

Chapter IV of the Clearing Conditions of Eurex Clearing AG

# Clearing of Repo Transactions

As of 27.09.2021

## **Preamble**

This Chapter IV forms an integral part of the Clearing Conditions of Eurex Clearing AG and respective references in other rules or documents to the Clearing Conditions shall also apply to this Chapter IV.

Chapter I together with this Chapter IV and all references to other Chapters or Annexes of the Clearing Conditions shall apply to (i) all Clearing Members with a respective Clearing License, (ii) all Basic Clearing Members, (iii) all holders of a Specific Repo License and (iv) all Interim Participants (if applicable).

## Clearing of Repo Transactions

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## Part 1 General Provisions

- (1) If and to the extent that the Clearing of Transactions concluded through the System of Eurex Repo GmbH (Part 2 Number 2.1) has been agreed upon between Eurex Clearing AG and Eurex Repo GmbH (in the following “**Eurex Repo Transactions**”) or the Clearing of Transactions concluded through the System of another multilateral trading facility (in the following “**Original MTF Repo Transactions**”) has been agreed upon between Eurex Clearing AG and the respective multilateral trading facility or other, equivalent regulations have been reached, the provisions set forth in Chapter I shall also apply to the Clearing of Eurex Repo Transactions and Original MTF Repo Transactions, to the extent that the following rules do not provide otherwise.

Any Original MTF Repo Transaction which has been novated in accordance with Part 2 Number 2.1.2 and any Eurex Repo Transaction shall hereinafter be referred as a “**Repo Transaction**”.

- (2) The Clearing Conditions incorporate by reference the Terms and Conditions for Participation and Trading on Eurex Repo GmbH (*Geschäftsbedingungen für die Teilnahme und den Handel an der Eurex Repo GmbH*) with respect to the Clearing of Transactions concluded on Eurex Repo GmbH pursuant to this Chapter IV in their German version and as amended from time to time.
- (3) The information statement in Annex 12 in accordance with Article 15 of the Regulation on transparency of securities financing transactions and of reuse (Regulation (EU) 2015/2365) is applicable to Eurex Clearing AG and holders of a Clearing License or a Specific License for Repo and GC Pooling Repo Transactions and which are or will be cleared by Eurex Clearing AG and which contain a collateral transfer by way of a title transfer collateral arrangement.

### 1.1 Clearing Licenses

#### 1.1.1 Granting of Clearing Licenses

A Clearing License or Basic Clearing Member Clearing License is required in order to participate in the Clearing of Repo Transactions; Eurex Clearing AG shall grant such Clearing License or Basic Clearing Member Clearing License upon written application.

#### 1.1.2 Prerequisites for Clearing Licenses

- (1) With regard to the prerequisites to be fulfilled within the scope of granting of the Clearing License, Chapter I Part 1 Numbers 2.1.1 to 2.1.3 apply. With regards to the prerequisites to be fulfilled within the scope of granting of the Basic Clearing Member Clearing License, Chapter I Part 6 Numbers 2.1.1 to 2.1.2 apply.
- (2) The applicant shall meet the following additional requirements:

- (a) Evidence of technical connection to the systems of Eurex Clearing AG,
- (b) if the applicant intends to clear GC Pooling repo transactions with Eurex Clearing AG (each a “**GC Pooling Repo Transaction**”),
  - (aa) evidence of the participation admission and technical connection to the Collateral Management System Xemac of Clearstream Banking AG (“**Xemac**”), including the possibility of participation in the international Collateral Management, i.e. (i) either via own participation authorisation in Xemac, (ii) via a respective agreement with another settlement institute which is authorised to participate in Xemac, or (iii) in case of Basic Clearing Members only, via their Clearing Agent, and
  - (bb) if Eurex Clearing AG required a GC Pooling USD Cash Margin Contribution from the applicant in accordance with Chapter I Part 2 Subpart B Number 5.3, compliance with the applicable GC Pooling USD Cash Margin Contribution requirement.
- (3) The applicant shall – insofar as it intends to use the Gross Delivery Management service (Chapter I Part 1 Number 1.4.2 Paragraph (9) and Number 1.3.1 Paragraph (1) (b) – (e)) also optionally offered by Eurex Clearing AG vis-à-vis Clearing Members, Basic Clearing Members and settlement institutions (Chapter I Part 1 Number 2.1.2 Paragraph (7)) in connection with the implementation of the Clearing of Repo Transactions – provide evidence of a technical and functional connection to the respective interface of the technical systems used by Eurex Clearing AG pursuant to the specifications set forth by Eurex Clearing AG.

## 1.2 Provision of Margin

- (1) In connection with GC Pooling Repo Transactions, the determination of the margin requirement (including the Additional Margin), with regard to the securities assigned within the scope of the Front Leg, also in case of cross-border collateral provision, shall be calculated directly by Xemac. During the calculation, Xemac shall, according to the provisions of the Special Conditions for Collateral Management (“**SC Xemac**”), consider the respective currency in which the underlying transaction has been concluded. Also, the securities admissible as securities serving as collateral in connection with the delivery of GC Pooling Repo Transactions shall be determined by Xemac on the basis of the Special Conditions for SC Xemac. Other than described in Sentence 1, Eurex Clearing AG may demand that, in excess of the margin requirement calculated by Xemac, Additional Margin has to be provided in accordance with the calculation method published pursuant to Chapter I Part 1 Number 3.1.8. The possibility of requiring additional Margin pursuant to Chapter I Part 1 Number 3.3 together with Chapter I Part 2 Subpart A Number 4.2 or additional Basic Clearing Member Margin in accordance with Chapter I Part 6 Number 7.3, in particular for collateralisation of exchange rate risks in case of foreign currency transactions, remains unaffected. This in particular applies for the collateralisation of exchange rate risks in case of foreign currency transactions and as well for the delivery of securities as collateral which qualify as own issues in the meaning of the

Terms and Conditions for Participation and Trading on Eurex Repo GmbH (“**GTC’s Repo**”) in relation to the Clearing Member or Basic Clearing Member. With regard to securities which become own issues during the term of the Transaction, this provision applies also. The Clearing Members or Basic Clearing Members are obliged to refrain from provisioning of such own securities as collateral. For the provision respectively collection of Margin, the provisions of Chapter I Part 1 Number 3.2 together with Part 2 Subpart A Number 4, Subpart B Number 5 and Subpart C Number 6 or Part 4 Number 6 apply or in case of Basic Clearing Member Margin, Chapter I Part 6 Number 7 apply.

- (2) With regard to GC Pooling Equity Repo transactions, Eurex Clearing AG shall – in deviation to Paragraph (1) Sentence 3 – define a list of equities included in the DAX<sup>®</sup>, EURO STOXX 50<sup>®</sup>, AEX<sup>®</sup> and CAC 40<sup>®</sup> which are eligible as securities serving as collateral (“**eligibility list**”) and shall review and update - if necessary - such list on a daily basis. The equities are admitted to this list in accordance with a catalogue of criteria which takes into account the turnover volumes and risk aspects. Irrespective of the regular review, Eurex Clearing AG shall – due to risk management reasons – be entitled at any time to exclude individual securities from the eligibility list. The effective eligibility list will be made available in Xemac on a daily basis.

Regarding the selection of securities serving as collateral to be transferred from the GC Pooling Equity Basket, concentration limits of Eurex Clearing AG shall apply and will be made public in Xemac.

To the extent a Clearing Member or Basic Clearing Member which has available an insufficient amount of eligible securities serving as collateral for the GC Pooling Equity Basket is instead allowed to transfer ownership of securities eligible for the GC Pooling ECB Basket, the rules for settlement of GC Pooling ECB Basket Repo transactions shall apply to such securities serving as collateral.

- (3) In addition to the provisions of Paragraph 1 and 2, the provisions of Chapter I Part 1 Number 3 together with Part 2 Subpart A Number 4, Subpart B Number 5 and Subpart C Number 6 or Part 4 Number 6 and Chapter I Part 6 Number 7 shall apply with regard to the basic principles of the margin requirement and – unless aforementioned paragraphs state otherwise – the obligation to provide margin. The provisions of Paragraph (1) Sentence 4 – 10 apply to Special and GC Repo accordingly. In the case securities collateral are qualified as own issues after the settlement of the Front Leg, Eurex Clearing may apply an adequate haircut to cover a higher liquidation risk for Eurex Clearing AG. No automatic substitution is processed.

### 1.3 Set-off Procedure

For the avoidance of doubt, a set-off of claims in accordance with Chapter I Part 1 Number 1.3 shall also be possible between claims resulting out of Eurex Repo Transactions and MTF Repo Transactions.

#### 1.4 Tax Information Undertakings

- (1) For the purpose of this Chapter IV, “**Tax Information**” shall mean information required by the respective recipient to comply with the rules and regulations of tax authorities.
- (2) Upon application for a Clearing License or a Basic Clearing Member Clearing License, as the case may be, pursuant to Number 1.1, the applicant shall be required to provide Eurex Clearing AG, upon request, any Tax Information.

Further, each Clearing Member or Basic Clearing Member is obliged to inform Eurex Clearing AG without undue delay about any changes to the Tax Information previously provided to Eurex Clearing AG.

- (3) Upon request by Eurex Clearing AG, each Clearing Member or Basic Clearing Member shall provide any other Tax Information (including, inter alia, Tax Information required by Eurex Clearing to comply with its reporting requirements under 26 CFR § 1.1441-1 et seq. or any successor or replacement regulation thereto).
- (4) Upon the request of a Clearing Member or Basic Clearing Member, Eurex Clearing AG shall provide such Clearing Member or Basic Clearing Member with Tax Information relating to Eurex Clearing AG that is available to Eurex Clearing AG, provided that the provision of the Tax Information would not materially prejudice the legal or commercial position of Eurex Clearing AG.
- (5) If the identity of the original parties to an Original GC Pooling Repo Transaction or MTF Repo Transaction has been disclosed to each other, each Clearing Member or Basic Clearing Member shall provide each corresponding Clearing Member or Basic Clearing Member (and vice versa) upon request with any Tax Information, provided that the provision of the Tax Information would not materially prejudice the legal or commercial position of the Clearing Member or Basic Clearing Member that has received such request.



## **Part 2 Clearing of Repo Transactions**

### **2.1 Repo Transactions**

- (1) A Repo Transaction is a purchase/sale of securities and their simultaneous forward re-purchase/re-sale. Thus, such transaction is a combination of a purchase agreement (“**Front Leg**”) with simultaneous re-purchase agreement (“**Term Leg**”) of securities of the same type and category at a certain point in time.
- (2) Eurex Clearing AG will realise the settlement or clearing of Repo Transactions to the extent that the underlying securities of the respective Repo Transaction are settled by Eurex Clearing AG and the respective Settlement Location and that the prerequisites pursuant to this Number 2.1 are fulfilled.

#### **2.1.1 Inclusion of Eurex Repo Transactions into Clearing by Open Offer or by Novation**

- (1) Eurex Clearing AG shall determine in consultation with Eurex Repo GmbH which kind of Eurex Repo Transactions or securities underlying these Eurex Repo Transactions shall be included in the Clearing. Clearing Members and Basic Clearing Members will be notified by Eurex Clearing AG via electronic publication in the internet exclusively, available on the Eurex Clearing Website, as regards those securities transactions that are included in the Clearing. In connection with GC Pooling Repo Transactions, the notification for included securities shall be carried out in Xemac.
- (2) Eurex Repo Transactions shall be included in the Clearing by way of open offer or by way of novation in accordance with the Terms and Conditions for Participation and Trading on Eurex Repo GmbH.

#### **2.1.2 Inclusion of Original MTF Repo Transactions into Clearing by Novation**

- (1) Eurex Clearing AG shall determine in consultation with the respective multilateral trading facility which kind of Original MTF Repo Transactions or securities underlying these Original MTF Repo Transactions shall be included in the Clearing. Clearing Members and Basic Clearing Members will be notified by Eurex Clearing AG via electronic publication in the internet exclusively, available on the Eurex Clearing Website, as regards those securities transactions that are included in the Clearing. In connection with GC Pooling Repo Transactions, the notification for included securities shall be carried out in Xemac.
- (2) The Clearing Member and Basic Clearing Member agree that upon acceptance of an Original MTF Repo Transaction for inclusion in the Clearing by Eurex Clearing AG based on the data and information of the Original MTF Repo Transaction transmitted by the multilateral trading facility to Eurex Clearing AG, transactions will be concluded between Eurex Clearing AG in its capacity as seller or buyer, as applicable, and the respective Clearing Member or Basic Clearing Members by way

of novation subject to, and in accordance with, Chapter I Part 1 Number 1.2.2 (2) and the following provisions.

- (3) Original MTF Repo Transactions have to be transmitted to Eurex Clearing AG in a standardised form by the respective multilateral trading facility accepted by Eurex Clearing AG which will provide information and notices regarding such transactions to Eurex Clearing AG.

Eurex Clearing AG makes no representation, whether expressed or implied, as to the complete and timely performance of the multilateral trading facility's duties and obligations vis-à-vis the Clearing Members or Basic Clearing Members. Eurex Clearing AG assumes no liability to the Clearing Members or Basic Clearing Members for any act or failure to act by the multilateral trading facility vis-à-vis the Clearing Members or Basic Clearing Members in connection with any information or notices received by Eurex Clearing AG or given to the Clearing Members or Basic Clearing Members via the multilateral trading facility, as the case may be.

- (4) Eurex Clearing AG may reject (i.e. not accept) Original MTF Repo Transactions for inclusion in the Clearing, if the following conditions have not been complied with:
- (a) Original MTF Repo Transactions are entered into the system of Eurex Clearing AG in accordance with Number 2.1.2 (1) above and comply with the requirements for Repo Transactions set out in this Chapter IV and the other formal requirements as defined by Eurex Clearing AG from time to time,
  - (b) each counterparty (other than Eurex Clearing AG) to an MTF Repo Transaction resulting from the novation is a Clearing Member or and Basic Clearing Member of Eurex Clearing AG, and
  - (c) the Clearing License of the involved relevant Clearing Member or Basic Clearing Member is not suspended and a Termination Date has not occurred with respect to the relevant involved Clearing Member or Basic Clearing Members.
- (5) The MTF Repo Transactions resulting from the novation shall be established with the agreed terms set out in the respective information received by Eurex Clearing AG from the relevant Clearing Members or Basic Clearing Members via the multilateral trading facility (such information, as amended from time to time and accepted by Eurex Clearing AG, the "**Repo Information**"). To the extent the rules of the multilateral trading facility so provide, the relevant Clearing Members or Basic Clearing Members may, during the term of MTF Repo Transactions, at any time agree on an amendment of the Repo Information. The relevant MTF Repo Transactions shall be amended accordingly, provided that Eurex Clearing AG is entitled to reject such amendment.
- (6) Following the conclusion of MTF Repo Transactions by way of novation pursuant to this Number 2.1.2, Eurex Clearing AG will on the same Business Day send

corresponding confirmations to the respective Clearing Members or Basic Clearing Members.

- (7) The Clearing Member or Basic Clearing Member shall check without undue delay all reports and other communications from Eurex Clearing AG received by it via the multilateral trading facility.

The Clearing Member or Basic Clearing Member shall inform Eurex Clearing AG without undue delay of any errors or omissions by the multilateral trading facility that become apparent from such checks.

## 2.2 General Provisions

- (1) For the settlement of Repo Transactions, Chapter I Part 1 Number 1.2.5 and 1.4 applies, unless otherwise provided in Paragraph 2. With regard to the securities admitted to delivery of GC Pooling Repo Transactions, the participating Clearing Members and Basic Clearing Members shall receive a report on the available assets respectively held in their depositories.
- (2) With respect to the procedure for delivery and payment resulting from Repo Transactions, the following provisions shall apply in addition to Chapter I Part 1 Number 1.2.5 and 1.4:

(a) Purchase Agreement (Front Leg):

All physical deliveries and payments shall be concurrently performed between the Clearing Member or Basic Clearing Member obliged to deliver and Eurex Clearing AG, and, accordingly, between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which is to receive delivery on the agreed delivery day of the Front Leg. Physical deliveries shall be made through a Settlement Location, and payments shall be made through the corresponding account determined by such Settlement Location.

(b) Repurchase Agreement (Term Leg):

All physical deliveries and payments shall be concurrently performed between the Clearing Member or Basic Clearing Member obliged to deliver and Eurex Clearing AG, and, accordingly, between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which is to receive delivery on the agreed delivery day of the Term Leg. Physical deliveries shall be made through a Settlement Location, and payments shall be made through the corresponding account determined by such Settlement Location.

(c) Physical Deliveries:

Eurex Clearing AG shall, with respect to Securities held in collective safe custody (*Girosammelverwahrung*) delivered to it pursuant to Paragraph (2) (a) and (b), act as an intermediary of the Clearing Members or Basic Clearing Members which are obliged to deliver in order to subsequently deliver such

securities to the Clearing Members or Basic Clearing Members which are to receive delivery. With respect to the settlement of transactions concluded by Clearing Members or Basic Clearing Members, the transfer of ownership in respect of the Securities held in collective safe custody (*Girosammelverwahrung*) to be delivered will thus be performed directly between the involved Clearing Members or Basic Clearing Members.

(d) Delivery and payment with regard to GC Pooling Repo Transactions:

In case of GC Pooling Repo Transactions, the delivery instructions regarding existing delivery- and payment obligations shall be given by Eurex Clearing AG on basis of the securities to be delivered; such securities shall be selected by Xemac of pursuant to the SB Xemac and additional contracts for the international Collateral Management in their current version. An obligation to grant authorisation within the meaning of Chapter I Part 1 Number 1.4.2 Paragraph (2) also exists with regard to the execution of an exchange ("**substitution**") of securities assigned in connection with a GC Pooling Repo Transaction.

For the procedure regarding deliveries and payments pursuant to Paragraph (1), the following deviating provisions apply:

The transfer of ownership regarding the securities to be delivered between the Clearing Members or Basic Clearing Members and Eurex Clearing AG, and vice versa, shall be carried out, depending on the account relevant for such transfer, pursuant to German law or pursuant to the laws of the Grand Duchy of Luxembourg and pursuant to the additional contracts having been used as basis by the parties. The provision of Chapter I Part 1 Number 1.4.2 Paragraph (4) and (9) applies with the provision that the payment is settled via the account of the Clearing Member or Basic Clearing Member which is determined for settlement in the currency of the underlying transaction.

For the purpose of this Chapter IV, "**Target Settlement Time**" shall mean the time until which any delivery or payment incumbent on the Clearing Member or Basic Clearing Member must be made available for settlement in such a way that the Clearing Member or Basic Clearing Member is able to fulfil its obligations vis-à-vis Eurex Clearing AG for the relevant day of performance.

(aa) Target Settlement Times for GC Pooling Repo Transactions:

With regard to GC Pooling Repo Transactions settled in Euro ("**EUR**") on a Business Day other than the trade date, the Target Settlement Time shall be 10:45 hours (Frankfurt am Main time). With regard to GC Pooling Repo Transactions, which are settled in EUR and whose trade date equals the settlement date of the Front Leg, the Target Settlement Time shall be 30 minutes after the conclusion of the GC Pooling Repo Transaction.

With regard to GC Pooling Repo Transactions settled in U.S. Dollar ("USD") on a Business Day other than the trade date, the Target Settlement Time shall be 15:00 (Frankfurt am Main time). With regard to GC Pooling Repo Transactions, which are settled in USD and whose trade date equals the settlement date of the Front Leg, the Target Settlement Time shall be

- for Transactions which are concluded until 14:30 (Frankfurt am Main time) 15:00 (Frankfurt am Main time), and
- for Transactions which are concluded after 14:30 (Frankfurt am Main time), there is a fulfilment no later than 30 minutes after the conclusion of the GC Pooling Repo Transaction.

With regard to GC Pooling Repo Transactions settled in Swiss Franc ("CHF") on a Business Day other than the trade date, the Target Settlement Time shall be 13:45 hours (Frankfurt am Main time). With regard to GC Pooling Repo Transactions, which are settled in CHF and whose trade date equals the settlement date of the Front Leg, the Target Settlement Time shall be no later than 30 minutes after the conclusion of the GC Pooling Repo Transaction.

With regard to GC Pooling Repo Transactions settled in currencies other than EUR, USD or CHF on a Business Day other than the trade date, the Target Settlement Time shall be 11:30 (Frankfurt am Main time).

With regard to GC Pooling Repo Transactions, which are settled in currencies other than EUR, USD or CHF and whose trade date equals the settlement date of the Front Leg, the Target Settlement Time shall be no later than 30 minutes after the conclusion of the GC Pooling Repo Transaction.

(bb) Target Settlement Times for GC Pooling FL Early Settlement Repo Transactions

Eurex Clearing AG may offer the Clearing of GC Pooling Repo Transactions with an earlier Target Settlement Time for the Front Leg than the time specified in Subparagraph (aa) ("**GC Pooling FL Early Settlement Repo Transactions**"). Multilateral trading facilities may submit qualifying transactions with a special identifier agreed between Eurex Clearing AG and the relevant multilateral trading facility to identify them as GC Pooling FL Early Settlement Repo Transactions or Eurex Clearing AG and the relevant multilateral trading facility may agree in advance to handle certain transactions as GC Pooling FL Early Settlement Transactions. If the Front Leg of each GC Pooling FL Early Settlement Repo Transaction is settled in any currency on a Business Day other than the trade date, the Target Settlement Time shall be 07:30 (Frankfurt am Main time). Except as

otherwise provided in this Subparagraph (bb), Part 2 Number 2.2 (2) (d) (aa) shall apply *mutatis mutandis*.

(cc) Target Settlement Times for GC Pooling TL Early Settlement Transactions

Eurex Clearing AG may offer the Clearing of GC Pooling Repo Transactions with an earlier Target Settlement Time for the Term Leg than the time specified in Subparagraph (aa) ("**GC Pooling TL Early Settlement Transactions**"). Part 2 Number 2.2 (2) (d) (bb) shall apply *mutatis mutandis*.

(dd) Target Settlement Times for GC Pooling FLTL Early Settlement Transactions

Eurex Clearing AG may offer the Clearing of GC Pooling Repo Transactions with an earlier Target Settlement Time for both the Front Leg and the Term Leg than the time specified in Subparagraph (aa) ("**GC Pooling FLTL Early Settlement Transactions**"). Part 2 Number 2.2 (2) (d) (bb) shall apply *mutatis mutandis*.

### 2.3 Daily Settlement

- (1) For each delivery of the underlying security to the respective Eurex Repo Transaction which has not yet been performed, unrealised profits and losses will be determined daily on the basis of the current market prices and set off against the collateral provided. The amount of the collateral to be provided shall equal the difference between the price at which the transaction was concluded and the daily settlement price for such Business Day.
- (2) The daily settlement price shall be determined by Eurex Clearing AG after close of trading and notified to the Clearing Members and Basic Clearing Members (or the Clearing Agents acting in the name of a Basic Clearing Member).
- (3) For unfulfilled deliveries within the context of GC Pooling Repo Transactions, an evaluation of the securities to be delivered, which are selected by Xemac pursuant to Paragraph (1) and (2), will be carried out pursuant to Number 2.2 Paragraph (2) d) in relation to the relevant claim in the underlying currency.

### 2.4 Performance

- (1) A delivery obligation arising out of a Repo Transaction can only be satisfied by the respective underlying securities which – in case of GC Pooling Repo Transactions – are specifically defined by Xemac, claims from safekeeping abroad (WR-Credit) or security credits (insofar consistently described as "**securities margin**") which are admissible for a transaction in this currency and basket.
- (2) Eurex Clearing AG shall deliver the securities due for delivery to the Clearing Members or Basic Clearing Members entitled to delivery.

- (3) Provided that for the fulfilment of delivery obligations of originally transferred or assigned securities margin, which have been transferred, within the context of the Term Leg of an GC Pooling Repo Transaction, have been substituted during the term of the transaction, these alternatively assigned or transferred securities margin shall apply as underlying to the Repo Transaction for the fulfilment of delivery obligations.

## **2.5 Payment of Interests and Dividends, as well as other Corporate Actions (Compensation)**

- (1) If interests or dividends are paid on the underlying security during the term of a Repo Transaction, e.g. during the Purchase Agreement and the Repurchase Agreement, Eurex Clearing AG shall arrange for the credit of the accrued amount of interests or dividends to the Clearing Member or Basic Clearing Member which has sold the respective securities. Besides, Eurex Clearing AG shall arrange for the charge of an amount equal to the amount of interests or dividends to the Clearing Member or Basic Clearing Member which has purchased the respective securities. Cash settlement shall be made through the RTGS Accounts, the euroSIC Accounts, the accounts with Euroclear Bank S.A./N.V. in Brussels or with Clearstream Banking S.A. In case of Euro GC Pooling Repo Transactions, the compensation payment shall be initiated via Eurex Clearing AG through Xemac.
- (2) Securities serving as collateral in GC Pooling Equity Basket Repo transactions shall be substituted in Xemac by other eligible securities prior to corporate actions, dividend payments and other income events. The timely re-transfer by substitution shall remain in the sole responsibility of the Clearing Member or Basic Clearing Member which has transferred the securities serving as collateral. Such Clearing Member or Basic Clearing Member must take the necessary measures to enable a timely re-transfer, thus enabling such Clearing Member or Basic Clearing Member to exercise or respectively perform its rights relating to the respective corporate action.

## **2.6 Failure to Deliver**

- (1) Any failure to make a payment or delivery when due shall be governed by the following procedure:
- (a) Failure to Deliver on the due date of the Front Leg
- (aa) Repo Transactions other than GC Pooling Repo Transactions

If, under a Repo Transaction other than a GC Pooling Repo Transaction, on the due date of the Front Leg (i) the Clearing Member or Basic Clearing Member acting as cash taker fails to deliver the Securities or (ii) the Clearing Member or Basic Clearing Member acting as cash provider fails to provide the respective cash amount, Eurex Clearing AG shall be entitled and, on request of the Clearing Member or Basic Clearing Member (or the Clearing Agent acting in the name of the Basic Clearing Member), in respect to the corresponding Repo Transaction between Eurex Clearing AG and such Clearing Member or Basic

Clearing Member, acts, in case of (i), as cash provider and which did not receive delivery of the Securities in time or, in case of (ii), as cash taker and did not receive the delivery of cash in time, obliged to set the present Business Day, at the latest the delivery day of the Term Leg, as an advanced repurchase date of the Term Leg. As a consequence thereto, the mutual obligations arising out of this Repo Transaction which had originally been agreed upon shall be offset against each other so that the parties, with the exception of the Repo interests agreed upon, do not owe each other any further payment or delivery. The payable Repo interests shall be calculated on the basis of the period of non-delivery, in each case for the period from the purchase date (inclusive) until the Business Day to which the Term Leg was advanced (exclusive).

If a negative Repo interest has been agreed upon, the calculation of the Repo interest no longer applies, if Eurex Clearing AG is able to set the present Business Day as an advanced repurchase date of the Term Leg of the respective Eurex Repo Transaction. The contractual penalty for a failure to deliver Securities or cash pursuant to Chapter I Part I Number 14.2. 2 shall not apply.

Eurex Clearing AG shall be entitled to set an earlier date as repurchase date for the Term Leg of the corresponding Repo Transaction between Eurex Clearing AG and the Clearing Member or Basic Clearing Member which did not receive delivery of Securities or cash, as applicable, from Eurex Clearing AG in time; Sentence 2 – 4 shall apply *mutatis mutandis*.

(bb) GC Pooling Repo Transactions

If, under a GC Pooling Repo Transaction, (i) the Clearing Member or Basic Clearing Member acting as cash taker fails to deliver Securities which are admissible for the delivery in the respective basket and the underlying currency on the due date of the Front Leg or (ii) the Clearing Member or Basic Clearing Member acting as cash provider fails to provide the respective cash amount on the due date of the Front Leg, Paragraph (1) (a) (aa) shall apply *mutatis mutandis*, unless provided otherwise herein.

If the conditions provided in Sentence 1 are fulfilled, (i) Clearstream Banking AG may inform Eurex Clearing AG about any such settlement failure and (ii) – irrespective of whether Eurex Clearing AG has suffered any damage – unless such failure to deliver Securities or such failure to provide the cash amount results from a Force Majeure Event, a Market Disorder Event and/or the Clearing Member or Basic Clearing Member is not responsible for such failure, the failing Clearing Member or Basic Clearing Member shall pay, in accordance with the instructions received from Eurex Clearing AG, a contractual penalty in the amount of 0.015 per cent of the relevant unpaid due amount (in case of a failure to deliver Securities, the amount shall be determined based on the agreed purchase price of the GC Pooling Repo Transaction), but no less than EUR 1,500 – or the corresponding equivalent in any other Clearing Currency as



determined by Eurex Clearing AG – per Business Day at which the settlement fail first occurs or continues to occur, however, no more than EUR 15,000 or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG per day. For the purposes of equity and proportionality, Eurex Clearing AG may refrain from applying the contractual penalty or lower its amount. The right of Eurex Clearing AG to claim further damages and/or default interest shall remain unaffected, provided that any amount received as a contractual penalty under this provision shall be deducted from any potential claim for damages and/or default interest based on the same facts. In the scope of its application, this contractual penalty takes precedence over the contractual penalty provided in Chapter I Part 1 Number 14.2.2.

(b) Failure to Deliver on the due date of the Term Leg

(aa) Repo Transactions other than GC Pooling Repo Transactions

If, under a Repo Transaction other than a GC Pooling Repo Transaction, on the due date of the Term Leg, the Clearing Member or Basic Clearing Member acting as cash provider fails to deliver the Securities, Eurex Clearing AG shall be entitled and, on request of the Clearing Member or Basic Clearing Member (or the Clearing Agent acting in the name of a Basic Clearing Member) which, in respect to the corresponding Repo Transaction between Eurex Clearing AG and such Clearing Member or Basic Clearing Member, acts as cash taker and did not receive delivery in time, obliged to make a replacement purchase with respect to the undelivered securities as from the 5<sup>th</sup> Business Day following the due date of the Term Leg and to deliver these to the Clearing Member or Basic Clearing Member (or the Clearing Agents acting in the name of a Basic Clearing Member) which did not receive delivery by Eurex Clearing AG in time or, in the case of a wholly or partially unsuccessful replacement purchase, to perform a cash settlement. The replacement and the cash settlement are performed pursuant to Chapter V Part 2 Number 2.2 (without application of the provisions on contractual penalties provided in Chapter V Part 2 Number 2.2 (6)). Notwithstanding Chapter V Part 2 Number 2.2.1 Paragraph (3) (b) (aa), the cash settlement amount is determined by the highest of (i) the settlement price of the respective class of securities as determined by Eurex Clearing AG, (ii) the selling price and (iii) the purchase price of the relevant Eurex Repo Transaction, in each case plus a premium of 300 basis points, accrued interest and the applicable repo rate.

The contractual penalty for a failure to deliver Securities or cash pursuant to Chapter I Part I Number 14.2.2 shall not apply.

(bb) GC Pooling Repo Transactions

If, under a GC Pooling Repo Transaction, on the due date of the Term Leg (i) the Clearing Member or Basic Clearing Member acting as cash provider fails to deliver the Securities or (ii) the Clearing Member or Basic Clearing Member acting as cash taker fails to provide the respective cash amount, then –

irrespective of whether Eurex Clearing AG has suffered any damage – unless such failure to deliver Securities or such failure to provide the cash amount results from a Force Majeure Event, a Market Disorder Event and/or the Clearing Member or Basic Clearing Member is not responsible for such failure, the failing Clearing Member or Basic Clearing Member shall pay, in accordance with the instructions received from Eurex Clearing AG, a contractual penalty in the amount of 0.015 per cent of the relevant unpaid due amount (in case of a failure to deliver Securities, the amount shall be determined based on the agreed purchase price of the GC Pooling Repo Transaction), but no less than EUR 1,500 – or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG – per Business Day at which the settlement fail occurs or continues to occur, however, no more than EUR 15,000 or the corresponding equivalent in any other Clearing Currency as determined by Eurex Clearing AG. For the purposes of equity and proportionality, Eurex Clearing AG may refrain from applying the contractual penalty or lower its amount. The right of Eurex Clearing AG to claim further damages and/or default interest shall remain unaffected, provided that any amount received as a contractual penalty under this provision shall be deducted from any potential claim for damages and/or default interest based on the same facts. In the scope of its application, this contractual penalty takes precedence over the contractual penalty provided in Chapter I Part 1 Number 14.2.2.

- (2) Measures set forth in Paragraph (1) shall be binding on the Clearing Member or Basic Clearing Member which did not receive delivery in time.
- (3) The defaulting Clearing Member or Basic Clearing Member shall bear the costs arising from measures taken pursuant to Paragraph (1).
- (4) The right to claim further damages shall be excluded for for the Clearing Member or Basic Clearing Member which did not receive delivery in time.
- (5) If on a delivery day only a partial delivery of securities occurs, the Paragraphs above shall apply accordingly with regard to the outstanding partial deliveries. Due to different average price calculation of the T2S system and the system of Eurex Clearing AG concerning partial deliveries, it may occur for incomplete deliveries on the delivery day, that the Clearing Member obliged to deliver is credited an amount which, in total, exceeds the selling price. Eurex Clearing AG shall notify the Clearing Member obliged to deliver accordingly and is authorised to debit any exceeding amounts accordingly and to credit these amounts to the buyer. The Clearing Member obliged to deliver must ensure that a respective amount is available on its relevant RTGS Account or euroSIC Account.

## **2.7 Investment limits for pending Euro GC Pooling Repo Transactions after 16:00 (Frankfurt am Main time)**

With regard to GC Pooling Repo Transactions concluded at a multilateral trading facility after 16:00 (Frankfurt am Main time) on a trading day and whose delivery day of the Front Leg coincides with their trade date, the following special provisions shall apply:

The aggregate cash amount of the affected GC Pooling Repo Transactions of a Clearing Member or Basic Clearing Member, the Front Leg of which has not yet been completely fulfilled and with regard to which the respective Clearing Member or Basic Clearing Member is the buyer of the Front Leg ("**Pending Cash Provider Transactions**") is not to exceed EUR 1,000,000,000 (in words: One billion) (the "**Investment Limit**"). With regard to GC Pooling Repo Transactions in currencies other than EUR, such amount shall be determined by currency conversion of the cash amount into EUR.

If the aggregate cash amount of the Pending Cash Provider Transactions of a Clearing Member or Basic Clearing Member exceeds the Investment Limit at any point in time, the Clearing Member or Basic Clearing Member must ensure that there are sufficient amounts in the relevant currency available on the relevant accounts in order that Pending Cash Provider Transactions can be fulfilled without undue delay – and in any event, no later than 10 minutes from the time the Investment Limit has been exceeded – thus ensuring compliance with the Investment Limit thereafter. If the Clearing Member or Basic Clearing Member does not comply with such obligation, the Clearing Member or Basic Clearing Member shall have to pay to Eurex Clearing AG a contractual penalty pursuant to Chapter I Part 1 Number 14.2.2 on the aggregate cash amount of all Pending Cash Provider Transactions.

## 2.8 Risk limitation possibilities for Clearing Agents

For the avoidance of doubt, the Clearing Agent shall subject to and in accordance with the rules of the respective multilateral trading facility be entitled to suspend the trading of the Basic Clearing Member at the multilateral trading facility. In this case no new Repo Transactions may be included in the Clearing.

## 2.9 GC Pooling CTD Basket Transactions

- (1) Eurex Clearing may offer the Clearing of GC Pooling Repo Transactions based on a GC Pooling CTD Basket (as defined in the Basket Specifications for Repo Transactions of Eurex Repo GmbH (*Basketspezifikationen für Repo-Geschäfte der Eurex Repo GmbH*)) (each such transaction a "**GC Pooling CTD Basket Transaction**").
- (2) A GC Pooling CTD Basket Transaction will be settled as a GC Pooling FLTL Early Settlement Transaction.
- (3) By way of derogation from Chapter I Part 1 Number 4.3.2.2, a re-use of Securities which a Clearing Member or Basic Clearing Member has received as collateral in relation to GC Pooling CTD Basket Transactions is not possible.

## 2.10 Tax

- (1) Deduction or withholding of Taxes

The parties to the Repo Transaction shall make all payments under the Repo Transaction without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law.

If a party to a Repo Transaction that is required to make a payment (in such capacity, the “**Payer**”) is so required to make a deduction or withholding from the payment owed by it, the Payer shall:

- (a) promptly notify the obligee of the payment obligation to which such deduction or withholding relates (the “**Recipient**”) of such requirement;
- (b) pay or otherwise account for the full amount required to be deducted or withheld to the relevant authority;
- (c) upon written demand of the Recipient, forward to the Recipient documentation reasonably acceptable to the Recipient evidencing such payment to such authority; and
- (d) pay to the Recipient, in addition to what the Recipient is otherwise entitled to in respect of the Repo Transaction, such additional amount as is necessary to ensure that the amount actually received by the Recipient (after taking account of such withholding or deduction) is equal to the amount that the Recipient would have received had no such deduction or withholding been required.

For the purposes of this Chapter IV, “**Tax**” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) imposed by any government or other taxing authority in respect of any transaction effected pursuant to or contemplated by, or any payment under or in respect of, the relevant Repo Transaction.

- (2) Reimbursement of Eurex Clearing AG by the Clearing Member or Basic Clearing Member acting as Payer

If Eurex Clearing AG is required to pay any additional amount to the Recipient in accordance with Paragraph (1) (d) (for the purposes of this Number 2.9 the “**Eurex Clearing Gross-up Amount**”), the relevant Clearing Member or Basic Clearing Member which is acting as Payer in relation to Eurex Clearing AG shall pay to Eurex Clearing AG an amount equal to the Eurex Clearing Gross-up Amount. If the relevant Clearing Member or Basic Clearing Member acting as Payer in relation to Eurex Clearing AG is required to make any deduction or withholding in respect of the amount so payable by it, Paragraph (1) shall apply *mutatis mutandis*.

- (3) Transaction Tax

If the Clearing Member or Basic Clearing Member acting as the seller (cash taker) in the Repo Transaction (“**Seller**”) or Eurex Clearing AG is required to pay any amount on account of any Transaction Tax (other than any Transaction Tax that would not be chargeable but for the Clearing Member or Basic Clearing Member acting as the buyer (cash provider) in the Repo Transaction (“**Buyer**”) or, as applicable, Eurex Clearing AG’s failure to comply with its obligations under the Clearing Agreement) chargeable in connection with any Repo Transaction, the Seller shall notify Eurex Clearing AG, and, as applicable, Eurex Clearing AG shall notify the Buyer of such payment requirement. Upon receipt of the relevant notification, Eurex Clearing AG

shall pay to the Seller or, as applicable, the Buyer shall pay to Eurex Clearing AG an amount equal to such amount payable by the Seller or Eurex Clearing AG, as the case may be. If Eurex Clearing receives any such notification from the Seller, it shall forward such notification to the Buyer and the Buyer shall, upon receipt of such notification, pay to Eurex Clearing an amount equal to the amount payable by Eurex Clearing to the Seller in accordance with the preceding sentence.

For the purposes of this Chapter IV, "**Transaction Tax**" means any transaction, stamp, transfer, registration, documentation or similar Tax.

(4) Sales Tax

All amounts payable by any party to a Repo Transaction to the other party of such Repo Transaction are exclusive of any Sales Tax chargeable on any supply to which such sums relate and an amount equal to such Sales Tax shall in each case be paid by the party making such payment on receipt of an appropriate Sales Tax invoice.

For the purposes of this Chapter IV, "**Sales Tax**" means value added tax and any other Tax of a similar nature.

(5) Retrospective changes in law

Unless otherwise agreed between the parties to the relevant Repo Transaction, amounts payable by one party to another in relation to a Repo Transaction shall be determined by reference to applicable law as at the date of the relevant payment and no adjustment shall be made to amounts paid and no party shall have any claims or rights against any other party, as a result of:

- (a) any retrospective change in applicable law which is announced or enacted after the date of the relevant payment; or
- (b) any decision of a court of competent jurisdiction which is made after the date of the relevant payment (other than where such decision results from an action taken with respect to the Repo Transaction or amounts paid or payable under the Repo Transaction).

## 2.11 Termination of GC Pooling Repo Transactions denominated in USD

- (1) If a Clearing Member does not comply with an applicable GC Pooling USD Cash Margin Contribution requirement, Eurex Clearing AG may in its reasonable discretion (*billiges Ermessen*) by giving notice to the Clearing Member terminate and settle in cash one or more GC Pooling Repo Transactions (denominated in USD) the Clearing Member has entered into after it has received the GC Pooling USD Cash Margin Contribution notice.
- (2) In order to hedge the effects of the GC Pooling Repo Transactions terminated under application of Paragraph (1), Eurex Clearing AG may in its equitable discretion (*billiges Ermessen*) enter into transactions that are – taken as a whole – equivalent to the terminated transactions by entering into independent trades or by holding one

or more auctions. The Clearing Member that has not complied with an applicable GC Pooling USD Cash Margin Contribution requirement shall bear the costs of such replacement transactions, unless it is not responsible for its non-compliance.

### **Part 3 Special Conditions regarding the Clearing of GC Pooling Repo Transactions with holders of a Specific Repo License and corresponding GC Pooling Repo Transactions with Clearing Members**

With regard to the Clearing of GC Pooling Repo Transactions involving holders of a Specific Repo License and corresponding GC Pooling Repo Transactions with Clearing Members, the provisions of Parts 1 and 2 shall apply unless hereinafter otherwise provided for. If, in this Part 3, reference is made to GC Pooling Repo Transactions or to Original GC Pooling Repo Transactions, such reference is always to be interpreted as a reference to GC Pooling Repo Transactions involving holders of a Specific Repo License.

#### **3.1 Specific Repo License**

- (1) Eurex Clearing AG offers a Specific Repo License in accordance with this Number 3.1 (“**Specific Repo License**”). Eurex Clearing AG will grant the Specific Repo License upon written application.
- (2) The Specific Repo License entitles the holder of such License to clear Own Transactions
  - (i) as the buyer within the purchase agreement and the seller within the re-purchase agreement (“**Cash Provider**”) and,
  - (ii) to the extent that the Novationcriteria for a Cash Taker Transaction pursuant to Number 3.2.2 Paragraph (4) are complied with in each case, as the seller within the purchase agreement and the buyer within the re-purchase agreement (“**Cash Taker**”).

Related GC Pooling Repo Transactions are included in the Clearing by way of novation subject to and pursuant to Number 3.2.

- (3) Eurex Clearing AG will enter into a Clearing Agreement with the holder of a Specific Repo Licence in the form appended hereto as Appendix 5.
- (4) Unless otherwise provided for and subject to further exemptions set out in this Number 3.1, references in these Clearing Conditions to “**Clearing Member**” shall – if a Specific Repo License has been granted – include the holder of a Specific Repo License.
- (5) The prerequisites to be fulfilled for the granting of the Specific Repo License are the following:
  - a) The applicant is a company;
  - b) the applicant has obtained any approvals required for the conduct of GC Pooling Repo Transactions;

- c) if the Specific Repo License is granted that includes the Clearing of GC Pooling Repo Transactions which qualify as Eurex Repo Transactions: admission for participation in trading on Eurex Repo GmbH as a Select Enterprise in relation to GC Pooling Repo Select;
- d) if the applicant is a non-financial counterparty as defined in Art. 3 (4) Regulation (EU) 2015/2365 on transparency of securities financing transactions (“**SFTR**”) (or any successor or replacement regulation thereto), the applicant’s balance sheet dates shall exceed the limits of at least two of the three criteria laid down in Art. 3 (3) of Directive 2013/34/EU on the annual financial statements (or any successor or replacement regulation thereto);
- e) the applicant has access to Eurex Clearing AG's Common Report Engine;
- f) the applicant has provided evidence of an own participation authorisation regarding the Collateral Management System Xemac of Clearstream Banking AG (“**Xemac**”) including the possibility of participation in the international Collateral Management;
- g) the applicant has
  - (i) a cash account with Clearstream Banking AG in the name of the applicant, pursuant to Chapter I Part 1 Number 2.1.2 Paragraph (4) (b) (aa) or
  - (ii) a dedicated cash account of the applicant with Clearstream Banking S.A. for the settlement of GC Pooling Repo Transactions;
- h) the applicant has securities settlement accounts pursuant to Chapter I Part 1 Number 2.1.2 Paragraph (4) (a) (gg);
- i) the applicant has provided evidence of the applicant having granted an appropriate power of attorney and authorisation to Clearstream Banking AG or Clearstream Banking S.A. for all declarations, actions, deliveries and payments in connection with the fulfilment of the delivery and payment obligations pursuant to this Part 3, in particular with regard to the notification of the statements of account regarding the cash account pursuant to Item (g), such evidence having to be provided by Clearstream Banking AG or Clearstream Banking S.A. in the name of the holder of the Specific Repo License.
- j) to the extent Eurex Clearing AG raises fees for the Clearing of GC Pooling Repo Transactions, the applicant undertakes to allow Eurex Clearing AG to collect the fees from an account to be specified by the applicant.
- k) Eurex Clearing AG may require the applicant to submit a legal opinion by a leading legal counsel recognised by Eurex Clearing AG, such legal opinion having been produced at the cost of the applicant and providing proof for the legal effectiveness and enforceability of the Clearing Conditions within the relevant legal system in accordance with the requirements set by Eurex Clearing AG for each individual case.



- l) The granting of a Specific Repo License requires that Eurex Clearing AG has obtained all licenses and approvals that are required for the provision of Clearing towards the applicant in the relevant jurisdiction.

The prerequisites for a Clearing License pursuant to Chapter IV Part 1 Number 1.1.2 do not apply.

- (6) The following provisions are not applicable to holders of a Specific Repo License:
- a) Chapter I Part 1 Number 2.1.4. Furthermore, all GC Pooling Repo Transactions of the holder of a Specific Repo License shall not be subject to a separate master agreement (*Rahmenvertrag*) and shall be treated legally independent from one another;
  - b) Chapter I Part 2 Subpart D, Part 3, 4, 5 and 6;
  - c) the Termination provisions and consequences pursuant to Chapter I Part 1 Number 7 and Chapter I Part 2 Subpart A Number 6 and Subpart C Number 8, as well as a close-out with respect to Eurex Clearing AG pursuant to Chapter I Part 1 Number 9;
  - d) the obligation to have available own funds in accordance with Chapter I Part 1 Number 2.1.2 Paragraph (3);
  - e) the Margin Requirement pursuant to Chapter IV Part 1 Number 1.2 together with Chapter I Part 1 Number 3 and Chapter I Part 2 Subpart A Number 4, Subpart B Number 5 and Subpart C Number 6;
  - f) the Default Fund contribution requirement pursuant to Chapter I Part 1 Number 6;
  - g) the requirement to use a qualified clearing staff member in accordance with Chapter I Part 1 Number 2.1.2 Paragraph (5) (c).

## **3.2 Conclusion of Transactions by way of Novation**

GC Pooling Repo Transactions of Eurex Clearing AG concluded with the holder of a Specific Repo License as well as corresponding GC Pooling Repo Transactions of Eurex Clearing AG with the relevant Clearing Member, are each concluded by way of novation subject to, and in accordance with, the following provisions.

### **3.2.1 Novation**

- (1) Whenever the relevant holder of a Specific Repo License and the Clearing Member or, as the case may be, the relevant DC Market Participant or Indirect Client Market Participant (acting on behalf of the Clearing Member in accordance with Number 1.1.8 (in case of an Indirect Client Market Participant applied *mutatis mutandis* pursuant to Number 1.1.13) of the General Clearing Provisions) transmits via a multilateral trading facility a GC Pooling Repo Transaction pursuant to

Number 3.2.2 Paragraph (1) to Eurex Clearing AG (“**Original GC Pooling Repo Transaction**”) and whenever Eurex Clearing AG accepts such Original GC Pooling Repo Transaction pursuant to this Number 3.2 for inclusion in the Clearing, Eurex Clearing AG will interpose itself by way of novation as central counterparty and the Original GC Pooling Repo Transaction shall – pursuant to this Chapter IV – be cancelled and replaced by two related GC Pooling Repo Transactions

- a) between Eurex Clearing AG and the relevant holder of a Specific Repo License and
- b) between Eurex Clearing AG and the relevant Clearing Member.

Unless expressly set out otherwise herein, the parties to the Original GC Pooling Repo Transaction shall be released from their obligations to each other under such Original GC Pooling Repo Transaction on the Novation Time as defined in Paragraph (2).

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

Chapter I Part I Number 1.2.2 Paragraph (6) applies mutatis mutandis.

- (2) Following the conclusion of GC Pooling Repo Transactions by way of novation pursuant to Paragraph (1), Eurex Clearing AG will on the same Business Day send corresponding confirmations to the holders of a Specific Repo License and the Clearing Members and the DC Market Participants, if any. The actual time of conclusion of a GC Pooling Repo Transaction by way of novation is referred to in this Chapter IV as the “**Novation Time**”.

### **3.2.2 Novation Principles and Criteria**

- (1) Original GC Pooling Repo Transactions have to be transmitted to Eurex Clearing AG in a standardised form via an approved multilateral trading facility.

Eurex Clearing AG makes no representation, whether expressed or implied, as to the complete and timely performance of the duties and obligations of the respective multilateral trading facility vis-à-vis the holders of a Specific Repo License, the Clearing Members, the DC Market Participants or Indirect Client Market Participants. Eurex Clearing AG assumes no liability to the holders of a Specific Repo License, the Clearing Members, the DC Market Participants or Indirect Client Market Participants for any act or failure to act by the respective multilateral trading facility vis-à-vis the holders of a Specific Repo License, the Clearing Members, the DC Market Participants or Indirect Client Market Participants in connection with any information or notices received by Eurex Clearing AG or given to the holders of a Specific Repo License, the Clearing Members, the DC Market Participants or Indirect Client Market Participants via the respective multilateral trading facility, as the case may be.

- (2) Eurex Clearing AG shall validate any information regarding the Original GC Pooling Repo Transactions transmitted to it via a multilateral trading facility on or after the Start Date of the respective Repo Transactions.
- (3) With regard to GC Pooling Repo Transactions in which the holder of the Specific Repo License is the Cash Provider ("**Cash Provider Transaction**"), the inclusion of an Original GC Pooling Repo Transactions in the Clearing and the establishment of Transactions pursuant Number 3.2.1 Paragraph (1) require the holder of a Specific Repo License to have previously paid into the cash account pursuant to Number 3.1 Paragraph (5) Item f) managed by Clearstream Banking AG or Clearstream Banking S.A. for the holder of the Specific Repo License the purchase price owed from the Front Leg and Clearstream Banking AG or Clearstream Banking S.A. to have confirmed to Eurex Clearing AG receipt of such payment. If receipt of payment is confirmed until a certain point in time with regard to a Business Day as specified by Eurex Clearing AG, novation shall take place on the same Business Day provided that Eurex Clearing AG does not refuse the inclusion of the Original GC Pooling Repo Transaction in the Clearing for other reasons. If receipt of payment and its confirmation occur on such Business Day, however, after such certain point in time specified by Eurex Clearing AG, novation shall not take place on such Business Day and Clearstream Banking AG or Clearstream Banking S.A. shall, on such Business Day, return the payment received to the holder of the Specific Repo License. Novation of the Original GC Pooling Repo Transaction may be carried out in corresponding application of this Paragraph (3) on any following Business Day until and excluding the day which had been agreed on for fulfilment of the Term Leg (the "**End Date**").
- (4) With regard to GC Pooling Repo Transactions in which the holder of the Specific Repo License is the Cash Taker ("**Cash Taker Transaction**"), the inclusion of an Original GC Pooling Repo Transaction in the Clearing and the establishment of Transactions pursuant to Number 3.2.1 Paragraph (1) is subject to satisfaction of the Novation criteria for a Cash Taker Transaction.

The "**Novationcriteria for a Cash Taker Transaction**" shall be satisfied upon the determination by Eurex AG that

- a) the End Date of the relevant Cash Taker Transaction corresponds to the End Date of a Cash Provider Transaction of the relevant holder of a Specific Repo License, such Cash Provider Transaction having already been included in the Clearing,
- b) the Nominal Size (*Nominalwert*) of the relevant Cash Taker Transaction does not exceed the relevant Maximum Cash Taker Nominal Size and
- c) the Settlement Amount of the relevant Cash Taker Transaction does not exceed the relevant Maximum Cash Taker Settlement Amount.

In this regard, the following shall apply:

**“Maximum Cash Taker Nominal Size”** (*“Maximaler Cash Taker Nominalwert”*) specifies the – in view of an inclusion in the Clearing – maximum permissible Nominal Size of a Cash Taker Transaction, such amount being determined by Eurex Clearing AG in each individual case as:

- a) the sum of the Nominal Sizes of all Cash Provider Transactions – such Cash Provider Transactions having already been included in the Clearing – of the relevant holder of a Specific Repo License with the same End Date as the relevant Cash Taker Transaction, minus
- b) the sum of the Nominal Sizes of all Cash Taker Transactions – such Cash Taker Transactions having already been included in the Clearing – of the relevant holder of a Specific Repo License with the same End Date as the relevant Cash Taker Transaction.

**“Maximum Cash Taker Settlement Amount”** (*“Maximaler Cash Taker Settlement Betrag”*) specifies the – in view of an inclusion in the Clearing – maximum permissible Settlement Amount of a Cash Taker Transaction, such amount being determined by Eurex Clearing AG in each individual case as:

- a) the sum of the Settlement Amounts of all Cash Provider Transactions – such Cash Provider Transactions having already been included in the Clearing – of the relevant holder of a Specific Repo License with the same End Date as the relevant Cash Taker Transaction, minus
- b) the sum of the Settlement Amounts of all Cash Taker Transactions – such Cash Taker Transactions having already been included in the Clearing – of the relevant holder of a Specific Repo License with the same End Date as the relevant Cash Taker Transaction.

**“Settlement Amount”**, in relation to a GC Pooling Repo Transaction, means an amount equal to the re-purchase price plus (to the extent not already comprised therein) the Repo interest with respect to relevant GC Pooling Repo Transaction.

If Eurex Clearing AG determines that the Novationcriteria for a Cash Taker Transaction have been satisfied on a Business Day until the point in time specified by Eurex Clearing AG, novation in the relevant Cash Taker Transaction shall be carried out on such Business Day provided that Eurex Clearing AG does not refuse inclusion in the Clearing for other reasons.

If Eurex Clearing AG determines that the Novationcriteria for a Cash Taker Transaction have not or not in due time been complied with on a Business Day until the point in time specified by Eurex Clearing AG, novation in the relevant Cash Taker Transaction shall not be carried out on such Business Day. Eurex Clearing AG will notify the respective multilateral trading facility accordingly by electronic means on such Business Day.

Novation of the Original GC Pooling Repo Transaction may be carried out in corresponding application of this Paragraph (4) on any following Business Day until and excluding the agreed End Date of the Original GC Pooling Repo Transaction.

- (5) Eurex Clearing AG may reject the inclusion of Original GC Pooling Repo Transactions in the Clearing – even though the requirements of the Paragraphs (3) or (4) respectively have been complied with particularly if the following conditions have not been complied with:
- a) the Original GC Pooling Repo Transaction is entered into the system of Eurex Clearing AG pursuant Number 3.2.2 Paragraph (1) via a multilateral trading facility and complies with the requirements of the contractual framework of the respective multilateral trading facility (including, in particular, if the transaction is entered via Eurex Repo GmbH, the Terms and Conditions for Participation and Trading on Eurex Repo GmbH);
  - b) counterparty to a novated GC Pooling Repo Transaction (other than Eurex Clearing AG) are a holder of a Specific Repo License and a Clearing Member of Eurex Clearing AG; in case of DC-Related Transactions of a Clearing Member, the novated GC Pooling Repo Transaction relates to a DC Market Participant of the relevant Clearing Member;
  - c) the Clearing License of the relevant Clearing Member and the Specific Repo License of the relevant holder of a Specific Repo License are not suspended or restricted;
  - d) a Termination Date has not occurred with respect to the relevant Clearing Member or the relevant holder of a Specific Repo License, and no Termination of a GC Pooling Repo Transaction with the holder of a Specific Repo License pursuant to Number 3.5 has occurred and there exists no circumstance entitling Eurex Clearing AG pursuant to Number 3.5 to a termination of such Transaction;
- (6) Original GC Pooling Repo Transactions shall be novated with the content relevant in accordance with the contractual framework of the respective multilateral trading facility and on the basis of the information which Eurex Clearing AG has received via the respective multilateral trading facility from the relevant holder of a Specific Repo License and the Clearing Member or the relevant DC Market Participant or Indirect Client Market Participants (acting on behalf of the Clearing Member in accordance with Number 1.1.8 (in case of an Indirect Client Market Participant applied *mutatis mutandis* pursuant to Number 1.1.13) of the General Clearing Provisions), if any.

### 3.3 Fulfilment of Obligations regarding Delivery and Payment

- (1) With regard to the procedures for delivery and payment resulting from GC Pooling Repo Transactions involving holders of a Specific Repo License, Part 2 Number 2.2 and 2.4 shall apply with the provision that payments of the purchase price are settled via the cash account pursuant to Number 3.1 Paragraph (5) Item f) managed by

Clearstream Banking AG or Clearstream Banking S.A. for the holder of the Specific Repo License and that the delivery of the securities to be transferred is settled via the securities settlement account pursuant to Number 3.1 Paragraph (5) Item g) managed by Clearstream Banking AG or Clearstream Banking S.A. for the holder of the Specific Repo License.

- (2) The holder of a Specific Repo License is obliged to (i) instruct Clearstream Banking AG or Clearstream Banking S.A. to honour any debit instructions (*Lastschriften*) from its cash account pursuant to Number 3.1 Paragraph (5) Item f) (including any debit instructions with respect to any fees raised by Eurex Clearing AG) and to (ii) authorise Eurex Clearing AG, by providing the appropriate power of attorney, to give, release and transmit all delivery instructions in its name vis-à-vis Clearstream Banking AG or Clearstream Banking S.A. and to supplement, change or cancel delivery instructions necessary for the timely and correct delivery or payment.
- (3) The powers of attorney and debit instructions provided pursuant to this Number 3.3 may not be revoked by the holder of a Specific Repo License until its Clearing License has been terminated. Any such revocation shall result in the immediate termination of the Clearing License.

#### **3.4 Pledges regarding the Securities delivered to the holder of a Specific Repo License**

- (1) To the extent a securities account managed for it by Clearstream Banking AG has been or will be notified to Eurex Clearing AG as account for the settlement of GC Pooling Repo Transactions, the holder of a Specific Repo License by entering into the Clearing Agreement pledges to Eurex Clearing AG all securities and book-entry securities (*Gutschriften in Wertpapierrechnung*) (in this Part 3 jointly referred to as "**Securities**") which are at present or will in the future be deposited in such securities account and assigns to Eurex Clearing AG its claims vis-à-vis Clearstream Banking AG for surrender of such securities.

The holder of a Specific Repo License affirms that it is the owner of the pledged Securities or otherwise entitled or authorised to pledge the Securities to Eurex Clearing AG and that such Securities are free from equally-ranking or prior ranking third-party rights. The holder of a Specific Repo License shall, for the period of time in which the Securities are pledged, not allow such rights to arise without the consent of Eurex Clearing AG.

Upon maturity of the pledge, Eurex Clearing AG may sell the pledged Securities in the open market without prior warning or may appropriate such Securities in whole or in part. The appropriation right expires upon it being exercised by Eurex Clearing AG or upon the sale of the pledged Securities.

- (2) The holder of a Specific Repo License immediately notifies Clearstream Banking AG of the conclusion of such pledge and assignment agreement.

- (3) The security purpose (*Sicherungszweck*) of the pledges pursuant to Paragraph (1) is to secure all claims arising from all GC Pooling Repo Transactions of the holder of a Specific Repo License and all other claims of Eurex Clearing AG against the holder of a Specific Repo License arising under the Clearing Agreement between Eurex Clearing AG and the holder of a Specific Repo License.
- (4) In case Eurex Clearing AG becomes the creditor of a compensation claim against the holder of a Specific Repo License pursuant to Number 3.5.4, Eurex Clearing AG shall be entitled to realise the pledges created pursuant to Paragraph (1) to Paragraph (3) by the affected holder of a Specific Repo License.
- (5) The release of any right of pledge over securities granted to Eurex Clearing AG pursuant to Paragraph (1) to Paragraph (3) shall occur in connection with the delivery instructions by Eurex Clearing AG regarding existing delivery obligations on the basis of the securities selected by Xemac pursuant to the SB Xemac and additional contracts for the international Collateral Management in their current version.
- (6) To the extent a securities account managed for it by Clearstream Banking S.A. has been or will be notified to Eurex Clearing AG as account for the settlement of GC Pooling Repo Transactions, the holder of a Specific Repo License shall be obliged to (i) pledge to Eurex Clearing AG all Securities which are at present or will in the future be deposited in such securities account pursuant to a pledge agreement to be separately entered into and (ii) to issue all relevant notices to and take all relevant measures necessary or expedient for the perfection of such pledge. The pledge agreement shall be entered into substantially in the form as will be provided by Eurex Clearing AG.

### 3.5 Termination of GC Pooling Repo Transactions

GC Pooling Repo Transactions shall end with the legal consequences pursuant to Number 3.5.3 if Eurex Clearing AG terminates by notice such Transactions pursuant to Number 3.5.1 or if such Transactions are automatically terminated pursuant to Number 3.5.2. The legal consequences for an insolvency event with regard to the holder of a Specific Repo License are described in Number 3.5.4.

#### 3.5.1 Termination by notice of GC Pooling Repo Transactions

- (1) Eurex Clearing AG shall be entitled to terminate by notice, with the legal consequences as described in Number 3.5.3, individual or all GC Pooling Repo Transactions with holders of a Specific Repo License prior to the obligations arising from the **Term Leg** becoming due and payable if, with regard to the holder of a Specific Repo License, a circumstance comes into existence which constitutes a Termination Event (*Beendigungsgrund*) pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (2) to Paragraph (4) or Paragraph (6) to Paragraph (11).
- (2) Whenever Eurex Clearing AG is entitled to terminate by notice GC Pooling Repo Transactions pursuant to Paragraph (1), it may – without prior warning – terminate

by notice individual or all Transactions or notify the relevant holder of the Specific Repo License of the existence of such reason to terminate by notice and grant a grace period, which may be extended, to remedy the relevant reason for a termination by notice. Upon granting of a grace period, Eurex Clearing AG shall be entitled to terminate by notice individual or all GC Pooling Repo Transactions if the reason for a termination by notice is not completely remedied by the holder of the Specific Repo License within the grace period.

### **3.5.2 Automatic termination of GC Pooling Repo Transactions**

If, at any time, a circumstance comes into existence with regard to the holder of a Specific Repo License which constitutes a Termination Event (*Beendigungsgrund*) pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (5), an automatic termination of the GC Pooling Repo Transactions concluded between Eurex Clearing AG and the relevant holder of a Special Repo License shall take immediate effect with the legal consequences as described in Number 3.5.3, without the requirement of a termination by notice pursuant to Number 3.5.1.

### **3.5.3 Legal consequences from termination by notice or automatic termination**

If Eurex Clearing AG terminates by notice GC Pooling Repo Transactions with the holders of a Special Repo License pursuant to Number 3.5.1 or if such Transactions are subject to automatic termination pursuant to Number 3.5.2, the Term Leg shall be put forward to the earlier Business Day on which the termination by notice takes effect or the automatic termination of GC Pooling Repo Transactions occurs, and the obligations of the holder of the Specific Repo License and of Eurex Clearing AG arising from the relevant GC Pooling Repo Transactions shall become immediately due upon such termination by notice or automatic termination. The holder of a Specific Repo License must indemnify Eurex Clearing AG against any and all damages resulting from the premature payment date of the Term Leg and release Eurex Clearing AG from any and all damages claims by third parties, in particular by Clearing Members with which Eurex Clearing AG has concluded corresponding GC Pooling Repo Transactions.

### **3.5.4 Occurrence of an Insolvency Event with regard to a holder of a Specific Repo License**

- (1) Whenever insolvency proceedings are opened over the assets of the holder of a Specific Repo License, all current and future primary obligations (including payment and delivery obligations) arising from any GC Pooling Repo Transactions between Eurex Clearing AG and the relevant holder of a Specific Repo License, which have not been terminated by notice pursuant to Number 3.5.1 or automatically terminated pursuant to Number 3.5.2, shall expire (*auflösende Bedingung*) upon opening of such proceedings and shall no longer be required to be performed by the relevant debtor. The expiration of claims affects all claims arising from the relevant GC Pooling Repo Transaction independently of the time they came into existence or would have come into existence otherwise.



- (2) Any damages claimed by Eurex Clearing AG or the affected holder of a Specific Repo License in relation to individual GC Pooling Repo Transactions shall become unconditional and immediately due in EUR from one party to the respective Transaction's other party as of the end of the Valuation Date (as defined in Paragraph (3) Item a) and shall each be determined pursuant to Paragraph (3) with regard to their amount in relation to the affected GC Pooling Repo Transactions.
- (3) Damages claims pursuant to Paragraph (2) shall be determined by Eurex Clearing AG in accordance with the following provisions:
  - a) Valuation Date shall be the day of the opening of the proceedings pursuant to Paragraph (1) provided that the opening of the proceedings occurs earlier than 17:23 (local time, Frankfurt/Main) or, if the opening of the proceedings occurs later than such point in time, the Business Day immediately succeeding the day of the opening of the proceedings.
  - b) The value of the damages claim for each GC Pooling Repo Transaction shall be determined pursuant to the provisions regarding the calculation of the Single Transaction Amount in Chapter I Part 1 Number 7.3.2.
- (4) Eurex Clearing AG shall notify the value of the damages claim determined by it according to Paragraph (2) to the affected holder of a Specific Repo License as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.
- (5) The debtor of the damages claims pursuant to Paragraph (2) must pay the amount determined to the other party as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Paragraph (4). The debtor of the damages claim shall not be obliged to pay any interest on the amount of the damages 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 for EUR.

### **3.5.5 Information Undertakings of the holder of a Specific Repo License**

- (1) The holder of a Specific Repo License shall immediately notify Eurex Clearing AG of any circumstances entitling Eurex Clearing AG to a termination by notice of GC Pooling Repo Transactions pursuant to Number 3.5.1, as well as on any termination events pursuant to Number 3.5.2 and insolvency events pursuant to Number 3.5.4 in relation to the holder of a Specific Repo License. To the extent the holder of a Specific Repo License, with regard to such circumstances or events, is subject to a statutory obligation to publicise, in particular an obligation to ad hoc publicity pursuant to Regulation (EU) No 596/2014, such notification pursuant to Clause 1 must be carried out immediately after having complied with the statutory obligation to publicise.
- (2) If the holder of a Specific Repo License culpably does not comply at all or in due time with its information undertakings pursuant to Paragraph (1),

- a) it must indemnify Eurex Clearing AG against any and all damages resulting thereof and release Eurex Clearing AG from any and all damages claims by third parties, in particular by Clearing Members with which Eurex Clearing AG has concluded corresponding GC Pooling Repo Transactions,
  - b) and any and all damages claims by the holder of the Specific Repo License vis-à-vis Eurex Clearing AG due to fulfilment of the Term Leg of the relevant GC Pooling Repo Transaction occurring after the point in time determined pursuant to Number 3.5.3 shall be excluded.
- (3) The holder of a Specific Repo License shall check without undue delay all reports and other communications from Eurex Clearing AG received via the respective multilateral trading facility (if any). The holder of a Specific Repo License shall inform Eurex Clearing AG without undue delay of any errors or omissions that become apparent from such checks.

### **3.6 Failure to Fulfil**

#### **3.6.1 Failure to Fulfil by the delivery day of the Front Leg**

- (1) In the event that an Original GC Pooling Repo Transaction is included in the Clearing by way of novation only after the agreed delivery day of the Front Leg – this being in particular due to the prerequisites pursuant to Number 3.2.2. Paragraph (3) to Paragraph (5) not having been complied with at all or in due time on the agreed delivery day of the Front Leg –
  - (a) in case of a Cash Provider Transaction, the Clearing Member with which Eurex Clearing AG has concluded a corresponding GC Pooling Repo Transaction as a result of novation, or
  - (b) in case of a Cash Taker Transaction, the holder of a Specific Repo License respectively, has to pay to Eurex Clearing AG on the delivery day of the Term Leg the unreduced Repo interest for the entire period since the agreed delivery day of the Front Leg in full. Eurex Clearing will distribute such Repo interest to the Cash Provider of the corresponding GC Pooling Repo Transaction.
- (2) Other claims arising between the parties to the Original GC Pooling Repo Transaction from or in connection with a novation taking place after the agreed delivery date of the Front Leg, must be compensated bilaterally and are not subject matter of the legal transactions coming into existence with Eurex Clearing AG pursuant to Number 3.2.1 Paragraph (1) as a result of such novation.
- (3) The rights of Eurex Clearing AG pursuant to Part 2 Number 2.6 shall remain unaffected.

#### **3.6.2 Failure to deliver by the delivery day of the Term Leg**

- (1) In the event that the holder of a Specific Repo License which is obliged to deliver fails to deliver the underlying securities of the relevant Cash Provider Transaction

on the delivery day of the Term Leg of the Cash Provider Transaction and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled to appropriate or realise the securities pledged to it pursuant to Number 3.4 in accordance with the provision contained in the Clearing Agreement concluded with the holder of the Specific Repo License.

- (2) The rights of Eurex Clearing AG pursuant to Part 2 Number 2.6 shall remain unaffected.

### **3.7 Limitation and Suspension of Clearing**

Eurex Clearing AG may – if a reason to terminate by notice pursuant to Number 3.5.1, a Termination Event pursuant to Number 3.5.2 or an insolvency event according to Number 3.5.4 occurs – suspend or restrict the Clearing of GC Pooling Repo Transactions with the affected holder of a Specific Repo License; in particular, Eurex Clearing AG may one or more times suspend or restrict the novation of new GC Pooling Repo Transactions pursuant to Number 3.2 under the Clearing Agreement between Eurex Clearing AG and such holder of a Specific Repo License. Eurex Clearing AG shall notify the respective multilateral trading facility and the holder of a Specific Repo License of the decision to suspend or restrict the Clearing. Eurex Clearing AG shall specify, in the notification, a reasonable period of time during which such suspension or restriction shall apply.

### **3.8 Set Off**

Only Eurex Clearing AG may at any time set off any due or undue claims and obligations under Cash Taker Transactions and Cash Provider Transactions, provided any other applicable prerequisites for a set-off are satisfied. The Holder of a Specific Repo License may set off any claims and obligations under a Cash Taker Transactions with or against claims and obligations under Cash Provider Transactions where the claims and obligations result from a termination of the Cash Taker Transactions and Cash Provider Transactions. The right of the Holder of a Specific Repo License to set off claims which are undisputed or have been determined as legally binding remains unaffected.

### **3.9 Termination of a Clearing Agreement with a Holder of a Specific Repo License**

Each party to a Clearing Agreement with a holder of a Specific Repo License may terminate this Agreement at any time by giving not less than 30 calendar days' prior notice to the respective other party provided that such Clearing Agreement will remain applicable on the effective date of the termination notice and thereafter if and as long as any GC Pooling Repo Transactions entered into under such Clearing Agreement is outstanding and has not been redeemed or otherwise finally settled.

The right to terminate a Clearing Agreement with a holder of a Specific Repo License for serious cause (*aus wichtigem Grund*) shall remain unaffected.