X-pand into the Future

e u r e x *circular 090/01*

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Recipients: All Eurex members and vendors
Authorized by: Daniel Gisler

Modification to the Clearing Conditions for Clearing of Transactions at Eurex Bonds GmbH and Eurex Repo GmbH

Related Eurex Circulars: 088/00, 067/01

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Content may be most important for:	**Attachments:**
➲ Middle + Back Office ➲ Auditing / Security Coordination	Modified sections of Clearing Conditions: I Chapter - Clearing of Transactions at Eurex Deutschland and Eurex Zürich II Chapter - Clearing of Transactions at Eurex Bonds GmbH III Chapter - Clearing of Transactions through the System of Eurex Repo GmbH

Eurex Clearing AG has modified the Clearing Conditions for clearing of transactions at Eurex Bonds GmbH and Eurex Repo GmbH to take effect from 14 September, 2001. Chapters II and III have been harmonized with the normal international general conditions for OTC markets. Thus Eurex Clearing AG is taking into account the different market customs of exchange-traded derivatives, and the off-exchange bond and repo markets.

The Clearing Conditions for clearing of transactions on the Eurex derivatives exchanges (Chapter I) have not been modified significantly in this context. Thereby, deliveries resulting from exchange-traded and off-exchange-traded options and futures transactions will continue to be guaranteed by the provisions of these Clearing Conditions.

In the attachment you will find the updated sections of the Clearing Conditions which include the following changes relating to clearing of trades at Eurex Bonds GmbH and Eurex Repo GmbH:

- no calculation of contractual penalties and default interest on late deliveries
- no compulsory replacement transactions on the fifth day after the due delivery date
- removal of all other rights to damages.

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Clearing Conditions for Eurex Clearing AG

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Preamble

Eurex Clearing AG with registered office in Frankfurt am Main shall operate a system to ensure the performance of the transactions in securities and derivatives that have been concluded on organized and non-organized markets (clearing house). The performance and the maintenance of margin in respect of all transactions ("Clearing") shall be made in accordance with the general terms and conditions set forth below ("Clearing Conditions"). The rights and obligations resulting therefrom shall be governed by the law of the Federal Republic of Germany. The Clearing Conditions, in their respective German version, shall be binding on all Clearing Members.

I Chapter
Clearing of Transactions at Eurex Deutschland and Eurex Zürich

1 Part

General Provisions

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2 Part

Settlement of Transactions at Eurex Deutschland and Eurex Zürich

2.1 Subpart

Settlement of Futures Contracts

- Sections 2.1.1 to 2.1.11 remain unchanged. –

2.1.12 Sub-Subpart

Settlement of Futures Contracts on a Notional Long-Term Debt Security of the Federal Republic of Germany (Euro Bund Futures)

2.1.12.1 General Provisions

(1) Eurex Clearing AG shall be a contracting party to all deliveries and payments arising out of the settlement of futures contracts.

(2) Clearing Members must fulfill their delivery and payment obligations in accordance with the instructions of Eurex Clearing AG.

(3) The following shall apply to the procedures for delivery and payment pursuant to paragraph (1):

All physical deliveries and payments shall be concurrently performed between the Clearing Members on the second Exchange day after the Notice Day (subsection 2.1.12.4); physical deliveries of securities shall be made through Clearstream Banking AG and payments shall be made through the LZB.

Each Clearing Member and Eurex Clearing AG must ensure, through appropriate instruction to Clearstream Banking AG or SegaIntersettle AG that transactions can be processed on the Exchange day on which the delivery notice is given. All Clearing Members must ensure their ability to effect deliveries and payments thereof through sufficient deposits in the securities account with Clearstream Banking AG or SegaIntersettle AG and credit balances in the Clearing Member‘s account at LZB.

2.1.12.2 Daily Settlement

(1) For each contract, profits and losses arising out of open positions on any Exchange day will be determined at the end of the Post-Trading Period and credited to or debited from the internal cash clearing account. For open positions from the previous Exchange day, the amount to be credited or debited shall equal the difference between the daily settlement prices of the contract in question on the relevant Exchange day and the previous Exchange day. For transactions on the relevant Exchange day, the amount to be credited or debited shall equal the difference between the price at which the transaction was concluded and the daily settlement price for such Exchange day.

(2) The daily settlement price shall equal the volume-weighted average of the prices of the five last transactions, provided that no more than 15 minutes have passed since the transactions, or, if more than five transactions were entered into during the final minute of trading, the volume-weighted average of the prices of all transactions entered into during such period.

If it is not possible to determine a price pursuant to the above provisions, or if the price so determined does not reflect the true market conditions, Eurex Clearing AG shall determine the settlement price.

(3) Paragraph (1) shall apply to the legal relationship between General Clearing Members or Direct Clearing Members and the Non-Clearing Members represented by them mutatis mutandis.

(4) With respect to the payments resulting from the daily settlement the provisions under subsection 2.1.12.1 paragraph (3) shall apply mutatis mutandis.

2.1.12.3 Margin Requirements

(1) The basic provisions for margin requirements are set forth in subsections 1.3.1 through 1.3.5. In addition thereto, the following provisions shall apply:

(2) With respect to futures contracts, margin must, for positions that may be netted, be maintained to cover the risk that the 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.

(3) In addition to the margin required under paragraph (2), a further margin requirement ("Additional Margin") shall be calculated in an amount sufficient to cover any change to the cost of closing all futures positions that cannot be netted in accordance with paragraph (2) assuming the least

favorable price developments, as determined by Eurex Clearing AG, until the next calculation of the margin requirements.

2.1.12.4 Performance

(1) A delivery obligation arising out of a short position in a Euro Bund Futures contract may only be performed by the delivery of debt securities designated by Eurex Clearing AG - specifically, Federal Government Bonds (Bundesanleihen) - with a remaining term of eight and one-half to ten and one-half years. The debt securities shall have a minimum issuance volume of DM 4 billion or in the case of new issues from January 1, 1999 onwards EUR 2 billion. Clearing Members with open short positions must notify Eurex Clearing AG between the close of trading and the end of the Post-Trading Full Period on the day that is two Exchange days before the tenth calendar day of a quarter-end month (the "Notice Day") which debt securities they will deliver. Any prior delivery notices may be amended until the end of such Post-Trading Full Period. If the delivery notice is not given in a timely manner, Eurex Clearing AG will select the debt securities to be delivered by such Clearing Member.

One day prior to the delivery day the Clearing Members must confirm to the clearing house in writing the actual availability of the debt securities which they have notified.

(2) Eurex Clearing AG will, after the end of the Post-Trading Period on the Notice Day, allocate to the Clearing Members with open long positions the debt securities notified for delivery, using a selection procedure that ensures the neutrality of the allocation process. The Clearing Members will be informed on the next Exchange day as to which debt securities were allocated to them and at what tender price (subsection 2.1.12.1 paragraph (2) of the Conditions for Trading at the Eurex Exchanges).

(3) Paragraphs (1) and (2) shall apply to the legal relationship between General Clearing Members or Direct Clearing Members and their Non-Clearing Members; paragraph (2) shall apply mutatis mutandis to the legal relationship between Clearing Members or Non-Clearing Members, as the case may be, and their respective customers.

2.1.12.5 Default in Delivery or Payment

(1) In the event that a Clearing Member which is obligated to deliver is in default and fails to deliver the debt securities notified by it on the delivery day and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled to take the following measures:

- Eurex Clearing AG is entitled to obtain by means of securities lending the notified debt securities and deliver them to the Clearing Member which did not receive delivery in a timely manner.

- Eurex Clearing AG is entitled to designate from the basket of deliverable bonds debt securities other than those notified as debt securities to be delivered and to deliver such debt securities to the Clearing Member which did not receive delivery in a timely manner.

In such case, the defaulting Clearing Member must deliver the debt securities so notified by Eurex Clearing AG.

Eurex Clearing AG is entitled to obtain the notified debt securities by means of securities lending and to deliver them to the Clearing Member which did not receive delivery in a timely manner.

- In the event that the debt securities to be delivered are not delivered to Eurex Clearing AG as part of the standard transfer arrangement of Clearstream Banking AG by the fifth Exchange day after the delivery day, Eurex Clearing AG shall be entitled to make a replacement purchase with respect to the undelivered debt securities. The replacement purchase is to be carried out ~~through a replacement transaction on a stock exchange~~ on the fifth Exchange day after the delivery day. Eurex Clearing AG will deliver the debt securities acquired through such replacement transaction to the Clearing Member which did not receive delivery in a timely manner.

(2) Measures set forth in paragraph (1) are binding on the Clearing Member which did not receive delivery in a timely manner.

(3) Any costs arising from the measures taken in accordance with paragraph (1) must be paid by the defaulting Clearing Member.

(4) Furthermore, Eurex Clearing AG will charge the defaulting Clearing Member a contractual penalty. The contractual penalty shall be calculated as follows:

Eurex Clearing AG is entitled to a contractual penalty from the defaulting Clearing Member until delivery is made by the defaulting Clearing Member or until a replacement purchase is made by Eurex Clearing AG on the fifth Exchange day in the amount of 40 ticks per contract and calendar day. Should the defaulting Clearing Member deliver the due debt securities in the second Same Day Settlement processing of Clearstream Banking AG on the delivery day, the above-mentioned contractual penalty will be reduced to 4 ticks per contract. In addition, Eurex Clearing AG will charge a contractual penalty until delivery is made in an amount representing a specified percentage – to be announced by Eurex Clearing AG in advance - of the equivalent of the debt securities to be delivered; such percentage shall be based on the money-market rates prevailing in the market.

(5) In the event that any payment is not made on the payment date, subsection 1.7.1 paragraph (4) and subsection 1.7.2 paragraph (5) shall apply mutatis mutandis.

(6) The right of Eurex Clearing AG and the Clearing Member which did not receive delivery in a timely manner to claim further damages shall remain unaffected.

2.1.13 Sub-Subpart

Settlement of Futures Contracts on a Notional Medium-Term Debt Security of the Federal Republic of Germany or the Treuhandanstalt (Euro BOBL Futures)

2.1.13.1 General Provisions

The provisions of subsection 2.1.12.1 shall apply mutatis mutandis.

2.1.13.2 Daily Settlement

The provisions of subsection 2.1.12.2 shall apply mutatis mutandis.

2.1.13.3 Margin Requirements

The provisions of subsection 2.1.12.3 shall apply mutatis mutandis.

2.1.13.4 Performance

(1) A delivery obligation arising out of a short position in a Euro Bobl Futures contract may only be performed by the delivery of debt securities designated by Eurex Clearing AG.

Delivery may be made with debt securities, - specifically, Federal Government Bonds (Bundesanleihen), Federal Debt Obligations (Bundesobligationen) and Federal Treasury Obligations (Bundesschatzanweisungen) or, to the extent that the Federal Republic of Germany assumes unlimited and direct liability thereunder, debt securities of the Treuhandanstalt which are listed on a stock exchange - which have a remaining term of four and one-half to five and one-half years. The debt securities shall have a minimum issuance volume of DM 4 billion or in the case of new issues from January 1, 1999 onwards EUR 2 billion.

Clearing Members with open short positions must notify Eurex Clearing AG after the close of trading but before the end of the Post-Trading Full Period on the date that is two Exchange days before the tenth calendar day of a quarter-end month (the "Notice Day") which debt securities they will deliver. Any prior delivery notices may be amended until the end of such Post-Trading Full Period. If the delivery notice is not given in a timely manner, Eurex Clearing AG will select the debt securities to be delivered by such Clearing Member.

One day prior to the delivery day the Clearing Members must confirm to the clearing house in writing the actual availability of the of debt securities which they have notified.

(2) Eurex Clearing AG will, after the end of the Post-Trading Period on the Notice Day, allocate to the Clearing Members with open long positions the debt securities notified for delivery, using a selection procedure that ensures the neutrality of the allocation process. The Clearing Members will be informed on the next Exchange day as to which debt securities were allocated to them and at what tender price (subsection 2.1.13.1 paragraph (2) of the Conditions for Trading at the Eurex Exchanges).

(3) Paragraphs (1) and (2) shall apply to the legal relationship between General Clearing Members or Direct Clearing Members and their Non-Clearing Members; paragraph (2) shall apply mutatis mutandis to the legal relationship between Clearing Members or Non-Clearing Members, as the case may be, and their respective customers.

2.1.13.5 Default in Delivery or Payment

The provisions of subsection 2.1.12.5 shall apply mutatis mutandis.

2.1.14 Sub-Subpart

Settlement of Futures Contracts on a Notional Short-Term Debt Security of the Federal Republic of Germany or the Treuhandanstalt (Euro SCHATZ Futures)

2.1.14.1 General Provisions

The provisions of subsection 2.1.12.1 shall apply mutatis mutandis.

2.1.14.2 Daily Settlement

The provisions of subsection 2.1.12.2 shall apply mutatis mutandis.

2.1.14.3 Collateral Requirements

The provisions of subsection 2.1.12.3 shall apply mutatis mutandis.

2.1.14.4 Performance

(1) A delivery obligation arising out of a short position in a Euro Schatz Futures contract may only be performed by the delivery of debt securities designated by Eurex Clearing AG.

Delivery may be made with debt securities - specifically Federal Treasury Obligations (Bundesschatzanweisungen) - which have an original term of no more than two and one-quarter years and a remaining term of no less than one and three-quarter years, as well as with four-year Federal Debt Obligations (Bundesobligationen), Federal Treasury Obligations, Federal Government Bonds (Bundesanleihen) or, to the extent that the Federal Republic of Germany assumes unlimited and direct liability thereunder, debt securities of the Treuhandanstalt which are listed on a stock exchange - which have on the delivery day a remaining term of one and three-quarter to two and one-quarter years. The issuance volume of the obligations shall amount to at least DM 4 billion or in the case of new issues from January 1, 1999 onwards EUR 2 billion.

Clearing Members with open short positions must notify Eurex Clearing AG between the close of trading and the end of the Post-Trading Full Period on the day that is two Exchange days before the tenth calendar day of a quarter-end month (the "Notice Day") which debt securities they will deliver. Any prior delivery notices may be amended until the end of such Post-Trading Full Period. If the delivery notice is not given in a timely manner, Eurex Clearing AG will select the debt securities to be delivered by such Clearing Member.

One day prior to the delivery day the Clearing Members must confirm to the clearing house in writing the actual availability of the debt securities which they have notified.

(2) Eurex Clearing AG will, after the end of the Post-Trading Period on the Notice Day, allocate to the Clearing Members with open long positions the debt securities notified for delivery, using a selection procedure that ensures the neutrality of the allocation process. The Clearing Members will be informed on the next Exchange day as to which debt securities were allocated to them and at what tender price (subsection 2.1.14.1 paragraph (2) of the Conditions for Trading at the Eurex Exchanges).

(3) Paragraphs (1) and (2) shall apply to the legal relationship between General Clearing Members or Direct Clearing Members and their Non-Clearing Members; paragraph (2) shall apply mutatis mutandis to the legal relationship between Clearing Members or Non-Clearing Members, as the case may be, and their respective customers.

2.1.14.5 Default in Delivery or Payment

The provisions of subsection 2.1.12.5 shall apply mutatis mutandis.

- **The remaining provisions for the clearing of derivatives remain unchanged. –**

II Chapter
Clearing of Transactions at Eurex Bonds GmbH

1 Part

General Provisions

If and to the extent that the clearing of transactions concluded at Eurex Bonds GmbH has been agreed upon between Eurex Clearing AG and Eurex Bonds GmbH or other, equivalent regulations have been reached, the provisions set forth in Chapter I shall also apply to the clearing of transactions at Eurex Bonds GmbH, to the extent that the following rules do not provide otherwise.

1.1 Subpart

Clearing Licenses

1.1.1 Granting of Clearing Licenses

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1.1.2 Prerequisites for Clearing Licenses

(1) Prerequisite for a General Clearing License is liable equity capital (haftendes Eigenkapital) of the applying institution of at least EUR 50 million, or the corresponding equivalent in the currency of the country in which the applying institution is domiciled. For institutions beyond the scope of the KWG, own funds must be equivalent to the liable equity capital.

Prerequisite for a Direct Clearing License is liable equity capital of the applying institution of at least EUR 5 million or the corresponding equivalent in the currency of the country in which the applying institution is domiciled. For institutions beyond the scope of the KWG, own funds must be equivalent to the liable equity capital.

When calculating the liable equity capital for granting a clearing license for clearing transactions carried out at Eurex Bonds GmbH, that equity capital shall be considered which the applicant has already provided evidence for when applying for a clearing license for clearing transactions carried out at Eurex Repo GmbH (Chapter III).

The aforementioned prerequisites shall apply irrespective of the existence of a General Clearing License or a Direct Clearing License of the respective applicant for the clearing at Eurex Deutschland and Eurex Zürich.

(2) The liable equity capital or equivalent own funds shall be calculated in accordance with the legal provisions in force in the country in which the institution is domiciled. Evidence of the amount of the liable equity capital or the equivalent own funds shall be provided to Eurex Clearing AG together with the application as well as upon request at any time during the Clearing Membership.

(3) Should the liable equity capital or the equivalent own funds of the applying institution not be sufficient for granting a clearing license, Chapter I, section 1.1.2, paragraph (2) shall apply mutatis mutandis.

(34) The applicant shall meet the following additional requirements:

(a) Evidence shall be provided for a securities account with a central depository recognised by Eurex Clearing AG and a pledged securities account with Clearstream Banking AG or SegaIntersettle AG;

(b) Evidence shall be provided for an account at the State Central Bank of Hessen - Main Office in Frankfurt of the German Federal Bank (Landeszentralbank in Hessen - Hauptstelle Frankfurt der Deutschen Bundesbank) ("LZB") through which the Clearing Member will settle its transactions on Eurex Bonds GmbH; Eurex Clearing AG may allow

the use of accounts of a correspondent bank recognised by Eurex Clearing AG for purposes of cash clearing with Eurex Clearing AG;

(c) The use of appropriate technical equipment (back-office facilities) to ensure the orderly recording, booking and supervision of all transactions, as well as the provision of margin and the calculation of margin requirements with respect to the customers pursuant to the minimum requirements of Eurex Clearing AG (clearing obligations); the Implementation Regulations of the Eurex Exchanges Concerning Technical Equipment shall apply mutatis mutandis in all other respects.

(d) During the business day of Eurex Clearing AG at least one sufficiently qualified member of staff must be present and available by telephone or fax at any time for the orderly fulfilment of the clearing obligations in the back-office.

(e) Payment of the contribution to the Clearing Fund according to Chapter II subsection 1.1.5.

1.1.3 Conclusion of Transactions

…

1.1.4 Objections

Any objection to transactions that have been concluded at Eurex Bonds GmbH and have been transmitted for clearing to Eurex Clearing AG must be delivered to Eurex Bonds GmbH in accordance with the general terms and conditions of Eurex Bonds GmbH. In all other respects, Chapter I subsection 1.2.3 shall apply mutatis mutandis, provided that objections within the meaning of Chapter I, section 1.2.3 shall not be raised until the end of the pre-trading period of the following business day, at the latest, but until the beginning of trade, at the latest, on the following business day at Eurex Bonds GmbH.

1.1.5 Clearing Fund

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1.1.6 Business Days

The business days within the meaning of Chapter II shall generally be the business days determined by the Board of Management of Eurex Bonds GmbH.

2 Part

Settlement of Transactions at Eurex Bonds GmbH

2.1 Subpart

Settlement of Debt Securities of the Federal Republic of Germany and the Treuhandanstalt

2.1.1 General Provisions

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2.1.2 Daily Settlement

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2.1.3 Margin Requirements

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2.1.4 Default in Delivery or Payment

(1) In the event that a Clearing Member which is obligated to deliver ~~is in default with respect to the delivery of debt securities of the Federal Republic of Germany or the Treuhandanstalt and~~ fails to deliver the debt securities sold by it on the value date and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled or, on request of the Clearing Member which did not receive delivery in a timely manner, obligated to make a replacement purchase with respect to the undelivered debt securities as from the fifth business day following the value date, ~~in particular, to obtain such debt securities by means of securities lending~~ and to deliver these to the Clearing Member which did not receive delivery in a timely manner ~~by the fifth business day after the value date.~~

(2) Measures set forth in paragraph (1) shall be binding on and accepted ~~as performance~~ by the Clearing Member which did not receive delivery in a timely manner.

(3) Any costs arising from the measures taken in accordance with paragraph (1) must be paid by the ~~defaulting~~ Clearing Member obligated to deliver.

~~(4) Furthermore, Eurex Clearing AG will charge the defaulting Clearing Member a contractual penalty. The contractual penalty shall be calculated as follows: Eurex Clearing AG is entitled to a contractual penalty from the defaulting Clearing Member until delivery is made by the defaulting Clearing Member or until a replacement purchase is made by Eurex Clearing AG on the fifth business day in the amount of 0,04 percent of the par value per calendar day. In addition, Eurex Clearing AG will charge a contractual penalty until delivery is made in an amount representing a specified percentage – to be announced by Eurex Clearing AG in advance - of the equivalent of the debt securities to be delivered; collected default interests shall be credited to the Clearing Member which did not receive delivery in a timely manner. The such percentage of default interests shall be based on the money-market rates prevailing in the market.~~

(~~5~~4) In the event that the Clearing Member fails to provide the margin demanded for any ~~Exchange~~ business day or fails to pay when due a daily settlement payment or other fees in a timely manner, or if such Clearing Member has failed to fulfil any other obligation to Eurex Clearing AG arising under these Conditions, Chapter I subsections 1.7.1, par. 1 to 3 and subsections 1.7.2 through 1.7.3 shall apply mutatis mutandis.

(5~~6~~) The right of Eurex Clearing AG and the Clearing Member which did not receive delivery in a timely manner to claim further damages shall ~~remain unaffected~~ be excluded.

III Chapter

Clearing of Transactions through the System of Eurex Repo GmbH

1 Part
General Provisions

If and to the extent that the clearing of transactions concluded through the System of Eurex Repo GmbH has been agreed upon between Eurex Clearing AG and Eurex Repo GmbH (in the following "Repo Transactions") or other, equivalent regulations have been reached, the provisions set forth in Chapter I shall also apply to the clearing of Repo Transactions, to the extent that the following rules do not provide otherwise.

1.1 Subpart
Clearing Licenses

1.1.1 Granting of Clearing Licenses

A Clearing License is required in order to participate in the clearing of Repo Transactions concluded through the System of Eurex Repo AG; Eurex Clearing AG shall grant such License upon written application. In all other respects, Chapter I subsection 1.1.1 paragraphs (2) and (3) shall apply mutatis mutandis. Upon request, central banks indicated by Eurex Clearing AG may be released wholly or partially from the obligation to meet the requirements pursuant to sentence 1 and Chapter III subsection 1.1.2.

1.1.2 Prerequisites for Clearing Licenses

(1) Prerequisite for a General Clearing License is liable equity capital (haftendes Eigenkapital) of the applying institution of at least EUR 175 million, or the corresponding equivalent in the currency of the country in which the applying institution is domiciled. For institutions beyond the scope of the KWG, own funds must be equivalent to the liable equity capital.

Prerequisite for a Direct Clearing License is liable equity capital of the applying institution of at least EUR 17,5 million or the corresponding equivalent in the currency of the country in which the applying institution is domiciled. For institutions beyond the scope of the KWG, own funds must be equivalent to the liable equity capital.

When calculating the liable equity capital for granting a clearing license for clearing transactions carried out through the System of Eurex Repo GmbH, that equity capital shall be considered which the applicant has already provided evidence for when applying for a clearing license for clearing futures transactions carried out at the Eurex Exchanges (Chapter I) as well as for a clearing license for clearing transactions carried out at Eurex Bonds GmbH (Chapter II).

(2) The liable equity capital or equivalent own funds shall be calculated in accordance with the legal provisions in force in the country in which the institution is domiciled. Evidence for the amount of the liable equity capital or the equivalent own funds shall be provided to Eurex Clearing AG together with the application as well as upon request at any time during the Clearing Membership.

(3) Should the liable equity capital or the equivalent own funds of the applying institution not be sufficient for granting a clearing license, Chapter I, section 1.1.2, paragraph (2) shall apply mutatis mutandis.

(~~3~~4) The applicant shall meet the following additional requirements:

(a) Evidence shall be provided for a securities account with a central depository recognised by Eurex Clearing AG and a pledged securities account with Clearstream Banking AG or SegaIntersettle AG;

(b) Evidence shall be provided for an account at the State Central Bank of Hessen - Main Office in Frankfurt of the German Federal Bank (Landeszentralbank in Hessen - Hauptstelle Frankfurt der Deutschen Bundesbank) ("LZB") through which the Clearing Member will settle its transactions at Eurex Repo GmbH; Eurex Clearing AG may allow the use of accounts of a correspondent bank recognised by Eurex Clearing AG for purposes of cash clearing with Eurex Clearing AG;

(c) The use of appropriate technical equipment (back-office facilities) to ensure the orderly recording, booking and supervision of all transactions, as well as the provision of margin and the calculation of margin requirements with respect to the customers pursuant to the minimum requirements of Eurex Clearing AG (clearing obligations); the Implementation Regulations of the Eurex Exchanges Concerning Technical Equipment shall apply mutatis mutandis in all other respects.

(d) During the business day of Eurex Clearing AG at least one sufficiently qualified member of staff must be present and available by telephone or fax at any time for the orderly fulfilment of the clearing obligations in the back-office.

(c) Payment of the contribution to the Clearing Fund pursuant to Chapter III subsection 1.1.5.

1.1.3 Conclusion of Transactions

(1) A Repo Transaction designates a purchase/sale of securities and their simultaneous forward resale/repurchase. Thus, it consists of a purchase agreement (“Front Leg”) and the simultaneous repurchase agreement (“Term Leg”) for securities of the same kind and class at a set date.

(2) Repo Transactions through the System of Eurex Repo GmbH are only concluded between Eurex Clearing AG and an institution which holds a clearing license. If a Participant of Eurex Repo GmbH is not entitled to clearing itself (Non-Clearing Member), transactions can only be concluded via the General Clearing Member (Chapter I, subsection 1.2.5, paragraph (1)) or via the affiliated Direct Clearing Member (Chapter I, subsection 1.2.5, paragraph (2)) through which it will settle its transactions with Eurex Repo GmbH.

(3) If a Non-Clearing Member concludes a Repo Transaction through the system of Eurex Repo GmbH, a Repo Transaction is entered into between the Non-Clearing Member and the General Clearing Member or the affiliated Direct Clearing Member and, simultaneously, a corresponding Repo Transaction between the General Clearing Member or the affiliated Direct Clearing Member and Eurex Clearing AG.

(4) In the case of Repo Transactions concluded through of the System of Eurex Repo, in which the starting date for the Front Leg is identical with the date of consummation of the Repo Transactions (e.g. Overnight Repo), such Repo Transactions are absolute fixed-date transactions, to which paragraphs (2) and (3) apply with the following addition:

The Clearing Member which is obligated to transfer securities ownership due to such a Repo Transaction shall ensure that it has transferred the securities owed due to the Front Leg on the agreed delivery day by the times fixed by Eurex Clearing AG (cut-off times; see Appendix under GC Repo) to the deposit of Eurex Clearing AG with the central depository recognised by Eurex Clearing AG, so that Eurex Clearing AG in turn may transfer these securities on the same day to the corresponding deposit of the Clearing Member of the equivalent transaction. The Clearing Member which is to receive delivery must, by a corresponding provision on the account determined by the central depository, ensure that the transfer of ownership of the securities is performed concurrently with the payment of the owed amount of money to Eurex Clearing AG.

To the extent that the Clearing Member which is obligated to transfer securities ownership fails to fulfil such obligation on the delivery day of the Front Leg in a timely manner and/or the Clearing Member which is to receive delivery fails to fulfil its payment obligations on the delivery day of the Front Leg, these obligations may not, due to the absolutely fixed nature of the Repo Transaction concerned, be fulfilled subsequently by transfer of ownership in respect of corresponding securities or by effecting the payment originally owed. Then, the parties involved in the Repo Transactions concerned shall no longer be entitled to claim the performance of these transactions, but may only claim damages due to the non-performance of the transactions.

In this case, Eurex Clearing AG can satisfy its obligations, in lieu of performance, by assigning in full to the other Clearing Member involved in the equivalent Repo Transaction its damage claims against the defaulting Clearing Member. To the extent that the Repo Transactions concerned were originally concluded by one or two Non-Clearing Members, the Clearing Member or Clearing Members involved shall also satisfy its or their obligations, in lieu of performance, by assigning its or their entire damage claims to the Non-Clearing Member or Non-Clearing Members involved. Due to such assignments of the respective damage claims on the part of Eurex Clearing AG and, if any, on the part of the Clearing Members concerned, such parties shall be exempted in full from their obligations to perform and, if any, their liability for damages. Thus, the assigned damage claims must be asserted directly between those two Repo Trading Participants which have concluded the respective Repo Transaction through the System of Eurex Repo.

Only if the cash and physical settlement of Repo Transactions for which the starting date for the Front Leg is identical with the date of consummation of the Repo Transaction (e.g. Overnight Repo) is not effected, as described in the foregoing, in a timely manner, Eurex Clearing AG shall, as central contracting party, handle the clearing of the respective Repo Transactions pursuant to paragraphs (1) and (2).

(5) In the event that the physical delivery and payment of Repo Transactions should not be performed in a timely manner pursuant to paragraph (4), Eurex Clearing AG shall be entitled and obligated to indicate, upon request, the name of the respective contracting party, i. e. the defaulting Trading Participant, to a Participant involved in a Repo Transaction that remained unconcluded pursuant to paragraph (4), in order to permit the assertion of a claim for damages.

~~Eurex Clearing AG reserves the right to charge the Trading Participant involved in the unconcluded Repo Transaction which is in default as to its payment and delivery obligations, eventual costs and to impose a contractual penalty pursuant to Chapter III subsection 2.1.6 paragraphs (3) to (6) of the Clearing Conditions.~~

1.1.4 Contract Obligations

…

1.1.5 Objections

Any objection to transactions that have been concluded through the System of Eurex Repo GmbH and have been transmitted for clearing to Eurex Clearing AG must be delivered to Eurex Repo GmbH in accordance with the General Terms and Conditions of Eurex Repo GmbH. In all other respects, Chapter I subsection 1.2.3 shall apply mutatis mutandis, ~~ith the exception that such objections must be raised until the end of trading at Eurex Repo GmbH at the latest~~provided that objections within the meaning of Chapter I, section 1.2.3 shall not be raised until the end of the pre-trading period of the following business day, at the latest, but until the beginning of trade on the following business day at Eurex Bonds GmbH, at the latest.

1.1.6 Clearing Fund

…

1.1.7 Business Days

The business days within the meaning of Chapter III ~~of Eurex Repo GmbH~~ shall generally be the business days determined by the Board of Management of Eurex Repo GmbH.

2 Part

Settlement of Transactions through the System of Eurex Repo GmbH

2.1 Repo Transactions Concerned

(1) Eurex Clearing AG will realise the settlement or clearing of Repo Transactions (GC Repo and Special Repo) concluded through the System of Eurex Repo GmbH to the extent that the underlying securities of the respective Repo Transaction are settled by Eurex Clearing AG and the central depositories recognised by Eurex Clearing AG and that the prerequisites pursuant to paragraph (2) are fulfilled.

(2) Clearing or settlement by Eurex Clearing AG shall include all Repo Transactions (GC Repo and Special Repo) concluded through the System of Eurex Repo GmbH to the extent that the underlying securities are the following:

(a) Debt Securities of the Federal Republic of Germany or Treuhandanstalt denominated in Euro

(b) Jumbo-Pfandbriefe (Jumbo mortgage bonds) of German issuers denominated in Euro with an issuance volume of at least 1 billion Euro. Besides, these mortgage bonds must have been rated AA or Aa2 pursuant to the Rating Agency Standard & Poor's Rating Services Inc. for "Senior Unsecured Debt" or Moody's Investors Services Inc. for "Long-term Senior-Debt". Should the rating of these two Agencies differ, the lower valuation shall be applied.

2.2 General Provisions

…

2.3 Daily Settlement

2.4 Margin Requirements

…

2.5 Performance

…

2.6 Payment of Interests (Coupon Compensation)

…

2.7 Default in Delivery or Payment

(1) Default in delivery shall be governed by the following procedure:

(a) Default on the delivery day of the Front Leg:

In the event that a Clearing Member which is obligated to deliver fails to transfer the underlying securities on the delivery day of the Front Leg of the respective Repo Transaction and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled or, on request of the Clearing Member which did not receive delivery in a timely manner, obligated, ~~, at the latest on the fifth business day following the delivery day of the Front Leg,~~ to set the present business day, at the latest the delivery day of the Term Leg, as an advanced repurchase date of the Term Leg. As a consequence thereto, the mutual obligations arising out of the Repo Transaction which had originally been agreed upon, shall be offset against each other so that the parties, with the exception of the Repo interests agreed upon, do not owe each other any further payment or delivery. The payable Repo interests shall be calculated on the basis of the period of default, in each case for the period from the purchase date (inclusive) until the business day to which the Term Leg was advanced (exclusive).

At the same time, Eurex Clearing AG shall be entitled to set an earlier date as repurchase date for the Term Leg of the equivalent Repo Transaction concerned between Eurex Clearing AG and the Clearing Member which did not receive delivery from Eurex Clearing AG in a timely manner; the legal consequence thereof will be the same as described above. ~~Sentence 1 shall not apply to Repo Transactions as defined in Chapter III subsection 1.1.3, paragraph (4) (e. g. Overnight Repo Transactions), as non-performance or delayed performance of the of delivery and payment obligations arising out of the Front Leg of such Repo Transactions are definitely regulated in Chapter III subsection 1.1.3 paragraphs (4) and (5).~~

(b) Default on the delivery day of the Term Leg

In the event that a Clearing Member which is obligated to deliver fails to deliver the underlying securities on the delivery day of the Term Leg of the respective Repo Transaction and pursuant to the instructions of Eurex Clearing AG, Eurex Clearing AG shall be entitled or, on request of the Clearing Member which did not receive delivery in a timely manner, obligated to make a replacement purchase with respect to the undelivered securities ~~The replacement purchase is to be carried out on the fifth business day after the delivery day~~ as from the fifth day following the delivery date of the Term Leg and to deliver these to the Clearing Member which did not receive delivery in a timely manner. ~~. Eurex Clearing AG will deliver the securities acquired through such replacement transaction to the Clearing Member which did not receive delivery in a timely manner.~~

(2) Measures set forth in paragraph (1) shall be binding on and accepted ~~as performance~~ by the Clearing Member which did not receive delivery in a timely manner.

(3) Any costs arising from the measures taken in accordance with paragraph (1) must be paid by the defaulting Clearing Member.

~~(4) (4) Furthermore, Eurex Clearing AG will charge the defaulting Clearing Member obligated to deliver a contractual penalty. The contractual penalty shall be calculated as follows: default interests until delivery is made or until the advanced repurchase date of the Term Leg, in an amount representing a specified percentage – to be announced by Eurex Clearing AG in advance – of the equivalent of the debt securities to be delivered; collected default interests shall be credited to the Clearing Member which did not receive delivery in a timely manner. The percentage of default interests shall be based on the money-market rates prevailing in the market.~~

~~(5) Eurex Clearing AG is entitled to a contractual penalty from the defaulting Clearing Member until delivery is made by the defaulting Clearing Member or until a replacement purchase is made by Eurex Clearing AG in the amount of 0,04 percent of the equivalent of the undelivered securities per calendar day1. In addition, Eurex Clearing AG will charge a contractual penalty until delivery is made in an amount representing a specified percentage – to be announced by Eurex Clearing AG in advance – of the equivalent of the securities to be delivered; such percentage shall be based on the current money-market rates.~~

~~In the event that Eurex Clearing AG sets the present business day as advanced delivery day for the Term Leg of a Repo Transaction due to default in delivery on the delivery day of the Front Leg pursuant to Chapter III section 2.7 paragraph (1) lit. (a), Eurex Clearing AG will charge the defaulting Clearing Member a contractual penalty in the amount of 0,04 percent of the equivalent of the undelivered securities per calendar day, at the most, nevertheless, for the full term of the Repo Transaction, counted from the Front Leg until the advanced Term Leg. Furthermore, for the period between the Front Leg and the day of the advanced Term Leg, Eurex Clearing AG will charge a contractual penalty in an amount representing a specified percentage – to be announced by Eurex Clearing AG in advance – of the equivalent of the securities to be delivered; such percentage shall be based on the current money-market rates.~~

(4~~5~~) In the event that the Clearing Member fails to provide the margin demanded for any ~~Exchange~~ business day or fails to pay when due a daily settlement payment or other fees in a timely manner, or if such Clearing Member has failed to fulfil any other obligation to Eurex Clearing AG arising under these Conditions, Chapter I subsections 1.7.1 through 1.7.3 shall apply mutatis mutandis.

(5~~6~~) The right to claim further damages shall be excluded for Eurex Clearing AG as well as for the Clearing Member which did not receive delivery in a timely manner.

Appendices

Form Agreements

1. Eurex Exchanges / General Clearing Agreement

General Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as General Clearing Member (GCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the GCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the Exchange Rules for the Eurex Exchanges, the Conditions for Trading at the Eurex Exchanges and all other regulations of the Eurex Exchanges~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

2. Eurex Exchanges / Direct Clearing Agreement

Direct Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as Direct Clearing Member (DCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the DCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the Exchange Rules for the Eurex Exchanges, the Conditions for Trading at the Eurex Exchanges and all other regulations of the Eurex Exchanges~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

3. Eurex Exchanges / NCM-GCM Clearing Agreement

NCM-GCM Clearing Agreement

between

_____

as General Clearing Member ("GCM")

and

_____

as Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the GCM and the NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the Exchange Rules for the Eurex Exchanges, the Conditions for Trading at the Eurex Exchanges and all other regulations of the Eurex Exchanges~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

4. Eurex Exchanges / NCM-DCM Clearing Agreement

NCM-DCM Clearing Agreement

between

_____

as Direct Clearing Member ("DCM")

and

_____

as affiliated Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

Preamble

The NCM-DCM Agreement may only be entered into by affiliated companies. The type and scope of the group of affiliated companies shall be determined by the Executive Board of Eurex Clearing AG. The Exchange Participants shall be notified thereof by circular letter. NCM and DCM shall be obligated to inform the Executive Board of Eurex Clearing AG promptly in the event that they cease to meet such prerequisites.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the DCM and the affiliated NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions are an integral part of this Agreement. Furthermore, the Exchange Rules for the Eurex Exchanges, the Conditions for Trading at the Eurex Exchanges and all other regulations of the Eurex Exchanges~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

5. Eurex Bonds / General Clearing Agreement

General Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as General Clearing Member (GCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the GCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Bonds GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

6. Eurex Bonds / Direct Clearing Agreement

Direct Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as Direct Clearing Member (DCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the DCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Bonds GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

7. Eurex Bonds / NCM-GCM Clearing Agreement

NCM-GCM Clearing Agreement

between

_____

as General Clearing Member ("GCM")

and

_____

as Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the GCM and the NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Bonds GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

8. Eurex Bonds / NCM-DCM Clearing Agreement

NCM-DCM Clearing Agreement

between

_____

as Direct Clearing Member ("DCM")

and

_____

as affiliated Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

Preamble

The NCM-DCM Agreement may only be entered into by affiliated companies. The type and scope of the group of affiliated companies shall be determined by the Executive Board of Eurex Clearing AG. The Exchange Participants shall be notified thereof by circular letter. NCM and DCM shall be obligated to inform the Executive Board of Eurex Clearing AG promptly in the event that they cease to meet such prerequisites.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the DCM and the affiliated NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Bonds GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

9. Eurex Repo / General Clearing Agreement

General Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as General Clearing Member (GCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the GCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Repo GmbH~~, as each is from time to time in effect~~ shall apply in their respective valid version.

…

10. Eurex Repo / Direct Clearing Agreement

Direct Clearing Agreement

between

Eurex Clearing AG, Frankfurt am Main,

and

_____

as Direct Clearing Member (DCM)

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG and the DCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Repo GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

…

I

11. Eurex Repo / NCM-GCM Clearing Agreement

NCM-GCM Clearing Agreement

between

_____

as General Clearing Member ("GCM")

and

_____

as Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the GCM and the NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Repo GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

2. Legal Relationships; Liability

(1) A Repo Transaction designates a purchase/sale of securities and their simultaneous forward resale/repurchase. Thus, it consists of a purchase agreement (“Front Leg”) and the simultaneous repurchase agreement (“Term Leg”) for securities at a set date.

(2) Repo Transactions through the System of Eurex Repo GmbH are only concluded between Eurex Clearing AG and an institution which holds a clearing license. If a Participant of Eurex Repo GmbH is not entitled to clearing itself (Non-Clearing Member), transactions can only be concluded via the General Clearing Member (Chapter I, subsection 1.2.5, par. 1) or via the affiliated Direct Clearing Member (Chapter I, subsection 1.2.5, par. 2) through which it settles its transactions with Eurex Repo GmbH.

(3) All entries made by the Non-Clearing Member into the EDP system of Eurex Repo GmbH shall be directly binding for and against the General Clearing Member. If the Non-Clearing Member concludes a Repo Transaction via the system of Eurex Repo GmbH, a Repo Transaction is entered into between the Non-Clearing Member and the General Clearing Member and, simultaneously, a corresponding Repo Transaction between the General Clearing Member and Eurex Clearing AG.

(4) ~~As far as Overnight Repo Transactions are concluded through the System of Eurex Repo GmbH, these transactions shall become effective, in difference to paragraph (3), subject to the condition precedent that the Clearing Member of such transaction committed to delivery transfers to Eurex Clearing AG, on the agreed day of delivery, the securities owed due to the Front Leg until the time determined by Eurex Clearing AG, that Eurex Clearing AG in turn transfers these securities out of the equivalent transaction to the respective Clearing Member on the same day, and that the respective Clearing Member has paid the due amount to Eurex Clearing AG.~~

~~Paragraph (2) and (3) shall only apply to Overnight Repo Transactions, after the condition specified above has been complied with. Once the condition has been honoured, Eurex Clearing AG shall realize the clearing of Overnight Repo Transactions as central contracting party.~~

~~Should physical delivery and payment of the respective Overnight Repo Transaction not have been realized within the time specified above, Eurex Clearing AG shall not enter such Overnight Repo Transaction as central contracting party pursuant to paragraphs (2) and (3) and, consequently, shall not do the clearing. In this case, Eurex Clearing AG, upon request of a Participant involved in the Overnight Repo Transaction not concluded, shall be entitled to indicate the name of the respective contracting party to such Participant to allow enforcement of possible claims.~~

~~Eurex Clearing AG reserves the right to charge eventual costs to the Participant involved in the Overnight Repo Transaction not concluded which has not fulfilled its payment and delivery obligations and to impose a contractual penalty pursuant to Chapter III, subsection 2.1.6 (3) to (6) of the Clearing Conditions for Eurex Clearing AG.~~

(4~~5~~) The GCM is required to notify the management of Eurex Repo GmbH promptly if a Non-Clearing Member represented by it fails to meet its margin requirements in a timely manner.

(5~~6~~) Neither Eurex Clearing AG nor the GCM shall be liable for any losses incurred by the NCM or the GCM due to interruption of its operations as a consequence of force majeure, riot, acts of war or natural disasters or other events for which neither Eurex Clearing AG nor the GCM, as the case may be, are responsible (e.g., strikes, lock-outs, disruption of communications) or that may result from the actions of domestic or foreign governmental authorities. For damages suffered by the NCM or the GCM as a consequence of technical problems or of the full or partial unavailability of the EDP devices or EDP system of Eurex Repo GmbH used by such NCM or GCM, Eurex Clearing AG or the GCM shall be liable to the extent that intentional misconduct or gross negligence of their bodies or third parties assisting in their performance can be demonstrated, unless the damage has resulted from a culpable breach by Eurex Clearing AG or the GCM of their principal duties. The liability of Eurex Clearing AG or the GCM shall be limited,

however, in such a case if only ordinary negligence occurred, to the amount of damages typically foreseeable at the time of execution of the agreement.

…

12. Eurex Repo / NCM-DCM Clearing Agreement

NCM-DCM Clearing Agreement

between

_____

as Direct Clearing Member ("DCM")

and

_____

as affiliated Non-Clearing Member ("NCM")

and

Eurex Clearing AG, Frankfurt am Main.

Preamble

The NCM-DCM Agreement may only be entered into by affiliated companies. The type and scope of the group of affiliated companies shall be determined by the Executive Board of Eurex Clearing AG. The Exchange Participants shall be notified thereof by circular letter. NCM and DCM shall be obligated to inform the Executive Board of Eurex Clearing AG promptly in the event that they cease to meet such prerequisites.

1. Applicable Legal Provisions

The respective rights and obligations of Eurex Clearing AG, the DCM and the affiliated NCM are set forth in the Clearing Conditions for Eurex Clearing AG; ~~such~~ the Clearing Conditions in their respective valid version are an integral part of this Agreement. Furthermore, the ~~rules and regulations of~~ Terms and Conditions for Participation and Trading on Eurex Repo GmbH~~, as each is from time to time in effect,~~ shall apply in their respective valid version.

2. Legal Relationships; Liability

(1) A Repo Transaction designates a purchase/sale of securities and their simultaneous forward resale/repurchase. Thus, it consists of a purchase agreement (“Front Leg”) and the simultaneous repurchase agreement (“Term Leg”) for securities at a set date.

(2) Repo Transactions through the System of Eurex Repo GmbH are only concluded between Eurex Clearing AG and an institution which holds a clearing license. If a Participant of Eurex Repo GmbH is not entitled to clearing itself (Non-Clearing Member), transactions can only be performed via the General Clearing Member (Chapter I, subsection 1.2.5, par. 1) or via the affiliated Direct Clearing Member (Chapter I, subsection 1.2.5, par. 2) through which it settles its transactions with Eurex Repo GmbH.

(3) All entries made by the Non-Clearing Member into the EDP system of Eurex Repo GmbH shall be directly binding for and against the Direct Clearing Member. If a Non-Clearing Member concludes a Repo Transaction through the system of Eurex Repo GmbH, a Repo Transaction is entered into between the Non-Clearing Member and the affiliated Direct Clearing Member and, simultaneously, a corresponding Repo Transaction between the affiliated Direct Clearing Member and Eurex Clearing AG.

(4) ~~As far as Overnight Repo Transactions are concluded through the System of Eurex Repo GmbH, these transactions shall become effective, in difference to paragraph (3), subject to the condition precedent that the Clearing Member of such transaction committed to delivery transfers to Eurex Clearing AG, on the agreed day of delivery, the securities owed due to the Front Leg until the time determined by Eurex Clearing AG, that Eurex Clearing AG in turn transfers these securities out of the equivalent transaction to the respective Clearing Member on the same day, and that the respective Clearing Member has paid the amount due to Eurex Clearing AG.~~

~~Paragraph (2) and (3) shall only apply to Overnight Repo Transactions after the condition specified above has been complied with. Once the condition has been honoured, Eurex Clearing AG shall realize the clearing of Overnight Repo Transactions as central contracting party.~~

~~Should physical delivery and payment of the respective Overnight Repo Transaction not have been realized within the time specified above, Eurex Clearing AG shall not enter such Overnight Repo Transaction as central contracting party pursuant to paragraphs (2) and (3) and, consequently, shall not do the clearing. In this case, Eurex Clearing AG, upon request of a Participant involved in the Overnight Repo Transaction not concluded, shall be entitled to indicate the name of the respective contracting party to such Participant to allow enforcement of possible claims.~~

~~Eurex Clearing AG reserves the right to charge eventual costs to the Participant involved in the Overnight Repo Transaction not concluded which has not fulfilled its payment and delivery obligations and to impose a contractual penalty pursuant to Chapter III, subsection 2.1.6 (3) to (6) of the Clearing Conditions for Eurex Clearing AG.~~

(4) The DCM is required to notify the management of Eurex Repo GmbH promptly if a Non-Clearing Member represented by it fails to meet its margin requirements in a timely manner.

(5) Neither Eurex Clearing AG nor the DCM shall be liable for any losses incurred by the NCM or the DCM due to interruption of its operations as a consequence of force majeure, riot, acts of war or natural disasters or other events for which neither Eurex Clearing AG nor the DCM, as the case may be, are responsible (e.g., strikes, lock-outs, disruption of communications) or that may result from the actions of domestic or foreign governmental authorities. For damages

suffered by the NCM or the DCM as a consequence of technical problems or of the full or partial unavailability of the EDP devices or EDP system of Eurex Repo GmbH used by such NCM or DCM, Eurex Clearing AG or the DCM shall be liable to the extent that intentional misconduct or gross negligence of their bodies or third parties assisting in their performance can be demonstrated, unless the damage has resulted from a culpable breach by Eurex Clearing AG or the DCM of their principal duties. The liability of Eurex Clearing AG or the DCM shall be limited, however, in such a case if only ordinary negligence occurred to the amount of damages typically foreseeable at the time of execution of the agreement.

…