

Appendix 3 to the FCM Regulations of Eurex Clearing AG:

## Information Statement

in accordance with Article 15 of the Securities Financing Transactions Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012

As of 17.09.2018

## 1 Introduction

This information statement (“**Information Statement**”) is applicable to those FCM Clearing Members who have entered, by signing an FCM Clearing Agreement with Eurex Clearing AG (in the form appended to the FCM Regulations of Eurex Clearing AG as Appendix 1), into (i) one or more title transfer collateral arrangements containing a right of use or (ii) one or more security collateral arrangements which provide for a right of use in accordance with Article 5 of Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (as amended from time to time).

In this Information Statement:

- “right of use” means any right of use with regard to financial instruments which Eurex Clearing AG (i) has received as collateral or (ii) has granted;
- “Securities Financing Transactions Regulation” (“**SFTR**”) means Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (as amended from time to time);
- “Transaction” means a transaction entered into, executed or agreed between the parties involved under which they are to provide or receive financial instruments by way of a title transfer collateral arrangement or a security collateral arrangement.

This Information Statement has been prepared to comply with Article 15 of the SFTR by informing about the general risks and consequences that may be involved in consenting to a right of use of collateral provided under a title transfer collateral arrangement or a security collateral arrangement. The information required to be provided pursuant to Article 15 of the SFTR relates only to re-use risks and consequences, and so this Information Statement does not address any other risks or consequences that may arise as a result of particular circumstances or as a result of the terms of particular transactions.

An entity which is holder of an FCM Clearing License grants express consent to a right of re-use of financial assets provided as collateral towards Eurex Clearing AG under one or more title transfer collateral arrangements or one or more security collateral arrangements and acknowledges the general risks and consequences attached to the re-use of collateral.

Eurex Clearing AG hereby also expresses consent to the re-use of financial instruments provided under a title transfer collateral arrangement or a security collateral arrangement and declares to acknowledge the general risks and consequences attached to the re-use of collateral.

This Information Statement is not intended to be, and should not be relied upon as, legal, financial, tax, accounting or other advice. Unless otherwise expressly agreed in writing, Eurex Clearing AG does not provide any such legal, financial, tax, accounting or other advice.

## **2 Risks and consequences of a re-use**

The following re-use risks and consequences may arise:

- (1) Proprietary rights in those financial instruments will be replaced by an unsecured contractual claim for delivery of equivalent financial instruments, subject to the terms of the title transfer collateral arrangement or the security collateral arrangement;
- (2) Those financial instruments will, to the extent applicable, not be held in accordance with client asset rules, and, if they had benefited from any client asset protection rights, those protection rights will not apply;
- (3) In the event of an insolvency or default the claim against the collateral taker for delivery of equivalent financial instruments (or any other claim resulting from the re-use) will not be secured and will be subject to the terms of the title transfer collateral arrangement or the security collateral arrangement and the applicable law and, accordingly, the collateral provider may not receive such equivalent financial instruments or recover the full value of the financial instruments;
- (4) In the event that a resolution authority exercises its powers under any relevant resolution regime, any rights the original collateral provider may have to take actions, such as to terminate the agreement, may be subject to a stay by the relevant resolution authority;
- (5) The collateral provider may be limited or restricted in exercising voting, consent or similar rights attached to the financial instruments;
- (6) In the event that the collateral taker is subject to a redelivery obligation, but not able to readily obtain equivalent financial instruments to redeliver at the time required: the collateral provider may be unable to fulfil settlement obligations under a hedging or other transaction it has entered into in relation to those financial instruments; a counterparty, exchange or other person may exercise a right to buy-in the relevant financial instruments;
- (7) The collateral taker has no obligation to inform the collateral provider of any corporate events or actions in relation to those financial instruments;
- (8) The collateral provider may not receive any dividends, coupons or other payments, interests or rights (including securities or property accruing or offered at any time) payable in relation to those financial instruments;

- (9) The provision of securities collateral, the exercise of a right of use in respect of any financial collateral provided and the delivery of equivalent financial instruments may give rise to tax consequences that differ from the tax consequences that would have otherwise applied in relation to the holding of those financial instrument by the original collateral provider;
- (10) Where the collateral provider receives a manufactured payment or a coupon compensation payment, the tax treatment may differ from the tax treatment in respect of the original dividend, coupon or other payment in relation to those financial instruments.