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## Chapter I General Provisions

### Part 1 General Rules

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#### 1.2 Conclusion of Transactions, Assignment of Securities and Rights

##### 1.2.1 Conclusion of Transactions

(1) The transactions resulting from the matching of orders and quotes ("Matching") of the Clearing Member in the systems of the Markets whose clearing is carried out by Eurex Clearing AG according to the following Chapters, shall only be concluded between Eurex Clearing AG and a Clearing Member. These transactions of the Clearing Member ("CM Transactions") shall be booked on accounts for CM Transactions kept by Eurex Clearing AG for the Clearing Member pursuant to Chapter I Number 4.1.

(2) If a Trading Participant of a Market pursuant to Paragraph 1 is not itself authorised to engage in Clearing activities (a "Non-Clearing Member"), its transactions may only be effected through the General Clearing Member (Number 1.7 Paragraph 1) or an affiliated Direct Clearing Member (Number 1.7 Paragraph 2) through which its respective transactions are settled.

Whenever an order or quote entered into the systems of the Markets pursuant to Paragraph 1 by a Non-Clearing Member is matched with another order or quote, a transaction takes place between such Non-Clearing Member and the General Clearing Member or the Direct Clearing Member, and a corresponding transaction simultaneously takes place between the General Clearing Member or the Direct Clearing Member and Eurex Clearing AG. These transactions of the Clearing Member with Eurex Clearing AG ("NCM Transactions") shall be booked on accounts kept separately by Eurex Clearing AG for the Clearing Member for NCM Transactions pursuant to Chapter I Number 4.1.

(3) Insofar as Eurex Clearing AG cooperates with any other Clearing House (the "Link Clearing House") on the basis of a Special Clearing License to effect clearing and on the basis of a Clearing Link Agreement, corresponding transactions with identical parameters may also be effected between Eurex Clearing AG and the associated Special Clearing Member and further transactions between the associated Special Clearing Member and its Clearing Members in addition to the transactions presented in accordance with Paragraph 2.

Whenever an order or quote entered into the trading system of a market named in the following Chapters or in the trading system of a market not being named in these Clearing Conditions, by a Non-Clearing Member of the Link Clearing House is matched with another order or quote on basis of a Clearing-Link Agreement pursuant to Clause 1, the following transactions with identical parameters are enacted in addition to the transaction between the Non-Clearing Member and the Clearing Member of the Link Clearing House:

§ a transaction between the Clearing Member of the Link Clearing House and the Link Clearing House as a Special Clearing Member and

- § a transaction between the Link Clearing House as Special Clearing Member and Eurex Clearing AG and
- § a transaction between Eurex Clearing AG and its Clearing Member
- § as well as, where applicable, a transaction between the General or Direct Clearing Member and the Non-Clearing Member.

(4) In case a clearing license is terminated pursuant to Number 2.4 Paragraph 2 item c and, as a result, all mutual payment and delivery obligations resulting from transactions not yet completely settled ("Non-Performed Transactions") between the respective General- or Direct Clearing Member ("Concerned Clearing Member") and Eurex Clearing AG expire automatically (Chapter I Number 2.4 Paragraph 7), Eurex Clearing AG is – from the business day of the automatic expiry of these mutual performance claims – entitled to carry out one or more transactions at the respective market at which the Non-Performed Transactions have originally been concluded, in order to guarantee an orderly clearing and risk minimisation. Eurex Clearing AG may also conclude transactions within the meaning of Clause 1 off-exchange. These transactions shall be concluded by Eurex Clearing AG at its own dutiful discretion in order to guarantee an orderly clearing and risk elimination.

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## Part 2

### Clearing License

#### 2.1 Granting of Clearing Licenses

- (1) In order to participate in Clearing
  - a) in respect of transactions of Futures contracts and Options contracts carried out at Eurex Deutschland and Eurex Zürich pursuant to Chapter II ("Eurex Contracts"), including Eurex Contracts concluded off-exchange and Eurex Contracts concluded off-exchange whose specifications deviate from the Contract Specifications of Eurex Contracts according to Eurex Clearing AG ("Eurex OTC Transactions");
  - b) in respect of transactions of securities at Eurex Bonds GmbH ("Eurex Bonds") pursuant to Chapter III;
  - c) in respect of transactions of securities at Eurex Repo GmbH ("Eurex Repo") pursuant to Chapter IV;
  - d) in respect of transactions of securities at Frankfurter Wertpapierbörse ("FWB") pursuant to Chapter V;
  - e) in respect of transactions of securities at Irish Stock Exchange ("ISE") pursuant to Chapter VI;

Eurex Clearing AG may grant one License each upon written application.

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## 2.4 Termination and Suspension of Clearing Licenses

- (1) Each Clearing Member may terminate its Clearing License in writing; no reasons need be given. In this case, t~~The~~ termination shall take effect only after all transactions or positions for which the respective Clearing Member is responsible have been closed or transferred to another Clearing Member and all outstanding delivery and payment obligations of the respective Clearing Member have been fulfilled.
- (2) ~~Eurex Clearing AG may terminate a~~ General or Direct Clearing License
- a) shall be terminated by Eurex Clearing AG
- in the event that the prerequisites for licensing have not been met, above all if the Clearing License has been granted on the basis of incorrect or incomplete information of the Clearing Member; or
  - in the event the prerequisites for licensing have subsequently ceased to exist; or
  - in the event a Clearing Member violates essential clearing conditions or, despite receiving warning notice, has repeatedly violated the clearing conditions; lack of fault of the Clearing Member is of no significance in this respect; or
- b) ~~in the event the prerequisites for licensing have subsequently ceased to exist; or~~
- c) ~~in the event a Clearing Member violates essential clearing conditions or, despite receiving warning notice, has repeatedly violated the clearing conditions; lack of fault of the Clearing Member is of no significance in this respect; or~~
- b) may be terminated by Eurex Clearing AG if the Concerned Clearing Member objects to an amendment of the Clearing Conditions pursuant to Number 1.10 Paragraph 1; or
- d) may be terminated by Eurex Clearing AG with immediate effect, if Eurex has gained notice of the fact that in the event measures are taken against the Clearing Member have been ordered pursuant to §§ 45 et seq. of the KWG or insolvency proceedings have been filed initiated and that, in addition, the Concerned Clearing Member does not fulfil in whole or in part its obligations resulting from the clearing of its transactions or other obligations existing pursuant to these conditions vis-à-vis Eurex Clearing AG. Respective measures and proceedings under the law of the country in which the Clearing Member is domiciled shall be considered equivalent to the measures pursuant to §§ 45 et seq. of the KWG and the application initiation of insolvency proceedings. Insolvency proceedings shall be deemed initiated if an application or – provided such application is not required – a measure which may lead to such proceedings is presented, submitted or taken at respectively by a court, a public authority, a company body or a person with respective authority. In this event, Paragraph 3 shall not apply.

d) shall expire if insolvency proceedings regarding the assets of a Clearing Member have been opened pursuant to the Insolvency Code (dated 5 October 1994; BGBl. I S. 2866); (hereinafter "InsO"). The opening of insolvency proceedings pursuant to InsO is comparable to respective measures and proceedings pursuant to the laws of the state of the Clearing Member's registered offices.

For this event, it shall be agreed pursuant to § 104 Paragraph 3 InsO, that the claims arising from non-performance of transactions of the Clearing Member shall aim at the difference between the respectively agreed price and the market- or Exchange price of these transactions which is relevant for transactions with the agreed performance time at a market named in one of the Chapters II et seq. on the day of opening of insolvency proceedings.

For determination of the claims resulting from non-performance ("Final Unilateral Difference Claim"), the regulations in Chapter I Number 6.2 et seq. and Number 8.2 et seq. apply accordingly.

~~Eurex Clearing AG may terminate a general or direct clearing license in the event a Clearing Member objects to an amendment of the clearing conditions pursuant to Number 1.10.~~

e) Eurex Clearing AG shall notify the respective Clearing Member in writing of the termination of the Clearing License, indicating the reasons therefore. The clearing conditions also apply after termination of the Clearing License with regard to the procedure, respectively closing of transactions or open positions of the relevant Clearing Member.

(3) Eurex Clearing AG shall determine the suspension of a General or Direct Clearing License if Eurex Clearing AG becomes aware of the fact that measures pursuant §§ 45 et seq. KWG have been ordered against the Clearing Member or that insolvency proceedings within the meaning of Number 2.4.2 Paragraph 2 item c have been opened. The measures pursuant to §§ 45 et seq. KWG and the opening of insolvency proceedings are comparable to respective measures and proceedings pursuant to the laws of the state of the Clearing Member's registered offices. In case of an order of suspension of a General- or Direct Clearing License, Paragraph 5 shall apply.

(34) If there is a reasonable suspicion that the requirements for a termination pursuant to Paragraph 2 Item a through ~~item c~~ have been met, Eurex Clearing AG may order the suspension of a General or Direct Clearing License for a period not in excess of six months. Eurex Clearing AG may demand from the respective Clearing Member at its own expense such information and evidence as may be necessary for purposes of an appropriate investigation. Number 2.3 Clauses 2 and 3 shall apply mutatis mutandis. The suspension of the General or Direct Clearing License may also be ordered for the duration of any default under Number 7.1 et seq.

(45) In case of termination ~~or suspension~~ of a Clearing License pursuant to Paragraph 2 item a or item b or suspension of a Clearing License pursuant to Paragraph 3 or 4, the Clearing Member concerned is not permitted to conclude new transactions or open new positions any more. At the same time, Non-Clearing Members are not permitted to conclude new transactions or open new positions through the Clearing Member concerned. All existing transactions or positions of such Clearing Member must be closed by conclusion of an inverse transaction (the "Closing") or transferred by the respective General or Direct Clearing Member to another Clearing Member in accordance with Eurex Clearing AG. A General or Direct Clearing Member may, within the scope of closing of all existing transactions or positions, use one or more trading participants of the respective market. A General or Direct Clearing Member shall promptly notify all Non-Clearing Members for whom it is acting to allow them to transfer their transactions or positions to another General Clearing Member or another affiliated Direct Clearing Member. Eurex Clearing AG shall supervise the closing or transfer of such open transactions or positions.

~~(5)~~ If such transactions or positions has not been closed or transferred by the respective Clearing Member within an adequate period set by Eurex Clearing AG on a case-by-case basis for this purpose and according to the instructions of Eurex Clearing AG, Eurex Clearing AG may close the transactions or positions pursuant to Number 8.1 on behalf of the respective Clearing Member.

~~(6)~~ If, in case of termination of a clearing license pursuant to Paragraph 1, Paragraph 2 item a or Paragraph 2 item b respectively in case of suspension of a clearing license pursuant to Paragraph 3 and 4, the prerequisites for a termination of a clearing license are retroactively fulfilled pursuant to Paragraph 2 item c, from this point only the provisions of Paragraph 2 item c and Paragraph 7 apply with regard to the respective clearing licenses and the transactions not yet completely settled ("Non-Performed Transactions") of the Concerned Clearing Member with Eurex Clearing AG.

~~(7)~~ In case of termination of a clearing license pursuant to Paragraph 2 item c, all mutual payment and delivery obligations between the Concerned Clearing Member and Eurex Clearing AG resulting from Non-Performed Transactions shall automatically expire without notice at the same time as the termination of the clearing license pursuant to Paragraph 2 item c Clause 1. The legal consequences therefrom shall be ruled by Number 8.2.

From this point, the Concerned Clearing Member shall no longer be authorized to enter into new transactions with Eurex Clearing AG respectively to open new positions. At the same time, the Non-Clearing Members of the Concerned Clearing Member shall no longer be authorized to enter into transactions with the Concerned Clearing Member respectively to open new positions. Therefore, Eurex Clearing AG as central counterparty is no longer obligated to enter into new transactions with the Concerned Clearing Member respectively to clear its positions which are initiated by its Non-Clearing Members.

Furthermore, all mutual payment and delivery obligations resulting from Non-Performed Transactions between the Concerned Clearing Member and its Non-Clearing Members pursuant to the NCM-CM Agreements concluded between them shall automatically expire without notice at the same time as the termination of the clearing license of the Clearing Member pursuant to Paragraph 2 item c Clause 1. Furthermore, Paragraph 2 item c shall apply accordingly to these transactions.

The Concerned Clearing Member shall immediately notify its Non-Clearing Members of the termination of its clearing licenses and of aforementioned legal consequences so that the respective preparations can be made.

- (68) The termination or suspension of a Clearing License does not affect any rights and obligations of the respective Clearing Member proceeding from any existing transactions or positions for which it has clearing responsibility.
- (79) In respect of the termination of Special Clearing Licenses by Eurex Clearing AG or the respective Link Clearing House, the provisions of the Clearing Link Agreements – which are to be concluded between both Clearing Houses – apply.

In case any measures against a Link Clearing House as Special Clearing Member have been ordered pursuant to §§ 45 et seq. KWG or insolvency proceedings have been opened or respective measures and proceedings according to the laws of the state of the Link Clearing House's registered offices have been taken or filed, the respective legal consequences as well as actual and legal actions are subject to the regulations of the Clearing Link Agreement to be concluded between the Link Clearing House and Eurex Clearing AG.

## 2.5 Non-transferability

Clearing Licenses as well as any rights, titles and obligations resulting from a Clearing License may not be assigned or transferred by way of contractual agreement.

## Part 3

### Margin and Security Interest Rights

#### 3.1 Obligation to Provide Margin

- (1) On every Exchange day (Number 1.1 Paragraph 6), each Clearing Member is required to maintain margin in the amount to be determined by Eurex Clearing AG to cover all of its obligations resulting from the transactions concluded on the markets listed in Chapters II to VI; such margin may be in cash, or in securities or book-entry securities (Wertrechte) acceptable to Eurex Clearing AG. ~~Eurex Clearing AG shall calculate the amount of margin required to be provided by each Clearing Member for the combined Principal Accounts as well as for the Agent Account of such Clearing Member at the end of each business day. Eurex Clearing AG shall calculate the amount of margin from the total sum of the obligations of the Clearing Member. The total sum of the obligations shall result from the sum of the own- and customer account for CM Transactions and of the obligations of the Clearing Member booked in the own- and customer account for NCM Transactions.~~
- (2) ~~The calculation of the margin of a Clearing Member is carried out under separation of Principal and Agent Accounts.~~ The cash and securities positions underlying each transaction shall be handled separately. Each cash position shall be determined by discounting it with the current market interest rate (calculation of cash value on the valuation date). Each securities position shall be valued after end of trading of the respective market on basis of the price usual in the market (under appropriate consideration of accrued interest).

- (3) In addition to the margin pursuant Paragraph 2, another margin (Additional Margin) shall be determined by Eurex Clearing AG, such Additional Margin considering the closing expenses of delivery obligations of the Clearing Member in securities and rights which cannot be compensated pursuant to Paragraph 2. The Additional Margin covers the change of closing expenses in the event of a disadvantageous price development in the securities and rights underlying the respective transaction for the period from the open delivery obligation resulting from the transaction until the next margin calculation.
- (4) Should the margin already provided be insufficient to provide the cover required for the next Business day, the shortfall shall be transferred by the time specified by Eurex Clearing AG on such Business day to Eurex Clearing AG's account at a branch of the Central Bank of Germany (Deutsche Bundesbank) or at the Swiss National Bank (SNB). However, margin must generally be provided prior to the commencement of trading on the markets listed in the following Chapters.
- ~~(5) The sum of all margin calculated pursuant to Paragraph 2 to 4 shall result in the total margin for one account. The margin calculated for the Principal- and Agent account for CM Transactions shall be added up. This shall apply accordingly for the Principal- and Agent account for NCM Transactions. Credit shall not be taken into account respectively. In order to determine the total provision of margin of a Clearing Member, the margin calculated for CM Transactions pursuant to Clause 2 and for NCM Transactions pursuant to Clause 3 shall be added up. Credits shall not be taken into account.~~
- ~~(56)~~ Eurex Clearing AG shall determine the method to be used for calculating the required margin and shall communicate such method to the Clearing Members.
- ~~(67)~~ Clearing Members must require their Non-Clearing Members to provide margin in an amount at least equal to that determined by the method prescribed by Eurex Clearing AG. They must disclose their calculation methods to their Non-Clearing Members on request.
- ~~(78)~~ Additional basics of the determination of margin for transactions concluded on the markets listed in the following Chapters whose clearing is carried out by Eurex Clearing AG are subject to the particular provisions valid for the respective market (Chapter II through VI).
- ~~(89)~~ The determination of margin a Link Clearing House - in the function as Special Clearing member - has to provide its Clearing Members is subject to the Clearing Link Agreement which shall be concluded separately.

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## Part 4

### Accounts of Clearing Members

#### 4.1 Types of Accounts

- (1) Eurex Clearing AG undertakes to keep accounts for the Clearing Member, on which the transactions of the Clearing Member are booked, pursuant to the following regulations. Transactions of the Clearing Member are transactions which have been accomplished as a result of the matching of orders and quotes of the Clearing Member at the respective market ("CM Transactions") and transactions which have occurred as a result of the matching of orders and quotes of a Non-Clearing Member of this Clearing Member at the respective market ("NCM Transactions"). Eurex Clearing AG shall respectively keep separate accounts for CM Transactions and NCM Transactions of the Clearing Member pursuant to Number 4.1 (2).
- (1-2) The transactions to be cleared for Clearing Members, transactions of their customers and transactions of Non-Clearing Members shall be recorded in the system of Eurex Clearing AG in internal Principal Position Accounts, Agent Position Accounts and M-Accounts of the Clearing Member of the respective market commissioned by the respective trading participant. Eurex Clearing AG undertakes to keep a Principal- and an Agent account each for CM Transactions and NCM Transactions in which the transactions of the Clearing Members to be cleared have to be booked pursuant to the following regulations.
- (2-3) Subject to the Link Clearing Agreement to be concluded with Eurex Clearing AG, a set of accounts is maintained for the Link Clearing House in accordance with Paragraph 1.

#### 4.2 Principal ~~and~~Accounts, Agent Accounts ~~and M-Accounts~~

- (1) Only transactions for account of this Clearing Member and own-name transactions of affiliated trading participants without clearing license shall be recorded in the Principal Accounts of General or Direct Clearing Members being kept internally by Eurex Clearing AG. On the Principal Account of the Clearing Member respectively kept by Eurex Clearing AG, only those transactions which the Clearing Member has concluded for its own account shall be booked.
- (2) Only transactions of the General or Direct Clearing Members' agents, their Non-Clearing Members as well as agent transactions of affiliated trading participants without clearing license of this General or Direct Clearing Member shall be recorded in the Agents Accounts of General or Direct Clearing Members kept internally by Eurex Clearing AG. On the Agent Account of the Clearing Member respectively kept by Eurex Clearing AG, only those transactions which the Clearing Member or the Non-Clearing Member has concluded for the account of and on behalf or a third party (customer) shall be booked.
- (3) Only the transactions from entered quotes pursuant to the Rules of the respective trading platform are recorded in the M-Accounts on Clearing Members kept internally by Eurex Clearing AG. Transactions of own-name transactions may be recorded in an M-Account with appropriate designation. The Clearing Member is obligated to guarantee the booking of the transactions to be cleared pursuant to Paragraph 1 and 2.

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## Part 6 Clearing Fund

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### 6.2 Realisation of the Clearing Fund

- (1) The contribution to the Clearing Fund provided by a Clearing Member may be used to cover the financial consequences of a default (Number 1.7.1) in the event of non-fulfillment the obligations from clearing transactions by itself or by any other Clearing Member, i.e. also the Link Clearing House as a Special Clearing Member, also for purposes of curing financial consequences from occurrence of an event resulting in termination of the clearing license of this or another Clearing Member pursuant to Number 2.4 Paragraph 2. Clause 1 shall also apply with regard to the compensation of claims of Eurex Clearing AG vis-à-vis Clearing Members which have occurred in connection with the termination of a clearing license pursuant to Number 2.4 Paragraph 2 item c and item d in connection with Number 8.2.5 and 8.2.6 Paragraph 2.
- (2) In case any compensation must be provided for any damage within the meaning of Paragraph 1 ~~due to a default (Number 7.1)~~, Eurex Clearing AG shall - for purposes of compensation of its claims vis-à-vis Clearing Members - realise securities in accordance with the following order of priority:
  1. Collateral of the obligated General or Direct Clearing Member ~~obliged to perform~~ other than that indicated in Number 6.1.1 and Number 6.1.2,
  2. the contribution to the Clearing Fund of the obligated Clearing Member ~~obliged to perform~~ pursuant to Number 6.1.1 and 6.1.2,
  3. the reserves of Eurex Clearing AG pursuant to Number 6.1.3
  4. the contributions of all other General or Direct Clearing Members to the Clearing Fund which shall be realised on a pro rata basis.
- (3) If a defaulting Clearing Member (Number 7.1) provides the owed payment after Eurex Clearing AG has realised the contributions of other General or Direct Clearing Members to the Clearing Fund (Number 2, no. 4), Eurex Clearing AG shall replenish the contributions of the other General or Direct Clearing Members with this payment on a pro rata basis, up to the amount of effected realisation at the most.
- (4) Furthermore, the contribution to the Clearing Fund provided by a Clearing Member may also be used to cover the financial consequences of a default by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions and also with respect to their obligations arising out of the clearing of transactions in cooperation with the Link Clearing House; the default is based upon the rules of the markets named in the following Chapters.

The contribution provided by a Clearing Member to the clearing fund may also be used to cover the financial consequences of a circumstance which leads to a termination of the clearing license of this or of another Clearing Member pursuant to Number 2.4.

(5) In such cases, Paragraphs 1 to 3 and Numbers 6.3 and 6.4 shall apply mutatis mutandis.

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## Part 7 Default

### 7.1 Default

- (1) A Clearing Member will – without notice – be considered to be in default if:
  - a) the Clearing Member fails to provide the margin demanded by Eurex Clearing AG for any Business day or fails to pay when due a daily settlement payment, or any net premiums or other fees owed, in a timely manner (pursuant to Number 3.1 Paragraph 4, Number 3.2 and with respect to each transaction concluded on the markets pursuant to the particular default provisions specified in Chapters II through VI), or fails to deliver the securities owed by it on the delivery day or fails to provide the payment owed for such securities; or
  - b) such Clearing Member has failed to fulfill any other obligation to Eurex Clearing AG arising under these Conditions.
- (2) Members must notify Eurex Clearing AG immediately and unrequested if they are unable to fulfill any obligation arising out of transactions concluded on the markets named in the following Chapters, including, in particular, the provision of margin or any daily settlement payment.
- (3) The Boards of Management of the markets named in the following Chapters may exclude any Clearing Member of Eurex Clearing AG from trading on Eurex Deutschland and Eurex Zürich pursuant to the provisions valid for the respective markets in the event that the Clearing Member fails or is unable to provide the margin required of it or a daily settlement payment owed by it or any other payment set forth in Paragraph 1 in a timely manner. Number 9.2 Paragraph 5 shall remain unaffected.
- (4) Eurex Clearing AG may have recourse to a Clearing Member for damages suffered by it or other Clearing Members due to a default caused by such Clearing Member.

Irrespective of whether Eurex Clearing AG has suffered any damage, the Clearing Member that has fallen behind because of a delay as regards the payment for securities or rights, a delay as regards the payment of deposits, which is demanded on Business exchange day or daily settlement payments as well as owed net premiums and other remunerations shall be obligated to pay a contractual penalty in the amount of 0.025 percent of the outstanding amount, but no less than EUR 2,500 – or the corresponding equivalent in CHF – per calendar day, however, no more than EUR 25,000 or the corresponding equivalent in CHF. If the amount calculated from the above percentage exceeds EUR 25,000, the amount of the contractual penalty shall – notwithstanding the provisions in Clause 1 – be calculated according to a percentage of the outstanding amount, such percentage having been defined in advance by Eurex Clearing AG. Such percentage shall be based on the money-market rates prevailing in the market. Eurex Clearing AG has the right to charge a contractual penalty even if it accepts a delayed payment without explicitly reserving such right.

- (5) If a Clearing Member is in default pursuant to Paragraph 1, the Concerned Clearing Member itself may not conclude new transactions or open new positions. At the same time, Non-Clearing Members may not conclude new transactions or open new positions with the Concerned Clearing Member. All existing transactions or positions shall be closed by the respective General- or Direct Clearing Member in accordance with Eurex Clearing AG by concluding an inverse transaction (the "Closing") or be transferred to another Clearing Member. The General- or Direct Clearing Member is authorized, for purposes of implementation of the Closing of all existing transactions or positions, to use one or more trading participants of the respective market. A General- or Direct Clearing Member shall immediately notify its Non-Clearing Members thereof, so that they can make preparations for transfer of their transactions or positions to another General Clearing Member or another affiliated Direct Clearing Member. Eurex Clearing AG shall monitor the closing respectively transfer of the open transactions or positions. ~~Eurex Clearing AG shall close out its transactions and positions pursuant to Number 8.1 and realize margin.~~

If the Closing respectively transfer of transactions or positions has not been concluded by the respective Clearing Member within a certain adequate period of time set by Eurex Clearing AG in individual cases and in accordance with the instructions of Eurex Clearing AG, Eurex Clearing AG may carry out the Closing of these transactions or positions pursuant to Number 8.1 on behalf of the Concerned Clearing Member.

- (6) The right of Eurex Clearing AG and of the Clearing Member which has suffered damage as a consequence of such default to claim further damages shall remain unaffected. Eurex Clearing AG shall, upon written application by a Clearing Member which has suffered damage as a consequence of such default, be entitled to assign to it with discharging effect any claim that it may have against such defaulting Clearing Member or Clearing Members.
- (7) Paragraph 1 through 6 shall not apply to a Link Clearing House as Special Clearing Member. In this respect, the provisions of the Clearing Link Agreement to be concluded between both Clearing Houses and the relevant Rules of the Link Clearing House apply.

## 7.2 Technical Default

- (1) If a Clearing Member furnishes evidence to Eurex Clearing AG that any of the defaults set forth in Number 7.1 Paragraph 1 Item a respectively item b did not occur as a consequence of insolvency and that the Clearing Member will promptly meet its obligations, Eurex Clearing AG may elect that, with respect to such Clearing Member, the provisions pursuant to Number 7.1 Paragraphs 3 as well as Paragraph 5 through 6 which are applicable in the event of default do not apply. In such a case, Eurex Clearing AG will only cause a technical default of such Clearing Member.
- (2) The Clearing Member concerned shall, promptly upon the occurrence of a technical default, deliver to Eurex Clearing AG a written statement as to the reasons for its delinquency.
- (3) The Clearing Member concerned must promptly remedy the causes of its technical default.

- (4) In the event of a technical default with respect to a payment in EUR, CHF or in foreign currency pursuant to Paragraph 1 Eurex Clearing AG may demand from the Clearing Member of which Eurex Clearing AG caused default to provide promptly the equivalent amount in EUR and, respectively, CHF of the amount not having been entered in time on Eurex Clearing AG's account at a branch of the Central Bank of Germany (Deutsche Bundesbank) or SNB. The amount in EUR or CHF will be repaid without interest after receipt of the owed CHF payment or, respectively, of the EUR payment or of the foreign currency payment. Paragraph 5 shall remain unaffected.
- (5) Eurex Clearing AG may claim compensation from any Clearing Member for any damage suffered by Eurex Clearing AG or other Clearing Members due to a technical default of such Clearing Member. Irrespective of whether Eurex Clearing AG has suffered any damage, the Clearing Member which technically defaulted shall be obligated to pay a contractual penalty pursuant to Number 7.1 Paragraph 4.

## Part 8

### Closing, Emergence and Calculation of an Unilateral Difference Claim in Case of Termination of Non-Performed Transactions, Drawing upon Margin, Enforcement of the Contributions to the Clearing Fund

#### 8.1 Closing; Drawing upon Margin, Enforcement of the Contribution to the Fund

- (1) Eurex Clearing AG will close transactions respectively positions, realize margin, and enforce the contributions to the Clearing Fund of a Clearing Member in the cases, in which a General- respectively Direct Clearing Member has not carried out the Closing respectively transfer of its transactions or positions within an adequate period of time set by Eurex Clearing AG in individual cases and in accordance with the instructions of Eurex Clearing AG, and which are mentioned in the present Clearing Conditions in accordance with the following priority schedule:
1. Netting all open transactions respectively positions of all accounts of the Clearing Member and subsequent closing of net transactions respectively net positions resulting therefrom. In order to implement the closing of net transactions respectively net positions of one or several exchange participants Eurex Clearing AG may use the Eurex exchanges. In such case Eurex Clearing AG will transfer by way of a transfer of positions the net transactions respectively net positions of the relevant Clearing Member to the trading participant that is assigned with the closing. Within the scope of the implementation of the closing of net transactions respectively net positions Eurex Clearing AG is entitled to according to its best judgement to realize all margin of the relevant Clearing Member including the contributions of such Clearing Member to the Clearing Fund pursuant to Number 6.1.
  2. Refund of any surplus in the event that the proceeds from the realisation of margin of the relevant Clearing Member exceed the amount required to cover all obligations of the relevant Clearing Member arising out of its transactions concluded on the markets.
  3. Utilisation of the funds maintained by Eurex Clearing AG pursuant to Number 6.1.3 in the event that the proceeds from the realisation of margin and the enforcement of the contributions to the Clearing Fund as well as the collateral pursuant to Number 2.2 Paragraph 2 of the relevant Clearing Member are insufficient to satisfy its obligations arising out of its transactions on the markets.

4. Pro rata enforcement of the contributions of other Clearing Members to the Clearing Fund pursuant to Number 1.6.2 Paragraph 2 no. 4.
- (2) If a Link Clearing House as a Special Clearing Member is in default, the provisions of the Link Clearing Agreement which is to be concluded between the Link Clearing House and Eurex Clearing AG apply.

## 8.2 Emergence, Ascertainment respectively Calculation of an Unilateral Difference Claim in case of Termination of Non-Performed Transactions

### 8.2.1 Emergence of an Unilateral Difference Claim

- (1) In case of a termination of a clearing license pursuant to Number 2.4 Paragraph 2 item c, all mutual payment and delivery obligations between the Concerned Clearing Member and Eurex Clearing AG resulting from non-performed transactions ("Non-Performed Transactions") expire at the same time; such obligations shall be substituted by an immediately due obligation to make an unilateral payment due to non-performance ("Unilateral Difference Claim") (hereinafter "Termination of Non-Performed Transactions"). The parties to these transactions are not obligated to fulfill the original performances and may no longer claim such fulfilment.
- (2) Eurex Clearing AG shall calculate respectively determine the amount of the respectively existing Unilateral Difference Claim arising from the Termination of Non-Performed Transactions within the meaning of Paragraph 1 pursuant to the regulations of Number 8.2.2 et sqq. The determined difference claims and other payment obligations within the meaning of Paragraph 3 shall be settled with each other so that one single payment claim ("Final Unilateral Difference Claim") in favour of the Concerned Clearing Member or Eurex Clearing AG results.
- (3) The payment obligations within the meaning of Paragraph 2 are
  - a) the payments which have not yet been made by the Concerned Clearing Member or Eurex Clearing AG (hereinafter "Parties or each "Party") due to Non-Performed Transactions whose fulfilment is carried out through cash settlement.
  - b) the claims which result from the market or Exchange prices to be determined by Eurex Clearing AG for the securities respectively rights (hereinafter "Securities") to be delivered to the other Party due to Non-Performed Transactions.
  - c) other due payment claims existing between the Parties due to the participation in the clearing, and
  - d) interest due to payment obligations not having been fulfilled in time pursuant to Paragraph 2 item a to item c, per calendar day in the amount of the customary money market rate.

### 8.2.2 Ascertainment of the Unilateral Difference Claim

- (1) The ascertainment of the Final Unilateral Difference Claim within the meaning of Number 8.2.1 Paragraph 2 Clause 2 shall be carried out on basis of the due mutual payment obligations existing between Eurex Clearing AG and the respective Clearing Member within the meaning of Paragraph 2. The determination of the amount of the respective payment obligations shall be referred to the day of termination of the clearing license and expiry of the mutual payment and delivery obligations resulting from the Non-Performed Transactions within the meaning of Number 2.4 Paragraph 2 item c in connection with Paragraph 7 ("Reference Date").
- (2) The amount of the payment obligations existing due to the Non-Performed Transactions pursuant to Number 8.2.1 Paragraph 3 item a and item b shall be determined by Eurex Clearing AG by verifying if transactions have been concluded on the Reference Date at one of the markets named in Chapter II to V: such transactions shall correspond to the Non-Performed Transactions with regard to type and amount ("Reference Transactions"). The price of these Reference Transactions shall be used as market- respectively Exchange price for Non-Performed Transactions.

In case several reference transactions have been concluded on the Reference Date with regard to a non-performed transaction, the average of the prices of these reference transactions shall be used as market- respectively Exchange price ("Reference Price") with regard to the respective Non-Performed Transaction.

- (3) In the event respective reference transactions have not been concluded on the reference date, the market- or Exchange price of Non-Performed Transactions and, as a result, the respective difference claim, shall be determined via a mathematic calculation method pursuant to Number 8.2.3.

### 8.2.3 Calculation of the Unilateral Difference Claim

- (1) In case no reference transactions have been concluded on the Reference Date (Number 8.2.2 Paragraph 1) in the markets named in Chapter II to V in which transactions not yet performed have been concluded, the respective market- or Exchange price and the amount of the respectively existing Mutual Difference Claim with regard to such transactions shall be calculated through the following method:
- a) The basis for this calculation shall be the settlement price determined by Eurex Clearing AG for the respective Non-Performed Transaction on the business day before the reference date (Number 8.2.2 Paragraph 1).
- b) In case Eurex Clearing AG has not determined a settlement price for a Non-Performed Transaction in the markets named in Chapter II to V on the business day before the Reference Date, Eurex Clearing AG shall choose from among the Clearing Members being admitted at one of the markets named in Chapter II to V three Clearing Members who shall calculate a market price of the respective Non-Performed Transaction. The average of these three calculated prices shall be used instead of a settlement price for calculation of the market- respectively Exchange price of the respective non-performed transaction.
- c) With regard to each non-performed transaction, the difference of bid and ask price ("Spread") pursuant to Paragraph 2 shall be considered in addition to the price respectively determined pursuant to item a or item b.

(2) Difference of bid- and ask price ("Spread")

The Spread to be considered for each Non-Performed Transaction shall be added to or subtracted from the price determined pursuant to Number 8.2.3 Paragraph 1 item a or item b, depending on whether this is a buy- or sell transaction.

The relevant applicable Spread corresponds to:

- a) the interval ("Mistrade Range") which has been determined for transaction conclusions in derivatives, securities or other rights in the markets named in Chapter II to V to determine so-called erroneous entries ("Mistrades"), or
- b) 25 % of the so-called additional margin ("Additional Margin") pursuant to Number 3.1 Paragraph 3, calculated on basis of the price determined pursuant to Number 8.2.3 Paragraph 1, provided that a Mistrade Range pursuant to item a has not been determined or could not be determined.

The Spread determined pursuant to item a or item b shall be multiplied with a so-called liquidity factor. The liquidity factor is calculated from the root of the ratio "position to be settled in cash", divided by the "running three-month average of the traded daily volume". As a result, the liquidity factor may only have a value within the interval of 1.5 and 6.

8.2.4 Final Unilateral Difference Claim

The Final Unilateral Difference Claim (Number 8.2.1 Paragraph 2) in favour of the respective Clearing Member or Eurex Clearing AG shall be determined through settlement of the Unilateral Difference Claims determined pursuant to Number 8.2.2 respectively Number 8.2.3 respectively for Non-Performed Transactions of the Concerned Clearing Member, under consideration of other mutual payment obligations existing between the Clearing Member and Eurex Clearing AG.

In case Eurex Clearing AG has a claim against the Concerning Clearing Member resulting from the determined final difference claim, Eurex Clearing AG shall proceed pursuant to Chapter I Number 6.2 to 6.4 et seq. and shall realize in particular the Margin listed therein to fulfil this claim.

8.2.5 Notification of amount and due date of the Final Unilateral Difference Claim

- (1) Eurex Clearing AG shall notify the Concerned Clearing Member of the amount to be paid by the Clearing Member to Eurex Clearing AG or by Eurex Clearing AG to the Concerned Clearing Member as soon as the Final Unilateral Difference Claim resulting from the Non-Performed Transactions and other claims has been determined. At the same time, the Clearing Member shall receive a list of the data forming the basis for this determination.
- (2) The Final Unilateral Difference Claim is due for payment by the Concerned Clearing Member or Eurex Clearing AG one business day after receipt of the notification pursuant to Paragraph 1. Business days within the meaning of Clause 1 are the business days determined pursuant to Number 1.1 Paragraph 6 item a. In case of non-performance, both Eurex Clearing AG and the Concerned Clearing Member shall be entitled to interest on the Final Unilateral Difference Claim in the amount of the customary money market rate.

### 8.2.6 Consequences of a Termination of Non-Performed Transactions (Conclusion of Hedge Transactions)

- (1) In case of termination of Non-Performed Transactions pursuant to Number 2.4 Paragraph 2 item c in connection with Paragraph 7, Eurex Clearing AG may - from this point pursuant to Number 1.2.1 Paragraph 4 and for purposes of guaranteeing an orderly clearing in the markets named in Chapter II to V – conclude transactions of a similar type and amount or conclude transactions or take other measures which are necessary for risk minimization due to termination of Non-Performed Transactions (“measures”). Eurex Clearing AG shall also be authorized to enter into transactions within the meaning of Clause 1 off-exchange. Such transactions shall be concluded by Eurex Clearing AG on its own dutiful discretion for purposes of guaranteeing an orderly clearing and risk elimination.
- (2) In case the funds of Eurex Clearing AG do not suffice for taking measures pursuant to Paragraph 1, Eurex Clearing AG may realize the contributions to the funds made by Clearing Members pursuant to Number 6.1.1 and 6.1.2 on a pro-rata basis per Clearing Member in order to use the profits to finance such measures.
- (3) In case Eurex Clearing AG sustains a loss after implementation of measures pursuant to Paragraph 1, Eurex Clearing AG shall realize the reserves built up by it pursuant to Number 6.1.3 Paragraph 1. In the event such reserves do not suffice for compensating this loss, the contributions to the clearing funds paid by the Clearing Members pursuant to Number 6.1.1 and 6.1.2 shall be realized on a pro-rata basis per Clearing Member. Furthermore, Number 6.3 shall apply accordingly.
- (4) In case any profits are left over for Eurex Clearing AG after implementation of measures pursuant to Paragraph 1 and if Eurex Clearing AG has realized contributions paid by the Clearing Members pursuant to Paragraph 2 in order to finance measures, such profits shall be brought into the clearing funds within the meaning of Number 6.2 Paragraph 2 No. 4 on a pro-rata basis per Clearing Member. If the profits have been made without realizing the contributions made by the Clearing Members to the clearing funds pursuant to Paragraph 2, these profits shall, as far as possible, be included in the reserves brought into the clearing funds by Eurex Clearing AG pursuant to Number 6.2 Paragraph 2 No. 3.

## Part 9

Legal Relationships between Eurex Clearing AG, General Clearing Members (GCM), Direct Clearing Members (DCM) and Non-Clearing Members (NCM) as well as with Link Clearing Houses and their Clearing Members

[....]

## 9.2 Rights and Obligations of Clearing Members of Eurex Clearing AG

### 9.2.1 General Provisions

- (1) General Clearing Members or Direct Clearing Members are required to enter into a NCM-CM Clearing Agreement with Non-Clearing Members who meet the other prerequisites for admission to trading on Eurex Deutschland and Eurex Zürich.



- (2) Each Clearing Member is required to effect any payment or delivery arising out of any transaction entered into according to the NCM-CM Agreement by any of the Non-Clearing Members whose transactions the Clearing Member handles.

### 9.2.2 Non-fulfilment of Duties of a Non-Clearing Member

- ~~(13)~~ If a Non-Clearing Member fails to provide the margin fixed by its Clearing Member or to effect any daily settlement payment in a timely manner, the Non-Clearing Member may – upon written request to the Board of Management by the Clearing Member - be excluded from trading at the respective market or may be restricted to the trading of specified products (whose clearing is not carried out by Eurex Clearing AG) for the duration of such failure by a decision of the Boards of Management of the respective market. Eurex Clearing AG shall immediately be informed about the submission of such request by both the Clearing Member and the Board of Management of the respective market.

From the time of decision by the Board of Management of the respective market pursuant to Clause 1, the provisions pursuant to Number 1.2 Paragraph 1 with regard to the transactions resulting from the entry of orders and quotes into the trading system of the respective market by Non-Clearing Members do not apply any more.

- ~~(24)~~ If a Non-Clearing Member fails to pay to its Clearing Member any payments (e.g. premiums and fees) owed to it under these Conditions or these Clearing Conditions or under the provisions valid for the respective market in a timely manner, the Board of Management of the respective market may, at the request of the Clearing Member, exclude such Non-Clearing Member from trading at the respective market for the duration of the non-payment or it may restrict such Non-Clearing Member to the trading of specified products. Any such request made by telephone must promptly be confirmed in writing.

- ~~(3)~~ Exclusively for banks with a clearing license pursuant to Chapter I Number 2.1 Paragraph 1 item a for participation in the clearing of transactions concluded at Eurex Deutschland and Eurex Zürich ("Eurex Exchanges") ("Eurex Transactions"), including Eurex OTC transactions, the following applies:

- In case a Non-Clearing Member of the Eurex Exchanges does not fulfil the other conditions pursuant to Number 9.2.3 agreed upon with its Clearing Member, or if it does not provide in due time the margin determined by or the payments owed to its Clearing Member (e.g. premiums and fees) within the meaning of Paragraph 2, such payments being based on these Clearing Conditions, the respective Clearing Member may – instead of a written application pursuant to Paragraph 1 or 2 – declare vis-à-vis the Eurex Exchanges and Eurex Clearing AG by way of a respective entry ("Stop Button") in the system of the Eurex Exchanges or the system of Eurex Clearing AG ("Eurex System") pursuant to Number 9.2.3.2 that it is no longer willing to conduct the clearing of Eurex Transactions and Eurex OTC Transactions of the concerned Clearing Member.

- By way of such a system entry ("Stop Button"), the Clearing Member at the same time applies vis-à-vis the Eurex Exchanges and Eurex Clearing AG that the respective Non-Clearing Member shall be excluded from trading at the Eurex Exchanges for the term of non-fulfillment of its above-mentioned duties and that the authorization of participation in the clearing of Eurex OTC transactions via the OTC Trade Entry Facility in the system of Eurex Clearing AG shall be revoked. In this case, the regulations pursuant to Number 9.2.3.3.2 and 9.2.3.3.3 shall apply.

- (45) Clearing Members themselves may not close positions respectively exercise or close positions opened by their Non-Clearing Members.

If a Non-Clearing Member has been excluded from trading on one of the markets named in the following Chapters or has been restricted to the trading of specified products, the Clearing Member may request that Eurex Clearing AG close the transactions respectively positions of such Non-Clearing Member by Eurex Clearing AG.

- (65) If a Clearing Member fails to make any payments or deliveries due to Eurex Clearing AG, the Board of Management of the respective market may, upon request of Eurex Clearing AG, exclude such Clearing Member, as well as the Non-Clearing Members represented by it pursuant to the provisions of the respective market from trading for the duration of such failure or may restrict it to the trading of specified products;

From the time of decision by the Board of Management of the respective market pursuant to Clause 1, the provisions pursuant to Number 1.2 Paragraph 1 with regard to the transactions resulting from the entry of orders and quotes into the trading system of the respective market by Non-Clearing Members do not apply any more.

Clearing AG reserves the right to also close defaulting transactions respectively positions in all accounts for the Clearing of which the Clearing Member is responsible, according to Number 1.8.1. Eurex Clearing AG shall not be liable for any losses suffered by a Non-Clearing Member due to the exclusion of its Clearing Member from trading or due to a restriction of its Clearing Member to specified products on the respective market.

- (76) Eurex Clearing AG shall inform the Clearing Member of any measures taken with respect to one of its Non-Clearing Members to the extent that such measures may affect the risk assessment of such Non-Clearing Member and the respective measures are known to Eurex Clearing AG.

9.2.3 Other Agreements between Banks with a Clearing License pursuant to Chapter I Number 2.1 Paragraph 1 item a ("Clearing Members") and Non-Clearing Members with regard to the Clearing of Eurex Transactions and Eurex OTC Transactions

- (1) Clearing Member may conclude with Non-Clearing Members with whom they have entered into a NCM-CM Clearing Agreement concerning the execution of the clearing of Eurex Transactions and Eurex OTC Transactions, one or several other arrangements ("Conditions"). Provided that Clearing Members have agreed upon such Conditions with their Non-Clearing Members for execution of the clearing of the transactions of their Non-Clearing Members, the Clearing Member herewith declares that, in case of non-fulfilment of these Conditions by the respective Non-Clearing Member pursuant the following regulations, it is no longer willing to further execute the settlement of the transactions of the concerned Non-Clearing Member.

- (2) In order to guarantee the fulfilment of the obligations determined between them in connection with the participation in the clearing procedure for Eurex Transactions and Eurex OTC Transactions pursuant to Number 9.2.3.1 and 9.2.3.2, Clearing Members may agree with their Non-Clearing Members that the orders and quotes to be executed at the Eurex Exchanges or the Eurex OTC Transactions to be included in the clearing of Eurex Clearing AG shall initially be verified with regard to the fulfilment of fixed Pre-Trade-Limits (Number 9.2.3.1) and other agreed conditions (Number 9.2.3.2). Only in case of fulfilment of these conditions, the orders and quotes of the Non-Clearing Members shall be matched with other orders or quotes ("Matching") or their Eurex OTC Transactions shall be included in the clearing by Eurex Clearing AG.
- (3) In case orders or quotes of a Non-Clearing Member which shall be or have already been entered in the Eurex system would lead to or constitute a violation of agreed conditions within the meaning of Number 9.2.3.1 or 9.2.3.2, the Eurex Exchanges shall, parallel to such an entry in the system, preliminarily exclude the concerned Non-Clearing Member under the following provisions from trading at the Eurex Exchanges or restrict it to trading of specific products. Provided that the entry of an Eurex OTC Transaction via the OTC Trade Entry Facility in the system of Eurex Clearing AG would lead to a violation of agreed conditions pursuant to Number 9.2.3.1 or 9.2.3.2, the authorization of the Non-Clearing Member to have this Eurex OTC Transaction executed by Eurex Clearing AG shall immediately be omitted.

#### 9.2.3.1 Limitierung von Aufträgen beziehungsweise Quotes („Pre-Trade Limite“)

- (1) A condition within the meaning of Number 9.2.3 means the agreements concluded between a Clearing Member and a Non-Clearing Member on the limitation of orders, quotes or Eurex OTC Transactions which may not be entered into the Eurex system by the Non-Clearing Member ("Pre-Trade Limits").
- (2) Pre-Trade Limits may include several restrictions or a combination thereof listed in the following:
- a. Maximum number of contracts with regard to a product per order or per quote. Insofar, the following limit is considered according to the type of order:
    - maximum number of contracts per order or quote ("Maximum Order Quantity"), provided they do not relate to combined orders or combined quotes; or
    - maximum number of contracts per combined order or combined quote ("Maximum Calendar Spread Quantity"), related to specific products.
    - maximum number of contracts per Eurex OTC transaction related to specific products („Maximum Wholesale Quantity").
  - b. Maximum number of orders and quotes ("Maximum Number of Transactions") within a certain period ("Time Interval"), with regard to a product and onto an internal position account (Principal, Agent and M-position Accounts);
  - c. Maximum number of contracts of all orders and quotes ("Maximum Transaction Quantity") within a certain period („Time Interval"), with regard to a product and onto an internal position account (Principal, Agent and M-position Accounts);

d. Maximum number of contracts of all orders and quotes, with regard to a product and onto an internal position account (Principal, Agent and M-position Accounts), which have already been entered into the system of the Eurex Exchanges, thereby differentiating between buy- or sell orders ("Order Book Limits for Working Orders").

(3) Upon request of the Clearing Members commissioned by the Non-Clearing Members, the latter are obligated to agree with such Clearing Members upon Pre-Trade Limits and their quantity with regard to a product. In this case, Clearing Members may deposit the Pre-Trade Limits agreed upon with their respective Non-Clearing Members in the system of the Eurex Exchanges.

#### 9.2.3.2 Other Conditions („Stop-Button“)

(1) Upon request by the Clearing Members commissioned by the Non-Clearing Members, and in order to guarantee the clearing process within the meaning of Number 9.2.3 along with the limitation of orders and quotes ("Pre-Trade Limits" regulated in Number 9.2.3.1, the Non-Clearing Members are obligated to agree on additional conditions of the Non-Clearing Member vis-à-vis the Clearing Member ("Other Conditions").

(2) Provided that such Other Conditions agreed upon with a Clearing Member are not fulfilled by the Non-Clearing Member or the duties of a Non-Clearing Member named in Number 9.2.2 Paragraph 1 and 2 are not fulfilled in due time, the respective Clearing Member may, by an according entry in the Eurex system ("Stop Button") declare vis-à-vis the Eurex Exchanges and Eurex Clearing AG that it is no longer willing to execute the clearing of transactions concluded at the Eurex Exchanges and of Eurex OTC Transactions of the concerned Non-Clearing Member. By way of such a system entry ("Stop Button"), the Clearing Member at the same time applies vis-à-vis the Eurex Exchanges and Eurex Clearing AG that the respective Non-Clearing Member shall be excluded from trading at the Eurex Exchanges for the term of non-fulfillment of its above-mentioned duties and that the authorization of participation in the clearing of Eurex OTC transactions via the OTC Trade Entry Facility in the system of Eurex Clearing AG shall be revoked.

#### 9.2.3.3 Non-Fulfilment of Conditions

The Management Boards of the Eurex Exchanges and Eurex Clearing AG shall decide on the consequences of the non-fulfilment of conditions by a Non-Clearing Member upon an according electronic declaration of the respective Clearing Member pursuant to the following regulations.

#### 9.2.3.3.1 Exceedance of Pre-Trade Limits

- (1) If, upon verification of the compliance with the Pre-Trade Limits deposited in the system of the Eurex Exchanges respectively the system of Eurex Clearing AG (together "Eurex System") by a Clearing Member with regard to their Non-Clearing Members (Number 9.2.3.1), it turns out that new orders, quotes or or the entry of Eurex OTC Transactions of a Non-Clearing Members exceed the agreed Pre-Trade Limits, the respective Clearing Member, as a consequence, is no longer willing to execute the clearing of options and futures transactions of such Non-Clearing Member with regard to specific products.
- (2) In case a Clearing Member is not willing to execute the clearing of Eurex Transactions of a Non-Clearing Member according to Paragraph 1, the Eurex Exchanges shall order a restriction of the concerned Non-Clearing Member to trading in specific products with regard to a specific position account pursuant to Number 9.2.3.3.3 (Suspension of Exchange Admission) for the period of the non-fulfilment of these conditions. In addition, the system of the Eurex Exchanges guarantees that a transfer of orders or quotes of the concerned Non-Clearing Member in the order books of the trading system of the Eurex Exchanges and, as a result, their matching with other orders or quotes, are prevented. Orders or quotes of the concerned Non-Clearing Member already existing in the order books shall neither be deleted nor shall their matching with other orders and quotes be prevented.
- (3) If, due to non-fulfilment of Pre-Trade Limits pursuant to Paragraph 1, a Clearing Member is not willing to execute the clearing of Eurex OTC Transactions, the authorization to have such OTC Transactions cleared by Eurex Clearing AG and to use the OTC Trade Entry Facilities for the concerned Non-Clearing Member shall immediately be omitted to such extent as this would result in a non-fulfilment of the conditions agreed upon between Non-Clearing Member and Clearing Member. In addition, the Eurex system prevents that the concerned Eurex OTC Transaction can be entered into the Eurex system and be included in the clearing.

#### 9.2.3.3.2 Non-Fulfilment of Other Conditions ("Stop Button")

- (1) As soon as a Clearing Member, by way of a respective system entry ("Stop Button"), declares vis-à-vis the Eurex Exchanges that it is no longer willing to execute in whole the clearing of transactions of a certain Non-Clearing Member, since the concerned Non-Clearing Member does not fulfil the Other Conditions agreed upon pursuant to Number 9.2.3.2, the Management Boards of the Eurex Exchanges shall immediately order the preliminary exclusion of the concerned Non-Clearing Member from Exchange trading pursuant to Number 9.2.3.3.3 (Suspension of Exchange Admission). In addition, Eurex Clearing AG shall immediately revoke the authorization of the concerned Non-Clearing Member to have the Eurex OTC Transactions concluded by such Non-Clearing Member cleared by Eurex Clearing AG. Furthermore, the authorization to use the OTC Trade Entry Facilities to enter OTC Transactions in the Eurex System shall be revoked.

From this point, the regulations on the matching of trades pursuant to Number 2.2 of the Conditions for Trading at Eurex Deutschland and Eurex Zürich and the Conditions for Utilization of the OTC Trade Entry Facilities (General Conditions) shall not apply.

(2) The exclusion from Exchange trading at the Eurex Exchange and the revocation of the authorization to have Eurex OTC Transaction cleared by Eurex Clearing AG as well as the revocation of the authorization to use the OTC Trade Entry Facilities shall be ordered respectively revoked by the Eurex Exchanges and Eurex Clearing AG until the Clearing Member, by way of a new system entry (deactivation of Stop-Button) within the meaning of Number 9.2.3.3 Paragraph 2 declares vis-à-vis the Eurex Exchanges and Eurex Clearing AG that it is again willing to execute the clearing of transactions concluded at the Eurex Exchanges and of Eurex OTC Transaction of the concerned Non-Clearing Member.

(3) From the point of ordering the suspension of the Exchange admission of the concerned Non-Clearing Member by the Eurex Exchanges and of revocation of the authorization of the Non-Clearing Member to have its Eurex OTC Transactions cleared by Eurex Clearing AG and of revocation of the utilization authorization of the OTC Trade Entry Facilities pursuant to Paragraph 1, the Eurex system shall prevent other orders, quotes or Eurex OTC Transactions of the concerned Non-Clearing Member from being entered into the Eurex system. Orders and quotes of the concerned Non-Clearing Member already existing in the Eurex System shall be deleted.

At the same time, the Eurex system ensures that the concerned Non-Clearing Member cannot modify or release Eurex OTC Transactions already entered into the Eurex System. In addition, Eurex OTC Transactions already entered into the Eurex System by this Non-Clearing Member cannot be released by its counterparty.

(4) Clearing Members are obligated to submit written documentation of each single case on the business day on which they have declared vis-à-vis the Eurex Exchanges and Eurex Clearing AG via the respective system function ("Stop-Button") pursuant to Paragraph 1 that they are no longer willing to execute the clearing of Eurex Transactions and Eurex OTC Transactions of one of their Non-Clearing Members. This documentation shall contain details on the facts, in particular the amount of the agreed limit(s) respectively positions, the orders/quotes, type of agreed other duties and conditions, the time of submission of a declaration pursuant to Paragraph 1 and the time of revocation of a declaration pursuant to Paragraph 1.

#### 9.2.3.3.3 Preliminary Exclusion from Exchange Trading or from Trading of Specific Products (Suspension of Exchange Admission)

(1) In case a Clearing Member declares vis-à-vis the Management Boards of the Eurex Exchanges pursuant to Paragraph 9.2.3 that, for the period of non-fulfilment of conditions pursuant to Number 9.2.3.1 (Pre-Trade Limits) or of Other Conditions within the meaning of Number 9.2.3.2 by one of its Non-Clearing Members, it is not any more willing to execute the clearing of Eurex Transactions or Eurex OTC Transactions of this Non-Clearing Member in whole or with regard to individual transactions, the concerned Non-Clearing Member shall, from this point onwards for the term of non-fulfilment of these conditions and for lack of guaranteeing an orderly settlement of its transactions, be excluded from trading at the Eurex Exchanges respectively restricted to trading in specific products and on specific position accounts of the Eurex Exchanges. At the same time, Eurex Clearing AG shall revoke the authorization of the concerned Non-Clearing Member to have its Eurex OTC Transactions cleared by Eurex Clearing AG and revoke the authorization of the Non-Clearing Member to use the OTC Trade Entry Facilities of the Eurex Clearing AG.

The concerned Non-Clearing Member shall immediately be informed about the ordered suspension of the Exchange admission electronically by the Eurex system; at the same time, its access to the system of the Eurex Exchanges shall be restricted accordingly.

(2) Clearing Members who – by way of a system entry (“Stop Button”) pursuant to Number 9.2.3.3.2 Paragraph 1 - have declared vis-à-vis the Management Boards of the Eurex Exchanges that they are no longer willing to execute the clearing of options and futures transactions of one of their Non-Clearing Members in whole or with regard to individual products, are obligated to immediately revoke their declaration vis-à-vis the Management Boards of the Eurex Exchanges by using the same system facility, if the concerned Non-Clearing Member again fulfils the conditions agreed upon with the Clearing Member. In this case, the Management Boards of the Eurex Exchanges shall at the same time revoke the order vis-à-vis the concerned Non-Clearing Member pursuant to Paragraph 1 (Suspension of Exchange Admission), immediately announce such revocation electronically via the Eurex system and, again, technically provide respective utilization of the system of the Eurex Exchanges to the Non-Clearing Member.

The same applies to Clearing Members who, by way of a system entry (“Stop Button”) pursuant to Number 9.2.3.3.2 Paragraph 1, have declared vis-à-vis Eurex Clearing AG that they are no longer willing to execute the clearing of Eurex OTC Transactions of one of their Non-Clearing Members. In such case, Clearing Members are obligated to immediately revoke their declaration vis-à-vis Eurex Clearing AG by way of the same system facility, when the concerned Non-Clearing Member again fulfils the conditions agreed upon with the Clearing Member.

[...]

## Chapter II

### Transactions at Eurex Deutschland and Eurex Zürich (Eurex Exchanges)

#### Part 1

#### General Provisions

[...]

#### 1.2 Determination of Margin to be maintained

- (1) With regard to the obligation to provide margin, Chapter I Paragraph 3 applies in addition to the following provisions.
- ~~(2) The calculation of the margin to be maintained by a General or Direct Clearing Member shall be made separately for such General or Direct Clearing Member's Principal Position Accounts (including M-Accounts) and Agent Position Accounts.~~
- ~~(3)~~ The basis for the determination of margin to be maintained are the net position transfer obligations per account in all option- ~~series~~- and Futures contracts. The net position in each option ~~series~~- and in each futures contract shall be determined by setting off a long position (including transactions not yet fully performed) against a short position (including transactions not yet fully performed, but excluding transactions with matching cover). In deviation to Clause 1, a net position shall be determined for the Principal- and Market Maker Accounts pursuant to Clause 2. Option ~~series~~- and Futures contracts may be combined into a single margin class, including, for example, when the underlying security or other value is the same. Eurex Clearing AG may form margin groups out of several margin classes, including classes with differing underlyings, if their respective prices develop favourably in the same direction. If Eurex Clearing AG forms margin classes or margin groups, the following rules shall apply mutatis mutandis, in that the relevant margin requirement shall be determined for the margin class or margin group, including by netting.
- ~~(4)~~ With respect to options transactions with immediate premium payment obligations ~~based on German, Swiss, Finnish, French, Italian, Dutch, Austrian, Swedish, Spanish and US-American stocks~~, the margin to be maintained must cover the costs that would be incurred upon the closing of all positions at the day's closing price ("Premium Margin").
- ~~(5)~~ With respect to options transactions without immediate premium payment obligations, no Premium Margin, as defined in Paragraph ~~4-3 Clause 1 or Paragraph 5 Clause 1~~, shall be due; instead, a daily profit and loss settlement shall take place.
- ~~(6)~~ With respect to Futures contracts, margin must, for positions that may be netted, be maintained to cover the risk that prices of contracts with different delivery months will not move in exactly the same direction ("Spread Margin"). The netting involves offsetting, to the extent possible, a net long position in one contract against a net short position in another contract with a different delivery month.
- ~~(7)~~ In addition to the margin required under Paragraphs ~~3-2 to 6-5~~, a further margin requirement ("Additional Margin") shall be calculated in an amount sufficient to cover any change to the cost of closing all options positions and all futures positions that cannot be netted in accordance with Paragraph ~~6-5~~, assuming the least favourable price developments, as determined by Eurex Clearing AG, until the next calculation of the margin requirements.



- ~~(87)~~ ~~The sum of the margin required to be maintained pursuant to Paragraphs 3 through (7) shall be the total margin required to be maintained by a Trading Participant for one account. The margin determined for the summarized Principal- and Market Maker Accounts for CM Transactions shall be added with the margin determined for the Agent Account for CM Transactions; credit balances shall not be taken into account. Clause 1 shall apply accordingly to the calculation of the margin for the respective accounts for NCM Transactions. The total margin requirement applicable to a Trading Participant for both accounts in accordance with Paragraph 2 shall be determined by aggregating the respective margin requirements; credit balances shall not be taken into account.~~ The total maintenance margin requirement applicable to a Clearing Member shall be determined by aggregating the margin requirements for CM Transactions determined pursuant to Clause 1 and the margin requirements for NCM Transactions pursuant to Clause 2; credit balances shall not be taken into account.
- ~~(89)~~ Clearing Members may specify shares deposited in their internal securities clearing account with Eurex Clearing AG and its pledged securities account (Pfanddepot) at Clearstream Banking AG or SegalInterSettle AG as special margin for transactions which are summed up in one margin class, provided that the shares or assigned book entry securities correspond to the underlying of the margin class. The shares or assigned book entry securities shall be evaluated until the next determination of margin determined by Eurex Clearing AG under consideration of the most disadvantageous price development and shall be taken into account on the transactions of the margin class. Surplus special margin shall not be taken into account on other margin classes. Eurex Clearing AG will use such margin as general margin for provision of the remaining liabilities of the Clearing Member.

### 1.3 Accounts

#### 1.3.1 Types of Position Accounts

- (1) With regard to the accounts of the ~~General or Direct~~ Clearing Member, Chapter I Paragraph 4 applies in addition to the following provisions.
- (2) ~~In deviation to Chapter I Paragraph 4, Eurex Clearing AG shall keep t~~Two Principal ~~Position~~ Accounts, one Agent ~~Position~~ Account and; ~~if necessary, two Market Maker-Position~~ Accounts each for CM and NCM Transactions shall be maintained for each Clearing Member. ~~The same set of accounts shall be maintained for each General or Direct Clearing Member with regard to its respective Non-Clearing Members.~~
- (3) For options transactions, a corresponding internal premium account shall be kept for each ~~position~~ account of each General or Direct Clearing Member; the premiums for all options transactions which need to be cleared for this Clearing Member shall be recorded in the premium account for each ~~position~~ account. Premium accounts shall be settled daily. The Eurex Exchanges shall make the balance of any premium account available in the system for the Non-Clearing Member and the Clearing Member responsible for the clearing of such account.

#### 1.3.2 Principal ~~Position~~ Accounts

- ~~(1) Only transactions carried out by a General or Direct Clearing Member for its own account as a trade participant shall be recorded in the Principal Position Account.~~

- (21) Adjustments to opening ~~and or~~ closing trade adjustments for transactions recorded in a Principal ~~Position~~-Account and ~~transactions- or~~ closing position adjustments performed to close two opposing ~~transactions or~~ positions may be made in accordance with the provisions of Number 1.3.5 Paragraph 5.
- (32) If a transaction is specified as a closing transaction (closing trade), without there being sufficient open ~~transactions or~~ positions in the Principal ~~Position~~-Account, a new position will automatically be opened in the Principal ~~Position~~-Account equivalent to the Number of contracts that could not be closed.
- (43) Executed transactions may be divided into several transactions in the respective Principal ~~Position~~ Account (trade separation).

### 1.3.3 Agent ~~Position~~-Accounts

~~(1) Only transactions carried out by a General or Direct Clearing Member's customers and Non-Clearing Members shall be recorded in Agent Position Accounts.~~

- (21) Adjustments to transactions (trade adjustments) made to re-allocate transactions from Agent ~~Position~~ Accounts to Principal ~~Position~~-Accounts or vice versa (trade transfer), as well as the corresponding transfers of positions (position transfer), are permitted only for the purpose of ensuring that transactions are correctly recorded in the Agent ~~Position~~-Accounts in accordance with Number 1.3.5 Paragraph 5.
- (32) A short position of a customer ~~or a trade participant~~ must be recorded in the Agent ~~Position~~-Account separately from a long position of another customer in the same option series or in the same futures contract. ~~Clearing members may not close one~~ customer position ~~shall not be closed~~ with another customer position. Adjustments to opening and closing transactions in an Agent ~~Position~~-Account are permitted only to the extent required for the proper maintenance of the account or pursuant to instructions of the customer in accordance with the provisions of Number 1.3.5 Paragraph 5.
- (43) Closing position adjustments in Agent ~~Position~~-Accounts shall only be permitted for the purpose of closing two opposing positions held by the same customer in accordance with the provisions of Number 1.3.5 Paragraph 5.
- (54) If a transaction is specified as a closing transaction (Closing Trade), without there being sufficient open positions in the Agent ~~Position~~-Account, a new position will automatically be opened in the Agent ~~Position~~-Account, corresponding to the number of which could not be closed.
- (65) Executed transactions may be divided into several transactions in the Agent ~~Position~~-Account (Trade Separation).

### 1.3.4 ~~Market Maker-Position~~ Accounts

~~(1) The transactions arising from quotes entered in accordance with the Conditions of Trading of the respective trading platform shall be recorded in the M-Position Accounts of a General or Direct Clearing Member. Transactions resulting from orders as principal may, if appropriately designated, be recorded in an M-Position Account.~~

- (21) Adjustments to transactions (trade adjustments) that change the allocation of a transaction from a ~~Market Maker-Position~~ Account to an Agent or Principal ~~Position~~-Account (trade transfer), as well as transfers of positions between ~~position~~-accounts (position transfer), are permitted only for purposes of correct recording of transactions in ~~Market Maker-Position~~ Accounts in accordance with Number 1.3.5 Paragraph 5.

### 1.3.5 Account Management

- (1) Positions in the Agent ~~Position~~-Accounts and in the Principal ~~Position~~-Accounts of a ~~Clearing Member~~ shall be gross positions, i.e., positions may be open on both the long and the short sides. Positions in ~~Market Maker-position~~ Accounts shall be net positions, i.e., each position may be either long or short.
- (2) ~~Eurex Clearing AG shall monitor the Position Accounts of each Clearing Member.~~ Eurex Clearing AG shall make the balance and transaction details for all ~~position~~-accounts available in its system for the Clearing Members.
- (3) All open positions in option series shall automatically be cancelled in the ~~position~~-accounts of the Clearing Member after the Post-Trading Period on the last trading day for the options contract concerned. All assigned short positions and all exercised long positions shall be cancelled in the ~~position~~-account of a Clearing Member after the delivery or payment, as the case may be, has been made in respect of such exercise or assignment, or after the cash settlement has been made in connection with such positions.
- (4) Positions in Futures contracts shall be cancelled in the ~~position~~-accounts of the Clearing Members after the delivery or payment, as the case may be, or the cash settlement in connection with such positions has been made.
- (5) Trade adjustments can be entered before, during or after the trading period of each trading day, depending on the functions of the Eurex trading platform used. They are permitted with respect to transactions executed on the respective trading day and the both preceding trading days.

Closing position adjustments can be entered before, during or after the trading period of each trading day, depending on the functions of the Eurex trading platform used. Position transfers between ~~position~~-accounts of the same Non-Clearing Member or Clearing Member may be entered during the Pre-Trading Period, the Pre-Opening Period, the Trading Period and the Post-Trading Full Period of any business day.

- (6) Position transfers between different Non-Clearing Members or Clearing Members from or onto ~~Market Maker-Position~~ accounts are not permitted.

Position transfers without cash transfer or position transfers with cash transfer between different Clearing Members (member position transfer) may only be made ~~by a Clearing Member~~ upon binding confirmation of the entry of the transfer as binding by all Non-Clearing Members and Clearing Members involved. Position transfers from or onto an Agent ~~Position~~-Account may only be made at the request of the customer concerned.

The function "Position transfer with cash transfer" may only be selected if - by way of a reference which must be entered into the system of the Eurex trading platform - the amount to be transferred is clearly attributable to one or more transactions entered in a ~~position~~-account of the Clearing Member.

The system of Eurex Clearing AG will transfer the relevant positions after the Post-Trading Full Period. Any cash payments or credit entries to be made in relation to the function "Position transfer with cash transfer" shall always be effected on the business day following the day on which the function was used. However, with regard to this particular function, the respective amount is only transferred to the Clearing Member entitled to receive payment when the Clearing Member liable to pay the amount has actually made payment. In respect of such cash transfer, Eurex Clearing AG and the trading platform involved shall not have any performance obligation towards the Exchange Participant entitled to receive payment.

- (7) Transfers of transactions from the Agent ~~Position~~-Account of a Clearing Member to Agent Position Accounts and Principal Position Accounts of another Clearing Member (Give-Up Trades) can be carried ~~by a Clearing Member or a Non-Clearing Member on behalf of its General or Direct Clearing Member~~ out on the day when the respective transaction is concluded and the both following business days if the customer so demands, insofar as
- a Clearing Member or its respective Non-Clearing Member (Executing Broker) has carried out a customer order; ~~and~~
  - this order has been matched with another order or quote through the system of the Eurex Exchanges in accordance with the Conditions for Trading at Eurex Deutschland and Eurex Zürich; ~~and~~
  - the matched transaction is an opening trade; ~~and~~
  - the order entered or the completed transaction matched was indicated as a Give Up Trade; ~~and~~
  - the transfer of the transaction was notified to the other Clearing Member or Non-Clearing Member (Clearing Broker) and
  - this Clearing Member or Non-Clearing Member (~~Clearing Broker~~) has confirmed the acceptance of the transaction.

~~If the transfer of transactions is instructed by one or more Non-Clearing Member(s), the respective Clearing Members of, as the case may be, one or both Non-Clearing Members have to agree to the give-up trade, resulting in the transfer of the transaction from and to the Agent Position Account or Principal Position Account of the respective Clearing Member or to its account kept for the respective Non-Clearing Member (Number 1.3.3 Paragraph 1).~~

[....]

#### ~~1.5 Clearing of off-exchange futures and options transactions~~

~~Eurex Clearing AG shall handle the performance and maintenance of margin (Clearing) in respect of all transactions carried out at Eurex Deutschland and Eurex Zürich. Furthermore, Eurex Clearing AG shall handle the clearing of options and futures transactions entered into off-Exchange, to the extent that the contract specifications of such transactions correspond to those contracts admitted for trading at Eurex Deutschland and Eurex Zürich or in the event of derivatives transactions in Flexible Options which have been admitted for clearing by Eurex Clearing AG. A transaction of Flexible Options occurs if a participant has —on his own account or on behalf of a client— agreed off-exchange with another participant or with another client upon a purchase/sale of one of the products determined by Eurex Clearing AG insofar that the Number of contracts shall not undergo a fixed minimum Number and that the characteristics of such contracts correspond to the respective contract specifications of such products pursuant to the respective relevant contract specifications for Futures contracts and Options contracts at Eurex Deutschland and Eurex Zürich. With regard to Flexible Options, exercise price, expiry day as well as the form of exercise (European Style, American Style) may be determined individually by each user. The chosen exercise price has to be within the highest and lowest exercise price in the respective regular option series (except Low Exercise Price options). The maximum term is determined by the Eurex contract specifications.~~

~~With regard to Flexible Options, the regulations of Chapter II, which apply for the clearing of the respective contracts traded at Eurex Deutschland and Eurex Zürich, apply mutatis mutandis. Furthermore, the provisions set forth in Chapter I shall apply mutatis mutandis.~~

[...]

## Part 4

### Clearing of Off-Exchange Futures and Options Transactions

#### 4.1 General Conditions

In addition to fulfilment and provision of margin (clearing) of the transactions concluded at Eurex Deutschland and Eurex Zürich, Eurex Clearing AG also executes the clearing of off-exchange futures and options transactions, provided that their contract specifications correspond to those of the contracts admitted to trading at Eurex Deutschland and Eurex Zürich or if they are futures and options transactions concluded off-exchange in Flexible Options Contracts or Flexible Futures Contracts corresponding to the following provisions ("Eurex OTC Transactions").

The regulations in Chapter I ("General Conditions") and Chapter II ("Transactions at Eurex Deutschland and Eurex Zürich") shall apply to all OTC Futures and Options transactions which are included in the clearing, unless otherwise provided for the clearing of specific types of OTC transactions in this Part 4 or in the Conditions for Utilization of the OTC Trade Entry Facilities (General Conditions of Participation) of Eurex Clearing AG in their current version.

#### 4.1.1 Participation Authorization

- (1) Only companies which are admitted to participation in the Exchange Futures and Options trading at the Eurex Exchanges pursuant the provisions of the Exchange Rules of Eurex Deutschland and Eurex Zürich, which participate either directly or indirectly in the clearing procedure for transactions concluded at the Eurex Exchanges and which have accepted the Conditions for Utilizations of the OTC Trade Entry Facilities ("General Conditions of Participation") of Eurex Clearing AG ("Participants") can have OTC Futures and Options transactions cleared by Eurex Clearing AG.
- (2) Furthermore, a participation in the clearing of OTC Futures and Options transactions require that the participant proves vis-à-vis Eurex Clearing AG that he owns directly or indirectly the security deposit account necessary in particular cases for the settlement or fulfilment of OTC Futures and Options transactions as well as a corresponding cash account with a Security Depository Bank recognised by Eurex Clearing AG or a Custodian or a Central Securities Depository, via which the settlement of securities in collective safe custody (*Treuhandgiroverkehr*) is possible. Provided that a participant who has accepted the Conditions for Utilization of the OTC Trade Entry Facilities ("General Conditions of Participation"), does not provide such evidence, Eurex Clearing AG may forbid such participant the clearing of OTC Futures and Options transactions entirely or with regard to individual types of OTC transactions and technically block the use of the OTC Trade Entry Facilities accordingly.

#### 4.1.2 Prerequisites for an Inclusion of OTC Transactions in the Clearing

- (1) Eurex Clearing AG determines which types of OTC Futures and Options transactions can be included in the clearing. Furthermore, Eurex Clearing AG decides on the number of contracts via which an OTC transaction shall at minimum be concluded so that it may be entered in the Eurex system for clearing. If the respectively determined minimum contract size per OTC transaction is undergone, Eurex Clearing AG is not obligated to clear such a transaction pursuant to Chapter II Part 4. In such case, the system entries made in connection with such a transaction shall be rejected by the Eurex system and shall not be processed.
- (2) In case OTC Futures and Options transactions included in the clearing of Eurex Clearing AG provide for a fulfilment by physical delivery of securities („physical delivery“), the Clearing Members participating in such transactions and Eurex Clearing AG shall guarantee that these Futures and Options transactions can be processed in the Gross Delivery Management (Chapter I, Number 1.6) on the business day on which the respective delivery note was given. Furthermore, these Clearing Members shall guarantee their delivery- and payment ability by respective positions in the deposit of the respective Securities Depository Bank or the Custodian or the Central Securities Depository and by credit on the respective cash accounts.
- (3) Provided that futures and options transactions concluded off-exchange and included in the clearing of Eurex Clearing AG arrange for a fulfilment through physical delivery of securities ("physical delivery"), the Clearing Members involved in these transactions and Eurex Clearing AG shall guarantee that these futures and options transactions can be handled in the Gross Delivery Management (Chapter I Number 1.6) on the business day on which the respective delivery was indicated. Furthermore, these Clearing Members shall guarantee their ability to deliver and pay by according cash positions in the deposit account of the respective Collective Safe Custody or the Custodian or Central Securities Depository and by credit on the respective cash accounts.

### 4.1.3 Accounting

(1) For OTC Futures and Options transactions in Flexible Options contracts and Flexible Futures contracts ("Flexible Contracts"), the following applies with regard to their position accounting in deviation of the regulations in Chapter II Number 1.3.2 to Number 1.3.4:

§ A designation regarding opening transaction or netting transaction is not available. Transactions may be open either on the purchase or on the sale side in the respective position accounts.

§ Trade Adjustments in the customer position account which change the assignment of a transaction from customer to own- or from own to customer positions accounts (Trade Transfer), (Position Transfer) are only allowed in order to correctly list the transaction on the customer position account according to Chapter II Number 1.3.5 Paragraph 5.

§ Concluded transactions may be separated into different transactions in the customer positions account as well as in the own position account (Trade Separation)

§ Position transfers with cash between different Non-Clearing Members or Clearing Members of of position accounts are not permitted for Flexible Contracts.

(2) Provided that the contract specifications of Flexible Contracts correspond to the specifications of the respective contracts available for trading at the Eurex Exchanges, a participant (Number 4.1.1) may apply with Eurex Clearing AG that, for these Flexible Contracts, the regulations pursuant to Paragraph 1 do not apply and that the accounting pursuant to Chapter II Number 1.3.2 to 1.3.4 – as for contracts concluded at the Eurex Exchanges – shall be executed.

Furthermore, applications pursuant to Clause 1] require that the participant(s) of respective identical transactions in Flexible Contracts give its/their consent to the applied accounting change. Insofar, the approval of all participants is necessary. Provided that a participant of the identical transactions participates in the clearing procedure via a Clearing Member, exclusively the decision of this participant is relevant.

## 4.2 Part:

### Clearing of OTC Standardised Eurex Contracts

Futures and Options Contracts whose contract specifications correspond to the specifications of the contracts admitted to trading at Eurex Deutschland and Eurex Zürich („OTC Standardised Eurex Contracts“) can be included in the clearing. An OTC Futures and Options transaction with a standardized Eurex Contracts exists if the contracting parties have agreed off-exchange upon the purchase or sale of a contract whose characteristics correspond to the specifications determined in the Contracts Specifications for Futures Contracts and Options Contracts at Eurex Deutschland and Eurex Zürich in its current version ("Eurex Contract Specifications") and which have been included in the clearing by Eurex Clearing AG.

Furthermore, the Conditions for Utilization of the OTC Trade Entry Facilities ("General Conditions for Participation") of Eurex Clearing AG in their current version rule the clearing of OTC Standardised Eurex Contracts and the utilization of the OTC Trade Entry Facility.

## 4.3 Part

### Clearing of OTC Flexible Eurex Futures Contracts

Futures Contracts whose contract specifications – except the modalities listed in the following regulations - correspond to the specifications of the contracts admitted to trading at Eurex Deutschland and Eurex Zürich („Flexible Eurex Futures Contracts“) can be included in the clearing. An OTC Futures and Options transaction with a Flexible Eurex Futures Contract exists if the contracting parties have agreed off-exchange upon the purchase or sale of a futures contract whose characteristics – irrespective of the modalities listed in the following - correspond to the specifications of Eurex Futures Contracts determined in the Eurex Contracts Specifications and which have been included in the clearing by Eurex Clearing AG.<sup>1</sup>

#### 4.3.1 Specifications Flexible Eurex Futures Contracts

(1) Within the OTC agreement of Flexible Eurex Futures Contracts, the contracting parties may – in deviation to the current Eurex Contract Specifications for respective Futures Contracts – determine the terms, last trading day, final settlement day of Flexible Eurex Futures Contracts individually. Furthermore, the type of fulfilment (cash settlement or delivery respectively assignment of underlying) can be determined for individual Flexible Eurex Futures Contracts determined by Eurex Clearing AG.

In detail, only the following modalities may be determined for Flexible Eurex Futures Contracts, in deviation to the respectively valid Eurex Contract Specifications:

##### § Terms

For Flexible Eurex Futures Contracts, terms of one day until the last trading day of the longest expiry month of the respective Futures Contracts admitted to trading at the Eurex exchanges may be determined.

##### § Last Trading Day and Final Settlement Day

Last Trading Day and Final Settlement Day for Flexible Eurex Futures Contracts shall at the earliest be the business day following the entry of such trade in the Eurex system.

##### § Fulfilment

<sup>1</sup> Part 4.3 shall not apply with regard OTC Flexible Futures Contracts which relate to cash market-, Fixed Income and Volatility Index Futures Contracts. Insofar, Eurex Clearing AG does not assume the clearing of these Flexible Eurex Futures Contracts.



(1) For Flexible Eurex Futures Contracts on Exchange-Traded Funds, a fulfilment by payment of a remaining amount ("Cash Settlement") instead of a fulfilment by physical delivery of the respective index funds ("Physical Delivery") may be determined.

Provided a cash settlement has been determined for certain Flexible Eurex Futures Contracts on Exchange-Traded Index Funds, open positions in such contracts on the last trading day shall be settled by a remaining amount which is credited to or debited an internal cash settlement account of the Clearing Member.

(2) For Flexible Eurex Futures Contracts on shares or certificates representing shares (Depository Receipts), a fulfilment by physical delivery instead of by cash settlement may be determined.

Provided a physical delivery has been determined for certain Flexible Eurex Futures Contracts respectively for Depository Receipts, all physical deliveries shall be carried out versus payment (and vice versa) directly between the Clearing Members and Eurex Clearing AG. The regulations of Chapter II Number 3.6.1 of the Clearing Conditions shall apply accordingly.

(3) For Flexible Eurex Futures Contracts on indices, exclusively a fulfilment by payment of a remaining amount („Cash Settlement“) may be determined. The regulations of Chapter II Number 2.4.1 of the Clearing Conditions shall apply accordingly.

#### § Final Settlement Price for Flexible Futures Contracts (Cash Settlement)

(1) For Flexible Eurex Futures Contracts on shares for which a Cash Settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The official final price of the [share] on the respective, individually determined final settlement day shall be relevant. Chapter II Number 2.7.2 of the Clearing Conditions shall apply accordingly.

(2) For Flexible Eurex Futures Contracts on indices for which a cash settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The final value of the underlying index on basis of the prices determined for the securities and rights included in the respective index on the respective, individually determined final settlement day shall be relevant.<sup>2</sup> Chapter II Number 2.4.2 of the Clearing Conditions shall apply accordingly.

<sup>2</sup> For the determination of the final settlement price for Flexible Futures Contracts on the Dow Jones Global Titans 50<sup>SM</sup> Index, its value at 5:30 pm (CET) shall be relevant.

(3) For Flexible Eurex Futures Contracts on Exchange-Traded Funds for which a cash settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The value of the underlying on the respective, individually determined final settlement day shall be relevant. Chapter II Number 2.5.2 of the Clearing Conditions shall apply accordingly

§ Tender Price for Flexible Futures Contracts (Physical Delivery)

The tender price for Flexible Eurex Futures Contracts on underlyings for which a physical delivery has been determined, shall be determined according to the regulations in Chapter II Number 3.6.3.

4.4 Part

Clearing of OTC Flexible Eurex Options Contracts

Options Contracts whose contract specifications – except the modalities listed in the following regulations - correspond to the specifications of the contracts admitted to trading at Eurex Deutschland and Eurex Zürich („Flexible Eurex Options Contracts“) can be included in the clearing. An OTC Futures and Options transaction with a Flexible Eurex Options Contract exists if the contracting parties have agreed off-exchange upon the purchase or sale of an options contract whose characteristics – irrespective of the modalities listed in the following - correspond to the specifications of Eurex Options Contracts determined in the Eurex Contracts Specifications and which have been included in the clearing by Eurex Clearing AG.<sup>3</sup>

<sup>3</sup> With regard to OTC Flexible Eurex Options Contracts relating to Cash Market Futures Contracts, part 4.4 shall not apply. Therefore, Eurex Clearing AG does not assume the clearing of such Flexible Eurex Options Contracts.

#### 4.4.1 Specifications Flexible Eurex Options Contracts

(2) Within the OTC agreement of Flexible Eurex Options Contracts, the contracting parties may – in deviation to the current Eurex Contract Specifications for respective Options Contracts – determine the terms, last trading day, execution type (European style, American style), exercise price, final settlement day respectively expiry day of of Flexible Eurex Options Contracts individually. Furthermore, the type of fulfilment (cash settlement or delivery respectively assignment of underlying) can be determined for individual Flexible Eurex Options Contracts determined by Eurex Clearing AG.

##### § Terms

For Flexible Eurex Options Contracts, terms of one day until the last trading day of the longest expiry month of the respective Options Contracts admitted to trading at the Eurex exchanges may be determined.

##### § Last Trading Day, Final Settlement Day and Expiry Day

Last Trading Day and Final Settlement Day for Flexible Eurex Options Contracts shall at the earliest be the business day following the entry of such trade in the Eurex system. Expiry Day of Flexible Eurex Options Contracts which provide for a physical delivery, shall always be the business day following the last trading day.

##### § Execution

With regard to Flexible Eurex Options Contracts, respectively one of both execution modalities European Style or American Style may be chosen instead of the execution alternatives provided for in the Contract Specifications for the respective Eurex Options Contracts.

##### § Fulfilment

For Flexible Eurex Options Contracts on Exchange-Traded Funds, a fulfilment by payment of a remaining amount ("Cash Settlement") instead of a fulfilment by physical delivery of the respective index funds ("Physical Delivery") may be determined.

Provided a cash settlement has been determined for certain Flexible Eurex Options Contracts on shares respectively for Exchange-Traded Funds, executed and assigned options contracts shall be settled by a remaining amount which is credited to or debited an internal cash settlement account of the respective Clearing Members. Chapter II Number 3.4.5 Paragraph (2) of the Clearing Conditions shall apply accordingly.

For Flexible Eurex Futures Contracts on indices, exclusively a fulfilment by payment of a remaining amount ("Cash Settlement") may be determined. The regulations of Chapter II Number 3.4.1 of the Clearing Conditions shall apply accordingly.

### § Exercise Prices

The exercise prices for Flexible Eurex Options Contracts may, in deviation of the Eurex options contracts admitted to trading at the Eurex exchanges, correspond to the lowest exercise price, the highest exercise price or an intermediate price described in the following:

- The lowest exercise price corresponds to a price which is determined through the exercise price being able to be displayed by the data format of the comparable options contracts admitted to trading at the Eurex exchanges (usually 1 Euro cent).
- The highest exercise price corresponds to a price which is determined by Eurex Clearing AG; this price shall be above the highest of all available exercise prices of the respective options contracts admitted to trading by the Eurex exchanges.

### § Final Settlement Price for Flexible Options Contracts (Cash Settlement)

(1) For Flexible Eurex Futures Contracts on shares for which a Cash Settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The official final price of the share on the respective, individually determined final settlement day shall be relevant. Chapter II Number 3.6.3 of the Clearing Conditions shall apply accordingly.

(2) For Flexible Eurex Options Contracts on indices for which a cash settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The final value of the underlying index on basis of the prices determined for the securities and rights included in the respective index on the respective, individually determined final settlement day shall be relevant.<sup>4</sup> Chapter II Number 3.4.3 Paragraph 6 of the Clearing Conditions shall apply accordingly.

In case the final settlement day of Flexible Index Options Contracts and the final settlement day of the respective Index Options Contracts admitted to trading at the Eurex Exchanges are identical, the final settlement price for these Flexible Index Options Contracts shall be determined according to the procedure described in Chapter II Number 3.4.2 of the Clearing Conditions.

<sup>4</sup> For the determination of the final settlement price for Flexible Options Contracts on the Dow Jones Global Titans 50<sup>SM</sup> Index, its value at 5:30 pm (CET) shall be relevant.

(3) For Flexible Eurex Options Contracts on Exchange-Traded Funds for which a cash settlement has been determined, the final settlement price shall be determined by Eurex Clearing AG. The value of the underlying on the respective, individually determined final settlement day shall be relevant. Chapter II Number 3.5.3 of the Clearing Conditions shall apply accordingly

[....]

## Appendices: Form Agreements

[....]

### 2. Clearing Agreement (Eurex Clearing AG / Non Clearing Member / Clearing Member)

#### 2.1 NCM CM Clearing Agreement

NCM-CM Agreement

between

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as Clearing Member (hereinafter referred to as the "CM")

and

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as Non-Clearing Member (hereinafter referred to as the "NCM")

and

Eurex Clearing AG (hereinafter referred to as "AG"), Frankfurt/Main.

[....]

#### 4. Termination of Non-Performed Transactions between CM and NCM

(1) In case clearing licenses of the CM expire pursuant to the regulations in Chapter I Section 2 Number 2.4 Paragraph 2 item c in connection with Paragraph 7 of the Clearing Conditions because Eurex Clearing AG has gained notice of the fact that measures pursuant to §§ 45 et sqq. KWG have been taken against the Clearing Member or insolvency proceedings have been initiated and that, in addition, the Concerned Clearing Member has failed to fulfil in whole or in part its obligations arising from the clearing of its transactions or other obligations existing vis-à-vis Eurex Clearing AG pursuant to the Clearing Conditions, CM and NCM agree upon the following:

a) All mutual payment and delivery obligations existing between the CM and NCM arising from Non-Performed Transactions between CM and NCM shall automatically expire without notice pursuant to Chapter I Number 2.4 Paragraph 7 in connection with Chapter I Number 8.2.1 of the Clearing Conditions; this expiry shall be at the same time as the termination of the clearing license of the CM at the point given in Chapter I Number 2.4 Paragraph 2 item c Clause 1. The expired payment and delivery obligations shall each immediately be substituted by an immediately due obligation to make a unilateral payment due to non-performance ("Unilateral Difference Claim"). The parties to these transactions shall not be obligated to perform the original obligations and may no longer claim the performance.

b) The CM shall be obligated to determine the unilateral difference claims, each substituting the original payment and delivery obligations of the non-performed transactions between CM and NCM, in application of the provisions in Chapter I Number 8.2 of the current version of the Clearing Conditions. The difference claims so determined shall be netted against each other so that one single payment claim (Final Unilateral Difference Claim) results in favour of the NCM or CM. The CM shall immediately notify the NCM of the result and provide the NCM with the data forming the basis of the determination.

The measures pursuant to §§ 45 et sqq. KWG and the opening of insolvency proceedings shall correspond to similar measures and proceedings pursuant to the laws of the state of the Clearing Member's registered offices. Insolvency proceedings shall be deemed initiated if an application or (provided such application is not required) a measure which may lead to such proceedings is presented, submitted or taken at respectively by a court, a public authority, a company body or a person with respective authority.

(2) From the point of termination of the clearing licenses of the CM pursuant to the respective regulations of the Clearing Conditions and, in particular, within the meaning of Paragraph 1, CM and NCM shall no longer be entitled to enter into new transactions with Eurex Clearing AG or to open new positions. In this case, Eurex Clearing AG as central counterparty shall not be obligated to clear new transactions or positions of CM and NCM.

#### 45. Term

This Agreement shall remain in effect until it is terminated by one of the parties thereto in accordance with Chapter I Number 9.3 of the Eurex Clearing Conditions.

**56.** Governing Law; Place of Performance

This Agreement shall be governed by, and construed in accordance with, German law. The place of performance and the jurisdiction for any legal proceedings shall be Frankfurt/Main.

**67.** Saving Clause

If individual provisions are invalid or unenforceable, this shall not affect the validity of the Agreement as a whole. If this Agreement contains an invalid or unenforceable provision or an omission, the invalid provision should be replaced with an appropriate provision which corresponds as closely as possible to the economic content of the invalid provision; in the case of an omission, the omission should be rectified with a provision which most closely corresponds to that which the contractual parties would have intended had they considered the point in question.

Place and Date

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On behalf of the CM

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On behalf of the NCM

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On behalf of AG

[...]