requirements determined by Eurex Clearing AG and those set out in the Compression Documentation; and

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- (c) has nominated those CCP Transactions which it wishes to make available for Multilateral Compression in accordance with the Compression Documentation.
- (3) In relation to each Compression Run, Eurex Clearing will instruct the CSP according to the Compression Documentation to:
  - (a) notify Clearing Members meeting the criteria under Paragraph (2) of the timing and procedure for the Compression Run;
  - (b) produce a statement as to the proposed set of terminating CCP Transactions and the proposed set of resulting CCP Transactions to which each participating Clearing Member is or will become party to (the "**Compression Proposal**"); and to
  - (c) communicate such Compression Proposal to each participating Clearing Member for acceptance in the manner contemplated in the Compression Documentation.
- (4) Eurex Clearing reserves the right to determine in its sole discretion whether CCP Transactions proposed for inclusion in a Compression Run may be so included.
- (5) Eurex Clearing AG may disclose details of any CCP Transaction to be included in a Compression Run and related information in respect of participating Clearing Members to the CSP in order to facilitate the Compression Run.
- (6) In order to facilitate the Compression Run, Eurex Clearing AG may lock CCP Transactions which are included in a Compression Run for such processing as described in Numbers 2.6 - 2.8 (Trade Netting and Accumulation, Transfer of CCP Transactions and Account Transfer, Termination and De-Clearing).
- (7) The CSP will provide information on termination fees related to a Compression Run to Eurex Clearing AG on an aggregated basis per Clearing Member. Eurex Clearing AG has the right to apply a proportional breakdown of such fees to trade level, taking into account the mark to market value per terminated trade and the aggregated mark to market value of terminated trades per Clearing Member, both as calculated by Eurex Clearing AG. Number 2.1.4.1 Paragraph (3) applies mutatis mutandis to such termination fees.

### 2.5.2 Acceptance of Compression Proposal

- (1) Multilateral Compression shall take place in accordance with the terms of a Compression Proposal which has been accepted by all participating Clearing Members in the manner and by the time specified in the Compression Documentation. The CSP's confirmation to Eurex Clearing AG that a Clearing Member has accepted the Compression Proposal shall constitute a binding offer by such Clearing Member to Eurex Clearing AG for the novation of CCP Transactions as set out in the Compression Proposal.
- (2) Subsequent to a Clearing Member's acceptance of a Compression Proposal but prior to the Compression Time, Eurex Clearing AG may require the Clearing Member to provide



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additional Margin in relation to the CCP Transactions that will result from the Multilateral Compression. For such purpose, Number 2.1.4.4 applies mutatis mutandis, provided that instead of Original OTC Transactions and CCP Transactions the proposed set of terminating CCP Transactions and the proposed set of resulting CCP Transactions pursuant to Number 2.5 shall be relevant, and instead of the times indicated in Number 2.1.4.4 the times specified by Eurex Clearing AG shall be relevant. Eurex Clearing AG will require such Margin in addition to Margin required according Chapter I Part 1 Number 3.3, Part 2 Number 6.3, Part 3 Subpart A Number 5.3, Part 4 Number 6.3 and Chapter VIII Part 2 Number 2.1.4.4.

- (3) The acceptance of a Compression Proposal by the participating Clearing Members shall not bind or require Eurex Clearing AG to carry out the Multilateral Compression. At any time prior to the Compression Time, Eurex Clearing AG may in its sole discretion decide to reject the Compression Proposal and/or to end the Compression Run. In particular, Eurex Clearing AG may reject a Compression Proposal if:
- (a) a Clearing Member which has accepted a Compression Proposal is not eligible to participate in the Compression Run;
  - (b) any CCP Transaction included in the Compression Proposal as a terminating or resulting Transaction is not eligible for Multilateral Compression or for inclusion in Clearing;
  - (c) any Clearing Member due to participate in the Compression Run rejects the Compression Proposal or does not provide the required Margin; or
  - (d) the cashflow flat check performed by Eurex Clearing AG yields that the ingoing and outgoing payments in respect of the CCP Transactions resulting from the Compression Run would not offset within the applicable tolerance parameters.

## 2.6 Trade Netting and Accumulation

- (1) Eurex Clearing AG may agree with a Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client, with respect to the relevant FCM Client Transactions) or a Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) upon the mutual cancellation (“**netting**”) and the accumulation of CCP Transactions that are OTC Interest Rate Derivative Transactions provided that such CCP Transactions are part of the same Standard Agreement. In this case, the netting and accumulation shall be carried out on the basis of the following provisions agreed upon by Eurex Clearing AG and the Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client) or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member). Such agreement may be terminated by the Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client) or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) with the effect on the Business Day following the receipt of the termination notice by Eurex Clearing AG.

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- (2) To the extent that the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are RC-Related Transactions relating to the same Registered Customer and (i) the corresponding transactions between the Clearing Member and the Registered Customer are CM-RC Transactions, such netting or accumulation shall simultaneously take place with respect to the corresponding CM-RC Transactions between the Clearing Member and such Registered Customer or (ii) the corresponding transactions between the Clearing Member and the Registered Customer are Client Clearing CM-RC Transactions, the Clearing Member and the Registered Customer are required to agree on a bilateral basis that, as a result of such netting or accumulation, the corresponding Client Clearing CM-RC Transactions shall be subject to netting or accumulation. The relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such netting or accumulation.
- (3) To the extent the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are Customer-Related Transactions, it is a matter of the relevant parties to agree, whether as a result of such netting or accumulation, any corresponding CM-Customer Transactions shall be subject to netting or accumulation. To the extent the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are FCM Client Transactions, it is a matter of the relevant FCM Clearing Member and the relevant FCM Client to agree, whether as a result of such netting or accumulation, any corresponding arrangements between the FCM Clearing Member and the FCM Client shall be subject to netting or accumulation.
- (4) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the netting or accumulation instructions were given by the relevant Registered Customer, FCM Client or other customer to the Clearing Member.

### **2.6.1 Inclusion of CCP Transactions in the Netting and Accumulation Process**

- (1) All CCP Transactions that are OTC Interest Rate Derivative Transactions are eligible for netting provided that:
  - (a) the relevant Trade Criteria are identical; and
  - (b) CCP Transactions booked on the Own Account may not be netted with CCP Transactions booked on a Customer Account and vice versa; and that
  - (c) CCP Transaction booked on a Customer Account may not be netted with CCP Transactions booked on another Customer Account (in this regard CCP Transactions entered into under the Individual Clearing Model may only be netted if they are subject to the same Standard Agreement).

“**Trade Criteria**” means the commercial terms of the relevant CCP Transactions, in particular:

1. With respect to IRS, ZCIS and OIS:

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(i) the following basic criteria:

Product type, currency, floating rate or inflation index and rate index tenor, termination date, all future payment dates, current applicable floating rate that has been fixed, fixed rate (except for rate blending), day count convention (for each of the relevant fixed and/or floating rate payment obligations of each party), reset date, business day convention; and

(ii) the following additional criteria, as applicable:

(A) with respect to Stub Periods that have not expired:

stub period start date, stub period length, type of Stub Period, stub index tenors, manually provided first fixed floating rate;

(B) for floating rate swaps that have a schedule structure (including floating rate swaps with a variable notional amount, as applicable):

schedule structure (bullet/schedule), relative change of notional for each payment period (if applicable), future notional/floating rate/spread schedule start date for each forward period, future spread value for each forward period, future coupon rate for each forward period;

(C) for IRS to which Compounding (“**straight**”) or Flat Compounding applies:

Compounding method, compounding spread, compounding frequency;

2. With respect to FRA:

Product type, currency, rate index, rate index tenor, maturity date, payment date, current applicable floating rate, fixed rate (except for rate blending), day count convention, discount method, reset date, business day convention.

- (2) With respect to the eligibility of CCP Transactions that are OTC Interest Rate Derivative Transactions for accumulation, Paragraph (1) (a) to (c) apply *mutatis mutandis*.
- (3) CCP Transaction will be netted and/or accumulated if the CCP Transactions have been designated for netting and/or accumulation, as the case may be, by the respective Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client) or by the respective Basic Clearing Member (or Clearing Agent acting on behalf of the relevant Basic Clearing Member) in the system of Eurex Clearing AG (“**Optional Netting**”). Such designation shall be submitted no later than by 10 pm CET on the relevant Business Day.
- (4) Instead of Optional Netting, (i) a Clearing Member or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) may select that all Own Transactions and, in case of a Clearing Member, separate from the Own Transactions, all RC-Related Transactions booked on the Own Account maintained with respect to a

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Registered Customer are netted or accumulated, as the case may be, at the end of each Business Day and (ii) a FCM Clearing Member (acting on behalf of the relevant FCM Client) may select that all FCM Client Transactions under the relevant FCM Client Standard Agreement are netted or accumulated, as the case may be, at the end of each Business Day.

## 2.6.2 Netting and Accumulation Procedure

- (1) The CCP Transactions selected for netting shall be netted with each other to the maximum extent possible on each netting level (and provided that CCP-FCM Client Transactions may only be netted with CCP-FCM Client Transactions that form part of the same FCM Client Standard Agreement). Upon closing of the netting, all CCP Transactions that were netted are cancelled.

The remaining CCP Transactions for which there is no counterposition with which they can be netted may be accumulated and novated to one or more CCP Transaction(s) of the same Product Type with the aggregate notional amount of the accumulated CCP Transactions (and provided that CCP-FCM Client Transactions may only be accumulated with CCP-FCM Client Transactions that form part of the same FCM Client Standard Agreement). The CCP Transactions that were accumulated shall be cancelled.

- (2) The CCP Transactions to be accumulated shall be novated to one or more CCP Transaction(s) of the same Product Type with the aggregate notional amount of the accumulated CCP Transactions. The CCP Transactions that were accumulated shall be cancelled.
- (3) The netting or, if applicable, the accumulation of the CCP Transactions will become effective when the OTC Trade Daily Summary Report, in which such event is included, is made available to the Clearing Members and Basic Clearing Members (or Clearing Agent acting on behalf of the relevant Basic Clearing Member).
- (4) **“OTC Trade Daily Summary Report”** means a report that lists events occurring after the original novation which will be made available to the Clearing Members or Basic Clearing Members holding an Interest Rate Derivatives Clearing License (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member) electronically via Eurex Clearing AG's system on each Business Day. The last OTC Trade Daily Summary Report will be made available at or around 11 p.m. CET.

## 2.7 Transfer of CCP Transactions and Account Transfer

- (1) A CCP Transaction (other than a CCP-FCM Client Transaction) or a CM-RC Transaction, if applicable, may be transferred in accordance with Paragraphs (3) to (8) and Number 2.7.1 and 2.7.2 below, as applicable.
- (2) In addition, a Registered Customer may replace its Clearing Member under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the

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Net Omnibus Clearing Model Provisions in accordance with Chapter I Part 1 Number 8, Part 2 Number 9, Part 3 Subpart A Number 13 and Part 4 Number 9.

- (3) The transfer of a CCP Transaction will be performed against payment of a cash settlement amount calculated by Eurex Clearing AG on the basis of the daily evaluation price (Number 2.1.5). Furthermore, the relevant Clearing Members or Basic Clearing Members (or Clearing Agent acting on behalf of the Basic Clearing Member) may specify in the system of Eurex Clearing AG an additional amount payable by a Clearing Member or Basic Clearing Member in connection with the transfer. All amounts payable under this Paragraph (3) will be settled via Eurex Clearing AG.
- (4) Any novation through which a transfer pursuant to Number 2.6 is to be made shall take effect when a respective OTC Trade Daily Summary Report is made available to the relevant Clearing Members or Basic Clearing Members (or Clearing Agents acting on behalf of the Basic Clearing Member) electronically via Eurex Clearing AG's system.
- (5) Where such transfer or account transfer pursuant to Numbers 2.7.1 or 2.7.2 affects and/or creates (i) a CM-RC Transaction, the relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such transfer or (ii) a corresponding Client Clearing CM-RC Transaction, the relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such transfer and the Clearing Member, and the Registered Customer should agree on a bilateral basis that, as a result of such transfer or account transfer, any such corresponding Client Clearing CM-RC Transaction shall be created or be subject to a transfer or cancellation, as the case may be.
- (6) To the extent the CCP Transactions that are subject to a transfer or account transfer pursuant to Number 2.7.1 or 2.7.2 are Customer-Related Transactions, it is a matter of the relevant parties to agree whether, as a result of such transfer or account transfer, any corresponding CM-Customer Transactions shall be created or be subject to a transfer or cancellation.
- (7) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the transfer or account transfer instructions were given by the relevant Registered Customer or other customer to the Clearing Member.
- (8) The provisions of Paragraphs (6) and (7) above shall apply *mutatis mutandis* to any transactions of a Registered Customer with its customers.
- (9) The provisions of Chapter I Part 5 on the replacement of a FCM Clearing Member by a FCM Client shall remain unaffected.

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### **2.7.1 Transfer of a CCP Transaction to another Clearing Member or Basic Clearing Member (Trade Transfer)**

- (1) Upon request of a Clearing Member or Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) or a Registered Customer entered into the system of Eurex Clearing AG, a CCP Transaction (other than a CCP-FCM Client Transaction) may be transferred from a Clearing Member or Basic Clearing Member to another Clearing Member or Basic Clearing Member holding the required Interest Rate Derivatives Clearing License. If the CCP Transaction to be transferred is an RC-Related Transaction, the corresponding CM-RC Transaction, if applicable, will be transferred simultaneously. In the case of any Client Clearing CM-RC Transactions or CM-Customer-Related Transactions, Number 2.7 Paragraphs (5) and (6) apply.
- (2) Any transfer or partial transfer of a CCP Transaction and, if applicable, the corresponding CM-RC Transaction provided for in this Number 2.7.1 may be effected pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (a) – (c) or (5) (e) and (f), as applicable.

### **2.7.2 Account Management or Account Transfers**

- (1) Clearing Members may book CCP Transactions (other than any CCP-FCM Client Transactions) to or from any of their transaction accounts in accordance with this Number 2.7.2. Any booking will take place either (i) by way of an account booking within the same Standard Agreement together with, if applicable, a transfer of the CM-RC Transaction, if applicable, to another Registered Customer of the relevant Clearing Member by way of novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (d) or (ii) by way of a transfer to another Standard Agreement by way of novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (a) – (c).
- (2) Such bookings may also be made with respect to part of a CCP Transaction except for IRS with a notional, fixed rate or floating rate spread schedule in which case only the entire CCP Transaction and corresponding CM-RC Transaction may be booked in accordance with Paragraph 1.

#### **2.7.2.1 Account Management in case of Own Transactions and Customer-Related Transactions**

Upon request of a Clearing Member (other than a FCM Clearing Member), Eurex Clearing AG may book (a) an Own Transaction from its Own Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) to the Clearing Member's Customer Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) (thereby becoming a Customer-Related Transaction) or (b) a Customer-Related Transaction from its Customer Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) to the Clearing Member's Own Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) (thereby becoming an Own Transaction).

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### 2.7.2.2 Account Transfer in case of a Registered Customer

- (1) Upon request of a Clearing Member or a Registered Customer and subject to the consent of the Clearing Member, Eurex Clearing AG may book an account position relating to a CCP Transaction that is an RC-Related Transaction from the Own Account or Customer Account relating to the relevant Registered Customer pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (3) to an Own Account or Customer Account of another Registered Customer pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (3) of the same Clearing Member.
- (2) To the extent the request is not entered into Eurex Clearing AG's system by a relevant Registered Customer, the Clearing Member will be responsible for obtaining the relevant instruction from such Registered Customer separately.

### 2.7.3 Trade Amendment

A Clearing Member or a Registered Customer may, by means of an entry in Eurex Clearing AG's system, split CCP Transactions (other than CCP-FCM Client Transactions) or CM-RC Transactions, if applicable, and assign new customer references to the new Transactions resulting from the trade split provided that such new Transactions are booked in the same account as the Transaction that existed before the trade split was made. As a result, new CCP Transactions or CM-RC Transactions, if applicable, will be created the aggregate nominal amount of which is equal to the nominal amount of the CCP Transaction or the CM-RC Transaction, if applicable, that was split.

### 2.8 Termination and De-Clearing

- (1) A CCP Transaction or a CM-RC Transaction, if applicable, that is an OTC Interest Rate Derivative Transaction may be terminated, and a De-Clearing (as defined in Number 2.8.3) may be effected with respect to a CCP Transaction that is an OTC Interest Rate Derivative Transaction, in accordance with Paragraphs (2) to (8) and Numbers 2.8.1 to 2.8.3 below, as applicable.
- (2) A Clearing Member or Basic Clearing Member (or a Clearing Agent acting on behalf of the relevant Basic Clearing Member) may, with the consent of Eurex Clearing AG, terminate a CCP Transaction or in case of a Clearing Member, convert an RC-Related Transaction into an Own Transaction or effect a De-Clearing in accordance with this Number 2.8.
- (3) Any termination or De-Clearing pursuant to this Number 2.8 shall take effect when a respective OTC Trade Daily Summary Report is made available to the relevant Clearing Members or Basic Clearing Members (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member) via Eurex Clearing AG's system.
- (4) Without prejudice to the early termination provisions set out in this Number 2.8 and any early termination rights a Clearing Member or Basic Clearing Member may have pursuant to Chapter I, Clearing Members or Basic Clearing Members have no right to

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exercise any early termination option under any CCP Transaction and no mandatory early termination shall apply to a CCP Transaction. This paragraph shall not restrict the parties to agree on a bilateral basis that one party shall have a right to demand from the other party its consent to a termination of CCP Transactions and/or CM-RC Transactions.

- (5) Any termination of a CM-RC Transaction shall be in accordance with any agreement between the Clearing Member and the Registered Customer.
- (6) To the extent the CCP Transactions that are subject to a termination pursuant to this Number 2.8 are Customer-Related Transactions, it is the responsibility of the relevant parties to agree on a bilateral basis that, as a result of such termination, any corresponding CM-Customer Transaction shall be terminated.
- (7) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the termination instructions were given by the relevant Registered Customer or other customer to the Clearing Member.
- (8) The provisions of Paragraphs (6) and (7) above shall apply *mutatis mutandis* to any transactions of a Registered Customer with its customers.

### **2.8.1 Conversion of RC-Related Transactions into Own Transactions and Termination of the corresponding CM-RC Transaction**

- (1) A Clearing Member may convert an RC-Related Transaction into an Own Transaction. Upon such conversion (which shall also constitute a termination notice of the CM-RC Transaction, if any), the corresponding CM-RC Transaction, if any, will terminate simultaneously. Such conversion may also be effected with respect to part of an RC-Related Transaction except for IRS with a notional, fixed rate or floating rate spread schedule in which case only the entire RC-Related Transaction may be converted, and only the entire corresponding CM-RC Transaction may be terminated. Chapter I Part 1 Number 11.3 shall apply *mutatis mutandis*.
- (2) A CCP Transaction converted into an Own Transaction pursuant to Paragraph (1) will be credited to the Own Account of the Clearing Member. If the terminated RC-Related Transaction was subject to the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, the relevant CCP Transaction will, upon termination of the CM-RC Transaction, become part of the Standard Agreement between Eurex Clearing AG and the relevant Clearing Member. Chapter I Part 1 Number 11.3 shall apply *mutatis mutandis*.
- (3) The provisions relating to the termination or close-out as a result of a default of the Registered Customer or a default under the Corresponding Standard Agreement between the Clearing Member and the Registered Customer set out in Chapter I shall not be affected by the provisions of this Number 2.8.1.



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## 2.8.2 Termination of Own Transactions, Customer-Related Transactions and RC-Related Transactions

A CCP Transaction constituting an Own Transaction, a Customer-Related Transaction or RC-Related Transaction of the Clearing Member may be terminated together with a CCP Transaction between Eurex Clearing AG and another Clearing Member that was concluded as an Own Transaction, Customer-Related Transaction or RC-Related Transaction of such Clearing Member and which has identical terms provided that:

- (a) Eurex Clearing AG and both Clearing Members have given their consent to such termination;
- (b) both Clearing Members were a party to the Original OTC Transaction; and
- (c) none of the two CCP Transactions created upon novation of the Original OTC Transaction was subject to (i) any netting or accumulation pursuant to Number 2.6 or (ii) a transfer or trade amendment pursuant to Number 2.7 or (iii) a termination of a corresponding CM-RC Transaction, if applicable, pursuant to Number 2.8.1.

If both Clearing Members have given their consent to the termination request in accordance with Number 2.8.2 lit. (a), they may cancel such a request as long as the risk check performed by Eurex Clearing AG has not yet been successfully completed.

A termination pursuant to this Number 2.8.2 may also be effected with respect to part of a CCP Transaction except for IRS with a notional, fixed rate or floating rate spread schedule in which case only the entire CCP Transaction may be terminated.

## 2.8.3 De-Clearing

- (1) Two CCP Transactions that have identical terms and which constitute Own Transactions, RC-Related Transactions or Customer-Related Transactions of the relevant Clearing Members may be removed from Clearing by means of cancellation of the two CCP Transactions ("**De-Clearing**") provided that:
  - (a) Eurex Clearing AG and both Clearing Members have given their consent to such De-Clearing;
  - (b) both relevant Clearing Members or relevant Registered Customers or one Clearing Member and the relevant Registered Customer were a party to the Original OTC Transaction; and
  - (c) none of the two CCP Transactions created upon novation of the Original OTC Transaction was subject to (i) any netting or accumulation pursuant to Number 2.6 or (ii) a transfer or trade amendment pursuant to Number 2.7 or (iii) a termination of a corresponding CM-RC Transaction, if applicable, pursuant to Number 2.8.1.
- (2) Eurex Clearing AG will notify the relevant Approved Trade Source System of a De-Clearing. If so provided for in the bilateral agreement of the parties to the Original OTC

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Transaction, upon a De-Clearing the Original OTC Transaction may be re-instated in accordance with the relevant bilateral agreement. For the avoidance of doubt, the parties may instruct the Approved Trade Source System to re-submit the same or an amended trade record of such Original OTC Transaction to Eurex Clearing AG for inclusion into the Clearing.

## **2.9 Novation, netting, accumulation and termination of CM-RC Transactions**

- (1) The Registered Customer agrees that, upon netting or accumulation of an RC-Related Transaction pursuant to Number 2.6 or a transfer of an RC-Related Transaction pursuant to Number 2.7 or a termination of an RC-Related Transaction due to a novation criterion not being fulfilled pursuant to Part 1 Number 1.2.3 Paragraph (2) or any termination of an RC-Related Transaction pursuant to Number 2.8, the corresponding CM-RC Transaction shall, without further notice to, or consent by, the Registered Customer, simultaneously be novated, netted, accumulated, transferred or terminated, as applicable.
- (2) The Clearing Member agrees that it will initiate any such novation, netting, accumulation, transfer or termination only upon prior instruction by the Registered Customer.
- (3) The Clearing Member and the Registered Customer should check and verify without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct novation, netting, accumulation or transfer of Transactions pursuant to Numbers 2.6 and 2.7 or termination of Transactions pursuant to Part 1 Number 1.2.3 Paragraph (2) or Number 2.8 and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.
- (4) Without prejudice to its obligations in respect of the relevant CCP Transaction, Eurex Clearing AG does not assume any liability vis-à-vis the Clearing Member or the Registered Customer if the corresponding CM-RC Transaction between the Clearing Member and the Registered Customer novated, netted, accumulated or transferred or its termination, in each case pursuant to Paragraph (1), is not correct or has not been initiated by the Registered Customer.

## **2.10 Novation, netting, accumulation and termination of Client Clearing CM-RC Transactions**

- (1) The Clearing Member agrees that it will initiate any novation, netting, accumulation, or transfer of Transactions pursuant to Numbers 2.6 and 2.7 or termination of Transactions pursuant to Part 1 Number 1.2.3 Paragraph (2) or Number 2.8 only upon prior instruction by the Registered Customer.
- (2) The Clearing Member and the Registered Customer should check and verify without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct novation, netting, accumulation or transfer of Transactions pursuant to

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Numbers 2.6 and 2.7 or termination of Transactions pursuant to Part 1 Number 1.2.3 Paragraph (2) or Number 2.8 and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.

- (3) Without prejudice to its obligations in respect of the relevant CCP Transaction, Eurex Clearing AG does not assume any liability vis-à-vis the Clearing Member or the Registered Customer if the corresponding CM-RC Transaction between the Clearing Member and the Registered Customer novated, netted, accumulated or transferred or its termination, in each case pursuant to Paragraph (1), is not correct or has not been initiated by the Registered Customer.

## **2.11 Use of Data provided by Eurex Clearing AG**

A Clearing Member, Registered Customer or FCM Client or Basic-Clearing-Member (or the Clearing Agent acting on behalf of the relevant Basic Clearing Member) may not use any data provided to it by Eurex Clearing AG in connection with the determination of the daily evaluation price or the determination of the relevant Business Day without the prior consent of Eurex Clearing AG, save for the purposes of fulfilling its own obligations vis-à-vis its customers relating to corresponding OTC interest rate derivative transactions or in order to comply with an obligation vis-à-vis a competent regulatory authority.

\*\*\*\*\*  
Appendix 11 is being newly inserted.  
\*\*\*\*\*

Appendix 11 to the Clearing Conditions of Eurex Clearing AG:

# Clearing Agreement

with a Clearing Agent and a Basic Clearing Member

As of 01.06.2016

This clearing agreement (the “**Agreement**”) is dated the last date specified on the signature page hereof and entered into

**BETWEEN:**

(1) \_\_\_\_\_  
(legal name)  
 acting through /  having its ( registered) office at  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
as Clearing Agent (the “**Clearing Agent**”);

(2) \_\_\_\_\_  
(legal name)  
 acting through /  having its ( registered) office at  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
as Basic Clearing Member (the “**Basic Clearing Member**”); and

(3) Eurex Clearing Aktiengesellschaft, a stock company (*Aktiengesellschaft*) incorporated under the laws of Germany, registered in the commercial register of the local court (*Amtsgericht*) in Frankfurt am Main under HRB 44828 and having its registered seat in Frankfurt am Main, with its business address at Mergenthalerallee 61, 65760 Eschborn, Germany (“**Eurex Clearing AG**”).

The Clearing Agent, the Basic Clearing Member and Eurex Clearing AG are hereinafter also referred to as the “**Parties**” and each of them as a “**Party**”. Unless the context requires otherwise, terms used in this Agreement shall have the meaning given to them in the Clearing Conditions for Eurex Clearing AG (the “**Clearing Conditions**”).

1. The Parties enter into this Agreement for the Clearing of Basic Clearing Member Transactions pursuant to the Basic Clearing Member Provisions. The legal relationship between the Parties shall be construed in accordance with Number 4 of the Basic Clearing Member Provisions. The Transaction Types included in the Clearing are selected by the Clearing Agent and the Basic Clearing Member in Annex A to this Agreement. If a Relevant Fund or a Relevant Fund Segment (as to be specified in Annex B to this Agreement) enters into this Agreement, the special provisions pursuant to Number 1.1.7 of the General Clearing Provisions shall apply.
2. This Agreement incorporates by reference the Clearing Conditions (including all rules and conditions which are incorporated by reference therein (the “**Referenced Conditions**”)), the Price List for Eurex Clearing AG and the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (the “**Connection Agreement**”), in each case in their German version as amended from time to time. The Clearing Conditions, the Price List for Eurex Clearing AG and the Connection Agreement may be viewed and printed out via internet on the website [www.eurexclearing.com](http://www.eurexclearing.com). The Referenced Conditions may be obtained from Eurex Clearing AG upon request.
3. Eurex Clearing AG charges fees to the Basic Clearing Member for its Clearing services in accordance with the Clearing Conditions and the Price List for Eurex Clearing AG, in each case as amended, and will, subject to Number 3.8 of the Basic Clearing Member Provisions, directly debit the relevant Basic Clearing Member Cash Account in an amount equal to the amount of such fees in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions.
4. The Basic Clearing Member hereby appoints the Clearing Agent to act as its Clearing Agent subject to and in accordance with the Clearing Conditions. The Clearing Agent hereby accepts such appointment.
5. Each of the Clearing Agent and the Basic Clearing Member makes, severally but not jointly, to Eurex Clearing AG amongst others the representations and warranties set out in the following provisions of the Clearing Conditions (as relevant):
  - (1) Number 1.1.7 of the General Clearing Provisions (*Representations and warranties by Relevant Funds and Relevant Fund Segments acting through an Authorised Manager*) if the Basic Clearing Member is a Relevant Fund or a Relevant Fund Segment;
  - (2) Number 1.7 of the General Clearing Provisions (*Representations with respect to Clearing Agreements*); and
  - (3) Numbers 1.8 and 1.9 of the General Clearing Provisions (*No Clearing of OTC Interest Rate Derivatives for US Persons and No Clearing of FX Options Transactions for US Persons*).

Eurex Clearing AG makes the representations and warranties set out in Number 1.7.6 of the General Clearing Provisions.

6. Each of the Clearing Agent and the Basic Clearing Member hereby grants all powers of attorney, authorisations and instructions stated to be granted by it in the Clearing Conditions and acknowledges to be bound by the provisions of the Clearing Conditions on the conclusion, amendment, termination, transfer, accumulation or netting of Basic Clearing Member Transactions, in particular pursuant to (as relevant):

- (1) Number 3 of the Basic Clearing Member Provisions (*Role of Clearing Agent*); and
- (2) Number 11.2.7 of the Basic Clearing Member Provisions.

The Basic Clearing Member acknowledges that no further specific agreement or legal action is required under German law as the governing law of this Agreement in order for it to be legally bound by any Basic Clearing Member Transaction resulting from the operation of any such provision.

7. This Agreement shall be entered into for an indefinite period of time and shall remain in effect until it is terminated by one of the Parties in accordance with the Clearing Conditions.

This Agreement supersedes any previous written or oral agreement between all or some of the Parties in relation to the matters dealt with herein.

8. This Agreement shall be amended pursuant to Number 17.2 of the General Clearing Provisions, in the case of amendments to the form of this Agreement set out in Appendix 11 to the Clearing Conditions. In addition, this Agreement may be amended at any time by written agreement between the Parties by executing an amended and restated version of this Agreement; Number 1.1.7 Paragraph (9) of the General Clearing Provisions shall remain unaffected. Annex A to this Agreement may be amended by the submission of an amended Annex A signed by the Clearing Agent and the Basic Clearing Member to Eurex Clearing AG and acceptance thereof by Eurex Clearing AG through respective entries in its production system.

9. Unless otherwise provided for in the Clearing Conditions, neither the Clearing Agent nor the Basic Clearing Member shall assign any of its respective rights or claims under this Agreement except with the prior written consent of all other Parties.

10. This Agreement does not and is not intended to confer any rights to third parties.

11. This Agreement is governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

Any non-contractual rights and obligations arising out of or in connection with this Agreement shall also be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

12. The courts in Frankfurt am Main, Germany shall have exclusive jurisdiction (*ausschließlicher Gerichtsstand*) over any action or other legal proceedings arising out of or in connection with this Agreement.

13. The place of performance shall be Frankfurt am Main, Germany.
14. If any provision contained in this Agreement is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected. Such invalid, illegal or unenforceable provision shall be replaced by means of supplementary interpretation (*ergänzende Vertragsauslegung*) by a valid, legal and enforceable provision, which most closely approximates the parties' commercial intention. This shall also apply mutatis mutandis to any gaps (*Vertragslücken*) in this Agreement.



**AUTHORISED SIGNATURES**  
**to the Clearing Agreement**

---

(as Clearing-Agent)

(Place / Date)

---

Name:

Name:

Function:

Function:

---

(as Basic Clearing Member)<sup>1</sup>

(Place / Date)

---

Name:

Name:

Function:

Function:

**Eurex Clearing Aktiengesellschaft**

---

(Eurex Clearing AG)

(Place / Date)

---

Name:

Name:

Function:

Function:

---

<sup>1</sup> Authorised Manager if the Basic Clearing Member is a Relevant Fund and/or Relevant Fund Segment listed in Annex B to this Agreement.

## **Annex A to the Clearing Agreement: Transaction Types included in the Clearing**

The Basic Clearing Member shall participate in the Clearing of the following Transaction Types pursuant to this Agreement in accordance with the following elections:

- Chapter IV Clearing of Transactions at Eurex Repo GmbH (Eurex Repo)
- Chapter VIII Part 2 Clearing of OTC Interest Rate Derivative Transactions

**AUTHORISED SIGNATURES**  
**to Annex A to the Clearing Agreement**

---

(as Clearing-Agent)

---

(Place / Date)

---

Name:

---

Name:

Function:

Function:

---

(as Basic Clearing Member)<sup>2</sup>

---

(Place / Date)

---

Name:

---

Name:

Function:

Function:

---

<sup>2</sup> Authorised Manager if the Basic Clearing Member is a Relevant Fund and/or Relevant Fund Segment listed in Annex B to this Agreement.

## Annex B to the Clearing Agreement: Relevant Funds and Relevant Fund Segments\*

<b>Legal Name of the Relevant Fund</b> <b>[In the case of a Sub-Fund, the fund to which the Sub-Fund relates shall also be indicated. In case of a Relevant Fund Segment, the fund or sub-fund to which the Relevant Fund Segment belongs shall also be indicated.]</b>			
Name of the asset pool (fund) [Account name of the Relevant Fund/Relevant Fund Segment]			
Legal Entity Identifier (LEI/preLEI)			
Jurisdiction (ISO code)			

\* Eurex Clearing AG may provide this Annex in a different format than shown here.

**AUTHORISED SIGNATURES**  
**to Annex B to the Clearing Agreement**

---

(as Clearing-Agent)

(Place / Date)

---

Name:

Name:

Function:

Function:

---

(Authorised Manager acting for the account of the Relevant  
Funds and/or Relevant Fund Segments)

(Place / Date)

---

Name:

Name:

Function:

Function:

Chapter II of the Clearing Conditions of Eurex Clearing AG

# Transactions Concluded at Eurex Deutschland and Eurex Zürich

(Eurex Exchanges)

As of 01.06.2016

Attachment 1f to Eurex Clearing circular 042/16	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 01.06.2016
	Page 1
Chapter II Part 1	

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[...]

## Part 1    **General Provisions**

[...]

### 1.11    **Requirements for Non-Clearing Members regarding Qualified Back Office Staff Members**

A Non-Clearing Member is required to use at least one sufficiently qualified (as defined and published by Eurex Clearing AG pursuant to Chapter I Part 1 Number 16.1) staff member in the back-office; ~~a sufficient qualification is assumed if either the Market Module Eurex Exchanges of the Clearer Test or the final exam of the certificate programme Certified Clearing Specialist (both offered by Eurex Clearing AG) has been passed successfully.~~

The sufficiently qualified staff member shall be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to until 22:30 CET, the Non-Clearing Member has to ensure that a sufficiently qualified staff member is available via telephone.

A Non-Clearing Member is not required to have a qualified staff member in the back-office if such Non-Clearing Member outsources all its back-office functions pursuant to Chapter I Part 1 Number 15.2 to its Clearing Member or to an Insourcer that has a qualified clearing staff member.

[...]

\*\*\*\*\*

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

## EUREX CLEARING AG

### STATUTES FOR THE EMIR RISK COMMITTEE

#### § 1 Scope of Application and Definitions

- (1) The following statutes (the "**Statutes**") shall apply to the EMIR Risk Committee (the "**EMIR Risk Committee**").

[...]

- (5) Neither the Executive Board nor the Supervisory Board shall be obliged to accept any proposal made by, or take any action proposed by, the EMIR Risk Committee. Any deliberation and/or decision of the Executive Board or the Supervisory Board with respect to any such proposal shall be made at the sole discretion of the Executive Board or the Supervisory Board, respectively, without owing any obligation whatsoever to the EMIR Risk Committee in respect of such deliberation or decision or the reasoning thereof. For the avoidance of doubt, this does not affect any legal obligation of the Supervisory Board to discuss matters with respect to which it has been advised by the EMIR Risk Committee.

- (6) For the purpose of these Statutes, ~~Any reference to~~

(a) any reference to "**Business Days**" shall be a reference to the business days of Eurex Clearing AG as determined by Eurex Clearing AG in accordance with Chapter I Part 1 Number 1.2.4 (1) (i~~h~~) of the Clearing Conditions; ~~and~~

(b) any reference to a "**Clearing Member**" shall refer to General Clearing Member, Direct Clearing Member and Basic Clearing Member.

#### § 2 Relevant Matters and Additional Matters

- (1) "**EMIR Matters**" shall be the following risk-related matters beyond daily operations if and to the extent they may have an impact on the risk management of Eurex Clearing AG:

- (a) significant changes of the risk model of Eurex Clearing AG;
- (b) changes to the default procedures (including the Procedures Manual);



(c) changes to the categories of admissible clearing members (as defined in EMIR)Clearing Members and the admission criteria for clearing members (as defined in EMIR)Clearing Members;

(d) the Clearing of new classes of instruments;

[...]

[...]

[...]

#### § 4 EMIR Risk Committee Members, Chairman and Deputy Chairman

[...]

(2) Eurex Clearing AG in its free discretion prepares with respect to each EMIR Risk Committee Term (as defined in Paragraph (8)) a risk ranking of its Clearing Members (in the case of Clearing-Members belonging to a group in the meaning of Section 290 of the German Commercial Act (*Handelsgesetzbuch*) on the basis of all Clearing Members belonging to the group), inter alia on the basis of the following parameters (the "**CM Risk Ranking**"):

(a) Margin Requirements and number of intra-day Margin Calls;

(b) products which may be cleared by a Clearing Member;

(c) number of Clients for which the Clearing Member provides the Clearing;  
~~and~~

(d) number of Basic Clearing Members for which the Clearing Member acts as Clearing Agent; and

~~(d)~~(e) diversification of the collateral provided (whereby a more diversified collateral portfolio results in a higher risk ranking).

[...]

[...]

[...]

\*\*\*\*\*

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

## **DEFAULT MANAGEMENT COMMITTEE RULES**

### **1 General Provisions for Default Management Committees**

#### **1.1 Default Management Committees**

Default Management Committees (each, a "**DMC**") are committees established by Eurex Clearing AG pursuant to Chapter I Part 1 Number 7.5.1 of the Clearing Conditions of Eurex Clearing AG (the "**Clearing Conditions**") for purposes of advising and assisting the management board of Eurex Clearing AG with respect to the occurrence of a Termination (as defined in Chapter I Part 1 Number 7 of the Clearing Conditions) or a Basic Clearing Member Termination (as defined in Chapter I Part 6 Number 10 of the Clearing Conditions) and all other DMC Matters (as defined in Chapter I Part 1 Number 7.5.1 Paragraph (2) of the Clearing Conditions). Each DMC is governed by the rules set forth in these default management committees rules (the "**DMC Rules**").

[...]

#### **1.3 Definitions**

Terms used and not otherwise defined in these DMC Rules shall have the meanings ascribed to them in the Clearing Conditions. In addition, the terms set out below shall have the meaning ascribed to them below:

[...]

**"Eligible Clearing Member"** means for the purposes of each Liquidation Group, a Clearing Member which (i) holds the respective license to clear all products of that Liquidation Group and (ii) has cleared at least one trade in a product from such Liquidation Group within the three months prior to the beginning of the relevant Assignment Phase itself, or acts as a Clearing Agent for one or more Basic Clearing Members that have cleared at least one trade in a product from such Liquidation Group. Basic Clearing Members do not qualify as Eligible Clearing Members.

[...]

[...]

### **3 Procedures of DMCs**

#### **3.1 Convening a DMC Meeting**

##### **3.1.1 Request for a DMC Meeting**

The DMC Secretary may at any time convene a meeting of a DMC (a "**DMC Meeting**") upon the occurrence of a Termination Event ~~or~~, Insolvency Termination Event, Basic Clearing Member Termination Event or Basic Clearing Member Insolvency Termination Event, for a Default Simulation or to obtain advice on any DMC Matters as deemed appropriate by Eurex Clearing AG by delivering a meeting request notice (the "**Invitation**") in accordance with this Number 3.1 to all DMC Members of the relevant DMC.

If there is at least one OTC Derivative Transaction (as defined in Chapter VIII Part 1 of the Clearing Conditions) among the Terminated Transactions, Eurex Clearing AG shall in any event convene a DMC Meeting of the DMC related to the relevant Liquidation Group.

[...]

#### **3.2 Meeting, Participation, Chairman, Participation Duties**

[...]

##### **3.2.3 Chairman and Deputy Chairman**

Once all DMC Members for a respective DMC and a respective DMC Term have been appointed, these DMC Members shall, upon notification of Eurex Clearing AG, appoint a DMC Member via email by Majority (as defined in Number 3.3) vote as the chairman of the DMC (the "**Chairman**") and as the deputy chairman who shall perform the functions of the Chairman at any DMC Meeting at which the Chairman is not present (the "**Deputy Chairman**"). The appointment as Chairman and Deputy Chairman shall be valid for the DMC Term of the relevant DMC. Only a DMC Member and not a DMC-Deputy may be appointed as Chairman or Deputy Chairman.

The Participating DMC Members have the right to replace the Chairman or Deputy Chairman by Majority vote, provided that such replacement does not occur in time critical situations, in particular if a Termination Event or Basic Clearing Member Termination Event has occurred.

[...]

Attachment 2b to Eurex Clearing circular 042/16

# Appendix 1

## Agreement

for the Participation in a Default Management Committee

Attachment 2b to Eurex Clearing circular 042/16

# Agreement for the Participation in a Default Management Committee

between

---

Clearing Member

and

Eurex Clearing AG, Frankfurt/Main.

Attachment 2b to Eurex Clearing circular 042/16

This Agreement for the Participation in a Default Management Committee (the “**Agreement**”) is dated the last date specified on the signature page hereof and entered into

**BETWEEN:**

(1) \_\_\_\_\_

(legal name)

acting through /  having its ( registered) office at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, as  
Clearing Member (the “**Clearing Member**”); and

(2) Eurex Clearing Aktiengesellschaft, a stock company (*Aktiengesellschaft*) incorporated under the laws of Germany, registered in the commercial register of the local court (*Amtsgericht*) in Frankfurt am Main under HRB 44828 and having its registered seat in Frankfurt am Main, with its business address at Mergenthalerallee 61, 65760 Eschborn, Germany, (“**Eurex Clearing AG**”).

The Clearing Member and Eurex Clearing AG are hereinafter also referred to as the “**Parties**” and each of them as a “**Party**”.

Attachment 2b to Eurex Clearing circular 042/16

**WHEREAS:**

- (A) The Parties have entered into a Clearing Agreement on \_\_\_\_\_ (the “**Clearing Agreement**”) which incorporates Eurex Clearing AG’s clearing conditions, as amended from time to time (the “**Clearing Conditions**”).
  
- (B) Eurex Clearing AG maintains a default management process to reduce the risks following a default by a Clearing Member or a Basic Clearing Member and the occurrence of a Termination Event or Basic Clearing Member Termination Event resulting in a Termination or Basic Clearing Member Termination and the calculation of one or more Difference Claims, as described in the Clearing Conditions, Eurex Clearing AG establishes default management committees (each a “**DMC**”) for the purpose of advising and assisting the Executive Board of Eurex Clearing AG with respect to the consequences of a Termination or Basic Clearing Member Termination and all other matters specified in the Clearing Conditions, as further set out in Chapter I Part 1 Number 7.5 of the Clearing Conditions.

[...]

[...]

\*\*\*\*\*

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

## **DEFAULT MANAGEMENT AUCTION RULES**

### **1 General**

- 1.1** Upon the occurrence of a Termination or Basic Clearing Member Termination, as defined in the Clearing Conditions in Chapter I Part 1 Number 7 and Part 6 Number 10.4, respectively, Eurex Clearing AG may in its free discretion conduct one or more DM Auctions in accordance with the Clearing Conditions of Eurex Clearing AG (the "**Clearing Conditions**").

[...]

### **3 Participation in DM Auctions**

Participants in DM Auctions are Mandatory Participants and Selected Invitees, as further described in this Number 3.

- 3.1** Each Mandatory Participant (as defined in the Clearing Conditions in Chapter I Part 1 Number 7.5.3) shall be obliged to participate in the relevant DM Auction; each such Mandatory Participant and each Basic Clearing Member that participates in a DM Auction in accordance with Number 3.2 is, upon the submission of its Bid (as defined in Number 5.2 below) with regard to a specific Auction Unit, herein referred to as a "**Participating Bidder**".
- 3.2** In addition, any entity may participate in a DM Auction upon invitation by Eurex Clearing AG if
- 3.2.1** such entity is either (i) a Clearing Member which does not qualify as a Mandatory Participant with respect to the relevant DM Auction, ~~or (ii) a Basic Clearing Member, or (iii) a Non-Clearing Member~~, a Registered Customer or any other customer of a Clearing Member, in each case if applicable limited to the applicable Liquidation Group(s) (each a "**Qualified Invitee**");
- 3.2.2** such Qualified Invitee (except for Clearing Members pursuant to Number 3.2.1 (i) and Basic Clearing Members pursuant to Number 3.2.1 (ii)) has evidenced the receipt of consent from its respective Clearing Member(s) (which must qualify as a Mandatory Participant) to participate in the relevant DM Auction; and



**DEFAULT MANAGEMENT AUCTION RULES**

**3.2.3** such Qualified Invitee prior to the DM Auction represents, warrants and undertakes vis-à-vis Eurex Clearing AG in writing to comply at all times with the requirements and obligations set forth in Number 10.1, 10.2 and 10.3 below

(each a "**Selected Invitee**").

Selected Invitees are only entitled to participate in DM Auctions via their relevant Clearing Members (except for Clearing Members pursuant to Number 3.2.1 (i) and Basic Clearing Members pursuant to Number 3.2.1 (ii) which may participate in the relevant DM Auction as a Participating Bidder); each such Clearing Member is, upon the submission of a Bid for a Selected Invitee with regard to a specific Auction Unit, herein referred to as a "**Representing Participating Bidder**"). The submission of a Bid by a Representing Participating Bidder constitutes a Bid by such Representing Participating Bidder and only binds such Representing Participating Bidder vis-à-vis Eurex Clearing AG. A Basic Clearing Member may participate in the relevant DM Auction directly or through its Clearing Agent. In the former case, the Clearing Agent does not qualify as Representing Participating Bidder but acts on behalf and in the name of the Basic Clearing Member.

Any Mandatory Participant may disclose the Specific Terms and/or any additional information with respect to any DM Auction only to Selected Invitees invited by Eurex Clearing AG to participate in the respective DM Auction.

**3.3** Eurex Clearing AG shall be entitled to subsequently suspend any Mandatory Participant or any Selected Invitee compliant with the conditions of Number 3.2 from participating in a DM Auction upon the occurrence of a serious cause related to such Mandatory Participant or Selected Invitee, as the case may be. If a Representing Participating Bidder has been suspended, the Selected Invitee represented by it shall also be suspended.

If the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions (as defined in Chapter VIII Part 2), Eurex Clearing AG may release a Mandatory Participant from its obligation to participate in any relevant DM Auction if (i) within 3 months prior to the relevant Termination or Basic Clearing Member Termination less than ten (10) Transactions with respect to the Relevant Liquidation Group and in the relevant currency have been booked on the Clearing Member's respective accounts, (aggregated, if the Clearing Member acts as Clearing Agent for one or more Basic Clearing Members, with the Transactions (if any) that have been booked on the accounts of its Basic Clearing Members), or (ii) within 3 months prior to the relevant Termination or Basic Clearing Member Termination (a) the average sum of the Clearing Member's Initial Margin requirement (aggregated, if the Clearing Member acts as Clearing Agent for one or more Basic Clearing Members, with the Initial Margin requirement for all its Basic Clearing Members) with respect to the Relevant Liquidation Group and in the relevant currency is less than 0.5 per cent of the sum of all Clearing Members' and Basic Clearing Members' Initial Margin requirement with respect to the Relevant Liquidation Group and in the relevant currency, and (b) the average aggregate notional amount resulting from the Clearing Member's OTC Interest Rate Derivative Transactions (aggregated, if the Clearing Member acts as Clearing Agent for one or more Basic Clearing Members, with the OTC Interest Rate Derivative Transactions (if any) of its Basic Clearing Members) with respect to the Relevant Liquidation Group and in the relevant currency is less than 0.5 per cent of

the aggregate notional amount of all Clearing Members' and Basic Clearing Members' OTC Interest Rate Derivative Transactions with respect to the Relevant Liquidation Group and in the relevant currency or (iii) upon occurrence of a serious cause related to such Mandatory Participant.

#### **4 Pre-Auction Procedures**

**4.1** For each DM Auction Eurex Clearing AG will provide all Mandatory Participants and all Selected Invitees (together the "**Invitees**" and each an "**Invitee**") with the Specific Terms and with any further relevant information relating to this DM Auction in accordance with Number 11. The distribution of the Specific Terms constitutes an invitation of Eurex Clearing AG to the Invitees to submit a Bid to enter into each of the DM Auction Transactions comprised in the relevant Auction Unit with Eurex Clearing AG at the Auction Price.

In addition, Eurex Clearing AG shall specify in the Specific Terms or via email for each Mandatory Participant a minimum number of Auction Units for which such individual Mandatory Participant shall bid; such number shall depend on the relative exposure of the relevant Mandatory Participant with respect to the relevant Liquidation Group(s), in particular with regard to (i) the number of Transactions held by the Mandatory Participant (aggregated, if the Mandatory Participant acts as Clearing Agent for one or more Basic Clearing Members, with the Transactions (if any) of its Basic Clearing Members) with respect to the relevant Liquidation Group(s), (ii) the notional amount of Transactions held by the Mandatory Participant (aggregated, if the Mandatory Participant acts as Clearing Agent for one or more Basic Clearing Members, with the Transactions (if any) of its Basic Clearing Members) with respect to the relevant Liquidation Group(s) and (iii) the risks inherent in the Transactions held by the Mandatory Participant (and, if the Mandatory Participant acts as Clearing Agent for one or more Basic Clearing Members, the Transactions (if any) of its Basic Clearing Members) with respect to the relevant Liquidation Group(s).

[...]

#### **5 Bidding Procedures**

**5.1** With respect to each DM Auction the following principles shall apply:

- 5.1.1** Each Mandatory Participant is obliged to provide Eurex Clearing AG with its Mandatory Bid(s) (as defined in the Clearing Conditions in Chapter I Part 1 Number 7.5.3 paragraph (5) or (6)).
- 5.1.2** Each Mandatory Participant is permitted to provide Eurex Clearing AG with a Bid for any further Auction Unit, if applicable, for which it is not obliged to bid.
- 5.1.3** A Representing Participating Bidder or a Clearing Agent acting in the name and on behalf of a Basic Clearing Member may with respect to each Selected Invitee provide Bids for any Auction Unit in accordance with Number 3.2. Each Bid by a Representing Participating Bidder and each Bid provided by a Clearing Agent

**DEFAULT MANAGEMENT AUCTION RULES**

acting on behalf and in the name of a Basic Clearing Member shall state the identity of the Selected Invitee for which the Bid is provided.

**5.1.4** Each Bid submitted by a Representing Participating Bidder with respect to a Selected Invitee shall be taken into account when determining whether such Representing Participating Bidder has fulfilled its obligations as a Mandatory Participant in accordance with Number 5.1.1 above.

[...]

**5.6** Bids for different Auction Units as well as Bids for the same Auction Unit by a Clearing Member which is both a Participating Bidder and a Representing Participating Bidder may be different. The same applies if a Clearing Agent acts on behalf and in the name of a Basic Clearing Member.

[...]

**10 Representations, Warranties and Undertakings**

By submitting a Bid in accordance with the DM Auction Rules, each Participating Bidder (for itself) and each Representing Participating Bidder (for itself and on behalf of its relevant Selected Invitee(s))

[...]

**10.3** represents and warrants at the time of the submission of its Bid, to Eurex Clearing AG that

[...]

**10.3.9** no event has occurred or circumstance arisen with respect to it, which might (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute a Termination Event or an Insolvency Termination Event, Basic Clearing Member Termination Event or Basic Clearing Member Insolvency Termination Event, as applicable.

[...]

\*\*\*\*\*

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

\*\*\*\*\*

**EUREX CLEARING AG  
STATUTES FOR THE DISCIPLINARY COMMITTEE**

**§ 1 Scope of Application and Definitions**

[...]

- (4) Terms used and not otherwise defined in these Statutes shall have the meanings ascribed to them in the Clearing Conditions. However, for the purpose of these Statutes a reference to a Clearing Member shall also include both General Clearing Members acting as Clearing Agents and Basic Clearing Members.

[...]

[...]

**§ 3 Committee Members**

(1) [...]

- (2) Eurex Clearing AG shall with respect to each Meeting, taking into account the nature of the Alleged Breach (as defined in Clause 1 Paragraph 2 of the Disciplinary Procedure Rules), appoint in its discretion the Committee Members so that the Disciplinary Committee shall have the following composition:

[...]

[...]

**§ 4 Initiation of a Disciplinary Committee Meeting**

(1) [...]

- (2) A Notice of a Meeting shall:

[...]

- (d) set out an agenda specifying in reasonable detail the matter(s) to be discussed at such Meeting, together with the Report and any CM Response (as defined in Clause 5 Paragraph 1 of the Disciplinary Procedure Rules) received by Eurex Clearing AG in accordance with the Disciplinary Procedures Rules so as to provide reasonable background in relation to the Alleged Breach (the "Agenda"); and

[...]

[...]

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

\*\*\*\*\*

**EUREX CLEARING AG  
DISCIPLINARY PROCEDURES RULES**

**Chapter I - Disciplinary Process**

**1 Scope**

(1) [...]

(2) [...]

(a) the occurrence of a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Provisions or the occurrence of a Basic Clearing Member Termination Event pursuant to Number 10.2 of the Basic Clearing Member Provisions;

[...]

(3) Terms used and not otherwise defined in these Disciplinary Procedures Rules shall have the meanings ascribed to them in the Clearing Conditions. For the purpose of these Disciplinary Procedures Rules, aAny reference to

(a) "Business Days" shall be a reference to the business days of Eurex Clearing AG as determined by Eurex Clearing AG in accordance with Chapter I Part 1 Number 1.2.4 (1) ~~(hg)~~ of the Clearing Conditions; and

(b) a "Clearing Member" shall be a reference to a General Clearing Member ~~(including where acting in its capacity as Clearing Agent), Direct Clearing Member and Basic Clearing Member.~~

**2 Commencement of Disciplinary Procedures**

(1) Eurex Clearing AG shall in case of an Alleged Breach which it intends to sanction in accordance with Number 1 Paragraph ~~(23)~~ above commence disciplinary procedures ("**Disciplinary Procedures**") in accordance with these Disciplinary Procedures Rules.

[...]

[...]

## Chapter II – Disciplinary Consequences

### 1 Common Principles

In deciding whether and which Sanctions should be imposed against a Clearing Member Eurex Clearing AG shall in its discretion consider

[...]

- (d) whether rather than a Termination pursuant to Number 7.2.1 of the General Clearing Provisions or Number 10.2 of the Basic Clearing Member Provisions (in each case, except for a Termination pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (1), (6), (8), (10) and/or (13) of the Clearing Conditions) a Fine pursuant to Number 2 Paragraph (a) below would be sufficient as a Sanction for the Alleged Breach; and
- (e) the steps set forth in Number 7.2.1 of the General Clearing Provisions and Numbers 10.2 – 10.4 of the Basic Clearing Member Provisions that have to be taken prior to a Grace Period Notice, or Termination Notice or Basic Clearing Member Termination Notice.

### 2 Sanctions

(1) [...]

- (a) impose, in particular in case the Alleged Breach constitutes a Termination Event or Basic Clearing Member Termination Event (in each case except for a Termination Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Provisions), a contractual penalty (*Vertragsstrafe*) in a maximum amount of EUR 500,000 (a "**Fine**") against a Clearing Member with respect to the relevant Alleged Breach that has been committed by the Clearing Member in violation of the applicable standard of care; and/or

[...]

[...]

[...]

\* \* \*

**Statutes for the IRS Product Committee**

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

**EUREX CLEARING AG**

**STATUTES FOR THE IRS PRODUCT COMMITTEE**

**§ 1 Scope of Application and Definitions**

[...]

(5) Terms used and not otherwise defined in these Statutes shall have the meanings ascribed to them in the Clearing Conditions.

(6) For the purpose of these Statutes, Any reference to

(a) any reference to "Business Days" shall be a reference to the business days of Eurex Clearing AG as determined by Eurex Clearing AG in accordance with Chapter I Part 1 Number 1.2.4 (1) (hg) of the Clearing Conditions; and

(b) any reference to a "Clearing Member" shall refer to General Clearing Member, Direct Clearing Member and Basic Clearing Member.

[...]

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<p><b>Allgemeine Geschäftsbedingungen zum Vertrag über die technische Anbindung an die Clearing-EDV der Eurex Clearing AG (Anschlussvertrag)</b></p>	<p><b>General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)</b></p>
<p>*****</p> <p>ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:</p> <p>ERGÄNZUNGEN SIND UNTERSTRICHEN</p> <p>LÖSCHUNGEN SIND DURCHGESTRICHEN</p> <p>*****</p>	<p>*****</p> <p>AMENDMENTS ARE MARKED AS FOLLOWS:</p> <p>INSERTIONS ARE UNDERLINED,</p> <p>DELETIONS ARE CROSSED OUT.</p> <p>*****</p>
<p><b>A – Allgemeine Vorschriften</b></p>	<p><b>A – General Provisions</b></p>
<p><b>§ 1 Anwendungsbereich und Gliederung</b></p>	<p><b>§ 1 Scope of Application and Structure</b></p>
<p>(1) Diese Allgemeinen Geschäftsbedingungen finden Anwendung auf jeden Vertrag über die technische Anbindung an die Clearing-EDV der Eurex Clearing AG („<b>Anschlussvertrag</b>“), der zwischen der Eurex Clearing AG („<b>Eurex Clearing</b>“) und dem jeweiligen Vertragspartner geschlossen wurden.</p>	<p>(1) These terms and conditions shall apply to each Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (“<b>Connection Agreement</b>“) entered into between Eurex Clearing AG (“<b>Eurex Clearing</b>“) and the relevant Contractual Counterparty.</p>
<p>(2) Für Anschlussverträge, die vor dem 15.04.2014 geschlossen wurden, gilt, dass die im Anschlussvertrag unter § 2, Satz 3 definierten Ausnahmen entfallen. Der unter § 3 dieser Anschlussverträge enthaltene Verweis auf § 13 der Allgemeinen Geschäftsbedingungen (alte Fassung) wird ersetzt durch den Verweis auf § 15 dieser Allgemeinen Geschäftsbedingungen in der hier vorliegenden Fassung.</p>	<p>(2) For Connection Agreements signed prior to the 15<sup>th</sup> of April 2014, the exceptions defined in § 2, sentence 3 of the Connection Agreement shall no longer be valid. The reference made in § 3 of the respective Connection Agreements to § 13 of the terms and conditions in its previous version is replaced by the reference to § 15 of the terms and conditions in its current version.</p>
<p>(3) Diese Allgemeinen Geschäftsbedingungen finden auch dann Anwendung, wenn die Eurex Clearing und ein Clearing Mitglied oder die Eurex Clearing, ein Clearing-Mitglied und ein Nicht-Clearing-Mitglied bzw. Registrierter Kunde eine der folgenden Vereinbarungen abgeschlossen haben:</p> <p>(i) Clearing-Vereinbarung zwischen der Eurex Clearing AG und einem Clearing-Mitglied (Anhang 1 zu den Clearing-Bedingungen der Eurex Clearing („<b>Clearing-Bedingungen</b>“)),</p>	<p>(3) These terms and conditions shall also apply in cases in which Eurex Clearing and a Clearing Member or Eurex Clearing, a Clearing Member and a Non-Clearing Member and/or Registered Customer have entered into one of the following agreements:</p> <p>(i) Clearing Agreement between Eurex Clearing AG and a Clearing Member (Appendix 1 to the clearing conditions of Eurex Clearing (“<b>Clearing Conditions</b>“)),</p> <p>(ii) Clearing Agreement with a Non-Clearing</p>



- (ii) Clearing-Vereinbarung mit einem Nicht-Clearing-Mitglied und/oder Registrierten Kunden für das Grund-Clearingmodell (Anhang 2 zu den Clearing-Bedingungen),
- (iii) Clearing-Vereinbarung mit einem Nicht-Clearing-Mitglied und/oder Registrierten Kunden für das Individual-Clearingmodell basierend auf Eurex Clearing AG-Dokumentation (Anhang 3 zu den Clearing-Bedingungen),
- (iv) Clearing-Vereinbarung mit einem Nicht-Clearing-Mitglied und/oder Registrierten Kunden für das Individual-Clearingmodell basierend auf einer Kunden-Clearing-Dokumentation (Anhang 4 zu den Clearing-Bedingungen),
- (v) Clearing-Vereinbarung mit einem Net Omnibus Nicht-Clearing-Mitglied und/oder einem Net Omnibus Registrierten Kunden für das Net Omnibus-Clearingmodell (Anhang 5 zu den Clearing-Bedingungen), Clearing-Vereinbarung für das Clearing von Wertpapierdarlehens-Transaktionen von Inhabern einer Speziellen Darlehensgeber-Lizenz (Anhang 7 zu den Clearing-Bedingungen),
- (vi) Clearing-Vereinbarung für das Clearing von GC Pooling Repo-Transaktionen mit Inhabern einer Speziellen Repo-Lizenz (Anhang 6 zu den Clearing-Bedingungen) Clearing-Vereinbarung mit einem Net Omnibus Nicht-Clearing-Mitglied und/oder einem Net Omnibus Registrierten Kunden für das Net Omnibus-Clearingmodell (Anhang 8 zu den Clearing-Bedingungen), oder
- (vii) Clearing-Vereinbarung für das Clearing von Wertpapierdarlehens-Transaktionen von Inhabern einer Speziellen Darlehensgeber-Lizenz (Anhang 7 zu den Clearing-Bedingungen), oder
- (viii) Clearing-Vereinbarung mit einem Clearing-Agenten und einem Basis-Clearing-Mitglied (Anhang 11 zu den Clearing-Bedingungen).  
Clearing-Vereinbarung für das Clearing von GC Pooling Repo-Transaktionen mit Inhabern einer Speziellen Repo-Lizenz (Anhang 9 zu den Clearing-Bedingungen).

Jeder dieser Vereinbarungen gilt im Folgenden als „**Clearing-Vereinbarung**“.

Im Falle der Anwendbarkeit der Allgemeinen Geschäftsbedingungen durch Abschluss einer Clearing-Vereinbarung gelten Verweise in diesen Allgemeinen Geschäftsbedingungen auf den Begriff „Abschlussvertrag“ als Verweise auf den Begriff Clearing-Vereinbarung. In diesen Allgemeinen

- Member and/or Registered Customer for the Elementary Clearing Model (Appendix 2 to the Clearing Conditions),
- (iii) Clearing Agreement with a Non-Clearing Member and/or Registered Customer for the Individual Clearing Model under Eurex Clearing AG (Appendix 3 to the Clearing Conditions),
- (iv) Clearing Agreement with a Non-Clearing Member and/or Registered Customer for the Individual Clearing Model under Client Clearing Documentation (Appendix 4 to the Clearing Conditions),
- (v) Clearing Agreement with a Net Omnibus Non-Clearing Member and/or Net Omnibus Registered Customer for the Net Omnibus Clearing Model (Appendix 5 to the Clearing Conditions), Clearing Agreement for the Clearing of Securities Lending Transactions with the Holder of a Specific Lender License (Appendix 7 to the Clearing Conditions),
- (vi) Clearing Agreement with a Net Omnibus Non-Clearing Member and/or Net Omnibus Registered Customer for the Net Omnibus Clearing Model (Appendix 8 to the Clearing Conditions), or Clearing Agreement for the Clearing of GC Pooling Repo Transactions with the Holder of a Specific Repo License (Appendix 6 to the Clearing Conditions),
- (vii) Clearing Agreement for the Clearing of Securities Lending Transactions with the Holder of a Specific Lender License (Appendix 7 to the Clearing Conditions), or
- (viii) Clearing Agreement for the Clearing of GC Pooling Repo Transactions with the Holder of a Specific Repo License (Appendix 9 to the Clearing Conditions) Clearing Agreement with a Clearing Agent and a Basic Clearing Member (Appendix 11 to the Clearing Conditions).

In the following, each of these agreements shall be a “**Clearing Agreement**”.

In case of the application of the terms and conditions to a Clearing Agreement, references in these terms and conditions to the term “Connection Agreement” shall be read as a reference to the term Clearing Agreement. Capitalised terms used but not defined in these terms and conditions shall have the meaning ascribed to them in Clearing Conditions.

<p><u>Geschäftsbedingungen verwendete, aber nicht definierte Begriffe haben die ihnen in den Clearing-Bedingungen zugewiesene Bedeutung.</u></p>	
<p>(4) Diese Allgemeinen Geschäftsbedingungen gliedern sich in einen allgemeinen, für alle Kundengruppen gültigen Abschnitt (Abschnitt A) und in die folgenden weiteren Abschnitte, die Regelungen enthalten, welche nur für spezifische Kundengruppen gelten:</p> <ul style="list-style-type: none"> <li>(i) Abschnitt B - Besondere Regelungen für Clearing-Mitglieder der Eurex-Börsen (Eurex Deutschland und Eurex Zürich)</li> <li>(ii) Abschnitt C - Besondere Regelungen für Clearing-Mitglieder der Frankfurter Wertpapier Börse, Eurex Repo GmbH, Eurex Bonds GmbH, Irish Stock Exchange (ISE) <u>sowie Interim-Teilnehmer dieser Märkte</u></li> <li>(iii) Abschnitt D - Besondere Regelungen für OTC Clearing-Mitglieder und OTC-Interim-Teilnehmer</li> <li>(iv) Abschnitt E - Besondere Regelungen für <u>Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben, Nicht-Clearing-Mitglieder, und Interim-Teilnehmer und Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben</u></li> <li>(v) Abschnitt F - Besondere Regelungen für <u>Basis-Clearing-Mitglieder, Registrierte Kunden, Nicht-Clearing-Mitglieder, die am Individual-Clearingmodell teilnehmen mit ausgelagertem Backoffice, Registrierte Kunden, Inhaber einer Speziellen Darlehensgeber Lizenz und Inhaber einer Speziellen Repo Lizenz</u></li> <li>(vi) Abschnitt G - Besondere Regelungen für Nicht-Clearing-Mitglieder, die am Grund-Clearingmodell oder am Net Omnibus-Clearingmodell teilnehmen mit ausgelagertem Backoffice sowie Dritte</li> <li>(vii) Abschnitt H - Besondere Regelungen für Multi-Member-Service-Betreiber</li> </ul>	<p>(4) The following terms and conditions are structured this way: a general segment (segment A) is valid for all groups of customers and the following segments contain provisions only valid for specific groups of customers:</p> <ul style="list-style-type: none"> <li>(i) Segment B - Special provisions for Clearing Members of Eurex Exchanges (Eurex Deutschland und Eurex Zürich)</li> <li>(ii) Segment C - Special provisions for Clearing Members of Frankfurt Stock Exchange, Eurex Repo GmbH, Eurex Bonds GmbH, Irish Stock Exchange (ISE) <u>as well as Interim Participants of such markets</u></li> <li>(iii) Segment D - Special provisions for OTC Clearing Members and OTC Interim Participants</li> <li>(iv) Segment E - Special provisions for <u>Clearing Members that outsourced all Clearing Functions, Non Clearing Members and; Interim Participants and Clearing Member that outsources all Clearing Functions</u></li> <li>(v) Segment F - Special provisions for <u>Basic Clearing Members, Registered Customers, Non Clearing Members participating in the Individual Clearing Model that outsources Backoffice Functions, Registered Customers, holder of a Specific Lender License and holder of a Specific Repo License</u></li> <li>(vi) Segment G - Special provisions for Non Clearing Members participating in the Elementary Clearing Model in the Net Omnibus Clearing Model that outsources Backoffice Functions and other parties, in particular Settlement Institutes</li> <li>(vii) Segment H - Special provisions for Multi-Member-Service Operators</li> </ul>
<p><b>§ 2 Definitionen</b></p>	<p><b>§ 2 Definitions</b></p>
<p>(1) „<b>Access-Point</b>“: Zugangspunkt zur Eurex Clearing-EDV für das Routing von Clearing-Daten zwischen der Clearing-EDV und dem verbundenen Teilnehmer-System.</p>	<p>(1) "<b>Access Point</b>": Connection point to the Eurex Clearing EDP which provides for the routing of Clearing Data between the Clearing EDP and the connected Participant System.</p>

(2) „ <b>Clearing-EDV</b> “: Die von der Eurex Clearing für das Clearing und die Abwicklung bestimmten EDV-Einrichtungen, einschließlich aller Hard- und Softwarekomponenten sowie Schnittstellen, deren Betrieb im Verantwortungsbereich der Eurex Clearing liegen.	(2) " <b>Clearing EDP</b> ": All EDP facilities concerning clearing and settlement, including all hard- and software components as well as interfaces for whose operation Eurex Clearing is responsible.
(3) „ <b>Clearing-Daten</b> “: Daten zum Geschäfts- und Positions-Management.	(3) " <b>Clearing Data</b> ": Trade and position management data.
(4) „ <b>Konfigurationsparameter</b> “: Logische Nummer (LN) sowie Netzwerkbereiche und/oder Netzwerkadressen, USER-Passwörter sowie ähnliche Daten, die die Kommunikation zwischen einem System des Vertragspartners und der Clearing-EDV ermöglichen und die die Eurex Clearing dem Vertragspartner gesondert mitteilt.	(4) " <b>Configuration Parameter</b> ": Logic number (LN) as well as network areas and/or network addresses, USER passwords and similar data allowing communication between a system of a Contractual Party and Clearing EDP, communicated to the Contractual Party separately by Eurex Clearing.
(5) „ <b>Lokation</b> “: Gesamtheit aller Geschäftsräume eines Vertragspartners innerhalb eines Gebäudekomplexes, die von der Eurex Clearing genehmigt wurden.	(5) " <b>Location</b> ": Entirety of all offices of a Contractual Party within a building complex which have been approved by Eurex Clearing.
(6) „ <b>Member Integrated System Server</b> “ oder „ <b>MISS</b> “: Die Hardware, die der Vertragspartner für die technische Anbindung an die Clearing-EDV verwenden kann und auf der eine von der Eurex Clearing bereitgestellte Software installiert ist.	(6) " <b>Member Integrated System Server</b> " or " <b>MISS</b> ": Hardware which may be used by the Contractual Party to connect technically to the Clearing EDP and on which software supplied by Eurex Clearing is installed.
(67) „ <b>Multi-Member-Service-Betreiber</b> “: Der Betreiber einer Infrastruktur, den ein oder mehrere Vertragspartner für die technische Anbindung an die Clearing-EDV nutzen und/oder der für ein oder mehrere Unternehmen das Insourcing von Backoffice- bzw. Clearingfunktionen übernommen hat und/oder die automatisierte Weiterverarbeitung von Daten erbringt.	(67) " <b>Multi Member-Service Operator</b> ": Operator of an infrastructure used by one or multiple Contractual Parties to connect technically to the Clearing EDP and/or who renders the insourcing of back office functions or clearing functions respectively and/or the automated further processing of data for one or several companies.
(78) „ <b>Parteien</b> “: Die Eurex Clearing sowie der jeweilige Vertragspartner.	(78) " <b>Parties</b> ": Eurex Clearing and the relevant Contractual Party.

<p>(89) „<b>Teilnehmer-System</b>“: Hard- und Softwarekomponenten des Vertragspartners, insbesondere die lokalen Netzwerke, Schnittstellen, Server, Router, Endeingabegeräte sowie die internen Netzwerkverbindungen des Vertragspartners, mit denen sich der Vertragspartner an die Clearing-EDV anschließt.</p>	<p>(98) "<b>Participant System</b>": Hard- and software components of the Contractual Party, in particular local networks, interfaces, servers, routers, input terminals as well as internal network connections of the Contractual Party which the Contractual Party uses to connect to the Clearing EDP.</p>
<p>(910) „<b>Vertragspartner</b>“:</p> <p>(i) Ein Clearing-Mitglied (General-Clearing-Mitglied oder Direkt-Clearing-Mitglied),</p> <p>(ii) ein Basis-Clearing-Mitglied,</p> <p><del>(i)</del>(iii) ein Nicht-Clearing-Mitglied oder Registrierter Kunde,</p> <p><del>(ii)</del>(iv) _____ ein Inhaber einer Speziellen Darlehensgeber Lizenz sowie ein Beauftragter des Darlehensgebers gemäß Kapitel IX der Clearing-Bedingungen der Eurex Clearing,</p> <p><del>(iii)</del>(v) _____ ein Inhaber einer Speziellen Repo Lizenz gemäß Kapitel IV der Clearing-Bedingungen der Eurex Clearing,</p> <p><del>(iv)</del> ein Nicht-Clearing-Mitglied oder Registrierter Kunde im Sinne der Clearing-Bedingungen der Eurex Clearing,</p> <p><del>(v)</del>(vi) _____ ein Multi-Member-Service-Betreiber</p> <p><del>(vi)</del>(vii) _____ sowie jeder Dritte, insbesondere ein Abwicklungsinstitut, dem die Eurex Clearing eine technische Anbindung an die Clearing-EDV nach dem Anschlussvertrag bereitstellt.</p>	<p>(910) "<b>Contractual Party</b>“:</p> <p>(i) A Clearing Member (General Clearing Member or Direct Clearing Member),</p> <p>(ii) a Basic Clearing Member,</p> <p><del>(i)</del>(iii) a Non-Clearing Member or a Registered Customer,</p> <p><del>(ii)</del>(iv) _____ a holder of a Specific Lender License and an Agent Lender pursuant to Chapter IX of the Clearing Conditions for Eurex Clearing,</p> <p><del>(iii)</del> a holder of a Specific Repo License pursuant to Chapter IV of the Clearing Conditions for Eurex Clearing,</p> <p><del>(iv)</del>(v) _____ a Non-Clearing Member or a Registered Customer as defined in the Clearing Conditions for Eurex Clearing,</p> <p><del>(v)</del>(vi) _____ a Multi-Member-Service Operator</p> <p><del>(vi)</del>(vii) _____ as well as any other party, in particular a settlement institute, for which Eurex Clearing provides a technical connection to Clearing EDP according to the Connection Agreement.</p>

<p>(101) <b>"Geschäftstag"</b>: bezeichnet jeden Tag (außer Samstags und Sonntags) an dem Geschäftsbanken in Frankfurt am Main, Deutschland, für den allgemeinen Geschäftsbetrieb geöffnet sind.</p>	<p>(101) <b>"Business Day"</b>: means any day (other than a Saturday or a Sunday) on which commercial banks in Frankfurt am Main, Germany, are open for general business.</p>
<p><b>§ 3 Netzwerkanbindung an die Clearing-EDV</b></p>	<p><b>§ 3 Network connection to the Clearing EDP</b></p>
<p>(1) Vertragspartner können sich mittels der folgenden Optionen an die Clearing EDV anbinden:</p> <ul style="list-style-type: none"> <li>(i) mittels Standleitungen,</li> <li>(ii) mittels Internetleitungen,</li> <li>(iii) mittels Internet-basiertem Zugang,</li> <li>(iv) über andere Netzwerke oder</li> <li>(v) über einen Multi-Member-Service-Betreiber</li> </ul> <p>Letzteres ist nicht für Multi-Member-Service-Betreiber erlaubt.</p> <p>Der Vertragspartner ist verpflichtet, der Eurex Clearing mitzuteilen, über welche Art der Netzwerk-Anbindung(en) er sich nach näherer Maßgabe von Absatz 2 bis 6 an die Clearing-EDV anschließt. Die Eurex Clearing legt fest, an welchen Access-Point(s) die Anbindung erfolgt. Der Vertragspartner kann sich über mehrere Netzwerk-Anbindungen an die Clearing-EDV anschließen. Die Eurex Clearing kann festlegen, dass sich der Vertragspartner nur mit einer minimalen und/oder maximalen Anzahl von Netzwerk-Anbindungen an die Clearing-EDV anschließen darf, sofern dies aus Gründen der Systemleistung oder aus sonstigen Gründen erforderlich ist. Auf Anfrage der Eurex Clearing ist der Vertragspartner verpflichtet, Einzelheiten bzgl. seiner Netzwerk-Anbindungen zur Verfügung zu stellen.</p>	<p>(1) Contractual Parties may connect to the Clearing EDP by means of:</p> <ul style="list-style-type: none"> <li>(i) leased lines,</li> <li>(ii) internet line,</li> <li>(iii) internet-based service,</li> <li>(iv) other networks or</li> <li>(v) a Multi-Member-Service Operator.</li> </ul> <p>Whereas the latter one is not allowed for Multi-Member-Service Operator.</p> <p>The Contractual Party shall be obligated to inform Eurex Clearing via which network connection(s) it connects to the Clearing EDP, according to Paragraph 2 to 6. Eurex Clearing shall define which Access Point(s) will be used to connect the Contractual Party and the Clearing EDP. The Contractual Party may connect to the Clearing EDP via several network connections. If necessary due to reasons of system performance or other reasons, Eurex Clearing may define that the Contractual Party may only participate with a minimum and/or maximum number of network connections to Clearing EDP. Upon request by Eurex Clearing, the Contractual Party shall be obligated to provide details regarding its network connections.</p>
<p>(2) Anbindung über eine Standleitung</p>	<p>(2) Connection by means of a leased line</p>
<p>Die Beschaffung, die Installation und der Betrieb der Standleitung, für die Verbindung zwischen der Clearing-EDV und dem Teilnehmer-System, erfolgen durch die Eurex Clearing oder werden von dieser in Auftrag gegeben. Die Eurex Clearing trägt dafür Sorge, dass auf der bereitgestellten Standleitung Bandbreiten eingerichtet sind. Die Eurex Clearing bestimmt den Rahmen für die Bandbreite der Verbindung sowie deren Streckenführung unter angemessener Berücksichtigung der Interessen des Vertragspartners. Die Eurex Clearing ist berechtigt, Dritte mit der Bereitstellung der Leitungsverbindung zu beauftragen. Die Eurex Clearing ist in diesen Fällen zur sorgfältigen Auswahl und Unterweisung des Dritten verpflichtet. Voraussetzung für eine Anbindung über eine Standleitung ist, dass die von der Clearing-EDV unterstützten Übertragungswege</p>	<p>The acquisition, installation and operation of a leased line to establish the connection between the Clearing EDP and the Participant System will be carried out or assigned by Eurex Clearing. Eurex Clearing procures the establishment of bandwidths on the provided leased line. Eurex Clearing shall determine the conditions for the bandwidths and the routing while taking into account the interests of the Contractual Party. Eurex Clearing shall be authorized to commission third parties with the provision of the line connection. In these cases, Eurex Clearing shall be obligated to choose and instruct such third parties in a diligent way. In order to be connected by means of a leased line, it is required that the transmission routes and access supported by the Clearing EDP are provided by the Contractual Party and that they can be installed and operated under usual conditions and</p>

und Anschlussarten bei dem Vertragspartner zur Verfügung stehen und unter üblichen Bedingungen und angemessenen Aufwand bei Sicherstellung der von der Eurex Clearing angesetzten Sicherheitsstandards und Qualität einrichtbar und betreibbar sind.	adequate effort in order to ensure the safety standard and quality set by Eurex Clearing.
(3) Anbindung über Internetleitung (iAccess, virtuelles privates Netzwerk (VPN) durch das Internet)	(3) Connection by means of an internet line (iAccess, virtual private network (VPN) via Internet)
Die Beschaffung, die Installation, die Konfiguration sowie der Betrieb und die Wartung einer Internetleitung für eine Verbindung zur Clearing-EDV liegen im alleinigen Verantwortungsbereich des Vertragspartners. Der Vertragspartner muss sicherstellen, dass die Bandbreite seiner Internetverbindung eine angemessene Übertragungssicherheit gewährleistet sowie den Zugang ermöglicht. Die Eurex Clearing übernimmt keine Gewährleistung für Verfügbarkeit und Performance von Internetleitungen. Der Vertragspartner ist verpflichtet, einen sorgfältigen und verlässlichen Internet-Provider auszuwählen, der einen geeigneten Anschluss an die Clearing-EDV bereitstellen kann.	The Contractual Party is responsible for the acquisition, installation, configuration as well as the operation and maintenance of an internet line to connect with the Clearing EDP. The Contractual Party shall ensure that the bandwidth of its internet connection is adequate in order to ensure transmission reliability and access. Eurex Clearing shall not warrant for the availability and performance of internet lines. The Contractual Party shall be obligated to choose an accurate and reliable internet provider which will provide suitable access to the Clearing EDP.
(4) Anbindung über einen Internet-basierten Zugang (nativer Internet-Zugang)	(4) Connection by means of an internet-based service (native internet access)
Die Beschaffung eines Internet-basierten Zugangs zur Clearing-EDV liegt im alleinigen Verantwortungsbereich des Vertragspartners. Der Vertragspartner muss sicherstellen, dass der Internet-basierte Zugang eine angemessene Übertragungssicherheit gewährleistet sowie den Zugang ermöglicht. Die Eurex Clearing übernimmt keine Gewährleistung für die Verfügbarkeit und Performance des Internet-basierten Zugangs. Der Vertragspartner ist verpflichtet, einen sorgfältigen und verlässlichen Internet-Provider auszuwählen, der einen geeigneten Anschluss an die Clearing-EDV bereitstellt.	The Contractual Party is responsible for the establishing an internet-based service to connect with the Clearing EDP. The Contractual Party shall ensure that the internet-based service is adequate in order to ensure transmission reliability and access. Eurex Clearing shall not warrant for the availability and performance of the internet-based service. The Contractual Party shall be obligated to choose an accurate and reliable internet provider which will provide suitable access to the Clearing EDP.
(5) Anbindung über andere Netzwerke	(5) Connection by means of other networks
Der Vertragspartner kann sich nach vorheriger Zustimmung der Eurex Clearing über ein anderes Netzwerk, insbesondere ein S.W.I.F.T.- Netzwerk, ein z/OS (Mainframe-Verbindung)-Netzwerk oder ein Trade Source System an die Clearing-EDV anbinden. Die Eurex Clearing ist berechtigt, ihre Zustimmung aus technischen Gründen, insbesondere bei ungenügender Übertragungssicherheit, zu	The Contractual Party may connect to the Clearing EDP by means of another network, in particular a S.W.I.F.T. network, a z/OS (mainframe connection) network or a Trade Source System, if Eurex Clearing agrees to such connection. Eurex Clearing is entitled to refuse its agreement, in particular in case of insufficient transmission reliability. The Contractual Party is solely responsible for the connection via

verweigern. Die Anbindung über ein anderes Netzwerk liegt im alleinigen Verantwortungsbereich des Vertragspartners.	another network.
(6) Anbindung über einen Multi-Member-Service-Betreiber	(6) Connection by means of a Multi-Member-Service Operator
Sofern sich ein Vertragspartner über einen Multi-Member-Service-Betreiber an die Clearing-EDV anbindet, ist er verpflichtet, der Eurex Clearing den Multi-Member-Service-Betreiber über das Online-Tool, abrufbar unter <a href="http://www.deutsche-boerse.com">www.deutsche-boerse.com</a> , anzuzeigen. Der Multi-Member-Service-Betreiber muss bei der Eurex Clearing als Multi-Member-Service-Betreiber registriert sein. Die Anbindung über einen Multi-Member-Service-Betreiber liegt im alleinigen Verantwortungsbereich des Vertragspartners.	If a Contractual Party connects to the Clearing EDP by means of a Multi-Member-Service Operator, it shall be obligated to notify Eurex Clearing about such Multi-Member-Service Operator via the online tool, available at <a href="http://www.deutsche-boerse.com">www.deutsche-boerse.com</a> . The Multi-Member-Service Operator shall be registered at Eurex Clearing as a Multi-Member-Service Operator. The Contractual Party shall exclusively be responsible for the connection by means of a Multi-Member-Service Operator.
<b>§ 4 Leistungskatalog: Netzwerkkanäle zur Anbindung an die Clearing-EDV</b>	<b>§ 4 Service catalogue: network channels for the connection to the Clearing EDP</b>
Die im Folgenden beschriebenen Netzwerkkanäle werden, basierend auf den in § 3 aufgeführten Netzwerkanbindungsvarianten durch die Eurex Clearing angeboten.	The following network channels are being offered by Eurex Clearing, based upon the network connectivity options listed in § 3.
(1) <b>Eurex GUI Channel:</b>  Dedizierter Kanal mit einer konfigurierter Bandbreite auf einer Standleitung gemäß Preisverzeichnis, der zur Übertragung von Daten mittels folgender Schnittstellen genutzt werden kann:  (i) Eurex Clearing GUI @X-tract (via WebTrading) (ii) <del>Eurex Clearing GUI @X-port (via WebTrading)</del> (iii)(ii) _____ C7 Derivatives Clearing GUI (iv)(iii) _____ Securities Clearing GUI (v)(iv) _____ EurexOTC Clear GUI (vi)(v) _____ Margin Calculator GUI	(1) <b>Eurex GUI Channel:</b>  Dedicated channel on a leased line with a configured bandwidth in accordance with the price list. The channel is capable of transferring data using the following interfaces:  (i) Eurex Clearing GUI @X-tract (via WebTrading) (ii) <del>Eurex Clearing GUI @X-port (via WebTrading)</del> (iii)(ii) _____ C7 Derivatives Clearing GUI (iv)(iii) _____ Securities Clearing GUI (v)(iv) _____ EurexOTC Clear GUI (vi)(v) _____ Margin Calculator GUI
(2) <b>Clearing Interface Channel (CIC):</b>  Dedizierter Kanal mit einer konfigurierter Bandbreite auf einer Standleitung oder Internetleitung (iAccess Internet VPN) gemäß Preisverzeichnis, der zur Übertragung von Daten mittels folgender Schnittstellen genutzt werden kann:  (i) FIXML – Schnittstelle (API) (ii) FpML – Schnittstelle (API) (iii) <del>VALUES API (via MISS für CCP)</del>	(2) <b>Clearing Interface Channel (CIC):</b>  Dedicated channel on a leased line or internet line (iAccess Internet VPN) with a configured bandwidth in accordance with the price list. The channel is capable of transferring data using the following interfaces:  (i) FIXML – Schnittstelle (API) (ii) FpML – Schnittstelle (API) (iii) <del>VALUES API (via MISS für CCP)</del>

Eurex Clearing GUI @X-tract (via MISS für CCP)	Eurex Clearing GUI @X-tract (via MISS for CCP)
<p><b>(3) Risk Data Channel:</b></p> <p>Dedizierter Kanal mit einer konfigurierten Bandbreite auf einer Standleitung oder Internetleitung (iAccess Internet VPN) gemäß Preisverzeichnis, der zur Übertragung von Daten mittels folgender Schnittstellen genutzt werden kann:</p> <ul style="list-style-type: none"> <li>(i) Enhanced Risk Solution</li> <li>(ii) Margin Calculator API</li> </ul>	<p><b>(3) Risk Data Channel:</b></p> <p>Dedicated channel on a leased line or internet line (iAccess Internet VPN) with a configured bandwidth in accordance with the price list. The channel is capable of transferring data using the following interfaces:</p> <ul style="list-style-type: none"> <li>(i) Enhanced Risk Solution</li> <li>(ii) Margin Calculator API</li> </ul>
<p><b>§ 5 Leistungskatalog: Schnittstellen</b></p>	<p><b>§ 5 Service catalogue: Interfaces</b></p>
<p>Die im Folgenden beschriebenen Schnittstellen werden durch die Eurex Clearing angeboten und können u.a. über die in § 4 aufgeführten Netzwerkkanäle genutzt werden.</p>	<p>The following interfaces are being offered by Eurex Clearing, which can be used among others via the network channels listed in § 4.</p>
<p><b>(1) Eurex Clearing GUI @X-tract:</b></p> <p>Grafische Benutzeroberfläche, um in der Clearing-EDV auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <ul style="list-style-type: none"> <li>(i) Funktionen: Ermöglicht unter anderem <del>manuelles Geschäfts- und Positions-Management für Eurex Derivate Produkte</del>, die Verwaltung hinterlegter Sicherheiten (Collateral Management) und die Verwaltung von Benutzer-IDs.</li> <li>(ii) Zugang: Der Zugang ist mittels WebTrading (Display-Server-Technologie) möglich und erfolgt ausschließlich über einen GUI Channel, über einen Internet-basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</li> <li>(iii) Zur Nutzung des GUIs mittels WebTrading wird ein Eurex Clearing GUI @X-tract Zertifikat oder Token gemäß Preisverzeichnis benötigt.</li> </ul>	<p><b>(1) Eurex Clearing GUI @X-tract:</b></p> <p>Graphical user interface to access enter and modify clearing data in the Clearing EDP.</p> <ul style="list-style-type: none"> <li>(i) Functions: Among other things, it enables <del>manual trade and position management for Eurex derivatives products</del>, collateral management and user-ID administration.</li> <li>(ii) Access by means of WebTrading (display server technology) takes place only via a GUI Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service Operator.</li> <li>(iii) To use the GUI by means of WebTrading a Eurex Clearing GUI @X-tract certificate or token, in accordance with the price list, is required.</li> </ul>
<p><b>(2) C7 Derivatives Clearing GUI:</b></p> <p>Grafische Benutzeroberfläche, um in der Clearing-EDV auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <ul style="list-style-type: none"> <li>(i) Funktionen: Ermöglicht unter anderem manuelles Geschäfts- und Positions-Management für Eurex Derivate Produkte auf erweiterten Kundenkonten.</li> <li>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen GUI Channel, über einen Internet-</li> </ul>	<p><b>(2) C7 Derivatives Clearing GUI:</b></p> <p>Graphical user interface to access enter and modify clearing data in the Clearing EDP.</p> <ul style="list-style-type: none"> <li>(i) Functions: Among other things, it enables manual trade and position management for Eurex derivatives products on additional agent accounts.</li> <li>(ii) Access: Access takes place only via a GUI Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service</li> </ul>



<p>basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung des GUIs wird ein Eurex Clearing GUI Account gemäß Preisverzeichnis benötigt.</p>	<p>Operator.</p> <p>(iii) To use the GUI a Eurex Clearing GUI account, in accordance with the price list, is required.</p>
<p><del>(3) <b>Eurex Clearing GUI @X-pert:</b></del></p> <p>Grafische Benutzeroberfläche, um in der Clearing-EDV auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) Funktionen: Ermöglicht unter anderem manuelles Brutto-Liefermanagement, Report-Auswahl und die Verwaltung von Benutzer-IDs.</p> <p>(ii) Zugang: Der Zugang mittels MISS erfolgt ausschließlich über einen Clearing-Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) oder über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) eines Multi-Member-Service-Betreibers. Der Zugang mittels WebTrading (Display-Server-Technologie) erfolgt ausschließlich über einen GUI Channel, über einen Internet-basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</p> <p>Zur Nutzung des GUIs mittels WebTrading wird ein Eurex Clearing GUI @X-pert Zertifikat oder Token gemäß Preisverzeichnis benötigt.</p>	<p><del>(3) <b>Eurex Clearing GUI @X-pert:</b></del></p> <p>Graphical user interface to access enter and modify clearing data in the Clearing EDP.</p> <p>(i) Functions: Among other things, it enables manual gross delivery management, report selection and user ID administration.</p> <p>(ii) Access by means of a MISS takes place only via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) or via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) of Multi-Member-Service-Operator. Access by means of WebTrading (display server technology) takes place only via a GUI Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service Operator.</p> <p>To use the GUI by means of WebTrading a Eurex Clearing GUI @X-pert certificate or token, in accordance with the price list, is required.</p>
<p><del>(34) <b>Securities Clearing GUI:</b></del></p> <p>Grafische Benutzeroberfläche, um in der Clearing-EDV auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) Funktionen: Ermöglicht unter anderem manuelles Brutto-Liefermanagement, Report-Auswahl und die Verwaltung von Benutzer-IDs.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen GUI Channel, über einen Internet-basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung des GUIs wird ein Eurex Clearing GUI Account gemäß Preisverzeichnis benötigt.</p>	<p><del>(34) <b>Securities Clearing GUI:</b></del></p> <p>Graphical user interface to access enter and modify clearing data in the Clearing EDP.</p> <p>(i) Functions: Among other things, it enables manual gross delivery management, report selection and user administration.</p> <p>(ii) Access: Access takes place only via a GUI Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service Operator.</p> <p>(iii) To use the GUI a Eurex Clearing GUI account, in accordance with the price list, is required.</p>
<p><del>(45) <b>EurexOTC Clear GUI:</b></del></p> <p>Grafische Benutzeroberfläche, um in der Clearing-EDV auf OTC-Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) Funktionen: Ermöglicht unter anderem manuelles Geschäfts- und Positions-Management für EurexOTC Clear-Produkte.</p>	<p><del>(45) <b>EurexOTC Clear GUI:</b></del></p> <p>Graphical user interface to access enter and modify OTC clearing data in the Clearing EDP.</p> <p>(i) Functions: Among other things, it enables manual trade and position management for EurexOTC Clear products.</p> <p>(ii) Access: Access takes place only via a GUI</p>

<p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen GUI Channel, über einen Internet-basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung des GUIs wird ein Eurex Clearing GUI Account gemäß Preisverzeichnis benötigt.</p>	<p>Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service Operator.</p> <p>(iii) To use the GUI a Eurex Clearing GUI account, in accordance with the price list, is required.</p>
<p><b>(65) Margin Calculator GUI (Prisma &amp; EurexOTC):</b></p> <p>Grafische Benutzeroberfläche zur unterstützenden Berechnung von Margin-Forderungen für eine Position oder ein Portfolio in der Clearing-EDV.</p> <p>(i) Funktionen: Berechnet voraussichtliche Margin-Forderungen für ein Geschäft oder ein Portfolio.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen GUI Channel, über einen Internet-basierten Zugang oder über einen GUI Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung des GUIs wird ein Eurex Clearing GUI Account gemäß Preisverzeichnis benötigt.</p>	<p><b>(56) Margin Calculator GUI (Prisma &amp; EurexOTC):</b></p> <p>Graphical user interface to support the calculation of margin requirements for a single position or a portfolio in the Clearing EDP.</p> <p>(i) Functions: Calculates the estimated margin requirements for a single OTC position or an OTC portfolio</p> <p>(ii) Access: Access takes place only via a GUI Channel, via an internet-based service or via a GUI Channel of a Multi-Member-Service Operator.</p> <p>(iii) To use the GUI a Eurex Clearing GUI account, in accordance with the price list, is required.</p>
<p><b>(67) FIXML-Schnittstelle (API):</b></p> <p>Programmierbare Schnittstelle, um in der Clearing-EDV automatisiert auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) Funktionen: Ermöglicht unter anderem automatisiertes Geschäfts- und Positions-Management sowie den automatisierten Erhalt von Transaktionsbestätigungen (trade capture reports) für Eurex Derivate Produkte.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) oder über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung der Schnittstelle wird ein FIXML Back-Office Account gemäß Preisverzeichnis benötigt.</p>	<p><b>(67) FIXML Interface (API):</b></p> <p>Programmable interface to automatically access, enter and modify Clearing Data in the Clearing EDP.</p> <p>(i) Functions: Among other things, it enables automated trade and position management as well as to automatically receive transaction confirmations (trade capture reports) for Eurex derivatives products.</p> <p>(ii) Access: Access takes place only via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) or via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) of a Multi-Member-Service Operator.</p> <p>(iii) To use the interface, a FIXML back office account, in accordance with the price list, is required.</p>
<p><b>(78) FpML-Schnittstelle (API):</b></p> <p>Programmierbare Schnittstelle, um in der Clearing-EDV automatisiert auf OTC-Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) Funktionen: Ermöglicht unter anderem automatisiertes Geschäfts- und Positions-Management sowie den automatisierten Erhalt von Transaktionsbestätigungen für EurexOTC</p>	<p><b>(78) FpML Interface (API):</b></p> <p>Programmable interface to automatically access, enter and modify OTC Clearing Data in the Clearing EDP.</p> <p>(i) Functions: Among other things, it enables automated trade and position management as well as to automatically receive transaction confirmations for EurexOTC Clear products.</p>

<p>Clear-Produkte.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) oder über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung der Schnittstelle wird ein FpML Back-Office Account gemäß Preisverzeichnis benötigt.</p>	<p>(ii) Access: Access takes place only via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) or via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) of Multi-Member-Service Operator.</p> <p>(iii) To use the interface, an FpML back office account, in accordance with the price list, is required.</p>
<p><b>(89) Enhanced Risk Solution (ERS):</b></p> <p>Programmierbare Schnittstelle der Eurex Clearing für erweiterte Risikodaten.</p> <p>(i) Funktionen: Ermöglicht unter anderem den automatisierten Abruf und Erhalt von erweiterten Risikodaten (z.B. untertägige Risikoinformationen) aus der Clearing-EDV in Echtzeit.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen Risk Data Channel oder über einen Risk Data Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung der Schnittstelle wird ein Enhanced Risk Solution Account gemäß Preisverzeichnis benötigt.</p>	<p><b>(89) Enhanced Risk Solution (ERS):</b></p> <p>Programmable interface of Eurex Clearing for enhanced risk data.</p> <p>(i) Functions: Among other things, it enables to automatically request and receive enhanced risk data (e.g. intraday risk information) of the Clearing EDP in real time.</p> <p>(ii) Access: Access takes place only via a Risk Data Channel or via a Risk Data Channel of a Multi-Member-Service Operator.</p> <p>(iii) To use the interface, an Enhanced Risk Solution account, in accordance with the price list, is required.</p>
<p><b>(910) Margin Calculator API:</b></p> <p>Programmierbare Schnittstelle zur unterstützenden Berechnung von Margin-Forderungen für eine OTC-Position oder ein OTC-Portfolio in der Clearing-EDV.</p> <p>(i) Funktionen: Berechnet voraussichtliche Margin-Forderungen für ein OTC-Geschäft oder ein OTC-Portfolio.</p> <p>(ii) Zugang: Der Zugang erfolgt ausschließlich über einen Risk Data Channel oder über einen Risk Data Channel eines Multi-Member-Service-Betreibers.</p> <p>(iii) Zur Nutzung der Schnittstelle wird ein Margin Calculator API Account gemäß Preisverzeichnis benötigt.</p>	<p><b>(910) Margin Calculator API:</b></p> <p>Programmable interface to support the calculation of margin requirements for a single OTC position or an OTC portfolio in the Clearing EDP.</p> <p>(i) Functions: Calculates the estimated margin requirements for a single OTC position or an OTC portfolio.</p> <p>(ii) Access: Access takes place only via a Risk Data Channel or via a Risk Data Channel of a Multi-Member-Service Operator.</p> <p>(iii) To use the interface, a Margin Calculator API account, in accordance with the price list, is required.</p>
<p><b>(110) Common Report Engine (CRE):</b></p> <p>Datei-Server, um Clearing-Daten abzurufen.</p> <p>(i) Funktionen: Ermöglicht es Clearing-Daten (Reports und weitere Dateien) per Secure File Transfer Protocol (SFTP) abzurufen.</p>	<p><b>(110) Common Report Engine (CRE):</b></p> <p>File transfer server to retrieve Clearing Data.</p> <p>(i) Funktionen: Enables receiving clearing data (reports and additional files) using the Secure File Transfer Protocol (SFTP).</p>

<p>(ii) Zugang: Der Zugang erfolgt ausschließlich über eine Standleitung auf der ein GUI Channel oder ein Clearing Interface Channel läuft (oder vergleichbare Anbindung der Eurex Frankfurt AG), über einen Internet-basierten Zugang oder über eine Standleitung eines Multi-Member-Service-Betreibers auf der ein GUI Channel oder ein Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) läuft.</p> <p>(iii) Zur Nutzung der Schnittstelle wird ein Common Report Engine Account gemäß Preisverzeichnis benötigt.</p>	<p>(ii) Access: Access takes place only via a leased line running a GUI Channel or a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) or via an internet based service or via a leased line of a Multi-Member-Service Operator running a GUI Channel or a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG).</p> <p>(iii) To use the interface, a Common Report Engine account, in accordance with the price list, is required.</p>
<p>(12) <del>VALUES API:</del></p> <p>Programmierbare Schnittstelle, um in der Clearing-EDV mittels MISS automatisiert auf Clearing-Daten zuzugreifen, diese einzugeben und zu modifizieren.</p> <p>(i) <del>Funktionen: Ermöglicht unter anderem automatisiertes Brutto-Liefermanagement.</del></p> <p><del>Zugang: Der Zugang mittels MISS erfolgt ausschließlich über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) oder über einen Clearing Interface Channel (oder vergleichbare Anbindung der Eurex Frankfurt AG) eines Multi-Member-Service-Betreibers.</del></p>	<p>(12) <del>VALUES API:</del></p> <p>Programmable interface to automatically access, enter and modify Clearing Data in the Clearing EDP via MISS.</p> <p>(i) <del>Functions: Among other things, it enables automated Gross Delivery Management.</del></p> <p><del>Access: Access by means of a MISS takes place only via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) or via a Clearing Interface Channel (or comparable access provided by Eurex Frankfurt AG) of Multi-Member Service Operator.</del></p>
<p><b>§ 6 Nutzung der Clearing-EDV</b></p>	<p><b>§ 6 Utilization of Clearing EDP</b></p>
<p>(1) Die Eurex Clearing ist verpflichtet, während der Dauer des Anschlussvertrages die erforderlichen Maßnahmen zu treffen, um die vertragsgemäße Nutzung der Clearing-EDV nach Maßgabe der Regelungen der Eurex Clearing, dieses Anschlussvertrages, des technisch Möglichen und des wirtschaftlich Zumutbaren zu ermöglichen.</p>	<p>(1) Eurex Clearing shall be obligated for the duration of the Connection Agreement and subject to the technical feasibility and economic reasonableness to take appropriate measures to enable the contractual utilization of the Clearing EDP according to the regulations of Eurex Clearing and this Connection Agreement.</p>
<p>(2) Die Eurex Clearing ist jederzeit und nach eigenem Ermessen berechtigt, die Clearing-EDV zu aktualisieren und anzupassen („<b>Release</b>“). Die Eurex Clearing AG wird den Vertragspartner über jedes Release im Voraus informieren („<b>Release Notes</b>“).</p>	<p>(2) Eurex Clearing is entitled to update or amend the Clearing EDP (a “<b>Release</b>”) at any time upon its sole discretion. However, Eurex Clearing shall notify the Contractual Party on any Release in advance (“<b>Release Notes</b>”).</p>

<p>(3) Die Eurex Clearing ist berechtigt, zur Abwendung von Schäden an der Clearing-EDV die technische Anbindung unter angemessener Berücksichtigung der Interessen des Vertragspartners vorübergehend zu unterbrechen. Die Eurex Clearing wird, den Vertragspartner über eine beabsichtigte Unterbrechung vorab benachrichtigen. Ist dies nicht möglich, ist die Eurex Clearing verpflichtet, die Benachrichtigung unverzüglich nachzuholen.</p>	<p>(3) In order to avoid damages of the Clearing EDP, Eurex Clearing is authorised to interrupt the technical connection, while taking into consideration the interests of the Contractual Party. Eurex Clearing shall notify the contractual party of an intended interruption in advance. If this is not possible, Eurex Clearing is obligated to submit this notification immediately afterwards.</p>
<p>(4) Die Eurex Clearing ist berechtigt, bei allen mit der Erfüllung des Anschlussvertrages erforderlichen Aufgaben Dritte zu beauftragen. Die Eurex Clearing ist in diesen Fällen zur sorgfältigen Auswahl und Unterweisung des Dritten verpflichtet.</p>	<p>(4) Eurex Clearing shall be entitled to assign the performance of all tasks necessary to fulfil the Connection Agreement to third parties. In such cases, Eurex Clearing shall be obligated to exercise prudence in its choice and instruction of third parties.</p>
<p><b>§ 7 IT- Unterstützung</b></p>	<p><b>§ 7 IT Support</b></p>
<p>Die Eurex Clearing ist verpflichtet, den Vertragspartner bei Fragen zur technischen Anbindung oder Störungen der Clearing-EDV sowie bei Änderungen der technischen Anbindung an einem Geschäftstag der Eurex Clearing zwischen 7 und 23:30 Uhr Ortszeit Frankfurt am Main telefonisch unter der dem Vertragspartner jeweils gesondert mitgeteilten Telefonnummer zu unterstützen.</p>	<p>Eurex Clearing shall be obligated to support the Contractual Party regarding technical questions or problems with Clearing EDP as well as changes concerning the technical connection on a business day of Eurex Clearing between 7am and 11:30pm Frankfurt/Main time. The telephone number shall be communicated to the Contractual Party separately.</p>
<p><b>§ 8 Entgelte</b></p>	<p><b>§ 8 Fees</b></p>
<p>(1) Die technische Anbindung ist entgeltlich. Das monatliche Entgelt für eine Anbindungskomponente wird ab dem Kalendermonat berechnet, der auf ihre technische Einrichtung folgt. Dies gilt unabhängig davon, ob der Teilnehmer die Anbindungskomponente bereits genutzt oder einen Funktionstest unternommen hat. Der Vertragspartner ist zur Zahlung von Entgelten gemäß dem Preisverzeichnis zum Anschlussvertrag (Preisverzeichnis) in der jeweils gültigen Fassung verpflichtet. Das Preisverzeichnis kann im Internet unter der Adresse <a href="http://www.eurexclearing.com">www.eurexclearing.com</a> eingesehen und heruntergeladen werden.</p>	<p>(1) The technical connection shall be granted against consideration. Monthly fees for a connection component are charged starting with the calendar month following the technical implementation of the connection. This applies regardless of whether the Member has already used the connection or has made a functional test. The Contractual Party shall be obligated to pay the fees according to the Price List to the Connection Agreement (Price List) in its current version. The Price List can be viewed and downloaded on the internet (<a href="http://www.eurexclearing.com">www.eurexclearing.com</a>).</p>
<p>(2) Die Eurex Clearing ist berechtigt, das Preisverzeichnis jederzeit unter angemessener Berücksichtigung der Interessen des Vertragspartners zu ändern. § 15 gilt entsprechend.</p>	<p>(2) Eurex Clearing shall be entitled to amend the Price List at any time having due regard to the interests of the Contractual Party. § 15 shall apply accordingly.</p>

§ 9 Teilnehmer-Systeme	§ 9 Participant Systems
(1) Die Eurex Clearing kann Teilnehmer-Systemen Konfigurationsparameter zuweisen. In diesem Fall ist der Vertragspartner verpflichtet, ausschließlich mit den zugewiesenen Konfigurationsparameter mit der Clearing-EDV zu kommunizieren.	(1) Eurex Clearing may assign Configuration Parameter to Participant Systems. In this case, the Contractual Party shall be obligated to communicate with the Clearing EDP exclusively by means of the assigned Configuration Parameter.
(2) Die Eurex Clearing stellt für den Zugang zu Clearing-Daten Schnittstellen- und Systemspezifikationen zu Verfügung. Die Schnittstellen- und Systemspezifikationen können im Internet unter <a href="http://www.eurexclearing.com">www.eurexclearing.com</a> eingesehen und heruntergeladen werden. Der Vertragspartner ist verpflichtet, die von der Eurex Clearing veröffentlichten Schnittstellen- und Systemspezifikationen für eine Anbindung an die Clearing-EDV zu nutzen. Jede elektronische Kommunikation, die an die Clearing-EDV übermittelt wird, muss den Schnittstellen- und Systemspezifikationen entsprechen.	(2) For the access to clearing data Eurex Clearing provides interface specifications and system specifications. The interface specifications and system specifications may be viewed and downloaded at <a href="http://www.eurexclearing.com">www.eurexclearing.com</a> . The Contractual Party shall be obligated to use the interface specifications and system specifications published by Eurex Clearing to connect to the Clearing EDP. All electronic communication sent to the Clearing EDP by the Contractual Party must conform with the interface specifications and system specifications.
(3) Verwendet der Vertragspartner auf dem Teilnehmer-System eigene Software oder die Software von einem Drittanbieter, die zur Kommunikation mit der Clearing-EDV eingesetzt wird („ <b>Teilnehmer-Software</b> “), muss diese Teilnehmer-Software vollständig kompatibel mit der Clearing-EDV sein und muss mit der Clearing-EDV fehlerlos und ohne Unterbrechungen zusammenwirken. Die Teilnehmer-Software muss durch den Vertragspartner vor ihrem ersten Gebrauch ausreichend getestet werden. Die Eurex Clearing kann von dem Vertragspartner einen Nachweis über die Durchführung des Tests verlangen, der von dem Vertragspartner unverzüglich vorzulegen ist. Sollte die Teilnehmer-Software Störungen in der Clearing-EDV verursachen, kann die Eurex Clearing die Nutzung der Teilnehmer-Software mit sofortiger Wirkung untersagen.	(3) If the Contractual Party uses its own software or software of a third-party on the Participant System that communicates with the Clearing EDP (" <b>Participant Software</b> "), such Participant Software needs (a) to be fully compatible with the Clearing EDP and (b) to interact with the Clearing EDP without any error or interruption. The Participant Software shall be sufficiently tested by the Contractual Party prior to its first use. Eurex Clearing may request from the Contractual Party an evidence of the completion of such test, which the Contractual Party shall provide without undue delay. If the Participant Software causes problems within the Clearing EDP, Eurex Clearing may prohibit the utilisation of the Participant Software with immediate effect.
(4) Der Betrieb des Teilnehmer-Systems liegt im Verantwortungsbereich des Vertragspartners. Der Vertragspartner ist verpflichtet, die für die Beschaffung, Installation, Konfiguration, Betrieb und Wartung des Teilnehmer-Systems anfallenden Kosten zu tragen.	(4) The Contractual Party shall be responsible for the operation of the Participant System. The Contractual Party shall be obligated to bear the costs caused by the acquisition, operation, and maintenance of the Participant System.

<p>(5) Der Vertragspartner ist für die Ergreifung geeigneter Maßnahmen zur Notfallplanung und -bewältigung bei einem Störfall des Teilnehmer-Systems verantwortlich.</p>	<p>(5) The Contractual Party shall be responsible for taking appropriate measures for emergency planning and management in the case of a problem with the Participant System.</p>
<p>(6) Der Vertragspartner kann verpflichtet werden, bei dem Einsatz von Teilnehmer-Systemen Bekanntmachungen der Eurex Clearing zum Stand der Technik zu befolgen. Dies gilt insbesondere für die Unterstützung in Bezug auf spezielle Betriebssystemversionen oder Applikationssoftware (z.B. Web-Browser) auf dem Teilnehmer-System durch die Eurex Clearing.</p>	<p>(6) When using Participant Systems, the Contractual Party can be obligated to observe the announcements of Eurex Clearing regarding the state of the art technology. This applies in particular to the support of Eurex Clearing in terms of specific operating system versions and application software (e.g. web browser) on the Participant System.</p>
<p><b>§ 10 Weitere Pflichten des Vertragspartners</b></p>	<p><b>§ 10 Additional obligations of the Participant</b></p>
<p>(1) Der Vertragspartner ist verpflichtet, jede missbräuchliche, insbesondere der Ordnungsmäßigkeit des Clearings und der Abwicklung zuwider laufende Nutzung der Clearing-EDV zu unterlassen.</p>	<p>(1) The Contractual Party shall be obligated to refrain from any misuse of the Clearing EDP, in particular omitting any utilisation of the Clearing EDP contravening its orderly clearing and settlement.</p>
<p>(2) Der Vertragspartner ist verpflichtet, bei der Erbringung der Leistungen im Rahmen des Anschlussvertrages mitzuwirken und eine telefonische Erreichbarkeit sicherzustellen. Zudem ist der Eurex Clearing ein Ansprechpartner des Vertragspartners oder eines von ihm beauftragten Dritten für den Fall von Störungen technischer Anbindungen, die im Verantwortungsbereich der Eurex Clearing liegen (z.B. von Eurex Clearing bereitgestellte Standleitung) zu benennen.</p>	<p>(2) The Contractual Party shall be obligated to co-operate performance of services under the Connection Agreement and to ensure availability by telephone. Furthermore, the Contractual Party or its assigned third party shall provide a contact person for Eurex Clearing in case of problems with technical connections provided by Eurex Clearing (e.g. leased lines provided by Eurex Clearing).</p>
<p>(3) Der Vertragspartner ist weiterhin verpflichtet, die folgenden Pflichten einzuhalten:</p> <p>(i) Bietet die Eurex Clearing in Bezug auf ein Release eine Simulations- und Testphase an („<b>Simulation</b>“), ist der Vertragspartner verpflichtet, an der Simulation teilzunehmen, wenn in den Release Notes die Teilnahme an der Simulation für den Vertragspartner als verpflichtend vorgesehen wurde. Wird die Teilnahme an der Simulation für den Vertragspartner in den Release Notes nicht als verpflichtend vorgesehen, kann der Vertragspartner auch freiwillig an der Simulation teilnehmen. Stellt der Vertragspartner während der Simulation einen Fehler oder eine Fehlfunktion der Clearing-EDV fest, ist der Vertragspartner verpflichtet, die Eurex Clearing</p>	<p>(3) The Contractual Party shall further be obliged to perform the following obligations:</p> <p>(i) Whenever Eurex Clearing provides for a simulation and testing phase with respect to a Release (“<b>Simulation</b>”), the Contractual Party shall participate in such Simulation, provided that participating in such Simulation is specified as “-mandatory-” for the Contractual Party in the Release Notes. In case the participation in the Simulation is not specified as mandatory for the Contractual Party, the Contractual Party may also participate in the Simulation. If any error or malfunction of the Clearing EDP occurs during the Simulation, the Contractual Party shall inform Eurex Clearing about such error or malfunction without undue</p>

<p>über einen solchen Fehler oder eine solche Fehlfunktion unverzüglich zu informieren.</p> <p>(ii) Der Vertragspartner hat der Eurex Clearing vor der erstmaligen Nutzung der Clearing-EDV nach der Einführung eines Release eine schriftliche Erklärung zu übermitteln, in der er gegenüber der Eurex Clearing AG bestätigt, dass (a) die aktualisierte Clearing-EDV erfolgreich einem Testverfahren unterzogen wurde, und (b) dass das Teilnehmer-System und die Teilnehmer-Software mit der Clearing-EDV fehlerlos und ohne Unterbrechungen zusammenwirken ("<b>Readiness Statement</b>"). Ein Formular des Readiness Statement kann auf der Homepage von Eurex Clearing heruntergeladen werden (<a href="http://www.eurexclearing.com">www.eurexclearing.com</a>).</p> <p>(iii) Sollte ein Release die Anpassung, Aktualisierung oder Änderung des Teilnehmer-Systems oder der Teilnehmer-Software erfordern, wird der Vertragspartner (a) das Teilnehmer-System oder die Teilnehmer-Software entsprechend anpassen, aktualisieren oder ändern, um sicherzustellen, dass das Teilnehmer-System und die Teilnehmer-Software fehlerlos und ohne Unterbrechungen mit der Clearing-EDV zusammenwirken, und (b) die Funktionsfähigkeit des Teilnehmer-Systems und der Teilnehmer-Software vor deren erstmaliger Nutzung ausreichend testen.</p> <p>(iv) Eine Erklärung, dass die Clearing-EDV nach der Einführung des Release fehlerlos und ohne Störung mit dem Teilnehmer-System und der Teilnehmer-Software zusammenwirkt, gilt als durch den Vertragspartner abgegeben, wenn der Vertragspartner (a) entweder mit der Nutzung der Clearing-EDV nach der Einführung des Release beginnt, oder (b) die Eurex Clearing nicht innerhalb einer Frist von 15 Geschäftstagen nach der Einführung des Release über den Eintritt von Fehlern oder Störungen in Bezug auf das Zusammenwirken der Clearing-EDV mit dem Teilnehmer-System und der Teilnehmer-Software informiert. Die Eurex Clearing wird den Vertragspartner auf diese Rechtsfolge ausdrücklich in den Release Notes hinweisen.</p> <p>(v) Im Falle einer Unterbrechung oder Fehlfunktion der Clearing-EDV befolgt der Vertragspartner jede Anweisung, die ihm durch die Eurex Clearing erteilt wird.</p>	<p>delay.</p> <p>(ii) The Contractual Party shall provide Eurex Clearing, prior to the first use of the Clearing EDP after a Release had been implemented, with a written statement confirming to Eurex Clearing that (a) the updated Clearing EDP successfully passed internal test procedures, and (b) the Participant System and the Participant Software interact with the updated Clearing EDP without any errors or interruptions. ("<b>Readiness Statement</b>"). A form of the Readiness Statement can be downloaded from the website of Eurex Clearing (<a href="http://www.eurexclearing.com">www.eurexclearing.com</a>).</p> <p>(iii) If a Release also requires an adaption, update or amendment of the Participant System or the Participant Software, the Contractual Party shall (a) adapt, update, or amend its Participant System or Participant Software accordingly to ensure that the Participant System and Participant Software interact with the Clearing EDP without any error or interruption, and (b) sufficiently test the functioning of the Participant System and the Participant Software prior to the first use.</p> <p>(iv) A declaration by the Contractual Party stating that the Clearing EDP interacts with the Participant System and the Participant Software without any errors or malfunctions after the implementation of the Release shall be deemed to have been made, if the Contractual Party (a) either commences with the use of the Clearing EDP after the implementation of the Release, or (b) fails, within a period of 15 Business Days after the implementation of the Release, to inform Eurex Clearing about the occurrence of any errors or malfunctions with respect to the interaction of the Participant System and the Participant Software with the Clearing EDP. Eurex Clearing shall expressly draw the Contractual Party's attention to such legal consequence in the Release Notes.</p> <p>(v) In case of any disruption or malfunction of the Clearing EDP, the Contractual Party shall comply with any instruction given by Eurex Clearing.</p>
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<p>(4) Der Vertragspartner teilt der Eurex Clearing oder den von ihr beauftragten Dritten auf Anfrage alle für die Vertragsdurchführung erforderlichen Informationen mit und gibt alle dazu erforderlichen Erklärungen ohne schuldhaftes Zögern ab.</p> <p>Der Vertragspartner ist verpflichtet bei Störungen der Clearing-EDV die Eurex Clearing unverzüglich zu informieren, sobald sie durch den Vertragspartner erkannt werden. Der Vertragspartner ist verpflichtet, bei Störungen der Clearing-EDV den Weisungen der Eurex Clearing Folge zu leisten, soweit sie zu deren Beseitigung erforderlich sind. Die Eurex Clearing ist verpflichtet, bei Erteilung von Weisungen die berechtigten Interessen des Vertragspartners zu berücksichtigen.</p> <p>Soweit dies zur Beseitigung von Störungen der technischen Anbindungen, die im Verantwortungsbereich der Eurex Clearing liegen (z.B. von Eurex Clearing bereitgestellte Standleitung), ist der Eurex Clearing sowie den von ihr beauftragten Dritten im Einvernehmen mit dem Vertragspartner Zutritt zu Räumlichkeiten des Vertragspartners oder des von dem Vertragspartner beauftragten Dritten zu gewähren.</p>	<p>(4) The Contractual Party shall communicate the necessary information to Eurex Clearing or to the third party assigned by Eurex Clearing and give all the necessary explanations without undue delay.</p> <p>In the case of problems with the Clearing EDP, the Contractual Party shall be obligated to inform Eurex Clearing immediately as soon as the Contractual Party becomes aware of the problems and to act according to the orders of Eurex Clearing, as far as they are necessary in order to dissolve the problems. When giving orders, Eurex Clearing shall consider the Contractual Party's interests.</p> <p>As far as this is necessary in order to remedy problems regarding technical connections provided by Eurex Clearing (e.g. leased lines provided by Eurex Clearing) Eurex Clearing as well as a third party assigned by Eurex Clearing shall have access to the locations of the Contractual Party or an assigned third party, in consultation with the Contractual Party.</p>
<p>(5) Kommt der Vertragspartner seinen Mitwirkungspflichten nicht nach, kann die Eurex Clearing ihre Leistungen zurückbehalten, soweit die Leistungserbringung ohne Erfüllung der Mitwirkungspflichten nicht möglich ist. Weitere Rechte der Eurex Clearing bleiben hiervon unberührt.</p>	<p>(5) If the Contractual Party does not fulfil its cooperation duties, Eurex Clearing may retain its services, as far as the performance of services is not possible without the Contractual Party fulfilling its cooperation duties. Further rights of Eurex Clearing shall remain unaffected thereby.</p>
<p><b>§ 11 Haftung</b></p>	<p><b>§ 11 Liability</b></p>
<p>(1) Die Haftung der Parteien für leicht fahrlässige Pflichtverletzungen ist ausgeschlossen, sofern diese nicht Schäden aus der Verletzung des Lebens, des Körpers, der Gesundheit oder Garantien betreffen oder Ansprüche nach dem Produkthaftungsgesetz berührt sind. Unberührt bleibt ferner die Haftung für die Verletzung von Pflichten, deren Erfüllung die ordnungsgemäße Durchführung des Anschlussvertrages überhaupt erst ermöglicht und auf deren Einhaltung die geschädigte Vertragspartei vertrauen darf. Gleiches gilt für Pflichtverletzungen von Erfüllungsgehilfen.</p>	<p>(1) The parties shall not be liable in the event of simple negligence, unless with respect to injury of life, body, health or guarantees as well as under the Product Liability Act are concerned. Furthermore, liability for the violation of duties whose fulfilment guarantees the orderly execution of the Connection Agreement in the first place and on whose adherence the injured party may rely remains unaffected. The same shall apply for violations of duty by auxiliary persons.</p>

<p>(2) Die Eurex Clearing übernimmt keine über die gesetzlichen Pflichten oder diesen Anschlussvertrag hinausgehende Haftung für den unterbrechungs- oder fehlerfreien Betrieb der Clearing-EDV.</p>	<p>(2) Eurex Clearing does not warrant uninterrupted or flawless operation of the Clearing EDP beyond statutory duties or beyond this Connection Agreement.</p>
<p>(3) Soweit die Parteien zum Ersatz vergeblicher Aufwendungen verpflichtet sind, gilt Absatz 1 entsprechend.</p>	<p>(3) As far as the Parties shall be obligated to substitute futile expenditures, Paragraph 1 shall apply.</p>
<p>(4) Die Parteien haften nicht für Schäden, die durch höhere Gewalt, Aufruhr, Kriegs- und Naturereignisse oder durch sonstige von ihnen nicht zu vertretende Vorkommnisse (z. B. Streik, Aussperrung, Verfügungen von Hoher Hand im In- oder Ausland) eintreten. Als höhere Gewalt gelten auch Schadsoftware oder vorsätzliche Angriffe auf die Clearing-EDV durch Dritte, sofern jeweils angemessene Schutzvorkehrungen getroffen wurden.</p>	<p>(4) The Parties shall not be liable for damages caused by force majeure, riot, war and forces of nature or by other events it is not responsible for (e.g. strike, lockout, instructions of higher authority domestic or abroad). Malware or deliberate attacks towards the Clearing EDP by a third party shall also be considered as force majeure, as long as appropriate protections had been employed.</p>
<p><b>§ 12 Vertraulichkeit, Datenschutz</b></p>	<p><b>§ 12 Confidentiality, Data Protection</b></p>
<p>(1) Die Parteien verpflichten sich, während und nach der Laufzeit des Anschlussvertrages Informationen, die ihnen von der jeweils anderen Partei, deren verbundenen Unternehmen, Beratern oder in deren Auftrag von sonstigen Dritten im Zusammenhang mit der Zusammenarbeit zugänglich gemacht wurden oder zur Kenntnis gelangt sind, geheim zu halten und gegen unbefugten Zugriff zu sichern.</p>	<p>(1) The Parties agree to keep secret and secure against unauthorized access, both during and after the duration of the Connection Agreement, any information to which they have been granted access to within the context of the cooperation by the respective other Party, its affiliated companies, advisors or by other third parties acting on its behalf, or of which they have gained knowledge within the context of the cooperation.</p>

<p>(2) Jede Partei legt die von ihr eingegangenen Verpflichtungen zur Geheimhaltung auch allen Personen oder Gesellschaften auf, die von ihr mit Leistungen aus dem Anschlussvertrag betraut werden. Die Parteien sind berechtigt, die Informationen den mit ihnen im Sinne von § 15 Aktiengesetz verbundenen Unternehmen sowie ihren Dienstleistern offen zu legen, soweit dies betrieblich notwendig ist und die Empfänger der Information zur strikten Wahrung der Vertraulichkeit der Informationen verpflichtet sind. Jede Partei ist berechtigt, Informationen Dritten, insbesondere öffentlichen Stellen, offen zu legen soweit diese Offenlegung aufgrund geltenden Rechts oder hoheitlicher Verfügung erforderlich ist. Die Offenlegung ist der anderen Partei vorab schriftlich mitzuteilen; soweit dies rechtlich nicht zulässig ist, erfolgt die Mitteilung unverzüglich nach Entfall des Hinderungsgrundes.</p>	<p>(2) Each Party shall also impose the obligations to maintain secrecy which such Party has agreed to on all persons or companies which have been entrusted with the provision of services on the basis of the Connection Agreement. The Parties are entitled to disclose the information to affiliated companies within the meaning of Section 15 Aktiengesetz (German Stock Corporation Act) as well as to their service providers to the extent such disclosure is necessary for business operations and that the recipients of such information are obligated to keep such information strictly confidential. Each Party is entitled to disclose information to third parties, in particular to public bodies, to the extent such disclosure is required due to applicable law or acts of authorities. The respective other Party is to be provided with advance notification of such disclosure in writing; in case such notification is prohibited by law, notification shall be provided immediately upon such prohibition becoming ineffective.</p>
<p>(3) Von der Geheimhaltungsverpflichtung ausgeschlossen sind Informationen,</p> <ul style="list-style-type: none"> <li>(i) die öffentlich zugänglich sind und der empfangenden Partei zum Zeitpunkt des Erhalts bereits bekannt waren oder später von der weitergebenden Partei veröffentlicht wurden, oder</li> <li>(ii) die unabhängig und selbständig von der empfangenden Partei entwickelt wurden, ohne gleichartige Informationen der anderen Partei gekannt oder verwendet zu haben, oder</li> <li>(iii) die der empfangenden Partei von einem Dritten offen gelegt wurden, der nach Kenntnisstand der empfangenden Partei zu der Offenlegung berechtigt ist</li> </ul> <p>und keiner Geheimhaltungsverpflichtung unterliegt.</p>	<p>(3) Any information</p> <ul style="list-style-type: none"> <li>(i) which is publicly available and which was already known to the receiving Party at the time of receipt or which was subsequently published by the disclosing Party, or</li> <li>(ii) which was developed independently and autonomously by the receiving Party without knowledge or use of equivalent information of the respectively other Party, or</li> <li>(iii) which was disclosed to the receiving Party by a third party which, to the best of the knowledge of the receiving Party, is authorized to disclose such information and which is not subject to an obligation to maintain secrecy,</li> </ul> <p>is exempt from the obligation to maintain secrecy.</p>
<p>Ausschließlich mit Eurex Clearing gemäß § 15 AktG verbundene Unternehmen sind berechtigt, die Informationen zu erfassen, zu verarbeiten und zu nutzen (a) sofern diese zur Geheimhaltung der Informationen verpflichtet sind, und (b) sofern dies zur Vertragsdurchführung, zur Analyse oder Verbesserung der Qualität ihrer Leistungen oder ihres Leistungsportfolios oder zur Kundeninformation erfolgt und (c) sofern diese Informationen personenbezogene Daten sind, (i) die Unternehmen, an die diese personenbezogenen Daten übermittelt werden, ihren Sitz in einem Mitgliedsstaat der Europäischen Union oder einem anderen Vertragsstaat des Abkommens über den Europäischen Wirtschaftsraum haben oder die Einhaltung eines angemessenen Datenschutzniveaus gewährleisten und (ii) das Datengeheimnis gemäß</p>	<p>Only companies affiliated with Eurex Clearing pursuant to Section 15 AktG (Aktiengesetz; German Stock Exchange Act) are entitled to record, process and use such information (a) to the extent such affiliated companies are obligated to keep such information secret, and (b) to the extent such recording, processing and use takes place in order to execute the Connection Agreement, in order to analyze or improve the quality of their service or their service portfolio or in order to provide information to customers, and (c) to the extent such information consists of personal data, (i) provided that the companies to which such personal data is transmitted have their registered office in an EU Member State or in another contracting state of the European Economic Area Agreement, or that such companies guarantee compliance with an appropriate level of data protection, and (ii) provided</p>

§ 5 Bundesdatenschutzgesetz gewahrt bleibt.	that data secrecy pursuant to Section 5 Bundesdatenschutzgesetz (German Federal Data Protection Act) is observed.
(4) Der Vertragspartner stimmt der Zusendung von Werbung per elektronischer Post durch Eurex Clearing und die mit ihr gemäß § 15 Aktiengesetz verbundenen Unternehmen zu. Diese Zustimmung kann jederzeit durch Zusendung einer Mitteilung an die E-Mail-Adresse <a href="mailto:memberservices@eurexclearing.com">memberservices@eurexclearing.com</a> unentgeltlich widerrufen werden.	(4) The Contractual Party agrees to receive advertisements via electronic mail by Eurex Clearing and by its affiliated companies pursuant to Section 15 Aktiengesetz (Stock Exchange Act). This consent may be revoked at any time and free of charge by sending a notification to the following email address: <a href="mailto:memberservices@eurexclearing.com">memberservices@eurexclearing.com</a> .
<b>§ 13 Laufzeit, Kündigung und Beendigung des Anschlussvertrages</b>	<b>§ 13 Duration, termination and expiration of the Connection Agreement</b>
(1) Der Anschlussvertrag tritt mit Unterschrift in Kraft und wird auf unbestimmte Zeit geschlossen, soweit nicht ausdrücklich anderweitig zwischen den Parteien in schriftlicher Form vereinbart.	(1) The Connection Agreement shall come into effect upon signature. The Connection Agreement is concluded for an unlimited duration, unless expressly agreed between the Parties in writing.
(2) Die Eurex Clearing sowie der Vertragspartner können diesen Anschlussvertrag mit einer Frist von zwei Wochen zum Monatsende kündigen.  Verfügt der Vertragspartner über Clearing-Lizenzen gemäß den Clearing-Bedingungen der Eurex Clearing, wird die Kündigung erst zum Monatsende des Monats wirksam, in dem sämtliche Clearing-Lizenzen des Vertragspartners beendet sind.  Handelt es sich bei dem Vertragspartner um einen Multi-Member-Service-Betreiber, wird die Kündigung erst zum Monatsende des Monats wirksam, in dem alle Teilnehmer, die über den Multi-Member-Service-Betreiber an die Clearing-EVDV angebunden waren der Eurex Clearing angezeigt haben, dass sie nicht mehr über ihn an die Clearing-EDV angebunden sind (vgl. § 3, Absatz 6).	(2) Eurex Clearing as well as the Contractual Party shall be entitled to terminate the Connection Agreement with a notice period of two weeks to the end of a month.  If the Contractual Party has a clearing license pursuant to the Clearing Conditions for Eurex Clearing, the termination becomes effective only by the end of the month in which all clearing licenses of the Clearing Member have expired.  If the Contractual Party is a Multi-Member-Service Operator, the termination becomes effective only by the end of the month in which all participants that were connected to the Clearing EDP via the Multi-Member-Service Operator have reported to Eurex Clearing that they are no longer being connected to the Clearing EDP via this Multi-Member-Service Operator (see also §3, Paragraph 6).
(3) Verfügt der Vertragspartner über Clearing-Lizenzen gemäß den Clearing-Bedingungen der Eurex Clearing, so endet der Anschlussvertrag automatisch zum Ende des Monats, an dem sämtliche Clearing-Lizenzen des Vertragspartners beendet sind.	(3) If the Contractual Party has a clearing license pursuant to the Clearing Conditions for Eurex Clearing, the Connection Agreement will automatically expire at the end of the month in which all Clearing licenses of the Clearing Member will have expired.

<p>(4) Die Eurex Clearing sowie der Vertragspartner können Anbindungen, die über die Mindestanbindung hinaus für die Anbindung an die Clearing-EDV genutzt werden, jederzeit zum Monatsende kündigen.</p>	<p>(4) Eurex Clearing as well as the Contractual Party shall be entitled to terminate connections beyond the minimum connection to the Clearing EDP at any time at the end of a month.</p>
<p>(5) Das Recht zur fristlosen Kündigung aus wichtigem Grund bleibt hiervon unberührt. Ein wichtiger Grund zur Kündigung liegt für die Eurex Clearing insbesondere vor, wenn</p>	<p>(5) The right of the parties for termination without notice for material reason shall not be affected. A particular material reason for Eurex Clearing shall exist if</p>
<p>(i) sich der Vertragspartner für zwei aufeinander folgende Monate mit der Zahlung der Entgelte oder eines erheblichen Teils dieser Entgelte in Verzug befindet;</p> <p>(ii) der Vertragspartner trotz Abmahnung die Verletzung wesentlicher vertraglicher Pflichten nicht binnen 14 Kalendertagen nach Zugang der Abmahnung unterbindet oder</p> <p>(iii) der Vertragspartner zahlungsunfähig, über das Vermögen des Vertragspartners das Insolvenzverfahren eröffnet, oder ein Antrag auf Insolvenz mangels Masse abgelehnt wird.</p>	<p>(i) the Contractual Party has been in default with the payment of a considerable amount of fees for two months;</p> <p>(ii) the Contractual Party has not prevented the breach of essential, contractual duties within 14 calendar days despite notice or</p> <p>(iii) the Contractual Party is unable to pay, insolvency proceedings are opened against its assets or a respective application is rejected due to lack of funds.</p>
<p>(6) Jede Kündigung bedarf der Schriftform.</p>	<p>(6) Any termination of contract shall be made in writing.</p>
<p><b>§ 14 Übertragung von Rechten und Pflichten</b></p>	<p><b>§ 14 Transfer of rights and responsibilities</b></p>
<p>(1) Der Vertragspartner ist ohne vorherige schriftliche Zustimmung durch die Eurex Clearing nicht berechtigt, diesen Anschlussvertrag auf Dritte zu übertragen oder Rechte aus oder im Zusammenhang mit diesem Anschlussvertrag an Dritte abzutreten.</p>	<p>(1) The Contractual Party shall not be entitled to assign this Connection Agreement or rights arising from or concerning this Connection Agreement to a third party without the written consent of Eurex Clearing.</p>
<p>(2) Die Eurex Clearing ist berechtigt, den Anschlussvertrag ganz oder teilweise auf eine andere Gesellschaft zu übertragen, in die die Eurex Clearing ihren gesamten Geschäftsbetrieb einbringt. Mit Übertragung des Anschlussvertrages ist nur noch die übernehmende Gesellschaft aus dem Anschlussvertrag berechtigt und verpflichtet; die Eurex Clearing wird aus allen Verpflichtungen aus dem Anschlussvertrag entlassen. Macht die Eurex Clearing von der Möglichkeit zur Übertragung des Anschlussvertrages Gebrauch, hat die Eurex Clearing dies dem Vertragspartner mit einer Frist von mindestens sechs Wochen vor Wirksamkeit der Übertragung schriftlich mitzuteilen.</p>	<p>(2) Eurex Clearing shall be entitled to assign all rights and obligations under the Connection Agreement to a company in which Eurex Clearing contributes its whole business operation. Upon assignment of the Connection Agreement, only the assuming company shall be a party to the rights and obligations; Eurex Clearing shall be released from all obligations under the Connection Agreement. In case Eurex Clearing intends to carry out such assignment, the Contractual Party shall be informed in advance with prior notification of six weeks.</p>

§ 15 Änderungen	§ 15 Amendments
<p>Die Eurex Clearing ist berechtigt, diese AGB jederzeit unter angemessener Berücksichtigung der Interessen des Vertragspartners zu ändern. Änderungen der AGB werden dem Vertragspartner sechs (6) Wochen vor deren Wirksamkeit bekannt gegeben. Sie gelten als genehmigt, wenn der Vertragspartner nicht innerhalb von sechs (6) Wochen nach Bekanntgabe der Änderung schriftlich Widerspruch bei der Eurex Clearing erhebt.</p>	<p>Eurex Clearing is entitled to amend these General Terms and Conditions at any time having due regard to the interests of the trading participant. The Contractual Party shall be notified of Amendments to the General Terms and Conditions at least six (6) weeks prior to their effective date. They are deemed to have been approved if the Contractual Party does not lodge objections with Eurex Clearing within six weeks of notification of the amendment.</p>
§ 16 Authentisierungsmittel für das Eurex Clearing-GUI mittels WebTrading	§ 16 Means of Authentication for the Eurex Clearing GUI via WebTrading
<p>(1) Bei einem Zugang über die Eurex Clearing-GUI ohne Nutzung einer MISS zum GUI-Zugriff erhält der Vertragspartner von der Eurex Clearing für die Authentisierung einen Token sowie eine persönliche Identifikationsnummer (PIN) oder ein verschlüsseltes SSL-Zertifikat mit dem dazugehörigen Schlüssel, gemäß der von Eurex Clearing zur Verfügung gestellten WebTrading Dokumentation.</p>	<p>(1) With regard to access by means of the Eurex Clearing GUI without using a MISS for the GUI access, the Contractual Party shall receive from Eurex Clearing a token as well as a personal identification number (PIN) or an encrypted SSL certificate and the corresponding key for authentication, as specified by Eurex Clearing in the WebTrading documentation.</p>
<p>(2) Ein Token ist jeweils einer Benutzerkennung des Vertragspartners zugeordnet. Der Vertragspartner hat den Token und die PIN voneinander getrennt gegen unbefugte Kenntnisnahme und Wegnahme gesichert zu verwahren. Der Vertragspartner darf den Token und den PIN zeitgleich nur jeweils einem bei der Eurex Clearing angemeldeten Nutzer zugänglich machen. Der Vertragspartner darf den PIN nicht vervielfältigen und wird dafür Sorge tragen, dass auch seine angemeldeten Nutzer den PIN nicht vervielfältigen. Eine Weitergabe von mittels Token und PIN generierten Passwörtern an Dritte ist untersagt.</p>	<p>(2) Tokens are attributed to a user ID of the Contractual Party. The Contractual Party must keep the token and the PIN in safe custody and separate from one another in order that taking of notice or removal by an unauthorised person cannot occur. The Contractual Party may grant access to the token and the PIN to only one registered Eurex Clearing user at any one time. The Contractual Party may not duplicate such PIN and guarantees that its registered users will not duplicate such PIN either. It is not permitted to pass on to a third party any passwords which were generated using the token and the PIN.</p>
<p>(3) Ein SSL-Zertifikat ist jeweils einer Benutzerkennung des Vertragspartners zugeordnet. Der Vertragspartner hat das SSL-Zertifikat und den zugehörigen Schlüssel gegen unbefugte Kenntnisnahme und unbefugtes Kopieren zu schützen. Der Vertragspartner darf das SSL-Zertifikat zeitgleich nur jeweils einem bei der Eurex Clearing angemeldeten Nutzer zugänglich machen.</p>	<p>(3) A SSL certificate is attributed to a user ID of the Contractual Party. The Contractual Party shall be obliged to protect the SSL certificate and the corresponding key against unauthorized access and duplication. The Contractual Party may grant access to the SSL certificate to only one registered Eurex Clearing user at any one time.</p>

<p>(4) Der Vertragspartner ist verpflichtet, die Eurex Clearing unverzüglich schriftlich zu informieren, wenn ein Token beschädigt, abhandengekommen oder unauffindbar ist. Gleiches gilt, wenn Tatsachen den Verdacht nahe legen, dass Dritte unbefugt Kenntnis von der PIN genommen, in den Besitz eines Token gelangt sind oder Kenntnis eines SSL-Zertifikates oder des dazugehörigen Schlüssels erlangt haben. Die Eurex Clearing wird daraufhin unverzüglich die Zugangsberechtigung des Vertragspartners für den Token und den PIN bzw. das SSL-Zertifikat und den zugehörigen Schlüssel sperren, und dem Vertragspartner kostenpflichtig gemäß dem Preisverzeichnis einen anderen Token und PIN bzw. ein neues SSL-Zertifikat und Schlüssel zur Verfügung stellen. Der Vertragspartner ist verpflichtet, der Eurex Clearing den beschädigten Token oder Token, dessen PIN kompromittiert wurde, unverzüglich zuzusenden.</p>	<p>(4) The Contractual Party shall be obliged to inform Eurex Clearing immediately in writing if a token is damaged or lost or cannot be found. The same applies if facts exist to support the suspicion that a third party has, without authorisation, taken notice of the PIN or possession of the token or have taken notice of a SSL certificate or the corresponding key. Eurex Clearing shall then immediately block the Contractual Party's access to the token and the PIN or the SSL certificate and the corresponding key respectively, and shall, for a fee according to the Price List to this Agreement, provide the Contractual Party with another token and PIN or a new SSL certificate and key respectively. The Contractual Party shall be obliged to immediately send to Eurex Clearing the damaged token or the token the PIN of which has been compromised.</p>
<p>(5) Tokens verbleiben jederzeit im Eigentum der Eurex Clearing. Sie sind nach Vertragsbeendigung der Eurex Clearing unverzüglich zurückzusenden. Geht der Token nicht innerhalb von 15 Werktagen nach Vertragsbeendigung bei der Eurex Clearing ein, hat der Vertragspartner der Eurex Clearing Wertersatz gemäß dem Preisverzeichnis zu leisten.</p>	<p>(5) Tokens remain the property of Eurex Clearing at all times. They must be sent back to Eurex Clearing immediately after expiration of the Agreement. If the token is not received by Eurex Clearing within 15 business days after expiration of the Agreement, the Contractual Party must pay compensation for lost value according to the Price List.</p>
<p><b>B - Besondere Regelungen für Clearing-Mitglieder der Eurex-Börsen (Eurex Deutschland und Eurex Zürich)</b></p>	<p><b>B - Special provisions for Clearing Members of Eurex Exchanges (Eurex Deutschland und Eurex Zürich)</b></p>
<p><b>§ 17 Geltungsbereich für Vertragspartner</b></p>	<p><b>§ 17 Applicability in terms of Contractual Parties</b></p>
<p>Die besonderen Regelungen im Abschnitt B gelten für Clearing-Mitglieder, die über eine Lizenz zum Clearing von Derivate Transaktionen an den Eurex-Börsen (Eurex Deutschland und Eurex Zürich) verfügen.</p>	<p>The special provisions within in section B are valid for Clearing Members who possess a clearing license for the clearing of derivatives transactions at the Eurex Exchanges (Eurex Deutschland und Eurex Zürich).</p>

§ 18 Mindestanforderungen zum Netzwerk Zugang	§ 18 Minimum requirements for network access
<p>(1) Der Vertragspartner ist verpflichtet, sein Teilnehmer-System mindestens über einen Internet-basierten Zugang (nativer Internet-Zugang) an die Clearing-EDV anzubinden (Mindestanbindung).</p> <p>Nicht alle von der Eurex Clearing angebotenen Schnittstellen sind über die in Satz 1 genannten Mindestanbindungen nutzbar. Alternative Anbindungen wie von Eurex Clearing angebotene Standleitungen, Internetleitungen, Anbindungen über einen Multi-Member-Service-Betreiber oder die Anbindung über ein anderes Netzwerk können zur Nutzung der Schnittstellen verwendet werden.</p>	<p>(1) The Contractual Party shall be obliged to connect its Participant System at least via an internet-based service (native internet access) to the Clearing EDP (minimum connectivity).</p> <p>Not all interfaces offered by Eurex Clearing can be used in combination with the minimum connectivity as described in sentence 1. Alternative connections, such as leased lines and internet lines offered by Eurex Clearing as well as connections by means of a Multi Member Service Operator or connections by means of other networks can be used in combination with the interfaces.</p>
<p>(2) Der Vertragspartner ist verpflichtet seine Kunden, die Clearing Services durch ihn nutzen (Nicht-Clearing-Mitglieder bzw. Registrierte Kunden) über die von ihm genutzte Art der Netzwerk-Anbindung an die Clearing-EDV zu informieren.</p>	<p>(2) The Contractual Party shall be obligated to provide details regarding the type of network connection used to connect to the Clearing EDP to its customers, which make use of clearing services by the Contractual Party.</p>
§ 19 Mindestanforderungen zum Datenzugriff	§ 19 Minimum requirements for data access
<p>Der Vertragspartner ist verpflichtet Zugang zu Clearing-Daten über die von Eurex Clearing angebotenen Schnittstellen für mindestens die folgenden Funktionen sicher zu stellen:</p> <ul style="list-style-type: none"> <li>(i) Manuelles und automatisiertes Geschäfts- und Positions-Management für Eurex Derivative Produkte</li> <li>(ii) Automatisierter Erhalt von Transaktionsbestätigungen (trade capture reports) für Eurex Derivative Produkte</li> <li>(iii) Verwaltung hinterlegter Sicherheiten (Collateral Management)</li> <li>(iv) Verwaltung von Benutzer IDs</li> <li>(v) Brutto-Liefermanagement</li> <li>(vi) Auswahl und Empfang von Reports</li> </ul>	<p>The Contractual Party shall be obligated to ensure access to the Clearing Data via the interfaces offered by Eurex Clearing for the following functions:</p> <ul style="list-style-type: none"> <li>(i) Manual and automated trade and position management for Eurex derivatives products</li> <li>(ii) To automatically receive transaction confirmations (trade capture reports) for Eurex derivatives products</li> <li>(iii) Collateral management</li> <li>(iv) User-ID administration</li> <li>(v) Gross delivery management</li> <li>(vi) Report selection and receipt of reports</li> </ul>



§ 20 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen	§ 20 Special conditions for Participant Systems and locations
<p>(1) Die Eurex Clearing stellt für den Zugang zu Clearing-Daten mittels VALUES API (MISS) Software zur Verfügung. Die Software kann im Internet unter <a href="http://www.eurexclearing.com">www.eurexclearing.com</a> herunter geladen werden. Der Vertragspartner darf die von der Eurex Clearing bereitgestellte Software weder verändern, kopieren (ausgenommen Kopien zur Datensicherung) oder an Dritte weitergeben.</p>	<p>(1) For the access to clearing data via VALUES API (MISS) Eurex Clearing provides software. The software may be downloaded at <a href="http://www.eurexclearing.com">www.eurexclearing.com</a>. The Contractual Party must refrain from modifying, copying (excluding copies for data backup) or passing the software provided by Eurex Clearing on to third parties.</p>
<p>(2) Der Vertragspartner kann zusätzlich zu der von der Eurex Clearing bereitgestellten Software eigene Software (Teilnehmer-Software) für den Zugang zu Clearing-Daten mittels VALUES API auf seinen Teilnehmer-Systemen einsetzen.</p> <p>(1) Die Eurex Clearing kann festlegen, dass der Vertragspartner die Teilnehmer-Software bei der Eurex Clearing zu registrieren hat und mindestens eine von der Eurex Clearing näher bestimmte elektronische Kennung (Identifier) zuzuordnen hat. Der Identifier muss immer übertragen werden, wenn die Teilnehmer-Software mit der Clearing-EDV kommuniziert.</p>	<p>(2) In addition to the software of Eurex Clearing, the Contractual Party may use its own software (Participant Software) for the access to clearing data via VALUES API on its Participant Systems.</p> <p>(1) Eurex Clearing may determine that the Contractual Party shall register the Participant Software with Eurex Clearing and that the Contractual Party shall have at least one electronic ID (identifier) determined by Eurex Clearing. The identifier must always be transferred if the Participant software communicates with the Clearing EDP.</p>
<p>(23) Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>(23) The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>

<p>(34) Die Eurex Clearing oder ein von ihr beauftragter Dritter ist berechtigt, jederzeit in den Lokationen des Vertragspartners die Einhaltung der Voraussetzungen für die Installation und den Betrieb des Teilnehmer-Systems zu überprüfen.</p> <p>Die Eurex Clearing kann nach vorheriger Anzeige durch den Vertragspartner die Installation und den Betrieb eines Teilnehmer-Systems oder Teilen hiervon in den Geschäftsräumen eines von dem Vertragspartner mit dem Betrieb des Teilnehmer-Systems beauftragten Dritten gestatten, wenn die Geltung und die Einhaltung der Regelungen des Anschlussvertrages, insbesondere auch durch den Dritten, gewährleistet ist.</p> <p>Der Vertragspartner ist verpflichtet durch eine entsprechende Vereinbarung mit dem Dritten sicherzustellen, dass der Dritte der Eurex Clearing das Recht einräumt, jederzeit in seinen Geschäftsräumen die Einhaltung der Voraussetzungen für die Installation und den Betrieb eines Teilnehmer-Systems zu überprüfen.</p>	<p>(34) Eurex Clearing or a third party assigned by it shall be entitled to visit the Contractual Party's Locations at any time and check whether the requirements for the installation and operation of the Participant System are still met.</p> <p>Eurex Clearing shall be entitled, after a previous notification by the Contractual Party, to assign the installation and operation of a Participant System or of parts thereof in the offices of the Contractual Party to a third party as long as the application of and adherence to the regulations of the Connection Agreement, in particular by the third party, is guaranteed.</p> <p>The Contractual Party shall be obligated to ensure by means of an appropriate agreement with the third party that such third party entitles Eurex Clearing to verify at any time whether the conditions for the installation and operation of a Participant System are met.</p>
<p><b>C - Besondere Regelungen für Clearing-Mitglieder der Frankfurter Wertpapier Börse, Eurex Repo GmbH, Eurex Bonds GmbH, Irish Stock Exchange (ISE) sowie Interim-Teilnehmer dieser Märkte</b></p>	<p><b>C - Special provisions for Clearing Members of Frankfurt Stock Exchange, Eurex Repo GmbH, Eurex Bonds GmbH, Irish Stock Exchange (ISE) as well as Interim Participants of such markets</b></p>
<p><b>§ 21 Geltungsbereich für Vertragspartner</b></p>	<p><b>§ 21 Applicability in terms of Contractual Parties</b></p>
<p>Die besonderen Regelungen in Abschnitt C gelten für Clearing-Mitglieder, die über eine Clearing Lizenz für die</p> <ul style="list-style-type: none"> <li>(i) Frankfurter Wertpapier Börse,</li> <li>(ii) Eurex Repo GmbH,</li> <li>(iii) Eurex Bonds GmbH, <del>oder</del></li> <li><u>(iv) Irish Stock Exchange (ISE) verfügen sowie,</u></li> <li><del>(iv)(v)</del> <u>Interim-Teilnehmer eines oder mehrerer der unter (i) bis (iv) genannten Märkte (Nicht-Clearing-Mitglieder während der Interim-Teilnahme-Phase).</u></li> </ul> <p>verfügen,</p>	<p>The special provisions within in section C are valid for Clearing Members who possess a clearing license for</p> <ul style="list-style-type: none"> <li>(i) Frankfurter Wertpapier Börse,</li> <li>(ii) Eurex Repo GmbH,</li> <li>(iii) Eurex Bonds GmbH <del>oder</del></li> <li><u>(iv) Irish Stock Exchange (ISE) as well as</u></li> <li><del>(iv)(v)</del> <u>Interim Participants of one or more of the markets mentioned under (i) to (iv) (Non-Clearing Members during the Interim Participation).</u></li> </ul>

§ 22 Mindestanforderungen zum Netzwerk Zugang	§ 22 Minimum requirements for network access
<p>(1) Der Vertragspartner ist verpflichtet, seine Teilnehmer-Systeme mindestens über einen Internet-basierten Zugang (nativer Internet-Zugang) an die Clearing-EDV anzubinden (Mindestanbindung).</p> <p>Nicht alle von der Eurex Clearing angebotenen Schnittstellen sind über die oben genannten Mindestanbindungen nutzbar. Alternative Anbindungen wie von Eurex Clearing angebotene Standleitungen, Internetleitungen, Anbindungen über einen Multi-Member-Service-Betreiber oder die Anbindung über ein anderes Netzwerk können zur Nutzung der Schnittstellen verwendet werden.</p>	<p>(1) The Contractual Party shall be obliged to connect its Participant System at least via an internet-based service (native internet access) to the Clearing EDP (minimum connectivity).</p> <p>Not all interfaces offered by Eurex Clearing can be used in combination with the minimum connectivity as described in sentence 1. Alternative connections, such as leased lines and internet lines offered by Eurex Clearing as well as connections by means of a Multi Member Service Operator or connections by means of other networks can be used in combination with the interfaces.</p>
<p>(2) Der Vertragspartner ist verpflichtet seine Kunden, die Clearing Services durch ihn nutzen (Nicht-Clearing-Mitglieder bzw. Registrierte Kunden) über die von ihm genutzte Art der Netzwerk-Anbindung an die Clearing-EDV zu informieren.</p>	<p>(2) The Contractual Party shall be obligated to provide details regarding the type of network connection used to connect to the Clearing EDP to its customers, which make use of clearing services by the Contractual Party.</p>
§ 23 Mindestanforderungen zum Datenzugriff	§ 23 Minimum requirements for data access
<p>Der Vertragspartner ist verpflichtet Zugang zu Clearing-Daten über die von Eurex Clearing angebotenen Schnittstellen für mindestens die folgenden Funktionen sicher zu stellen:</p> <ul style="list-style-type: none"> <li>(i) Verwaltung hinterlegter Sicherheiten (Collateral Management)</li> <li>(ii) Verwaltung von Benutzer IDs</li> <li>(iii) Brutto-Liefermanagement</li> <li>(iv) Auswahl und Empfang von Reports</li> </ul> <p><u>Auf Anfrage kein der Interim-Teilnehmer von den Verpflichtungen freigestellt werden, Zugang zur Funktion „Verwaltung hinterlegter Sicherheiten (Collateral Management)“ und „Verwaltung von Benutzer IDs“ zu gewährleisten.</u></p>	<p>The Contractual Party shall be obligated to ensure access to the Clearing Data via the interfaces offered by Eurex Clearing for the following functions:</p> <ul style="list-style-type: none"> <li>(i) Collateral management</li> <li>(ii) User-ID administration</li> <li>(iii) Gross delivery management</li> <li>(iv) Report selection and receipt of reports</li> </ul> <p><u>On request the Interim Participant may be exempted from the obligation to ensure access to the Clearing Data for the functions “Collateral management” and “User ID administration”.</u></p>

§ 24 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen	§ 24 Special conditions for Participant Systems and locations
<p>(1) Die Eurex Clearing stellt für den Zugang zu Clearing-Daten mittels VALUES API (MISS) Software zur Verfügung. Die Software kann im Internet unter herunter geladen werden. Der Vertragspartner darf die von der Eurex Clearing bereitgestellte Software weder verändern, kopieren (ausgenommen Kopien zur Datensicherung) oder an Dritte weitergeben.</p>	<p>(1) For the access to clearing data via VALUES API (MISS) Eurex Clearing provides software. The software may be downloaded at <a href="http://www.eurexclearing.com">www.eurexclearing.com</a>. The Contractual Party must refrain from modifying, copying (excluding copies for data backup) or passing the software provided by Eurex Clearing on to third parties.</p>
<p>(12) Der Vertragspartner kann zusätzlich zu der von der Eurex Clearing bereitgestellten Software eigene Software (Teilnehmer-Software) für den Zugang zu Clearing-Daten mittels VALUES API auf seinen Teilnehmer-Systemen einsetzen.</p> <p>Die Eurex Clearing kann festlegen, dass der Vertragspartner die Teilnehmer-Software bei der Eurex Clearing zu registrieren hat und mindestens eine von der Eurex Clearing näher bestimmte elektronische Kennung (Identifier) zuzuordnen hat. Der Identifier muss immer übertragen werden, wenn die Teilnehmer-Software mit der Clearing-EDV kommuniziert.</p>	<p>(12) In addition to the software of Eurex Clearing, the Contractual Party may use its own software (Participant Software) for the access to clearing data via VALUES API on its Participant Systems.</p> <p>Eurex Clearing may determine that the Contractual Party shall register the Participant Software with Eurex Clearing and that the Contractual Party shall have at least one electronic ID (identifier) determined by Eurex Clearing. The identifier must always be transferred if the Participant software communicates with the Clearing EDP.</p>
<p>(23) Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>(23) The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>

<p>(43) Die Eurex Clearing oder ein von ihr beauftragter Dritter ist berechtigt, jederzeit in den Lokationen des Vertragspartners die Einhaltung der Voraussetzungen für die Installation und den Betrieb des Teilnehmer-Systems zu überprüfen.</p> <p>Die Eurex Clearing kann nach vorheriger Anzeige durch den Vertragspartner die Installation und den Betrieb eines Teilnehmer-Systems oder Teilen hiervon in den Geschäftsräumen eines von dem Vertragspartner mit dem Betrieb des Teilnehmer-Systems beauftragten Dritten gestatten, wenn die Geltung und die Einhaltung der Regelungen des Anschlussvertrages, insbesondere auch durch den Dritten, gewährleistet ist.</p> <p>Der Vertragspartner ist verpflichtet durch eine entsprechende Vereinbarung mit dem Dritten sicherzustellen, dass der Dritte der Eurex Clearing das Recht einräumt, jederzeit in seinen Geschäftsräumen die Einhaltung der Voraussetzungen für die Installation und den Betrieb eines Teilnehmer-Systems zu überprüfen.</p>	<p>(43) Eurex Clearing or a third party assigned by it shall be entitled to visit the Contractual Party's Locations at any time and check whether the requirements for the installation and operation of the Participant System are still met.</p> <p>Eurex Clearing shall be entitled, after a previous notification by the Contractual Party, to assign the installation and operation of a Participant System or of parts thereof in the offices of the Contractual Party to a third party as long as the application of and adherence to the regulations of the Connection Agreement, in particular by the third party, is guaranteed.</p> <p>The Contractual Party shall be obligated to ensure by means of an appropriate agreement with the third party that such third party entitles Eurex Clearing to verify at any time whether the conditions for the installation and operation of a Participant System are met.</p>
<p><b>D - Besondere Regelungen für OTC Clearing-Mitglieder und OTC Interim-Teilnehmer</b></p>	<p><b>D - Special provisions for OTC Clearing Members and OTC Interim Participants</b></p>
<p><b>§ 25 Geltungsbereich für Vertragspartner</b></p>	<p><b>§ 25 Applicability in terms of Contractual Parties</b></p>
<p>Die besonderen Regelungen in Abschnitt D gelten für Clearing-Mitglieder, die über eine Lizenz zum Clearing von OTC-Derivat-Transaktionen verfügen sowie für Interim-Teilnehmer für OTC-Derivat-Transaktionen im Sinne der Clearing-Bedingungen der Eurex Clearing (Registrierte Kunden während der Interim-Teilnahme-Phase).</p>	<p>The special provisions within in section D are valid for Clearing Members who possess a clearing license for OTC derivatives transactions as well as Interim Participants for OTC derivatives transactions pursuant to the Clearing Conditions for Eurex Clearing (Registered Customer during the <u>Interim Participation</u> phase).</p>
<p><b>§ 26 Mindestanforderungen zum Netzwerk-Zugang</b></p>	<p><b>§ 26 Minimum requirements for network access</b></p>
<p>(1) Der Vertragspartner ist verpflichtet, seine Teilnehmer-Systeme mindestens über einen Internet-basierten Zugang (nativer Internet-Zugang) an die Clearing-EDV anzubinden (Mindestanbindung).</p> <p>Nicht alle von der Eurex Clearing angebotenen Schnittstellen sind über die oben genannten Mindestanbindungen nutzbar. Alternative Anbindungen wie von Eurex Clearing angebotene Standleitungen, Internetleitungen, Anbindungen über einen Multi-Member-Service-Betreiber oder die Anbindung über ein anderes Netzwerk können zur Nutzung der Schnittstellen verwendet werden.</p>	<p>(1) The Contractual Party shall be obliged to connect its Participant System at least via an internet-based service (native internet access) with the Clearing EDP (minimum connectivity).</p> <p>Not all interfaces offered by Eurex Clearing can be used in combination with the minimum connectivity as described in sentence 1. Alternative connections, such as leased lines and internet lines offered by Eurex Clearing as well as connections by means of a Multi Member Service Operator or connections by means of other networks can be used in combination with the interfaces.</p>

<p>(2) Der Vertragspartner ist verpflichtet seine Kunden, die Clearing Services durch ihn nutzen (Nicht-Clearing-Mitglieder bzw. Registrierte Kunden) über die von ihm genutzte Art der Netzwerk-Anbindung an die Clearing-EDV zu informieren.</p>	<p>(2) The Contractual Party shall be obligated to provide details regarding the type of network connection used to connect to the Clearing EDP to its customers, which make use of clearing services by the Contractual Party.</p>
<p><b>§ 27 Mindestanforderungen zum Datenzugriff</b></p>	<p><b>§ 27 Minimum requirements for data access</b></p>
<p>Der Vertragspartner ist verpflichtet Zugang zu Clearing-Daten über die von Eurex Clearing angebotenen Schnittstellen für mindestens die folgenden Funktionen zu gewährleisten:</p> <ul style="list-style-type: none"> <li>(i) Manuelles oder automatisiertes Geschäfts- und Positions-Management für EurexOTC Clear-Produkte</li> <li>(ii) Verwaltung hinterlegter Sicherheiten (Collateral Management)</li> <li>(iii) Empfang von Reports</li> </ul> <p>Auf Anfrage kein der <del>Vertragspartner</del> <u>Interim-Teilnehmer</u> von der Verpflichtung freigestellt werden, Zugang zur Funktion „Verwaltung hinterlegter Sicherheiten (Collateral Management)“ zu gewährleisten.</p>	<p>The Contractual Party shall be obligated to ensure access to the Clearing Data via the interfaces offered by Eurex Clearing for the following functions:</p> <ul style="list-style-type: none"> <li>(i) Manual or automated trade and position management for EurexOTC Clear products</li> <li>(ii) Collateral management</li> <li>(iii) Receipt of reports</li> </ul> <p>On request the <del>Contractual Party</del> <u>Interim Participant</u> may be exempted from the obligation to ensure access to the Clearing Data for the function <u>“Collateral management”</u>.</p>
<p><b>§ 28 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen</b></p>	<p><b>§ 28 Special conditions for Participant Systems and locations</b></p>
<p>(1) Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>(1) The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>

<p>(2) Die Eurex Clearing oder ein von ihr beauftragter Dritter ist berechtigt, jederzeit in den Lokationen des Vertragspartners die Einhaltung der Voraussetzungen für die Installation und den Betrieb des Teilnehmer-Systems zu überprüfen.</p> <p>Die Eurex Clearing kann nach vorheriger Anzeige durch den Vertragspartner die Installation und den Betrieb eines Teilnehmer-Systems oder Teilen hiervon in den Geschäftsräumen eines von dem Vertragspartner mit dem Betrieb des Teilnehmer-Systems beauftragten Dritten gestatten, wenn die Geltung und die Einhaltung der Regelungen des Anschlussvertrages, insbesondere auch durch den Dritten, gewährleistet ist.</p> <p>Der Vertragspartner ist verpflichtet durch eine entsprechende Vereinbarung mit dem Dritten sicherzustellen, dass der Dritte der Eurex Clearing das Recht einräumt, jederzeit in seinen Geschäftsräumen die Einhaltung der Voraussetzungen für die Installation und den Betrieb eines Teilnehmer-Systems zu überprüfen.</p>	<p>(2) Eurex Clearing or a third party assigned by it shall be entitled to visit the Contractual Party's Locations at any time and check whether the requirements for the installation and operation of the Participant System are still met.</p> <p>Eurex Clearing shall be entitled, after a previous notification by the Contractual Party, to assign the installation and operation of a Participant System or of parts thereof in the offices of the Contractual Party to a third party as long as the application of and adherence to the regulations of the Connection Agreement, in particular by the third party, is guaranteed.</p> <p>The Contractual Party shall be obligated to ensure by means of an appropriate agreement with the third party that such third party entitles Eurex Clearing to verify at any time whether the conditions for the installation and operation of a Participant System are met.</p>
<p><b>E - Besondere Regelungen für <u>Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben, Nicht-Clearing-Mitglieder und, Interim-Teilnehmer und Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben</u></b></p>	<p><b>E - Special provisions for <u>Clearing Members that outsourced all Clearing Functions, Non Clearing Members and Interim Participants and Clearing Members that outsources all Clearing Functions</u></b></p>
<p><b>§ 29 Geltungsbereich für Vertragspartner</b></p>	<p><b>§ 29 Applicability in terms of Contractual Parties</b></p>
<p>Die besonderen Regelungen in Abschnitt E gelten für</p> <p>(i) <u>Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben,</u></p> <p>(i)(ii) <u>Nicht-Clearing-Mitglieder im Sinne der Clearing-Bedingungen der Eurex Clearing, und</u></p> <p>(ii) <u>Interim-Teilnehmer im Sinne der Clearing-Bedingungen der Eurex Clearing (Nicht-Clearing-Mitglieder und Registrierte Kunden während der Interim-Teilnahme-Phase), und</u></p> <p>(iii) <u>Clearing Mitglieder, die alle Clearing-Funktionen ausgelagert haben.</u></p>	<p>The special provisions within in section E are valid for</p> <p>(i) <u>Clearing Members that outsourced all Clearing Functions,</u></p> <p>(i)(ii) <u>Non Clearing Members pursuant to the Clearing Conditions of Eurex Clearing, and</u></p> <p>(ii) <u>Interim Participants pursuant to the Clearing Conditions for Eurex Clearing (Non Clearing Members and Registered Customers during the Interim Participation-phase), and</u></p> <p>(iii) <u>Clearing Members that outsourced all Clearing Functions.</u></p>
<p><b>§ 30 Mindestanforderungen zum Netzwerk-Zugang</b></p>	<p><b>§ 30 Minimum requirements for network access</b></p>
<p>Der Vertragspartner ist verpflichtet, seine Teilnehmer-Systeme mindestens über einen Internet-basierten Zugang (nativer Internet-Zugang) an die Clearing-EDV anzubinden (Mindestanbindung).</p>	<p>The Contractual Party shall be obliged to connect its Participant System at least via an internet-based service (native internet access) with the Clearing EDP (minimum connectivity).</p>

<p>Nicht alle von der Eurex Clearing angebotenen Schnittstellen sind über die oben genannten Mindestanbindungen nutzbar. Alternative Anbindungen wie von Eurex Clearing angebotene Standleitungen, Internetleitungen, Anbindungen über einen Multi-Member-Service-Betreiber oder die Anbindung über ein anderes Netzwerk können zur Nutzung der Schnittstellen verwendet werden.</p>	<p>Not all interfaces offered by Eurex Clearing can be used in combination with the minimum connectivity as described in sentence 1. Alternative connections, such as leased lines and internet lines offered by Eurex Clearing as well as connections by means of a Multi Member Service Operator or connections by means of other networks can be used in combination with the interfaces.</p>
<p><b>§ 31 Mindestanforderungen zum Datenzugriff</b></p>	<p><b>§ 31 Minimum requirements for data access</b></p>
<p>Der Vertragspartner ist verpflichtet Zugang zu Clearing-Daten über die von Eurex Clearing angebotenen Schnittstellen für mindestens die folgenden Funktionen sicher zu stellen:</p> <ul style="list-style-type: none"> <li>(i) Manuelles Geschäfts- und Positions-Management für Eurex Derivative Produkte</li> <li>(ii) Empfang von Reports</li> </ul>	<p>The Contractual Party shall be obligated to ensure access to the Clearing Data via the interfaces offered by Eurex Clearing for the following functions:</p> <ul style="list-style-type: none"> <li>(i) Manual trade and position management for Eurex derivatives products</li> <li>(ii) Receipt of reports</li> </ul>
<p><b>§ 32 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen</b></p>	<p><b>§ 32 Special conditions for Participant Systems and locations</b></p>
<p>(1) Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>(1) The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>



<p>(2) Die Eurex Clearing oder ein von ihr beauftragter Dritter ist berechtigt, jederzeit in den Lokationen des Vertragspartners die Einhaltung der Voraussetzungen für die Installation und den Betrieb des Teilnehmer-Systems zu überprüfen.</p> <p>Die Eurex Clearing kann nach vorheriger Anzeige durch den Vertragspartner die Installation und den Betrieb eines Teilnehmer-Systems oder Teilen hiervon in den Geschäftsräumen eines von dem Vertragspartner mit dem Betrieb des Teilnehmer-Systems beauftragten Dritten gestatten, wenn die Geltung und die Einhaltung der Regelungen des Anschlussvertrages, insbesondere auch durch den Dritten, gewährleistet ist.</p> <p>Der Vertragspartner ist verpflichtet durch eine entsprechende Vereinbarung mit dem Dritten sicherzustellen, dass der Dritte der Eurex Clearing das Recht einräumt, jederzeit in seinen Geschäftsräumen die Einhaltung der Voraussetzungen für die Installation und den Betrieb eines Teilnehmer-Systems zu überprüfen.</p>	<p>(2) Eurex Clearing or a third party assigned by it shall be entitled to visit the Contractual Party's Locations at any time and check whether the requirements for the installation and operation of the Participant System are still met.</p> <p>Eurex Clearing shall be entitled, after a previous notification by the Contractual Party, to assign the installation and operation of a Participant System or of parts thereof in the offices of the Contractual Party to a third party as long as the application of and adherence to the regulations of the Connection Agreement, in particular by the third party, is guaranteed.</p> <p>The Contractual Party shall be obligated to ensure by means of an appropriate agreement with the third party that such third party entitles Eurex Clearing to verify at any time whether the conditions for the installation and operation of a Participant System are met.</p>
<p><b>F - Besondere Regelungen für <u>Basis-Clearing-Mitglieder</u>, <u>Registrierte Kunden</u>, <u>Nicht-Clearing-Mitglieder</u>, die am Individual-Clearingmodell teilnehmen mit ausgelagertem Backoffice, <u>Registrierte Kunden</u>, <u>Inhaber einer Speziellen Darlehensgeber Lizenz</u> und <u>Inhaber einer Speziellen Repo Lizenz</u></b></p>	<p><b>F - Special provisions for <u>Registered Customers</u>, <u>Basic Clearing Member</u>, <u>Non Clearing Members</u> participating in the Individual Clearing Model that outsources Backoffice Functions, <u>Registered Customers</u>, holder of a Specific Lender License and holder of a Specific Repo License</b></p>
<p><b>§ 33 Geltungsbereich für Vertragspartner</b></p>	<p><b>§ 33 Applicability in terms of Contractual Parties</b></p>
<p>Die besonderen Regelungen in Abschnitt F gelten für</p> <p>(i) <del>Basis-Clearing-Mitglieder, Registrierte Kunden</del> im Sinne der Clearing-Bedingungen der Eurex Clearing,</p> <p>(i) _____</p> <p>(ii) <del>_____</del> Nicht-Clearing-Mitglieder, die am Individual-Clearingmodell teilnehmen und alle Backoffice-Funktionen gemäß den Clearing-Bedingungen der Eurex Clearing ausgelagert haben,</p> <p>(iii) <u>Registrierte Kunden</u>,</p> <p>(ii)(iv) <del>_____</del> Inhaber einer Speziellen Darlehensgeber Lizenz und/oder Beauftragte des Darlehensgebers gemäß Kapitel IX der Clearing-Bedingungen der Eurex Clearing sowie für</p> <p>(iii)(v) <del>_____</del> Inhaber einer Speziellen Repo Lizenz gemäß Kapitel IV der Clearing-Bedingungen der</p>	<p>The special provisions within in section F are valid for</p> <p>(i) <u>Basic Clearing Members</u>,</p> <p>(i) <del>Registered Customers pursuant to the Clearing Conditions of Eurex Clearing</del>,</p> <p>(i) Non Clearing Members participating in the Individual Clearing Model that outsources Backoffice Functions according the Clearing Conditions for Eurex Clearing,</p> <p>(ii) <u>Registered Customers</u>,</p> <p>(ii)(iii) <del>_____</del> Holder of a Specific Lender License and/or their Agent Lenders pursuant to Chapter IX of the Clearing Conditions for Eurex Clearing as well as for</p> <p>(iii)(iv) <del>_____</del> Holder of a Specific Repo License pursuant to Chapter IV of the Clearing Conditions for Eurex Clearing.</p>

Eurex Clearing.	
<b>§ 34 Mindestanforderungen zum Netzwerk-Zugang</b>	<b>§ 34 Minimum requirements for network access</b>
<p>Der Vertragspartner ist verpflichtet, seine Teilnehmer-Systeme mindestens über einen Internet-basierten Zugang (nativer Internet-Zugang) an die Clearing-EDV anzubinden (Mindestanbindung).</p> <p>Nicht alle von der Eurex Clearing angebotenen Schnittstellen sind über die oben genannten Mindestanbindungen nutzbar. Alternative Anbindungen wie von Eurex Clearing angebotene Standleitungen, Internetleitungen, Anbindungen über einen Multi-Member-Service-Betreiber oder die Anbindung über ein anderes Netzwerk können zur Nutzung der Schnittstellen verwendet werden.</p>	<p>The Contractual Party shall be obliged to connect its Participant System at least via an internet-based service (native internet access) with the Clearing EDP (minimum connectivity).</p> <p>Not all interfaces offered by Eurex Clearing can be used in combination with the minimum connectivity as described in sentence 1. Alternative connections, such as leased lines and internet lines offered by Eurex Clearing as well as connections by means of a Multi Member Service Operator or connections by means of other networks can be used in combination with the interfaces.</p>
<b>§ 35 Mindestanforderungen zum Datenzugriff</b>	<b>§ 35 Minimum requirements for data access</b>
<p>Der Vertragspartner ist verpflichtet Zugang zu Clearing-Daten über die von Eurex Clearing angebotenen Schnittstellen für mindestens die folgenden Funktionen sicher zu stellen:</p> <ul style="list-style-type: none"> <li>• Empfang von Reports</li> </ul>	<p>The Contractual Party shall be obligated to ensure access to the Clearing Data via the interfaces offered by Eurex Clearing for the following functions:</p> <ul style="list-style-type: none"> <li>• Receipt of reports</li> </ul>
<b>§ 36 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen</b>	<b>§ 36 Special conditions for Participant Systems and locations</b>
<p>Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>

G - Besondere Regelungen für Nicht-Clearing-Mitglieder, die am Grund-Clearingmodell oder am Net Omnibus-Clearingmodell teilnehmen mit ausgelagertem Backoffice sowie Dritte, insbesondere Abwicklungsinstitute	G - Special provisions for Non Clearing Members participating in the Elementary Clearing Model or in the Net Omnibus Clearing Model that outsources Backoffice Functions and other parties, in particular Settlement Institutes
<b>§ 37 Geltungsbereich für Vertragspartner</b>	<b>§ 37 Applicability in terms of Contractual Parties</b>
<p>Die besonderen Regelungen in Abschnitt G gelten für</p> <p>(i) Nicht-Clearing-Mitglieder, die am Grund-Clearingmodell oder am Net Omnibus-Clearingmodell teilnehmen und sämtliche Backoffice-Funktionen gemäß den Clearing-Bedingungen der Eurex Clearing ausgelagert haben, sowie für</p> <p>(ii) Dritte, insbesondere Abwicklungsinstitute, denen die Eurex Clearing eine Netzwerk-Anbindung an die Clearing-EDV bereitstellt.</p>	<p>The special provisions within in section G are valid for</p> <p>(i) Non Clearing Members participating in the Elementary Clearing Model or in the Net Omnibus Clearing Model that outsources Backoffice Functions according the Clearing Conditions for Eurex Clearing and</p> <p>(ii) Third parties, in particular Settlement Institutes for which Eurex Clearing provides a network connection to the Clearing EDP.</p>
<b>§ 38 Mindestanforderungen zum Netzwerk-Zugang</b>	<b>§ 38 Minimum requirements for network access</b>
<p>Der Vertragspartner ist nicht verpflichtet, seine Teilnehmer-Systeme an die Clearing-EDV anzubinden.</p>	<p>The Contractual Party shall not be obliged to connect its Participant System with the Clearing EDP.</p>
<b>§ 38a Mindestanforderungen zum Datenzugriff</b>	<b>§ 38a Minimum requirements for data access</b>
<p>Der Vertragspartner ist nicht verpflichtet Zugang zu Clearing-Daten zu gewährleisten.</p>	<p>The Contractual Party shall not be obliged to ensure access to the Clearing Data.</p>
<b>§ 39 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen</b>	<b>§ 39 Special conditions for Participant Systems and locations</b>
<p>Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder</p>	<p>The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to</p>

bei der Eurex Clearing der Anbindung entgegenstehen.	regulatory reasons concerning the Contractual Party or Eurex Clearing.
<b>H - Besondere Regelungen für Multi-Member-Service-Betreiber</b>	<b>H - Special provisions for Multi-Member-Service Operators</b>
<b>§ 40 Geltungsbereich für Vertragspartner</b>	<b>§ 40 Applicability in terms of Contractual Parties</b>
Die besonderen Regelungen in Abschnitt H gelten für Multi-Member-Service-Betreiber.	The special provisions within in section H are valid for Multi Member Service Operators.
<b>§ 41 Besondere Pflichten für Multi-Member-Service-Betreiber</b>	<b>§ 41 Special duties for Multi-Member-Service Operators</b>
(1) Die Anbindung des Vertragspartners als Multi-Member-Service-Betreiber erfolgt, um Multi-Member-Service-Betreiber-Kunden, also Clearing-Mitglieder, Nicht-Clearing-Mitglieder und Registrierte Kunden im Sinne der Clearing-Bedingungen der Eurex Clearing, sowie Dritte, insbesondere Abwicklungsinstituten die Anbindung an die Clearing-EDV zu ermöglichen und/oder um das Insourcing von Backoffice- bzw. Clearingfunktionen und/oder die automatisierte Weiterverarbeitung von Daten für die Unternehmen zu erbringen.	(1) The connection of the Contractual Party as a Multi Member Service Operator shall enable customers of the Multi Member Service Operator, which includes Clearing Members, Non Clearing Members and Registered Customers pursuant to the Clearing Conditions of Eurex Clearing as well as third parties, in particular settlement institutes, to connect to the Clearing EDP and/or to render the insourcing of backoffice functions or clearing functions respectively, and/or to render the automated processing data for the companies.
(2) Der Vertragspartner ist verpflichtet, der Eurex Clearing unverzüglich die Unternehmen anzuzeigen, für die er die Anbindung als Multi Member Service-Betreiber erbringt (Multi-Member-Service-Betreiber-Kunden). Jegliche Veränderungen sind der Eurex Clearing ebenfalls unverzüglich mitzuteilen.	(2) The Contractual Party shall be obliged to notify Eurex Clearing without delay of any Companies for which it renders its connection services as a Multi Member Service Provider. Any changes must also be notified to Eurex Clearing without delay.
(3) Weitere Voraussetzungen zur Erbringung der in Absatz 1 genannten Dienstleistungen werden von den Vertragsparteien (Multi-Member-Service-Betreiber und Multi-Member-Service-Betreiber-Kunden) in einer separaten Vereinbarung geregelt.	(3) Any further requirements for the rendering of services as specified in paragraph 1 shall be defined in a separate agreement between the contracting parties.
<b>§ 42 Mindestanforderungen zum Netzwerk-Zugang</b>	<b>§ 42 Minimum requirements for network access</b>
(1) Der Vertragspartner ist verpflichtet, sein Teilnehmer-System bzw. die Teilnehmer-Systeme seiner Multi-Member-Service-Betreiber-Kunden mindestens über eine Standleitung einschließlich einer Back-Up-Standleitung an die Clearing-EDV anzubinden (Mindestanbindung).	(1) The Contractual Party shall be obliged to connect its Participant System and/or the Participant Systems of its Multi Member Service Operator Customers respectively at least via a leased line combined with a backup leased line with the Clearing EDP (minimum connectivity).

(2) Der Vertragspartner ist verpflichtet seine über ihn angebotenen Multi-Member-Service-Betreiber-Kunden über die von ihm genutzte Art der Netzwerk-Anbindung an die Clearing-EDV zu informieren.	(2) The Contractual Party shall be obligated to provide details regarding the type of network connection used to connect to the Clearing EDP to its customers.
<b>§ 43 Datennutzung</b>	<b>§ 43 Data usage</b>
(1) Die aus der Clearing-EDV empfangenen Informationen (z.B. Reports) und Daten dürfen von dem Vertragspartner ausschließlich zum Zwecke seiner mit der Eurex Clearing vereinbarten Dienste als Multi-Member-Service-Betreiber verwendet werden; eine Speicherung, Anfertigung von Kopien (ausgenommen Sicherheitskopien), Nutzung, Verarbeitung oder sonstige Verwertung der Informationen und Daten zu anderen Zwecken ist verboten.	(1) Any information (e.g. reports) and data received from the Clearing EDP must be used by the Contractual Party exclusively for the purpose of its services rendered as a Multi Member Service Provider as agreed with Eurex Clearing; it is not permitted to save, copy (excluding copies for data backup), use, modify or otherwise utilize such information and data for other purposes.
(2) Der Vertragspartner darf die Informationen und Daten ausschließlich dem Unternehmen zugänglich machen, für das die Informationen und Daten bestimmt wurden. Eine Weitergabe oder das Zugänglichmachen der Informationen und Daten an Dritte ist verboten.	(2) The Contractual Party may grant access to the information and data exclusively to the Company which such information and data was intended for. It is prohibited to pass on such information and data to third parties.
(3) Der Vertragspartner stellt sicher, dass er sämtliche von der Eurex Clearing übermittelte Informationen (z.B. Reports) und Daten, nur an die betroffenen Unternehmen weiterleitet.	(3) The Contractual Party shall make sure that it passes on any and all information (e.g. reports) and data received from Eurex Clearing only to the Companies involved.
(4) Soweit der Vertragspartner das Insourcing von Backoffice- bzw. Clearingfunktionen und/oder die automatisierte Weiterverarbeitung von Daten aus der Clearing-EDV für ein oder mehrere Unternehmen übernommen hat, ist er ausschließlich zur automatisierten Weiterverarbeitung der empfangenen Informationen aus der Clearing-EDV berechtigt, soweit dies zum Verwalten und der Abwicklung / dem Clearing der von dem jeweiligen Unternehmen abgeschlossenen Geschäfte erforderlich ist.	(4) To the extent the Contractual Party renders the insourcing of backoffice functions or clearing functions respectively, and/or the automated further processing of data received from the Clearing EDP, for one or several Companies, it shall be exclusively entitled to further process the information received from the Clearing EDP to the extent this is necessary for the management and the settlement / the clearing of the transactions concluded by the respective company.

§ 44 Besondere Bedingungen für Teilnehmer-Systeme und Lokationen	§ 44 Special conditions for Participant Systems and locations
<p>(1) Die Eurex Clearing stellt für den Zugang zu Clearing-Daten mittels VALUES API (MISS) Software zur Verfügung. Die Software kann im Internet unter <a href="http://www.eurexclearing.com">www.eurexclearing.com</a> herunter geladen werden. Der Vertragspartner darf die von der Eurex Clearing bereitgestellte Software weder verändern, kopieren (ausgenommen Kopien zur Datensicherung) oder an Dritte weitergeben.</p>	<p>(1) For the access to clearing data via VALUES API (MISS) Eurex Clearing provides software. The software may be downloaded at <a href="http://www.eurexclearing.com">www.eurexclearing.com</a>. The Contractual Party must refrain from modifying, copying (excluding copies for data backup) or passing the software provided by Eurex Clearing on to third parties.</p>
<p>(2) Der Vertragspartner kann zusätzlich zu der von der Eurex Clearing bereitgestellten Software eigene Software (Teilnehmer-Software) für den Zugang zu Clearing-Daten mittels VALUES API auf seinen Teilnehmer-Systemen einsetzen.</p> <p>Die Eurex Clearing kann festlegen, dass der Vertragspartner die Teilnehmer-Software bei der Eurex Clearing zu registrieren hat und mindestens eine von der Eurex Clearing näher bestimmte elektronische Kennung (Identifizier) zuzuordnen hat. Der Identifizier muss immer übertragen werden, wenn die Teilnehmer-Software mit der Clearing-EDV kommuniziert.</p>	<p>(2) In addition to the software of Eurex Clearing, the Contractual Party may use its own software (Participant Software) for the access to clearing data via VALUES API on its Participant Systems.</p> <p>Eurex Clearing may determine that the Contractual Party shall register the Participant Software with Eurex Clearing and that the Contractual Party shall have at least one electronic ID (identifier) determined by Eurex Clearing. The identifier must always be transferred if the Participant software communicates with the Clearing EDP.</p>
<p>(23) Der Vertragspartner ist verpflichtet, alle Teilnehmer-Systeme in seinen Lokationen zu installieren und an die Clearing-EDV anzubinden. Der Vertragspartner ist verpflichtet, die Zulassung beabsichtigter Lokationen unter Angabe sämtlicher relevanten Kontaktdaten bei der Eurex Clearing zu beantragen, bevor er seine Teilnehmer-Systeme an die Clearing-EDV aus einer beabsichtigten Lokation anbindet. Die Eurex Clearing wird dem Vertragspartner den Eingang des Antrags bestätigen. Die Lokation gilt als genehmigt, sofern die Eurex Clearing nicht innerhalb eines Monats nach Versand der Bestätigung die Anbindung an die Clearing-EDV aus der Lokation untersagt. Die Eurex Clearing kann die Anbindung aus einer Lokation bei Vorliegen schwerwiegender Gründe jederzeit untersagen, dies gilt insbesondere, wenn aufsichtsrechtliche Gründe beim Vertragspartner oder bei der Eurex Clearing der Anbindung entgegenstehen.</p>	<p>(23) The Contractual Party shall be obligated to install all Participant Systems in its Locations and to connect them with the Clearing EDP. The Contractual Party shall, prior to connecting its Participant Systems to the Clearing EDP from an intended Location, be obligated to place a request with Eurex Clearing regarding the admission of such intended Locations, providing Eurex Clearing with all relevant contact data. Eurex Clearing shall confirm receipt of such request to the Contractual Party. The Location shall be deemed to have been approved if Eurex Clearing does not prohibit connection to the Clearing EDP from such Location within one month of sending the confirmation of receipt. Eurex Clearing may, at any time, prohibit connection from a Location due to substantial reasons; this shall apply in particular if such connection cannot be permitted due to regulatory reasons concerning the Contractual Party or Eurex Clearing.</p>

(34) Die Eurex Clearing oder ein von ihr beauftragter Dritter ist berechtigt, jederzeit in den Lokationen des Vertragspartners die Einhaltung der Voraussetzungen für die Installation und den Betrieb des Teilnehmer-Systems zu überprüfen.

Die Eurex Clearing kann nach vorheriger Anzeige durch den Vertragspartner die Installation und den Betrieb eines Teilnehmer-Systems oder Teilen hiervon in den Geschäftsräumen eines von dem Vertragspartner mit dem Betrieb des Teilnehmer-Systems beauftragten Dritten gestatten, wenn die Geltung und die Einhaltung der Regelungen des Anschlussvertrages, insbesondere auch durch den Dritten, gewährleistet ist.

Der Vertragspartner ist verpflichtet durch eine entsprechende Vereinbarung mit dem Dritten sicherzustellen, dass der Dritte der Eurex Clearing das Recht einräumt, jederzeit in seinen Geschäftsräumen die Einhaltung der Voraussetzungen für die Installation und den Betrieb eines Teilnehmer-Systems zu überprüfen.

(34) Eurex Clearing or a third party assigned by it shall be entitled to visit the Contractual Party's Locations at any time and check whether the requirements for the installation and operation of the Participant System are still met.

Eurex Clearing shall be entitled, after a previous notification by the Contractual Party, to assign the installation and operation of a Participant System or of parts thereof in the offices of the Contractual Party to a third party as long as the application of and adherence to the regulations of the Connection Agreement, in particular by the third party, is guaranteed.

The Contractual Party shall be obligated to ensure by means of an appropriate agreement with the third party that such third party entitles Eurex Clearing to verify at any time whether the conditions for the installation and operation of a Participant System are met.

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ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:  
ERGÄNZUNGEN SIND UNTERSTRICHEN  
LÖSCHUNGEN SIND DURCHGESTRICHEN

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AMENDMENTS ARE MARKED AS FOLLOWS:  
INSERTIONS ARE UNDERLINED  
DELETIONS ARE CROSSED OUT

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[...]

§ 2 Monatliche Entgelte für die Nutzung des Clearing Systems	§ 2 Monthly fees for the usage of the Clearing System
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Nutzung des Clearing Systems / Clearing System usage	Entgelt pro Monat / monthly fee
Eurex Clearing GUI <del>@X-perf</del> <sup>(4)</sup> token/certificate / Token/Zertifikat	4 free tokens/certificates / 4 Token/Zertifikate kostenfrei, 300 € from fifth / ab dem fünften <sup>(5)</sup>
Eurex Clearing GUI @X-tract <sup>(4)</sup> token/certificate / Token/Zertifikat	free of charge / kostenfrei
Eurex Clearing GUI Account/Konto for/für: <ul style="list-style-type: none"> <li>• C7 Derivatives Clearing GUI</li> <li>• Securities Clearing GUI</li> <li>• EurexOTC Clear GUI</li> <li>• Margin Calculator GUI</li> </ul>	300 € <sup>(6)</sup>

[...]

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\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

[...]

## Preamble

On the basis of the Clearing Agreements concluded with the Clearing Members, Non-Clearing Members and Registered Customers, and the respective current version of the Clearing Conditions of Eurex Clearing AG (hereinafter referred to as "**Clearing Conditions**") as well as of the Conditions for Utilization of the Eurex Trade Entry Services ("**General Conditions for Participation**"), the Price List of Eurex Clearing AG ("**Price List**") sets forth the fees individually assessed by Eurex Clearing AG ("**ECAG**"~~ECAG~~) for the matters set forth below and provided for in aforementioned Conditions.

## Basic Principles

The German version of the Price List in effect at the respective time is an integral part of the Clearing Conditions. Capitalised terms used, but not defined in this Price List shall have the meaning ascribed to them in the Clearing Conditions. However, any reference to a Clearing Member in this Price List shall also include Basic Clearing Members if not explicitly stated otherwise.

## 1. Fees for Clearing Licenses

- (1) [...]
- (2) For the granting of Direct Clearing Licenses or Basic Clearing Member Licences which entitle the respective Clearing Member to participate in the clearing of transactions concluded on Eurex Bonds GmbH (Chapter III Number 1.1 of the Clearing Conditions) or on Eurex Repo GmbH (Chapter IV Number 1.1 of the Clearing Conditions), ECAG shall not charge its Clearing Members a single admission fee in accordance with Number 1 Paragraph 1 letter a) above nor an annual fee in accordance with Number 1 Paragraph 1 letter b) above until this clause is revoked in writing.
- (3) For the granting of General Clearing Licenses, ~~or~~ Direct Clearing Licenses or Basic Clearing Member Licences which entitle the respective Clearing Member to participate in the clearing of Securities Lending Transactions (Chapter IX Number 1.1.1 and 1.1.2 of the Clearing Conditions), ECAG shall not charge its Clearing Members a single admission fee in accordance with Number 1 Paragraph 1 letter

**Price List of Eurex Clearing AG**

a) above, until this clause is revoked in writing. For such Clearing Licenses an annual fee in accordance with Number 1 Paragraph 1 letter b) above shall not be charged by ECAG as long as the respective Clearing Member does not hold any other Clearing License, until this clause is revoked in writing.

[...]

## 2. [Cancelled]

## 3. Transaction Fees for Derivatives Transactions (Order Book Transactions and Off-Book-Transactions on the Eurex Exchanges)

[...]

Provided that the transaction fees in this pPrice List are shown on different position accounts with regard to the accounting of the underlying transactions, such differentiation relates to the position accounts defined in Part 4 of the Conditions for Trading at Eurex Deutschland and Eurex Zürich.

[...]

### 3.1 Matching / Recording of Derivatives Transactions (Trade)

#### 3.1.1 Order Book Transactions

[...]

Sentence 3 does not apply to Stock Futures that are correctly booked on M-accounts. In these cases, the sliding fee scale as defined in sentence 2 applies.

Contract <sup>1)</sup>	Currency	Standard Fee per Contract (contract volume ≤ threshold)	Reduced Fee per Contract (contract volume > threshold)	Threshold A-Accounts (number of contracts)	Threshold P-Accounts (number of contracts)
<b>Equity Derivatives</b>					
<b>Stock Future with Group ID assigned in Annex A of the Eurex Contract Specifications</b>					
[...]					

- 1) The fees already accumulated in connection with a transaction pursuant to Number 3.1.1.1 of the Price Schedule of ~~Eurex Clearing AG~~ Eurex Clearing AG will be cancelled, if such transaction was rescinded pursuant to the regulations under Number 2.7 of the Conditions for Trading at Eurex Deutschland and Eurex Zürich.

[...]

**3.1.2 Off-Book Transactions**

- (1) For transactions executed off-book and entered into the Eurex System via the Eurex Trade Entry Services (as described in the ~~Conditions for Utilization of the Eurex Trade Entry Services~~ General Conditions for Participation), the following fees per contract apply. For some products specified in the table below a reduced fee is applied on the contract volume of an off-book transaction entered into the Eurex System that exceeds the defined threshold. For transactions booked on M-Account the fee defined in the "Standard Fee" category is applied.

[...].

**3.2 Rebates**

[...]

**3.2.3 Volume Rebates**

- (1) [...]
- (2) Transaction volume from transactions within the meaning of Number 3.1.1 and Number 3.1.2 which are correctly booked on M-position accounts (M-Accounts), shall be added to the transaction volume according to Paragraph 1, in case the concerned Clearing Member is not granted any rebates with regard to payable transaction fees in connection with the execution of Market Making by the Clearing Member or its Non-Clearing Members.
- (3) [...]

[...]

**5. Transaction Fees of Eurex Repo GmbH**

For transactions pursuant to Chapter I, Part 1 Number 5.1 of the Clearing Conditions in connection with sale and Repurchase Agreements (Repo Transactions) on Eurex Repo GmbH pursuant to Chapter IV Part 2 Number 2.1 of the Clearing Conditions ("Eurex Repo Transactions"), ECAG shall charge fees for the Settlement of Repo Transactions and Positions:

	<b>Transaction fee ** for all Repo Transactions with the exception of <del>GC Pooling</del> <u>Select</u> <del>Select Invest and Select Finance</del></b>	<b>Transaction fee ** for GC Pooling <u>Select Invest</u> Repo_-Transactions</b>	<b><u>Transaction fee *</u> for <u>Select Finance Repo Transactions</u></b>
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**Price List of Eurex Clearing AG**

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<b><u>Clearing Members other than Basic Clearing Members and Non-Clearing Members*</u></b>	0.0035_% p.a. Minimum fee *** EUR 10.00, CHF 12.00, GBP 8.00 or USD 14.00 respectively	0.0070_% p.a. Minimum fee*** EUR 10.00, CHF 12.00, GBP 8.00 or USD 14.00 respectively	0.0070 % p.a. minimum fee** EUR 10.00, CHF 12.00, GBP 8.00 or USD 14.00 respectively
<b><u>Basic Clearing Members</u></b>	n.a.	n.a.	0.0035 % p.a. minimum fee ** EUR 10.00, CHF 12.00, GBP 8.00 or USD 14.00 respectively
<b><u>Specific Repo License Holders</u></b>	n.a.	0.0000	n.a.
* GCM, DCM, NCM			
**	In relation to the purchase price of the Front-Leg and the period of time between the starting date for the Front-Leg (inclusive) and the end date for the Term-Leg of the respective Repo Transaction (exclusive), such calculation being made on the basis of Act/360		
***	Per concluded transaction, depending on the currency of the underlying Repo Transaction		

[...]

## 9. Service Fees for Collaterals, Clearing Fund Contributions and Funds provided for the Fulfilment of Own Funds or equivalent Regulatory Capital Requirements

[...]

### 9.2 Service Fees for Eligible Margin Assets in the Form of Securities

[...] The calculation of the fee will be performed act / 365 based on the value of the eligible margin assets in the form of securities or book-entry securities (Wertrechte) delivered to cover margin requirements which are recorded in the Internal Margin Account (Chapter 1 Part 2 Number 4.2 and Part 6 Number 5.3), the Segregated Internal Margin Account (Chapter 1 Part 3 Subpart A Number 4.1.2) and the Internal Net Omnibus Margin Account of the Clearing Member. [...]

[...]

## 11. Clearing Fees and Service Fees for Securities Lending Transactions

[...]

### 11.1 Clearing Fees

[...]

### 11.2.5 Service Fees for Dispute Resolution Procedure

[...]

The Service Fees applicable as of 1 April 2016 will be set out and published in time in this Price List ~~for Eurex Clearing AG~~.

### 12. Due Dates

(1) The fees to be paid for the ~~c~~Clearing ~~m~~Membership pursuant to Number 1 (including the membership as a Basic Clearing Member) (“Clearing Membership”) shall be due for payment as follows:

a) The admittance fee pursuant to Number 1 Paragraph 1 letter a) shall be due

[...]

[...]

### 14. Amendments and Supplements

- (1) ECAG reserves the right to amend to and/or supplement the Price List.
- (2) Any amendments and / or supplements to the Price List shall be announced to the ~~e~~Clearing ~~M~~members no later than ten business days prior to their taking effect.
- (3) The Clearing Member accepts the amendments to the Price List, provided it does not file an objection in writing with ECAG, within 10 business days after the publication. In the case of an objection against the amendments to the Price List, ECAG reserves the right to terminate, the Clearing License of the respective Clearing Member pursuant to Chapter I Part 1 Number 7.2.1 ~~(45)~~ and Part 6 Number 10.2 et seq of the Clearing Conditions ~~for ECAG~~.
- (4) The respective version of the Price List valid at the time is available for download on the internet ([www.eurexclearing.com](http://www.eurexclearing.com)).

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