

clear to trade



eurex clearing circular 150/15

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Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
Authorized by: Thomas Book

Eurex Clearing AG's DCO application: Introduction of U.S. Clearing Model

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Content may be most important for:

➔ All departments

Attachment:

Updated Sections of the Clearing Conditions for Eurex Clearing AG

Summary:

This circular provides information on the amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) in relation to Eurex Clearing AG's (Eurex Clearing) application to register as a Derivatives Clearing Organization (DCO) with the Commodity Futures Trading Commission (CFTC).

Eurex Clearing is currently in the application process with the CFTC to be registered as a DCO for OTC Interest Rate Derivative Transactions, which is expected to be finalised in January 2016. The key requirement for the registration as DCO is the implementation of an agency-style clearing model for U.S. client clearing which will be introduced in the Clearing Conditions.

Please note that the introduction start of the U.S. Clearing Model is subject to finalising regulatory approval from the CFTC. Information on the operational launch will be provided in a separate Eurex Clearing circular at a later stage.

All amendments will come into effect on **18 January 2016**.

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



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Eurex Clearing AG's DCO application: Introduction of U.S. Clearing Model

This circular provides information on the amendments to the Clearing Conditions in relation to Eurex Clearing's application to register as a DCO with the CFTC.

Eurex Clearing is currently in the application process with the CFTC to be registered as a DCO for OTC Interest Rate Derivative Transactions, which is expected to be finalized in January 2016. The key requirement for the registration as DCO is the implementation of an agency-style clearing model for U.S. client clearing which will be introduced in the Clearing Conditions.

Please note that the introduction start of the U.S. Clearing Model is subject to finalizing regulatory approval from the CFTC. Information on the operational launch will be provided in a separate Eurex Clearing circular at a later stage.

All amendments will come into effect on 18 January 2016.

Introduction

Under the amended Clearing Conditions entities domiciled in the United States of America (USA) may become Clearing Members for the clearing of OTC Interest Rate Derivative Transactions (U.S. Clearing Members).

Proprietary transactions of U.S. Clearing Members will be cleared under the Elementary Clearing Model (ECM), like for all other Clearing Members of Eurex Clearing.

However, if a U.S. Clearing Member intends to clear OTC Interest Rate Derivative Transactions for its customers, such U.S. Clearing Member has to be registered as Futures Commissions Merchant (FCM) with the CFTC (FCM Clearing Member). Customer-related transactions can only be cleared under the newly introduced U.S. Clearing Model (Chapter I Part 5 of the Clearing Conditions). U.S. Clearing Members, who do not qualify as FCM Clearing Members will only be allowed to clear proprietary transactions.

The main amendments relate to the following provisions in the Clearing Conditions:

- Chapter I Part 1 No. 2.3 of the Clearing Conditions (Specific Provisions and additional continuing Obligations for U.S. Clearing Members),
- Chapter I Part 5 of the Clearing Conditions (U.S. Clearing Model Provisions), and
- Appendix 11 to the Clearing Conditions (Clearing Agreement for FCM Clearing Members and FCM Clients).

Specific Provisions and Obligations for U.S. Clearing Members

Chapter I Part 1 Number 2.3 of the Clearing Condition sets out additional requirements and obligations for entities domiciled in the U.S. applying for a Clearing-Licence to clear OTC Interest Rate Derivative Transactions through the systems of Eurex Clearing.

Amongst other things, the following provisions apply to such applicants:

- Applicants must be domiciled in the U.S.,
- Clearing License will only be granted with respect to the Clearing of OTC Interest Rate Derivative Transactions,
- Applicants intending to clear customer-related transactions need to be FCMs registered with the CFTC,
- Applicants need to ensure that they have adequate operational capacity to meet obligations arising from participation in clearing with Eurex Clearing,
- Applicants need to have security accounts with Clearstream Banking Frankfurt AG (CBF) for the provision of securities collateral.

U.S. Clearing Model Provisions

The clearing of customer-related transactions will take place under the newly introduced U.S. Clearing Model pursuant to Chapter I Part 5 of the Clearing Conditions. Only U.S. Clearing Members which are registered with the CFTC as FCM are eligible to offer client clearing.

The U.S. Clearing Model is a so-called agency-style clearing model. As a consequence, all customer-related transactions are directly established between the clearing house and the relevant customer (FCM Client). However, the clearing relationship shall still be administered and settled through the FCM Clearing Member who acts as an agent on behalf and for the account of its FCM Clients.

FCM Clients will functionally be set up as individually segregated customers and will become direct contractual counterparties to Eurex Clearing. All FCM Client Transactions will be directly established between Eurex Clearing and the relevant FCM Client. There will be no back-to-back transactions between the FCM Clearing Member and its FCM Clients.

The performance of the FCM Client's obligations towards Eurex Clearing will be guaranteed by the FCM Clearing Member. Furthermore, the FCM Clearing Member will be required to provide the Contributions to Eurex Clearing's Clearing Fund for its FCM Clients and the FCM Clearing Member is obliged to participate in Eurex Clearing's Default Management Process in case of the default of another Clearing Member.

New Clearing Agreement

A FCM Client and an FCM Clearing Member intending to clear customer-related OTC Interest Rate Derivative Transactions for such FCM Client need to enter into a Clearing Agreement using the form appended to the Clearing Conditions as Appendix 10. The Agreement will only cover the clearing of OTC Interest Rate Derivative Transactions in accordance with Chapter VIII Part 2 of the Clearing Conditions.

All changes within this circular will come into effect on 18 January 2016. As of this date, the amended Clearing Conditions will be available for download on Eurex Clearing's website (www.eurexclearing.com) under the following link:

[Resources > Rules and Regulations > Clearing Conditions](#)

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

If you have any questions or require further information, please contact Trading & Clearing Services at tel. +49-69-211-1 17 00 or send an e-mail to memberservices@eurexclearing.com.

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

Chapter I General Provisions

[...]

Part 1 General Clearing Provisions

1 General Rules

1.1 Scope of Application

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

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

[...]

1.1.3 Only entities which have been granted a Clearing License (as defined in Number 2.1) by Eurex Clearing AG (each a “**Clearing Member**”), and, subject to the U.S. Clearing

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Model Provisions, entities that have been admitted as FCM Clients (as defined in Part 5 Number 1.2) and, subject to Part 3, Interim Participants, are authorised to directly participate in the Clearing of Transactions. A Clearing Member that is legally organised and has its principal place of business in the United States of America (or any state thereof) is hereinafter referred to as a “U.S. Clearing Member”. Unless otherwise specified, references in this Part 1, in Part 2, Chapter VIII and Appendix 1 to “Clearing Member” shall include references to “U.S. Clearing Member” and/or “FCM Clearing Member”.

1.1.4 An entity which does not have a Clearing License may only participate in the Clearing of Transactions through a Clearing Member by entering into a Clearing Agreement with such Clearing Member and Eurex Clearing AG as set forth in Number 1.1.5 and 1.1.6 below; the Interim Participation rules in Part 3 Subpart A Number 11.1 and the U.S. Clearing Model Provisions shall remain unaffected.

[...]

1.1.6 An entity may enter into a Clearing Agreement (Appendix 2, Appendix 3, Appendix 4 or Appendix 5~~8~~) with a Clearing Member and Eurex Clearing AG as a registered customer (each a “**Registered Customer**”) in accordance with the following conditions.

(1) The Registered Customer must be:

- (a) a legal entity (*juristische Person*);
- (b) an investment fund with own legal personality (an “**Incorporated Fund**”);
- (c) an investment fund without legal personality (an “**Unincorporated Fund**”);
- (d) a sub-fund of an Incorporated Fund or an Unincorporated Fund (a “**Sub-Fund**”);
or
- (e) a fund segment (i.e. a pool of assets and obligations segregated for book-keeping and technical settlement purposes) of an Incorporated Fund, an Unincorporated Fund or a Sub-Fund (a “**Fund Segment**”);

[...]

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

1.2 Clearing Procedures

1.2.1 General

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

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- (a) the general clearing provisions set out in Chapter I Part 1 of these Clearing Conditions (the “**General Clearing Provisions**” (*Allgemeine Clearing-Bedingungen*)); and
- (b) either
- (aa) the elementary clearing model provisions set out in Chapter I Part 2 of the Clearing Conditions (the “**Elementary Clearing Model Provisions**”) (*Grund-Clearingmodell-Bedingungen*),
- (bb) the individual clearing model provisions set out in Chapter I Part 3 of the Clearing Conditions (the “**Individual Clearing Model Provisions**”) (*Individual-Clearingmodell-Bedingungen*), either pursuant to the Individual Clearing Model Provisions under Eurex Clearing AG Documentation (as defined in Chapter I Part 3, the “**ICM-ECD Provisions**”) or pursuant to the Individual Clearing Model Provisions under Client Clearing Documentation (as defined in Chapter I Part 3, the “**ICM-CCD Provisions**”), ~~or~~
- (cc) the net omnibus clearing model provisions set out in Chapter I Part 4 (the “**Net Omnibus Clearing Model Provisions**”) (*Net Omnibus-Clearingmodell-Bedingungen*)) as specified to be applicable in the relevant Clearing Agreement; ~~and, or~~
- (dd) the U.S. clearing model provisions set out in Chapter I Part 5 of the Clearing Conditions (the “**U.S. Clearing Model Provisions**”) (*U.S.-Clearingmodell-Bestimmungen*)); and
- (c) the provisions applicable to the relevant Transaction Type set out in Chapters II-IX (together with all contract specifications, rules and regulations incorporated by reference or specified therein, as applicable, the “**Special Clearing Provisions**”) (*Besondere-Clearing-Bedingungen*)) which *inter alia* comprise provisions relating to the settlement of the relevant Transaction Type by payment of a cash amount determined by reference to a concerned Security or asset (“**Cash Settlement**”) or by physical delivery of the concerned Security or asset against payment or free of payment as set out in the Special Clearing Provisions (“**Physical Delivery**”).
- (2) In case of any conflicts between (i) the General Clearing Provisions and (ii) the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~₁ the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~₁ the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable, prevail. In case of any conflicts between the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~₂ the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable, and the Special Clearing Provisions, the Special Clearing Provisions prevail.

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- (3) The Clearing Conditions provide for terms and conditions with regard to (i) the legal relationship between Eurex Clearing AG and the relevant Clearing Member and (ii) the legal relationship between the Clearing Member and a Non-Clearing Member or a Registered Customer, in each case in accordance with the following principles:
- (a) All rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Transactions under one or more Clearing Agreements shall be construed as rights and obligations under one or more separate arrangements (each hereinafter a **“Standard Agreement”** (*Grundlagenvereinbarung*)), in accordance with the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions.

[...]

- (f) If provided for in the U.S. Clearing Model Provisions, all rights and obligations between Eurex Clearing AG and a FCM Client with respect to FCM Client Transactions under a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 shall be subject to one and the same FCM Client Standard Agreement (each hereinafter also a **“Standard Agreement”** (*Grundlagenvereinbarung*)) in accordance with the U.S. Clearing Model Provisions.

1.2.2 Conclusion of Transactions and Transfer of Transactions

Transactions pursuant to these Clearing Conditions will be concluded and may be transferred in accordance with this Number 1.2.2.

[...]

(2) OTC Transactions

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

Whenever

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

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

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[...]

(5) Transfer of Transactions

[...]

- (f) (i) In the case of a transfer of a Transaction which is subject to the ICM-CCD Provisions or (ii) in the case of a transfer of a Transaction which shall become subject to the ICM-CCD Provisions after such transfer, Paragraphs (a) through (c) and Paragraph (e) shall only apply with respect to Transactions subject to a Standard Agreement pursuant to the Clearing Conditions. For the avoidance of doubt, the transfer of a Transaction by way of novation or otherwise which is or shall become subject to a Client Clearing Agreement with a Non-Clearing Member or Registered Customer, as the case may be, (as defined in Part 3 Subpart C Number 2.1.1 of the Individual Clearing Model Provisions), will be novated or established on identical terms pursuant to the terms of such Client Clearing Agreement.

- (g) For transfers of FCM Client Transactions the U.S. Clearing Model Provisions apply.

[...]

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

- (1) A Transaction concluded between Eurex Clearing AG and a Clearing Member will, for the purpose of the Clearing Conditions, be categorised as:

[...]

- (4) This Number 1.2.3 does not apply with respect to Transactions between Eurex Clearing AG and a FCM Client.

1.2.4 Certain Definitions and Interpretation

In these Clearing Conditions:

[...]

- (3) The terms "**Margin**" or "**Variation Margin**", "**Elementary Proprietary Margin**" or "**Elementary Proprietary Variation Margin**" and "**Elementary Omnibus Margin**" or "**Elementary Omnibus Variation Margin**" shall have the meaning given to such terms in the Elementary Clearing Model Provisions, the terms "**Segregated Margin**" or "**Segregated Variation Margin**" shall have the meaning given to such terms in the Individual Clearing Model Provisions and the terms "**Net Omnibus Margin**" or "**Net Omnibus Variation Margin**" shall have the meaning given to such terms in the Net Omnibus Clearing Model Provisions and the terms "**FCM Client Margin**" or "**FCM Client Variation Margin**" shall have the meaning given to such

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terms in the U.S. Clearing Model Provisions, provided that (i) “**Margin**” shall refer to “**Elementary Proprietary Margin**”, “**Elementary Omnibus Margin**”, “**Segregated Margin**” or “**Net Omnibus Margin**” or “**FCM Client Margin**” and (ii) “**Variation Margin**” shall refer to “**Elementary Proprietary Variation Margin**” and “**Elementary Omnibus Variation Margin**”, “**Segregated Variation Margin**” or “**Net Omnibus Variation Margin**” or “**FCM Client Variation Margin**”, respectively, in the General Clearing Provisions and the Special Clearing Provisions where the context so provides or requires.

[...]

1.2.6 Mandatory Business Hours

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

1.2.7 Default Rules

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

The Default Rules comprise (i) with respect to a Clearing Member, (other than a FCM Clearing Member in relation to FCM Client Transactions), Numbers 6 and 7 in the General Clearing Provisions, Number 8 in the Elementary Clearing Model Provisions, Subpart A Number 7 and Number 14 of the Individual Clearing Model Provisions, Number 8 in the Net Omnibus Clearing Model Provisions and the specific provisions relating thereto set out in the Specific Clearing Provisions ~~and~~ (ii, (ii) with respect to a FCM Clearing Member in relation to FCM Client Transactions, Numbers 6 and 7 of the General Clearing Provisions and Numbers 1.6.10, 7 and 8 of the U.S. Clearing Model Provisions, (iii) with respect to a FCM Client, Number 9 of the U.S. Clearing Model Provisions and (iv) with respect to Eurex Clearing AG, Number 9 of the General Clearing Provisions.

1.2.8 Prohibition of Assignment

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

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

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1.3 Set-off

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

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

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

(1) Set-off Procedure within Standard Agreements

(a) Set-off of Cash Claims

Eurex Clearing AG shall be entitled to set off any of its cash claims under a specific Standard Agreement (other than a FCM Client Standard Agreement) against other cash claims of the Clearing Member under that Standard Agreement, in each case excluding Settlement Claims in cash and Residual Payment Claims (each as defined in Paragraph (b) below).

[...]

(2) Set-off procedure across Standard Agreements

(a) General Rules

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

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

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

[...]

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

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

1.4 **Settlement of Transactions**

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

1.4.1 **Cash Clearing**

- (1) In order to make cash payments in Euro, the Clearing Member is obliged to instruct the bank of its relevant RTGS Account or relevant SIC Account (~~each as defined in Number 2.1.2 Paragraph (4) (b) (aa) and (bb)~~) to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG.
- (2) In order to make cash payments in Swiss Francs, the Clearing Member is obliged to instruct the Swiss National Bank ("**SNB**") to honour the transfer instructions received from Eurex Clearing AG with respect to its relevant SNB Account (~~as defined in Number 2.1.2 Paragraph (4) (b) (bb)~~). Clearing Members which are allowed to maintain the cash account at a correspondent bank recognised by Eurex Clearing AG pursuant to Chapter I Part 1 Number 2.1.2 (4) (b) (~~bb~~) are obliged to instruct their correspondent bank accordingly.
- (3) If Eurex Clearing AG has allowed the use of the cash accounts of a correspondent bank in accordance with Number 2.1.2 Paragraph (4) (b) or Number 2.1.3 Paragraph (6)(b), the Clearing Member shall procure that the transfer instructions received from Eurex Clearing AG with respect to such accounts are honoured.
- (4) In order to make cash payments in currencies other than Euro and Swiss Francs, the Clearing Member shall instruct its bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.
- (5) In order to make cash payments in respect of Margin in currencies other than Euro and Swiss Francs accepted by Eurex Clearing AG, the Clearing Member shall transfer the relevant cash amounts to the account of Eurex Clearing AG as notified to the Clearing Member from time to time by the date specified by Eurex Clearing AG with respect to the relevant currency. The Clearing Member may instruct its bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.
- (6) In order to make payments in respect of Eurex-Fees (as defined in Number 5.1), the Clearing Member may by way of derogation from Paragraphs (1) and (2) also

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instruct its bank for the relevant currency to honour the transfer instructions (Lastschriften) received from Eurex Clearing AG.

- (7) The debit instructions provided by the Clearing Member in accordance with this Number 1.4.1 and relating to one or more Clearing License(s) may only be revoked by the Clearing Member if the Clearing Member also terminates such Clearing License(s). If the Clearing Member has declared such revocation and termination, such revocation of debit instructions and the termination of the related Clearing License(s) shall only become effective after all Transactions of the Clearing Member (and, in the case of an FCM Clearing Member, of each of its FCM Clients) of the relevant Transaction Type(s) have been cancelled, closed or fulfilled. If a Clearing License ends for any other reasons, all related debit instructions shall terminate and such termination shall become effective in accordance with the foregoing sentence.

[...]

1.5 EMIR Risk Committee

[...]

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

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

1.5.4 The Executive Board may seek advice from the EMIR Risk Committee with respect to EMIR-Matters and all other matters which, in the view of the Executive Board, may have an impact on the risk management of Clearing Members and/or of Non-Clearing Members, Registered Customers or their clients (the “**Additional Matters**”).

1.5.5 The statutes for the EMIR Risk Committee as published by Eurex Clearing AG on its website www.eurexclearing.com represent an integral part of the Clearing Conditions.

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1.5.6 The Executive Board will promptly inform the BaFin (as defined in Number 2.1.2) of any decision of the Supervisory Board or the Executive Board in which the Supervisory Board or the Executive Board decided not to follow advice given by the EMIR Risk Committee with respect to any Relevant Matter.

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

In respect of a FCM Clearing Member references in this Number 1.6 to Transactions of the Clearing Member shall include FCM Client Transactions to which the FCM Clearing Member Guarantee of such FCM Clearing Member relates.

1.6.1 **General Rules**

(1) Eurex Clearing AG monitors and, when necessary, mitigates the following risks that Eurex Clearing AG is exposed to in relation to the Clearing Member:

[...]

(5) Eurex Clearing AG conducts an internal assessment of the creditworthiness of each country, which is (i) the home country of any Clearing Member, or (ii) the home country of an issuer of securities that qualify as Eligible Margin Assets or (iii) the home country of an issuer of instruments qualifying as underlyings of Transactions ~~cleared by Eurex Clearing AG.~~ Based on this assessment, Eurex Clearing AG classifies such countries into one of multiple pre-defined classification levels (the "**Country Classification**"). Eurex Clearing AG reviews each Country Classification on a regular basis and on an ad-hoc basis when it is deemed necessary.

(6) Eurex Clearing AG conducts an internal assessment of the creditworthiness of each supranational organisation which has issued (i) securities that qualify as Eligible Margin Assets, or (ii) instruments underlying any Transactions ~~cleared by Eurex Clearing AG.~~ Based on this assessment, Eurex Clearing AG classifies such supranational organisations into one of multiple pre-defined classification levels (the "**Supranational Organisation Classification**"). Eurex Clearing AG reviews each Supranational Organisation Classification on a regular basis and on an ad-hoc basis when it is deemed necessary.

(7) Eurex Clearing AG will publish the Country Classification and the Supranational Organisation Classification in the member section on its website (www.eurexclearing.com).

[...]

1.6.3 **Assessment and Mitigation of Concentration Risk**

(1) Eurex Clearing AG defines Concentration Risk limits for any Eligible Margin Assets in the form of Securities ("**Concentration Risk Limits**").

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- (a) Eurex Clearing AG reviews each Concentration Risk Limit on a regular basis and on an ad-hoc basis when it is deemed necessary.
 - (b) Eurex Clearing AG will publish the Concentration Risk Limits, and any changes thereof on its website (www.eurexclearing.com).
 - (c) In case the Clearing Member breaches any Concentration Risk Limit applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigating measures:
 - (i) Eurex Clearing AG will notify the Clearing Member about the breach of the relevant Concentration Risk Limit and will request the replacement of Eligible Margin Assets in the form of Securities by other Eligible Margin Assets ("**New Eligible Margin Assets**") within a reasonable period of time and in an amount which is necessary to remedy the relevant breach. The **New Eligible Margin Assets** shall be provided pursuant to the terms of the relevant Standard Agreement. Subject to the actual delivery of the New Eligible Margin Assets, the Redelivery or release of the replaced Eligible Margin Assets shall be effected pursuant to the terms of the applicable Standard Agreement.
 - (ii) In case the Clearing Member does not remedy the breach of the relevant Concentration Risk Limit, within the reasonable period of time pursuant to (i), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.
- (2) Notwithstanding Paragraph (1), Eurex Clearing AG defines Concentration Risk thresholds in relation to (i) Eligible Margin Assets in the form of Securities and (ii) the notional exposure arising from the instruments underlying the Clearing Member's Transactions ("**Concentration Risk Thresholds**").
- (a) Concentration Risk Thresholds are defined with respect to each Country Classification and Supranational Organisation Classification.
 - (b) Eurex Clearing AG reviews the Concentration Risk Thresholds on a regular basis and on an ad-hoc basis when it is deemed necessary.
 - (c) Eurex Clearing AG will publish the Concentration Risk Thresholds, and any changes thereof, on its website (www.eurexclearing.com).
 - (d) In case the Clearing Member breaches a Concentration Risk Threshold, applicable at that point in time, Eurex Clearing AG is entitled to take the following mitigating measures:
 - (i) Eurex Clearing AG will notify the Clearing Member about the breach of the relevant Concentration Risk Threshold and will request (i) the reduction of the relevant notional exposure or (ii) the replacement of Eligible Margin Assets in the form of Securities by New Eligible Margin Assets within a reasonable period of time and to the extent necessary to remedy the

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relevant breach. The provisions under Number 1.6.3 (1) (c) (i) sentence 2 and 3 shall apply accordingly.

- (ii) In case the Clearing Member does not remedy the breach of the relevant Concentration Risk Threshold within the reasonable period of time pursuant to (i), Eurex Clearing AG is entitled to demand the provision of Supplementary Margin in accordance with Number 3.5.

[...]

1.7 Representations with respect to Clearing Agreements

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

- (a) it has the power to enter into and perform the Clearing Agreement and any other documentation relating to the Clearing Agreement to which it is a party and has taken all necessary action to authorise such execution and performance;
- (b) its entry into and performance of the Clearing Agreement and any other documentation relating to this Clearing Agreement to which it is a party do not conflict with any law or regulation applicable to it, any provision of its constitutional documents, any order or judgment of any court or agency of government applicable to it or any of its assets or any agreement or instrument by which it is bound or which affects any of its assets;
- (c) it has all governmental and other consents that are required by it with respect to its entry into and performance of the Clearing Agreement and such consents are in full force and effect and all conditions of any such consents have been complied with;
- (d) no order has been made or applied for or resolution passed for the suspension of payments or dissolution, termination of existence, liquidation, winding-up, reorganisation, bankruptcy, insolvency, judicial management or curatorship, in each case, with respect to it;
- (e) no moratorium in respect of all or any debts or a composition or an arrangement with creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered, declared or applied for, in each case, with respect to it;
- (f) no liquidator, trustee, administrator, receiver or similar officer has been appointed in respect of it or in respect of all or a substantial part of its assets;
- (g) it is able to pay its debts as and when they fall due, will not become unable to pay its debts as a consequence of entering into the Clearing Agreement and, where such entity is incorporated in Germany, is not imminent illiquid (*drohend zahlungsunfähig*)

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within the meaning of section 18 German Insolvency Code (*Insolvenzordnung*, "InsO"), illiquid (*zahlungsunfähig*) within the meaning of section 17 of the InsO or over-indebted (*überschuldet*) within the meaning of section 19 of the InsO;

- (h) it is acting as principal in respect of the Clearing Agreement (including all Transactions entered into under it); and
- (i) no event has occurred or circumstance arisen with respect to it which would (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute a Termination Event or Insolvency Termination Event under the Clearing Agreement.

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

1.7.3 Additional representations and undertakings

- (1) At the time it enters into an ICM Clearing Agreement, each Clearing Member and each Non-Clearing Member and Registered Customer that is an ICM Client pursuant to the Individual Clearing Model Provisions, severally but not jointly, further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantiewersprechen*) to Eurex Clearing AG that it is and will be the legal and beneficial owner of the Difference Claim or Relevant Difference Claim and, to the extent applicable, no security interest (other than that provided under the Individual Clearing Model Provisions) exists over any of its rights or claims under an ICM Clearing Agreement or Transactions, as relevant, the Eligible Margin Assets transferred by it, the Difference Claim or Relevant Difference Claim, the Shortfall Claim and the Regress Claim.
- (2) At the time it enters into a Clearing Agreement in the form of Appendix 1 or (if it is a FCM Clearing Member) Appendix 10 to the Clearing Conditions, each U.S. Clearing Member further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantiewersprechen*) to Eurex Clearing AG that:
 - (i) it is not subject to a disqualification pursuant to Section 8a of the U.S. Commodity Exchange Act ("CEA");

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(ii) it has implemented risk management processes that sufficiently address operational capacity, including the ability to process expected volumes and/or values of transactions within required time frames, including at peak times, the ability to fulfil collateral, payment, and delivery obligations, and the ability to participate in default management;

(iii) it maintains written risk management policies and procedures which address the risks that such U.S. Clearing Member may pose to Eurex Clearing AG.

The U.S. Clearing Member further undertakes

(a) to make such risk management policies and procedures available to Eurex Clearing AG for inspection;

(b) to disclose to Eurex Clearing AG whether it has been audited by another derivatives clearing organisation as well as the pertinent results of any such risk management audit;

(c) to make information and documents regarding its risk management policies, procedures and practices available to the CFTC upon the CFTC's request.

1.7.4 Each Clearing Member ~~and~~, each Non-Clearing Member ~~and~~, each Registered Customer and each FCM Client agrees with Eurex Clearing AG that it will repeat the representations set out in Number 1.7.1 to 1.7.3, as relevant, to Eurex Clearing AG with regard to the facts and circumstances then existing whenever it (or, in the case of a FCM Clearing Member, any of its FCM Clients) enters into a Transaction, transfers Margin or Variation Margin or delivers Eligible Margin Assets in respect thereof or delivers assets equivalent to such Eligible Margin Assets.

[...]

1.7.6 Eurex Clearing AG represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to the relevant Clearing Member, ~~and~~ the Non-Clearing Member/Registered Customer and the FCM Client at the time it enters into the Clearing Agreement:

[...]

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

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

1.8.1 In relation to OTC Interest Rate Derivative Transactions, the Clearing Member (other than any U.S. Clearing Member) represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges*

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

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

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Customer becomes aware that the relevant RC-Customer U.S. Person Representation has ceased to be true.

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

[...]

2 Clearing Members

2.1 Clearing License

2.1.1 Granting of Clearing License

- (1) A license issued by Eurex Clearing AG for each Transaction Type (each, a **"Clearing License"**) is required in order to be authorised to participate in the Clearing of the relevant Transactions as a Clearing Member.
- (2) Upon written application, Eurex Clearing AG may grant a Clearing License for a Transaction Type if the relevant applicant meets the general prerequisites pursuant to Numbers 2.1.2, 2.1.3 or 2.4-33, as applicable, and the special prerequisites for the relevant Transaction Type set forth in the Special Clearing Provisions.
- (3) A Clearing License will be granted upon the conclusion of, or an amendment to this effect to, a Clearing Agreement for the relevant Transaction Type.
- (4) As specified in the relevant Clearing Agreement, a Clearing License is issued either as a General Clearing License or a Direct Clearing License. A General Clearing License entitles the holder thereof (a **"General Clearing Member"**) to clear Own Transactions, Customer-Related Transactions as well as NCM-Related Transactions and RC-Related Transactions; or, in respect of U.S. Clearing Members, Own Transactions and, if the U.S. Clearing Member is a FCM Clearing Member, also FCM Client Transactions. A Direct Clearing License entitles the holder thereof (a **"Direct Clearing Member"**) to clear Own Transactions, Customer-Related Transactions, RC-Related Transactions and only those NCM-Related Transactions referring to Transactions by Non-Clearing Members, affiliated with it.

[...]

2.1.2 General Prerequisites for Clearing Licenses

[...]

- (2) Personal prerequisites

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- (a) Subject to Paragraph (2) (b) and Number 2.1.3 below, a Clearing License may only be granted to:
- (aa) an institution domiciled in a member state of the European Union (“**EU**”) or in Switzerland which is (i) permitted in its country of domicile to provide credit to customers in relation to Transactions and receive collateral in the form of cash or securities and (ii) supervised by the competent authorities according to the applicable regulatory standards of the EU or, if domiciled in Switzerland, by the Swiss Financial Market Supervisory Authority (*Eidgenössische Finanzmarktaufsicht – FINMA*);
 - (bb) a branch or branch office of an institution within the meaning of Sections 53, 53b or 53c of the German Banking Act (*Gesetz über das Kreditwesen*, the “**KWG**”) provided that such branch or branch office and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (c) below;
 - (cc) a branch within the meaning of Art. 2 Paragraph 1 of the Swiss Federal Banking and Savings-Bank Act in connection with Section 1 et seq. of the Regulation of the Swiss Financial Market Supervisory Authority (*Eidgenössische Finanzmarktaufsicht – FINMA*) concerning Foreign Banks in Switzerland, provided that such branch complies with the conditions set forth in Paragraph (2) (c) below;
 - (dd) a branch of a financial institution or securities trading enterprise domiciled in a member state of the EU (“**host member state**”) provided that (i) the main office of such financial institution or securities trading enterprise is domiciled in another member state of the EU (“**home member state**”), (ii) a notification procedure has been completed in the host member state, and that (iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (c) below;

[...]

- (3) The applicant for a Clearing License must have available own funds (*Eigenmittel*) pursuant to the European Capital Requirements Directive 2013/36/EU (“**CRD IV**”) and the European Capital Requirements Regulation (EU) No. 575/2013 (“**CRR**”) in an amount determined by Eurex Clearing AG from time to time. Applicants not subject to the own fund requirements under the CRD IV and CRR must have available equivalent regulatory capital. Regulatory capital is considered equivalent when it is (i) used as a measure of adequate solvency for the applicant by its competent supervisory authority, (ii) reported to the applicant's competent supervisory authority on a regular basis and (iii) audited at least yearly.

[...]

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

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[...]

- (5) The applicant shall provide evidence for compliance with the following requirements:
- (a) Technical connection to the systems of Eurex Clearing AG and, unless incorporated in the relevant Clearing Agreement, execution of the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) under inclusion of the General Terms and Conditions on Technical Connection to the Clearing EDP of Eurex Clearing AG.

[...]

2.1.3 Prerequisites for Governmental Entities and Supranational Organisations

- (1) Upon request and upon the sole risk assessment of Eurex Clearing AG, certain governmental entities and supranational organisations may be admitted as Clearing Members under modified conditions. These are:

[...]

- (2) Applicants within the meaning of Paragraph (1) are required to fulfil the general prerequisites set out in Number 2.1.2 Paragraphs (3) to (6) and the special prerequisites for the relevant Transaction Type, unless they have been exempted in whole or in part from the fulfilment of these prerequisites by Eurex Clearing AG.

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

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

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

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

- (3) Any exemption pursuant to Paragraph (2) will be granted only upon request and upon the sole risk assessment of Eurex Clearing with the option of revoking such

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exemption at any time. An exemption from the requirements mentioned in Paragraph (2)(c) and (d) presupposes that the creditworthiness of the applicant determined on the basis of Eurex Clearing AG's internal assessment pursuant to Number 1.6.1 Paragraph (4) corresponds at least to a rating of A by Standard & Poor's Financial Services LLC, a part of McGraw Hill Financial Inc. ("S&P"). If the applicant has an unlimited guarantee or declaration of liability from a guarantor that falls within one of the categories listed in Paragraph (1), the rating of that guarantor is decisive.

- (4) Clearing Members which have been exempted from the requirements mentioned in Paragraph (2)(c) and (d) are entitled to conclude a Clearing Agreement with a Non-Clearing Member or a Registered Customer only if such Non-Clearing Member or Registered Customer

falls itself within one of the categories listed in Paragraph (1) (a) to (d) and meets the minimum rating requirement pursuant to Paragraph (3).

[...]

2.2 Certain continuing obligations of Clearing Members

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

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

The general prerequisites for Clearing Licenses set out in Number 2.1.2 Paragraphs (2)(a)(ee), (2)(d) and 2(e), (3)(b), (3)(c) and (3)(d), (5)(a) - (d) and (g), (6), (7)

and (8) and the continuing obligations set out in Number 2.2 above also apply in respect of applicants applying for a participation in the Clearing as a U.S. Clearing Member (including as a FCM Clearing Member). In addition, the following provisions set out in this Number 2.3 apply with respect to such applicants.

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

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

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(a) Securities Accounts:

(aa) with respect to the Clearing of Own Transactions: a Pledged Securities Account with Clearstream Banking AG;

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

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

(b) Cash Accounts:

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

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

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

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

2.3.2 Additional continuing obligations for U.S. Clearing Members

(1) A U.S. Clearing Member shall promptly inform Eurex Clearing AG if it is in material non-compliance with any applicable regulations of the CFTC or with any of the prerequisites or conditions included in this Number 2.3. A U.S. Clearing Member shall provide to Eurex Clearing AG, without undue delay, information that concerns any financial or business developments that may materially affect the U.S. Clearing Member's ability to continue to comply with any prerequisites or conditions set out in Numbers 2.1, 2.2 or 2.3.

- (2) A U.S. Clearing Member is obliged to file periodic statements of their financial condition with Eurex Clearing AG within 17 days of the end of each calendar month. A FCM Clearing Member must file copies of the CFTC form "1-FR-FCM" in fulfillment of this requirement completed in accordance with 17 C.F.R. § 1.18.

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

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

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- (i) the text of any FCM Client Clearing Agreement entered into between the FCM Clearing Member and the relevant FCM Client; and
- (ii) any document reflecting the recording of the FCM Client Transactions in the different accounts held by the FCM Clearing Member per Business Day, the details of such FCM Client Transactions, the margin assets, including excess margin, if any, held in respect of such FCM Client Transactions (reflected on a customer-by customer basis).

3 General Provisions regarding Margin

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

3.1 Margin Requirement and Types of Margin

3.1.1 The applicable ~~Margin Requirement~~ margin requirement, which shall be determined by Eurex Clearing AG, shall consist of the sum of all relevant ~~Margin Requirements~~ margin requirements separately calculated by Eurex Clearing AG in accordance with the relevant applicable Margin Methodology (as defined in Number 3.1.2) subject to and in accordance with the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~ the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable.

3.1.2 In the member section on the website of Eurex Clearing AG (www.eurexclearing.com), each Clearing Member may opt for any one Liquidation Group (as defined in Number 7.5.1) with respect to any particular Transaction Account whether it wants Eurex Clearing AG to calculate its respective margin requirement in accordance with the Risk Based Margining methodology or in accordance with the Eurex Clearing Prisma methodology (the "**Margin Methodologies**" and each a "**Margin Methodology**"). If no choice is made in the member section by the Clearing Member for any Liquidation Group with respect to any particular Transaction Account, (or, in the case of an FCM Clearing Member acting for the account of one or more FCM Clients, the relevant FCM Client Own Account), Eurex Clearing AG shall apply the Risk Based Margining methodology for such Liquidation Group with respect to the respective Transaction Account (or FCM Client Own Account, respectively) of such Clearing Member.

3.1.3 With ~~regards~~ regard to the Margin Methodologies, Eurex Clearing AG will publish the relevant applicable calculation method for all relevant types of margin in Number 1.6.1 on its homepage www.eurexclearing.com; each published Margin Methodology shall form part of these Clearing Conditions.

[...]

3.2 Eligible Margin Assets and Valuation

3.2.1 Eligible assets to be provided as cover (i) in respect of Margin, Segregated Margin or FCM Client Margin are such currency amounts and such Securities, as are accepted to Eurex Clearing AG from time to time in its reasonable discretion and (ii) in respect of Variation Margin, Segregated Variation Margin or FCM Client Variation Margin, such currency amounts specified in the Special Clearing Provisions (the “**Eligible Margin Assets**”). Eurex Clearing AG will publish the relevant applicable list of Eligible Margin Assets in accordance with Number 16.2. Unless otherwise provided for in such list, debt securities that have a remaining term of 15 calendar days or less will not be accepted as Eligible Margin Assets.

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

- (1) The value of any Eligible Margin Asset actually delivered (as defined in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions) in respect of Elementary Proprietary Margin or Elementary Proprietary Variation Margin, Elementary Omnibus Margin or Elementary Omnibus Variation Margin, Segregated Margin or Segregated Variation Margin, Net Omnibus Margin or Net Omnibus Variation Margin, FCM Client Margin or FCM Client Variation Margin, as applicable, will be based on the latest valuation method and haircuts determined by Eurex Clearing AG from time to time in its reasonable discretion and published in accordance with Number 16.2.
- (2) If Eligible Margin Assets in the form of cash are provided in a currency other than the Clearing Currencies, the relevant cash amount shall – for the purpose of assessing compliance with the Margin Requirement – be deemed to have been actually delivered on the Business Day following confirmation by Eurex Clearing AG’s receiving bank of the receipt of such cash amount vis-à-vis Eurex Clearing AG.
- (3) If Eligible Margin Assets in the form of Securities are credited to the Pledged Securities Account, Elementary Omnibus Pledged Securities Account, Securities Margin Account or Net Omnibus Pledged Securities Account, as applicable, such Securities shall – for the purpose of assessing compliance with the Margin Requirement, margin requirement – be deemed to be actually delivered immediately after notification by Clearstream Banking AG, Clearstream Banking S.A. or by SIX SIS AG of such credit. If such notification occurs after the cut-off time specified by Eurex Clearing AG from time to time with respect to each of Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS AG, as applicable, such Securities shall – for the purpose of assessing compliance with the Margin Requirement, margin requirement – be actually delivered on the Business Day following such confirmation.
- (4) Currency amounts or Securities actually delivered in respect of Margin, Segregated Margin, Net Omnibus Margin or FCM Client Margin, as applicable, which

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are no longer accepted by Eurex Clearing AG as Eligible Margin Assets will be disregarded for the purpose of assessing compliance with the ~~Margin Requirement~~ margin requirement; the relevant Redelivery Claim (as defined in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable) with respect to any such assets shall remain unaffected. Eurex Clearing AG will, without undue delay, inform the Clearing Members (and in respect of Covered Transactions the ICM Clients) of any currency amounts or Securities that are no longer accepted in satisfaction of their respective ~~Margin Requirements~~ margin requirements.

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

3.3 Margin Call

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

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

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

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

3.4.1 If at any time a conversion of a currency amount which is not denominated in a Clearing Currency is necessary in order to calculate the ~~Margin Requirement~~ relevant margin

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requirement or to assess compliance therewith, Eurex Clearing AG shall use a commercially reasonable exchange rate prevailing as at such time.

- 3.4.2 Eurex Clearing AG reserves the right to make use of Eligible Margin Assets actually delivered in the form of cash in its sole discretion in the context of its business activity in order to ensure its capacity to operate as a clearing house as well as for investment purposes. Eurex Clearing AG shall also be entitled to use securities purchased in such investment transactions for purposes of liquidity management and liquidity generation in relation to its clearing activities in form of repo transactions with business parties according to Chapter I Part 1 Number 2.1.3 Paragraph (1) (a) – (f) or as collateral towards a central bank.
- 3.4.3 The use of Eligible Margin Assets in form of Securities actually delivered shall be subject to the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions.
- 3.4.4 Eurex Clearing AG may agree from time to time to pay interest on Eligible Margin Assets in the form of cash actually delivered by a Clearing Member to Eurex Clearing AG in respect of Margin. Any income on Eligible Margin Assets in form of Securities actually delivered by a Clearing Member to Eurex Clearing AG in respect of Margin shall be subject to the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions.
- 3.4.5 Eurex Clearing AG may demand from a Clearing Member the reimbursement of expenses arising from the investment of the cash actually delivered in respect of Margin. A liability for reimbursement exists for expenses such as charges on any account balances (including in connection with any applicable bank levies, taxes or similar regulatory instruments), negative interest rates, penalty fees, commissions and other payments with a similar effect which are determined by the accounting central bank or accounting commercial bank or governmental agencies in respect of the respective cash funds.

3.5 **Supplementary Margin**

- (1) Eurex Clearing AG shall be entitled to demand at any time during a Business Day from ~~such~~ a Clearing Member a higher or supplementary margin in the form of Eligible Margin Assets ("**Supplementary Margin**") in an amount adequate to secure all of Eurex Clearing AG's claims (including conditional claims) under any Standard Agreement with such Clearing Member, if the prerequisites of Paragraph (2) have been fulfilled. This applies even if Eurex Clearing AG has initially refrained, wholly or partly, from demanding any Supplementary Margin. Any Supplementary Margin requested by Eurex Clearing AG with respect to a Standard Agreement will increase the ~~Margin Requirement~~ margin requirement for ~~this~~ that Standard Agreement.
- (2) Eurex Clearing AG's claim for the provision of Supplementary Margin shall always be based on the precondition that Eurex Clearing AG becomes aware of any of the following circumstances, which justify a higher risk assessment of Eurex

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Clearing AG's claims against the Clearing Member (in case of a FCM Clearing Member, including all claims under the FCM Clearing Member Guarantee). This may, in particular, be the case, if:

[...]

- (5) Supplementary Margin shall be provided by the Clearing Member in accordance with the rules applicable with respect to the provision of Margin for the relevant Standard Agreement for which Eurex Clearing has requested the Supplementary Margin set out in the Elementary Clearing Model Provisions, Individual Clearing Model Provisions ~~and/or~~, Net Omnibus Clearing Model Provisions and/or U.S. Clearing Model Provisions, as the case may be. Supplementary Margin provided to Eurex Clearing AG shall constitute Margin in respect of the relevant Standard Agreement and be subject to the Elementary Clearing Model Provisions, Individual Clearing Model Provisions ~~and/or~~, Net Omnibus Clearing Model Provisions and/or U.S. Clearing Model Provisions, as the case may be, and the provisions of Paragraph (6), but shall not limit the right of Eurex Clearing AG to exercise Margin Calls.
- (6) After and to the extent that the risks leading to the provision of Supplementary Margin have ceased or Eurex Clearing AG has otherwise covered such risks vis-à-vis the Clearing Member, Eurex Clearing AG shall – subject to the occurrence of a Termination Date – be obliged to return or, as applicable, release to the Clearing Member such Supplementary Margin.

4 Internal Accounts

4.1 Types of Accounts

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

[...]

4.3 Internal Cash Accounts

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

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4.4 Internal Margin Account

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

[...]

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

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

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

[...]

6 Clearing-Fonds

[...]

6.1 Contributions to the Clearing Fund

6.1.1 Contributions and Calculation of the Contributions to the Clearing Fund

- (1) Notwithstanding any Margin Requirement applicable to the Clearing Member in accordance with the Clearing Conditions, each Clearing Member holding a Clearing License for Transactions within the scope of the Clearing Fund shall pay

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contributions to the Clearing Fund as further set out in this Number 6 (each such contribution to the Clearing Fund a “**Contribution**”).

- (2) Eurex Clearing AG shall from time to time determine the amount of the Contribution to be paid and maintained by a Clearing Member (the “**Contributions Requirement**”) in accordance with the relevant applicable calculation method published by Eurex Clearing AG pursuant to Number 16.1 (the “**Contributions Calculation Method**”); any such published Contributions Calculation Method shall form part of the Clearing Conditions.

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

- (3) The obligation to make Contributions becomes first due and payable as of the date of the granting of the first Clearing License and thereafter whenever Eurex Clearing AG has made an adjustment to the Contributions Requirement of the relevant Clearing Member.

[...]

6.2 Realisation of the Clearing Fund

Eurex Clearing AG shall have a claim for payment of the Clearing Fund Secured Claims (as defined below) against (i) a Clearing Member with respect to which a Termination Date occurs (the “**Affected Clearing Member**”, and each other Clearing Member, a “**Non-Affected Clearing Member**”), and (ii) any other Clearing Member (provided that the claims under (ii) shall only become due following a Realisation Event (as defined below) and shall, in each case, only be payable out of the Contribution and, subject to this Number 6.2 and Number 6.3, the Further Contribution, of the relevant Clearing Member to the Clearing Fund); the order of priority set forth in Number 6.2.1 applies.

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

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A “**Realisation Event**” shall occur if following a Termination the relevant provisions relating to the consequences of a Termination Date set out in the Elementary Clearing Model Provisions (in particular, Number 8 thereof), the Individual Clearing Model Provisions (in particular, Subpart A Number 7 thereof), ~~or the Net Omnibus~~ the Net Omnibus Clearing Model Provisions (in particular, Number 8 thereof) or the U.S. Clearing Model Provisions (in particular, Number 8 thereof), as applicable, have been applied.

6.2.1 In case of a Realisation Event, the (Further) Contributions of Clearing Members to the Clearing Fund will be realised (with respect to Interim Participants as modified by the specific provisions set out in Subpart A Number 15 of the Individual Clearing Model Provisions) in accordance with the following order of priority with respect to each “**Relevant Liquidation Group**”, i.e. each Liquidation Group (as defined in Number 7.5.1) within the scope of the Clearing Fund to which Terminated Transactions (as defined in Number 7.5) belong (whereby each Paragraph (1) to (10) of such order of priority shall, within the scope of the Clearing Fund, be applied to all Relevant Liquidation Groups simultaneously before, in each case, the respective next Paragraph is applied and whereby all Terminated Transactions within the scope of the Clearing Fund which do not form part of any Liquidation Group shall collectively be treated as one “**Relevant Liquidation Group**” within the scope of the Clearing Fund for the purposes of this Number 6):

- (1) first, the applicable Liquidation Group Ratio of the Contribution of the Affected Clearing Member;

[...]

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

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

[...]

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

If, following a Realisation Event, Eurex Clearing AG determines that the Contributions of the Non-Affected Clearing Members may not be sufficient to cover the respective claims

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secured by the Clearing Fund in accordance with Number 6.2.1 above, it shall at its discretion be entitled to require from the Non-Affected Clearing Members, within a Capped Period, by making one or several demands, and the Non-Affected Clearing Members shall, subject to the Liability Cap, be obliged to make, further Contributions (“**Further Contributions**”) to the Clearing Fund, in each case as soon as possible but no later than one Business Day following receipt of Eurex Clearing AG’s demand.

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

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

A Non-Affected Clearing-Member shall not be obliged to pay Further Contributions, if the respective Non-Affected Clearing-Member has terminated all of its Clearing Licenses and such terminations have become effective prior to the start of the respective Capped Period. If a Clearing Member which has terminated all its Clearing Agreements with Eurex Clearing AG has not settled all its Transactions (and, in the case of a FCM Clearing Member, all Transactions of its FCM Clients) within a Capped Period, such Clearing Member remains liable for any subsequent Capped Period(s) in accordance with the foregoing sentence until it is no longer a party to (or, in the case of a FCM Clearing Member, no longer guarantees pursuant to its FCM Clearing Member Guarantee) any Transactions with Eurex Clearing AG.

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

6.4 Release of the Contributions to the Clearing Fund

If Eurex Clearing AG or a Clearing Member terminates all its Clearing Licenses, Eurex Clearing AG shall release the Contributions of the respective Clearing Member to the Clearing Fund as follows:

- (a) if no Capped Period has commenced at the time of the termination, at the later of (x) the effective date of such termination and (y) one month after the day upon which all Transactions in the accounts of the respective Clearing Member and, in the case of

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a FCM Clearing Member, the accounts relating to its FCM Clients have been settled;
and

- (b) if a Capped Period has commenced at the time of the termination, at the later of (i) the effective date of such termination, (ii) the end of the Capped Period, and (iii) one month after the day upon which all Transactions in the accounts of the respective Clearing Member and, in the case of a FCM Clearing Member, the accounts relating to its FCM Clients have been settled.

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

6.5 Interpretation

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

7 Termination Rules with respect to the Clearing Member

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

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

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

7.1 Construction and Interpretation

7.1.1 This Number 7 provides for the general provisions that apply to a Termination pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or, with respect to a FCM Clearing Member and a Clearing Agreement in the form appended hereto as Appendix 10 to which such FCM Clearing Member is a party, the U.S. Clearing Model Provisions.

[...]

7.1.5 If and to the extent that the U.S. Clearing Model Provisions apply, references in this Number 7 to “Transactions”, “Margin” or “Variation Margin” shall refer respectively to the terms “FCM Client Transactions”, “FCM Client Margin” and “FCM Client Variation Margin” as defined in the U.S. Clearing Model Provisions.

7.1.6 References to **“Redelivery Claims”** in this Number 7 refer to Redelivery Claims of the Clearing Member under a Standard Agreement either pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions or to Redelivery Claims of the relevant FCM Client under a Standard Agreement pursuant to the U.S. Clearing Model Provisions, as applicable, and exclude any Redelivery Claims arising under other Standard Agreements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable.

7.2 Termination Events

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

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

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“**Termination Notice**”) specifying the date and time on which the Termination shall occur.

[...]

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

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

(1) Failure to Pay; Failure to Deliver Margin

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

(2) Failure to comply with Clearing Conditions

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

(3) Failure to comply with Clearing License prerequisites

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

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

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

[...]

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

7.3 Consequences of a Termination

The consequences of a Termination and the applicable valuation method for determining the Difference Claim (the “**Difference Claim Valuation Method**”), which is either the “**Liquidation Price Approach**” or the “**Exchange Price Approach**”, are set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as

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applicable. Any Difference Claim pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions shall be determined as follows:

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

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

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

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

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

[...]

7.5 Default Management Process

Eurex Clearing AG maintains a default management process to reduce the risks following a default by a Clearing Member and the occurrence of a Termination Event or Insolvency Termination Event (as defined in Number 7.2.1 and 7.2.2) resulting in a Termination and the calculation of one or more Difference Claims, as described in these Clearing

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Conditions. Eurex Clearing AG establishes default management committees (each a “**DMC**”) for the purpose of advising and assisting the Executive Board of Eurex Clearing AG with respect to the consequences of a Termination and all other matters specified in the Clearing Conditions, as further set out in this Number 7.5.

Where in this Number 7.5 reference is made to “**Terminated Transactions**”, such reference shall refer to all terminated Transactions of the Affected Clearing Member (as defined in Number 6.2) in accordance with Number 8.4.1 of the Elementary Clearing Model Provisions, Subpart A Number 7.3.1 of the Individual Clearing Model Provisions (excluding Transactions which have been subject to a re-establishment pursuant to Subpart A Number 11 of the Individual Clearing Model Provisions) or Number 8.3.1 of the Net Omnibus Clearing Model Provisions; or, if the Affected Clearing Member is a FCM Clearing Member, all terminated Transactions of its FCM Client(s) pursuant to Numbers 8.6 or 9.6 of the U.S. Clearing Model Provisions.

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

[...]

7.5.2 **DM Hedging Transactions**

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

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

- (1) At any time after the Termination Time (with respect to the relevant Affected Clearing Member), Eurex Clearing AG may in its discretion
 - ____(a) enter into independent trades to establish new Transactions equivalent to Terminated Transactions and/or reciprocal to DM Hedging Transactions, as deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s), and/or
 - (b) if it is deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s), conduct one or more auctions with respect to one or several

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Liquidation Groups (in whole or in part the “**DM Auctions**” or each a “**DM Auction**”) to establish new Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent to Terminated Transactions of the Affected Clearing Member (or, if the Affected Clearing Member is a FCM Clearing Member, the Terminated Transactions of the relevant FCM Client) and/or reciprocal to DM Hedging Transactions (together the “**DM Auction Transactions**” and each a “**DM Auction Transaction**”).

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

- (2) DM Auctions are governed by the rules set forth in the default management auctions rules, as published by Eurex Clearing AG on its website www.eurexclearing.com (the “**DM Auction Rules**”). The DM Auctions Rules form part of these Clearing Conditions.
- (3) Unless the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions (as defined in Chapter VIII Part 2), DM Auctions will be conducted with regard to one unit or several identically composed units of DM Auction Transactions of the relevant applicable Liquidation Group (or, in consultation with the relevant DMC(s), parts thereof), as specified by Eurex Clearing AG for each DM Auction after consultation with the relevant DMC(s) (the “**Auction Units**” or each an “**Auction Unit**”). If the relevant DM Auction Transactions qualify as OTC Interest Rate Derivative Transactions, DM Auctions will be conducted with regard to one Auction Unit per currency in which the relevant DM Auction Transactions are denominated. Each Auction Unit will generally consist of all DM Auction Transactions denominated in the same currency.
- (4) Clearing Members (i) holding a Clearing License with respect to all DM Auction Transactions comprised in the relevant Auction Unit, (ii) having the necessary account structure to settle all DM Auction Transactions comprised in the relevant Auction Unit, (iii) with respect to which within 3 months prior to the relevant Termination with respect to the relevant Affected Clearing Member at least one Transaction (and/or, if the Affected Clearing Member is a FCM Clearing Member, a FCM Client Transaction of any of its FCM Clients) with respect to each Relevant Liquidation Group has been booked on a respective account, and (iv) with respect to which no Termination Event or Insolvency Termination Event has occurred and is continuing (each a “**Mandatory Participant**”) shall be obliged to participate in DM Auctions in accordance with the DM Auction Rules. Subject to certain restrictions, as set forth in the DM Auctions Rules, Non-Clearing Members, Registered Customers

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and other customers of Clearing Members may participate in DM Auctions in accordance with the DM Auction Rules through their Clearing Members.

[...]

7.5.4 Cash Settlement of a Liquidation Group

(1) Cash Settlement of Liquidation Group Transactions

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

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

(2) Consequences of Cash Settlement of a Liquidation Group

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

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

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(3) Liquidation Group Difference Claim

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

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

The final amount of the Liquidation Group Difference Claim resulting from such combination shall (i), if it is a positive figure for Eurex Clearing AG, be owed to it by the relevant Clearing Member or FCM Client, as relevant, or (ii), if it is a negative figure for Eurex Clearing AG, be owed by it to the Clearing Member or FCM Client, as relevant. Eurex Clearing AG shall notify the value of the Liquidation Group Difference Claim determined by it to the Clearing Member, to the relevant FCM Client and to the Clearing Member's ICM Clients as soon as reasonably practicable, together with reasonable detail regarding the data and information forming the basis of the determination.

(4) Payment of Liquidation Group Difference Claim

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

[...]

9 Termination Rules with respect to Eurex Clearing AG

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

- 9.1 All current or future primary obligations (including payment and delivery obligations) arising from all Transactions and all Redelivery Claims under the relevant Standard Agreement between Eurex Clearing AG and the relevant Clearing Member or FCM Client, as relevant, in accordance with Number 2.1.4~~3~~ of the Elementary Clearing Model Provisions, Subpart A, Number 2.1.2 of the Individual Clearing Model Provisions ~~of~~,

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Number 2.1.23 of the Net Omnibus Clearing Model Provisions or Number 2.1.2 of the U.S. Clearing Model Provisions, respectively, shall expire and may no longer be performed by the relevant obligor. Further all due but unsatisfied obligations to deliver Elementary Proprietary Margin or Elementary Proprietary Variation Margin, Elementary Omnibus Margin or Elementary Omnibus Variation Margin, Segregated Margin or Segregated Variation Margin, Net Omnibus Margin or Net Omnibus Variation Margin FCM Client Margin or FCM Client Variation Margin, as applicable, under the relevant Standard Agreement expire. These expired primary obligations and delivery obligations, respectively, are reflected by the difference claim pursuant to Number 9.2 below.

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

[...]

- 9.3 The following events shall constitute a Failure to Pay Event or an Insolvency Event with respect to Eurex Clearing AG:
- (1) A "**Failure to Pay Event**" occurs if (a) a Payment Default, (b) a Non-Payment of the Cash Settlement Amount following a Delivery Default or (c) a Redelivery Default which is set by a Clearing Member (each as defined below) occurs.
 - (2) An "**Insolvency Event**" occurs if the *Bundesanstalt für Finanzdienstleistungsaufsicht* files a petition for the opening of insolvency proceedings over the assets of Eurex Clearing AG.
- 9.3.1 A "**Payment Default**" occurs if:
- (1) Eurex Clearing AG fails to make, when due, any payment (other than a payment of the Cash Settlement Amount following a Delivery Default) in respect of a payment claim of a Clearing Member or a FCM Client against Eurex Clearing AG arising from a Transaction;
 - (2) Eurex Clearing AG has received written notice (*Textform*) of such failure by the relevant Clearing Member or, if the relevant Standard Agreement is a FCM Client Standard Agreement, the relevant FCM Clearing Member (acting on behalf of such FCM Client) ("**First Notification**");

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- (3) Eurex Clearing AG has received a further written notice (*Textform*) of such failure after the expiry of a period of not less than three (3) calendar days after receipt of the First Notification (“**Second Notification**”); and
- (4) Eurex Clearing AG's failure to make such payment to such Clearing Member or such FCM Client continues – subject to the following paragraph – for a period of at least two (2) calendar days after the Second Notification, provided that the last day of such period shall be a Business Day.

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

[...]

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

- (1) Eurex Clearing AG fails, when due, to perform a redelivery ~~obligation~~ claim of a Clearing Member or FCM Client against Eurex Clearing AG with respect to (i)-Eligible Margin Assets provided as cover, (ii)-Contributions to the ~~Credit-Clearing FundsFund~~, or (iii)-collateral to cover a shortfall of own funds or equivalent regulatory capital as prerequisite for a Clearing License, or to release the relevant Securities in case of a pledge;
- (2) Eurex Clearing AG has no right of retention, as for instance according to Part 2 Number 6.7.3 or Part 4 Number 6.7.3;
- (3) Eurex Clearing AG has received written (*Textform*) notice from such Clearing Member or the FCM Clearing Member acting on behalf of the relevant FCM Client with respect to such non-performance (“**First Re-Delivery Request**”);
- (4) Eurex Clearing AG has received from such Clearing Member or the FCM Clearing Member acting on behalf of the relevant FCM Client a further written (*Textform*) notice requesting Eurex Clearing AG to fulfil such delivery obligation after the expiry

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of a further period of not less than three (3) calendar days after receipt of the First Re-Delivery Request ("**Second Re-Delivery Request**"); and

- (5) Eurex Clearing AG's failure to perform to such Clearing Member or FCM Client continues – subject to the following paragraphs – for a period of at least two (2) calendar days after the Second Re-Delivery Request, provided that the last day of such period shall be a Business Day

For the purposes of this Number 9.3.6, a performance will be considered not to have been made by Eurex Clearing AG (a) if no corresponding Securities have been credited to a securities account of the Clearing Member or of the FCM Clearing Member (acting for the account of the relevant FCM Client) or to a securities account of a depository, a settlement institution or a custodian designated by the ~~the~~ Clearing Member or the relevant FCM Clearing Member (acting for the account of the relevant FCM Client) at a deposit bank or a central securities depository or is not released in Xemac; or (b) if no corresponding amount has been credited to the relevant account of the relevant Clearing Member or the FCM Clearing Member (acting for the account of the relevant FCM Client) or to an account of a correspondent bank designated by the Clearing Member ~~or the relevant FCM Clearing Member (acting for the account of the relevant FCM Client)~~.

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

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

[...]

11 Default Rules applicable to Registered Customers

- 11.1 If a Registered Customer fails to perform any of its obligations due under a Transaction or under the Clearing Agreement or if an event of default occurs in respect of the Registered Customer under a Client Clearing Agreement, as the case may be, Eurex Clearing AG will – upon written request or by using the Stop Button pursuant to Number 10.2.1 by the

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Clearing Member – exclude such Registered Customer in its system from the Clearing and reject novations of transactions with respect to the relevant Registered Customer for the duration of such failure or event of default.

- 11.2 If a Registered Customer has been excluded from the Clearing, the relevant Clearing Member shall close its Transactions or positions with Eurex Clearing AG with respect to such Registered Customer. The Clearing Member's costs of such closing shall be borne by the Registered Customer in accordance with the provisions of the relevant Clearing Agreement or Client Clearing Agreement. This Number 11.2 shall not affect any additional contractual or statutory rights the Clearing Member may have against the relevant Registered Customer.

[...]

13 Termination of Clearing Agreements and Clearing Licenses

13.1 Termination of Clearing Agreements and Clearing Licenses

- 13.1.1 Eurex Clearing AG or the Clearing Member may terminate individual or all Clearing Agreements or individual or all Clearing Licences at any time. Such termination requires written notice to the Clearing Member or Eurex Clearing AG in the case of a Clearing License ~~respectively and, in the case of a Clearing Agreement, to the other parties to the Clearing Agreement in the case of a Clearing Agreement, respectively.~~ The termination shall take effect on the later of the following dates: (i) 30 days after receipt of the termination notice (and, in the case of a termination notice that is to be received by Eurex Clearing AG and another party to the Clearing Agreement, only upon receipt by Eurex Clearing AG of evidence of receipt by such other party) respectively (ii) after all Transactions which are subject to the respective Clearing Agreement(s) or Clearing License(s) have been cancelled, closed or fulfilled.
- 13.1.2 Eurex Clearing AG is entitled to terminate a specific Clearing Licence with immediate effect if the prerequisites pursuant to Number 7.2.1 Paragraph (3) are fulfilled with respect to such specific Clearing Licence.

13.2 Special provisions regarding termination of Clearing Agreements involving a Non-Clearing Member ~~or~~, Registered Customer or FCM Client

- 13.2.1 A Non-Clearing Member ~~or~~, Registered Customer or FCM Client, respectively, may terminate a Clearing Agreement to which it is party at any time pursuant to Number 13.1, applied *mutatis mutandis*. Number 1.1.7 Paragraph (10) shall remain unaffected.
- 13.2.2 If a Non-Clearing Member or Registered Customer has caused a breach of its obligations under the Clearing Agreement vis-à-vis Eurex Clearing AG and such breach continues for more than 30 calendar days after such Non-Clearing Member or Registered Customer receives written notice thereof from Eurex Clearing AG, Eurex Clearing AG may terminate such Clearing Agreement pursuant to Number 13.1, applied *mutatis mutandis*, whereas such termination shall take effect upon expiry of a period of 15 calendar days.

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13.2.3 Upon receipt of a termination notice pursuant to Number 13.2.2, the relevant Non-Clearing Member (i) may not enter new orders or quotes into the systems of the Markets (other than with respect to inverse Transactions concluded with its Clearing Member), (ii) is obliged to cancel all outstanding orders and quotes, if and to extent possible under the rules and regulations of the relevant Markets, and any pending novations and (iii) is obliged to close its Transactions or transfer its Transactions to another Clearing Member. Eurex Clearing AG shall inform the Management Board of the respective Market in writing about a termination of a Clearing Agreement involving a Non-Clearing Member and about the time when the termination becomes effective. In addition, Number 10.5 applies *mutatis mutandis*.

13.2.4 Upon receipt of a termination notice pursuant to Number 13.2.2, (i) no new Transactions shall be included in the Clearing by the Clearing Member with respect to such Registered Customer, and (ii) the Clearing Member must close or transfer its relevant RC-Related Transactions to another Clearing Member. In addition, Number 11.3 applies *mutatis mutandis*.

13.2.5 Upon receipt of a termination notice from a FCM Clearing Member or a FCM Client by Eurex Clearing AG with respect to a Clearing Agreement in the form appended hereto as Appendix 10, no new FCM Client Transactions of such FCM Client may be included in the Clearing.

[...]

14 Liabilities, Emergency Actions, Contractual Penalties (*Vertragsstrafen*), Delegation

14.1 Liability, Emergency Actions

14.1.1 The Clearing Members shall be liable for wilful misconduct and negligence. If a Clearing Member causes any damages (*Schäden*) for Eurex Clearing AG, such damages shall in particular include any loss and properly incurred legal fees (including any applicable VAT).

14.1.2 Eurex Clearing AG shall only be liable for wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*), unless Eurex Clearing AG violates any of its essential obligations (*wesentliche Vertragspflichten*) under the Clearing Agreement (incorporating the Clearing Conditions). An essential obligation is an obligation, the performance of which is necessary for the execution of the contract and as well a performance of which the Clearing Member-~~or~~, Non-Clearing Member-~~or~~, Registered Customer or FCM Client, respectively, trusts in and may trust in. In case of simple negligence (*einfache Fahrlässigkeit*), the liability of Eurex Clearing AG is restricted only to damages typically foreseeable at the time of granting the Clearing License. The provision under Sentence 1 above shall not affect the statutory liability for damages incurred as a result of injury to life, body or health as well as the liability pursuant to the German Product Liability Act.

14.1.3 In case an orderly Clearing Procedure with a Clearing Member is disrupted, in particular by technical disruptions, the relevant Clearing Member ~~respectively~~, shall immediately notify Eurex Clearing AG thereof. Any respective emergency actions by Eurex Clearing AG are legally binding on all contractual parties.

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[...]

14.3 Delegation

Eurex Clearing AG shall be permitted to delegate in its own name the performance of the services assigned to it in whole or in part to third parties, provided that Eurex Clearing AG considers such delegation reasonable with regard to the interests of the Clearing Members. If Eurex Clearing AG delegates the performance of its services, it shall only remain responsible for the performance of the contractual obligations (*Primärleistungspflichten*) in respect of such services, but shall otherwise only be liable for diligently selecting and providing initial instructions to such delegate. However, upon request, Eurex Clearing AG shall assign any existing claims arising out of such delegation against such delegate to the respective Clearing Member ~~respectively~~.

15 Transmission of information by Eurex Clearing AG; Outsourcing of Clearing Functions

15.1 Transmission of information relating to Clearing Members, Non-Clearing Members or Registered Customers by Eurex Clearing AG

15.1.1 Eurex Clearing AG treats all data and information which relate to its Clearing Members, Non-Clearing Members ~~and~~, Registered Customers and FCM Clients confidentially. Eurex Clearing AG shall be authorised – subject to applicable law – to transfer such data and information to competent supervisory authorities or other authorised third parties domestic or abroad which are subject to confidentiality regulations with respect to such data and information comparable to those of Eurex Clearing AG.

Other customer-related information may only be passed on by Eurex Clearing AG if it is already publicly available or if it is legally required to be passed on or if the relevant Clearing Member, Non-Clearing Member ~~or~~, Registered Customer and FCM Clients has agreed to it.

15.1.2 Notwithstanding the provisions in Number 15.1.1, Eurex Clearing AG shall be entitled to pass on the following information to the exchange and off-exchange trading platforms for which the Clearing Member has applied to become a Market Participant:

- (1) granting of a Clearing License;
- (2) termination or suspension of a Clearing License;
- (3) occurrence of a Termination Event, Insolvency Termination Event and Termination Date;
- (4) termination of the Clearing Agreement.

15.1.3 Notwithstanding the provisions in Number 15.1.1, Eurex Clearing AG shall also be entitled to transmit or to request from clearing and settlement institutions or independent auditors which are subject to confidentiality regulations comparable to those applicable to Eurex Clearing AG, all data and information which refer to Clearing Members, Non-

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Clearing Members ~~or~~, Registered Customers and FCM Clients and which are necessary for the orderly conduct of the Clearing and for the fulfilment of Transactions.

15.2 Fulfilment and partial outsourcing of Clearing-related functions

15.2.1 Subject to Numbers 15.2.2 to 15.2.12, each Clearing Member and Non-Clearing Member and, subject to the U.S. Clearing Model Provisions, each FCM Client has to perform itself and on its own responsibility all functions incumbent on it in the context of the Clearing.

[...]

16 Publications and Notices

16.1 If provided for in these Clearing Conditions, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published (i) via electronic circular to the Clearing Members, Non-Clearing Members ~~and~~, Registered Customers and FCM Clients or (ii) on the Eurex Clearing AG website (www.eurexclearing.com). Unless otherwise provided for in these Clearing Conditions, such publication will be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice, except that in case of changes or amendments (x) of the Special Provisions (as defined in Number 17.3.1), such publication will be made at least three months prior to the effective date fixed in the relevant notice and (y) in the cases set forth in the first paragraph of Number 17.3.1 Paragraph (2), such publication will be made at least ten (10) Business Days prior to the effective date fixed in the relevant notice.

However, where changes or amendments to the Special Provisions are proposed, such publication need only be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice where Eurex Clearing AG announces in the invitation to the Consultation pursuant to Number 17.3.1 Paragraph (1) the application of a shortened publication time period of fifteen (15) Business Days prior to the effective date fixed in the relevant notice and in total no more than two affected Clearing Members, affected Non-Clearing-Members ~~and/or~~, affected Registered Customers and/or affected FCM Clients object to the application of such shortened time period within the Consultation as provided for in Number 17.3. If Eurex Clearing AG receives such objections from more than two affected Clearing Members, affected Non-Clearing-Members, and/or affected Registered Customers and/or affected FCM Clients during the Consultation, Eurex Clearing AG shall notify all Clearing Members, Non-Clearing-Members ~~and/or~~, Registered Customers and/or FCM Clients promptly on receipt of such objections in a further electronic circular.

16.2 Unless Number 16.1 is specified in these Clearing Conditions to apply, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published on the Eurex Clearing AG website under www.eurexclearing.com for at least three Business Days. Such notices will become effective immediately upon publication.

16.3 All notices to be given between Eurex Clearing AG and a Clearing Member or a Non-Clearing Member ~~or~~, Registered Customer or FCM Client shall be given in such form and at such address as agreed and/or notified from time to time by the relevant party. Notices may be given in the German or in the English language. Upon written request by a

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Clearing Member, Non-Clearing Member ~~or~~, Registered Customer or FCM Client all notices from Eurex Clearing AG (except for automated reports) to such requesting party shall be given in the German and in the English language or one of these languages. Unless otherwise specified in these Clearing Conditions notices by Clearing Members, Non-Clearing Members ~~or~~, Registered Customers or FCM Client may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.

- 16.4 Each Clearing Member, Non-Clearing Member ~~and~~, Registered Customer and FCM Client acknowledges that Eurex Clearing AG will send to Clearing Members, Non-Clearing Members ~~and~~, Registered Customers and FCM Clients notices –and reports in the systems of Eurex Clearing AG in an area which is only individually accessible to it (the “**Access Area**”). Eurex Clearing AG is not entitled to access or change the Access Area of a Clearing Member, Non-Clearing Member ~~or~~, Registered Customer or FCM Client without its consent. Reports and notifications stored in an Access Area will regularly be exchanged against new notices or reports with 10 Business Days of their storage in the Access Area.
- 16.5 Each Clearing Member, Non-Clearing Member ~~and~~, Registered Customer and FCM Client acknowledges that the notices and reports which are made accessible in the individual Access Area may also contain declarations (*Willenserklärungen*), in particular acceptances (*Annahmen*) of Transactions and other declarations of particular importance.

17 Miscellaneous

[...]

17.2 Changes and Amendments to the Clearing Conditions

- 17.2.1 Eurex Clearing AG reserves the right to change or amend the Clearing Conditions and the Procedures Manual at any time; any changes and amendments of these Clearing Conditions shall be published in accordance with Number 16.1.
- 17.2.2 In case of changes or amendments of Special Provisions (as defined in Number 17.3.1) the procedures set forth in Number 17.3 shall apply. In case of all other changes and amendments of the Clearing Conditions (except for changes or amendments pursuant to Number 17.3.1 Paragraph (2)) Eurex Clearing AG shall assess whether the comments received from affected Clearing Members, affected Non-Clearing-Members ~~and~~, affected Registered Customers and affected FCM Clients within ten (10) Business Days of the publication of the change or amendment, taking into account the interests of Eurex Clearing AG, all Clearing Members, Non-Clearing-Members ~~and~~, Registered Customers and FCM Clients, stand in the way of the published change or amendment becoming effective. If necessary, Eurex Clearing AG will consult the ~~EMIR~~-Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to implement comments of affected Clearing Members, affected Non-Clearing-Members ~~or~~, affected Registered Customers or

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affected FCM Clients the relevant changes and amendments will be published again pursuant to Number 16; there will, however, be no new assessment of the comments of the Clearing Members, Non-Clearing-Members ~~and~~, Registered Customers and FCM Clients pursuant to this Number 17.2.2.

17.2.3 Each Clearing Member, Non-Clearing Member ~~and~~, Registered Customer and FCM Client accepts each change and amendment of the Clearing Conditions, unless it objects by written notice to Eurex Clearing AG before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions. Eurex Clearing AG will inform the Clearing Members, Non-Clearing Members ~~and~~, Registered Customers and FCM Clients of the effects of such approval in the relevant publication of the changes and amendments of these Clearing Conditions. The right to terminate the Clearing Agreement pursuant to Number 7.2.1 Paragraph (4) shall remain unaffected.

17.3 Consultation in case of changes and amendments of the Clearing Conditions

17.3.1 Scope of Application and Definitions

(1) Prior to changes or amendments of the Special Provisions (as defined below), Eurex Clearing AG will, pursuant to Number 16, invite all affected Clearing Members, affected Non-Clearing-Members ~~and~~, affected Registered Customers and affected FCM Clients to submit comments to the proposed changes and amendments within one month after the publication of the relevant invitation ("**Consultation**").

"**Special Provisions**" are Numbers 1.5, 6, 7, 9, 16.1, 17.2 and 17.3, Subpart C Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions, Chapter III Part 2 Number 2.4 Paragraph (1), Chapter IV Part 2 Number 2.6 Paragraph (1)(b), Chapter V Part 2 Number 2.2.1 Paragraph (4), Chapter VIII Part 2 Number 2.2.5 Paragraph (7), Chapter IX Part 2 Number 2.6.4 Paragraph (4), Chapter IX Part 2 Number 2.7.2 Paragraph (2), Appendices 1, 2, 3, 4, 5, 6 and 7 (to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests) as well as the Procedures Manual (to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing AG, the Clearing Members, Non-Clearing-Members ~~and~~, Registered Customers and FCM Clients), the DMC Rules and the DM Auction Rules and any newly added provisions relating to the subject matter of these provisions. Rules or Agreements (except for those set forth in the preceding sentence), which are referred to in these provisions, do not qualify as Special Provisions.

(2) A Consultation pursuant to Paragraph (1) does not take place with regard to (i) editorial changes or amendments, (ii) changes or amendments necessary to comply with statutory or regulatory requirements, as well as (iii) changes or amendments (except for changes or amendments to Numbers 6, 7, 9, 17.2 or 17.3) due to Extraordinary Market Conditions (as defined below).

"**Extraordinary Market Conditions**" are, as determined by Eurex Clearing AG,

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- (a) events or circumstances which affect or may affect the orderly Clearing, the orderly settlement and liquidation of Transactions or the existence or orderly functioning of the Clearing Process.
- (b) other market disruptions which render impossible or impracticable the orderly determination of closing prices (*Schlusskursen*) or settlement prices; or
- (c) events or circumstances which establish non tolerable insecurity, volatility or risks with regard to Transactions or the Clearing which may negatively impact on the financial or commodities markets relevant for the Clearing, which, in each case, render it impractical for Eurex Clearing AG to continue to operate the Clearing in accordance with the Clearing Conditions while sufficiently managing its risks. Extraordinary Market Conditions may also occur if only a single Clearing Member (e.g. in case of a default) or a group of Clearing Members is/are affected. The default of a Clearing Member does not per se constitute Extraordinary Market Conditions.

17.3.2 Eurex Clearing AG will, taking into account the interests of Eurex Clearing AG and all Clearing Members, Non-Clearing-Members ~~and~~, Registered Customers ~~and~~ FCM Clients assess the comments received by the affected Clearing Members, affected Non-Clearing-Members ~~and~~, affected Registered Customers ~~and~~ affected FCM Clients in the Consultation and, if necessary, consult the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to accept proposed changes or amendments by affected Clearing Members, affected Non-Clearing-Members ~~or~~, affected Registered Customers ~~or~~ affected FCM Clients an amended version of the relevant changes or amendments taking into account the proposed changes or amendments will be published pursuant to Number 16; there shall be no new Consultation pursuant to Number 17.3.

[...]

Part 2 Elementary Clearing Model Provisions

1 Application of the Elementary Clearing Model Provisions

1.1 Eurex Clearing AG and a Clearing Member may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 for the Clearing of Transactions under the Elementary Clearing Model Provisions pursuant to this Part 2. A FCM Clearing Member may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 1 for the Clearing of Own Transactions only.

Further, Eurex Clearing AG, a Clearing Member and a Non-Clearing Member or a Registered Customer may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 for the Clearing of Transactions under the Elementary Clearing Model Provisions pursuant to this Part 2.

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1.2 Any Transaction between the Clearing Member and Eurex Clearing AG which is subject to the Elementary Clearing Model Provisions shall either be concluded as an Own Transaction or as an Elementary Omnibus Transaction. The term “**Elementary Omnibus Transaction**” comprises each Customer-Related Transaction, NCM-Related Transaction and RC-Related Transaction that is subject to the Elementary Clearing Model Provisions. Any NCM-Related Transaction or RC-Related Transaction concluded under an ICM Clearing Agreement is a “**Covered Transaction**”. Any Net Omnibus Eligible Transaction concluded under a Net Omnibus Clearing Agreement which has been booked to a Net Omnibus Customer Account, a Net Omnibus NCM Account or a Net Omnibus RC Account and which is therefore subject to the Net Omnibus Clearing Model Provisions is a “**Net Omnibus Transaction**”. Any Transaction concluded between Eurex Clearing AG and a FCM Client under a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 is a “**FCM Client Transaction**”.

2 Content of Clearing Agreement and the Standard Agreements

2.1 Construction

[...]

2.1.3 Each of the following arrangements in paragraphs (i) – (iii) below shall for the purposes of these Clearing Conditions constitute a separate arrangement (each such arrangement hereinafter referred to as a “**Standard Agreement**”):

- (i) The “**Elementary Proprietary Standard Agreement**” comprising all rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Own Transactions under the Clearing Agreement pursuant to Number 2.1.1.
- (ii) The “**Elementary Omnibus Standard Agreement**” comprising all rights and obligations between Eurex Clearing AG and the relevant Clearing Member with respect to Elementary Omnibus Transactions under all Clearing Agreements pursuant to Numbers 2.1.1 and 2.1.2, or, in case of multiple Elementary Omnibus Standard Agreements pursuant to Number 2.3, each such Elementary Omnibus Standard Agreement (the Elementary Proprietary Standard Agreement and each Elementary Omnibus Standard Agreement an “**Elementary Standard Agreement**”).
- (iii) Unless otherwise agreed between the relevant Clearing Member and the relevant Non-Clearing Member/Registered Customer, all rights and obligations between the relevant Clearing Member and the relevant Non-Clearing Member or Registered Customer with respect to Transactions under a Clearing Agreement pursuant to Number 2.1.2 corresponding to the relevant NCM-Related Transactions or RC-Related Transactions of the Clearing Member.

References in the Elementary Clearing Model Provisions to a Standard Agreement shall be construed so as to exclude any Standard Agreement pursuant to the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions, and any FCM Client Standard Agreement pursuant to the U.S. Clearing Model Provisions.

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[...]

6.5 Delivery of Eligible Margin Assets in the form of Cash

Eligible Margin Assets in form of cash shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. The purpose of the Margin actually delivered in the form of cash is to collateralise the following claims of Eurex Clearing AG (the “**Secured Claims**”):

- (1) In case the Value Based Allocation is the Applicable Allocation Method, the Secured Claims with respect to each of Elementary Proprietary Margin and Elementary Omnibus Margin, shall comprise
 - (i) all present and future claims under **any Own** Transactions, any Difference Claim and any other present and future claims, in each case, of Eurex Clearing AG against the Clearing Member under the Elementary Proprietary Standard Agreement (the “**Secured Elementary Proprietary Claims**”), and
 - (ii) all present and future claims under any Elementary Omnibus Transactions, any Difference Claim (the “**Secured Elementary Omnibus Difference Claim**”) and any other present and future claims, in each case, of Eurex Clearing AG against the Clearing Member under the Elementary Omnibus Standard Agreement, including for the avoidance of doubt all present and future claims of Eurex Clearing AG against the Transferee Clearing Member relating to any Elementary Omnibus Transactions that have been transferred to such Transferee Clearing Member in accordance with Number 8.3 (the “**Secured Elementary Omnibus Claims**”), and
 - (iii) (A) all present and future claims of Eurex Clearing AG against the Clearing Member under any of the Standard Agreements pursuant to the Individual Clearing Model Provisions that result from a Segregated Margin Shortfall in respect of such Standard Agreements and (B) any present and future Difference Claims then unconditional and due and payable, but unpaid, of Eurex Clearing AG against the Clearing Member pursuant to the Individual Clearing Model Provisions (the “**Secured ICM Difference Claims**”) ~~(“~~ and together with the claims under (A), ~~(the “**Secured ICM Claims**”), and~~
 - (iv) (A) all present and future claims of Eurex Clearing AG against the Clearing Member under the Standard Agreement pursuant to the Net Omnibus Clearing Model Provisions that result from a Net Omnibus Margin Shortfall and (B) any present and future Difference Claim then unconditional and due and payable, but unpaid, of Eurex Clearing AG against the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions (the “**Secured Net Omnibus Difference Claim**”) ~~(“~~ and together with the claims under (A), ~~(the “**Secured Net Omnibus Claims**”), and~~
 - ~~(v) (A) all present and future claims of Eurex Clearing AG against the Clearing Member (in its capacity as FCM Clearing Member) or the relevant FCM Client pursuant to the U.S. Clearing Model Provisions and (B) any present and future~~

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Difference Claim then unconditional and due and payable, but unpaid, by any FCM Client of such FCM Clearing Member pursuant to the U.S. Clearing Model Provisions (the “Secured U.S. Clearing Model Difference Claim”, and together with the claims under (A), the “Secured U.S. Clearing Model Claims”), and

- (vi) all other present and future claims of Eurex Clearing AG against the Clearing Member under any of their Clearing Agreements between Eurex Clearing AG und such Clearing Member.
- (2) In case the Asset Based Allocation is the Applicable Allocation Method, the Secured Claims shall,
- (i) with respect to Elementary Proprietary Margin, comprise the Secured Elementary Proprietary Claims, the Secured Elementary Omnibus Claims, Secured ICM Claims, the Secured Net Omnibus Claims , the Secured U.S. Clearing Model Claims and all other present and future claims of Eurex Clearing AG against the Clearing Member under any of their Clearing Agreements between Eurex Clearing AG und such Clearing Member, and
 - (ii) with respect to Elementary Omnibus Margin, comprise the Secured Elementary Omnibus Claims under the relevant Elementary Omnibus Standard Agreement.

[...]

8.3 Porting of assets and positions in relation to Elementary Omnibus Standard Agreements

This Number 8.3 shall apply with respect to a Clearing Member, (other than a FCM Clearing Member), if Eurex Clearing AG has determined based on the legal circumstances in the jurisdiction where such Clearing Member is domiciled that the porting mechanics contemplated herein shall be applicable with respect to such Clearing Member. Eurex Clearing AG will publish a list of the relevant jurisdictions from time to time.

[...]

8.7 Realisation of Margin

8.7.1 In case Eurex Clearing AG is, with respect to an Elementary Standard Agreement, the creditor of the Difference Claim against the Affected Clearing Member, Eurex Clearing AG shall be entitled to realise the pledges created by the Affected Clearing Member pursuant to Number 6.6 as further set out in this Number 8.7.

8.7.2 In case the Asset Based Allocation is the Applicable Allocation Method, Eurex Clearing AG:

(A) shall enforce and realise the Eligible Margin Assets in the form of Securities which are credited to the Pledged Securities Account and shall apply the proceeds in the following order of priority:

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- (i) first, with respect to the Difference Claim relating to the Elementary Proprietary Standard Agreement; and
- (ii) second, (only to the extent Segregated Margin, FCM Client Margin, Net Omnibus Margin and/or Elementary Omnibus Margin (as applicable) is, for whatever reason, not sufficient for such purpose) with respect to the Secured ICM Difference Claims, each Secured Net Omnibus Difference Claim ~~and/or~~ each Secured Elementary Omnibus Difference Claim (if any), and/or each Secured U.S. Clearing Model Difference Claim, and

(B) with respect to each Elementary Omnibus Standard Agreement separately shall realise the Eligible Margin Assets in the form of Securities which are credited to the Elementary Omnibus Pledged Securities Account and apply the proceeds with respect to its Secured Elementary Omnibus Claims.

[...]

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

[...]

2 Standard Agreements between Eurex Clearing AG and the Clearing Member

2.1 Construction and Prerequisites

2.1.1 Any Transaction between Eurex Clearing AG and the Clearing Member which is subject to the Individual Clearing Model Provisions shall be a **“Covered Transaction”** for the purpose of these Individual Clearing Model Provisions.

2.1.2 Upon execution of an ICM Clearing Agreement with a specific ICM Client, all rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Covered Transactions under such ICM Clearing Agreement shall for the purpose of these Clearing Conditions constitute a separate arrangement (each such relevant separate arrangement is a Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to the Individual Clearing Model Provisions).

Covered Transactions, Segregated Margin, Segregated Variation Margin, Redelivery Claims and any other rights and obligations under such Standard Agreement relating to such ICM Client will be separate from those Covered Transactions, Segregated Margin, Segregated Variation Margin and Redelivery Claims or Non-Covered Transactions, Margin, Variation Margin and Redelivery Claims as well as other rights and obligations under any other Standard Agreement established under any other Clearing Agreement pursuant to the Clearing Conditions.

References in these Individual Clearing Model Provisions to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member or references to the Difference Claim between Eurex Clearing AG and the Clearing Member shall be construed solely by reference to the ICM Clearing Agreement and a certain ICM Client

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(and shall therefore exclude the relevant Standard Agreement and Difference Claims under any other ICM Clearing Agreement as well as the relevant Standard Agreement and Difference Claims pursuant to the Elementary Clearing Model Provisions and the Net Omnibus Clearing Model Provisions), and the relevant FCM Client Standard Agreement and Difference Claims under the U.S. Clearing Model Provisions).

2.1.3 All Covered Transactions and all Redelivery Claims between Eurex Clearing AG and the Clearing Member arising pursuant to the Individual Clearing Model Provisions under the relevant Standard Agreement, together the “**Covered Claims**”, form a single agreement between the parties to the relevant Standard Agreement and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual Covered Transactions) can be terminated only in its entirety.

2.2 **General principles applicable to the settlement of Covered Transactions and any Delivery and Redelivery of Segregated Margin or Segregated Variation Margin**

2.2.1 Each party to the relevant Standard Agreement shall be obliged to fulfil any payment or delivery obligations under Covered Transactions or obligations to deliver or redeliver cover in respect of either the Segregated Margin or the Segregated Variation Margin under the relevant Standard Agreement by transferring to the transferee all right, title and interest in and to the concerned assets or Eligible Margin Assets, as the case may be, free and clear from any and all rights and claims of the transferring party and of any third person, howsoever arising, including, without limitation, pursuant to applicable regulation or under any statutory or other trust. The value of such assets shall, as of the date the transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

In the case of a transfer of Eligible Margin Assets in the form of Securities by the Clearing Member to Eurex Clearing AG, the Clearing Member shall instruct Clearstream Banking AG in a timely manner to transfer the relevant Securities to the Securities Margin Account and authorizes Clearstream Banking AG to inform Eurex Clearing AG of such transfer.

2.2.2 The purpose of the Segregated Margin and Segregated Variation Margin actually delivered under the relevant Standard Agreement shall be to collateralise all claims (whether present, future, actual, contingent or prospective) of the relevant margin taker arising under the Covered Transactions entered into between the parties to such Standard Agreement.

2.2.3 The actual payment or delivery of Eligible Margin Assets in respect of Segregated Margin or Segregated Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for repayment or redelivery, as the case may be, of equivalent assets in the same amount or the same number as such Eligible Margin Assets actually delivered (or increases an already existing repayment or redelivery claim; each such claim shall be referred to as a “**Redelivery Claim**”), subject to, in the case of a Direct Segregated Margin Transfer, Number 17.1.8. In the case of Segregated Margin, only the Clearing Member and the ICM Client, respectively and if applicable, may be the

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creditor of the relevant Redelivery Claim and in the case of Segregated Variation Margin, either party to the relevant Standard Agreement may be the creditor of the relevant Redelivery Claim.

For the purpose of the relevant Redelivery Claim, the term “**equivalent**” means assets of the same type, currency, description, nominal value and amount as such Eligible Margin Assets (including, in the case of debt securities, the sum of money or assets equivalent to any redemption or other proceeds therefrom) actually delivered in respect of the Segregated Margin or the Segregated Variation Margin.

References in these Individual Clearing Model Provisions to Redelivery Claims shall be construed so as to exclude any Redelivery Claim pursuant to the Elementary Clearing Model Provisions ~~and~~, the Net Omnibus Clearing Model Provisions and the U.S. Clearing Model Provisions.

A Redelivery Claim will become due with respect to the Segregated Margin (i) upon receipt of a respective declaration from the margin provider by Eurex Clearing AG prior to the then applicable cut-off time of any Business Day, as specified by Eurex Clearing AG on its website www.eurexclearing.com for Securities with respect to Clearstream Banking AG, or for cash with respect to the relevant currency, as applicable, and if and to the extent the relevant applicable Default Margin Requirement is below the aggregate value of all Eligible Margin Assets actually delivered in respect of the Segregated Margin or (ii) in accordance with Number 5.3.5 and with respect to the Segregated Variation Margin in accordance with Number 6, in each case provided that no Termination Date has occurred.

5 Segregated Margin

The Margin Requirement applicable to the Clearing Member pursuant to this Number 5 shall be in addition to any other margin requirement of the Clearing Member vis-à-vis Eurex Clearing AG under the Elementary Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions ~~or the U.S. Clearing Model Provisions~~.

[...]

Part 3 Subpart B: ICM-ECD Provisions

1 Application

These Numbers 1 through 6 of Subpart B shall apply with respect to Transactions between the Clearing Member and such ICM Client under the ICM Clearing Agreement for ICM-ECD.

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2 Content of ICM Clearing Agreement, the Standard Agreement between Clearing Member and ICM Client

2.1 Construction

2.1.1 Any Transaction between the Clearing Member and the ICM Client under the relevant ICM Clearing Agreement for ICM-ECD shall be a **“Covered Transaction”** between such parties for the purpose of these Individual Clearing Model Provisions. Any Covered Transaction between the Clearing Member and the ICM Client which corresponds to a Covered Transaction between Eurex Clearing AG and such Clearing Member under the same ICM Clearing Agreement for ICM-ECD shall be a **“Corresponding Covered Transaction”**.

2.1.2 All rights and obligations between the Clearing Member and the ICM Client with respect to Corresponding Covered Transactions shall for the purpose of these Clearing Conditions constitute a separate arrangement (hereinafter a **“Standard Agreement”** and with respect to the corresponding Standard Agreement between Eurex Clearing AG and such Clearing Member, the **“Corresponding Standard Agreement”**). If the ICM Client is a Relevant Fund or Relevant Fund Segment acting through an Authorised Manager, (i) all rights and obligations between the Clearing Member and that Relevant Fund or Relevant Fund Segment with respect to Corresponding Covered Transactions as well as (ii) all rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Covered Transactions corresponding to the Corresponding Covered Transactions described in (i) shall each constitute a separate Standard Agreement.

References in these Individual Clearing Model Provisions to a Standard Agreement or Corresponding Standard Agreement shall be construed so as to exclude a Standard Agreement pursuant to the Elementary Clearing Model Provisions ~~and~~ the Net Omnibus Clearing Model Provisions and the U.S. Clearing Model Provisions, if any.

[...]

Part 4 Net Omnibus Clearing Model Provisions

1 Application of the Net Omnibus Clearing Model Provisions

1.1 Eurex Clearing AG and the Clearing Member may agree, pursuant to the Clearing Agreement appended to the Clearing Conditions as Appendix 1, that certain Customer-Related Transactions which are Net Omnibus Eligible Transactions (as defined in Number 1.3 below) shall be cleared under the Net Omnibus Clearing Model Provisions set out in this Part 4. For this purpose, the Clearing Agreement appended to the Clearing Conditions as Appendix 1 shall qualify as a **“Net Omnibus Clearing Agreement”** and shall apply to the Clearing of Net Omnibus Eligible Transactions for customers (each a **“Net Omnibus Customer”**). Own Transactions or Elementary Omnibus Transactions entered into between Eurex Clearing AG and the Clearing Member under such Clearing Agreement shall not form part of the Net Omnibus Clearing Agreement.

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Further, Eurex Clearing AG, the Clearing Member and a Non-Clearing Member (a “**Net Omnibus Non-Clearing Member**”) or a Registered Customer (a “**Net Omnibus Registered Customer**”) may enter into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 58 for the Clearing of Net Omnibus Eligible Transactions for such Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer. Any such Clearing Agreement shall also be a “**Net Omnibus Clearing Agreement**”.

Entering into a Net Omnibus Clearing Agreement pursuant to Appendix 8 to the Clearing Conditions is subject to the Clearing Member having selected in its Clearing Agreement with Eurex Clearing AG pursuant to Appendix 1 to the Clearing Conditions that the latter shall also qualify as a Net Omnibus Clearing Agreement.

- 1.2 The Net Omnibus Clearing Agreement(s) pursuant to Appendix 1 and, if applicable, Appendix 58 to the Clearing Conditions shall enable the Clearing Member to settle Transactions under the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority Handbook (to the extent applicable). The Clearing Member shall be solely responsible for compliance with the CASS rules.
- 1.2.1 Subject to Chapter I Part 1 Numbers 1.1.5 and 1.1.6, only Customer-Related Transactions, NCM-Related Transactions or RC-Related Transactions which are Eurex Transactions or OTC Interest Rate Derivative Transactions (“**Net Omnibus Eligible Transactions**”) may be subject to these Net Omnibus Clearing Model Provisions.
- 1.2.2 A Net Omnibus Eligible Transaction, executed between Eurex Clearing AG and the Clearing Member pursuant to these Net Omnibus Clearing Model Provisions and booked on (i) an account of the Clearing Member designated by the Clearing Member and notified to Eurex Clearing AG for the Customer-Related Transactions of the Clearing Member (the “**Net Omnibus Customer Account**”), (ii) any sub-account for Net Omnibus Eligible Transactions of the relevant account of the Clearing Member for NCM-Related Transactions pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (2) (such sub-accounts with respect to a particular Net Omnibus Non-Clearing Member collectively a “**Net Omnibus NCM Account**”) or (iii) any sub-account for Net Omnibus Eligible Transactions of the relevant account of the Clearing Member for RC-Related Transactions pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (3) (such sub-accounts with respect to a particular Net Omnibus Registered Customer collectively a “**Net Omnibus RC Account**”), shall be a “**Net Omnibus Transaction**”. The Clearing Member shall procure that each Transaction designated as a Net Omnibus Transaction is booked in a Net Omnibus Customer Account, a Net Omnibus NCM Account or a Net Omnibus RC Account, as applicable, without undue delay. Only the booking into the relevant account shall qualify such Transaction as a Net Omnibus Transaction.

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2 Content of the Net Omnibus Clearing Agreement and the Net Omnibus Standard Agreement

2.1 Construction

- 2.1.1 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~58~~ is entered into by Eurex Clearing AG, a Clearing Member and a Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, such Clearing Agreement will provide for terms and conditions applying between Eurex Clearing AG, the Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer as well as terms and conditions applying between Eurex Clearing AG and the Clearing Member, on the one hand, and between the Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, on the other hand.
- 2.1.2 References in these Net Omnibus Clearing Model Provisions to the Net Omnibus Standard Agreement shall be construed so as to exclude any Standard Agreement pursuant to the Elementary Clearing Model Provisions ~~or~~ the Individual Clearing Model Provisions ~~or the U.S. Clearing Model Provisions.~~
- 2.1.3 All rights and obligations between Eurex Clearing AG and the Clearing Member with respect to Net Omnibus Transactions or, in the case of multiple Net Omnibus Standard Agreements pursuant to Number 2.3, each such Net Omnibus Standard Agreement, shall constitute a separate arrangement (each a “**Net Omnibus Standard Agreement**”). Each Net Omnibus Standard Agreement forms a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between them which (subject to provisions in this Chapter I on the termination of individual Net Omnibus Transactions) can be terminated only in its entirety.
- 2.1.4 If a Clearing Member and the same entity acting as both Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~58~~, all rights and obligations between the relevant Clearing Member and the relevant entity acting as Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer with respect to Transactions under such Clearing Agreement corresponding to Net Omnibus Transactions of the Clearing Member relating to such entity shall, unless otherwise agreed between the Clearing Member and such entity acting as Net Omnibus Non-Clearing Member and Net Omnibus Registered Customer, be subject to one and the same Net Omnibus Standard Agreement.

[...]

2.2 General Principles applicable to the Settlement of Net Omnibus Transactions and any Delivery and Redelivery of Net Omnibus Margin or Net Omnibus Variation Margin

- 2.2.1 Eurex Clearing AG and the Clearing Member shall be obliged to fulfil (i) any payment or delivery obligations by transferring all rights, title and interest in and to the concerned asset and (ii) any obligations to deliver or redeliver cover in respect of either Net Omnibus

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Margin (as defined in Number 6.1) in the form of cash or Net Omnibus Variation Margin (as defined in Number 7.1) by transferring all rights, title and interest in and to the Eligible Margin Assets in the form of cash, in each case, free and clear from any and all rights and claims of the transferring party and of any third person, including, without limitation, pursuant to applicable regulation or under any statutory or other trust. The value of such assets shall, as at the date on which the transfer is effected, be at least equal to the value at that date of the relevant payment or delivery obligation.

- 2.2.2 The actual payment or delivery of Eligible Margin Assets in the form of cash in respect of Net Omnibus Margin or Net Omnibus Variation Margin gives rise to a corresponding contractual claim of the margin provider against the margin taker for the repayment of assets equivalent to the Eligible Margin Assets actually delivered or increases an already existing repayment claim (each such claim, which is calculated by Eurex Clearing AG in respect of all Net Omnibus Transactions under a Net Omnibus Standard Agreement, is a “**Redelivery Claim**”). In the case of Net Omnibus Margin, only the Clearing Member may be the creditor of the relevant Redelivery Claim and, in the case of Net Omnibus Variation Margin, Eurex Clearing AG or the Clearing Member may be the creditor of the relevant Redelivery Claim.

For the purposes of the Redelivery Claim, the term “**equivalent**” means an amount in the same currency and amount as such Eligible Margin Assets actually delivered in respect of Net Omnibus Margin (in the form of cash) or Net Omnibus Variation Margin.

References in these Net Omnibus Clearing Model Provisions to a Redelivery Claim shall be only to a Redelivery Claim determined in accordance with this Number 2.2.2 in respect of all Net Omnibus Transactions under a Net Omnibus Standard Agreement, which excludes any Redelivery Claim arising pursuant to the Elementary Clearing Model Provisions ~~or~~ the Individual Clearing Model Provisions or the U.S. Clearing Model Provisions.

[...]

6 Margin

The Net Omnibus Margin Requirement applicable to the Clearing Member pursuant to this Number 6 shall be in addition to any other margin requirement of the Clearing Member pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions and/or the U.S. Clearing Model Provisions.

[...]

Part 5 U.S. Clearing Model Provisions

1 Application of the U.S. Clearing Model Provisions; General Provisions

1.1 The provisions set forth in this Part 5 apply to Clearing services provided by Eurex Clearing AG with respect to ~~Net Omnibus Margin~~ FCM Clearing Members that clear OTC Interest Rate Derivative Transactions for the account of FCM Clients (as defined below).

1.2 A FCM Clearing Member may clear OTC Interest Rate Derivative Transactions for the account of a customer in accordance with ~~Number 6.7.1 and with respect to Net Omnibus~~ this Part 5 (each such customer, a "**FCM Client**") and only if Eurex Clearing AG, the FCM Clearing Member and the relevant FCM Client have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 and provided that the FCM Client meets the following requirements:

(1) The FCM Client must be an entity that is legally organised and has its principal place of business in a state or district of the United States of America.

(2) The FCM Client has a technical connection to the systems of Eurex Clearing AG.

(3) The FCM Client may not be an Affiliate of the FCM Clearing Member. "**Affiliate**" means with respect to a FCM Clearing Member, any entity that controls, directly or indirectly, the FCM Clearing Member, any entity controlled, directly or indirectly, by the FCM Clearing Member or any entity directly or indirectly under common control with such FCM Clearing Member. For this purpose, "**control**" of an entity or of a FCM Clearing Member means ownership of a majority of the voting power of the entity or the FCM Clearing Member. The term Affiliate also covers any legal entity, corporation, partnership, association, trust, sovereign state, or agency whose account, when carried by the FCM Clearing Member, would be considered a proprietary account pursuant to CFTC Regulation 1.3(y) (or any successor or replacement regulation thereto).

1.3 The FCM Client Standard Agreement and any FCM Client Transaction will be directly established between Eurex Clearing AG and the FCM Client as further set out in this Part 5.

If the FCM Clearing Member clears Own Transactions, the provisions relating to Own Transactions of Clearing Members in Part 1 and Part 2 apply unless otherwise stated therein.

1.4 If OTC Interest Rate Derivative Transactions relate to FCM Clients, such OTC Interest Rate Derivative Transactions are concluded between Eurex Clearing AG and the relevant FCM Client (each a "**FCM Client Transaction**") as follows:

(1) Whenever

(i) an Original OTC Transaction to which a FCM Client is a party is submitted to Eurex Clearing AG by a FCM Clearing Member on behalf of a FCM Client or, if approved by the relevant FCM Clearing Member, by a FCM Client for the Clearing under the U.S. Clearing Model Provisions, either directly or via a third

party information provider, as provided for in the Special Clearing Provisions, and

- (ii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing in accordance with the Special Clearing Provisions.

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

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

The Original OTC Transaction shall – subject to the Special Clearing Provisions – upon the novation becoming effective be replaced by two OTC Interest Rate Derivative Transactions, each on terms that are identical to the terms of the other OTC Interest Rate Derivative Transaction, between Eurex Clearing AG and the relevant Clearing Member(s) or FCM Client(s) (as applicable).

If a FCM Client is a counterparty to the Original OTC Transaction, upon the novation becoming effective, the relevant new OTC Interest Rate Derivative Transaction shall be concluded directly between Eurex Clearing AG and the FCM Client.

Number 1.2.2 Paragraph (2) of the General Clearing Conditions shall not apply to the conclusion of OTC Interest Rate Derivative Transactions between Eurex Clearing AG and a FCM Client.

- (2) To the extent that a counterparty to the Original OTC Transaction is not a FCM Client, the provisions under Number 1.2.2 Paragraph (2) of the General Clearing Provisions remain unaffected.
- (3) Before a FCM Clearing Member submits to Eurex Clearing AG an Original OTC Transaction to which a FCM Client is a party, such FCM Clearing Member shall obtain the required instruction from the FCM Client.
- (4) The parties to the Original OTC Transaction are obliged to agree on a bilateral basis that upon the novation becoming effective, (i) the Original OTC Transaction is automatically cancelled, (ii) the parties to the Original OTC Transaction shall be released from their obligations to each other under such Original OTC Transaction and (iii) any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the date of novation shall continue to exist in accordance with the contractual provisions of the Original OTC Transaction.

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(5) Any FCM Client Transaction shall be concluded as a proprietary Transaction of the relevant FCM Client only. The FCM Client may not clear customer-related Transactions.

1.5 The FCM Clearing Member may, subject to the provisions of this Part 5 and the Special Clearing Conditions, provide clearing services to a FCM Client on terms and conditions mutually agreed between the FCM Clearing Member and the FCM Client (the "**FCM Client Clearing Agreement**").

1.6 Agency Relationship between FCM Clearing Member and FCM Client; FCM Clearing Member Guarantee

1.6.1 In relation to FCM Client Transactions, the FCM Clearing Member acts as agent (for purposes of CFTC Regulation 39.12(b)(6)) on behalf and for the account of the FCM Client and the entire clearing relationship shall be administered and settled through the FCM Clearing Member (or any Replacement FCM Clearing Member) as further set out in this Part 5.

1.6.2 Unless otherwise provided in these Clearing Conditions and subject to this Part 5, the FCM Clearing Member will, in respect of any FCM Client Transaction, act on behalf and for the account of the FCM Client.

1.6.3 By entering into the Clearing Agreement with Eurex Clearing AG and the FCM Clearing Member, the FCM Client irrevocably authorises (*bevollmächtigt*) the FCM Clearing Member to issue, submit and receive, also on behalf of the FCM Client, all statements (including, without limitation, any notice, termination notice or other declaration to and from Eurex Clearing AG) and to take and accept all other acts on behalf of the FCM Client that are necessary or expedient to effect FCM Client Transactions and for the performance by or to the FCM Client of obligations arising thereunder or under the Clearing Conditions.

1.6.4 If an Original OTC Transaction has been submitted to Eurex Clearing AG by the FCM Clearing Member (either directly or via a third party information provider) and such submission states that the FCM Client is a party to such Original OTC Transaction, the FCM Client, by entering into the Clearing Agreement, agrees to be legally bound by the OTC Interest Rate Derivative Transaction established between Eurex Clearing AG and the FCM Client in accordance with Number 1.4 above and acknowledges that no further specific agreement to be legally bound shall be required to be given by the FCM Client at the time of the conclusion of such OTC Interest Rate Derivative Transaction.

1.6.5 For as long as the FCM Clearing Member acts as agent for the FCM Client in accordance with this Part 5, the FCM Client and Eurex Clearing AG shall discharge all present and future delivery and payment obligations which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions to each other by payment and delivery, respectively, only through the FCM Clearing Member.

1.6.6 The FCM Client and Eurex Clearing AG agree that (without prejudice to Number 1.6.5) Eurex Clearing AG is entitled and obliged to discharge all present and future delivery and payment obligations (including, without limitation, any Difference Claim of the FCM Client

against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions) which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions solely by payment and delivery, respectively, to the FCM Clearing Member and, following the occurrence of a U.S. Bankruptcy Event (as defined in Number 8.1.2) with respect to the FCM Clearing Member, to the Bankruptcy Trustee (as defined in Number 8.7.2) of the FCM Clearing Member. Any such payment or delivery by Eurex Clearing AG to the FCM Clearing Member or its Bankruptcy Trustee will discharge (*erfüllen*) the relevant payment or delivery obligation of Eurex Clearing AG to the FCM Client under the FCM Client Standard Agreement or the FCM Client Transactions. The FCM Client hereby irrevocably authorises the FCM Clearing Member to collect any Difference Claim of the FCM Client against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions and the FCM Client agrees that such authorisation may not be revoked as a result of the occurrence of a U.S. Bankruptcy Event with respect to the FCM Clearing Member.

Eurex Clearing AG agrees that (without prejudice to the FCM Clearing Member's obligations arising under the FCM Clearing Member Guarantee and to Number 1.6.5) the FCM Clearing Member is entitled to discharge (*erfüllen*) all present and future delivery and payment obligations of the FCM Client which may arise under the relevant FCM Client Standard Agreement or the FCM Client Transactions by payment and delivery, respectively, to Eurex Clearing AG. Any such payment or delivery by the FCM Clearing Member to Eurex Clearing AG will discharge (*erfüllen*) the relevant payment or delivery obligation of the FCM Client to Eurex Clearing AG under the FCM Client Standard Agreement or the FCM Client Transactions.

1.6.7 By entering into the Clearing Agreement with Eurex Clearing AG and the FCM Client, the FCM Clearing Member grants the following unlimited guarantee to Eurex Clearing AG (the "**FCM Clearing Member Guarantee**"):

- (1) The FCM Clearing Member unconditionally and irrevocably guarantees (*garantiert*) upon first demand (*auf erstes Anfordern*) by Eurex Clearing AG by way of an independent abstract obligation to perform (*selbständiges, abstraktes Leistungsversprechen*) to Eurex Clearing AG the due and punctual performance by the FCM Client of all present and future obligations of the FCM Client (including, without limitation, any payment and delivery obligations, such as any Difference Claim) that are or will be owed by the FCM Client to Eurex Clearing AG under or in connection with any Clearing Agreement, the relevant FCM Client Standard Agreement and/or any FCM Client Transaction.
- (2) The FCM Clearing Member Guarantee constitutes an unsubordinated obligation of the FCM Clearing Member and shall rank at least *pari passu* with any other unsubordinated obligations of the FCM Clearing Member (save for secured obligations, to the extent of the collateral provided, and any mandatory provisions of law).

- (3) The FCM Clearing Member Guarantee is a continuing guarantee and will extend to all obligations that are or will be owed by the FCM Client to Eurex Clearing AG under or in connection with any Clearing Agreement, any FCM Client Standard Agreement and/or any FCM Client Transaction, regardless of any intermediate payment or discharge in whole or in part. If any discharge, release or arrangement is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the FCM Clearing Member under the FCM Clearing Member Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred. Performance under the FCM Clearing Member Guarantee may also be required if Eurex Clearing AG had received any performance from the FCM Client, but was subsequently required to repay the amount received, or return the performance received, in accordance with any provisions of mandatory law (including, without limitation, insolvency, liquidation or administration provisions) and has made the relevant payment or return.
- (4) The obligations of the FCM Clearing Member under the FCM Clearing Member Guarantee shall, subject to Number 1.6.8 below, be separate and independent from the obligations of the FCM Client vis-à-vis Eurex Clearing AG and shall exist irrespective of the legality, validity and binding effect or enforceability of Eurex Clearing AG's claims against the FCM Client. The FCM Clearing Member may, in respect of its obligations under the FCM Clearing Member Guarantee, not raise any objections that the FCM Client may have in respect of its obligations vis-à-vis Eurex Clearing AG (including, without limitation, any personal defences of the FCM Client (*Einreden des Hauptschuldners*) or any right of revocation (*Anfechtung*) or set-off (*Aufrechnung*) of the FCM Client). The FCM Clearing Member Guarantee does not constitute a suretyship (*Bürgschaft*) and no rights of Eurex Clearing AG shall pass to the FCM Clearing Member upon the payment of any amount under the FCM Clearing Member Guarantee.
- (5) The FCM Clearing Member waives any right it may have of first requiring Eurex Clearing AG to proceed against or enforce any other rights or security or claim payment from any person (including the FCM Client) before claiming from the FCM Clearing Member under the FCM Clearing Member Guarantee.
- (6) If the FCM Clearing Member is required by law to make any deductions or withholdings from payments under the FCM Clearing Member Guarantee, the FCM Clearing Member shall pay such additional amounts as may be necessary in order that the net amount received by Eurex Clearing AG after such deductions or withholdings (including any required deduction or withholding on such additional amounts) shall equal the amount that Eurex Clearing AG would have received had no such deductions or withholdings been made.

1.6.8 The obligations of the FCM Clearing Member under the FCM Clearing Member Guarantee and the obligations of the FCM Client to which the FCM Clearing Member Guarantee relates shall not constitute a joint and several liability (*keine Gesamtschuld*). If and to the extent the FCM Clearing Member has discharged any obligation subsisting under the FCM Clearing Member Guarantee, the corresponding obligation of the FCM Client to Eurex Clearing AG shall be discharged.

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1.6.9 Any recourse, reimbursement or other claims of the FCM Clearing Member against the FCM Client resulting from the performance by the FCM Clearing Member of any claims arising under the relevant Clearing Agreement (including under the FCM Clearing Member Guarantee) or of any obligations of the FCM Client are solely a matter of, and subject to, the FCM Client Clearing Agreement, unless otherwise set out in this Part 5.

1.6.10 The FCM Clearing Member shall participate in any default management process in accordance with the General Clearing Provisions. The FCM Client shall not be obliged or entitled to participate in any default management process.

2 Content of Clearing Agreement and FCM Client Standard Agreement

2.1 Construction

2.1.1 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 is entered into by Eurex Clearing AG, a FCM Clearing Member and a FCM Client, such Clearing Agreement will provide for terms and conditions applying (i) between Eurex Clearing AG, the FCM Clearing Member and the FCM Client and (ii) between Eurex Clearing AG and the FCM Client with respect to the FCM Client Standard Agreement and the FCM Client Transactions of such FCM Client.

2.1.2 All rights and obligations between Eurex Clearing AG and the FCM Client with respect to FCM Client Transactions under the Clearing Agreement pursuant to Number 2.1.1 shall constitute a separate arrangement (each such arrangement a “**FCM Client Standard Agreement**”). All FCM Client Transactions and all Redelivery Claims between Eurex Clearing AG and the relevant FCM Client arising pursuant to the U.S. Clearing Model Provisions under the relevant FCM Client Standard Agreement form a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such parties which (subject to provisions in this Chapter I on the termination of individual FCM Client Transactions and subject to the provisions of this Part 5 stipulating specific requirements for terminations) can be terminated only in its entirety.

FCM Client Transactions, FCM Client Margin, FCM Client Variation Margin in accordance with Number 7, provided that in each, Redelivery Claims and any other rights and obligations under each FCM Client Standard Agreement relating to the relevant FCM Client will be separate from:

- (a) all FCM Client Transactions, FCM Client Margin, FCM Client Variation Margin, any Redelivery Claims, and any other rights and obligations under any other FCM Client Standard Agreement relating to any other FCM Client (if any).
- (b) all Own Transactions, Margin, Variation Margin, any Redelivery Claims and any other rights and obligations under the Elementary Proprietary Standard Agreement of the FCM Clearing Member with Eurex Clearing AG, and
- (c) all other Standard Agreements, Transactions, Margin, Variation Margin, Redelivery Claims and any other rights and obligations under the Elementary Clearing Model

Provisions, the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions.

2.1.3 The FCM Clearing Member and the FCM Client may, in their FCM Client Clearing Agreement, agree on additional terms to the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 to the extent those additional terms do not conflict with such Clearing Agreement. In the event of any inconsistencies between any such FCM Client Clearing Agreement (as amended from time to time) and the Clearing Agreement, the Clearing Agreement shall always prevail.

2.2 General principles applicable to the settlement of FCM Client Transactions and any Delivery and Redelivery of FCM Client Margin or FCM Client Variation Margin

2.2.1 Subject to Numbers 1.6.5 and 1.6.6, each party to the FCM Client Standard Agreement (and, with respect to any obligations of the FCM Client, the relevant FCM Clearing Member pursuant to the FCM Clearing Member Guarantee) shall be obliged to fulfil any payment obligations under the FCM Client Transactions or obligations to deliver or redeliver cover in respect of either the FCM Client Margin in the form of cash or the FCM Client Variation Margin under the relevant FCM Client Standard Agreement by transferring to the transferee all right, title and interest in and to the Eligible Margin Assets in the form of cash free and clear of any and all rights and claims of the transferring party and of any third person, howsoever arising, including, without limitation, pursuant to applicable law or regulation or under any statutory or other trust. The value of such assets shall, as of the date the transfer is effected, be at least equal to the value at that date of the concerned payment or delivery obligation.

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

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

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

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

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Number 5.2) is below the aggregate value of all Eligible Margin Assets actually delivered in respect of the FCM Client Margin or (b) in accordance with Number 5.3.1 Paragraph (3) and (ii) with respect to the FCM Client Variation Margin in accordance with Number 6, in each case provided that no FCM Client Termination Date or Termination Date has occurred with respect to the FCM Client or its FCM Clearing Member, respectively.

2.2.3 Subject to Number 3.2.2 Paragraph (2) and (3) of the General Clearing Provisions, the term “**actually delivered**” when used in the U.S. Clearing Model Provisions means

- (i) the actual credit of an Eligible Margin Asset in the form of cash to the relevant Eurex Clearing AG cash account or, as the case may be, the actual entry on the Internal FCM Client Margin Account pursuant to Number 5.3.1 Paragraph (3), or
- (ii) an Eligible Margin Asset in the form of Securities has been credited to the relevant FCM Client Pledged Securities Account and such Eligible Margin Asset is subject to a valid pledge in accordance with Number 5.7.1 Paragraph (3), or
- (iii) in the event of a set-off pursuant to Number 4, the legal effectiveness of such set-off.

The term “**actual delivery**” shall be interpreted accordingly.

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

2.3 Obligation of the FCM Clearing Member to forward Assets

Whenever (a) the FCM Clearing Member has received from Eurex Clearing AG a cash amount to settle a FCM Client Transaction, (b) the FCM Clearing Member has received from Eurex Clearing AG Eligible Margin Assets in the form of cash to deliver or redeliver cover in respect of FCM Client Margin or FCM Client Variation Margin under the relevant FCM Client Standard Agreement or (c) a pledge over Eligible Margin Assets in the form of Securities that have been provided as FCM Client Margin to Eurex Clearing AG has lapsed or has been released, the FCM Clearing Member shall – always subject to Number 5.3.1 Paragraph (3) and any applicable termination provisions (including, without limitation, Number 8.1) – promptly transfer the same cash amount or the same amount of equivalent Eligible Margin Assets to the relevant FCM Client or credit such cash amount or such amount of equivalent Eligible Margin Assets to the FCM Client in the books and records of the FCM Clearing Member. The same applies with respect to a redelivery of non-Eligible Margin Assets.

Whenever the FCM Clearing Member has received an amount of Eligible Margin Assets from the FCM Client for delivery of cover in respect of FCM Client Margin or FCM Client Variation Margin under the relevant FCM Client Standard Agreement to Eurex Clearing AG, the FCM Clearing Member shall promptly transfer (or, in the case of Securities,

pledge) the same amount of equivalent Eligible Margin Assets to Eurex Clearing AG as FCM Client Margin or FCM Client Variation Margin, as relevant, in respect of the FCM Client Standard Agreement of such FCM Client.

3 Internal Accounts; Books and Records

In addition to the internal accounts set out in Number 4.2 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to each FCM Clearing Member (acting in its capacity as agent for one or more FCM Clients pursuant to this Part 5) the following internal accounts:

3.1 Transaction Accounts

Eurex Clearing AG opens and maintains with respect to each FCM Clearing Member one transaction account with respect to own transactions of each FCM Client (each a “**FCM Client Own Account**”) in which the FCM Client Transactions of the relevant FCM Client shall be booked.

3.2 Internal Cash Accounts for FCM Client Transactions

With respect to each currency accepted by it, Eurex Clearing AG shall establish and maintain for each FCM Client of the FCM Clearing Member one internal cash account for the settlement of claims, into which all daily settlement payments, fees and other cash payment obligations arising under FCM Client Transactions or under the Clearing Conditions with respect or relating to the relevant FCM Client Standard Agreement shall be booked.

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

3.3 Internal Margin Accounts for FCM Client Standard Agreements

Eurex Clearing AG will establish and maintain for each FCM Clearing Member an internal client margin account with respect to each FCM Client Standard Agreement (each an “**Internal FCM Client Margin Account**”) in which all Eligible Margin Assets that have been actually delivered to Eurex Clearing AG as FCM Client Margin in respect of such FCM Client Standard Agreement will be recorded.

Subject to Numbers 5.3.1 Paragraph (3) and 5.3.2 Paragraph (3),

- (1) all credits and debits of Securities to the relevant FCM Client Pledged Securities Account, and
- (2) all daily cash credits or debits in respect of FCM Client Margin to the U.S. Clearing Member Cash Accounts of the FCM Clearing Member,

will be allocated to the relevant FCM Client Standard Agreement and recorded on the relevant Internal FCM Client Margin Account.

3.4 Records of the FCM Clearing Member; Method of assigning Eligible Margin Assets to a FCM Client Standard Agreement

The FCM Clearing Member shall establish and maintain records with respect to all FCM Client Transactions under each FCM Client Standard Agreement detailing (i) all FCM Client Transactions, (ii) all payments under the FCM Client Transactions, (iii) all FCM Client Margin and FCM Client Variation Margin actually delivered and (iv) all Redelivery Claims relating to such FCM Client Standard Agreement.

The FCM Clearing Member shall establish and provide to Eurex Clearing AG a specific customer identifier with respect to each of its FCM Clients. Any transfer by the FCM Clearing Member (acting for the account of an FCM Client) of Eligible Margin Assets in the form of cash to Eurex Clearing AG in respect of FCM Client Margin or FCM Client Variation Margin as well as of any Eligible Margin Assets in the form of Securities in respect of FCM Client Margin to the relevant FCM Client Pledged Securities Account shall clearly refer to the applicable customer identifier.

3.5 Books and Records

Eurex Clearing AG undertakes to maintain all books and records relating to FCM Client Transactions in compliance with any applicable rules and regulations of the CFTC.

4 Set-off

4.1 Unless otherwise provided in the relevant Special Clearing Provisions, Eurex Clearing AG is at any time entitled to set off (i) its claims vis-à-vis a FCM Clearing Member (except for any claims under or in relation to the Elementary Proprietary Standard Agreement) against claims of such FCM Clearing Member (except for any claims under or in relation to the Elementary Proprietary Standard Agreement) vis-à-vis Eurex Clearing AG or (ii) Eurex Clearing AG's claims vis-à-vis a FCM Client against claims of such FCM Client vis-à-vis Eurex Clearing AG, in each case subject to and in accordance with the rules set forth below. For the avoidance of doubt, Eurex Clearing AG is not entitled to set off its claims vis-à-vis the FCM Clearing Member against claims of a FCM Client or to set off Eurex Clearing AG's claims vis-à-vis one FCM Client against claims of another FCM Client.

FCM Clearing Members and FCM Clients are only entitled to set off own claims that are uncontested or have been finally and non-appealably established with claims of Eurex Clearing AG.

4.2 Any claim of Eurex Clearing AG and the FCM Client under an FCM Client Standard Agreement, including claims to provide cover in respect of FCM Client Margin or FCM Client Variation Margin pursuant to Numbers 5 and 6, may only be set off against claims arising from FCM Client Transactions under the same FCM Client Standard Agreement or claims to provide cover in respect of FCM Client Margin or FCM Client Variation

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Margin pursuant to Numbers 5 and 6 of the respective other party under the same FCM Client Standard Agreement.

- 4.3 Claims of Eurex Clearing AG arising under the FCM Clearing Member Guarantee may not be set off against any claims of the FCM Clearing Member against Eurex Clearing AG (unless such claims of the FCM Clearing Member against Eurex Clearing AG are uncontested or have been finally and non-appealably established).
- 4.4 Number 1.3.1 of the General Clearing Provisions shall not apply, provided that Number 1.3.1 Paragraph (1) sub-paragraphs (f) and (g) of the General Clearing Provisions shall apply *mutatis mutandis* to a set-off by Eurex Clearing AG in accordance with this Number 4.
- 4.5 The provisions of Number 4.1 to 4.4 shall also serve the purpose of complying with CFTC Rules 22.2(a), (d) and 22.3(c).

5 FCM Client Margin

5.1 General Obligation to provide FCM Client Margin

- 5.1.1 The FCM Client is required to provide margin for all FCM Client Transactions under the relevant FCM Client Standard Agreement ("**FCM Client Margin**") in such amounts, in such forms and at such times as are required pursuant to this Number 5 and the Special Clearing Provisions.
- 5.1.2 The purpose of FCM Client Margin actually delivered under the relevant FCM Client Standard Agreement in the form of cash is to collateralise all claims (whether present, future, actual, contingent or prospective) of Eurex Clearing AG arising under FCM Client Transactions, any Difference Claim and any other present and future claims of Eurex Clearing AG against the FCM Client under the relevant FCM Client Standard Agreement.

5.2 The Margin Requirement

- 5.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of the relevant Margin for each FCM Client Standard Agreement shall be determined in accordance with Number 3.1 of the General Clearing Provisions also taking into account all Original OTC Transactions which are to be novated in the course of the novation process (the "**Default FCM Client Margin Requirement**").
- 5.2.2 Eurex Clearing AG will determine the Default FCM Client Margin Requirement separately with respect to each FCM Client Standard Agreement, based on the margin requirement for the FCM Client Transactions included in the relevant FCM Client Standard Agreement.
- 5.2.3 The Default FCM Client Margin Requirement with respect to each FCM Client Standard Agreement will be notified by Eurex Clearing AG to the FCM Clearing Member and the relevant FCM Client.
- 5.2.4 Non-compliance with the Default FCM Client Margin Requirement by the FCM Clearing Member (under the FCM Clearing Member Guarantee) shall constitute a Termination

Event pursuant to Number 7.2.1 Paragraph (1) of the General Clearing Provisions, unless such non-compliance has been remedied by the FCM Clearing Member by the time the Termination would occur.

5.3 Margin Call

5.3.1 Margin Calls and direct debit prior to the end of a Business Day

- (1) If Eurex Clearing AG at any time prior to the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of FCM Client Margin is less than the applicable Default FCM Client Margin Requirement under the relevant FCM Client Standard Agreement, Eurex Clearing AG will require the FCM Client or the FCM Clearing Member (under the FCM Clearing Member Guarantee) to provide (additional) Eligible Margin Assets in an amount up to the relevant Default FCM Client Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Number 5.3.1 Paragraph (1), Eurex Clearing AG shall be entitled to (and without having an obligation towards the FCM Client or the FCM Clearing Member to do so, will on or around the time specified) directly debit the relevant U.S. Clearing Member Cash Account of the FCM Clearing Member in an amount equal to the requested amount of Eligible Margin Assets in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant FCM Client Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the FCM Client).
- (3) If a FCM Clearing Member elects to deliver, for the account of such FCM Client, (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to FCM Client Margin under a specific FCM Client Standard Agreement, then:

 - (i) The FCM Clearing Member shall notify Eurex Clearing AG of such election;
 - (ii) Eurex Clearing AG shall make the relevant debit entry in the Internal Elementary Proprietary Margin Account of such FCM Clearing Member and the respective credit entry in the Internal FCM Client Margin Account with such cash credit being allocated to the FCM Client Standard Agreement and being recorded as having been provided by the FCM Clearing Member from its own assets; and
 - (iii) the related Redelivery Claim under the Elementary Proprietary Standard Agreement between Eurex Clearing AG and such FCM Clearing Member shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal FCM Client Margin Account and an equivalent Redelivery Claim arises under the FCM Client Standard Agreement.

5.3.2 Margin Calls and direct debit at the end of a Business Day

- (1) If Eurex Clearing AG at the end of a Business Day determines that the aggregate value of Eligible Margin Assets actually delivered as cover in respect of FCM Client Margin is less than the applicable Default FCM Client Margin Requirement under the relevant FCM Client Standard Agreement, Eurex Clearing AG will require the FCM Client or the FCM Clearing Member (under the FCM Clearing Member Guarantee) to provide (additional) Eligible Margin Assets in the form of cash in the Clearing Currency in an amount sufficient to satisfy the Default FCM Client Margin Requirement by the time specified by Eurex Clearing AG.
- (2) To the extent Eligible Margin Assets are not delivered with respect to a Margin Call in accordance with Number 5.3.2 Paragraph (1), Eurex Clearing AG shall be entitled to (and without having an obligation towards the FCM Client or the FCM Clearing Member to do so, will on or around the time specified) directly debit the relevant U.S. Clearing Member Cash Account of the FCM Clearing Member in the amount determined pursuant to Number 5.3.2 Paragraph (1) in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. Any such direct debit shall discharge the relevant Margin Call relating to the relevant FCM Client Standard Agreement (and consequentially such direct debit will increase the respective Redelivery Claim of the FCM Client).
- (3) Number 5.3.1 Paragraph (3) shall apply *mutatis mutandis*.

5.4 FCM Client Excess Margin

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

Eurex Clearing AG will book any Eligible Margin Asset delivered to it as FCM Client Excess Margin into the relevant Internal FCM Client Margin Account and shall record the Eligible Margin Asset in the Internal FCM Client Margin Account as an Eligible Margin Asset delivered by the FCM Clearing Member (either from the FCM Clearing Member's own assets or from assets obtained by the FCM Clearing Member from the FCM Client) for the account of the FCM Client.

5.5 Obligation of the FCM Clearing Member to request Margin from the FCM Client; Segregation by the FCM Clearing Member

- 5.5.1 Each FCM Clearing Member is required to separately demand margin from its FCM Client in an amount at least equal to the Default FCM Client Margin Requirement for the FCM Client Transactions under the relevant FCM Client Standard Agreement (as determined by Eurex Clearing AG pursuant to this Number 5).

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5.5.2 Each FCM Clearing Member shall establish and maintain one or more account(s) for its FCM Clients with a permitted depository in accordance with the CEA and CFTC regulations (a "**Permitted Depository**"), which are segregated in accordance with the CEA and CFTC regulations and contain the margin collateral delivered by its FCM Clients pursuant to Number 5.5.1 in connection with FCM Client Transactions cleared for such FCM Clients by such FCM Clearing Member.

5.5.3 Such account(s) shall be maintained by the FCM Clearing Member with a Permitted Depository and the name of each such account shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Before depositing margin collateral delivered by FCM Clients to the FCM Clearing Member with a Permitted Depository, the FCM Clearing Member shall obtain and retain in its files a separate written acknowledgement letter from each Permitted Depository in accordance with CFTC Rule 22.5. Each FCM Clearing Member shall treat margin collateral delivered by FCM Clients as belonging to such FCM Clients. All FCM Client margin collateral shall be separately accounted for, and shall not be commingled with the money, securities or property of an FCM Clearing Member or of any other person, or be used to secure or guarantee the transactions of any other person.

5.5.4 Numbers 5.5.2 and 5.5.3 shall apply *mutatis mutandis* in respect of each FCM Client Pledged Securities Account of a FCM Clearing Member.

5.6 Delivery of Eligible Margin Assets in the form of Cash

Eligible Margin Assets in form of cash for the purposes of granting FCM Client Margin shall be provided in accordance with the cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions. If, in the case of a Margin Call with respect to FCM Client Margin, the FCM Clearing Member (acting for the account of the relevant FCM Client) transfers Eligible Margin Assets in form of cash, the FCM Clearing Member shall transfer such cash into Eurex Clearing AG's FCM Client TARGET2 Account (as defined in Number 5.8.1 below) maintained with Deutsche Bundesbank and stating the specific customer identifier pursuant to Number 3.4.

5.7 Delivery of Eligible Margin Assets in the form of Securities

5.7.1 In order to provide Eligible Margin Assets in the form of Securities as cover in respect of the FCM Client Margin in respect of a FCM Client Standard Agreement, the FCM Clearing Member (acting for the account of the relevant FCM Client) shall transfer Eligible Margin Assets in the form of Securities to the relevant FCM Client Pledged Securities Account.

(1) The FCM Clearing Member shall instruct Clearstream Banking AG in a timely manner to transfer the relevant Securities to the relevant FCM Client Pledged Securities Account and authorises Clearstream Banking AG to inform Eurex Clearing AG of such transfer.

(2) In relation to Securities credited to any FCM Client Pledged Securities Account that confer voting rights or other optional rights on the FCM Clearing Member (including, but not limited to, warrants, options, conversion and subscription rights, rights in connection with takeovers, other forms of offers or capital reorganisations, redemption rights, tenders, options to tender or non-mandatory puts or calls) or that provide for discretionary action or alternative courses of action by the FCM Clearing Member, Eurex Clearing AG shall not be responsible for exercising such voting or optional rights or for taking up such discretionary actions or alternative courses of action; the FCM Clearing Member shall remain responsible in this respect.

(3) The FCM Clearing Member shall, by way of one or more separate pledge agreements and in the form and upon terms satisfactory to Eurex Clearing AG, grant pledges to Eurex Clearing AG over all Securities which are at present or will in the future be credited to the relevant FCM Client Pledged Securities Account.

5.7.2 The security purpose (*Sicherungszweck*) of each pledge granted to Eurex Clearing AG in accordance with this Number 5.7 shall be to secure all present and future claims of Eurex Clearing AG against the FCM Client arising under the relevant Clearing Agreement, the relevant FCM Client Standard Agreement and all FCM Client Transactions under the FCM Client Standard Agreement with the FCM Client.

5.7.3 To the extent required or expedient under applicable U.S. laws or regulations, the FCM Clearing Member will arrange for the due filing and registration with any relevant competent authority or register of any collateral granted or to be granted pursuant to or in accordance with this Number 5.7 and will evidence the due filing and registration of such security interest to Eurex Clearing AG.

5.8 Treatment of FCM Client Margin by Eurex Clearing AG

5.8.1 Eligible Margin Assets in the form of cash delivered to Eurex Clearing AG as FCM Client Margin shall be maintained on a separate TARGET2-account of Eurex Clearing AG at Deutsche Bundesbank which is reserved for all cash delivered to Eurex Clearing AG as FCM Client Margin ("FCM Client TARGET2 Account").

5.8.2 The FCM Client TARGET2 Account shall, subject to the other provisions of this Number 5, be maintained in a manner compliant with applicable provisions of the CEA and the CFTC Regulations on "Cleared Swaps Customer Accounts", including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The Eligible Margin Assets booked on such account shall be maintained separately from any and all assets of the FCM Clearing Members or any other assets that Eurex Clearing AG is holding for or with respect to customers other than FCM Clients and shall contain no assets other than Eligible Margin Assets provided with respect to FCM Client Transactions.

5.8.3 All Eligible Margin Assets received by Eurex Clearing AG from, or for the account of, a FCM Client as FCM Client Margin shall be separately accounted for and segregated with respect to the relevant individual FCM Client. For purposes of complying with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), Eurex Clearing AG shall treat the value of all Eligible Margin Assets delivered by or for the account of each FCM Client as being allocated to such individual FCM Client and such amount shall be credited

to such FCM Client's applicable Internal FCM Client Margin Account and shall not be used to margin, guarantee, or secure any Own Transaction or other obligations of the FCM Clearing Member or of any other FCM Client.

- 5.8.4 The name of each account in which Eligible Margin Assets delivered to Eurex Clearing AG as FCM Client Margin are deposited shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Eurex Clearing AG shall obtain and retain in its files for the period provided by CFTC Regulation 1.31 an acknowledgment from each Permitted Depository that it was informed that the Eligible Margin Assets deposited in such accounts are those allocated to FCM Clients and are being held for purpose of complying with the provisions of the CEA and the CFTC Regulations. For the purpose of CFTC Rule 22.8 the situs of the accounts referred to in this Number 5.8.4 shall be deemed to be in the United States.

5.9 Redelivery and release of Eligible Margin Assets

- 5.9.1 If and to the extent that the aggregate value of all Eligible Margin Assets actually delivered as FCM Client Margin in respect of the relevant FCM Client Standard Agreement exceeds the Default FCM Client Margin Requirement for such FCM Client Standard Agreement, the FCM Client (or the relevant FCM Clearing Member on its behalf and for its account) may either raise a Redelivery Claim in accordance with Number 2.2.2 or, prior to the then applicable cut-off time specified by Eurex Clearing AG in relation to Clearstream Banking AG with respect to any Business Day, require Eurex Clearing AG (by submitting a release request) to release its pledge over pledged Securities actually delivered in respect of FCM Client Margin in respect of such FCM Client Standard Agreement, unless the FCM Clearing Member (acting on behalf of the relevant FCM Client) and Eurex Clearing AG agree otherwise. Such release request shall be processed by Eurex Clearing AG during that same Business Day if such request is received by Eurex Clearing prior to the applicable cut-off time and, if such request is received after such cut-off time, on the next Business Day.
- 5.9.2 The relevant FCM Clearing Member on behalf of the relevant FCM Client may select which Eligible Margin Assets credited to the Internal FCM Client Margin Account shall be redelivered or, as applicable, released from the pledge. Eurex Clearing AG will not and shall not be obliged to check whether there is, and whether the FCM Clearing Member complies with, any agreement between the FCM Clearing Member and the FCM Client.
- 5.9.3 The relevant Redelivery Claim is fulfilled by Eurex Clearing AG if the relevant cash amount has been credited to the relevant account of the relevant FCM Clearing Member or to an account of a correspondent bank designated by the FCM Clearing Member. Booking or forwarding errors of the depository, the settlement institution, the custodian, the deposit bank, the central securities depository or the correspondent bank are in the responsibility of the FCM-Clearing Member.

6 FCM Client Variation Margin

6.1 General Obligation to provide FCM Client Variation Margin

6.1.1 Each of Eurex Clearing AG and the FCM Client shall be required to transfer, with respect to each FCM Client Standard Agreement separately, (additional) cover in respect of daily profits or losses for all FCM Client Transactions under each FCM Client Standard Agreement (“FCM Client Variation Margin”) in such amounts and at such times as are required pursuant to this Number 6.

6.1.2 The FCM Clearing Member is required to separately demand cover in respect of daily profits or losses arising in respect of the FCM Client Transactions from each FCM Client in an amount not less than the FCM Client Variation Margin Requirement.

6.2 FCM Client Variation Margin Requirement

6.2.1 Only Eligible Margin Assets in the form of cash shall be delivered as cover in respect of FCM Client Variation Margin.

6.2.2 With respect to the relevant FCM Client Standard Agreement, the amount of Eligible Margin Assets in form of cash to be delivered by the party obliged to provide FCM Client Variation Margin (the “FCM Client Variation Margin Provider”) to the other party (the “FCM Client Variation Margin Taker”) as cover in respect of the relevant FCM Client Variation Margin (the “FCM Client Variation Margin Requirement”) shall be determined in accordance with Chapter VIII Part 2 Number 2.1.6 of the Clearing Conditions.

6.3 Delivery of FCM Client Variation Margin and Redelivery Claim

6.3.1 FCM Client Variation Margin shall be delivered and/or returned on each Business Day in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 and Number 1.3 of the General Clearing Provisions.

6.3.2 Eligible Margin Assets in the form of cash actually delivered in respect of the relevant FCM Client Variation Margin by the relevant FCM Client Variation Margin Provider will give rise to or increase a Redelivery Claim of such FCM Client Variation Margin Provider against the FCM Client Variation Margin Taker in accordance with Number 2.2.2. Any such Redelivery Claim shall become due if and to the extent that on any subsequent Business Day a profit amount has been determined in respect of the relevant FCM Client Standard Agreement for the benefit of such FCM Client Variation Margin Provider in accordance with Chapter VIII Part 2 Number 2.1.6 (the applicable amount shall be the “Redelivery Amount”). However, if equivalent Eligible Margin Assets in form of cash have been actually delivered to the FCM Client Variation Margin Provider by the FCM Variation Margin Taker, the value of such Eligible Margin Assets will be applied to reduce (subject to a minimum of zero) the Redelivery Amount and the value of the Redelivery Claim then due. If the profit amount determined for the benefit of the FCM Client Variation Margin Provider is higher than its Redelivery Claim as of such time, the payment of the excess amount by the other party itself constitutes a delivery of FCM Client Variation Margin and in this case the FCM Client Variation Margin Provider shall become the FCM Client Variation Margin Taker and vice versa.

- 6.3.3 If, upon the conclusion of a FCM Client Transaction under an FCM Standard Agreement, the terms and conditions of such FCM Client Transaction provide that due to a netting with an applicable initial consideration no actual payment in respect of such FCM Client Variation Margin will occur, an actual delivery in respect of the relevant FCM Client Variation Margin resulting in a corresponding Redelivery Claim shall take place.
- 6.3.4 Eligible Margin Assets in the form of cash delivered to Eurex Clearing AG as FCM Client Variation Margin shall be maintained on the relevant FCM Client TARGET2 Account or on another relevant currency account of Eurex Clearing AG.
- 6.3.5 Each of the accounts referred to in Number 6.3.4 shall, subject to the other provisions of this Number 6, be maintained in a manner compliant with applicable provisions of the CEA and the CFTC Regulations on "Cleared Swaps Customer Accounts", including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The Eligible Margin Assets booked on such accounts shall be maintained separately from any and all assets of the FCM Clearing Members or any other assets that Eurex Clearing AG is holding for or with respect to customers other than FCM Clients and shall contain no assets other than Eligible Margin Assets provided with respect to FCM Client Transactions.
- 6.3.6 All Eligible Margin Assets received by Eurex Clearing AG from, or for the account of, a FCM Client as FCM Client Variation Margin shall be separately accounted for and segregated with respect to the relevant individual FCM Client. For purposes of complying with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), Eurex Clearing AG shall treat the value of all Eligible Margin Assets delivered by or for the account of each FCM Client as being allocated to such individual FCM Client and such amount shall not be used to margin, guarantee, or secure any Own Transaction or other obligations of the FCM Clearing Member or of any other FCM Client.
- 6.3.7 The name of each account in which Eligible Margin Assets delivered to Eurex Clearing AG as FCM Client Variation Margin are deposited shall identify the account as a "Cleared Swaps Customer Account" and clearly indicate that the assets therein are "Cleared Swaps Customer Collateral" subject to segregation in accordance with Part 22 of the CFTC Regulations and Section 4d(f) of the CEA. Eurex Clearing AG shall obtain and retain in its files for the period provided by CFTC Regulation 1.31 an acknowledgment from each Permitted Depository that it was informed that the Eligible Margin Assets deposited in such accounts are those allocated to FCM Clients and are being held for purpose of complying with the provisions of the CEA and the CFTC Regulations. For the purpose of CFTC Rule 22.8 the situs of the accounts referred to in this Number 6.3.7 shall be deemed to be in the United States.

7 Clearing Fund Contributions for FCM Client Transactions

The FCM Clearing Member shall also pay Contributions to the Clearing Fund with respect to all FCM Client Transactions under each FCM Client Standard Agreement in accordance with Chapter I Part 1 Number 6 of the Clearing Conditions. A FCM Client shall not be entitled or obliged to make contributions to the Clearing Fund.

8 Consequences of the occurrence of a Termination Event or Insolvency Termination Event with respect to a FCM Clearing Member

8.1 Application

8.1.1 The provisions set forth in this Number 8 apply upon the occurrence of a Termination Event or Insolvency Termination Event with respect to a FCM Clearing Member. The provisions of Numbers 8.2 to 8.6 are subject to the provisions of Number 8.7 if a U.S. Bankruptcy Event has occurred with respect to the FCM Clearing Member.

8.1.2 A “**U.S. Bankruptcy Event**“ occurs when (a) an order for relief has been entered in a bankruptcy case commenced by or against the FCM Clearing Member under subchapter IV of chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. § 101 et seq. (the “**Bankruptcy Code**“), (b) if the FCM Clearing Member is also a stockbroker who is a member of Securities Investor Protection Corporation, a liquidation proceeding (a “**SIPA proceeding**“) has been commenced under the U.S. Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq., in which the assets and liabilities of the FCM Clearing Member attributable to its status as a futures commission merchant are administered as a separate estate under subchapter IV, or (c) a proceeding has been commenced against the FCM Clearing Member under Title II of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. § 5301 et seq. (a “**Title II proceeding**“).

8.2 Suspension or Restriction, Termination, Porting

Upon the occurrence of a Termination Event or Insolvency Termination Event and Termination Date with respect to a FCM Clearing Member (the “**Affected FCM Clearing Member**“).

- (i) the Clearing of new FCM Client Transactions under all FCM Client Standard Agreements of such FCM Clearing Member's FCM Clients shall be suspended; and/or
- (ii) if Eurex Clearing AG declares a Termination in accordance with Number 8.5, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement; or
- (iii) if the relevant FCM Client submits a Termination Election Notice prior to the Replacement Cut-Off Time, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement; or
- (iv) if the relevant FCM Client does not submit a Replacement Election Notice by the Replacement Cut-off Time or the FCM Clearing Member Replacement Requirements are not met within the Replacement Period, in each case in accordance with Number 8.4, the existing FCM Client Transactions under the relevant FCM Client Standard Agreement shall be terminated and a termination payment shall fall due with respect to the relevant FCM Client Standard Agreement, or

(v) if the relevant FCM Client submits a Replacement Election Notice at or prior to the Replacement Cut-Off Time and the FCM Clearing Member Replacement Requirements are met within the Replacement Period, the existing FCM Client Transactions shall be continued and the FCM Clearing Member will be replaced with the relevant Replacement FCM Clearing Member, in each case in accordance with Number 8.4,

in each case as further set out in this Number 8.

Eurex Clearing AG will notify the CFTC without undue delay of the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date with respect to a FCM Clearing Member and of any intended replacement of the FCM Clearing Member.

8.3 Suspension or Restriction of Clearing

If a Termination Event or any of the following events occurs with respect to a FCM Clearing Member:

- (i) the existence of an unremedied breach by the FCM Clearing Member of its Clearing Agreement with Eurex Clearing AG, except where such breach is minor, technical or administrative in nature in the reasonable opinion of Eurex Clearing AG;
- (ii) a determination is made by Eurex Clearing AG that a limitation or suspension of Clearing is necessary for it to contain its exposure to the FCM Clearing Member or its FCM Client(s);
- (iii) the suspension or termination (other than a voluntary termination) of the FCM Clearing Member's membership of another clearing house provided that the circumstances relating to that suspension or termination are, in Eurex Clearing AG's reasonable opinion, material to the management of the risk of Eurex Clearing AG, and that Eurex Clearing AG first consults or attempts to consult with the FCM Clearing Member and the competent regulatory authorities;
- (iv) the commencement of a Disciplinary Process as defined in Number 7.2.1(b) (aa) of the General Clearing Provisions against the FCM Clearing Member; or
- (v) any other event in respect of the U.S. Clearing Member that could materially impact the ability of that FCM Clearing Member to perform its obligations under the Clearing Conditions and the relevant Clearing Agreement.

then Eurex Clearing AG may (taking into account the interests of such FCM Clearing Member and its FCM Clients and provided that such action constitutes a proportionate and reasonable action) one or more times suspend or limit the Clearing pursuant to the U.S. Clearing Model Provisions, of new FCM Client Transactions under all FCM Client Standard Agreements of such FCM Clearing Member's FCM Clients.

Eurex Clearing AG shall notify the Affected FCM Clearing Member and all FCM Clients of such FCM Clearing Member of the decision to suspend or limit the Clearing. Eurex

Clearing AG shall specify in the notification a reasonable period of time during which such suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant FCM Clearing Member shall, at the FCM Clearing Member's own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to a Termination Event or any of the events listed above.

Before limiting or suspending the Clearing of new FCM Client Transactions under this Number 8.3, and without limiting its rights under Number 7.2.1 of the General Clearing Provisions and Number 8.5 below, Eurex Clearing AG shall, where reasonable in the circumstances, attempt to consult with the relevant FCM Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the FCM Clearing Member may remedy the event in question. For the avoidance of doubt, in case the relevant event constitutes an Alleged Breach (as defined in the Disciplinary Procedures Rules) Eurex Clearing AG may commence Disciplinary Procedures in respect of the FCM Clearing Member subject to and in accordance with the Disciplinary Procedures Rules.

8.4 Porting in relation to FCM Client Standard Agreements

8.4.1 For the purposes of this Number 8 and solely with respect to a FCM Client Standard Agreement (including all existing FCM Client Transactions) and all Redelivery Claims relating thereto, a Termination and a Termination Date shall only occur subject to Number 8.6 below.

8.4.2 Unless Eurex Clearing AG has exercised its termination right pursuant to Number 8.5, Eurex Clearing AG shall if

(1) a Termination Event (other than an Insolvency Termination Event) has occurred with respect to the FCM Clearing Member,

(a) if a Grace Period Notice has been given, without undue delay after the end of the relevant Grace Period, and

(b) if a Termination Notice has been given, without undue delay after the time specified in the Termination Notice, or

(2) an Insolvency Termination Event has occurred with respect to the FCM Clearing Member, without undue delay after the Termination Time,

give notice to all other Clearing Members and the FCM Clients of the Affected FCM Clearing Member in accordance with Number 16.2 of the General Clearing Provisions of (i) the occurrence of the Termination Event or Insolvency Termination Event and (ii) that the Replacement Period commences (the "**Replacement Notice**").

8.4.3 Upon the receipt of the Replacement Notice, each FCM Client may elect by giving notice to Eurex Clearing AG as soon as possible, but not later than 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date (such Termination Date,

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for the purpose of this Number 8.4.3 only, being determined as if Number 8.4.1 did not apply) (the “**Replacement Cut-Off Time**”):

- (i) to continue the Clearing of its FCM Client Transactions under the relevant FCM Client Standard Agreement with a Replacement FCM Clearing Member (the “**Replacement Election Notice**”); or
- (ii) not to continue the clearing of its FCM Client Transactions under the relevant FCM Client Standard Agreement and to terminate and close-out its FCM Client Transactions (the “**Termination Election Notice**”).

If Eurex Clearing AG (i) does not receive a Replacement Election Notice by the Replacement Cut-Off Time or (ii) does receive a Termination Election Notice at or prior to the Replacement Cut-Off Time, Number 8.6 below shall apply.

8.4.4 If the FCM Client has provided a Replacement Election Notice by the Replacement Cut-Off Time, this Number 8.4.4 applies.

If, at or prior to the end of the Replacement Period, Eurex Clearing AG determines that all FCM Clearing Member Replacement Requirements in respect of a FCM Client Standard Agreement are fulfilled, all rights and obligations of the Affected FCM Clearing Member arising from the relevant Clearing Agreement appended in the form of Appendix 10 entered into between Eurex Clearing AG, the Affected FCM Clearing Member and the relevant FCM Client in respect of all existing FCM Client Transactions under the relevant FCM Client Standard Agreement (including, without limitation, any obligations under the FCM Clearing Member Guarantee) shall be transferred, by way of an assumption of contract (*Vertragsübernahme*), (a “**Transfer**”) to the new FCM Clearing Member (the “**Replacement FCM Clearing Member**”), and the Affected FCM Clearing Member hereby expressly and irrevocably consents to such Transfer with respect to it in such event.

“**Replacement Period**” means

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

Eurex Clearing AG may extend the Replacement Period in order to facilitate a Transfer by giving notice to all Clearing Members and the FCM Clients of the Affected FCM Clearing Member in accordance with Number 16.2 of the General Clearing Provisions.

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

- (i) the Replacement FCM Clearing Member is another FCM Clearing Member;

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- (ii) the Replacement FCM Clearing Member has agreed with Eurex Clearing AG and the relevant FCM Client in writing on the assumption of contract (*Vertragsübernahme*) pursuant to this Number 8.4.4 in form and substance satisfactory to Eurex Clearing AG;
- (iii) the Replacement FCM Clearing Member and the relevant FCM Client have undertaken to Eurex Clearing AG in form and substance satisfactory to Eurex Clearing AG that they will, no later than five (5) Business Days after the end of the Replacement Period, enter into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 10 unless such Clearing Agreement has already been entered into;
- (iv) the Replacement FCM Clearing Member has represented to Eurex Clearing AG that it meets the minimum funding requirements of CFTC Regulation 1.17(a)(4); and
- (v) the Replacement FCM Clearing Member has (a) provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover (for the account of the FCM Client) any shortfall in FCM Client Margin and FCM Client Variation Margin in respect of all FCM Client Transactions to which the Transfer relates or (b) committed itself to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets without undue delay following the Transfer.

If, following the receipt of a Replacement Election Notice by the Replacement Cut-Off Time, the FCM Clearing Member Replacement Requirements are not satisfied until the end of the Replacement Period, Number 8.6 shall apply.

8.4.5 Each FCM Client may designate in advance by notice to Eurex Clearing AG another FCM Clearing Member as a potential Replacement FCM Clearing Member for its FCM Client Standard Agreement. The FCM Clearing Member designated as a potential Replacement FCM Clearing Member assumes no obligation to accept a Transfer. The FCM Clearing Member Replacement Requirements apply.

Eurex Clearing AG may provide for further or alternative procedures for the transfer of assets and positions that it deems necessary taking into account applicable laws with respect to any such transfer.

8.4.6 The FCM Clearing Member hereby irrevocably offers to transfer to the Replacement FCM Clearing Member all Eligible Margin Assets in the form of Securities that are credited to the relevant FCM Client Pledged Securities Account at the time when the FCM Clearing Member Replacement Requirements are fulfilled. Such transfer shall be without prejudice to the security interest granted to Eurex Clearing AG in the relevant Securities. The FCM Clearing Member hereby also irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to offer to transfer to the Replacement FCM Clearing Member, on behalf of the FCM Clearing Member, all Eligible Margin Assets in the form of Securities that are credited to the relevant FCM Client Pledged Securities Account at the time when the FCM Clearing Member Requirements are fulfilled and to issue all other statements and to take all other acts on behalf of the FCM Clearing Member that Eurex Clearing AG considers necessary or expedient to effect the transfer of the relevant Securities to the Replacement FCM Clearing Member.

8.4.7 Eurex Clearing AG and the FCM Clearing Member agree that, following the transfer of all Eligible Margin Assets in the form of Securities to the Replacement FCM Clearing Member in accordance with Number 8.4.6 above, the security purpose of the security interests held by Eurex Clearing AG in such Securities shall also extend to all present and future claims of Eurex Clearing AG against the Replacement FCM Clearing Member under the relevant Clearing Agreement (in the form appended to the Clearing Conditions as Appendix 10) with such Replacement FCM Clearing Member. If a transfer of Eligible Margin Assets in the form of Securities to the securities account of the Replacement FCM Clearing Member is impossible or impractical due to restrictions of the securities depository bank, custodian or central securities depository used by the Replacement FCM Clearing Member or for other reasons, the FCM Clearing Member hereby irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG to liquidate on behalf of the FCM Clearing Member such Eligible Margin Assets in the form of Securities and to appropriate the proceeds of the realisation of such Securities and such proceeds shall then constitute, and be treated as, FCM Client Margin in the form of cash with respect to the relevant FCM Client Standard Agreement (and a corresponding Redelivery Claim shall arise under such FCM Client Standard Agreement pursuant to Number 2.2.2).

8.4.8 As a result of a Transfer, the Affected FCM Clearing Member will be released from all its obligations (including under its FCM Clearing Member Guarantee) in relation to the FCM Client Transactions under the relevant FCM Client Standard Agreement that have been transferred to the Replacement FCM Clearing Member and the Replacement FCM Clearing Member shall have assumed such obligations (including the relevant FCM Clearing Member Guarantee) in relation to the FCM Client Transactions under the relevant FCM Client Standard Agreement.

8.4.9 After the Transfer, Eurex Clearing AG shall

- (i) book the relevant FCM Client Transactions from the relevant FCM Client Own Account(s) of the Affected FCM Clearing Member to the relevant FCM Client Own Account(s) of the Replacement FCM Clearing Member; and
- (ii) with respect to the relevant FCM Client Standard Agreement to which the Transfer relates, attribute to the Replacement FCM Clearing Member (acting for the account of the relevant FCM Client), by making appropriate changes to its records, all FCM Client Margin and all FCM Client Variation Margin provided to Eurex Clearing AG in respect of such FCM Client Standard Agreement

and, following such changes to the records, such amounts or assets shall be deemed to constitute FCM Client Margin and FCM Client Variation Margin, respectively, that has been provided by the Replacement FCM Clearing Member for the account of the relevant FCM Client.

8.4.10 During the Replacement Period

- (i) the Clearing of new FCM Client Transactions under each FCM Client Standard Agreement of the Affected FCM Clearing Member's FCM Clients shall always be suspended;

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- (ii) all Redelivery Claims of the Affected FCM Clearing Member's FCM Clients with respect to FCM Client Margin in the form of cash and FCM Client Variation Margin shall be deferred (*gestundet*);
- (iii) Eurex Clearing AG shall not be obliged to provide any FCM Client Variation Margin to the Affected FCM Clearing Member's FCM Clients (or the Affected FCM Clearing Member acting for their account).

8.4.11 Partial Transfers

Subject to appropriate arrangements between the Affected FCM Clearing Member, the FCM Client, the Replacement FCM Clearing Member and Eurex Clearing AG (upon terms satisfactory to Eurex Clearing AG), the porting and transfers set out in Numbers 8.4.1 to 8.4.9 may also be made only with respect to some, but not all, FCM Client Transactions under the relevant FCM Client Standard Agreement, provided that, following such porting and transfers, the aggregate value of all Eligible Margin Assets actually delivered to Eurex Clearing AG in respect of FCM Client Margin allocated to the FCM Client Transactions that continue to form part of the existing FCM Client Standard Agreement is equal to or exceeds the applicable Default FCM Client Margin Requirement. In the case of such partial porting and transfer, the assumption of contract by the Replacement FCM Clearing Member shall be limited accordingly and (i) the FCM Client Transactions to which such transfer does not relate (and the relevant Redelivery Claims relating to FCM Client Margin and FCM Client Variation Margin allocated to such FCM Client Transactions) will continue to form part of the existing FCM Client Standard Agreement, a Termination and Termination Date shall occur, and Numbers 8.6.2 to 8.6.5 shall apply with respect to such existing FCM Client Standard Agreement and (ii) the FCM Client Transactions to which such transfer relates (and the relevant Redelivery Claims relating to FCM Client Margin and FCM Client Variation Margin allocated to such FCM Client Transactions) shall become part of a new FCM Client Standard Agreement.

8.4.12 Other Requirements relating to U.S. Law

Notwithstanding any other requirements of this Number 8.4,

- (1) any Replacement FCM Clearing Member must meet the minimum funding requirements of CFTC Regulation 1.17(a)(4) or otherwise be approved by the CFTC to receive the porting and transfer;
- (2) following the commencement of a bankruptcy case with respect to the FCM Clearing Member under subchapter IV of chapter 7 of the Bankruptcy Code or otherwise following the occurrence of a U.S. Bankruptcy Event with respect to the FCM Clearing Member, (a) any FCM Client Margin ported and transferred to a Replacement FCM Clearing Member may not exceed the "**funded balance**" of the FCM Client Margin as provided in CFTC Regulation 190.06(e)(2) and (b) Eurex Clearing AG may not effect any porting and transfer that has been disapproved by the CFTC; and
- (3) Eurex Clearing AG may not charge a commission for any porting and transfer.

8.5 Termination Right of Eurex Clearing AG

Upon the occurrence of a Termination Event or Insolvency Termination Event, Eurex Clearing AG shall, in its discretion, unless a Termination Date has already occurred pursuant to Number 8.6 or a porting has been completed pursuant to Numbers 8.4 or 8.7, be entitled to declare a Termination by notice to the FCM Clearing Member and the FCM Client.

8.6 Consequences of a Termination with respect to FCM Client Transactions

8.6.1 A Termination and a Termination Time with respect to the relevant FCM Client Standard Agreement (including all FCM Client Transactions under such FCM Client Standard Agreement) shall occur:

- (i) with effect as of the Replacement Cut-Off Time, if Eurex Clearing AG has not received a Replacement Election Notice or a Termination Election Notice by the Replacement Cut-Off Time; or
- (ii) with effect as of the end of the Replacement Period, if Eurex Clearing AG has received a Replacement Election Notice by the Replacement Cut-Off Time, but the FCM Clearing Member Replacement Requirements are not satisfied until the end of the Replacement Period; or
- (iii) if Eurex Clearing AG has received a Termination Election Notice at or before the Replacement Cut-Off Time, with effect as of the time of receipt of such Termination Election Notice by Eurex Clearing AG; or
- (iv) if Eurex Clearing AG has declared a Termination in accordance with Number 8.5, with effect as of the time of receipt of the related notice by the FCM Clearing Member and the FCM Client.

If a Termination Date has occurred with respect to a FCM Client Standard Agreement, the following provisions shall apply.

8.6.2 Termination of FCM Client Transactions and Redelivery Claims

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

8.6.3 Difference Claim

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The difference claim of either Eurex Clearing AG or (subject to the provisions on payment to the FCM Clearing Member set out in Number 1.6.6) the FCM Client under the relevant FCM Client Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 (except for Number 7.3.3) of the General Clearing Provisions using the Liquidation Price Approach (each a “**Difference Claim**”) and provided that Eurex Clearing AG shall be the party entitled to value the Difference Claim.

8.6.4 Notification

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

8.6.5 Payment of Difference Claim

- (1) The debtor of the Difference Claim under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the relevant FCM Client shall pay the determined amount of the Difference Claim as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 8.6.4.
- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

8.7 **Special Consequences if a U.S. Bankruptcy Event has Occurred**

8.7.1 Application

This Number 8.7 applies if a U.S. Bankruptcy Event has occurred with respect to a FCM Clearing Member. Unless otherwise indicated in this Number 8.7, the other provisions of Number 8 also apply. However, if there is any inconsistency between a provision in this Number 8.7 and a provision in Numbers 8.2 to 8.6, the provisions in this Number 8.7 prevail.

8.7.2 Termination by Eurex Clearing AG

- (1) Eurex Clearing AG's right to declare a Termination set out in Number 8.5 shall also apply in the case and on account of the occurrence of the U.S. Bankruptcy Event. Upon any such declaration, the provisions of Numbers 8.6.1 (iv) to 8.6.5 will apply, subject, however, to Number 8.7.3 Paragraph (2).
- (2) If a Difference Claim is owing by Eurex Clearing AG to the FCM Client (subject to the provisions on payment to the FCM Clearing Member set out in Number 1.6.6), the

FCM Client hereby irrevocably instructs Eurex Clearing AG to pay the determined amount of the Difference Claim for the account of the FCM Client to the trustee (the "**Bankruptcy Trustee**") appointed in the FCM Clearing Member's bankruptcy case or SIPA proceeding, or administering the Title II proceeding with respect to the assets and liabilities of the FCM Clearing Member, and the FCM Client and Eurex Clearing AG agree that only such payment to the Bankruptcy Trustee will discharge such Difference Claim. Any Eligible Margin Assets in the form of Securities attributable to the FCM Client that have not been realised by Eurex Clearing AG in accordance with the security purpose set out in Number 5.7.2 will be released from the pledges as a matter of law.

- (3) If a Difference Claim is owing by the FCM Client to Eurex Clearing AG, the right of Eurex Clearing AG to enforce its pledges over the relevant Eligible Margin Assets in the form of Securities that constitute FCM Client Margin of such FCM Client shall remain unaffected.

8.7.3 Further Termination Provisions; Porting in Lieu of Termination

If Eurex Clearing AG has not declared a Termination and a Termination Date with respect to a FCM Client Standard Agreement with a FCM Client, the following provisions apply:

- (1) Eurex Clearing AG will seek to contact the Bankruptcy Trustee to determine whether the FCM Client has chosen the liquidation or the porting of the FCM Client Transactions under the FCM Client Standard Agreement.
- (2) If the Bankruptcy Trustee timely communicates to Eurex Clearing AG that a particular FCM Client has chosen liquidation, Eurex Clearing AG will exercise its termination right pursuant to Number 8.7.2 Paragraph (1) in consultation with the Bankruptcy Trustee and with a view to the Termination of all FCM Client Transactions with the FCM Client occurring within a period (the "**Relevant Period**") of seven calendar days following the entry of the order for relief in the bankruptcy case or the commencement of the SIPA proceeding or Title II proceeding or within such longer period as the Bankruptcy Trustee and the CFTC, by order of the bankruptcy court, may approve.
- (3) If the Bankruptcy Trustee timely communicates to Eurex Clearing AG that a particular FCM Client has chosen porting in relation to its FCM Client Transactions or has not made a choice, Eurex Clearing AG will consult with the Bankruptcy Trustee to effect the porting of the FCM Client Transactions with the FCM Client and the porting of FCM Client Margin in the form of cash and FCM Client Variation Margin as well as the transfer of FCM Client Margin in the form of Securities in accordance with the Bankruptcy Code and CFTC Regulation 190.06. As soon as possible, and in any event within three calendar days following the commencement of the Relevant Period, Eurex Clearing AG will give the CFTC notice of Eurex Clearing AG's intent to conduct a porting in relation to the FCM Client Transactions, and, unless the porting and transfer is disapproved by the CFTC, Eurex Clearing AG will complete the porting and transfer within the Relevant Period.

- (4) If a particular FCM Client has designated to Eurex Clearing AG a potential Replacement FCM Clearing Member for its FCM Client Standard Agreement pursuant to the provisions of Number 8.4.5, Eurex Clearing AG will consult with the Bankruptcy Trustee to determine whether a porting in relation to the FCM Client Transactions with the FCM Client to the designated Replacement FCM Clearing Member may be conducted so long as the other requirements of the provisions of Number 8.4 and this Number 8.7 have been satisfied.
- (5) Notwithstanding the provisions of Number 8.4.11, no partial porting in relation to the FCM Client Transactions of any FCM Client will be made unless all of the FCM Client Transactions of the FCM Client cannot be ported or the CFTC otherwise approves of the partial porting.
- (6) Notwithstanding the provisions of Numbers 8.4.6 and 8.4.7, the Bankruptcy Trustee may require that less than all of the FCM Client Margin relating to any FCM Client Transactions with an FCM Client is ported and, as applicable, transferred to the Replacement FCM Clearing Member in order for the Bankruptcy Trustee to comply with the pro rata loss sharing provisions of §§ 766(c) and (h) of the Bankruptcy Code. The FCM Client Margin that is not subject to the porting or transfer will be held by Eurex Clearing AG at the direction of or delivered (including, in the case of Eligible Margin Assets in the form of Securities, by way of release of Eurex Clearing AG's pledges therein) to the Bankruptcy Trustee.

8.7.4 Application of the Bankruptcy Code and CFTC Rule 190 to Payments and Deliveries

Any payment or delivery by Eurex Clearing AG to the Bankruptcy Trustee pursuant to Number 1.6.6 or this Number 8.7, whether as payment of a Difference Claim or any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9 of the Clearing Conditions or, in the case of release of a pledge of Eligible Margin Assets, at the direction of the Bankruptcy Trustee, will be for the account of the bankruptcy estate of the FCM Clearing Member. The payment or delivery will be administered and distributed by the Bankruptcy Trustee for the benefit of those FCM Clients and other "customers" (as defined in § 761(9) of the Bankruptcy Code) of the FCM Clearing Member who have claims against the FCM Clearing Member arising out of cleared swap agreement transactions, all in accordance with the Bankruptcy Code and CFTC Rule 190 including the pro rata loss sharing provisions of §§ 766(c) and (h) of the Bankruptcy Code. No FCM Client will have any claim to or interest in the payment or delivery except in accordance with the distribution rules of the Bankruptcy Code and CFTC Rule 190.

9 Insolvency or Default with respect to a FCM Client

9.1 A "FCM Client Insolvency Termination Event" occurs with respect to a FCM Client, when a case commenced by or against the FCM Client under the U.S. Bankruptcy Code or a receiver or other insolvency administrator is appointed for the FCM Client or any of the FCM Client's assets.

“FCM Client Default” for the purpose of this Number 9 means the occurrence of one of the following events with respect to the FCM Client (unless the relevant event has already resulted in a FCM Client Insolvency Termination Event):

(1) Insolvency related Events

Any action, legal proceedings or other procedure or step is taken in relation to any of the following events or any of the following events occurs with respect to the FCM Client:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, termination of existence, liquidation, administration, reorganisation or restructuring (by way of voluntary arrangement, scheme of arrangement or otherwise), bankruptcy, insolvency, judicial management or curatorship;
- (b) a settlement, deferred payment, debt restructuring, transfer, restructuring, composition, compromise, assignment or similar arrangement of the FCM Client with any of its creditors;
- (c) the appointment of a liquidator, trustee, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that FCM Client or any of its assets; or

any analogous procedure or step is taken in any jurisdiction.

(2) Failure to comply with Clearing Conditions

The FCM Client fails to comply with the Clearing Agreement (incorporating the Clearing Conditions) to which it is a party or is in breach of any of its representations given in a Clearing Agreement and such failure is not remedied by the FCM Client or by the FCM Clearing Member under the FCM Clearing Member Guarantee.

(3) Violation of Regulatory Provisions

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

(4) Change in Law and other similar Causes

- (a) Any change takes place in the laws of Germany or the laws applicable to the FCM Client, respectively, or the official interpretation or application of such laws which, in the reasonable opinion of Eurex Clearing AG, have a material adverse impact on the interests or services of Eurex Clearing AG under the Clearing Conditions or the interests of Clearing Members (other than the FCM Clearing Member of such FCM Client), or

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

(5) Failure to comply with rules of other DCO(s)

The FCM Client fails to comply in any material respect with the provisions of the rulebook(s) of any other Derivatives Clearing Organisation.

(6) Termination for serious cause (aus wichtigem Grund)

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

9.2 Upon the occurrence of a FCM Client Insolvency Termination Event or a FCM Client Default with respect to a FCM Client, the following provisions of this Number 9 shall apply, provided that if, prior to the FCM Client Insolvency Termination Event or before any of the actions set out in this Number 9 has been taken, a U.S. Bankruptcy Event with respect to the FCM Clearing Member of such FCM Client occurs, the restrictions set out in Number 8.7 shall apply *mutatis mutandis*.

9.3 If at any time a FCM Client Insolvency Termination Event has occurred with respect to the FCM Client, a termination in relation to the FCM Client Standard Agreement (as further specified in Number 9.6) (a "**FCM Client Termination**") shall occur with immediate effect as of such time (the date of such FCM Client Termination being the "**FCM Client Termination Date**" and the respective termination time being the "**FCM Client Termination Time**"). As of such time Eurex Clearing AG will suspend the Clearing pursuant to the U.S. Clearing Model Provisions of new FCM Client Transactions of such FCM Client.

9.4 If a FCM Client Default occurs with respect to a FCM Client, Eurex Clearing AG may one or more times suspend or limit the Clearing pursuant to the U.S. Clearing Model Provisions of new FCM Client Transactions of such FCM Client.

Eurex Clearing shall notify the affected FCM Client and its FCM Clearing Member of the decision to suspend or limit the Clearing. Eurex Clearing AG shall, unless a FCM Client Default pursuant to Number 9.1 Paragraph (1) has occurred, specify in the notification a reasonable period of time during which such suspension or limitation shall apply.

Furthermore, if Eurex Clearing AG so demands, the relevant FCM Client shall, at its own expense, provide such information and evidence as Eurex Clearing AG, in its reasonable opinion may deem necessary, to conduct an appropriate investigation of the facts and circumstances relating to the FCM Client Default.

Before limiting or suspending the Clearing of new FCM Client Transactions under this Number 9.4, and without limiting its rights under Number 9.5 below, Eurex Clearing AG

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shall, where reasonable in the circumstances and unless a FCM Client Default pursuant to Number 9.1 Paragraph (2) has occurred, attempt to consult with the relevant FCM Clearing Member, further to which Eurex Clearing AG may in its absolute discretion agree a grace period within which the FCM Client or its FCM Clearing Member may remedy the event in question.

9.5 If a FCM Client Default has occurred and is continuing with respect to a FCM Client, Eurex Clearing AG may give a written termination notice to such FCM Client (with a copy to its FCM Clearing Member) (the "**FCM Client Termination Notice**") specifying the date and time on which a FCM Client Termination shall occur.

For such FCM Client Termination, the FCM Client Termination Date will be the date, and the FCM Client Termination Time will be the time, as specified in the FCM Client Termination Notice.

9.6 If a FCM Client Termination Date has occurred with respect to a FCM Client Standard Agreement, the following provisions shall apply:

9.6.1 Termination of FCM Client Transactions and Redelivery Claims

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

9.6.2 Difference Claim

The difference claim of either Eurex Clearing AG or the FCM Client under the relevant FCM Client Standard Agreement shall become unconditional and immediately due in the Termination Currency against the respective other party as of the end of the Last Valuation Date and shall be determined in accordance with Number 7.3 (except for Number 7.3.3) of the General Clearing Provisions using the Liquidation Price Approach (each a "**Difference Claim**"), provided that references in such provisions of Number 7.3 of the General Clearing Provisions to "Termination", "Termination Date" and "Termination Time" shall be read as references to "FCM Client Termination", "FCM Client Termination Date" and "FCM Client Termination Time", respectively, and Eurex Clearing AG shall be the party entitled to value the Difference Claim.

9.6.3 Notification

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

9.6.4 Payment of Difference Claim

- (1) The debtor of the Difference Claim under the relevant FCM Client Standard Agreement between Eurex Clearing AG and the relevant FCM Client shall pay the determined amount of the Difference Claim as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Number 9.6.3.
- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.

9.6.5 Establishment of Own Transactions with the FCM Clearing Member

- (1) By signing the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10, the FCM Clearing Member agrees that, with effect as of the FCM Client Termination Time and without any further action being required, Own Transactions will be established directly between Eurex Clearing AG and the FCM Clearing Member in lieu of the terminated FCM Client Transactions. Each such Own Transaction shall have the same terms and conditions as the corresponding terminated FCM Client Transaction as of the FCM Client Termination Time as if no FCM Client Termination Date had occurred (except that the FCM Clearing Member and not the FCM Client will be the contractual counterparty to Eurex Clearing AG). Each Own Transaction so established will form part of the Elementary Proprietary Standard Agreement of the FCM Clearing Member and Eurex Clearing AG and be subject to the Elementary Clearing Model Provisions.
- (2) Upon the establishment of all Own Transactions that correspond to the terminated FCM Client Transactions in accordance with Paragraph (1),
 - (i) if a Difference Claim of Eurex Clearing AG against the FCM Client has been determined pursuant to Number 9.6.2, Eurex Clearing AG shall assign to the FCM Clearing Member such Difference Claim;
 - (ii) if a Difference Claim of the FCM Client against Eurex Clearing AG has been determined pursuant to Number 9.6.2, the FCM Clearing Member shall pay to Eurex Clearing AG an amount equal to such Difference Claim; and
 - (iii) Eurex Clearing AG shall release its pledges over Eligible Margin Assets in the form of Securities provided by the FCM Clearing Member as FCM Client Margin in relation to the terminated FCM Client Transactions if Eurex Clearing AG's

claims secured by such pledges have been discharged or, in the case of a Difference Claim of Eurex Clearing AG, assigned to the FCM Clearing Member, unless, in each case, the relevant pledges have lapsed as a matter of law.

- (3) After the FCM Clearing Member (a) in the case of Paragraph (2)(i) above, has, through the FCM Clearing Member Guarantee, discharged all remaining Secured U.S. Clearing Model Claims of Eurex Clearing AG against the FCM Client or the FCM Clearing Member or (b) in the case of Paragraph (2)(ii) above, has paid such amount to Eurex Clearing AG and has, through the FCM Clearing Member Guarantee, discharged all remaining Secured U.S. Clearing Model Claims of Eurex Clearing AG against the FCM Client or the FCM Clearing Member, the FCM Clearing Member Guarantee shall lapse and Eurex Clearing AG shall release its pledges over any Eligible Margin Assets that form part of the FCM Client Margin of the FCM Client (unless such pledges lapse as a matter of law).

10 Collateralisation of FCM Client Difference Claim

Eurex Clearing AG will provide collateral to the FCM Client to secure any Difference Claim of the FCM Client against Eurex Clearing AG that may arise pursuant to the provisions of Numbers 8 or 9 and any difference claim of the FCM Client against Eurex Clearing AG that may arise pursuant to Chapter I Part 1 Number 9. The collateral will be provided by way of pledging to the FCM Client a bank account under German law (each a “**Collateral Account**”) at a Permitted Depository of Eurex Clearing AG in which Eurex Clearing AG will deposit sufficient cash funds to cover the Difference Claim as determined from time to time.

The FCM Client irrevocably authorises (*bevollmächtigt*) the FCM Clearing Member to enforce, on behalf of the FCM Client, the pledge over the Collateral Account if and when such pledge becomes enforceable. The FCM Client shall, if a U.S. Bankruptcy Event has occurred with respect to the FCM Clearing Member, comply with any instruction of the Bankruptcy Trustee and any order of the relevant bankruptcy court in respect of the enforcement of such pledge and the proceeds of such enforcement.

11 Replacement of FCM Clearing Member

Without prejudice to a replacement of an Affected FCM Clearing Member in accordance with Number 8, prior to the occurrence of an Insolvency Termination Event or Termination Event with respect to its FCM Clearing Member, the FCM Client may effect a replacement of its FCM Clearing Member in accordance with this Number 11 with respect to all or some of its FCM Client Transactions under the relevant FCM Client Standard Agreement only with the prior written consent of Eurex Clearing AG, the FCM Clearing Member and a replacement FCM Clearing Member and subject to the prior conclusion of a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 between Eurex Clearing AG, the FCM Client and the replacement FCM Clearing Member. Eurex Clearing AG’s consent will not be unreasonably withheld. In order to effect such replacement of a FCM Clearing Member on a Business Day, all or, in the case of a partial transfer, the relevant rights and obligations of the FCM Clearing Member in respect of such FCM Client Transactions shall be transferred, by way of assumption of

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contract (*Vertragsübernahme*) to the replacement FCM Clearing Member to be set out in a separate transfer agreement between the existing FCM Clearing Member, the replacement FCM Clearing Member, the FCM Client and Eurex Clearing AG. For the avoidance of doubt, the provisions under Number 8 of the General Clearing Conditions shall not apply to a replacement of a FCM Clearing Member.

Such transfer shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing in this Number 11 shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a transfer date binding on all relevant parties in such notice.

In the case of a partial transfer, Number 8.4.11 (except for any provisions on a Termination or a Termination Date) shall apply *mutatis mutandis*.

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

- (i) a transfer agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website (www.eurexclearing.com);
- (ii) a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10 between Eurex Clearing AG, the FCM Client and the replacement FCM Clearing Member; and
- (iii) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer.

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

[...]

Chapter VIII Clearing of OTC Derivative Transactions

[...]

Part 1 General Provisions

- (1) Eurex Clearing AG offers the Clearing and settlement of derivatives traded over-the-counter ("**OTC Derivative Transactions**"), provided that such OTC Derivative Transactions meet the applicable novation criteria set out in this Chapter VIII.
- (2) In addition to this Chapter VIII, the provisions of Chapter I, including in particular the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions₁ or

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the Net Omnibus Clearing Model Provisions and the U.S. Clearing Model Provisions, shall apply to the Clearing of OTC Derivative Transactions, unless otherwise provided hereinafter.

- (3) This Chapter VIII does not apply to the Clearing of Eurex Off-Book Trades as specified in Chapter II Part 4 and the OTC Transactions specified in Chapter V Part 1 Number 1.3.

1.1 Clearing License

1.1.1 Granting of the Clearing License

In order to participate in the Clearing of OTC Derivative Transactions, a clearing license for the relevant Transaction Types is required (each an “**OTC Clearing License**”). The OTC Clearing License may be granted by Eurex Clearing AG upon written application. Each OTC Clearing License may be restricted to certain product groups within the scope of a Transaction Type if this is provided for in respect of such OTC Clearing License. Notwithstanding Chapter I Part 1 Number 2.1.1 Paragraph (4), an OTC Clearing License will be exclusively issued as a General Clearing License which entitles its holder to clear Own Transactions, Customer-Related Transactions and RC-Related Transactions (all as defined in Chapter I Part 1 Number 1.2.3-) or, in respect of U.S. Clearing Members, Own Transactions and, if the U.S. Clearing Member is a FCM Clearing Member, also FCM Client Transactions.

[...]

1.2 Conclusion of Transactions

OTC Derivative Transactions pursuant to this Chapter VIII are concluded by way of novation in accordance with the following provisions:

1.2.1 Novation

- (1) For the purposes of including OTC Derivative Transactions into the Clearing by Eurex Clearing AG, the trade record of the relevant Original OTC Transaction has to be transmitted to Eurex Clearing AG via an Approved Trade Source System (each an “**Approved Trade Information Provider**”).
- (2) Whenever:
- (i) the trade record of an Original OTC Transaction is transmitted to Eurex Clearing AG via an Approved Trade Information Provider; and
 - (ii) (A) the parties to the Original OTC Transaction are Clearing Members holding the relevant OTC Clearing License or FCM Clients; or
(B) where any party to the Original OTC Transaction is not a Clearing Member holding the relevant OTC Clearing License, the Clearing Member holding the relevant OTC Clearing License that, based on the trade record transmitted to Eurex Clearing AG via an Approved Trade Information Provider, has been

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designated as a Clearing Member for such party with respect to the relevant Original OTC Transaction has accepted in the system of Eurex Clearing AG the Original OTC Transaction for Clearing; and

- (iii) Eurex Clearing AG accepts such Original OTC Transaction for inclusion in the Clearing Procedures by making an OTC Novation Report available to the Clearing Members (in the case of a FCM Clearing Member, acting on behalf of the relevant FCM Client) electronically via its system,

OTC Derivative Transactions will be concluded by way of novation in accordance with Chapter I Part 1 Number 1.2.2 Paragraph (2) or, in the case of CCP-FCM Client Transactions, Chapter I Part 5 Number 1.4, as applicable, within a daily or weekly novation process as provided for with respect to the Transaction Type in Part 2.

- (3) Any acceptance of the Original OTC Transaction by Eurex Clearing AG for inclusion in the Clearing and the related novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2) or, in the case of CCP-FCM Client Transactions, Chapter I Part 5 Number 1.4, as applicable, will be subject to the novation criteria pursuant to Number 1.2.3 and will be based on the trade record provided by the Approved Trade Information Provider on behalf of the parties to the Original OTC Transaction. Eurex Clearing AG relies on the accuracy of the data set out in the trade record transmitted and is neither able nor obliged to verify whether the trade record received properly reflects the terms of the Original OTC Transaction entered into by the relevant parties.
- (4) Under the CCP Transactions created upon novation, the relevant Clearing Member has, in economic terms, the same economic role (e.g. as floating rate payer or as fixed rate payer, respectively) as such Clearing Member (in case of Own Transactions) or its Registered Customer (in case of RC-Related Transactions) or other customer (in case of Customer-Related Transactions) had under the Original OTC Transaction. The same principle applies to CM-RC Transactions *mutatis mutandis*. Under the CCP-FCM Client Transactions Transactions created upon novation, the relevant FCM Client has, in economic terms, the same economic role (e.g. as floating rate payer or as fixed rate payer, respectively) as such FCM Client had under the Original OTC Transaction.
- (5) It is the responsibility of the parties to the Original OTC Transaction to agree on a bilateral basis that the Original OTC Transaction shall be cancelled upon novation. With respect to any Original OTC Transaction to which a FCM Client is a party, this provision shall not apply and instead only Chapter I Part 5 Number 1.4 Paragraph (4) applies.
- (6) If a CM-RC Transaction, a Client Clearing CM-RC Transaction or a CM-Customer Transaction, or any provision thereof, is not valid or not enforceable vis-à-vis the respective Registered Customer or other customer, this shall not affect the validity and enforceability of the CCP Transaction between Eurex Clearing AG and the relevant Clearing Member.
- (7) For the purposes of this Chapter VIII,

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- (a) **“Approved Trade Source System”** means a provider of trade information to be appointed by each of the parties to an Original OTC Transaction, and recognised by Eurex Clearing AG, for the purpose of transmitting trade records of OTC Interest Rate Derivative Transactions for Clearing with, and receiving communications about any De-Clearing (Part 2 Number 2.7.3) of such transactions from, Eurex Clearing AG, as published on the website of Eurex Clearing AG (www.eurexclearing.com).
- (b) **“CCP-FCM Client Transaction”** means with respect to a Clearing Agreement with a FCM Client in the form appended to the Clearing Conditions as Appendix 10, an OTC Derivative Transaction established between Eurex Clearing AG and the relevant FCM Client pursuant to Paragraph (2) and Chapter I Part 5 Number 1.4.
- (c) **“CCP Transaction”** means any OTC Derivative Transaction between Eurex Clearing AG and the relevant Clearing Member created pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2) or a CCP-FCM Client Transaction between Eurex Clearing AG and the relevant FCM Client.
- (ed) **“CM-RC Transaction”** means, with respect to a Clearing Agreement with a Registered Customer in the form appended to the Clearing Conditions as Appendix 2 or Appendix 3, an OTC Derivative Transaction corresponding to a certain CCP Transaction and which has been created between the Clearing Member and a Registered Customer pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (2).
- (de) **“Client Clearing CM-RC Transaction”** means, with respect to the Individual Clearing Model Provisions under Client Clearing Documentation, a transaction corresponding to a CCP Transaction and which has been created between the Clearing Member and the Registered Customer of the Clearing Member in accordance with the Client Clearing Agreement (as defined in Chapter I Part 3 Subpart C Number 2.1.1) between the relevant Clearing Member and its Registered Customer and which are not subject to these Clearing Conditions. A Client Clearing CM-RC Transaction shall exclusively be regulated by the Client Clearing Agreement which may refer to these Clearing Conditions.
- (ef) **“CM-Customer Transaction”** means a transaction corresponding to a CCP Transaction and which has been created between the Clearing Member and any customer (other than a Registered Customer or FCM Client) of the Clearing Member in accordance with the contractual arrangements between them. A CM-Customer Transaction shall exclusively be subject to the contractual arrangements between the relevant Clearing Member and its customer, which may refer to these Clearing Conditions.
- (fg) **“OTC Novation Report”** means an OTC Trade Event Report.
- (gh) **“OTC Trade Novation Report”** means a report produced by Eurex Clearing AG on the basis of the trade records transmitted via the relevant Approved Trade Source System which specifies the Original OTC Transactions to be novated

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into OTC Interest Rate Derivative Transactions (as defined in Part 2 of this Chapter VIII) as well as the respective CCP Transactions.

1.2.2 Legal Effectiveness of Novation

The novation becomes legally effective at the point of time when Eurex Clearing AG accepts the relevant OTC Derivative Transaction for Clearing by making the relevant OTC Novation Report available to the relevant Clearing Members (and, in the case of an CCP-FCM Client Transactions, to the FCM Clearing Member acting on behalf of the relevant FCM Client) electronically via Eurex Clearing AG's system.

1.2.3 Novation Criteria

- (1) Eurex Clearing AG will accept an Original OTC Transaction for inclusion in the Clearing in accordance with the daily or weekly novation process, as applicable, if the following novation criteria are fulfilled:
1. A trade record of the Original OTC Transaction must be transmitted to the system of Eurex Clearing AG via an Approved Trade Information Provider and the Original OTC Transaction was either (i) entered into between two Clearing Members holding the relevant OTC Clearing License on the basis of the specifications made in such trade record, or (ii) accepted by the relevant Clearing Member(s) holding the relevant OTC Clearing License, as provided for in Number 1.2.1 Paragraph (2);
 2. The trade record transmitted to Eurex Clearing AG via an Approved Trade Information Provider must specify in respect of the relevant Original OTC Transaction (i) that it is to be cleared by Eurex Clearing AG as well as (ii) (A) if any party of the Original OTC Transaction is a Clearing Member which does not hold the relevant OTC Clearing License, the Clearing Member holding the relevant OTC Clearing License selected by such party or (B) if any party of the Original OTC Transaction is a FCM Client, the FCM Clearing Member of such FCM Client;
 3. (i) The trade record is transmitted to Eurex Clearing AG in a format which allows Eurex Clearing AG to import the relevant data in its system, as communicated by Eurex Clearing AG to Clearing Members that hold an OTC Clearing License and (ii) and no information required with respect to the terms of the relevant OTC Derivative Transaction as set out in Part 2 is missing;
 4. No Termination Date has occurred with respect to a Clearing Member through which the novated Original OTC Transaction is to be cleared;
 5. No Registered Customer who is a party to the Original OTC Transaction has been excluded from the Clearing of OTC Transactions;
 6. No FCM Client Termination Date has occurred with respect to a FCM Client that is a party to the Original OTC Transaction;

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7. Original OTC Transactions that are transmitted to the system of Eurex Clearing AG must be of a product type recognised by Eurex Clearing AG as published on its website (www.eurexclearing.com) and provided for in the following Part of this Chapter VIII (the “**Product Type**”);

~~7. The Clearing Member(s)~~8. The Clearing Member(s) (including, in the case of OTC Derivative Transactions that are FCM Client Transactions, the relevant FCM Clearing Member(s) acting for the account of the relevant FCM Client(s)) seeking to clear the relevant OTC Derivative Transaction must have delivered Eligible Margin Assets to Eurex Clearing AG as required pursuant to Chapter I Part 1 Number 3, the Elementary ~~or~~ Clearing Model Provisions, the Individual ~~and~~ Clearing Model Provisions, the Net Omnibus Clearing Model Provisions and the U.S. Clearing Model Provisions, to cover the calculated risks resulting from all Transactions and the CCP Transaction to be created;

~~89.~~ All applicable additional novation criteria set forth in the following Part of this Chapter VIII are fulfilled.

- (2) If a novation criterion is not fulfilled but the relevant OTC Novation Report has nevertheless been made available via the system of Eurex Clearing AG and, accordingly, novation is effective, Eurex Clearing AG is entitled to terminate the CCP Transactions by notifying the relevant Clearing Member(s) (in the case of an Original OTC Transaction to which a FCM Client is a party, the relevant FCM Clearing Member acting on behalf such FCM Client) in writing (including by fax or e-mail) provided that none of the two CCP Transactions created upon novation of the Original OTC Transaction was subject to (i) any netting or accumulation pursuant to Part 2 Number 2.5 or (ii) a transfer or trade amendment pursuant to Part 2 Number 2.6.

Upon and with effect of such termination, any CM-RC Transaction, if applicable, shall, without further notice, be terminated simultaneously; the relevant Clearing Member(s) shall inform the relevant Registered Customer(s) thereof. Otherwise, it is the responsibility of the relevant parties to agree on a bilateral basis to what extent, as a result of the termination of the relevant CCP Transaction, any Client Clearing CM-RC Transaction or CM-Customer Transaction shall be terminated and the Original OTC Transaction shall be re-instated in accordance with its original terms.

1.2.4 Special Provisions with respect to the Conclusion of CCP Transactions

- (1) If the Clearing Member holds an Interest Rate Derivatives Clearing License pursuant to Part 2 Number 2.1.3, the Clearing Member (i) authorises Eurex Clearing AG to capture and maintain records vis-à-vis the respective Approved Trade Source System, and (ii) confirms that it has appointed the relevant Approved Trade Source System to receive trade communications and generate and send trade communications to Eurex Clearing AG on its behalf. Eurex Clearing AG may rely on such trade communications.

~~(2)~~By entering into the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10, the FCM Client (i) authorises Eurex Clearing AG to

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capture and maintain records vis-à-vis the respective Approved Trade Source System and (ii) confirms that it has appointed the relevant Approved Trade Source System to receive trade communications and to generate and send trade communications to Eurex Clearing AG on its behalf. Eurex Clearing AG may rely on such trade communications.

- (3) The Clearing Member agrees that upon acceptance of an Original OTC Transaction for inclusion in the Clearing by Eurex Clearing AG based on a trade record of an Original OTC Transaction submitted by the Approved Trade Source System to Eurex Clearing AG on behalf of the Clearing Member pursuant to Number 1.2.1, a Transaction will be concluded between Eurex Clearing AG and the Clearing Member on terms based on the trade record pursuant to Number 1.2.1 in conjunction with Number 1.2.2 Paragraph (2) of the General Clearing Provisions. ~~The Clearing Member~~ The Clearing Member agrees to be legally bound by each such Transaction and acknowledges that no further specific agreement to be legally bound shall be required to be given by the Clearing Member at the time of the conclusion of such Transaction.
- (4) The FCM Client agrees that upon acceptance of an Original OTC Transaction for inclusion in the Clearing by Eurex Clearing AG based on a trade record of an Original OTC Transaction submitted by the Approved Trade Source System to Eurex Clearing AG on behalf of such FCM Client (or the FCM Clearing Member acting for the account of such FCM Client) pursuant to Number 1.2.1, a Transaction will be concluded between Eurex Clearing AG and the FCM Client on terms based on the trade record pursuant to Number 1.2.1 in conjunction with Number 1.4 of the U.S. Clearing Model Provisions. The FCM Client agrees to be legally bound by each such Transaction and acknowledges that no further specific agreement to be legally bound shall be required to be given by the ~~Clearing Member~~ FCM Client at the time of the conclusion of such Transaction.
- (5) The Clearing Member and the FCM Client should check without undue delay all notices and reports received from Eurex Clearing AG with regard to the correct conclusion of Transactions and inform Eurex Clearing AG of any mistakes, errors, omissions, deviations or irregularities in such notice or report in accordance with Number 4.6 of the General Clearing Provisions.
- (6) Eurex Clearing AG does not assume any liability vis-à-vis the FCM Clearing Member or the FCM Client in respect of inaccuracies in the trade record submitted pursuant to Paragraph (4) above, or if the trade record has not been initiated by the FCM Client.

[...]

1.3 Transaction Accounts

- (1) With regard to the accounts of the Clearing Member, (or, as relevant, the FCM Client), Chapter I Part 1 Number 4 together with Part 2 Number 4, Part 3 Subpart A Number 4 ~~or~~, Part 4 Number 4 or Part 5 Number 3 apply in addition to the following provisions.

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(2) In deviation to Chapter I Part 1 Number 4 together with Part 2 Number 4, Part 3 Subpart A Number 4 ~~or~~ and Part 4 Number 4, Eurex Clearing AG opens and maintains with respect to each Clearing Member (other than a FCM Clearing Member) the following transaction accounts in which the Transactions of the Clearing Member to be cleared have to be booked:

- (a) with respect to Own Transactions and Customer-Related Transactions: one Own Account and, upon request, additional Customer Accounts; and
- (b) with respect to RC-Related Transactions: one Own Account and, upon request, additional Customer Accounts.

1.4 Tax Gross-up Obligations of Clearing Members and FCM Client

If a Clearing Member or FCM Client is obliged by law to deduct or withhold a tax amount or other fiscal charge from a payment which it is to make, it shall pay to Eurex Clearing AG such additional amounts as are necessary to ensure that Eurex Clearing AG receives the full amount to which it would have been entitled at the time of such payment if no deduction or withholding were required. If a Clearing Member or FCM Client is obliged to pay such additional amounts pursuant to Sentence 1, the Clearing Member or FCM Client shall not be entitled to terminate a CCP Transaction due to such obligation.

[...]

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Part 2 Clearing of OTC Interest Rate Derivative Transactions

2.1 General Provisions

2.1.1 Applicable General Provisions

The general provisions of Part 1 apply to all OTC interest rate derivative transactions to be cleared by Eurex Clearing AG (“**OTC Interest Rate Derivative Transactions**”), except where deviating or supplementary provisions for OTC Interest Rate Derivative Transactions are set out in this Part 2.

2.1.2 Consultation of Clearing Members/Committees

2.1.2.1 Determination of Transactions to be included in the Clearing

- (1) On the basis of the relevant Transaction Type specific novation criteria set out in Number 2.1.4.1 below, Eurex Clearing AG determines the product types of OTC Interest Rate Derivative Transactions to be included in the Clearing of Eurex Clearing AG in consultation with the IRS Product Committee and publishes the relevant product types on its website (www.eurexclearing.com).
- (2) Where a trade record transmitted via an Approved Trade Source System containing an OTC Interest Rate Derivative Transaction which falls within a product type recognised by Eurex Clearing AG pursuant to Paragraph (1) provides for any additional terms which are not contemplated in Numbers 2.2 to 2.4 below, such as e.g. optional or mandatory early termination provisions, such additional terms will not be included in the OTC Trade Novation Report and will not become part of the terms applicable to a CCP Transaction or a CM-RC Transaction, if applicable. Eurex Clearing AG will not store or record any data relating to such additional provisions.
- (3) Eurex Clearing AG will determine those product types of OTC Interest Rate Derivative Transactions that may be cleared by FCM Clearing Members (acting for the account of FCM Clients) pursuant the U.S. Clearing Model Provisions (“**FCM OTC Interest Rate Derivatives Transactions**”) in consultation with the IRS Product Committee and publish the relevant product types on its website (www.eurexclearing.com).

The determination will be based upon a review of at least the following factors: (i) trading volume; (ii) liquidity; (iii) availability of reliable prices; (iv) ability of Eurex Clearing AG and the relevant U.S. Clearing Members to gain access to the relevant market for purposes of creating, liquidating, transferring, auctioning, and/or allocating positions; (v) Eurex Clearing AG’s capability to measure risk for setting appropriate margin requirements; and (vi) any unusual risk characteristics of a product.

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Transactions that may be cleared by FCM Clearing Members must be within a class of contracts for which Eurex Clearing AG has been found eligible to offer clearing services by the CFTC.

FCM Clearing Members may not clear any OTC Interest Rate Derivative Transactions which are not determined to be FCM OTC Interest Rate Derivatives Transactions pursuant to this Number 2.1.2.1 Paragraph (3).

[...]

2.1.3 License for the Clearing of OTC Interest Rate Derivative Transactions

The OTC Clearing License granted for the Clearing of OTC Interest Rate Derivative Transactions (the "**Interest Rate Derivatives Clearing License**") entitles the relevant Clearing Member to clear OTC Interest Rate Derivative Transactions that (i) are Own Transactions, RC-Related Transactions ~~or~~, Customer-Related Transactions or FCM Client Transactions (in respect of which the Clearing Member act as FCM Clearing Member) under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions ~~or~~, the Net Omnibus Clearing Model Provisions or the U.S. Clearing Model Provisions, as applicable, and (ii) the currency of which is Euro (EUR), US-Dollar (USD), Pound Sterling (GBP), Swiss Franc (CHF) or Japanese Yen (JPY). ~~The~~Without prejudice to Number 2.1.2.1 Paragraph (3), the relevant Clearing Member may elect that the Interest Rate Derivatives Clearing License shall be restricted to the Clearing of OTC Interest Rate Derivative Transactions in only some or one of these five currencies.

———The owner of an Interest Rate Derivatives Clearing License may additionally clear zero coupon inflation swaps ("**ZCIS**") if the following requirements are met:

- (a) The relevant Clearing Member has elected whether to clear ZCIS on the indexes HICPxT and FRCPI (EUR inflation), whereas for EUR inflation it is not possible to elect only one of the two inflation indexes but only both together, and/or on the UK-RPI index (GBP inflation); and
- (b) The OTC Clearing License of the Clearing Member covers the currencies elected for the clearing of ZCIS.

2.1.3.1 Requirements for the Granting of an Interest Rate Derivative Clearing License

The general requirements for obtaining a Clearing License set out in Chapter I Part 1 Number 2.1.1 to 2.1.3 and 2.3.1 shall apply (except for Chapter I Part 1 Number 2.1.2 Paragraph (4) (a) (cc) and Number 2.1.2 Paragraph (5) (e)). In addition, the institution applying for an Interest Rate Derivatives Clearing License shall meet the following requirements:

- (a) the institution is a participant in an Approved Trade Source System;
- (b) confirmation that a license agreement is concluded between the institution and Swaps Monitor Publications, Inc., New York for the usage of data to determine the relevant Business Day;

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- (c) in addition to the cash accounts required pursuant to Chapter I Part 1 Number 2.1.2 Paragraph (4) (b),) or Chapter I Part 1 Number 2.1.3 Paragraph (6)(b), respectively, a bank cash account in USD;
- (d) if the Interest Rate Derivatives Clearing License of the relevant Clearing Member covers OTC Interest Rate Derivative Transactions in GBP, a bank cash account for GBP;
- (e) if the Interest Rate Derivatives Clearing License of the relevant Clearing Member covers OTC Interest Rate Derivative Transactions in JPY, a bank cash account for JPY;
- (f) in the Interest Rate Derivatives Clearing Licence of the relevant Clearing Member covers OTC Interest Rate Derivative Transactions in CHF, a bank cash account for CHF; and
- (g) evidence that each of the bank cash accounts pursuant to Paragraph (d) to (f) above is established with a bank recognised by Eurex Clearing_AG.

[...]

2.1.4.2 Documentation of Original OTC Transactions

- (1) In the trade record submitted via an Approved Trade Source System, one of the following master agreements may be specified as the contractual basis of an Original OTC Transaction: (i) the 1992 or 2002 ISDA Master Agreement, (ii) the German Master Agreement for Financial Derivatives Transactions (*Rahmenvertrag für Finanztermingeschäfte*, the “**DRV**”) or (iii) the AFB/FBF Master Agreement.
- (2) Irrespective of the documentation of the Original OTC Transaction, the “**Terms for ISDA Interest Rate Derivative Transactions**” set out in Number 2.3 below shall apply to all CCP Transactions and CM-RC Transactions (the “**ISDA Interest Rate Derivative Transactions**”) that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the Approved Trade Source System as having been entered into under the ISDA Master Agreement or the AFB/FBF Master Agreement. The “**Terms for DRV Interest Rate Derivative Transactions**” set out in Number 2.4 below shall apply to all CCP Transactions and CM-RC Transactions (the “**DRV Interest Rate Derivative Transactions**”) that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the Approved Trade Source System as having been entered into under the DRV and which, accordingly, are designated as “**DRV-based**” in the applicable OTC Trade Novation Report.
- (3) By entering into the relevant Clearing Agreement, the Clearing Member and the Registered Customer or the FCM Client, respectively, declare vis-à-vis Eurex Clearing AG that it has received a copy of the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”), and any supplements issued thereto as of the date of such Clearing Agreement.

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The Clearing Member ~~and~~, the Registered Customer and the FCM Client further agree to the passing on to ISDA of their company name and their company address in the context of the delivery to it of the documents referred to in the foregoing paragraph.

2.1.4.3 Daily Novation Process

- (1) The novation and clearing process will be carried out on each Business Day (“**Daily Novation**”) for each Original OTC Transaction which has been submitted to Eurex Clearing AG via an Approved Trade Source System and which fulfils applicable novation criteria. The novation process will be performed pursuant to the following paragraphs.
- (2) Original OTC Transactions that are to be included in the Clearing by way of Daily Novation may be submitted to Eurex Clearing AG at any point in time. Between 8 a.m. CET and 10 p.m. CET on each Business Day, Original OTC Transactions which fulfil all novation criteria at or prior to 10 p.m. CET on a Business Day will be included in the Daily Novation on such Business Day. An OTC Trade Novation Report will be made available to the relevant Clearing Member (in respect of a FCM Client Transaction, to the relevant FCM Clearing Member acting on behalf of the relevant FCM Client) electronically via Eurex Clearing AG’s system. The last OTC Trade Novation Report will be made available at or around 11 p.m. CET.
- (3) Original OTC Transactions which, on the day of submission, fulfil all novation criteria except the provision of the required margin to Eurex Clearing AG will be included in the Daily Novation on the next Business Day, and the relevant Original OTC Transactions will be novated on such next Business Day if all of the novation criteria are fulfilled by not later than 10 p.m. CET on such Business Day.
- (4) A Clearing Member ~~or~~, a Registered Customer or a FCM Client may subsequently cancel the submission with respect to:
 - (a) any Original OTC Transactions submitted to Eurex Clearing AG via an Approved Trade Source System and intended to be novated within the Daily Novation if the relevant Original OTC Transactions have not been novated; and/or
 - (b) any CCP Transaction intended to be transferred pursuant to Number 2.6, to be terminated or de-cleared pursuant to 2.7,

provided that (i) the cancellation request is entered by the Clearing Member ~~or the~~ (and, in respect of a FCM Client Transaction, by the relevant FCM Clearing Member acting on behalf of the relevant FCM Client), the Registered Customer or the FCM Client into the system of, and received by, Eurex Clearing AG, and (ii) each, the responsible Clearing Member, in case the request is entered by a Registered Customer, or the relevant FCM Clearing Member (acting on behalf of the relevant FCM Client), in case the request is entered on behalf of its FCM Client, and the other Clearing Member that is a party to the relevant transaction have given their prior consent in the system of Eurex Clearing AG.

2.1.4.4 Scheduled Intraday Margin Calls

- (1) If Eurex Clearing AG determines that the aggregate value of the Eligible Margin Assets actually delivered to Eurex Clearing AG is insufficient to provide the cover required in order to fulfil the margin requirement (as set forth in Number 2.1.6) also taking into account all Original OTC Transactions which are to be novated in the course of the Daily Novation as well as all CCP Transactions pursuant to Number 2.6 and Number 2.7. (any such shortfall the **“Shortfall Margin Requirement”**), Eurex Clearing AG will require the Clearing Member (in the case of CCP-FCM Client Transactions, the relevant FCM Clearing Member acting for the account of the relevant FCM Client) intra-day to provide additional Eligible Margin Assets in an amount up to the Shortfall Margin Requirement in accordance with the following provisions.
- (2) The Transactions resulting from the novation of the Original OTC Transactions as well as the CCP Transactions pursuant to Number 2.6 and Number 2.7 to be covered by, as well as the amount of, the Shortfall Margin Requirement shall be notified by Eurex Clearing AG in a Preliminary OTC Margin Call Report and an OTC Margin Call Report.

A **“Preliminary OTC Margin Call Report”** means a preliminary report produced by Eurex Clearing AG and made available at 12:00 p.m. CET, 14:00 p.m. CET and 18:00 p.m. CET that specifies (i) the Original OTC Transactions to be novated into OTC Interest Rate Derivative Transactions as well as (ii) the respective CCP Transactions, to which the Shortfall Margin Requirement applies and the amount of the Shortfall Margin Requirement calculated by Eurex Clearing AG as per the time when the relevant Preliminary OTC Margin Call Report is made available (the **“Preliminary Shortfall Margin Amount”**).

An **“OTC Margin Call Report”** means a report produced by Eurex Clearing AG and made available at 13:00 p.m. CET, 15:00 p.m. CET, 19:00 p.m. CET, and 22:30 p.m. CET that specifies (i) the Original OTC Transactions to be novated into OTC Interest Rate Derivative Transactions as well as (ii) the respective CCP Transactions, to which the Shortfall Margin Requirement applies as well as the Final Shortfall Margin Amount.

The **“Final Shortfall Margin Amount”** shall be the lower of the (i) Preliminary Shortfall Margin Amount and (ii) the amount of the Shortfall Margin Requirement calculated by Eurex Clearing AG as per the time when the relevant OTC Margin Call Report is made available.

- (3) Eurex Clearing AG will debit the Final Shortfall Margin Amount set forth in an OTC Margin Call Report in the agreed Clearing Currency from the relevant Clearing Member Cash Account or relevant U.S. Clearing Member Cash Account, as relevant, in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1. If such Clearing Currency can no longer be settled, Eurex Clearing AG shall convert the Final Shortfall Margin Amount in USD at the exchange rate determined by Eurex Clearing AG (as mentioned in the relevant Preliminary OTC Margin Call Report or OTC Margin Call Report).

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- (4) The payment made by direct debit of the Final Shortfall Margin Amount determined in the OTC Margin Call Report produced and made available by Eurex Clearing AG at 1 p.m. CET, 3 p.m. CET and 7 p.m. CET shall constitute cover in respect of the Margin to which the margin requirement pursuant to Number 3.1.6 relates and accordingly will constitute (i) Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) Segregated Margin delivered by the Clearing Member pursuant to the Individual Clearing Model Provisions ~~or~~, (iii) Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) FCM Client Margin delivered by the relevant FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions. The payment made by direct debit of the Final Shortfall Margin Amount determined in the OTC Margin Call Report produced and made available by Eurex Clearing AG at 10:30 p.m. CET shall be treated accordingly and shall constitute cover either in respect of (i) the Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) the Segregated Margin delivered by the Clearing Member pursuant to the Individual Clearing Model Provisions ~~or~~, (iii) the Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) the FCM Client Margin delivered by the FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions.
- (5) Such amount shall be settled in full by the time when the relevant OTC Margin Call Report is published on the relevant Business Day pursuant to Paragraph (3) above.
- (6) The margin call pursuant to this Number 2.1.4.4 applies in addition to the Margin Calls pursuant to Chapter I Part 1 Number 3.3, Part 2 Number 6.3, Part 3 Subpart A Number 5.3 ~~and~~, Part 4 Number 6.3 ~~and~~ Part 5 Number 5.3.

2.1.4.5 Bulk Backloading of Original OTC Transactions

- (1) An Original OTC Transaction that has a Trade Date which falls more than ten Business Days prior to the date of submission to Eurex Clearing will be considered as a backloaded trade ("**Bulk Backloaded Original OTC Transaction**").
- (2) The novation and clearing process for Bulk Backloaded Original OTC Transactions which have been submitted to Eurex Clearing AG via an Approved Trade Source System will be carried out on each Business Day. The novation process will be performed pursuant to the following paragraphs.
- (3) Bulk Backloaded Original OTC Transactions that are to be included in the Clearing by way of novation may be submitted to Eurex Clearing AG at any point in time. Bulk Backloaded Original OTC Transactions which are submitted prior to 5 p.m. CET on a Business Day and which fulfil all applicable novation criteria will be included in the novation process on such Business Day.
- (4) The novation process for OTC Bulk Backloaded Original Transactions which are submitted beyond 5 p.m. CET on a Business Day will be carried out on the following next Business Day.

- (5) At 5 p.m. CET and 9 p.m. CET on each Business Day Eurex Clearing AG will make available to ~~a~~ the Clearing Member (in the case of a FCM Client Transaction, to the FCM Clearing Member acting on behalf of the relevant FCM Client) and Registered Customer a preliminary report indicating the Bulk Backloading Original OTC Transactions which have been received for Clearing and which fulfil the novation criteria pursuant to Number 2.1.4.1, the Margin Requirement as well as any shortage in actually delivered eligible Margin Assets.
- (6) Bulk Backloaded Original OTC Transactions which, on the day of submission, fulfil all novation criteria shall be novated on that Business Day. The novation will become effective when the respective OTC Trade Novation Report will be made available at or around 11 p.m. CET.
- (7) For Bulk Backloaded Original OTC Transactions which, on the day of submission, fulfil all novation criteria except for the provision of the Eligible Margin Asset necessary to cover the margin requirement Eurex Clearing AG will debit the shortfall amount set forth in the OTC Margin Call Report produced and made available at 10:30 p.m. CET in the agreed Clearing Currency from the relevant Clearing Member Cash Account or relevant U.S. Clearing Member Cash Account, as relevant, in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1. Such payment made by direct debit shall constitute cover in respect of the Margin to which the margin requirement referred to in the foregoing sentence relates and accordingly will constitute (i) Elementary Proprietary Margin or Elementary Omnibus Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions, (ii) Segregated Margin delivered by the Clearing Member pursuant to the Individual Clearing Model Provisions ~~or~~, (iii) Net Omnibus Margin delivered by the Clearing Member pursuant to the Net Omnibus Clearing Model Provisions ~~or~~ (iv) FCM Client Margin delivered by the FCM Clearing Member for the account of the relevant FCM Client pursuant to the U.S. Clearing Model Provisions. Eurex Clearing AG will make available an OTC Trade Novation Report on the Business Day following the day of submission at or around 9 a.m. CET to the Clearing Member (in the case of a FCM Client Transaction, to the FCM Clearing Member acting on behalf of the relevant FCM Client) and the Registered Customer.
- (8) A Clearing Member (in the case of a FCM Client Transaction, the FCM Clearing Member acting on behalf of the relevant FCM Client) or Registered Customer may subsequently cancel the submission with respect to any Bulk Backloading Original OTC Transaction submitted to Eurex Clearing AG via an Approved Trade Source System and intended to be novated by the latest by 9 p.m. CET on a Business Day, provided that
- (i) the cancellation request is entered by the Clearing Member (or FCM Clearing Member acting on behalf of the relevant FCM Client) or the Registered Customer into the system of, and received by, Eurex Clearing AG, and
 - (ii) each, the responsible Clearing Member, in case the request is entered by a Registered Customer, or the relevant FCM Clearing Member (acting on behalf

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of the relevant FCM Client), in case the request is entered on behalf of its FCM Client, and the other Clearing Member that is a party to the relevant Transaction have given their prior consent in the system of Eurex Clearing AG.

[...]

2.1.6 Margin Requirements

- (1) The basic provisions for the margin requirements are set forth in Chapter I Part 1 Number 3 together with Chapter I Part 2 Number 6, Part 3 Subpart A Number 5 and, Part 4 Number 6 and Part 5 Number 5, as applicable. In addition thereto, the following provisions shall apply:
- (2) The applicable Margin Type shall be the Additional Margin and Variation Margin.
- (3) The Variation Margin Requirement or FCM Client Variation Margin Requirement and/or any Redelivery Amount (each as defined in Chapter I Part 2 Number 7, Part 3 Subpart A Number 6 or, Part 4 Number 7 or Part 5 Number 6, as applicable), as the case may be, for CCP Transactions that are OTC Interest Rate Derivative Transactions shall equal the profit or loss amount determined on any Business Day on the basis of the daily evaluation price (Number 2.1.5) as follows: For each outstanding CCP Transaction concluded prior to the relevant Business Day, the relevant profit or loss amount shall be the difference between the daily evaluation prices of the CCP Transaction on the relevant Business Day and the previous Business Day. For CCP Transactions concluded on the relevant Business Day, the relevant profit and loss amount shall be the difference between zero and the daily evaluation price for such Business Day. Additionally, the Variation Margin includes two correction terms for considering the time delay between its calculation and settlement. For this purpose, the coupon payments and transaction fees on the current Business Day are added and the coupon payments and transaction fees on the next Business Day (second next Business Day for JPY) of the respective currency are subtracted.
- (4) Eurex Clearing AG will charge the price alignment interest (“**PAI**”) to the Clearing Member or the FCM Clearing Member (for the account of the FCM Client) together with the Variation Margin or the FCM Client Variation Margin. It corresponds to the overnight interest paid or received on the cumulative Variation Margin or FCM Client Variation Margin over the lifetime of the portfolio. The cumulative Variation Margin or FCM Client Variation Margin of the previous Business Day corresponds to the present value of the IRS portfolio on the previous Business Day.

If the overnight interest rates are positive and a Clearing Member (or a FCM Client) has a positive portfolio value, Eurex Clearing AG will charge PAI. If the overnight interest rates are positive and a Clearing Member (or a FCM Client) has a negative portfolio value, Eurex Clearing AG will credit PAI to the Clearing Member (or the FCM Client). In case of negative overnight interest rates, Eurex Clearing AG will credit PAI if a Clearing Member (or a FCM Client) has a positive portfolio value and

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will charge PAI if a Clearing Member (or a FCM Client) has a negative portfolio value.

PAI shall be calculated and payable for each currency on each Business Day with respect to each Transaction in accordance with the following formula:

$$PAI(t) = -PV(t - d^-) \cdot ON(t - d^-, t) \cdot \frac{d^-}{360}$$

where:

“**PV(t – d⁻)**” means the present value on the previous Business Day

“**ON(t – d⁻, t)**” means the overnight interest rate of the corresponding currency for the period between today and today less *d* days.

“**d⁻**” means the number of calendar days between the current and the last derivation of the PAI.

- (5) The rules on set-off of cash claims pursuant to Chapter I Part 1 Number 1.3.1 ~~Paragraph~~ Paragraph (1) (a) Sentence 1 and Chapter I Part 1 Number 1.3.1 Paragraph (2) (a) (aa) (subject to the limitations set out in Chapter I Part 5 Number 4) apply.

2.1.7 Clearing Fund

Contributions to the Clearing Fund are made in accordance with Chapter I Part 1 Number 6 and, if applicable, Part 3 Subpart A Number 15 and Part 5 Number 7.

[...]

2.2 General product-related terms for OTC Interest Rate Derivative Transactions

The following general product-related terms shall apply to the OTC Interest Rate Derivative Transactions provided for in Number 2.3 and 2.4.

2.2.1 Payment Obligations

- (1) The relevant Clearing Member or FCM Clearing Member (for the account of the FCM Client) and Eurex Clearing AG shall pay either Fixed Amounts or Floating Amounts and, if applicable, any initial amount payable under the relevant CCP Transaction, as provided for in Number 2.3 and 2.4. Eurex Clearing AG may discharge its payment obligations by way of set-off in accordance with Chapter I Part 1 Number 1.3.1 Paragraph (1) (a) and (f) and Chapter I Part 1 Number 1.3.1 Paragraph (2) (a) (aa), (b) and (c) (subject to the limitations set out in Chapter I Part 5 Number 4).

[...]

2.6 Trade Netting and Accumulation

- (1) Eurex Clearing AG may agree with a Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client, with respect to the relevant

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FCM Client Transactions) upon the mutual cancellation (“**netting**”) and the accumulation of CCP Transactions that are OTC Interest Rate Derivative Transactions provided that such CCP Transactions are part of the same Standard Agreement. In this case, the netting and accumulation shall be carried out on the basis of the following provisions agreed upon by Eurex Clearing AG and the Clearing Member: (including a FCM Clearing Member, acting on behalf of the relevant FCM Client). Such agreement may be terminated by the Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client) with the effect on the Business Day following the receipt of the termination notice by Eurex Clearing AG.

- (2) To the extent that the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are RC-Related Transactions relating to the same Registered Customer and (i) the corresponding transactions between the Clearing Member and the Registered Customer are CM-RC Transactions, such netting or accumulation shall simultaneously take place with respect to the corresponding CM-RC Transactions between the Clearing Member and such Registered Customer or (ii) the corresponding transactions between the Clearing Member and the Registered Customer are Client Clearing CM-RC Transactions, the Clearing Member and the Registered Customer are required to agree on a bilateral basis that, as a result of such netting or accumulation, the corresponding Client Clearing CM-RC Transactions shall be subject to netting or accumulation. The relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such netting or accumulation.
- (3) To the extent the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are Customer-Related Transactions, it is a matter of the relevant parties to agree, whether as a result of such netting or accumulation, any corresponding CM-Customer Transactions shall be subject to netting or accumulation. To the extent the CCP Transactions that are subject to netting or accumulation pursuant to Number 2.6.1 and 2.6.2 are FCM Client Transactions, it is a matter of the relevant FCM Clearing Member and the relevant FCM Client to agree, whether as a result of such netting or accumulation, any corresponding arrangements between the FCM Clearing Member and the FCM Client shall be subject to netting or accumulation.
- (4) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the netting or accumulation instructions were given by the relevant Registered Customer, FCM Client or other customer to the Clearing Member.

2.6.1 Inclusion of CCP Transactions in the Netting and Accumulation Process

- (1) All CCP Transactions that are OTC Interest Rate Derivative Transactions are eligible for netting provided that:
 - (a) the relevant Trade Criteria are identical; and
 - (b) CCP Transactions booked on the Own Account may not be netted with CCP Transactions booked on a Customer Account and vice versa; and that

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- (c) CCP Transaction booked on a Customer Account may not be netted with CCP Transactions booked on another Customer Account (in this regard CCP Transactions entered into under the Individual Clearing Model may only be netted if they are subject to the same Standard Agreement).

“Trade Criteria” means the commercial terms of the relevant CCP Transactions, in particular:

1. With respect to IRS, ZCIS and OIS:

- (i) the following basic criteria:

Product_type, currency, floating rate or inflation index and rate index tenor, termination date, all future payment dates, current applicable floating rate that has been fixed, fixed rate (except for rate blending), day count convention (for each of the relevant fixed and/or floating rate payment obligations of each party), reset date, business_day convention; and

- (ii) the following additional criteria, as applicable:

- (A) with respect to Stub Periods that have not expired:

stub period start date, stub period length, type of Stub Period, stub index tenors, manually provided first fixed floating rate;

- (B) for floating rate swaps that have a schedule structure (including floating rate swaps with a variable notional amount, as applicable):

schedule structure (bullet/schedule), relative change of notional for each payment period (if applicable), future notional/floating rate/spread schedule start date for each forward period, future spread value for each forward period, future coupon rate for each forward period;

- (C) for IRS to which Compounding (**“straight”**) or Flat Compounding applies:

Compounding method, compounding spread, compounding frequency;

2. With respect to FRA:

Product type, currency, rate index, rate index tenor, maturity date, payment date, current applicable floating rate, fixed rate (except for rate blending), day count convention, discount method, reset date, business day convention.

- (2) With respect to the eligibility of CCP Transactions that are OTC Interest Rate Derivative Transactions for accumulation, Paragraph (1) (a) to (c) apply *mutatis mutandis*.
- (3) CCP Transaction will be netted and/or accumulated if the CCP Transactions have been designated for netting and/or accumulation, as the case may be, by the

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respective Clearing Member (including a FCM Clearing Member, acting on behalf of the relevant FCM Client) in the system of Eurex Clearing AG (“**Optional Netting**”). Such designation shall be submitted no later than by 10 pm CET on the relevant Business Day.

- (4) Instead of Optional Netting, (i) a Clearing Member may select that all Own Transactions and, separate from the Own Transactions, all RC-Related Transactions booked on the Own Account maintained with respect to a Registered Customer are netted or accumulated, as the case may be, at the end of each Business Day. and (ii) a FCM Clearing Member (acting on behalf of the relevant FCM Client) may select that all FCM Client Transactions under the relevant FCM Client Standard Agreement are netted or accumulated, as the case may be, at the end of each Business Day.

2.6.2 Netting and Accumulation Procedure

- (1) The CCP Transactions selected for netting shall be netted with each other to the maximum extent possible on each netting level. (and provided that CCP-FCM Client Transactions may only be netted with CCP-FCM Client Transactions that form part of the same FCM Client Standard Agreement). Upon closing of the netting, all CCP Transactions that were netted are cancelled.

The remaining CCP Transactions for which there is no counterposition with which they can be netted may be accumulated and novated to one or more CCP Transaction(s) of the same Product Type with the aggregate notional amount of the accumulated CCP Transactions. (and provided that CCP-FCM Client Transactions may only be accumulated with CCP-FCM Client Transactions that form part of the same FCM Client Standard Agreement). The CCP Transactions that were accumulated shall be cancelled.

- (2) The CCP Transactions to be accumulated shall be novated to one or more CCP Transaction(s) of the same Product Type with the aggregate notional amount of the accumulated CCP Transactions. The CCP Transactions that were accumulated shall be cancelled.

[...]

2.7 Transfer of CCP Transactions and Account Transfer

- (1) A CCP Transaction (other than a CCP-FCM Client Transaction) or a CM-RC Transaction, if applicable, may be transferred in accordance with Paragraphs (3) to (8) and Number 2.7.1 and 2.7.2 below, as applicable.
- (2) In addition, a Registered Customer may replace its Clearing Member under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions in accordance with Chapter I Part 1 Number 8, Part 2 Number 9, Part 3 Subpart A Number 13 and Part 4 Number 9.
- (3) The transfer of a CCP Transaction will be performed against payment of a cash settlement amount calculated by Eurex Clearing AG on the basis of the daily

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evaluation price (Number 2.1.5). Furthermore, the relevant Clearing Members may specify in the system of Eurex Clearing AG an additional amount payable by a Clearing Member in connection with the transfer. All amounts payable under this Paragraph (3) will be settled via Eurex Clearing AG.

- (4) Any novation through which a transfer pursuant to Number 2.6 is to be made shall take effect when a respective OTC Trade Daily Summary Report is made available to the relevant Clearing Members electronically via Eurex Clearing AG's system.
- (5) Where such transfer or account transfer pursuant to Numbers 2.7.1 or 2.7.2 affects and/or creates (i) a CM-RC Transaction, the relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such transfer or (ii) a corresponding Client Clearing CM-RC Transaction, the relevant Clearing Member is obliged to obtain the required instruction from the relevant Registered Customer before initiating any such transfer and the Clearing Member, and the Registered Customer should agree on a bilateral basis that, as a result of such transfer or account transfer, any such corresponding Client Clearing CM-RC Transaction shall be created or be subject to a transfer or cancellation, as the case may be.
- (6) To the extent the CCP Transactions that are subject to a transfer or account transfer pursuant to Number 2.7.1 or 2.7.2 are Customer-Related Transactions, it is a matter of the relevant parties to agree whether, as a result of such transfer or account transfer, any corresponding CM-Customer Transactions shall be created or be subject to a transfer or cancellation.
- (7) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the transfer or account transfer instructions were given by the relevant Registered Customer or other customer to the Clearing Member.
- (8) The provisions of Paragraphs (6) and (7) above shall apply *mutatis mutandis* to any transactions of a Registered Customer with its customers.
- (9) The provisions of Chapter I Part 5 on the replacement of a FCM Clearing Member by a FCM Client shall remain unaffected.

2.7.1 Transfer of a CCP Transaction to another Clearing Member (Trade Transfer)

- (1) Upon request of a Clearing Member or a Registered Customer entered into the system of Eurex Clearing AG, a CCP Transaction (other than a CCP-FCM Client Transaction) may be transferred from a Clearing Member to another Clearing Member holding the required Interest Rate Derivatives Clearing License. If the CCP Transaction to be transferred is an RC-Related Transaction, the corresponding CM-RC Transaction, if applicable, will be transferred simultaneously. In the case of any Client Clearing CM-RC Transactions or CM-Customer-Related Transactions, Number 2.7 Paragraphs (5) and (6) apply.
- (2) Any transfer or partial transfer of a CCP Transaction and, if applicable, the corresponding CM-RC Transaction provided for in this Number 2.7.1 may be

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effected pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (a) – (c) or (5) (e) and (f), as applicable.

2.7.2 Account Management or Account Transfers

- (1) Clearing Members may book CCP Transactions (other than any CCP-FCM Client Transactions) to or from any of their transaction accounts in accordance with this Number 2.7.2. Any booking will take place either (i) by way of an account booking within the same Standard Agreement together with, if applicable, a transfer of the CM-RC Transaction, if applicable, to another Registered Customer of the relevant Clearing Member by way of novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (d) or (ii) by way of a transfer to another Standard Agreement by way of novation pursuant to Chapter I Part 1 Number 1.2.2 Paragraph (5) (a) – (c).
- (2) Such bookings may also be made with respect to part of a CCP Transaction except for IRS with a notional, fixed rate or floating rate spread schedule in which case only the entire CCP Transaction and corresponding CM-RC Transaction may be booked in accordance with Paragraph 1.

2.7.2.1 Account Management in case of Own Transactions and Customer-Related Transactions

Upon request of a Clearing Member, (other than a FCM Clearing Member), Eurex Clearing AG may book (a) an Own Transaction from its Own Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) to the Clearing Member's Customer Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) (thereby becoming a Customer-Related Transaction) or (b) a Customer-Related Transaction from its Customer Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) to the Clearing Member's Own Account pursuant to Chapter I Part 1 Number 4.2.1 Paragraph (1) (thereby becoming an Own Transaction).

[...]

2.7.3 Trade Amendment

A Clearing Member or a Registered Customer may, by means of an entry in Eurex Clearing AG's system, split CCP Transactions (other than CCP-FCM Client Transactions) or CM-RC Transactions, if applicable, and assign new customer references to the new Transactions resulting from the trade split provided that such new Transactions are booked in the same account as the Transaction that existed before the trade split was made. As a result, new CCP Transactions or CM-RC Transactions, if applicable, will be created the aggregate nominal amount of which is equal to the nominal amount of the CCP Transaction or the CM-RC Transaction, if applicable, that was split.

[...]

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2.11 Use of Data provided by Eurex Clearing AG

A Clearing Member ~~or~~, Registered Customer or FCM Client may not use any data provided to it by Eurex Clearing AG in connection with the determination of the daily evaluation price or the determination of the relevant Business Day without the prior consent of Eurex Clearing AG, save for the purposes of fulfilling its own obligations vis-à-vis its customers relating to corresponding OTC interest rate derivative transactions or in order to comply with an obligation vis-à-vis a competent regulatory authority.

[...]

Appendices to the Clearing Conditions

[...]

Appendix 10 to the Clearing Conditions:

Clearing Agreement
with a FCM Clearing Member and a FCM
Client for the U.S. Clearing Model

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1. The Parties enter into this Agreement for the Clearing of FCM Client Transactions pursuant to the U.S. Clearing Model Provisions. This Agreement shall only cover the Clearing of OTC Interest Rate Derivative Transactions in accordance with Chapter VIII Part 2 of the Clearing Conditions.

2. This Agreement incorporates by reference the Clearing Conditions (including all rules and conditions which are incorporated by reference therein (the "**Referenced Conditions**")), the Price List for Eurex Clearing AG and the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (the "**Connection Agreement**"), in each case in their German version as amended from time to time. The Clearing Conditions, the Price List for Eurex Clearing AG and the Connection Agreement may be viewed and printed out via internet on the website www.eurexclearing.com. The Referenced Conditions may be obtained from Eurex Clearing AG upon request.

3. Eurex Clearing AG charges fees to the FCM Clearing Member (acting for the account of the FCM Client) for its Clearing services in accordance with the Clearing Conditions and the Price List for Eurex Clearing AG, in each case as amended. The FCM Clearing Member may charge the same amount (plus any additional fees as may be agreed between the Clearing Member and the FCM Client) to the FCM Client.

4. Each of the FCM Clearing Member and the FCM Client makes, severally but not jointly, to Eurex Clearing AG amongst others the representations and warranties set out in the following provisions of the Clearing Conditions (as relevant):
 - (1) Chapter I Part 1 Number 1.7 (*Representations with respect to Clearing Agreements*);
and
 - (2) Chapter I Part 1 Number 1.9 (*No Clearing of FX Options Transactions for US Persons*).

The representations and warranties set out in under Chapter I Part 1 Number 1.8 (*No Clearing of OTC Interest Rate Derivatives for US Persons*) shall not be applicable.

Eurex Clearing AG makes the representations and warranties set out in Chapter I Part 1 Number 1.7.6 of the Clearing Conditions.

5. The FCM Clearing Member hereby grants the FCM Clearing Member Guarantee in favour of Eurex Clearing AG pursuant to Chapter I Part 5 Number 1.6.7 of the Clearing Conditions.

6. Unless otherwise agreed between the FCM-Clearing Member and Eurex Clearing AG, the FCM-Clearing Member undertakes to enter into a pledge agreement with Eurex Clearing AG in the form as may be required by Eurex Clearing AG in order to grant a pledge required pursuant to Chapter I Part 5 Number 5.7 in order to provide FCM Client Margin pursuant to the U.S. Clearing Model Provisions.

The FCM Clearing Member may not participate in the Clearing of FCM Client Transactions if the relevant pledge(s) have not been granted.

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7. Each of the FCM Clearing Member and the FCM Client hereby grants all powers of attorney, authorisations and instructions stated to be granted by it in the Clearing Conditions and acknowledges to be bound by the provisions of the Clearing Conditions on the conclusion, amendment, termination, transfer, accumulation or netting of FCM Client Transactions, in particular pursuant to (as relevant):

- (1) Chapter I Part 5 Number 1.4 (Conclusion of FCM Client Transactions);
- (2) Chapter I Part 5 Number 1.6.3 (Authorisation of the FCM Clearing Member to to issue, submit and receive, also on behalf of the FCM Client, all statements (including, without limitation, any notice, termination notice or other declaration to and from Eurex Clearing AG) and to take and accept all other acts on behalf of the FCM Client that are necessary or expedient to effect the FCM Client Transactions and for the performance by or to the FCM Client of obligations arising thereunder or under the Clearing Conditions);
- (3) Chapter I Part 5 Numbers 8.4.6 and 8.4.7 (Transfer of Eligible Margin Assets in the form of Securities);
- (4) Chapter I Part 5 Number 8.7.2 Paragraph (2) (Instruction of Eurex Clearing AG to pay the determined amount of the Difference Claim for the account of the FCM Client to the Bankruptcy Trustee);
- (5) Chapter I Part 5 Number 10 (Authorisation of FCM Clearing Member to enforce pledge over Collateral Account); and
- (6) Chapter VIII Part 1 Number 1.2.4 (Special Provisions with respect to the conclusion of CCP Transactions).

The FCM Client acknowledges that no further specific agreement or legal action is required under German law as the governing law of this Agreement in order for it to be legally bound by any FCM Client Transaction resulting from the operation of any such provision.

8. This Agreement shall be entered into for an indefinite period of time and shall remain in effect until it is terminated by one of the Parties in accordance with the Clearing Conditions.

This Agreement supersedes any previous written or oral agreement between all or some of the Parties in relation to the matters dealt with herein.

9. This Agreement shall be amended pursuant to Number 17.2 of the General Clearing Provisions, in the case of amendments to the form of this Agreement set out in Appendix 10 to the Clearing Conditions. In addition, this Agreement may be amended at any time by written agreement between the Parties by executing an amended and restated version of this Agreement.

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10. Unless otherwise provided for in the Clearing Conditions, neither the FCM Clearing Member nor the FCM Client shall assign any of its respective rights or claims under this Agreement except with the prior written consent of all other Parties.
11. This Agreement does not and is not intended to confer any rights to third parties.
12. This Agreement is governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.
- Any non-contractual rights and obligations arising out of or in connection with this Agreement shall also be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.
13. The courts in Frankfurt am Main, Germany shall have exclusive jurisdiction (*ausschließlicher Gerichtsstand*) over any action or other legal proceedings arising out of or in connection with this Agreement.
14. The place of performance shall be Frankfurt am Main, Germany.
15. If any provision contained in this Agreement is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected. Such invalid, illegal or unenforceable provision shall be replaced by means of supplementary interpretation (*ergänzende Vertragsauslegung*) by a valid, legal and enforceable provision, which most closely approximates the parties' commercial intention. This shall also apply mutatis mutandis to any gaps (*Vertragslücken*) in this Agreement.

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AUTHORISED SIGNATURES
to the Clearing Agreement

(as FCM Clearing Member)

(Place / Date)

Name:

Name:

Function:

Function:

(as FCM Client)

(Place / Date)

Name:

Name:

Function:

Function:

Eurex Clearing Aktiengesellschaft

(Eurex Clearing AG)

(Place / Date)

Name:

Name:

Function:

Function: