

# FCM Default Rules of Eurex Clearing AG

As of 01.12.2021

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## 1 Scope

These rules on the default fund and certain aspects of the default management process of Eurex Clearing AG with respect to FCM Clearing Members (the “**FCM Default Rules**”) form part of the FCM Clearing Conditions of Eurex Clearing AG that provide for a framework for the clearing of Swap Transactions. These FCM Default Rules apply in addition to the default rules included in the FCM Regulations. Such default rules in the FCM Regulations include, *inter alia*, provisions on the termination of Swap Transactions, close-out netting and the enforcement of collateral (other than contributions to the Default Fund).

## 2 Definitions

Unless the context requires otherwise, the following terms and expressions in the FCM Default Rules shall have the following meanings:

“**Additional Margin**” has the meaning assigned to it in Chapter I Part 1 Number 3.1.7 of the Clearing Conditions.

“**Affected BCM**” has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**Affected BCM Contribution**” has the meaning assigned to it in Chapter I Number 6.2.1 Paragraph (1) of the Clearing Conditions.

“**Affected BCM Further Contributions**” has the meaning assigned to it in Chapter I Part 1 Number 6.3.1 (i) of the Clearing Conditions.

“**Affected Clearing Member**” has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**Affected CM Contribution**” has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**Affected FCM Clearing Member**” means an FCM Clearing Member with respect to which a Termination Time has occurred.

“**Affected FCM Contribution**” means the FCM Contribution and (if available) any FCM Excess Contribution of the Affected FCM Clearing Member.

“**Basic Clearing Member**” has the meaning assigned to it in Chapter I Part 1 Number 1.1.4 of the Clearing Conditions.

“**Basic Clearing Member Termination**” has the meaning assigned to it in Chapter I Part 6 Number 10.5 of the Clearing Conditions.

“**Basic Clearing Member Termination Date**” has the meaning assigned to it in Chapter I Part 1 Part 6 Number 10.5 of the Clearing Conditions.

“**Basic Clearing Member Termination Time**” has the meaning assigned to it in Chapter I Part 1 Part 6 Number 10.5 of the Clearing Conditions.

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“**BCM Affected Clearing Member**” has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**BCM Contribution**” has the meaning assigned to it in Chapter I Part 1 Number 6.1.1 Paragraph (1) of the Clearing Conditions.

“**BCM Contribution Requirement**” has the meaning assigned to it in Chapter I Part 1 Number 6.1.1 Paragraph (2) of the Clearing Conditions.

“**Business Day**” has the meaning assigned to it in Chapter I Number 1.2.1 of the FCM Regulations.

“**Clearing Agent**” has the meaning assigned to it in Chapter I Part 6 Number 1.1 of the Clearing Conditions.

“**Clearing Conditions**” means the clearing conditions of Eurex Clearing AG, as amended from time to time, which are incorporated by reference herein. The Clearing Conditions may be viewed and printed out via internet on the Eurex Clearing Website and obtained from Eurex Clearing AG upon request.

“**Clearing Conditions Business Day**” means a Business Day as defined in the Clearing Conditions.

“**Clearing Conditions Default Fund Secured Claims**” means the Default Fund Secured Claims as defined in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**Clearing Conditions Excess Contribution**” means the Excess Contribution as defined in Chapter I Part 1 Number 6.1.1 Paragraph (4) of the Clearing Conditions.

“**Clearing Conditions Insolvency Termination Event**” means an Insolvency Termination Event as defined Chapter I Part 1 Number 7.2.2 of the Clearing Conditions with respect to a Clearing Member or a Basic Clearing Member Insolvency Termination Event as defined Chapter I Part 6 Number 10.4 of the Clearing Conditions with respect to a Basic Clearing Member.

“**Clearing Conditions Realization Event**” has the meaning ascribed to such term in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

“**Clearing Conditions Termination Event**” means a Termination Event as defined in Chapter I Part 1 Number 7.2.1 of the Clearing Conditions with respect to a Clearing Member or a Basic Clearing Member Termination Event as defined Chapter I Part 6 Number 10.3.1 of the Clearing Conditions with respect to a Basic Clearing Member.

“**Clearing Member**” has the meaning assigned to it in Chapter I Part 1 Number 1.1.3 of the Clearing Conditions. For avoidance of doubt, for purposes of the FCM Default Rules the term does not include an FCM Clearing Member.

“**Clearing Member Termination**” means a termination of Clearing Member Transactions in accordance with the Clearing Conditions.

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“**Clearing Member Termination Date**” means the date of the termination of the relevant Clearing Member Transactions of the relevant Clearing Member in accordance with the Clearing Conditions.

“**Clearing Member Termination Time**” means the time of the termination of the relevant Clearing Member Transactions of the relevant Clearing Member in accordance with the Clearing Conditions.

“**Clearing Member Transaction**” means all proprietary and client-related transactions concluded between a Clearing Member or a Basic Clearing Member and Eurex Clearing AG in accordance with the Clearing Conditions.

“**CM Affected Clearing Member**” means a Clearing Member with respect to which a Clearing Member Termination Date has occurred.

“**CM Contribution**” has the meaning assigned to it in Chapter I Part 1 Number 6.1.1 Paragraph (1) of the Clearing Conditions.

“**CM Contribution Requirement**” means a Contribution Requirement as defined in Chapter I Part 1 Number 6.1.1 Paragraph (2) of the Clearing Conditions.

“**CM Further Contributions**” has the meaning assigned to it in Chapter I Part 1 Number 6.3.1 of the Clearing Conditions.

“**CM Mandatory Participant**” means a Mandatory Participant pursuant to Chapter I Part 1 Number 7.5.3 Paragraph (3) (ii) of the Clearing Conditions.

“**CM Non-Bidding Participant**” has the meaning assigned to it in Chapter I Part 1 Number 7.5.3 Paragraph (3) (v) of the Clearing Conditions.

“**Contribution**” means each CM Contribution, each BCM Contribution (each as defined in the Clearing Conditions) and each FCM Contribution (as defined in Number 3.1.1 Paragraph (1)).

“**Default Fund**” means the default fund of Eurex Clearing AG as set out in Chapter I Part 1 Number 6 of the Clearing Conditions. The Default Fund does not have legal personality and the legal relationships arising in respect thereof shall not constitute any form of internal partnership (*Innengesellschaft*).

“**Eligible Margin Assets**” has the meaning assigned to it in Chapter I Number 3.1.2 Paragraph (1) of the FCM Regulations.

“**EMIR Risk Committee**” has the meaning assigned to it in Chapter I Number 1.5 of the FCM Regulations.

“**Eurex Clearing Website**” has the meaning assigned to it in the Clearing Conditions or FCM Regulations, as applicable.

“**FCM Clearing Agreement**” has the meaning assigned to it in Chapter I Number 1.1.6 of the FCM Regulations.

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“**FCM Clearing Conditions**” means the rules of Eurex Clearing AG for the clearing of Swap Transactions by FCM Clearing Members and comprise the:

- FCM Regulations;
- FCM Default Rules;
- Default Management Committee Rules;
- Default Management Auction Rules;
- the Price List of Eurex Clearing AG; and
- the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG.

“**FCM Clearing Conditions Insolvency Termination Event**” means an Insolvency Termination Event with respect to an FCM Clearing Member as defined Chapter I Part 1 Number 9.2.2 of the FCM Regulations.

“**FCM Clearing Conditions Termination Event**” means a Termination Event as defined in Chapter I Part 1 Number 9.2.1 Paragraph (1) of the FCM Regulations with respect to an FCM Clearing Member.

“**FCM Clearing Currency**” means Euro (“**EUR**”).

“**FCM Clearing License**” means a clearing license granted to an FCM Clearing Member by Eurex Clearing AG pursuant to Chapter I Number 2.1 of the FCM Regulations.

“**FCM Clearing Member**” means an entity that has been granted an FCM Clearing License by Eurex Clearing AG pursuant to Chapter I Number 2.1 of the FCM Regulations.

“**FCM Clearing Member Own Cash Account**” has the meaning assigned to it in Chapter I Number 2.2.10 Paragraph (2) of the FCM Regulations.

“**FCM Clearing Member Proprietary Margin Requirement**” has the meaning assigned to it in Chapter I Number 3.1.1 Paragraph (1) of the FCM Regulations.

“**FCM Clearing Member Transaction**” means a Swap Transaction between Eurex Clearing AG and the relevant FCM Clearing Member pursuant to the FCM Regulations and includes Own Transactions and FCM Client Transactions of such FCM Clearing Member (as those terms are defined in Chapter I Number 1.3.2 of the FCM Regulations).

“**FCM Client**” has the meaning assigned to it in Chapter I Number 1.1.9 of the FCM Regulations.

“**FCM Client Margin Requirement**” has the meaning assigned to it in Chapter I Number 3.1.1 Paragraph (1) of the FCM Regulations.

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**“FCM Non-Bidding Participant”** means each FCM Mandatory Participant that does not submit a Mandatory Bid for any relevant Auction Unit in accordance with the DM Auction Rules during such DM Auction.

**“FCM Regulations”** means the rules of Eurex Clearing AG governed by the substantive laws of the United States and the State of New York for the Clearing of Swap Transactions.

**“Further Contribution”** means each CM Further Contribution, each BCM Further Contribution (each as defined in the Clearing Conditions) and each FCM Further Contribution (as defined in Number 3.3.1).

**“Further Dedicated Amount”** has the meaning assigned to it in Chapter I Part 1 Number 6.3.2 of the Clearing Conditions.

**“Initial Margin”** has the meaning assigned to it in Chapter I Part 1 Number 3.1.8 of the Clearing Conditions and Chapter I Number 1.2.1 of the FCM Regulations, respectively.

**“Interest Rate Derivative Transaction”** has the meaning assigned to it in Chapter I Number 1.1.5 of the FCM Regulations.

**“Margin Requirement”** has the meaning assigned to it in Chapter I Number 3.1.1 Paragraph (1) of the FCM Regulations.

**“Netting Set”** has the meaning assigned to it in Chapter I Number 9.1 of the FCM Regulations.

**“Non-Affected BCM Contribution”** has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

**“Non-Affected BCM Further Contribution”** has the meaning assigned to it in Chapter I Part 1 Number 6.3.1(ii) of the Clearing Conditions.

**“Non-Affected Clearing Member”** means a Clearing Member that is not an Affected Clearing Member.

**“Non-Affected CM Contributions”** has the meaning assigned to it in Chapter I Part 1 Number 6.2 of the Clearing Conditions.

**“Non-Affected FCM Clearing Member”** means an FCM Clearing Member that is not an Affected FCM Clearing Member.

**“Non-Affected FCM Contributions”** means the FCM Contributions excluding any (i) Affected FCM Contribution and (ii) FCM Excess Contribution of a Clearing Member.

**“OTC Interest Rate Derivative Transaction”** has the meaning assigned to it in Chapter VIII Part 2 Number 2.1.1 of the Clearing Conditions.

**“Relevant Liquidation Group”** means each Liquidation Group (as defined in Number 4.1.1) that is composed of Terminated Clearing Member Transactions and/or Terminated FCM Clearing Member Transactions; all Terminated FCM Clearing Member

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Transactions and all Terminated Clearing Member Transactions which do not form part of any Liquidation Group shall collectively be treated as one “**Relevant Liquidation Group**” for the purposes of this Number 3.

“**Swap Transaction**” has the meaning assigned to it in Chapter I Number 1.1.1 of the FCM Regulations.

“**Termination Time**” has the meaning assigned to it in Chapter I Number 1.2.1 of the FCM Regulations.

“**Variation Settlement**” has the meaning assigned to it in Chapter I Number 1.2.1 of the FCM Regulations.

In addition to the defined terms listed in this Number 2, terms used in these FCM Default Rules are defined at the place of its first usage. Where terms are defined by reference to both the Clearing Conditions and the FCM Regulations, the definitions in the Clearing Conditions apply in respect of Clearing Members and the definitions in the FCM Regulations apply in respect of FCM Clearing Members.

### **3 Contributions to the Default Fund by an FCM Clearing Member**

#### **3.1 Contributions to the Default Fund**

##### **3.1.1 Contributions and Calculation of the Contributions to the Default Fund**

- (1) Notwithstanding any Margin Requirement applicable to the FCM Clearing Member in accordance with the FCM Regulations, each FCM Clearing Member shall make contributions to the Default Fund as further set out in this Number 3 (each such contribution to the Default Fund a “**FCM Contribution**”).
- (2) Eurex Clearing AG shall from time to time determine the amount of the FCM Contribution to be made and maintained by an FCM Clearing Member in accordance with the relevant applicable calculation method (the “**FCM Contribution Calculation Method**”). Eurex Clearing AG shall publish the FCM Contribution Calculation Method and any changes thereof on its website ([www.eurexclearing.com](http://www.eurexclearing.com)) pursuant to Chapter I Number 15 of the FCM Regulations.

The basis for the calculation of the contribution requirement of an FCM Clearing Member are all FCM Clearing Member Transactions of such FCM Clearing Member (the “**FCM Contribution Requirement**”).

Eurex Clearing AG may re-evaluate and adjust each FCM Contribution Requirement in accordance with the relevant FCM Contribution Calculation Method at any time and will do so on a regular basis.



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- (3) The obligation of an FCM Clearing Member to make an FCM Contribution becomes first due and payable as of the date of the granting of its FCM Clearing License. Thereafter, an FCM Clearing Member shall be obliged to make an FCM Contribution whenever Eurex Clearing AG has made an adjustment to the FCM Contribution Requirement of the relevant FCM Clearing Member.
- (4) The FCM Clearing Member may with respect to the relevant FCM Contribution provide cash amounts or securities to Eurex Clearing AG in accordance with Number 3.1.2 in excess of the relevant FCM Contribution Requirement (such excess, the "**FCM Excess Contribution**").

### 3.1.2 Provision of FCM Contributions to the Default Fund

- (1) The FCM Clearing Member shall provide the FCM Contributions to the Default 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, with respect to securities, security accounts with Clearstream Banking AG.
- (2) In relation to FCM Contributions provided in the form of cash the following shall apply:
  - (a) Eurex Clearing AG may agree from time to time to pay interest on such cash amounts;
  - (b) Eurex Clearing AG may demand from an FCM Clearing Member the reimbursement of expenses arising from any investment of any such cash amount by Eurex Clearing AG;
  - (c) the FCM Clearing Member shall reimburse Eurex Clearing AG for expenses arising in respect of such cash amounts held by Eurex Clearing AG, including, but not limited to, 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 relevant central bank or relevant commercial bank or governmental agencies in respect of the respective cash amounts.
- (3) In relation to FCM Contributions provided in the form of securities the following shall apply:
  - (a) If Eurex Clearing AG receives, in relation to FCM Contributions in the form of securities, a payment of interest, dividends or other distributions in the form of securities ("**Securities Income**"), or any payment of interest, dividends or other distribution in cash ("**Cash Income**"), Eurex Clearing AG shall transfer to the FCM Clearing Member securities equivalent to and in the same value as the relevant Securities Income and pay to the FCM Clearing Member a cash amount equivalent to and in the same currency as the relevant Cash Income, respectively.

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- (b) Where any voting rights or election rights arise in relation to corporate actions (e.g., the exercise of subscription rights) in relation to any securities provided as FCM Contribution, Eurex Clearing AG shall have no obligation towards the FCM Clearing Member in respect of the exercise of such voting rights or the exercise of such election rights (and the FCM Clearing Member shall not be entitled to provide any instructions to Eurex Clearing AG for the exercise of any such voting or election rights); the FCM Clearing Member shall not be entitled to any compensation in respect of the exercise or non-exercise by Eurex Clearing AG of any such voting or election rights.
- (4) If an FCM Clearing Member does not provide the relevant FCM Contribution within five Business Days in full, Eurex Clearing AG shall be entitled to collect the (outstanding parts of the) relevant FCM Contributions to the Default Fund from the relevant FCM Clearing Member Own Cash Account in accordance with the daily cash clearing procedure pursuant to Chapter I Number 1.4.1 of the FCM Regulations.
- (5) With respect to securities provided by the FCM Clearing Member to Eurex Clearing AG as FCM Contributions using securities accounts with Clearstream Banking AG, Eurex Clearing AG reserves the right to make use of such securities in its discretion in order to support its operations as central counterparty for purposes of liquidity management in relation to its clearing activities by obtaining refinancing from the Eurosystem or entering into repo transactions with commercial counterparties.

The information statement set out in Appendix 3 to the FCM Regulations in accordance with Article 15 of the Regulation on transparency of securities financing transactions and of reuse (Regulation (EU) 2015/2365) is applicable to Eurex Clearing AG and the FCM Clearing Member, if the FCM Clearing Member provides securities to Eurex Clearing AG as FCM Contributions using securities accounts with Clearstream Banking AG.

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

Eurex Clearing AG will dedicate own resources to the Default Fund (the "**Dedicated Amount**") to be used if a Termination Time with respect to one or more FCM Clearing Members, a Clearing Member Termination Date with respect to one or more Clearing Members or a Basic Clearing Member Termination Date with respect to one or more Basic Clearing Members occurs. The Dedicated Amount will be published on the Eurex Clearing Website.

### 3.2 Realization of the Default Fund

Eurex Clearing AG shall have a claim for payment of the Default Fund Secured Claims against (i) the Affected FCM Clearing Member and (ii) any other FCM Clearing Member, provided that the claims under (ii) shall only become due following a Realization Event and shall only be payable out of the FCM Contributions and, subject to this Number 3.2 and Number 3.3, the FCM Further Contributions. The right of Eurex Clearing AG to use

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any Contributions made by Clearing Members and Basic Clearing Members shall remain unaffected. The order of priority set forth in Number 3.2.1 applies.

**“Default Fund Secured Claims”** comprise:

- (1) all claims of Eurex Clearing AG for payments of all amounts which are necessary to cover the losses and financial consequences of the occurrence of a default with respect to an FCM Clearing Member under the FCM Clearing Conditions, including, but not limited to, any outstanding claims resulting from a close-out netting (the **“FCM Clearing Conditions Default Fund Secured Claims”**); and
- (2) the Clearing Conditions Default Fund Secured Claims.

**“Realization Event”** means:

- (1) a **“FCM Clearing Conditions Realization Event”** which occurs upon a Termination Time; and/or
- (2) a Clearing Conditions Realization Event.

3.2.1 In the case of a Realization Event, the Contributions and Further Contributions will be realized in accordance with the following order of priority:

- (1) Affected FCM Contribution, Affected CM Contribution or Affected BCM Contribution First, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of
  - (i) the **Affected FCM Contribution**,
  - (ii) the Affected CM Contribution, or
  - (iii) the Affected BCM Contribution, as applicable.

**“Liquidation Group Ratio”** with respect to this Paragraph (1) means the fraction of the available Affected FCM Contribution, Affected CM Contribution, or Affected BCM Contribution which may be realized with respect to the Relevant Liquidation Group under this Paragraph (1) and which will be determined as follows:

- (I) in the case of Affected FCM Contribution, the ratio of (A) the part of the FCM Contribution Requirement of the Affected FCM Clearing Member applicable to such Relevant Liquidation Group and (B) the FCM Contribution Requirement of the Affected FCM Clearing Member,
- (II) in the case of Affected CM Contribution, the ratio of (A) the part of the CM Contribution Requirement of the CM Affected Clearing Member applicable to such Relevant Liquidation Group and (B) the CM Contribution Requirement of the CM Affected Clearing Member, and
- (III) in the case of Affected BCM Contribution, the ratio of (A) the part of the BCM Contribution Requirement relating to the Affected BCM applicable to such

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Relevant Liquidation Group and (B) the BCM Contribution Requirement relating to the Affected BCM,

- (2) Remainder of the Affected FCM Contribution, Affected CM Contribution and Affected BCM Contribution

Second, Eurex Clearing AG will realise the Remainder Amount relating to the Affected FCM Contribution, Affected CM Contribution, or Affected BCM Contribution.

**“Remainder Amount”** with respect to this Paragraph (2) means in relation to the Affected FCM Clearing Member, the CM Affected Clearing Member, or the Affected BCM the aggregate of all remainders of the Affected FCM Contribution, Affected CM Contribution or Affected FCM Contribution under all Relevant Liquidation Groups which have been determined but have not been realised under Paragraph (1).

Eurex Clearing AG will allocate the Remainder Amount to all Relevant Liquidation Groups with respect to which not all losses have been discharged under Paragraph (1), on a pro-rata basis.

- (3) Affected BCM Further Contribution

Third, only in the case of a BCM Affected Clearing Member, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of the Affected BCM Further Contributions relating to the Affected BCM:

**“Liquidation Group Ratio”** with respect to this Paragraph (3) means the fraction of the available BCM Further Contribution which may be realized with respect to the Relevant Liquidation Group under this Paragraph (3) and which will be determined as the ratio of (A) the part of the requirement to provide Affected BCM Further Contributions applicable to such Relevant Liquidation Group and (B) the aggregate requirement to provide Affected BCM Further Contributions.

- (4) Remainder of BCM Further Contribution

Fourth, only in the case of a BCM Affected Clearing Member, Eurex Clearing AG will realise the Remainder Amount relating to the Affected BCM Further Contribution.

**“Remainder Amount”** with respect to this Paragraph (4) means with respect to the Affected BCM the aggregate of all remainders of the Affected BCM Further Contribution under all Relevant Liquidation Groups which have been determined but have not been realised under Paragraph (3).

Eurex Clearing AG will allocate the Remainder Amount to all Relevant Liquidation Groups, with respect to which not all losses have been discharged under Paragraph (3), on a pro-rata basis.

- (5) Dedicated Amount

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Fifth, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of the Dedicated Amount.

**“Liquidation Group Ratio”** with respect to this Paragraph (5) means the fraction of the available Dedicated Amount which may be realized with respect to the Relevant Liquidation Group under this Paragraph (5) and which will be determined as the ratio of (A) the part of the sum of all Initial Margin requirements (under the Clearing Conditions or the FCM Regulations) and all Additional Margin requirements of all Clearing Members and FCM Clearing Members determined for such Relevant Liquidation Group and (B) the sum of all Initial Margin requirements (under the Clearing Conditions and the FCM Regulations) and all Additional Margin requirements of all Clearing Members and FCM Clearing Members determined for all Relevant Liquidation Groups.

(6) Remainder of Dedicated Amount

Sixth, Eurex Clearing AG will realise the Remainder Amount relating to the Dedicated Amount.

**“Remainder Amount”** means with respect to this Paragraph (6) the aggregate of

- (i) all remainders of the Dedicated Amount under all Relevant Liquidation Groups which have been determined but have not been realised pursuant to Paragraph (5), and
- (ii) the Liquidation Group Ratio of the Dedicated Amount determined under Paragraph (5) relating to any other Liquidation Group which is not a Relevant Liquidation Group.

Eurex Clearing AG will allocate the Remainder Amount to all Relevant Liquidation Groups, with respect to which not all losses have been discharged under Paragraph (5), on a pro-rata basis.

(7) Contributions of non-bidding auction participants and a terminated Clearing Agent

Seventh, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of

- (i) the **Non-Affected FCM Contributions** of all FCM Clearing Members that are FCM Non-Bidding Participants with respect to at least one DM Auction in the Relevant Liquidation Group (excluding any Seniorised Hedging Contributions),
- (ii) the Non-Affected CM Contributions and the Non-Affected BCM Contributions of all Clearing Members and Clearing Agents that are CM Non-Bidding Participants with respect to at least one DM Auction in the Relevant Liquidation Group (excluding any Seniorised Hedging Contributions),
- (iii) the Non-Affected BCM Contributions of the CM Affected Clearing Member,

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- (iv) the Non-Affected FCM Contributions of all FCM Clearing Members that are FCM Non-Bidding Hedging Auction Participants with respect to Hedging Auctions relating to the Relevant Liquidation Group (Juniorised Hedging Contributions), and
- (v) the Non-Affected CM Contributions and the Non-Affected BCM Contributions of all Clearing Members and Clearing Agents that are CM Non-Bidding Hedging Auction Participants with respect to Hedging Auctions relating to the Relevant Liquidation Group (Juniorised Hedging Contributions).

**“Liquidation Group Ratio”** with respect to this Paragraph (7) means the fraction of the available Non-Affected FCM Contributions, Non-Affected CM Contributions or Non-Affected BCM Contributions which may be realized with respect to the Relevant Liquidation Group under Paragraph (7) and which will be determined as follows:

- (I) in the case of Non-Affected FCM Contribution of a FCM Clearing Member that is a FCM Non-Bidding Participant, the ratio of (A) the part of the FCM Contribution Requirement of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (B) the FCM Contribution Requirement of the relevant FCM Clearing Member,
- (II) in the case of Non-Affected CM Contribution of a Clearing Member that is a CM Non-Bidding Participant, the ratio of (A) the part of the CM Contribution Requirement of the relevant Clearing Member applicable to such Relevant Liquidation Group and (B) the CM Contribution Requirement of the relevant Clearing Member,
- (III) in the case of Non-Affected BCM Contribution of a Clearing Agent that is a CM Non-Bidding Participant or the CM Affected Clearing Member, the ratio of (A) the part of the BCM Contribution Requirement relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (B) the BCM Contribution Requirement relating the relevant Basic Clearing Member,
- (IV) in case of a Non-Affected FCM Contribution of a FCM Clearing Member that is a FCM Non-Bidding Hedging Auction Participant, the product of (A) the ratio of (AA) the part of the FCM Contribution Requirement of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (BB) the FCM Contribution Requirement of the relevant FCM Clearing Member and (B) the difference of (AA) the Non-Bidding Hedging Auction Ratio with respect to the Relevant Liquidation Group and (if any) (BB) the Remedied Juniorisation Ratio with respect to the Relevant Liquidation Group,
- (V) in case of Non-Affected CM Contribution of a Clearing Member that is a CM Non-Bidding Hedging Auction Participant, the product of (A) the ratio of (AA) the part of the CM Contribution Requirement of the relevant Clearing Member applicable to such Relevant Liquidation Group and (BB) the CM Contribution Requirement of the relevant Clearing Member and (B) the difference of (AA) the Non-Bidding Hedging Auction Ratio with respect to the Relevant Liquidation

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Group and (if any) (BB) the Remedied Juniorisation Ratio with respect to the Relevant Liquidation Group, or

(VI) in case of a Non-Affected BCM Contribution of a Clearing Agent that is a CM Non-Bidding Hedging Auction Participant, the product of (A) the ratio of (AA) the part of the BCM Contribution Requirement relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (BB) the BCM Contribution Requirement relating to the relevant Basic Clearing Member and (B) the difference of (AA) the Non-Bidding Hedging Auction Ratio with respect to the Relevant Liquidation Group and (if any) (BB) the Remedied Juniorisation Ratio with respect to the Relevant Liquidation Group.

- (8) Remainder of Contributions of non-bidding auction participants and a terminated Clearing Agent

Eighth, Eurex Clearing AG will realize the Applicable CM/FCM Remainder Amount of relating to all FCM Clearing Members, Clearing Members and Clearing Agents that are FCM Non-Bidding Participants, CM Non-Bidding Participants, FCM Non-Bidding Hedging Auction Participants and CM Non-Bidding Hedging Auction Participant and the Clearing Agent that is the CM Affected Clearing Member.

**“Applicable CM/FCM Remainder Amount”** with respect to this Paragraph (8) means the available Non-Affected FCM Contributions, Non-Affected CM Contributions or Non-Affected BCM Contributions of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent which may be realized under this Paragraph (8) and which will be determined as the product of (A) the ratio of (AA) the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent and (BB) the aggregate of all Remainder Amounts of all FCM Clearing Member, Clearing Member, or Clearing Agent and (B) the Default Fund Secured Claims which have not been discharged. The Applicable CM/FCM Remainder Amount cannot exceed the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent.

**“Remainder Amount”** with respect to this Paragraph (8) means with respect to the relevant FCM Clearing Member, Clearing Member, or Clearing Agent the aggregate of all remainders of Non-Affected FCM Contribution, Non-Affected CM Contribution or Non-Affected BCM Contribution of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent under all Relevant Liquidation Groups which have been determined but have not been realised pursuant to Paragraph (7).

In case of the calculation of the Remainder Amount with respect to a Non-Affected BCM Contribution of a Clearing Agent that is the CM Affected Clearing Member, the Remainder Amount shall additionally include all Non-Affected BCM Contributions relating to all BCMs of the relevant Clearing Agent and which relate to any Liquidation Group which is not a Relevant Liquidation Group.

Eurex Clearing AG will allocate all Applicable CM/FCM Remainder Amounts of all FCM Clearing Members, Clearing Members and Clearing Agents to all Relevant

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Liquidation Groups, with respect to which not all losses have been discharged under Paragraph (7), on a pro-rata basis.

- (9) Contributions of FCM Clearing Members and Clearing Members that are not qualifying as non-bidding auction participants

Ninth, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of

- (i) the Non-Affected FCM Contributions of all FCM Clearing Members that are not FCM Non-Bidding Participants with respect to the relevant Liquidation Group (excluding any Juniorised Hedging Contributions and any Seniorised Hedging Contributions), and
- (ii) the Non-Affected CM Contributions and the Non-Affected BCM Contributions of all Clearing Members and Clearing Agents that are not CM Non-Bidding Participants with respect to the relevant Liquidation Group (excluding any Non-Affected BCM Contributions of the CM Affected Clearing Member, any Juniorised Hedging Contributions and any Seniorised Hedging Contributions).

**“Liquidation Group Ratio”** with respect to this Paragraph (9) means the fraction of the available Non-Affected FCM Contributions, Non-Affected CM Contributions or Non-Affected BCM Contributions which may be realized with respect to the Relevant Liquidation Group under this Paragraph (9) and which will be determined as follows:

- (i) in the case of Non-Affected FCM Contribution, the ratio of (A) the part of the FCM Contribution Requirement of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (B) the FCM Contribution Requirement of the relevant FCM Clearing Member,
- (ii) in the case of Non-Affected CM Contribution, the ratio of (A) the part of the CM Contribution Requirement of the relevant Clearing Member applicable to such Relevant Liquidation Group and (B) the CM Contribution Requirement of the relevant Clearing Member, or
- (iii) in the case of Non-Affected BCM Contribution, the ratio of (A) the part of the BCM Contribution Requirement relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (B) the BCM Contribution Requirement relating the relevant Basic Clearing Member.

- (10) Remainder of Contributions of FCM Clearing Members and Clearing Members that are not qualifying as non-bidding auction participants

Tenth, Eurex Clearing AG will realize the Applicable CM/FCM Remainder Amount of all Clearing Members, Clearing Agents and the FCM Clearing Members.

**“Applicable CM/FCM Remainder Amount”** with respect to this Paragraph (10) means the available Non-Affected FCM Contribution, Non-Affected CM Contribution or Non-Affected CM Contribution of the relevant FCM Clearing Member, Clearing Member of Clearing Agent which may be realized under this Paragraph (10) and



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which will be determined as the product of (A) the ratio of (AA) the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent and (BB) the aggregate of all Remainder Amounts of all FCM Clearing Members, Clearing Members, or Clearing Agents and (B) the Default Fund Secured Claims which have not been discharged. The Applicable CM/FCM Remainder Amount cannot exceed the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent.

**“Remainder Amount”** with respect to this Paragraph (10) means with respect to the relevant FCM Clearing Member, Clearing Member, or Clearing Agent, the aggregate of

- (I) all remainders of Non-Affected FCM Contribution, Non-Affected CM Contribution or Non-Affected BCM Contribution of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent under all Relevant Liquidation Groups which have been determined but have not been realised pursuant to Paragraph (9), or
- (II) all Non-Affected FCM Contribution, Non-Affected CM Contributions or Non-Affected BCM Contributions of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent relating to any other Liquidation Group which is not a Relevant Liquidation Group.

Eurex Clearing AG will allocate all Applicable CM/FCM Remainder Amount of all FCM Clearing Members, Clearing Members, or Clearing Agents to all Relevant Liquidation Groups, with respect to which not all losses have been discharged under Paragraph (9), on a pro-rata basis.

(11) Seniorised Hedging Contribution

Eleventh, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of

- (i) the Non-Affected FCM Contributions of all FCM Clearing Members that are Winning Hedging Auction Participants with respect to the relevant Liquidation Group (Seniorised Hedging Contributions), and
- (ii) the Non-Affected CM Contributions and the Non-Affected BCM Contributions of all Clearing Members and Clearing Agents that are Winning Hedging Auction Participants with respect to the relevant Liquidation Group (Seniorised Hedging Contributions).

**“Liquidation Group Ratio”** with respect to this Paragraph (11) means the fraction of the available Non-Affected CM Contributions, Non-Affected BCM Contributions or Non-Affected FCM Contributions which may be realized with respect to the Relevant Liquidation Group under this Paragraph (11) and which will be determined as follows:

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- (I) in the case of Non-Affected FCM Contribution, the product of (A) the ratio of (AA) the part of the FCM Contribution Requirement of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (BB) the FCM Contribution Requirement of the relevant FCM Clearing Member and (B) the Winning Hedging Auction Ratio with respect to the Relevant Liquidation Group,
- (II) in the case of Non-Affected CM Contribution of a Clearing Member, the product of (A) the ratio of (AA) the part of the CM Contribution Requirement of the relevant Clearing Member applicable to such Relevant Liquidation Group and (BB) the CM Contribution Requirement of the relevant Clearing Member and (B) the Winning Hedging Auction Ratio with respect to the Relevant Liquidation Group, or
- (III) in the case of Non-Affected BCM Contribution of a Clearing Agent, the product of (A) the ratio of (AA) the part of the BCM Contribution Requirement relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (BB) the BCM Contribution Requirement relating to the relevant Basic Clearing Member and (B) the Winning Hedging Auction Ratio with respect to the Relevant Liquidation Group.

(12) Remaining Seniorised Hedging Contributions

Twelfth, Eurex Clearing AG will realize the Applicable CM/FCM Remainder Amount of all FCM Clearing Members, Clearing Members and Clearing Agents that are Winning Hedging Auction Participants.

**“Applicable CM/FCM Remainder Amount”** with respect to this Paragraph (12) means the available Non-Affected FCM Contribution, Non-Affected CM Contribution or Non-Affected BCM Contributions of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent which may be realized under this Paragraph (12) and which will be determined as the product of (A) the ratio of (AA) the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent and (BB) the aggregate of all Remainder Amounts of all FCM Clearing Members, Clearing Members and Clearing Agents and (B) the Default Fund Secured Claims which have not been discharged. The Applicable CM/FCM Remainder Amount cannot exceed the Remainder Amount of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent.

**“Remainder Amount”** with respect to this Paragraph (12) means with respect to the relevant FCM Clearing Member, Clearing Member, or Clearing Agent the aggregate of all remainders of Non-Affected FCM Contribution, Non-Affected CM Contribution or Non-Affected BCM Contribution of the relevant FCM Clearing Member, Clearing Member, or Clearing Agent under all Relevant Liquidation Groups which have been determined but have not been realised pursuant to Paragraph (11).

Eurex Clearing AG will allocate all Applicable CM/FCM Remainder with respect Amounts of all FCM Clearing Members, Clearing Members and Clearing Agents to

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all Relevant Liquidation Groups, with respect to which not all losses have been discharged under Paragraph (11), on a pro-rata basis.

(13) Further Contributions of non-bidding auction participants

Thirteenth, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of

- (i) the FCM Further Contributions of all FCM Clearing Members that are FCM Non-Bidding Participants with respect to at least one DM Auction in the Relevant Liquidation Group and
- (ii) the CM Further Contributions and Non-Affected BCM Further Contributions of all Clearing Members and Clearing Agents that are CM Non-Bidding Participants with respect to at least one DM Auction in the Relevant Liquidation Group.

**“Liquidation Group Ratio”** with respect to this Paragraph (13) means the fraction of the available FCM Further Contribution, CM Further Contribution and Non-Affected BCM Further Contribution which may be realized under this Paragraph (13) and which will be determined as follows:

- (I) in the case of FCM Further Contribution, the ratio of (A) the part of the requirement to provide FCM Further Contributions of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (B) the aggregate requirement to provide FCM Further Contributions of the relevant FCM Clearing Member,
- (II) in the case of CM Further Contribution, the ratio of (A) the part of the requirement to provide CM Further Contributions of the relevant Clearing Member applicable to such Relevant Liquidation Group and (B) the aggregate requirement to provide CM Further Contributions of the relevant Clearing Member, or
- (III) in the case of Non-Affected BCM Further Contribution, the ratio of (A) the part of the requirement to provide Non-Affected BCM Further Contributions relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (B) the requirement to provide Non-Affected BCM Further Contributions relating to the relevant Basic Clearing Member.

(14) Further Contributions of FCM Clearing Members and Clearing Members that are not qualifying as non-bidding auction participant

Fourteenth, Eurex Clearing AG will, with respect to the losses arising from a Relevant Liquidation Group, realize the applicable Liquidation Group Ratio of

- (i) the FCM Further Contributions of all FCM Clearing Members that are not FCM Non-Bidding Participants with respect to the Relevant Liquidation Group,
- (ii) the CM Further Contributions and the Non-Affected BCM Further Contributions of all Clearing Members that are CM Non-Bidding Participants with respect to the Relevant Liquidation Group, and

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(iii) the Further Dedicated Amount.

Eurex Clearing AG shall realize the applicable Liquidation Group Ratio of

- (a) the FCM Further Contributions of all FCM Clearing Members that are not FCM Non-Bidding Participants,
- (b) the CM Further Contributions and the Non-Affected BCM Further Contributions of all Clearing Members that are not CM Non-Bidding Participants and
- (c) the Further Dedicated Amount

on a pro rata basis.

The sum of all Further Dedicated Amounts with respect to all Liquidation Groups shall not exceed the amount of EUR 300,000,000.

“**Liquidation Group Ratio**” with respect to this Paragraph (14) means the fraction of the available FCM Further Contribution, CM Further Contribution, Non-Affected BCM Further Contribution and Further Dedicated Amount which may be realized under this Paragraph (14) and which will be determined as follows:

- (I) in the case of FCM Further Contribution, the ratio of (A) the part of the requirement to provide FCM Further Contributions of the relevant FCM Clearing Member applicable to such Relevant Liquidation Group and (B) the aggregate requirement to provide FCM Further Contributions of the relevant FCM Clearing Member,
- (II) in the case of CM Further Contribution, the ratio of (A) the part of the requirement to provide CM Further Contributions of the relevant Clearing Member applicable to such Relevant Liquidation Group and (B) the aggregate requirement to provide CM Further Contributions of the relevant Clearing Member,
- (III) in the case of Non-Affected BCM Further Contribution, the ratio of (A) the part of the requirement to provide Non-Affected BCM Further Contributions relating to the relevant Basic Clearing Member applicable to such Relevant Liquidation Group and (B) the requirement to provide Non-Affected BCM Further Contributions relating to the relevant Basic Clearing Member, or
- (IV) in the case of Further Dedicated Amount, the product of (a) the applicable Liquidation Group Ratio determined with respect to the Dedicated Amount pursuant to Paragraph (5) above and (b) the ratio of (A) the sum of all Further Contributions, which have actually been delivered to Eurex Clearing AG with respect to the Relevant Liquidation Group and (B) the sum of all Further Contributions that Eurex Clearing AG is entitled to require with respect to the Relevant Liquidation Group up to the Liability Cap.

### 3.2.2 Further requirements with respect to the order of priority

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In addition, Eurex Clearing AG considers the following requirements when determining the order of priority in accordance with Number 3.2.1:

- (a) With respect to the realisation of the Contributions and the Dedicated Amount under Paragraphs (1), (2), (3), (4), (5), (6), (7), (9), (11), (13) and (14), the order of priority shall be applied to all Relevant Liquidation Groups simultaneously before, in each case, the respective next paragraph is applied.
- (b) If, in the case of Paragraphs (7), (9), (11), (13) and (14), with respect to a Relevant Liquidation Group the available
  - (i) the Non-Affected FCM Contributions (or FCM Further Contributions),
  - (ii) the Non-Affected CM Contributions (or CM Further Contributions),
  - (iii) the Non-Affected BCM Contributions (or Non-Affected BCM Further Contributions), or
  - (iv) (the Juniorised Hedging Contributions or Seniorised Hedging Contributions
 of several FCM Clearing Members or Clearing Members exceeds the amount needed to discharge the claims in respect of the Relevant Liquidation Group, Eurex Clearing shall distribute the losses to the relevant FCM Clearing Members, Clearing Members or Clearing Agents on a pro-rata basis.

### 3.2.3 Repayment by Eurex Clearing AG

If, subsequent to a realization of the Default Fund, an Affected FCM Clearing Member, Affected Clearing Member or Affected BCM makes a payment to Eurex Clearing AG to fulfil the Default Fund Secured Claims, or if the Default Fund Secured Claims are otherwise discharged after Eurex Clearing AG has realized the Dedicated Amount or Non-Affected FCM Contributions (or FCM Further Contributions) or Non-Affected CM Contributions (or CM Further Contributions) or Non-Affected BCM Contributions (or Non-Affected BCM Further Contributions) to the Default Fund, Eurex Clearing AG shall use the funds received in order to (i) repay the realized FCM Further Contributions, CM Further Contributions and Non-Affected BCM Further Contributions to the relevant FCM Clearing Member(s), Clearing Member(s) and Clearing Agent(s), respectively, (ii) repay the realized Non-Affected FCM Contributions, Non-Affected CM Contributions and Non-Affected BCM Contributions to the Default Fund to the relevant FCM Clearing Member(s), Clearing Member(s) and Clearing Agent(s), respectively, (iii) reinstate the realized Dedicated Amount and (iv) repay the realized Affected BCM Contributions (and Affected BCM Further Contributions) to the BCM Affected Clearing Member. The payments by Eurex Clearing AG shall be made in reverse order of Number 3.2.1 and shall in the aggregate be limited to the amounts received by Eurex Clearing AG.

### 3.3 Further Contributions to the Default Fund (Assessments); Replenishment of Contributions to the Default Fund

3.3.1 If, following a Realization Event, Eurex Clearing AG determines that the Contributions may not be sufficient to cover the respective claims secured by the Default Fund in

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accordance with Number 3.2.1 above, it shall at its discretion be entitled to require within a Capped Period, by making one or several demands:

- (1) from the BCM Affected Clearing Member, Affected BCM Further Contributions;
- (2) from the Non-Affected Clearing Members and the BCM Affected Clearing Member, CM Further Contributions or Non-Affected BCM Further Contributions, and
- (3) from the Non-Affected FCM Clearing Member, further FCM Contributions (the **“FCM Further Contributions”**).

When determining the relevant FCM Further Contributions with respect to the relevant FCM Clearing Member, Eurex Clearing AG shall reduce the relevant FCM Further Contributions by the relevant FCM Excess Contribution actually delivered to Eurex Clearing AG by such FCM Clearing Member (if any). The Affected FCM Clearing Member shall, subject to the Liability Cap, be obliged to make such FCM Further Contributions to the Default Fund in each case as soon as possible but no later than one Business Day following receipt of Eurex Clearing AG's demand. If an FCM Clearing Member does not provide the relevant FCM Further Contribution within one Business Day in full, Eurex Clearing AG shall be entitled to collect the (outstanding parts of the) relevant FCM Further Contributions to the Default Fund from the relevant FCM Clearing Member in accordance with the daily cash clearing procedure pursuant to Chapter I Number 1.4.1 of the FCM Regulations.

The **“Liability Cap”** with respect to each of the FCM Further Contributions, the CM Further Contributions, the Affected BCM Further Contributions and the Non-Affected BCM Further Contributions shall be two times the related originally applicable Contribution Requirement to the Default Fund and shall apply for the relevant Capped Period.

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

A Non-Affected FCM Clearing Member shall not be obliged to pay FCM Further Contributions, if such Non-Affected FCM Clearing Member has terminated its FCM

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Clearing License and such terminations have become effective prior to the start of the respective Capped Period.

If an FCM Clearing Member whose FCM Clearing Agreement with Eurex Clearing AG has been terminated has not settled all FCM Clearing Member Transactions relating to it (or to any of its FCM Clients) within a Capped Period, such FCM Clearing Member remains liable for any subsequent Capped Period(s) for making FCM Further Contributions until it is no longer a party to (or agent in respect of) any FCM Clearing Member Transactions with Eurex Clearing AG.

Without undue delay after the end of each Capped Period, each Non-Affected FCM Clearing Member shall be obliged to replenish the Default Fund up to the relevant FCM Contribution Requirements. If Eurex Clearing AG has not liquidated all Terminated Clearing Member Transactions (as defined in Number 4) of the Affected Clearing Member or Terminated FCM Clearing Member Transactions of the Affected FCM Clearing Member during the default management process by the end of the of the Capped Period, the obligation of the Non-Affected FCM Clearing Member to replenish the Default Fund up to the relevant FCM Contribution Requirements shall become due upon the liquidation of the last Terminated Clearing Member Transaction of the Affected Clearing Member or last Terminated FCM Clearing Member Transaction of the Affected FCM Clearing Member, respectively. This shall not apply if a Non-Affected FCM Clearing Member has terminated its Clearing License and all its FCM Clearing Member Transactions have been cancelled, closed or fulfilled before the end of the Capped Period.

For the avoidance of doubt, nothing in this Number 3.3 shall exclude or limit Eurex Clearing AG's rights and claims against the Affected FCM Clearing Member.

- 3.3.2 If Eurex Clearing AG requires Further Contributions, Eurex Clearing AG will allocate further own funds to the Default Fund ("**Further Dedicated Amount**"). Eurex Clearing AG will determine the Further Dedicated Amount separately for each Liquidation Group. The Further Dedicated Amount is determined by reference to the *pro rata* amount of the sum of any Further Contributions actually delivered to Eurex Clearing AG. Eurex Clearing AG will allocate a Further Dedicated Amount to the Default Fund up to a maximum amount of EUR 300,000,000. Such maximum amount shall cover all future Realization Events irrespective of whether they occur within one or more Capped Periods.

### **3.4 Release of the FCM Contributions to the Default Fund**

- 3.4.1 With respect to each FCM Excess Contribution, the FCM Clearing Member may at any time request from Eurex Clearing AG the release of cash amounts or securities with a maximum value corresponding to the relevant FCM Excess Contribution. Such request shall be made in writing and with an appropriate prior notice period.
- 3.4.2 If the FCM Clearing License of an FCM Clearing Member have been terminated, Eurex Clearing AG shall release the relevant FCM Contributions of the respective FCM Clearing Member to the Default Fund as follows:
- (1) 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) 30 days after the day upon which all

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FCM Clearing Member Transactions in the accounts of the respective FCM Clearing Member have been settled; and

- (2) 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) 30 days after the day upon which all FCM Clearing Member Transactions in the accounts of the respective FCM Clearing Member have been settled.

### 3.5 Interpretation

(Further) FCM Contributions do not form part of the Eligible Margin Assets held by Eurex Clearing AG in respect of any FCM Clearing Proprietary Margin Requirement, FCM Client Margin Requirement or Variation Settlement, and a claim of an FCM Clearing Member against Eurex Clearing AG to return (Further) FCM Contributions does not form part of any Netting Set.

## 4 Default Management Process

Eurex Clearing AG maintains a default management process (“**DMP**”) to reduce the risks following a default of an FCM Clearing Member as described in the FCM Regulations and these FCM Default Rules or following a default of a Clearing Member or a Basic Clearing Member 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 (*Vorstand*) of Eurex Clearing AG with respect to the consequences of a termination of an FCM Clearing Member, a Clearing Member or a Basic Clearing Member and all other matters specified in the FCM Clearing Conditions and in the Clearing Conditions.

Where, in this Number 4, reference is made to (i) “**Terminated Clearing Member Transactions**”, such reference shall refer to all terminated Clearing Member Transactions of the CM Affected Clearing Member or the BCM Affected Clearing Member entered into in accordance with the Clearing Conditions and (ii) “**Terminated FCM Clearing Member Transactions**”, such reference shall refer to all FCM Clearing Member Transactions that are treated as if they are terminated in accordance with Chapter I Number 9.2.3 of the FCM Regulations.

Each FCM 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.

### 4.1 Default Management Committees

- 4.1.1 Eurex Clearing AG shall establish one or more default management committee(s) in accordance with this Number 4.1.1 and the DMC Rules (each a “**Default Management Committee**” or “**DMC**”).

A DMC may be established



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- (i) for one specific Liquidation Group or
- (ii) for two or more Liquidation Groups.

“**Liquidation Group**” means a combination of FCM Clearing Member Transactions and/or Clearing Member Transactions and relating to one or more types of transactions that are offered by Eurex Clearing AG for clearing under the FCM Clearing Conditions or the Clearing Conditions or parts thereof, as determined and published in accordance with Number 5.1 (ii) 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.

#### 4.1.2 Eurex Clearing AG has the right to convene a meeting of one or more DMCs

- (i) upon the occurrence of an FCM Clearing Conditions Termination Event, an FCM Clearing Conditions Insolvency Termination Event, a Clearing Conditions Termination Event or a Clearing Conditions Insolvency Termination Event,
- (ii) for Default Simulations, or
- (iii) 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**”):

- (1) the establishment of DM Hedging Transactions pursuant to Number 4.2, including the selection of the relevant counterparties and the relevant hedging terms and strategy, and the assistance in the execution of DM Hedging Transactions;
- (2) the holding of one or more DM Auctions pursuant to Number 4.2, including the timing, the procedures and the terms and conditions of a DM Auction;
- (3) the establishment of FCM Clearing Member Transactions or Clearing Member Transactions by way of independent trades pursuant to Number 4.3; and
- (4) any further matters relating to the consequences and risks of an FCM Clearing Conditions Termination Event, an FCM Clearing Conditions Insolvency Termination Event, a Clearing Conditions Termination Event or a Clearing Conditions Insolvency Termination Event.

If there is at least one Interest Rate Derivative Transaction among the Terminated FCM Clearing Member Transactions or one OTC Interest Rate Derivative Transaction among the Terminated Clearing Member Transactions, respectively, Eurex Clearing AG shall, subject to Number 2.4.4 Paragraph (6) of the DMC Rules, in any event convene a DMC Meeting (as defined in the DMC Rules) for such DMC that has been established with respect to the Liquidation Group to which such Interest Rate Derivative Transaction or OTC Interest Rate Derivative Transaction belongs.

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- 4.1.3 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 Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* – “**BaFin**”) if the executive board (*Vorstand*) of Eurex Clearing AG decides not to follow the advice of a DMC.
- 4.1.4 Each DMC is governed by this Number 4.1 and the rules set forth in the Default Management Committees Rules (as defined in the FCM Regulations) governed by the laws of the Federal Republic of Germany, as published by Eurex Clearing AG on the Eurex Clearing Website (such rules, as amended from time to time, the “**DMC Rules**”). The DMC Rules may be obtained from Eurex Clearing AG upon request.
- 4.1.5 The members of a DMC (the “**DMC Members**”) and the deputies of such DMC Members (the “**DMC Deputies**”) are appointed in accordance with the DMC Rules. Unless otherwise provided for in the DMC Rules, DMC Members and DMC Deputies are employees of a Clearing Member or an FCM Clearing Member, respectively, but act under a mandate (*Auftrag*) of Eurex Clearing AG during the meetings of the relevant DMC.
- 4.1.6 Whenever a DMC Member or its DMC Deputy assists Eurex Clearing AG in the execution of DM Hedging Transactions or other legal declarations, such DMC Member or DMC Deputy must act as messenger (i.e. as “*Bote*” under German law or a similar capacity under the laws of another jurisdiction, as applicable) and shall not have the rights of, or be deemed to be, an attorney in fact (i.e. as a “*Stellvertreter*” or in any other capacity under the law of another jurisdiction that would enable it to act on a principal’s behalf and directly bind the principal) of Eurex Clearing AG.
- 4.1.7 Each FCM Clearing Member is obliged to sign an agreement for the participation in a DMC (governed by the laws of the Federal Republic of Germany) 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.
- 4.1.8 Eurex Clearing AG will inform each FCM 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 this Number 4.1 and the DMC Rules.

## 4.2 **DM Hedging Transactions**

### (1) **General Provisions**

At any time after the Termination Time or the Basic Clearing Member Termination Time or the Clearing Member Termination Time, Eurex Clearing AG may in its discretion enter into transactions with respect to claims or obligations under the related FCM Clearing Member Transactions or Clearing Member Transactions in order to hedge the effects of the Terminated FCM Clearing Member Transactions or the Terminated Clearing Member Transactions (the “**DM Hedging Transactions**”

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and each a “**DM Hedging Transaction**”). DM Hedging Transactions may be of any type of transactions that are offered by Eurex Clearing AG for clearing under the FCM Clearing Conditions or the Clearing Conditions. The costs and expenses incurred in connection with the entering into DM Hedging Transactions are 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.

## (2) Hedging Auctions

At any time after the Termination Time, Clearing Member Termination Time or the Basic Clearing Member Termination Time, Eurex Clearing AG may conduct one or more auctions with respect to one or several Liquidation Groups (“**Hedging Auction**”) to establish DM Hedging Transactions.

- (i) Hedging Auctions shall also be governed by the DM Auction Rules. In case of any conflicts between (i) the following provisions under this Number 4.2 (2) and (ii) the DM Auction Rules, the provisions under this Number 4.2 (2) shall prevail.
- (ii) Hedging Auctions will be conducted with regard to each Liquidation Group and one or several Hedging Auction Units. Hedging Auctions may relate to any Swap Transaction or any other transaction type cleared under the Clearing Conditions, which Eurex Clearing AG (after consultation with the relevant DMC(s)) considers (i) to be suitable to hedge the effects of the Terminated FCM Clearing Member or the Terminated Clearing Member Transactions and (ii) to be the most liquid transaction types of the relevant Liquidation Group.

A “**Hedging Auction Unit**” means one unit or several identically composed units of DM Hedging Transactions of the relevant applicable Liquidation Group(s).

- (iii) To be able to participate in Hedging Auctions, an FCM Clearing Member must become a Hedging Auction Participant.

“**Hedging Auction Participant**” means any FCM Clearing Member, which meets the requirements under Paragraph (a) and has signed the Hedging Auction Participation Agreement in the form as attached to the DM Auction Rules.

Eurex Clearing AG will select the Hedging Auction Participants in accordance with the following provisions:

### (a) General requirements

An FCM Clearing Member can only become a Hedging Auction Participant with respect to the relevant Liquidation Group, if such FCM Clearing Member fulfils the following requirements:

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- (i) holding a Clearing Licence with respect to all transaction types Eurex Clearing AG deems typical for DM Hedging Transactions for the relevant Liquidation Group,
- (ii) having the necessary account structure to settle all DM Hedging Transactions comprised in the relevant Hedging Auction Unit,
- (iii) having a significant size with an appropriate capability from an operational and risk management perspective to be able to clear the specific volumes in potential DM Hedging Transactions Eurex Clearing AG deems - in its own discretion - necessary to qualify as Hedging Auction Participant, and
- (iv) with respect to which no Termination Event or Insolvency Termination Event has occurred and is continuing.

(b) Hedging Auction Participant on voluntary basis

An FCM Clearing Member may become Hedging Auction Participant by signing the Hedging Auction Participation Agreement on voluntary basis.

Eurex Clearing AG may contact any FCM Clearing Member, which fulfils all the requirements enlisted under paragraph (a) above to ask such FCM Clearing Member to sign the Hedging Auction participation Agreement on a voluntary basis.

As of the signing of the Hedging Auction Participation Agreement by the selected FCM Clearing Member and Eurex Clearing AG, such FCM Clearing Member becomes a Hedging Auction Participant.

(c) Hedging Auction Participant on non-voluntary basis

If the selection process for a voluntary participation pursuant to Paragraph (b) does not result in a number of Hedging Auction Participants per Liquidation Group Eurex Clearing AG deems – in its own discretion – necessary to conduct successful Hedging Auctions, Eurex Clearing AG will rank the other FCM Clearing Members and Clearing Members based on their respective cleared volumes in Own Transactions in the last three months in the relevant Liquidation Group (whereby Clearing Members with higher cleared volumes will be ranked first). Eurex Clearing AG will select the Hedging Auction Participants in accordance with such ranking.

Eurex Clearing AG will inform each selected FCM Clearing Member of its selection as Hedging Auction Participant without undue delay.

Each selected Hedging Auction Participant is obliged to sign the Hedging Auction Participation Agreement within the next 10 Business Days after the date on which it was informed about the selection by Eurex Clearing AG. As of the signing of the Hedging Auction Participation Agreement by the selected FCM

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Clearing Member and Eurex Clearing AG, the FCM Clearing Member becomes a Hedging Auction Participant.

- (iv) With respect to each Hedging Auction, Eurex Clearing AG will invite all or some Hedging Auction Participants to participate in the relevant Hedging Auction in accordance with the DM Auction Rules.

When selecting the Hedging Auction Participants to be invited to Hedging Auctions, Eurex Clearing AG will also consider the prices and indicative prices for potential DM Hedging Transactions the Hedging Auction Participants provided via the Hedging Surveys.

To enable Eurex Clearing AG to determine which Hedging Auction Participants are the most suitable and capable to participate in the relevant Hedging Auctions, Eurex Clearing will submit surveys to all Hedging Auction Participants with the request to provide bid-offer-spreads with respect to potential DM Hedging Transactions (depending on the Clearing Licences held by the relevant Hedging Auction Participant) ("**Hedging Surveys**"). The Hedging Auction Participant shall complete the Hedging Survey and send it back to Eurex Clearing AG within three weeks after its receipt.

- (v) Each Hedging Auction Participant, which is invited to a Hedging Auction, is obliged
- (a) to participate in such Hedging Auction and
  - (b) to provide a mandatory bid for the minimum number of Hedging Auction Units ("**Minimum Hedging Auction Unit Number**") as specified by Eurex Clearing AG for such DM Hedging Auction (each a "**Mandatory Hedging Bid**").

The Minimum Hedging Auction Unit Number will be determined for each Hedging Auction and will (generally) be identical for all Hedging Auction Participants invited to such Hedging Auction.

- (vi) A Mandatory Hedging Bid is only valid, if it is economically reasonable taking into account the current market conditions.

A Mandatory Hedging Bid is generally economically reasonable, if the following requirements are met:

- (a) the Hedging Auction Participant provides, in respect of the relevant Hedging Auction Unit, two bids on the following basis: (i) one bid for a Hedging Auction Unit based on the portfolio comprising the DM Hedging Transactions and (ii) one bid for a Hedging Auction Unit based on a portfolio comprising transactions opposite to the DM Hedging Transactions, and
- (b) the spread between the two bids for the relevant Hedging Auction Unit does not exceed the Maximum Hedging Spread Value.

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The “**Maximum Hedging Spread Value**” will be determined by Eurex Clearing AG in the Specific Terms in accordance with the relevant applicable calculation method. Eurex Clearing AG will publish the calculation method and any changes thereof on the Eurex Clearing Website pursuant to Number 16.1.

Eurex Clearing AG will not disclose which of the two portfolios comprises the DM Hedging Transactions and which comprises the opposite DM Hedging Transactions.

Mandatory Hedging Bids which are not valid are deemed not to have been provided (“**Invalid Hedging Bid**”).

- (vii) Subject to Paragraph (viii), the Contributions of an FCM Clearing Member qualifying as a Hedging Auction Participant that
- (a) submits an Invalid Hedging Bid for an Auction Unit, or
  - (b) does not submit a Mandatory Hedging Bid for an Auction Unit

(“**FCM Non-Bidding Hedging Auction Participant**”) shall be partly or fully juniorised (“Juniorised Hedging Contributions”).

The Juniorised Hedging Contributions shall be calculated for each Liquidation Group pursuant to Number 6.2.1 (7) and (8) considering the Non-Bidding Hedging Auction Ratio.

“**Non-Bidding Hedging Auction Ratio**” means the ratio of (I) the aggregate of the number of Invalid Hedging Bids and the number of Hedging Auction Units for which the FCM Non-Bidding Hedging Auction Participant did not submit a Mandatory Hedging Bid with respect to the relevant Liquidation Group and (II) the Minimum Hedging Auction Unit Number with respect to the relevant Liquidation Group (“**Non-Bidding Hedging Auction Ratio**”).

- (viii) Each FCM Non-Bidding Hedging Auction Participant shall have the option to partly or fully remedy the juniorisation of its Contribution pursuant Paragraph (vii) above, by providing the winning Bid (in accordance with the DM Auction Rules) in DM Auctions to which the FCM Non-Bidding Hedging Auction Participant was invited by Eurex Clearing AG as FCM Mandatory Participant (“**Remedied Juniorised Hedging Contribution**”).

Eurex Clearing AG will consider the Remedied Juniorised Hedging Contributions when calculating the Juniorised Hedging Contribution for each Liquidation Group pursuant to Number 3.2.1 (7) and (8) via the Remedied Hedging Auction Ratio.

“**Remedied Hedging Auction Ratio**” means the ratio of (I) the number of winning Bids in DM Auctions with respect to the relevant Liquidation Group and (II) the number of Auction Units for which the FCM Non-Bidding Hedging Auction Participant was obliged to provide Mandatory Bids with respect to the

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relevant Liquidation Group. For the avoidance of doubt, the Remedied Hedging Auction Ratio cannot exceed the Non-Bidding Hedging Auction Ratio.

- (ix) If a Hedging Auction Participant provides a winning Mandatory Hedging Bid in a Hedging Auction as determined by Eurex Clearing AG in accordance with the DM Auction Rules (“**Winning Hedging Auction Participant**”), the Contributions of such Winning Hedging Auction Participant shall be partly or fully seniorised (“**Seniorised Hedging Contributions**”).

The Seniorised Hedging Contributions shall be calculated for each Liquidation Group pursuant to Number 6.2.1 (11) and (12) considering the Winning Hedging Auction Ratio.

“**Winning Hedging Auction Ratio**” means the ratio between (I) the number of winning Mandatory Hedging Bids in Hedging Auctions with respect to the relevant Liquidation Group and (II) the Minimum Hedging Auction Unit Number with respect to the relevant Liquidation Group. For the avoidance of doubt, the Winning Hedging Auction Ratio cannot exceed 1 (one).

- (x) 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.

### 4.3 Establishment of FCM Clearing Member Transactions by way of independent trades or by conducting DM Auctions

4.3.1 At any time after the Termination Time, the Basic Clearing Member Termination Time or the Clearing Member Termination Time, Eurex Clearing AG may in its discretion, take the following measures:

- (1) Enter into independent trades to
    - (i) establish new FCM Clearing Member Transactions or new Clearing Member Transactions equivalent (except, as relevant, for the governing law) to Terminated FCM Clearing Member Transactions or Terminated Clearing Member Transactions and/or new FCM Clearing Member Transactions or new Clearing Member Transactions reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions, and
    - (ii) buy or sell securities underlying the Terminated FCM Clearing Member Transactions or Terminated Clearing Member Transactions which are required to enter into new FCM Clearing Member Transactions or Clearing Member Transactions, as deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s).
- ((i) and (ii) collectively the “**Independent Trade Transactions**” and each an “**Independent Trade Transaction**”)

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- (2) If it is deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC, Eurex Clearing AG may 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
- (i) new FCM Clearing Member Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent to Terminated FCM Clearing Member Transactions or equivalent (except for the governing law) to Terminated Clearing Member Transactions and/or reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions or
- (ii) new Clearing Member Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent (except for the governing law) to Terminated FCM Clearing Member Transactions of the Affected FCM Clearing Member or equivalent to Terminated Clearing Member Transactions of the Affected Clearing Member and/or reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions
- ((i) and (ii) collectively the “**DM Auction Transactions**” and each a “**DM Auction Transaction**”).

Prior to a DM Auction, Eurex Clearing AG shall only enter into independent trades pursuant to Paragraph (1) against the recommendation of the relevant DMC(s), if the entering into such trades does not result in a realization of Contributions of Non-Affected Clearing Members or Non-Affected FCM Clearing Members in accordance with Number 3.2.1 and if the terms and conditions of the resulting FCM Clearing Member Transactions or Clearing Member Transactions are fixed prior to entering into the respective trades. If Eurex Clearing AG does not enter into independent trades pursuant to Paragraph (1) with respect to particular Terminated FCM Clearing Member Transactions or Terminated Clearing Member Transactions, one or more DM Auctions shall be held with respect to such Terminated FCM Clearing Member Transactions or Terminated Clearing Member Transactions.

4.3.2 DM Auctions are governed by the rules set forth in the Default Management Auction Rules (as defined in the FCM Regulations) governed by German law, as published by Eurex Clearing AG on the Eurex Clearing Website (such rules, as amended from time to time, the “**DM Auction Rules**”). The DM Auction Rules may be obtained from Eurex Clearing AG upon request.

4.3.3 The following provisions apply to FCM Clearing Members in respect of DM Auctions that relate to Terminated FCM Clearing Member Transactions that are Interest Rate Derivative Transactions or to Terminated Clearing Member Transactions that are OTC Interest Rate Derivative Transactions:

- (1) DM Auctions will be conducted with respect to one Auction Unit per currency in which the relevant DM Auction Transactions are denominated. Each Auction Unit will generally consist of all DM Auction Transactions denominated in the same currency.



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**“Auction Unit”** means one unit of DM Auction Transactions of the relevant applicable Liquidation Group, as specified by Eurex Clearing AG after consultation with the relevant DMC(s).

- (2) A FCM Mandatory Participant shall either (a) be obliged to participate in DM Auctions in accordance with Paragraphs (3) to (6) and the DM Auction Rules or (b) appoint a Clearing Member to act as Selected Auction Participant in accordance with the DM Auction Rules to participate in the relevant DM Auction on such Selected Auction Participant's own behalf and ensure that such Selected Auction Participant submits the relevant number of Selected Auction Participant Sufficient Bids for the relevant Auction Units.

**“FCM Mandatory Participant”** means each FCM Clearing Member (i) holding an FCM 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 prior to the relevant Termination Time, Clearing Member Termination or Basic Clearing Member Termination, at least one FCM Clearing Member Transaction has been booked on a respective account, which corresponds to the transaction types comprised in the Relevant Liquidation Group and (iv) with respect to which no FCM Clearing Conditions Termination Event or FCM Clearing Conditions Insolvency Termination Event has occurred and is continuing.

**“Selected Auction Participant”** means a Clearing Member that has been appointed to act as a Selected Auction Participant and has accepted such appointment, in each case in accordance with the DM Auction Rules.

**“Selected Auction Participant Sufficient Bid”** means a Bid by a Selected Auction Participant that, if such Bid were a Mandatory Bid, would qualify as a Sufficient Bid.

- (3) Each FCM Mandatory Participant is obliged to submit one Bid (each a **“Mandatory Bid”**) for the respective Auction Unit with respect to all currencies for which such FCM Mandatory Participant holds an FCM Clearing License, subject to the DM Auction Rules.

**“Bid”** has the meaning assigned to such term in the DM Auction Rules.

Each Mandatory Bid is generally valid, and the highest valid Bid shall be accepted by Eurex Clearing AG as the winning Bid with respect to each Auction Unit.

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 DM Auction Transactions in the relevant Auction Unit (the **“Auction Unit Margin Amount”**).

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- (b) The Mandatory Bid qualifies as an “**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 a “**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 to or smaller than the Insufficient Bid Threshold.
- (4) Each FCM Mandatory Participant (i) that does not submit a Sufficient Bid for the relevant Auction Unit in accordance with this Number 4.3.3 and the DM Auction Rules or (ii) if such FCM Mandatory Participant has appointed a Selected Auction Participant, whose Selected Auction Participant does not submit a Selected Auction Participant Sufficient Bid in accordance with this Number 4.3.3 and the DM Auction Rules during the relevant DM Auction, shall be subject to the following contractual penalty:
- (a) If the FCM Mandatory Participant submits an Insufficient Bid (or if its Selected Auction Participant submits a Selected Auction Participant Insufficient Bid) and if, following a Realization Event in relation to the relevant Affected FCM Clearing Member or the relevant Affected Clearing Member (but not with respect to any other Realization Event), Contributions of Non-Affected FCM Clearing Members and/or Non-Affected Clearing Members are realized, the Contributions with respect to the relevant Liquidation Group of all FCM Mandatory Participants submitting at least one Insufficient Bid (or for which any of their Selected Auction Participants has submitted at least one Selected Auction Participant Insufficient Bid) and of all other CM Mandatory Participants submitting at least one Insufficient Bid shall be realized (in accordance with Number 3.2.1) prior to the Contributions of the other Non-Affected Clearing Members and Non-Affected FCM Clearing Members.
- (b) If the FCM Mandatory Participant submits a Medium Bid (or if its Selected Auction Participant submits a Selected Auction Participant Medium Bid) and if, following a Realization Event with respect to the relevant Affected Clearing Member or the relevant Affected FCM Clearing Member (but not with respect to any other Realization Event), Contributions of Non-Affected FCM Clearing Members and Non-Affected Clearing Members are realized, the Contributions with respect to the relevant Liquidation Group of all FCM Mandatory Participants submitting a Medium Bid (or for which any of their Selected Auction Participants has submitted a Selected Auction Participant Medium Bid) and all other CM Mandatory Participants submitting a Medium Bid shall in such DM Auction be realized, in accordance with Number 3.2.1, prior to the Contributions of the other Non-Affected FCM Clearing Members and the other Non-Affected Clearing Members, but simultaneously with the Contributions of those FCM Mandatory Participants and those CM Mandatory Participants that have submitted Insufficient Bids (or for which a Selected Auction Participants has submitted a Selected Auction Participant Medium Bid) in such DM Auction, up

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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 (or Selected Auction Participant Medium Bid), such difference divided by the Auction Unit Margin Amount and subsequently multiplied by the relevant FCM Mandatory Participant's (or CM Mandatory Participant's, as relevant) Contributions. Any remainder of the Contributions of the FCM Mandatory Participant submitting a Medium Bid (or whose Selected Auction Participant has submitted a Selected Auction Participant Medium Bid) shall be considered as Contributions of a Non-Affected FCM Clearing Member.

**"Selected Auction Participant Insufficient Bid"** means a Bid by a Selected Auction Participant that, if such Bid were a Mandatory Bid, would qualify as an Insufficient Bid.

**"Selected Auction Participant Medium Bid"** means a Bid by a Selected Auction Participant that, if such Bid were a Mandatory Bid, would qualify as a Medium Bid.

- (5) If an FCM Mandatory Participant does not submit a Mandatory Bid (or if its Selected Auction Participant does not submit a Bid) for any relevant Auction Unit in accordance with the DM Auction Rules during such DM Auction (such FCM Mandatory Participant is with respect to the relevant Liquidation Group, to which the DM Auction relates, a **"FCM Non-Bidding Participant"**), the FCM Non-Bidding Participant shall pay to Eurex Clearing AG an amount which shall be calculated by Eurex Clearing AG as follows: the fraction of (i) the FCM Non-Bidding Participant's Contributions with respect to the Relevant Liquidation Group and in the relevant currency (numerator) and (ii) the aggregate sum of all CM Contributions and FCM 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 FCM 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 FCM Clearing Currency as determined by Eurex Clearing AG) per DM Auction. If, upon the occurrence of a Realization Event, any FCM Contributions of the FCM Non-Bidding Participant are realized, the amount calculated in accordance with the preceding sentence shall be reduced by the sum of the realized FCM Contributions (but shall in no case be a negative amount). The provisions under Number 3.2.1 Paragraphs (7) and (8) shall apply *mutatis mutandis* with respect to the Contributions to the Default Fund of the relevant FCM Non-Bidding Participant. Any amount received by Eurex Clearing AG from the relevant FCM Non-Bidding Participant shall be added to, and forthwith be part of, the Dedicated Amount of Eurex Clearing AG.
- (6) With respect to any FCM Further Contributions provided by the FCM Mandatory Participant submitting an Insufficient Bid or a Medium Bid (or whose Selected Auction Participant has submitted a Selected Auction Participant Insufficient Bid or a Selected Auction Participant Medium Bid), the provisions under Number 4.3.3 Paragraph (4) above shall apply *mutatis mutandis* in relation to the realization of the FCM Further Contributions.

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#### 4.4 **Cash Settlement with respect to Opposite Cash Settlement Transactions; Establishment of DM Swap Hedging Transactions and Additional Swap Transaction; Cash Settlement of Liquidation Group Transactions**

The prerequisites and consequences of (i) the occurrence of a settlement in cash of Opposite Cash Settlement Transactions, (ii) the establishment of DM Swap Hedging Transactions and Additional Swap Transaction, or (iii) the occurrence of a termination and settlement in cash of Liquidation Group Transactions are set out in Chapter I Number 9.6 of the FCM Regulations with respect to Swap Transactions of FCM Clearing Members and in Chapter I Part 1 Number 7.5.4 of the Clearing Conditions with respect to Clearing Member Transactions of Clearing Members.

#### 4.5 **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 FCM Clearing Member, Clearing Member or Basic Clearing Member (the “**Default Simulation**”) and the FCM Clearing Members shall support Eurex Clearing AG in carrying out any such Default Simulation.

Upon request of Eurex Clearing AG, each FCM Clearing Member shall in the course of such Default Simulations act as potential counterparty for a simulated DM Hedging Transaction and shall support any simulated DM Auction, as further described in Number 4.3, with respect to the Liquidation Groups that such FCM Clearing Member is active in.

### 5 **Publications and Notices**

5.1 All notices from Eurex Clearing AG regarding these FCM Default Rules will be published (i) via electronic circular to the FCM Clearing Member or (ii) on the Eurex Clearing Website for at least three (3) Business Days. Such notices will become effective immediately upon publication, provided that changes and amendments to the FCM Default Rules will become effective in accordance with Number 6.2.

5.2 All notices to be given between Eurex Clearing AG and an FCM 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 are given in the English language. Unless otherwise specified in these FCM Default Rules notices by FCM Clearing Members may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.

5.3 Each FCM Clearing Member acknowledges that Eurex Clearing AG will send to FCM 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 an FCM Clearing Member without its consent. Reports and notifications stored in an Access Area will regularly be exchanged against new notices or reports within ten (10) Business Days of their storage in the Access Area.

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5.4 Each FCM Clearing Member acknowledges that the notices and reports which are made accessible in the individual Access Area may also contain declarations with legal effect, in particular acceptances of FCM Clearing Member Transactions and other declarations of particular importance.

## **6 Miscellaneous**

### **6.1 Governing law; Place of jurisdiction**

6.1.1 Unless provided otherwise, the rights and obligations arising out of, and in connection with, these FCM Default Rules shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

6.1.2 Any non-contractual rights and obligations arising out of, and in connection with, these FCM Default Rules shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

6.1.3 Exclusive place of jurisdiction for all disputes arising out of, or in connection with, these FCM Default Rules is Frankfurt am Main, Federal Republic of Germany.

### **6.2 Changes and Amendments to the FCM Default Rules, the DM Auction Rules and the DMC Rules**

6.2.1 Eurex Clearing AG reserves the right to change or amend the FCM Default Rules, the DM Auction Rules or the DMC Rules at any time; any changes and amendments of these FCM Default Rules, the DM Auction Rules or the DMC Rules shall be published in accordance with Number 5.1 (i) and (ii).

6.2.2 Such publication will be made to all affected FCM Clearing Members at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice ("**Notification Period**").

6.2.3 FCM Clearing Members affected by a proposed change or amendment may submit in writing to Eurex Clearing AG comments to any changes or amendments of the FCM Default Rules, the DM Auction Rules or the DMC Rules within the first 10 Business Days of the Notification Period. Eurex Clearing AG shall assess whether these comments prevent the published change or amendment from becoming effective taking into account the interests of Eurex Clearing AG and all FCM Clearing Members. 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 FCM Clearing Members, the relevant changes and amendments will be published again in accordance with the Notification Period. During the additional Notification Period, there will be no further assessment of any comments of any affected FCM Clearing Member pursuant to this Number 6.2.3.

6.2.4 Each affected FCM Clearing Member accepts each change and amendment of the FCM Default Rules, the DM Auction Rules and the DMC Rules, unless it objects by written

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notice to Eurex Clearing AG within the relevant Notification Period. Eurex Clearing AG will inform the affected FCM Clearing Members of the effects of such approval in the relevant publication of the changes and amendments of these affected FCM Default Rules, the DM Auction Rules or the DMC Rules. The right to terminate the FCM Clearing Agreement shall remain unaffected.

## **7 Current Version of the FCM Default Rules**

The current valid version of the FCM Default Rules is available via the internet on the Eurex Clearing Website.