

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

As of 04.12.2017

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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### **Part 3 The Individual Clearing Model Provisions**

[...]

### **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 [...]

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 (irrespective of the ICM Transaction Account to which the Covered Transactions are booked in accordance with Number 4.1.1) 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).

[...]

References in these Individual Clearing Model Provisions to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member or references to the Difference Claim between Eurex Clearing AG and the Clearing Member shall be construed solely by reference to the ICM Clearing Agreement and a certain ICM Client (and shall therefore exclude the relevant Standard Agreement and Difference Claims under any other ICM Clearing Agreement as well as the relevant Standard Agreement and Difference Claims pursuant to the Elementary Clearing Model Provisions ~~and the Net Omnibus Clearing Model Provisions~~, the relevant OTC IRS FCM Client Standard

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Agreement and Difference Claims under the U.S. Clearing Model Provisions and the relevant Basic Clearing Member Standard Agreement and Difference Claims under the Basic Clearing Member Provisions).

[...]

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

[...]

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 ~~4716~~.1.8. In the case of Segregated Margin, only the Clearing Member and the ICM Client, respectively and if applicable, may be the creditor of the relevant Redelivery Claim and in the case of Segregated Variation Margin, either party to the relevant Standard Agreement may be the creditor of the relevant Redelivery Claim.

[...]

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

[...]

## **4 Internal Accounts of Eurex Clearing AG and the Clearing Member**

### **4.1 Internal Accounts of Eurex Clearing AG**

In addition to the internal accounts set out in Number 4 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to the Clearing Member the following internal accounts with respect to the relevant Standard Agreement:

#### **4.1.1 ICM Transaction Accounts**

(1) Subject to the Special Clearing Provisions and upon the instructions of the Clearing Member (which shall be provided in the form requested by Eurex Clearing AG), Eurex Clearing AG opens and maintains with respect to each Clearing Member the following transaction accounts (in addition to the Transaction Accounts established pursuant to Number 4.2.1 of the General Clearing Provisions) on which Covered Transactions of the Clearing Member shall be booked:

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- (i) one or more additional NCM/RC Own Accounts;
- (ii) one or more additional NOSA Indirect Client Accounts (relating to customer-related transactions of the relevant ICM Client for more than one of its Indirect Clients); and
- (iii) one or more GOSA Indirect Client Accounts (in each case relating to customer-related transactions of the relevant ICM Client with respect to one particular of its Indirect Clients).

Each transaction account established with respect to the relevant Standard Agreement pursuant to (i), (ii) or (iii) above as well as each transaction account with respect to transactions of the relevant ICM Client that is established pursuant to Number 4.2.1 of the General Clearing Provisions in respect of such Standard Agreement shall be an "ICM Transaction Account".

GOSA Indirect Client Accounts are only available for Eurex Transactions pursuant to Chapter II and OTC Interest Rate Derivative Transactions pursuant to Chapter VIII Part 2.

- (2) The Clearing Member shall ensure that each instruction to book Covered Transactions to a certain ICM Transaction Account only relates to Covered Transactions to be booked on such ICM Transaction Account. Eurex Clearing AG may rely on, and is not obliged to verify the contents of, any such instruction from the Clearing Member.

[...]

#### 4.1.3 Internal Margin Account

An internal margin account (or in case the Sub Pool Provisions apply, a separate internal margin account in relation to each Sub Pool) for the Clearing Member in which all daily credits and debits of Eligible Margin Assets pursuant to the Individual Clearing Model Provisions will be recorded (~~the each a~~ **"Segregated Internal Margin Account"**).

[...]

#### 4.1.5 Use of Sub Pools

The Clearing Member may request Eurex Clearing AG ~~by submitting to Eurex Clearing AG a duly completed (in the form prescribed for such purpose requested by~~ Eurex Clearing AG) to maintain separate operational sub pools (each a "Sub Pool"), ~~in relation to~~ If Sub Pools shall be established, each ICM Transaction Account must be assigned to a particular Sub Pool. Each Sub Pool shall

- (i) ~~Covered Transactions relating~~ to one or more Transaction Types and/or
- (ii) ~~either comprise (a) NCM/RC Own Accounts only Covered Transactions referring to own transactions of the relevant ICM Client and or (b) Indirect Client Accounts~~

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~~only Covered Transactions referring to customer related transactions of the relevant ICM Client,~~

~~whereupon, if~~ Eurex Clearing AG accepts such request ~~(to which it shall not be obliged),~~ the provisions for the operational handling of Sub Pools set out in this Part 3 (“**Sub Pool Provisions**”) shall apply with respect to each of the relevant Sub Pools.

Each Sub Pool shall operationally be treated separately from any other Sub Pool, subject to and in accordance with the Sub Pool Provisions. ~~For the avoidance of doubt, the usage of Sub Pools is not intended to, and accordingly may not, meet the requirements of any regulatory segregation requirements.~~ The usage of Sub Pools will in particular, without limitation, neither result in additional Standard Agreements, separate Difference Claims nor Relevant Difference Claims.

In case the Sub Pool Provisions apply, the Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG, that

- (a) it has informed the ICM Client of its election to use Sub Pools in connection with the Clearing and of any potential adverse economic effects that usage of Sub Pools may have for that ICM Client in comparison to the Clearing of Covered Transactions without use of Sub Pools; and
- (b) the ICM Client is willing to bear the potential economic risks and adverse effects which are related to a usage of Sub Pools pursuant to Number 4.1.5 (i), in particular, without limitation, in terms of potentially higher Default Margin Requirements and Default Fund Contribution requirements resulting from the operational treatment associated with the usage of Sub Pools.

#### 4.2 Internal Accounts of the Clearing Member

The Clearing Member shall establish an internal accounting with respect to the Individual Clearing Model Provisions to record in relation to Eurex Clearing AG and the relevant ICM Client

- (i) \_\_\_all Covered Transactions,
- (ii) \_\_\_all payments and deliveries under Covered Transactions,
- (iii) \_\_\_all Segregated Margin and Segregated Variation Margin actually delivered and
- (iv) \_\_\_all Redelivery Claims.

In case the Sub Pool Provisions apply, the Clearing Member shall also reflect the Sub Pools in its internal accounting.

[...]

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## 5 Segregated Margin

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

[...]

### 5.2 Margin Requirement

5.2.1 The amount of Eligible Margin Assets to be delivered as cover in respect of Segregated Margin by the Clearing Member shall be determined in accordance with Number 3.1 of the General Clearing Provisions and this Number 5.2 (each a the “Default Margin Requirement”) and will be notified by Eurex Clearing AG to the Clearing Member.

5.2.2 ~~In order to determine the Default Margin Requirement of the Clearing Member,~~ Eurex Clearing AG will determine separate net margin requirements in accordance with Number 3.1 of the General Clearing Provisions with respect to each ICM Transaction Account of the Clearing Member, except that the relevant net margin requirement with respect to own transactions of the ICM Client shall be calculated across all NCM/RC Own Accounts of such ICM Client that are ICM Transaction Accounts. Eurex Clearing AG will calculate the Default Margin Requirement of the Clearing Member as the sum of such net margin requirements per Segregated Internal Margin Account. ~~for (i) such Covered Transactions referring to own transactions of the relevant ICM Client and (ii) such Covered Transactions referring to customer related transactions of the relevant ICM Client, provided that in each case credit balances on any internal transaction account shall not be taken into account, and then calculate the sum of such separate margin requirements.~~

~~5.2.3 In case the Sub Pool Provisions apply, Eurex Clearing AG will determine separate Default Margin Requirements of the Clearing Member separately in relation to each such Sub Pool, provided that in each case credit balances on any internal transaction account shall not be taken into account.~~

### 5.3 Margin Call

[...]

5.3.3 If a Clearing Member elects to deliver (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Segregated Margin, then:

- (i) Eurex Clearing AG shall make the relevant debit entry in the Internal **Elementary** Proprietary Margin Account and the respective credit entry in the Segregated Internal Margin Account with such cash credit being allocated to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to these Individual Clearing Model Provisions; and

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- (ii) the aggregate value of ~~Elementary~~-Proprietary Margin actually delivered and the redelivery claim under the ~~Elementary~~-Proprietary Standard Agreement shall be reduced accordingly upon Eurex Clearing AG having made the corresponding records (which Eurex Clearing AG shall do without undue delay) in the Segregated Internal Margin Account pursuant to Number 4.1.~~32~~ and the Internal ~~Elementary~~ Proprietary Margin Account pursuant to Subpart A Number ~~34.2~~ of the Elementary Clearing Model Provisions.

In case the Sub Pool Provisions apply, Eurex Clearing AG will process the booking of cash credits between ~~Internal~~-Segregated Internal Margin Accounts with respect to Sub Pools relating to the same Standard Agreement upon request of the Clearing Member.

[...]

- 5.3.5 The Clearing Member may at any time request from Eurex Clearing AG the redelivery of assets equivalent to Eligible Margin Assets actually delivered in respect of the Segregated Margin if the aggregate value of all Eligible Margin Assets actually delivered in respect of the Segregated Margin exceeds the relevant Default Margin Requirement applicable at the time of such request. ~~In case~~if the Sub Pool Provisions apply, the Clearing Member may not request such a redelivery, if any Default Margin Requirement for any Sub Pool is not fully satisfied. The Clearing Member may select – in accordance with any agreement between the Clearing Member and the ICM Client, if applicable – which Eligible Margin Assets credited to ~~the a~~ Segregated Internal Margin Account pursuant to Number 4.1.~~32~~ shall be redelivered; Eurex Clearing AG will not and shall not be obliged to check whether there is, and whether the Clearing Member complies with, any such agreement.

[...]

## **7 Termination, Consequences of a Termination, Post Settlement and Re-Establishment**

[...]

### **7.3 Consequences of a Termination**

If a Termination Date has occurred with respect to the Clearing Member, the following provisions shall apply.

[...]

#### **7.3.3 Payment of Difference Claim**

[...]

- (3) Eurex Clearing AG is entitled to set-off the Difference Claim it may have against the Clearing Member pursuant to these Individual Clearing Model Provisions against any Difference Claim it owes to the Clearing Member ~~pursuant in relation to~~ to the ~~Elementary~~-Proprietary Standard Agreement.

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[...]

## 8 Creation of Security Interests

By signing the ICM Clearing Agreement, the Clearing Member creates the following security interests for the benefit of Eurex Clearing AG or the ICM Client unless Eurex Clearing AG, **Eurex Clearing Security Trustee GmbH** as security trustee (the “**Security Trustee**”) and the Clearing Member have entered into a Security Trust Agreement in the form appended to the Clearing Conditions as Appendix 89 (the “**Security Trust Agreement**”) in which case this Number 8 shall not apply and the creation of security interests and their enforcement shall be subject to the Clearing Conditions as modified by the Security Trust Agreement.

[...]

### 8.3 Creation of Security Interest pursuant to the Security Trust Agreement

If Eurex Clearing AG, the Security Trustee and the Clearing Member have entered into the Security Trust Agreement and Pledge and Assignment Agreement for the Individual Clearing Model Provisions (Clearing Members in England and Wales) in the form appended to the Clearing Conditions as Appendix 89 (the “**Security Trust Agreement**”), by entering into the relevant ICM Clearing Agreement, Eurex Clearing AG, the Clearing Member and the ICM Client agree that the following provisions apply:

[...]

[...]

## 11 Re-Establishment of Transactions upon request by ICM-Client

[...]

11.2 Upon the occurrence of a Termination Date, the ICM Client may elect by giving notice to Eurex Clearing AG (the “**ICM Porting Election Notice**”) (i) to re-establish the terminated Covered Transactions as interim participant (the “**IP Election**”) or (ii) to immediately re-establish the terminated Covered Transactions with a Replacement Clearing Member (as defined in Number 11.4.1) (the “**Immediate Re-Establishment Election**”) or (iii) not to re-establish the terminated Covered Transactions, in each case as soon as possible and at the latest by 13:00 hours (Frankfurt am Main time) on the Business Day following the Termination Date (the “**ICM Porting Election Period**”).

[...]

### 11.3 Interim Participation of the ICM Client

[...]



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### 11.3.3 Delivery of Interim Margin and Interim Variation Margin

- (1) Eurex Clearing AG is entitled to request cover from the ICM Client in respect of Margin for the Reference Transactions at any time between the Termination Time and the Opening Time in accordance with the Elementary Clearing Model Provisions (*applied mutatis mutandis*) as if a Termination Date had not occurred, provided that the ICM Client may deliver Eligible Margin Assets in the form of Securities only in accordance with Number 2.2.1 and 2.2.4.

*Subpart A* Number ~~4.26-3~~ of the Elementary Clearing Model Provisions applies *mutatis mutandis* to the ICM Client if Eurex Clearing AG determines that insufficient Eligible Margin Assets are held by Eurex Clearing AG to provide cover with respect to the Reference Transactions (the “**Interim Margin**”).

- (2) Further, if and to the extent that *Subpart A* Number ~~57~~ of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Reference Transactions, Eurex Clearing AG is entitled to request cover in respect of the Variation Margin from the ICM Client for the Reference Transactions, if any, at any time between the Termination Time and the Opening Time in accordance with the Elementary Clearing Model Provisions as if a Termination had not occurred (the “**Interim Variation Margin**”). [...]

### 11.3.4 Establishment of ICM Client as Interim Participant

- (1) **Opening of Transactions**

[...]

[...] Where these Individual Clearing Model Provisions provide that the Elementary Clearing Model Provisions shall apply to the provision of Margin and/or Variation Margin for Reference Transactions and/or Direct Covered Transactions, such Reference Transactions and/or Direct Covered Transactions shall for the purposes of the Elementary Clearing Model Provisions be deemed to constitute ~~Own-own Transactions-transactions~~ of the ~~Non-Clearing Member~~ ICM Client.

- (2) **Opening Margin**

[...]

Further, if and to the extent *Subpart A* Number ~~75~~ of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Direct Covered Transactions, Eurex Clearing AG is entitled to request cover in respect of such Variation Margin from the ICM Client in accordance with the Clearing Conditions (the “**Opening Variation Margin Requirement**”) and the ICM Client shall in such case be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG taking into account the aggregate value of Eligible Margin Assets actually delivered in respect of the Interim Variation Margin.

[...]

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### 11.3.6 Re-Establishment with other Clearing Member

In addition, the ICM Client shall with respect to the clearing model selected by the ICM Client under the Clearing Conditions be obliged to enter or have been entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 ~~or~~, an ICM Clearing Agreement, ~~or a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 5~~, with another Clearing Member and Eurex Clearing AG by not later than five Business Days after the Termination Date or such longer period of time specified by Eurex Clearing AG in its own discretion and shall transfer all Direct Covered Transactions to such Clearing Member and shall enter into transactions corresponding to all such Direct Covered Transactions with such Clearing Member by executing a transfer agreement in form and substance satisfactory to Eurex Clearing AG (the “**Transfer Agreement**”) with Eurex Clearing AG and such Clearing Member within such time. Upon such transfer the following will apply:

[...]

- (ii) in the case of the ICM-ECD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under each of the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the Corresponding Standard Agreement between such Clearing Member and the ICM Client (each as defined in the Individual Clearing Model Provisions); ~~or~~
- (iii) in the case of the ICM-CCD Provisions, the Direct Margin and Direct Variation Margin shall henceforth constitute Segregated Margin or Segregated Variation Margin, respectively, pursuant to the Individual Clearing Model Provisions and corresponding Redelivery Claims shall arise under the relevant Standard Agreement between Eurex Clearing AG and such Clearing Member and the ICM Client will enter into transactions corresponding to all such transferred Direct Covered Transactions with such Clearing Member under their corresponding Client Clearing Agreement as of the same time as the transfer of the Direct Covered Transactions; ~~or~~
- ~~(iv) in the case of the Net Omnibus Clearing Model Provisions, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation.~~

[...]

### 11.4 Immediate Re-Establishment with Replacement Clearing Member

[...]

- 11.4.2 The following conditions (the “**Immediate Re-Establishment Conditions**”) must be satisfied by the expiry of the ICM Porting Period to effect the re-establishment of Covered Transactions with a Replacement Clearing Member:

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- (1) if the Covered Transactions shall be cleared with the Replacement Clearing Member pursuant to the Individual Clearing Model Provisions, Eurex Clearing AG, the Replacement Clearing Member and the ICM Client have entered into an ICM Clearing Agreement; if the Covered Transactions shall be cleared with the Replacement Clearing Member pursuant to the Elementary Clearing Model Provisions ~~or the Net Omnibus Clearing Model Provisions~~, the Replacement Clearing Member and the ICM 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 ICM Porting Period, enter into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix 2 ~~or Appendix 5~~, unless such Clearing Agreement has already been entered into;

[...]

#### 11.4.3 Re-Establishment of Transactions with ICM Client

[...]

##### (2) Opening Margin

[...]

Further, if and to the extent that Subpart A Number ~~57~~ of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Direct Covered Transactions, Eurex Clearing AG is entitled to request cover in respect of such Variation Margin (the “**Direct Variation Margin**”) from the ICM Client in accordance with the Clearing Conditions (the “**Opening Variation Margin Requirement**”) and the ICM Client shall in such case be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG.

##### (3) Settlement

[...]

Eurex Clearing AG will credit the Eligible Margin Assets actually delivered (as a consequence of the set-off described herein in which case the Eligible Margin Assets shall be identical to the Eligible Margin Assets forming part of the Segregated Margin and Segregated Variation Margin of the Affected Clearing Member as of the Termination Date) in respect of the Opening Margin to an internal margin account pursuant to Number 4.1.~~32~~.

[...]

#### 11.4.5 Immediate Transfer to Replacement Clearing Member

Immediately upon settlement pursuant to Number 11.4.3 Paragraph (3), all Direct Covered Transactions and all Direct Redelivery Claims are immediately transferred by operation of the executed Transfer Agreement to the Replacement Clearing Member, and

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the ICM Client shall immediately enter into new transactions corresponding to all such Direct Covered Transactions with the Replacement Clearing Member. Upon such transfer the following shall apply:

- (i) in the case of the Elementary Clearing Model Provisions ~~or Net Omnibus Clearing Model Provisions~~, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation;

[...]

[...]

### 13 Default under the Relevant Agreement between the Clearing Member and the ICM Client, Termination of Relevant Transactions

[...]

13.4.1 All Covered Transactions between Eurex Clearing AG and the Clearing Member shall without any further action be novated and be re-entered into under the Clearing Agreement pursuant to the Elementary Clearing Model Provisions. The so novated original Covered Transactions shall be credited to ~~a~~ Clearing Member Own Account of the Clearing Member (unless Eurex Clearing AG is instructed otherwise by the Clearing Member) and shall constitute Own Transaction or ~~Elementary~~ Omnibus Transactions of the Clearing Member depending on whether they are booked to the Clearing Member Own Account or ~~the a Client Transaction Customer~~ Account of the Clearing Member.

[...]

13.4.3 [...] For such purposes, Eurex Clearing AG shall instruct the Settlement Location to transfer Eligible Margin Assets in form of Securities actually delivered in respect of the Segregated Margin by the Clearing Member from the Securities Margin Account or the Eurex Clearing Securities Margin Account, respectively, to the relevant Pledged Securities Account which will then constitute Margin actually delivered pursuant to the Elementary Clearing Model Provisions. All Redelivery Claims of the Clearing Member against Eurex Clearing AG with respect to the transfer of equivalent Eligible Margin Assets in form of Securities actually delivered in respect of Segregated Margin shall be settled. Number 9 shall not apply.

[...]

### 16 Direct Segregated Margin Transfers and Direct Segregated Margin Retransfers

[...]

#### 16.3 Sub Pools

In case the Sub Pool Provisions apply, Number 16.1 and 16.2 shall apply mutatis mutandis per Segregated Internal Margin Account.

[...]

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## Part 3 Subpart B: ICM-ECD Provisions

[...]

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

#### 2.1 Construction

[...]

##### 2.1.2

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

[...]

### 6 Termination, Consequences of a Termination between Clearing Member and ICM Client

[...]

#### 6.3 Consequences of a Termination

[...]

##### 6.3.3 Payment of Difference Claim

(1) [...]

If and to the extent upon enforcement of the ICM Client's pledge over or assignment for security purposes of the relevant Difference Claim between Eurex Clearing AG and the Clearing Member such Difference Claim between Eurex Clearing AG and the Clearing Member has been discharged in accordance with Subpart A Number 7.3.3 Paragraph (1) by delivery of Securities to the ICM Client, the Difference Claim between the Clearing Member and the ICM Client pursuant to this Number 6.3.2 as well as, the Shortfall Claim pursuant to Subpart A Number 10.1 shall be discharged in the value of the so delivered Securities as of such time.

[...]

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