

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 27.09.2021

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

Clearing Conditions of Eurex Clearing AG

Preamble

As provided for in these clearing conditions of Eurex Clearing AG (~~“Eurex Clearing”~~) (hereinafter referred to as **“Clearing Conditions”**),¹ Eurex Clearing AG, having its registered office in Frankfurt am Main, acts as central counterparty for (a) (i) transactions in securities and *Wertrechte*, including ~~but not limited to~~ German book-entry securities (*Gutschriften in Wertpapierrechnung*) (the “WP Credits”) and Swiss intermediated securities (*Schweizer Bucheffekten*) (hereinafter ~~these securities~~together the **“Securities”**) and (ii) futures, options and other derivative transactions, which, in each case, result from either matching orders and quotes of trading participants (the **“Matching”**) on the markets Eurex Deutschland, Eurex Repo or another multilateral trading facility for Repo Transactions and Frankfurter Wertpapierbörse (hereinafter collectively referred to as **“Markets”** and each a **“Market”**, each transaction resulting from Matching a **“Market Transaction”**), (b) novations of transactions executed over-the-counter (each transaction resulting from an over-the-counter transaction an **“OTC Transaction”**) or (c) novations of executed over-the-counter securities or cash lending transactions or securities lending transactions executed on Eurex Repo (each transaction resulting from a novation of any such **securities** (or cash) **lending transaction** a **“Securities Lending Transaction”**, and each Market Transaction, OTC Transaction and Securities Lending Transaction, a **“Transaction”**).

[...]

Part 1 General Clearing Provisions

1 General Rules

[...]

1.2 Clearing Procedures

[...]

1.2.2 Conclusion of Transactions and Transfer of Transactions

Transactions pursuant to these Clearing Conditions will be concluded and may be transferred in accordance with this Number 1.2.2-, unless not regulated otherwise in the Special Clearing Conditions. However, the conclusion of Market Transactions and OTC Transactions between Eurex Clearing AG and a Basic Clearing Member is exclusively subject to the Basic Clearing Member Provisions.

[...]

[...]

1.2.4 Certain Definitions and Interpretation

In these Clearing Conditions:

[...]

- (2) “**Clearing Currency**” means either Euro (“**EUR**”), Swiss Francs (“**CHF**”) or British Pounds (“**GBP**”) as agreed in writing between Eurex Clearing AG and the Clearing Member in respect of each Standard Agreement or between Eurex Clearing AG and the Clearing Agent (acting on behalf of the relevant Basic Clearing Member) in respect of the Basic Clearing Member Clearing Agreement (as defined in Part 6 Number 1.1), provided that all Standard Agreements linked to a particular internal margin account need to have the same Clearing Currency.). In these Clearing Conditions “**Euro**” means the lawful currency of the member states of the European Union that continue to have adopted the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended by the Treaty on the European Union (signed in Maastricht on February 7, 1992), the Treaty of Amsterdam (signed in Amsterdam on October 2, 1997), the Treaty of Nice (signed in Nice on February 26, 2001) and the Treaty of Lisbon (signed in Lisbon on December 13, 2007).

[...]

1.2.5 Transfer of Securities and Rights

- (1) If German law applies, Securities which are held in collective safe custody (*Girosammelverwahrung*) pursuant to Section 5 of the German Safe Custody Act (*Depotgesetz*) shall be transferred ~~by way of agreement and delivery according to~~ in accordance with property law principles of the German Civil Code (*Bürgerliches Gesetzbuch*).
- ~~(2) Book-entry securities (*Gutschriften in Wertpapierrechnung*) which are governed by German law shall be transferred according to the principles of the law of obligation (*schuldrechtliche Grundsätze*) of the German Civil Code (*Bürgerliches Gesetzbuch*) by way of transfer of the respective legal position underlying such German book-entry securities. This transfer is effected by assignment of the return/delivery claim (*schuldrechtlicher Herausgabe-/Lieferanspruch*) to Eurex Clearing AG. Such return/delivery claim is held by the Clearing Member, the Clearing Agent or the Basic Clearing Member against the securities depository bank or the custodian or central securities depository recognised by Eurex Clearing AG (hereinafter each a "**Settlement Location**") which holds the legal position underlying such German book-entry securities on trust and in favour of such Clearing Member, the Clearing Agent or Basic Clearing Member. This applies *mutatis mutandis* to the transfer of German book-entry securities between Eurex Clearing AG and the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting for the account of the Basic Clearing Member) to whom delivery is to be made.~~
- ~~(3) The transfer of securities or rights held on accounts outside of Germany, shall be carried out according to the relevant applicable local legal provisions and general conditions (usages).~~
- (2) A transfer of WP Credits shall be effected by (i) a debit entry in the securities account of the transferor held with Clearstream Banking AG and (ii) a credit entry in the securities account of the transferee held with Clearstream Banking AG.
- (3) If the laws of a jurisdiction other than German law apply to the transfer of Securities, such transfer shall be carried out in accordance with the applicable laws of such jurisdiction and applicable market standards. Insofar, the Special Clearing Provisions may provide for separate provisions in relation to such respective markets.

[...]

1.2.9 Finality

[...]

- (4) To the extent that Paragraphs (2) and (3) contain no specific regulation, § 130 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall apply accordingly.

1.3 Set-off

1.3.1 Set-off of claims between the Clearing Member or Basic Clearing Member and Eurex Clearing AG

[...]

(1) Set-off Procedure within Standard Agreements

[...]

(b) Set-off of Settlement Claims pursuant to Chapter IV

Settlement Claims against a Clearing Member or Basic Clearing Member under a specific Standard Agreement can only be set off by Eurex Clearing AG against Settlement Claims of that Clearing Member or Basic Clearing Member arising under ~~that such~~ Standard Agreement ~~in accordance with, if the following: Settlement Claims form part of the same Set-Off Cluster.~~

~~(aa) only Settlement Claims arising from the same Transaction Type may be set off; and~~

~~(bb) only Settlement Claims being part of the same Set-Off Cluster (as defined below) may be set off.~~

~~Notwithstanding Paragraph (aa) above, i)~~ Eurex Clearing AG and the Clearing Member may only agree ~~in advance to include in a Set-Off Cluster Settlement Claims arising from different Transaction Types in accordance on Set-Off Clusters~~ with the following provisions:

~~(A) respect to Settlement Claims pursuant to Chapter II and Settlement Claims pursuant to Chapter V Part 2;~~

~~(B) Settlement Claims arising from Repo Transactions pursuant to Chapter IV.~~

(ii) Any residual cash claims resulting from a set-off within a particular Set-Off Cluster may be set off against other residual cash claims in the same currency resulting from a set-off within any other Set-Off Cluster under the same Standard Agreement (each of these cash claims resulting from such set-off a “**Residual Payment Claim**”).

(iii) Definitions:

“**Settlement Claims**” means, with respect to Transactions that provide for a Physical Delivery, (i) all payment and delivery claims arising from Transactions under Chapter II from, and including, the time of the exercise or assignment (*Zuteilung*) of the relevant Transaction and (ii) all payment and delivery claims arising from Transactions under Chapters IV and V.

~~Settlement Claims will be divided into~~ Eurex Clearing AG and the Clearing Member may agree in advance to set up one or more clusters of Settlement Claims (each a “**Set-Off Cluster**”). At any time, a Set-Off Cluster shall be composed of Settlement Claims only in accordance with the following pre-requisites:

[...]

(~~ei~~) Processing Method

[...]

(~~ey~~) Chaining

[...]

(~~evi~~) Cash Deferral

If a Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) elected the Positive Procedure pursuant to Number 1.4.2 Paragraph (~~29~~) (a), such Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) may require a further exemption from the Net Processing method and block the set-off of Settlement Claims from certain sell Transactions in which case Eurex Clearing AG may assign Settlement Claims from buy Transactions to such Settlement Claims from sell Transactions. Such blocked Settlement Claims from sell Transactions and assigned Settlement Claims from buy Transactions shall neither be subject to a set-off nor be fulfilled before the blocking of such Settlement Claims from sell Transactions is released by the Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member).

(c) **Set-off with respect to Chapter II and Chapter V**

The set-off with respect to Eurex Transactions and FWB Transactions shall occur in accordance with the applicable provisions under Chapter II or Chapter V.

This shall not apply with respect to Eurex Transactions and FWB Transactions, which are concluded prior to 27 September 2021 and which are settled on or after the 27 September 2021. In such case, the provisions under paragraph (b) above shall apply.

(~~fd~~) **Declaration of Set-off**

[...]

(~~ge~~) **Effectiveness of Set-off**

[...]

~~**1.3.2 Set-off of claims between a Clearing Member and its Disclosed Direct Client and between a Clearing Agent and its Basic Clearing Member**~~

~~Unless otherwise provided for in the Clearing Conditions, (i) a Clearing Member may agree with its Disclosed Direct Client, and (ii) a Clearing Agent may agree with its Basic Clearing Member, on specific set-off provisions.~~

1.4 Settlement of Transactions

Unless otherwise provided in the relevant Special Clearing Provisions, the following provisions shall apply in relation to the settlement of Transactions, in each case following a set-off (if any) effected pursuant to Number 1.3 or any netting or aggregation pursuant to Chapter II Part 1 Number 1.11 (in respect of Eurex Transactions), Chapter V Part 2 Number 2.5 (in respect of FWB Transactions or pursuant to any other provisions in the Clearing Conditions.

[...]

1.4.2 Settlement of Transactions in Securities

[...]

~~(2) Each Clearing Member, Basic Clearing Member or Clearing Agent (acting on its behalf) and Eurex Clearing AG shall ensure, through appropriate instructions to the securities depository bank, the custodian or the central securities depository recognised by Eurex Clearing AG (each a “Settlement Location”), that Transactions can be processed at the time specified in the relevant Special Clearing Provisions, on the delivery days agreed, respectively.~~

~~(i) The Clearing Member, Basic Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) shall provide Eurex Clearing AG with the appropriate power of attorney (or, as applicable, sub-power of attorney) for use vis-à-vis the respective Settlement Location, to give, release and transmit all delivery instructions and to supplement, change or cancel the delivery instructions as required for the timely and correct fulfilment of its delivery and payment obligations against Eurex Clearing AG. The same applies with regard to the corresponding payment instructions.~~

~~(ii) If the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) makes use of a settlement institution pursuant to Number 2.1.2 (7), the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) shall ensure that the appointed settlement institution grants the appropriate power of attorney (or, as applicable, sub-power of attorney) in accordance with Number 2.1.2 (5) (e) and Number 1.4.2 (2) (i).~~

- (3) All transfers in Securities (including WP Credits) shall be made versus payment (*Zug um Zug*), unless not regulated otherwise in the Special Clearing Conditions. Each such payment shall be made between the transferor Clearing Member, transferor Basic Clearing Member or transferor Clearing Agent (acting on behalf of the Basic Clearing Member) and Eurex Clearing AG and, accordingly, between Eurex Clearing AG and the transferee Clearing Member, transferee Basic Clearing Member or transferee Clearing Agent (acting on behalf of the Basic Clearing Member).
- (4) Each transfer of ownership in Securities (other than WP Credits) shall be made in accordance with the relevant applicable laws and the relevant market practice.
- (a) The Clearing Member, the Basic Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) hereby irrevocably authorises Eurex Clearing AG to (i) issue and receive all declarations that are necessary or expedient for the transfer of ownership in Securities and (ii) issue and receive all other statements and to take all other actions that are necessary or expedient to effect the transfer of ownership in Securities.
- (b) The Clearing Member ensures to obtain any authorisations from its Direct Clients which are necessary or expedient to effect the transfer of ownership in Securities through Eurex Clearing AG and further ensures that its Direct Clients have ensured to obtain such authorisations from their Indirect Clients.
- (c) The transfer of ownership in Securities shall be made directly between the ultimate transferor and the ultimate transferee and, in particular, without Eurex Clearing AG becoming the holder of the legal title in the Securities that are the subject of the transfer (if permissible under the applicable laws). For the avoidance of doubt, in case the ultimate transferor or ultimate transferee is a Direct Client, Indirect Client or another client in the clearing chain, the transfer of ownership in Securities may require additional declarations, statements or actions which are beyond the scope of the Clearing Conditions.
- (d) To the extent German law applies to the transfer of ownership in (i) Securities in the form of bearer securities (*Inhaberwertpapiere*) and (ii) securities payable to order equipped with a blank endorsement (*blankoindossierte Orderwertpapiere*) which are governed by German law and held in collective safe custody (*Girosammelverwahrung*) with Clearstream Banking AG ("**German Securities**"), the following provisions shall additionally apply:
- (aa) The Clearing Member, the Basic Clearing Member and the Clearing Agent (acting on behalf of the Basic Clearing Member) hereby releases Eurex Clearing AG from the restrictions of § 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) with respect to all declarations of intent (*Willenserklärungen*), other statements or actions that are necessary or expedient to effect the transfer of ownership in Securities.
- (bb) The *in rem* agreement on the transfer of German Securities is subject to the conditions precedent (*aufschiebende Bedingungen*) that (i) the indirect

possession (*mittelbarer Besitz*) of the relevant German Securities is transferred to the relevant ultimate transferee and (ii) any relevant payment obligation arising from any relevant transaction concluded between the parties of the relevant clearing chain is fulfilled by crediting the corresponding cash amounts to the relevant cash account of the debtor of such payment obligation (accordingly, a payment obligation under the respective Transaction is fulfilled by crediting the corresponding cash amounts to Eurex Clearing AG's account maintained with the relevant Settlement Bank).

- (5) The transfer of WP Credits via Clearstream Banking AG is subject to the following provisions and Paragraphs (7):
- (a) With regard to the legal position underlying the WP Credits transferred to Eurex Clearing AG, Eurex Clearing AG shall for a limited period of time act as fiduciary owner in favour of the acquiring Clearing Member or Basic Clearing Member in order to transfer the legal position underlying the WP Credits to the Clearing Member or the Basic Clearing Member to whom delivery is to be made.
- (b) Based on instructions in the systems of Clearstream Banking AG issued by Eurex Clearing AG, the transfer of WP Credits is effected by (i) a debit entry in the custody account of the transferor Clearing Member, Basic Clearing Member or Clearing Agent (acting on behalf of the Basic Clearing Member) held with Clearstream Banking AG and a credit entry in the custody account of Eurex Clearing AG held with Clearstream Banking AG and (ii) a debit entry in the such custody account of Eurex Clearing AG and a credit entry in the custody account of the transferee Clearing Member, Basic Clearing Member or Clearing Agent (acting on behalf of the Basic Clearing Member) held with Clearstream Banking AG.
- (c) With respect to the power of attorney the Clearing Member, Basic Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) granted in favour of Eurex Clearing AG pursuant to Paragraph (2) above, the Clearing Member, Basic Clearing Member or Clearing Agent (acting on behalf of the Basic Clearing Member) hereby releases Eurex Clearing AG from the restrictions of § 181 of the German Civil Code (*Bürgerliches Gesetzbuch*).
- (6) Any authorisations granted by the Clearing Member, the Basic Clearing Member or the Clearing Agent (acting on behalf of the Basic Clearing Member) in accordance with this Number 1.4.2 and relating to one or more Clearing License(s) may only be revoked by the Clearing Member, the Basic Clearing Member or the Clearing Agent, if the Clearing Member or the Basic Clearing Member also terminates such Clearing License(s). If the Clearing Member or the Basic Clearing Member has declared such revocation and termination, such revocation of authorisations and such termination of the related Clearing License(s) shall only become effective after all Transactions of the Clearing Member or all Basic Clearing Member Transactions of the Basic Clearing Member of the relevant Transaction Type(s) have been

cancelled, closed or fulfilled. If a Clearing License ends for any other reasons, all related authorisations shall terminate and such termination shall become effective in accordance with the foregoing sentence.

(7) The usage of the T2S system for the settlement of securities transactions facilitates partial deliveries of securities during the day. Thus, deliveries of securities may also occur by means of partial deliveries which, accordingly, have a discharging effect.

(8) Amendments to the Hold-/Release-Status with respect to Eurex Transactions and FWB Transactions

(a) Once a settlement instruction has been submitted to the relevant Settlement Location by Eurex Clearing AG, the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) shall only be entitled to change settlement instructions relating to a delivery obligation in the systems of the relevant Settlement Location by setting, either in full or partially, such settlement instruction on "hold" or "release" ("**Hold-/Release-Status**"). The Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) shall not change the settlement instruction in any other way. In case of a securities account of a settlement institution pursuant to Number 2.1.2 (7), the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) shall ensure that the settlement institution does only make changes to the relevant settlement instruction relating to the Hold-/Release Status.

(b) In case the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) submits changes settlement instructions to Eurex Clearing AG to be forwarded to the relevant Settlement Location by Eurex Clearing AG, Eurex Clearing shall also only process change requests by the Clearing Member or Basic Clearing Member (or, as applicable, the Clearing Agent) with respect to settlement instructions if it changes (fully or partially) the Hold-/Release-Status.

(9) Special Provisions regarding Repo Transactions

(a) With respect to Repo Transactions, Eurex Clearing AG offers an electronically supported service in order to improve the delivery process (the "**Gross Delivery Management**").

The use of the Gross Delivery Management requires technical access to the respective interface of the network provided by Eurex Clearing AG; such access shall be in line with the specifications defined by Eurex Clearing AG.

The Gross Delivery Management includes two release methods:

(i) Under the "**Positive Procedure**", the delivery obligations under all Transactions is set on "hold" and the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on its behalf) is required to release the delivery obligation under an individual Transactions, if such

delivery obligation shall be settled. The release of parts of a Transaction is permissible.

- (ii) Under the “**Negative Procedure**”, the delivery obligations under all Transactions is set on “release” and the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on its behalf) is required to set the delivery obligation under an individual Transactions on “hold”, if such delivery obligation shall not be settled. A Transaction can partially be set on hold.

In connection with the use of the Gross Delivery Management, Clearing Members, Clearing Agents (acting on behalf of their Basic Clearing Members) or third parties designated by the Clearing Member shall receive individual transaction data from Eurex Clearing AG.

- (b) With respect to the fulfilment of delivery and payment obligations arising from Repo Transactions with regard to German Securities, Paragraph (4) shall not be applicable and the following provisions as well as to Paragraph (7) (unless otherwise provided in the relevant Special Clearing Provisions) shall apply:

(aa) Unless otherwise provided for in the relevant Special Clearing Provisions, Eurex Clearing AG hereby acts as intermediary (*Besitzmittler*) of the Clearing Members or the Basic Clearing Members obliged to deliver in order to transfer such Securities to the Clearing Members or the Basic Clearing Members to whom delivery is to be made. The physical deliveries shall be carried out via a Settlement Location; the payment shall be effected via the respective account determined by the Settlement Location.

(bb) The transfer of ownership shall be carried out when the following prerequisites have been fulfilled:

(A) the Settlement Location included in the Securities transfer has, where required, carried out all bookings with regard to the Transactions having been set off or netted or not having been set off or netted by Eurex Clearing AG from the custody account of Eurex Clearing AG with the Settlement Location to the custody accounts of the Clearing Members or Basic Clearing Members (or the Clearing Agent acting on their behalf) to whom delivery is to be made with the Settlement Location; and

(B) the respective cash netting has been carried out by the Settlement Location; and

(C) the Clearing Members or the Clearing Agents (acting on behalf of their respective Basic Clearing Member) and the Basic Clearing Members have been provided with the actual settlement delivery report (*Ist-Lieferreport*) by Eurex Clearing AG, such report specifying the single transactions that have actually been delivered.

~~(c) This paragraph (9) shall also apply to all Transactions, which are concluded prior to 27 September 2021 and are settled on or after the 27 September 2021.~~

~~(2) For Transactions to be fulfilled through delivery of Securities, Eurex Clearing AG offers an electronically supported service in order to improve the delivery process (the “**Gross Delivery Management**”).~~

~~— The use of the Gross Delivery Management requires technical access to the respective interface of the network provided by Eurex Clearing AG; such access shall be in line with the specifications defined by Eurex Clearing AG.~~

~~— The Gross Delivery Management includes two release methods:~~

~~(a) The delivery of all Transactions is not released. In case individual Transactions shall be delivered, they shall be indicated by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on its behalf) (the “**Positive Procedure**”). The indication of parts of a Transaction is permissible.~~

~~(b) The delivery of all Transactions is released. In case individual Transactions shall not be delivered, they shall be indicated by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on its behalf) (the “**Negative Procedure**”). The indication of parts of a Transaction is permissible.~~

~~— In connection with the use of the Gross Delivery Management, Clearing Members, Clearing Agents (acting on behalf of their Basic Clearing Members) or third parties designated by the Clearing Member shall receive individual transaction data from Eurex Clearing AG.~~

~~(3) Each Clearing Member or Basic Clearing Member (or Clearing Agent acting on its behalf) and Eurex Clearing AG shall ensure, through appropriate instruction of the respective Settlement Location, that Transactions can be processed at the time specified in the relevant Special Clearing Provisions, on the delivery days agreed, respectively. The Clearing Members or Basic Clearing Members (or the Clearing Agents acting on behalf of their Basic Clearing Members) shall authorise Eurex Clearing AG, by providing the appropriate power of attorney (or, as applicable, sub-power of attorney) for use vis-à-vis the respective Settlement Location, to give, release and transmit all delivery instructions and to supplement, change or cancel the delivery instructions as required for the timely and correct fulfilment of its delivery and payment obligations against Eurex Clearing AG. The same applies with regard to the corresponding payment instructions.~~

~~(4) The fulfilment of delivery and payment obligations arising from Transactions with regard to Securities held in collective safe custody (*Girosammelverwahrung*), is subject to the following provisions as well as to Paragraph (9) (unless otherwise provided in the relevant Special Clearing Provisions):~~

~~(a) All physical deliveries are carried out versus payment between the Clearing Members or the Basic Clearing Members obliged to deliver and Eurex~~

~~Clearing AG and, accordingly, between Eurex Clearing AG and the Clearing Members or the Basic Clearing Members to whom delivery is to be made at the points in time specified in the relevant Special Clearing Provisions, respectively on the agreed delivery days. Unless otherwise provided for in the relevant Special Clearing Provisions, Eurex Clearing AG hereby acts as intermediary (*Besitzmittler*) of the Clearing Members or the Basic Clearing Members obliged to deliver in order to transfer such Securities to the Clearing Members or the Basic Clearing Members to whom delivery is to be made. The physical deliveries shall be carried out via a Settlement Location; the payment shall be effected via the respective account determined by the Settlement Location.~~

~~(b) The transfer of ownership shall be carried out when the following prerequisites have been fulfilled:~~

~~(aa) the Settlement Location included in the Securities transfer has, where required, carried out all bookings with regard to the Transactions having been set off or netted or not having been set off or netted by Eurex Clearing AG from the custody account of Eurex Clearing AG with the Settlement Location to the custody accounts of the Clearing Members or Basic Clearing Members (or the Clearing Agent acting on their behalf) to whom delivery is to be made with the Settlement Location; and~~

~~(bb) the respective cash netting has been carried out by the Settlement Location; and~~

~~(cc) the Clearing Members or the Clearing Agents (acting on behalf of their respective Basic Clearing Member) and the Basic Clearing Members have been provided with the actual settlement delivery report (*Ist-Lieferreport*) by Eurex Clearing AG, such report specifying the single transactions that have actually been delivered.~~

~~(5) The fulfilment of delivery and payment obligations arising from Transactions with regard to book-entry securities is subject to Paragraphs (6), (7) and (9) (unless otherwise provided in the relevant Special Clearing Provisions).~~

~~(6) All deliveries of book-entry securities shall be carried out versus payment between the Clearing Members or the Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) and Eurex Clearing AG and, accordingly, between Eurex Clearing AG and the Clearing Members or Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) to whom delivery is to be made at the points in time specified in the relevant Special Clearing Provisions or on the agreed delivery days, respectively. The respective book-entries shall be granted by the Settlement Location, and the payment shall be effected via the respective account determined by the Settlement Location. With regard to German book-entry securities transferred to Eurex Clearing AG in accordance with Sentence 1, Eurex Clearing AG shall act as fiduciary~~

~~owner in favour of the acquiring Clearing Members or Basic Clearing Members in order to effect the delivery of such German book-entry securities to them.~~

- ~~(7) The assignment of the return/delivery claim under the law of obligation (*schuldrechtlicher Herausgabe-/Lieferanspruch*) of the legal position underlying the German book-entry securities is deemed to occur when the following prerequisites are cumulatively fulfilled:~~
- ~~(a) The Settlement Location included in the assignment of the return/delivery claim has, where required, entered all bookings in relation to all Transactions having been set off or netted or not having been set off or netted by Eurex Clearing AG from the custody account of Eurex Clearing AG with such Settlement Location to the custody accounts of the Clearing Members or the Basic Clearing Members (or the Clearing Agents acting on behalf of their Basic Clearing Members) to whom delivery is to be made with such Settlement Location; and~~
- ~~(b) the respective cash netting has been carried out in the relevant currency by the Settlement Location.~~
- ~~(8) The powers of attorney granted by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) in accordance with this Number 1.4.2 and relating to one or more Clearing License(s) may only be revoked by the Clearing Member or the Basic Clearing Member if the Clearing Member or the Basic Clearing Member also terminates such Clearing License(s). If the Clearing Member or the Basic Clearing Member has declared such revocation and termination, such revocation of powers of attorney and such termination of the related Clearing License(s) shall only become effective after all Transactions of the Clearing Member or all Basic Clearing Member Transactions of the Basic Clearing Member of the relevant Transaction Type(s) have been cancelled, closed or fulfilled. If a Clearing License ends for any other reasons, all related powers of attorney shall terminate and such termination shall become effective in accordance with the foregoing sentence.~~
- ~~(9) The usage of the T2S system for the settlement of securities transactions facilitates partial deliveries of securities during the day. Thus, deliveries of securities may also occur by means of partial deliveries which, accordingly, have a discharging effect.~~

1.4.3 Right of appropriation and authorisation to pledge securities

[...]

- (3) If, at any time, a Clearing Member or Basic Clearing Member to whom delivery of Securities is to be made under a Transaction fails to perform when due any of its payment obligations towards Eurex Clearing AG for the delivery of these Securities (for the purpose of this Number 1.4.3 Paragraph (3) a "**Settlement Payment Default**"), Eurex Clearing AG shall, notwithstanding that a settlement of the

Transaction may still be technically possible on the same settlement day, be entitled to refuse the settlement of the relevant Transaction with such Clearing Member or Basic Clearing Member

- (i) on the day on which the Settlement Payment Default occurs and
- (ii) on any subsequent settlement day on which the Settlement Payment Default is not remedied at the first available settlement time on that day.

Eurex Clearing AG may enter into trades, including but not limited to cleared Transactions, to hedge or manage liquidity risks or any other risks that Eurex Clearing AG may be exposed to with respect to the Settlement Payment Default.

[...]

- (ii) Eurex Clearing AG has due to the Settlement Payment Default refused to settle the related Transaction and deliver Securities to the Clearing Member or Basic Clearing Member to whom delivery of Securities was scheduled to be made on the relevant settlement day.

The Clearing Member or Basic Clearing Member that is in Settlement Payment Default shall bear the costs arising from such Settlement Payment Default, including but not limited to any costs of Eurex Clearing AG to hedge or manage liquidity risks or any other risks that Eurex Clearing AG may be exposed to with respect to the Settlement Payment Default.

For the avoidance of doubt, the foregoing shall neither

- (i) release the Clearing Member or Basic Clearing Member that is in Settlement Payment Default from any of its obligations under the relevant Transaction, nor
- (ii) prevent Eurex Clearing AG from exercising any of its other rights or remedies with respect to the Settlement Payment Default, including, but not limited to, any claims for further damages, contractual penalties and/or a Termination pursuant to Number 7.2.1.

[...]

2 Clearing Members

2.1 Clearing License

[...]

2.1.2 General Prerequisites for Clearing Licenses

[...]

- (2) Personal prerequisites

(a) Subject to Number 2.1.3 below, a Clearing License may only be granted to:

[...]

(dd) ~~ana~~ EU branch of an institution: a branch of a credit institution or investment firm domiciled in a member state of the EU ("**host member state**") provided that (i) the main office of such credit institution or investment firm is domiciled in another member state of the EU ("**home member state**"), (ii) a notification procedure has been completed in the host member state, and that (iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (b) below;

[...]

[...]

(4) The applicant (other than an applicant that intends to become an OTC IRS U.S. Clearing Member) shall have available the following accounts:

[...]

(bb) for purposes of providing Margin in the form of Securities pursuant to the ISA Provisions:

[...]

[...]

(ff) settlement securities accounts required for the Physical Delivery of Securities (including ~~German book entry securities~~ WP Credits and Swiss intermediated securities) for the relevant Transaction Types, which shall be maintained with a Settlement Location and which must be connected with a corresponding cash account.

[...]

[...]

Part 2 Elementary Clearing Model Provisions

[...]

Part 2 Subpart A: General Elementary Clearing Model Provisions

[...]

4 Margin

[...]

4.4 Margin Allocation

4.4.1 Subject to Number 4.2.3, the Eligible Margin Assets that have been actually delivered as Margin by the Clearing Member are allocated to the Internal Proprietary Margin Account, the relevant Internal Buffer Margin Account or the relevant Internal Omnibus Margin Account in accordance with the instructions of the Clearing Member (~~“Asset Based Allocation”~~);(asset based allocation):

[...]

[...]

Part 4 Individual Segregated Account Provisions

[...]

6 Margin

[...]

6.3 Delivery and Booking of Eligible Margin Assets

[...]

6.3.2 Delivery of Eligible Margin Assets in the form of Securities

[...]

6.3.2.3 If the Clearing Member, with respect to the relevant Internal ISA Margin Account, has submitted a Title Transfer Margin Election, the following applies:

[...]

[...]

- (3) With respect to a transfer of Securities to an ISA Securities Margin Account with Clearstream Banking AG of which the Clearing Member is the account holder:

- (a) In the case of a transfer of Securities in form of co-ownership interests (*Miteigentumsanteilen*), the Clearing Member makes an offer to transfer the relevant Securities to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer in advance subject to the credit of such Securities to the ISA Securities Margin Account. § 151 ~~BGB~~ of the German Civil Code (*Bürgerliches Gesetzbuch*) applies. Possession passes by means of constituting a bailment (*Begründung eines Besitzmittlungsverhältnisses*) between Clearstream Banking AG and Eurex Clearing AG and by modification of the bailment intention (*Besitzmittlungswillen*) of Clearstream Banking AG regarding the fractions to be transferred. The transfer of possession is completed when, based on the Clearing Member's, instruction a debit entry is posted in the Clearing Member's custody account and a credit entry is posted in the ISA Securities Margin Account of the Clearing Member.
- (b) In the case of a transfer of ~~Securities in the form of German book-entry securities (*Gutschriften in Wertpapierrechnung*), WP Credits~~, the Clearing Member makes an offer to transfer ~~by assigning its corresponding claim for surrender (*Herausgabeanspruch*)~~ transferring the ownership in WP Credits against Clearstream Banking AG ~~relating to such German book-entry securities~~ to Eurex Clearing AG by means of the CBF Instruction. Eurex Clearing AG hereby accepts any such offer ~~to assign~~ in advance, subject to the credit of the ~~relevant book-entry securities~~ WP Credits to the ISA Securities Margin Account. § 151 ~~BGB~~ of the German Civil Code (*Bürgerliches Gesetzbuch*) applies. Eurex Clearing AG and the Clearing Member agree and acknowledge that, with the completion of the credit on the ISA Securities Margin Account, Clearstream Banking AG accepts by way of abstract acknowledgement of debt (*abstraktes Schuldanerkenntnis*) the claim for surrender vis-à-vis Eurex Clearing AG.

[...]

10 Porting of assets and positions in relation to an ISA Standard Agreement

[...]

- 10.8 If Eligible Margin Assets in the form of Securities ~~that~~ have been pledged to Eurex Clearing AG as Margin in respect of ISA Transactions which are subject to a Transfer, such Securities shall be transferred to the Replacement Clearing Member by way of a transfer of title therein, subject to the following provisions:

[...]

- 10.9 If Eligible Margin Assets in the form of Securities ~~that~~ have been provided by the Affected Clearing Member to Eurex Clearing AG as Margin by way of title transfer in respect of ISA Transactions that are subject to a Transfer, the following shall apply:

[...]

10.9.3 If the ISA Transactions shall become Omnibus Transactions of the Replacement Clearing Member, the following provisions shall apply:

[...]

- (ii) if the Disclosed Direct Client has not made a Direct Return Request in the ISA Porting Election Notice, any Redelivery Claims of the Affected Clearing Member relating to Margin in the form of Securities shall become due and shall be discharged by a transfer of equivalent Securities to the relevant Replacement Clearing Member by transferring such Securities to the relevant Omnibus Pledged Securities Account of the Replacement Clearing Member and such Securities shall constitute Omnibus Margin as of such transfer.

[...]

[...]
