



eurex clearing circular 086/14

Date: 4 July 2014
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG
Authorized by: Thomas Laux



High priority

1. Deletion of transaction-specific termination right of Eurex Clearing

2. Amendments to the Clearing Conditions in relation to the determination of a Difference Claim

Related Eurex Clearing circular: 070/14

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Content may be most important for:

☞ All departments

Attachment:

Updated sections of the Clearing Conditions for Eurex Clearing AG, effective 6 October 2014

Summary

As announced in Eurex Clearing circular 070/14, Eurex Clearing will amend its Clearing Conditions to implement the following changes:

1. Deletion of transaction-specific termination right of Eurex Clearing

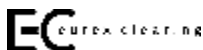
Eurex Clearing will delete its transaction-specific termination right.

2. Amendments to the Clearing Conditions in relation to the determination of a Difference Claim

Eurex Clearing will amend certain provisions regarding the determination of a Difference Claim towards a Clearing Member in default.

Pursuant to Chapter I Part 1 Number 17.3 of the Clearing Conditions, from 3 June 2014 until 3 July 2014 Eurex Clearing has conducted a one month consultation period with all Clearing Members (CMs), Non-Clearing Members (NCMs) and Registered Customers (RCs) regarding the topics of this circular. Eurex Clearing has not received any comments regarding the amendments described in this circular.

Attached to this circular you will find the updated sections of the Clearing Conditions as, after previous consultation with the Risk Committee, approved by the Executive Board of Eurex Clearing AG on 21 May 2014 and by the Supervisory Board of Eurex Clearing AG on 12 June 2014. The changes will come into effect on **6 October 2014**.



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Aktiengesellschaft mit
 Sitz in Frankfurt/Main
 HRB Nr. 44828
 Amtsgericht
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1. Deletion of transaction-specific termination right of Eurex Clearing

2. Amendments to the Clearing Conditions in relation to the determination of a Difference Claim

As announced in Eurex Clearing circular 070/14, Eurex Clearing will amend the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) to implement the following changes:

1. Deletion of transaction-specific termination right of Eurex Clearing

Eurex Clearing will delete its transaction-specific termination right.

2. Amendments to the Clearing Conditions in relation to the determination of a Difference Claim

Eurex Clearing will amend certain provisions regarding the determination of a Difference Claim towards a Clearing Member in default.

Pursuant to Chapter I Part 1 Number 17.3 of the Clearing Conditions, from 3 June 2014 until 3 July 2014 Eurex Clearing has conducted a one month consultation period with all Clearing Members (CMs), Non-Clearing Members (NCMs) and Registered Customers (RCs) regarding the topics of this circular. Eurex Clearing has not received any comments regarding the amendments described in this circular. The amendments of the Clearing Conditions in respect to the third topic mentioned in Eurex Clearing circular 070/14 will be addressed in a separate Eurex Clearing circular.

In accordance with Article 28 EMIR, Eurex Clearing received the Risk Committee's advice with respect to the changes announced in this circular.

Attached to this circular you will find the amended sections of the Clearing Conditions as approved by the Executive Board of Eurex Clearing AG on 21 May 2014 and by the Supervisory Board of Eurex Clearing AG on 12 June 2014, which will come into effect on 6 October 2014.

As of 6 October 2014, the complete Clearing Conditions will be available for download on the Eurex Clearing website under the link:

[Resources > Rules and Regulations](#)

Pursuant to Chapter I, Part 1, Number 17.2.3 of the Clearing Conditions, each CM or NCM or RC accepts each amendment and addition to the Clearing Conditions, unless it objects by written notice to Eurex Clearing before the end of the Business Day prior to the actual effective date of such amendment or addition to the Clearing Conditions. The right to terminate the Clearing Agreement and the Clearing License according to Chapter I, Part 1, Number 2.1.4 Paragraph 2, Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions shall remain unaffected.

For more information, please contact Risk Control on tel. +49-69-211-1 24 52, fax +49-69-211-1 84 40 or e-mail: risk@eurexclearing.com.

4 July 2014

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

Chapter I General Provisions

Part 1 General Clearing Provisions

[...]

1.4.4 Buy-In Right and Buy-In Auction

(1) The SPECIAL CLEARING PROVISIONS may provide that in the event of a failure by a CLEARING MEMBER under a TRANSACTION to deliver SECURITIES to Eurex Clearing AG on the applicable delivery date, Eurex Clearing AG shall be entitled at the cost of the defaulting CLEARING MEMBER to enter into a replacement purchase by way of a transaction with a third party or by way of an auction, as further set out in the SPECIAL CLEARING PROVISIONS. Any replacement purchase by way of an auction shall be subject to the buy-in auction rules published by Eurex Clearing AG on its website (www.eurexclearing.com); such published buy-in auction rules shall form part of these CLEARING CONDITIONS.

(2) Without prejudice to the provisions of the SPECIAL CLEARING PROVISIONS Eurex Clearing AG shall be entitled to enter into a replacement purchase pursuant to Paragraph (1) above in case a CLEARING MEMBER fails under a TRANSACTION to deliver SECURITIES to Eurex Clearing AG on the applicable delivery date, causing the inability of Eurex Clearing AG to fulfill its due delivery obligation towards another CLEARING MEMBER and Eurex Clearing AG has received a Second Notification pursuant to Chapter 1 Part 1 Number 9.3.3 (3) of these Clearing Conditions from the respective CLEARING MEMBER to be supplied. The respective rules of the SPECIAL CLEARING PROVISIONS regarding costs and a potential cash settlement shall apply accordingly.

[...]

9.4 ~~_____~~ Rights of Eurex Clearing AG in respect of TRANSACTIONS with other CLEARING MEMBERS upon a FAILURE TO PAY EVENT

9.4.1 ~~_____~~ TERMINATION of TRANSACTIONS in case of a CASH SETTLED TRANSACTION

- (1) ~~When Eurex Clearing AG has determined a CASH SETTLEMENT AMOUNT for NON-DELIVERED ASSETS according to Number 9.3, Eurex Clearing AG shall be entitled to terminate TRANSACTIONS with other CLEARING MEMBERS pursuant to which Eurex Clearing AG has a due claim to receive SECURITIES of the same kind.~~
- (2) ~~Eurex Clearing AG will terminate TRANSACTIONS pursuant to Paragraph (1) above in the following order:~~
- ~~(a) the TRANSACTION which is due for the longest period of time and as far as TRANSACTIONS are due since the same period of time,~~
 - ~~(b) the TRANSACTION with the highest nominal of SECURITIES to be delivered under this TRANSACTION,~~
 - ~~(c) the TRANSACTION with the second, third, forth etc. highest nominal of SECURITIES to be delivered under the relevant TRANSACTION, until Eurex Clearing AG has terminated TRANSACTIONS up to an amount of SECURITIES which covers the original TRANSACTION with respect to which Eurex Clearing AG is performing the CASH SETTLEMENT PAYMENT.~~
- ~~As far as necessary Eurex Clearing AG is also entitled to terminate TRANSACTIONS in part to meet the amount of SECURITIES which covers the original size of the Cash-settled TRANSACTION with respect to which Eurex Clearing AG has determined the CASH SETTLEMENT AMOUNT.~~
- (3) ~~After the termination of a TRANSACTION pursuant to Paragraph (1) above, the CLEARING MEMBER is no longer entitled to fulfil its original obligation by delivering the NON-DELIVERED ASSETS to Eurex Clearing AG. Eurex Clearing is entitled to a cash settlement of this TRANSACTION. The CASH SETTLEMENT AMOUNT shall be determined in accordance with the provisions of Number 9.3.5. Eurex Clearing AG will notify the respective CLEARING MEMBERS of the termination and the determined CASH SETTLEMENT AMOUNT.~~
- (4) ~~TERMINATION of a TRANSACTION pursuant to Paragraph (1) above shall result in a termination of the CORRESPONDING COVERED TRANSACTION pursuant to the ICM-ECD PROVISIONS. Paragraph (3) applies *mutatis mutandis* to such CORRESPONDING COVERED TRANSACTION.~~

9.4.2 ~~_____~~ TERMINATION of TRANSACTIONS in case of a general Close-Out

~~If incompletely settled or unfulfilled TRANSACTIONS of the relevant MARKETS are terminated by a CLEARING MEMBER following a FAILURE TO PAY EVENT, Eurex Clearing AG, for its part, shall be entitled to terminate TRANSACTIONS with other CLEARING MEMBERS of any of the relevant MARKETS pursuant to which Eurex Clearing AG has a corresponding claim to~~

~~receive SECURITIES or payment. For the determination of such TRANSACTIONS to become terminated Number 9.4.1 will apply accordingly.~~

[...]

CHAPTER I AND VIII WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

Chapter I General Conditions

Part 1 General Clearing Provisions

[...]

1.6 Additionally Monitored Risks and Risk Mitigating Measures

1.6.1 General Rules

- (1) Eurex Clearing AG monitors and, when necessary, mitigates the following risks that Eurex Clearing AG is exposed to in relation to the Clearing Member:
 - (a) the potential loss which Eurex Clearing AG may suffer if a Clearing Member fails to fulfil its contractual obligations under its Transactions ("**Credit Risk**"),
 - (b) the potential loss which Eurex Clearing AG may suffer during the ~~Default Management Process~~default management process, due to insufficient diversification in respect of the Eligible Margin Assets provided by the Clearing Member or in respect of the instruments underlying the Clearing Member's Transactions ("**Concentration Risk**"), and
 - (c) the potential loss which Eurex Clearing AG may suffer during the ~~Default Management Process~~default management process, due to an unfavourable interrelatedness between the Clearing Member's creditworthiness, the value of the Eligible Margin Assets provided by the Clearing Member and the notional exposure arising from the Clearing Member's Transactions ("**Wrong Way Risk**", together with the Credit Risk and the Concentration Risk, the "**Additionally Monitored Risks**").

[...]

7.3 Consequences of a Termination

The consequences of a Termination and the applicable valuation method for determining the Difference Claim (the "**Difference Claim Valuation Method**"), which is either the Liquidation Price Approach (as further set out in Number 7.3.2 below) or the Exchange Price Approach (as further set out in Number 7.3.3 below), are set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, as applicable. Any Difference Claim pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions shall be determined as follows:

- 7.3.1 Upon the occurrence of a Termination Date, the Difference Claim shall be determined for each Standard Agreement by way of combining (*Saldieren*) the Single Transaction Amounts of all Transactions under such Standard Agreement terminated as of the Termination Time and the Aggregate Value of the Redelivery Claims under such Standard Agreement, all as defined below.

The final amount of the Difference Claim resulting from such combination shall (i), if it is a positive figure for the party entitled to value the Difference Claim, be owed to it by the other party, or (ii), if it is a negative figure for the party entitled to value the Difference Claim, be owed by it to the other party.

~~The value of the Difference Claim shall be determined by the party specified in Number 7.3.3 on the Valuation Date pursuant to the Clearing Conditions. If the party entitled to value the Difference Claim fails to value the Difference Claim on the Valuation Date the other party shall be entitled to value the Difference Claim. The Difference Claim shall be denominated in the currency last agreed in writing between Eurex Clearing AG and the Clearing Member (the "**Termination Currency**").~~

- 7.3.2 ~~If the "**Liquidation Price Approach**" is the applicable Difference Claim Valuation Method, the value of the Difference Claim shall be determined in accordance with this Number 7.3.2 by the party specified in Paragraph (2) on the Last Valuation Date.~~

- (1) ~~The "**DMP Valuation Date**" shall, with respect to a Transaction, be (i) the TERMINATION DATE if the TERMINATION TIME falls before 17:23 hours (Frankfurt am Main time) (the "**DAY-BREAK TIME**"), or (ii) the BUSINESS DAY immediately following the TERMINATION DATE, if the TERMINATION TIME falls on or after the DAY-BREAK TIME any day on which a Liquidation Price is determined for such Transaction. The latest DMP Valuation Date with respect to Transactions under the same Standard Agreement shall be the "**Last Valuation Date**". Such Last Valuation Date shall occur upon completion of the default management process pursuant to Number 7.5 below. The DIFFERENCE CLAIM shall be denominated in the currency last agreed in writing between Eurex Clearing AG and the CLEARING MEMBER (the "**TERMINATION CURRENCY**"). The "**Margin Valuation Date**" shall, with respect to any Eligible Margin Assets, be any day during the default management process pursuant to Number 7.5 below on which such Eligible Margin Assets are actually realised by Eurex Clearing AG.~~

(2) The party entitled to value the Difference Claim is, (i) with respect to a Standard Agreement between Eurex Clearing AG and the Clearing Member, Eurex Clearing AG and, (ii) with respect to a Standard Agreement between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively, the Non-Clearing Member or Registered Customer, respectively.

(3) For the purpose of the determination of the Difference Claim:

(a) The **“Single Transaction Amount”** shall be determined with respect to each Transaction under the relevant Standard Agreement terminated as of the Termination Time and shall equal its ~~Market or Exchange~~Liquidation Price as of the relevant DMP Valuation Date.

Where in line with the provisions of Number 7.5 below, a group of Transactions is liquidated in a way that Eurex Clearing AG cannot determine a Single Transaction Amount for each individual Transaction in that group of Transactions, Eurex Clearing AG may include the price received for the respective group of Transactions in the respective Difference Claim.

~~— If a price has been agreed for the Transaction which is due but neither has been paid nor been taken into account yet in the Market or Exchange Price, the Single Transaction Amount shall be adjusted to reflect such agreed price.~~

When making such calculation, (i) any amount due to be paid as a primary obligation under the relevant Transaction, but unpaid as at the Last Valuation Date, and (ii) the value of any assets due to be delivered as a primary obligation under the relevant Transaction, but not ~~yet~~ delivered, as at the Last Valuation Date (each an **“Unpaid Amount”**) shall be taken into account.

(b) **“~~Market or Exchange~~Liquidation Price”** means:

~~(aa)~~ with respect to a Transaction, or a group of Transactions, the price determined during and as part of the default management process pursuant to Number 7.5 below or Chapter VIII Part 2 Number 2.1.10 Paragraph (2), including relevant costs and expenses incurred by Eurex Clearing AG during the respective default management process, in particular relevant DM Hedging Transaction Costs and CDS DM Hedging Transaction Costs; and

(bb) with respect to an expired Redelivery Claim, as applicable:

(1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the relevant Margin Valuation Date; or

(2) the price realised during the default management process in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash on the relevant Margin Valuation Date.;

- ~~[(aa) with respect to EUREX TRANSACTIONS (Chapter II), FWB TRANSACTIONS (Chapter V Part 1 and 2), ISE TRANSACTIONS (Chapter VI) and EEX TRANSACTIONS (Chapter VII), in each case other than OTC TRANSACTIONS, the applicable determined exchange price (*festgestellter Börsenpreis*) on the VALUATION DATE determined in the MARKET in which it has been concluded, or~~
- ~~(bb) with respect to an OTC TRANSACTIONS described in Chapter II and V, the determined exchange price (*festgestellter Börsenpreis*) that would apply to the corresponding exchange transaction described in Chapter II and V on the VALUATION DATE in a MARKET, or~~
- ~~(cc) with respect to TRANSACTIONS described in Chapter III and IV the applicable market price (*Marktpreis*) on the VALUATION DATE determined in the MARKET in which it has been concluded, or~~
- ~~(dd) with respect to TRANSACTIONS described in Chapter IX, the applicable determined exchange price (*festgestellter Börsenpreis*) or applicable market price (*Marktpreis*) of the UNDERLYING SECURITIES on the VALUATION DATE determined in the relevant market of the UNDERLYING SECURITIES, or~~
- ~~(ee) with respect to TRANSACTIONS described in Chapter VIII or if none of the cases set forth under (aa) to (dd) applies, a model for the valuation of the market value (*Marktpreis*) of TRANSACTIONS (which may, depending on the circumstances, be the auction price), which considers market risks and market prospects, *inter alia*, taking into account asset classes, volatility and liquidity.~~
- ~~— The valuation model referred to in Paragraph (ee) above and further procedures regarding the determination by Eurex Clearing AG of the prices referred to in Paragraphs (aa) to (dd) above will from time to time be published in accordance with Number 16.1; such published valuation model or further procedures shall form part of these CLEARING CONDITIONS.]~~
- (c) **“Aggregate Value of the Redelivery Claims”** means, with respect to a party to the relevant Standard Agreement, the sum of the Liquidation Market and Exchange Prices of the applicable number or amount of the relevant equivalent Eligible Margin Assets subject to which all of its terminated-expired Redelivery Claims against the other party as of the Termination Time relate. For any number or amount of remaining equivalent Eligible Margin Assets which were not realised by Eurex Clearing AG until the end of the Last Valuation Date, if any, an Exchange Price shall be determined which shall be added to the sum of the Liquidation Prices.
- (d) **“Exchange Price”** means, with respect to an terminated-expired Redelivery Claim, as applicable:
- (aa) the amount in the Termination Currency of any equivalent Eligible Margin Asset in form of cash on the Last Valuation Date; or

(bb) the ~~market or exchange or market~~ price in the Termination Currency of any equivalent Eligible Margin Assets other than cash on the Last Valuation Date.

7.3.3 If the "Exchange Price Approach" is the applicable Difference Claim Valuation Method, the value of the Difference Claim shall be determined in accordance with this Number 7.3.3 by the party specified in Paragraph (2) on the Valuation Date.

(1) —The "**Valuation Date**" shall be (i) the Termination Date if the Termination Time falls before 17:23 hours (Frankfurt am Main time) (the "**Day-Break Time**"), or (ii) the Business Day immediately following the Termination Date, if the Termination Time falls on or after the Day-Break Time. ~~The Difference Claim shall be denominated in the currency last agreed in writing between Eurex Clearing AG and the Clearing Member (the "Termination Currency").~~

(2) —The party entitled to value the Difference Claim is, (i) with respect to a Standard Agreement between Eurex Clearing AG and the Clearing Member, Eurex Clearing AG and, (ii) with respect to a Standard Agreement between the Clearing Member and the Non-Clearing Member or Registered Customer, respectively, the Non-Clearing Member or Registered Customer, respectively.

(3) —For the purpose of the determination of the Difference Claim:

(4a) The "**Single Transaction Amount**" shall be determined with respect to each Transaction under the relevant Standard Agreement terminated as of the Termination Time and shall equal its ~~Market or Exchange Price as of the~~ Termination Date ~~the Valuation Date~~.

—If a price has been agreed for the Transaction which is due but ~~neither~~ neither has been paid nor been taken into account yet in the ~~Market or Exchange Price~~, the Single Transaction Amount shall be adjusted to reflect such agreed price.

—When making such calculation, (i) any amount due to be paid as a primary obligation under the relevant Transaction, but unpaid as at the ~~Valuation Date~~ Opening Time (as defined in Part 3 Subpart B Number 5.1.4 and Number 5.2.3, as the case may be), and (ii) the value of any assets due to be delivered as a primary obligation under the relevant Transaction, but not ~~yet~~ delivered, as at the ~~Valuation Date~~ Opening Time (each an "**Unpaid Amount**") shall be taken into account.

(2b) "**Market or Exchange Price**" means, in case of a Termination Date with respect to a Clearing Member, with respect to a Transaction or a group of Transactions:

(aa) with respect to a Transaction: the settlement price as of the Termination Date published by Eurex Clearing AG; and

(bb) with respect to an expired Redelivery Claim, as applicable:

(1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the Termination Date; or

(2) the market or exchange price in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash as of the Termination Date.

(c) **“Exchange Price”** means, in case of a Failure to Pay Event or an Insolvency Event with respect to Eurex Clearing AG:

(aa) with respect to a Transaction:

(1) with respect to Eurex Transactions (Chapter II), FWB Transactions (Chapter V Part 1 and 2), ISE Transactions (Chapter VI) and EEX Transactions (Chapter VII), in each case other than OTC Transactions, the applicable determined exchange price (*festgestellter Börsenpreis*) ~~as of~~ as of the Valuation Date ~~determined~~ in the Market in which it has been concluded;

~~(b)~~ (2) with respect to an OTC Transactions described in Chapter II and V, the determined exchange price (*festgestellter Börsenpreis*) that would apply to the corresponding exchange transaction described in Chapter II and V ~~as of~~ as of the Valuation Date in ~~a~~ the relevant Market, ~~or;~~

~~(3) (c)~~ with respect to Transactions described in Chapter III and IV the applicable market price (*Marktpreis*) ~~as of~~ as of the Valuation Date determined in the Market in which it has been concluded, ~~or;~~

~~(4) (d)~~ with respect to Transactions described in Chapter IX, the applicable determined exchange price (*festgestellter Börsenpreis*) or applicable market price (*Marktpreis*) of the Underlying Securities ~~as of~~ as of the Valuation Date determined in the relevant market of the Underlying Securities, ~~or;~~ or

~~(5) (e)~~ with respect to Transactions described in Chapter VIII or if none of the cases set forth under ~~(a1)~~ (a1) to ~~(d4)~~ (d4) applies, a model for the valuation of the market value (*Marktpreis*) of Transactions (which may, depending on the circumstances, be the auction price), which considers market risks and market prospects, *inter alia*, taking into account asset classes, volatility and liquidity.

The valuation model referred to in Sub-Paragraph ~~(e5)~~ (e5) above and further procedures regarding the determination by Eurex Clearing AG of the prices referred to in Sub-Paragraphs ~~(a1)~~ (a1) to ~~(d4)~~ (d4) above will from time to time be published in accordance with Number 16.1; such published valuation model or further procedures shall form part of these Clearing Conditions; and-

(bb) with respect to an expired Redelivery Claim, as applicable:

(1) the amount in the Termination Currency of the relevant equivalent Eligible Margin Asset in form of cash on the Valuation Date; or

(2) the market or exchange price in the Termination Currency of the relevant equivalent Eligible Margin Assets other than cash as of the Valuation Date.

~~(3d)~~ **“Aggregate Value of the Redelivery Claims”** means, with respect to a party to the relevant Standard Agreement, the sum of the ~~Market and~~ Exchange Prices of the applicable number or amount of the relevant equivalent Eligible Margin Assets ~~subject to which all of its terminated-expired~~ Redelivery Claims against the other party as of the Termination Time relate.

~~(4)~~ **“Market or Exchange Price”** means, with respect to a terminated Redelivery Claim, as applicable:

~~(a)~~ the amount in the Termination Currency of any equivalent Eligible Margin Asset in form of cash on the Valuation Date; or

~~(b)~~ the exchange or market price in the Termination Currency of any equivalent Eligible Margin Assets other than cash on the Valuation Date.

[...]

9 Termination Rules with respect to Eurex Clearing AG

9.2 By signing the Clearing Agreement, or in the case of Part 3 Subpart B Number 5.1.5, by the Clearing Agreement to be established between the Interim Participant and Eurex Clearing AG, a difference claim of either party to the relevant Standard Agreement between Eurex Clearing AG and the relevant Clearing Member is created. This difference claim shall become unconditional and immediately due against the respective other party upon the expiry of the primary obligations and delivery obligations, respectively, referred to in Number 9.1, and shall be determined on the basis of the ~~Market or~~ Exchange Prices (as defined in Number 7.3.3 Paragraph (3)(c)) applicable with respect to the relevant terminated Transactions or Redelivery Claims on the second Business Day following (i) the Failure to Pay Event or (ii) the Insolvency Event. Numbers 7.3.1 ~~through and~~ 7.3.4-3 shall apply *mutatis mutandis*.

[...]

Part 2 Elementary Clearing Model Provisions

[...]

8.4 Consequences of a Termination

[...]

Attachment 2 to Eurex Clearing circular 086/14	Eurex04
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8.4.2 Difference Claim

The difference claim of either Eurex Clearing AG or the Affected Clearing Member, as the case may be, under the relevant Elementary Standard Agreement between Eurex Clearing AG and the Affected Clearing Member, which was created by the signing of the Clearing Agreement, or in the case of Part 3 Subpart B Number 5.1.5, by the Clearing Agreement to be established between the Interim Participant and Eurex Clearing AG, shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2-1 of the General Clearing Provisions) against the respective other party as of the end of the Last Valuation Date (as defined in Number 7.3.2 Paragraph (1) of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (each a “**Difference Claim**”).

[...]

Part 3 The Individual Clearing Model Provisions

[...]

Part 3 Subpart A: Provisions on Transactions between Eurex Clearing AG and the Clearing Member for ICM-ECD and ICM-CCD

[...]

7 Termination, Consequences of a Termination, ~~Interim~~ Post Settlement and Re-Establishment

7.1 Termination

Upon the occurrence of a Termination Event or Insolvency Termination Event and a Termination Date (each as defined in Number 7.2 of the General Clearing Provisions) with respect to the Clearing Member, the Clearing of new Covered Transactions under the relevant Standard Agreement may be suspended (the “**Suspension**”) and/or Covered Transactions terminated (the “**Termination**”) and, in case of a Termination, either a termination payment (the “**Termination Payment**”) shall become payable or a re-establishment of transactions with a replacement Clearing Member shall occur (the “**Re-Establishment**”) as further set out in this Subpart A Number 7 and Subpart B Number 5.

[...]

7.3 Consequences of a Termination

[...]

7.3.2 Difference Claim

With regard to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member, the difference claim which was created by the signing of the Relevant ICM Documentation shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2.1 of the General Clearing Provisions) from one party to the relevant Standard Agreement to the respective other party as of the end of the Last Valuation Date (as defined in Number 7.3.2 Paragraph (1) of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (i) if no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (ii) if an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (iii) if an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date. If either (i) the Interim Participation Conditions or, as the case may be, (ii) the Immediate Re-Establishment Conditions are satisfied by the Opening Time, such difference claim shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.1 of the General Clearing Provisions) from one party to the relevant Standard Agreement to the respective other party as of the Opening Time and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Exchange Price Approach. ~~(e)Each such claim shall be a "Difference Claim").~~

Eurex Clearing AG shall notify the value of the Difference Claim determined by it to the Clearing Member and the ICM Client as soon as reasonably practicable and by no later than the end of the Business Day after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.

7.3.3 Payment of Difference Claim

- (1) Unless either (i) an IP Election is made by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) ~~set out in Subpart B Number 5.1.2~~ or (ii) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time and the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date ~~set out in Subpart B Number 5.2.2 are satisfied~~, such party to the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member which is the obligor of the Difference Claim shall be obliged to pay the determined amount of the Difference Claim to the other party as soon as reasonably practicable following

the notification by the determining party of the payable amount. If Eurex Clearing AG is the debtor of the Difference Claim, Eurex Clearing AG may on demand of the creditor of the Difference Claim discharge the Difference Claim in whole or in part by delivering Securities that have been delivered to Eurex Clearing AG as Margin under the relevant Standard Agreement; the Securities so delivered shall be taken into account with respect to the Difference Claim at the price which has been applied for the Redelivery Claim with respect to such Securities in calculating the Difference Claim.

- (2) The debtor of the Difference Claim shall not be obliged to pay any interest on the amount of the Difference Claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate applicable to the currency of the Difference Claim.
- (3) Eurex Clearing AG is entitled to set-off the Difference Claim it may have against the Clearing Member pursuant to these Individual Clearing Model Provisions against any Difference Claim it owes to the Clearing Member pursuant to the Elementary Proprietary Standard Agreement.

7.4 Post Settlement

Following the Termination Date and prior to the end of the Last Valuation Date or the Opening Time, as the case may be, payment and delivery claims arising under Covered Transactions which were due and enforceable but unsettled at the Termination Date or will become due and enforceable prior to the end of the Last Valuation Date or the Opening Time, as the case may be, and for which a binding valid and irrevocable settlement has occurred between the Clearing Member and Eurex Clearing AG shall for the purpose of the Difference Claim be disregarded and deemed to have been settled (the “**Post Settlement**”).

[...]

Part 3 Subpart B: Tripartite-Provisions regarding the Individual Clearing Model for ICM-ECD and for ICM-CCD

[...]

. 2.1 Pledges

[...]

2.1.1 Pledge by the Clearing Member to Eurex Clearing AG

[...]

- (5) The pledge will become enforceable (*Pfandreife*) upon the occurrence of a Termination Date;

- (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or at the end of the Valuation Date
- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

[...]

2.1.2 Pledge by the Clearing Member to the ICM Client

[...]

- (5) The pledge will become enforceable (*Pfandreife*) upon the occurrence of a Termination Date:

- (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or
- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.~~at the end of the Valuation Date.~~

[...]

2.2 Assignments for Security Purposes

[...]

2.2.1 Assignment by Clearing Member to Eurex Clearing AG

[...]

(10) Eurex Clearing AG may enforce the relevant assigned claim upon the occurrence of a Termination Date:

- (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or
- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~_____~~ Any enforcement of the relevant assigned claim does not require that the secured claim is due and payable.

2.2.2 Assignment by Clearing Member to ICM Client

[...]

(10) The ICM Client may enforce the relevant assigned claim upon the occurrence of a Termination Date:

- (i) at the end of the Last Valuation Date in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or
- (ii) at the Opening Time in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~at the end of the Valuation Date. _____~~ Any enforcement of the relevant assigned claim does not require that the secured claim is due and payable.

[...]

4 Shortfall Claim of the ICM Client and Regress Claim of the Clearing Member

- 4.1 Upon the occurrence of a Termination Date, a claim which was created by the signing of the ICM Tripartite Agreement shall become unconditional and immediately due as of the end of either (i) the Last Valuation Date in case the Liquidation Price Approach is the applicable Difference Claim Valuation Method or (ii) the Valuation Date in case the Exchange Price Approach is the applicable Difference Claim Valuation Method from the Clearing Member to the ICM Client with respect to their Relevant Agreement (the “**Shortfall Claim**”). The Shortfall Claim shall be an amount in the Termination Currency equal to either:

5 Re-Establishment of Transactions upon request by ICM-Client

Upon the occurrence of a Termination Date, the ICM Client may elect by giving notice to Eurex Clearing AG (the “**Re-Establishment Election Notice**”) (i) to re-establish the terminated Covered Transactions as interim participant (the “**IP Election**”) or (ii) to immediately re-establish the terminated Covered Transactions with a Replacement Clearing Member (as defined in this Subpart B Number 5.2.2) (the “**Immediate Re-Establishment Election**”) or (iii) not to re-establish the terminated Covered Transactions, in each case by 21:00 hours (Frankfurt am Main time) on the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) (the “**Re-Establishment Cut-Off Time**”).

If Eurex Clearing AG does not receive a Re-Establishment Election Notice in which either an IP Election or an Immediate Re-Establishment Election was made by the Re-Establishment Cut-Off Time, there will be no re-establishment of the terminated Covered Transactions and Subpart A Number 7.3.2 and 7.3.3 and Subpart C Number 6.3.2 and 6.3.3 if applicable, apply.

5.1 Interim Participation of the ICM Client

- 5.1.1 If the ICM Client has selected the IP Election by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied, the ICM Client will be established as Interim Participant subject to, and in accordance with, this Subpart B Numbers 5.1.3 – 5.1.9 and Subpart B Number 9.

- 5.1.2 The following conditions (the “**Interim Participation Conditions**”) must be satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) ~~at the~~ to enable an Interim Participation of the ICM Client pursuant to this Subpart B Number 5.1.3–5.1.9:

[...]

- (6) Eurex Clearing AG has given a notice to the ICM Client confirming the satisfaction of the foregoing Interim Participation Conditions and specifying the Opening Time.

If following receipt of a Re-Establishment Election Notice by the Re-Establishment Cut-Off Time in which an IP Election was made, the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the

Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), there will be no re-establishment of the terminated Covered Transactions and Subpart A Number 7.3.2 and 7.3.3 and Subpart C Number 6.3.2 and 6.3.3, if applicable, apply.

[...]

5.1.4 Establishment of ICM Client as Interim Participant

(1) Opening of Transactions

When the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or at such earlier time at which the Interim Participation Conditions are satisfied (the “**Opening Time**”), Eurex Clearing AG and the ICM Client as interim participant (the “**Interim Participant**”) shall, without any further action being required on the part of either of the parties, enter into new Transactions off-exchange directly between Eurex Clearing AG and the ICM Client (the “**Direct Covered Transactions**”) against payment of an opening consideration in the Termination Currency to be determined in accordance with this Subpart B Number 5.1.4 Paragraph (1) (the “**Opening Consideration**”).

Each such Direct Covered Transaction shall have the same terms and conditions as the terms and conditions of that corresponding and terminated Covered Transaction (the “**Reference Transaction**”) between Eurex Clearing AG and the Affected Clearing Member (as defined in Number 6.2 of the General Clearing Provisions) under the relevant Standard Agreement between Eurex Clearing AG and the Affected Clearing Member would have had as of the Opening Time in the absence of a Termination Date (taking into account any Interim Settlement pursuant to Number 5.3 or Post Settlement pursuant to Subpart A Number ~~7.4~~ and ~~Subpart C Number 5.3~~).

The Opening Consideration shall equal the sum of the determined Single Transaction Amounts (as defined in Number 7.3.3 Paragraph (3) of the General Clearing Provisions) of all Reference Transactions used to calculate the Difference Claim under the relevant Standard Agreement between Eurex Clearing AG and the Affected Clearing Member using the Exchange Price Approach and shall be payable in accordance with Paragraph (3) below. Where these Individual Clearing Model Provisions provide that the Elementary Clearing Model Provisions shall apply to the provision of Margin and/or Variation Margin for Reference Transactions and/or Direct Covered Transactions, such Reference Transactions and/or Direct Covered Transactions shall for the purposes of the Elementary Clearing Model Provisions be deemed to constitute Own Transactions of the Non-Clearing Member.

(2) Opening Margin

For the purpose of entering into the Direct Covered Transactions with the ICM Client, ~~Client~~ Client, Eurex Clearing AG is entitled to request cover in respect of Margin for

Direct Covered Transactions from the ICM Client in such amounts, in such forms and at such times as are required pursuant to the Elementary Clearing Model Provisions (the “**Opening Margin Requirement**”) taking into account the aggregate value of Eligible Margin Assets actually delivered in respect of the Interim Margin pursuant to this Subpart B Number 5.1.3. Subpart A Number 5.3.1 applies to the ICM Client *mutatis mutandis* if Eurex Clearing AG determines that the aggregate value of the Eligible Margin Assets held by Eurex Clearing AG is insufficient to provide the cover required with respect to the Direct Covered Transactions.

Further, if and to the extent Number 7 of the Elementary Clearing Model Provisions requires the transfer of cover in respect of daily profits or losses under Direct Covered Transactions, Eurex Clearing AG is entitled to request cover in respect of such Variation Margin from the ICM Client in accordance with the Clearing Conditions (the “**Opening Variation Margin Requirement**”) and the ICM Client shall in such case be required to transfer Eligible Margin Assets in the form of cash to Eurex Clearing AG taking into account the aggregate value of Eligible Margin Assets actually delivered in respect of the Interim Variation Margin pursuant to this Subpart B Number 5.1.3.

For the avoidance of doubt, the delivery of cover in respect of the Margin or the Variation Margin (for the purpose of the Direct Covered Transactions, Margin shall be referred to as the “**Direct Margin**” and Variation Margin shall be referred to as “**Direct Variation Margin**”) for Direct Covered Transactions remains subject to the Elementary Clearing Model Provisions.

(3) **Settlement**

Without any further notice, the following amounts shall be set off ~~as immediately following~~ of the Opening Time and the remaining difference, if any, determined by Eurex Clearing AG and notified to the ICM Client shall be ~~paid~~ payable in the Termination Currency by the ICM Client to Eurex Clearing AG ~~by the Opening Time~~:

- (aa) the cash equivalent amount of any Opening Margin Requirement and Opening Variation Margin Requirement (to the extent not yet settled due to the delivery of Interim Margin or Interim Variation Margin pursuant to this Subpart B Number 5.1.3, if any) applicable to the ICM Client;
- (bb) the amount of the Opening Consideration to be paid by Eurex Clearing AG or the ICM Client, as the case may be; and
- (cc) (1) if Eurex Clearing AG is the creditor of the determined Difference Claim against the Affected Clearing Member under the relevant Standard Agreement, an amount in the Termination Currency equal to such outstanding Difference Claim in consideration of the assignment pursuant to this Subpart B Number 5.1.8 to be paid by the ICM Client, or

(2) if the Difference Claim is owed by Eurex Clearing AG to the Affected Clearing Member under the relevant Standard Agreement, the amount of such

Difference Claim pledged or assigned for security purposes for the benefit of the ICM Client to be paid by Eurex Clearing AG.

If Eurex Clearing AG, the Security Trustee and the Clearing Member and have entered into the Security Trust Agreement, the above set-off shall be applied in accordance with the Security Trust Agreement.

Eurex Clearing AG will credit the Eligible Margin Assets actually delivered (by direct payment or delivery or as a consequence of the set-off described herein in which case the Eligible Margin Assets shall be identical to the Eligible Margin Assets forming part of the Segregated Margin and Segregated Variation Margin of the Affected Clearing Member as of the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions)) in respect of the Opening Margin to an internal margin account pursuant to Subpart A Number 4.1.2.

[...]

5.1.6 Re-Establishment with other Clearing Member

In addition, the ICM Client shall with respect to the clearing model selected by the ICM Client under the Clearing Conditions be obliged to enter or have been entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix 2 or the Relevant ICM Documentation with another Clearing Member and Eurex Clearing AG by not later than five Business Days after the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) or such longer period of time specified by Eurex Clearing AG in its own discretion and shall transfer all Direct Covered Transactions to such Clearing Member and shall enter into transactions corresponding to all such Direct Covered Transactions with such Clearing Member by executing a transfer agreement in the form appended to the Clearing Conditions as Appendix 5 (the "**Transfer Agreement**") with Eurex Clearing AG and such Clearing Member within such time. Upon such transfer the following will apply:

[...]

5.1.8 Assignment of Eurex Clearing AG's Difference Claim

- (1) For the purpose of the Interim Participation, Eurex Clearing AG assigns, ~~at the time when the Direct Covered Transactions are concluded~~ immediately following the Opening Time, its Difference Claim against the Clearing Member (if any) together with any ancillary rights to the ICM Client (for the avoidance of doubt, such assignment shall not be considered to be made by way of security). The ICM Client accepts such assignments. Section 401 BGB does apply.

[...]

~~5.1.9 Procedure in case of non-occurrence or partial effectuation of a re-establishment~~

~~If, for any reason, the Re-Establishment under this Subpart B Number 5.1 is not effected in whole following receipt by Eurex Clearing AG of an IP Election by the Re-~~

~~Establishment Cut-Off Time, Subpart A Number 7.3.3, if applicable, and Subpart C Number 6.3.3 apply.~~

[...]

5.2 Immediate Re-Establishment with Replacement Clearing Member

5.2.2 The following conditions (the “**Immediate Re-Establishment Conditions**”) must be satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) at the latest to effect the re-establishment of Covered Transactions with a replacement Clearing Member (the “**Replacement Clearing Member**”) pursuant to this Subpart B Number 5.2.3 – 5.2.7 below:

[...]

- (8) Eurex Clearing AG has given a notice to the ICM Client and the Replacement Clearing Member confirming the satisfaction of the foregoing Immediate Re-Establishment Conditions and its acceptance of the immediate transfer to the Replacement Clearing Member pursuant to this Subpart B Number 5.2.3 – 5.2.6.

If following receipt of a Re-Establishment Election Notice by the Re-Establishment Cut-Off Time in which an Immediate Re-establishment Election was made the Immediate Re-establishment Conditions set out in Subpart B Number 5.2.2 are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), there will be no re-establishment of the terminated Covered Transactions and Subpart A Number 7.3.2 and 7.3.3 and Subpart C Number 6.3.2 and 6.3.3, if applicable, apply.

5.2.3 Re-Establishment of Transactions with ICM Client

(1) Opening of Transactions

When the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or at such earlier time at which the Immediate Re-Establishment Conditions are satisfied (the “**Opening Time**”), Eurex Clearing AG and the ICM Client shall enter into without any further action being required on the part of either of the parties new Transactions off-exchange directly between Eurex Clearing AG and the ICM Client (the “**Direct Covered Transactions**”) against payment of an opening consideration in the Termination Currency to be determined in accordance with this Paragraph (1) (the “**Opening Consideration**”).

[...]

(3) Settlement

Without any further notice, the following amounts shall be set off ~~as of~~ immediately following the Opening Time and the remaining difference, if any, determined by

Eurex Clearing AG and notified to the ICM Client and the Replacement Clearing Member shall be payable in the Termination Currency by the ICM Client to Eurex Clearing AG:

- (aa) the cash equivalent amount of any Opening Margin Requirement and Opening Variation Margin Requirement applicable to the ICM Client;
- (bb) the amount of the Opening Consideration to be paid by Eurex Clearing AG or the ICM Client, as the case may be; and
- (cc) (1) if Eurex Clearing AG is the creditor of the determined Difference Claim against the Affected Clearing Member under the relevant Standard Agreement, an amount in the Termination Currency equal to such outstanding Difference Claim in consideration of the assignment pursuant to Paragraph 5.2.4 to be paid by the ICM Client, or
 - (2) if the Difference Claim is owed by Eurex Clearing AG to the Affected Clearing Member under the relevant Standard Agreement, the amount of such Difference Claim pledged or assigned for security purposes for the benefit of the ICM Client to be paid by Eurex Clearing AG.

If Eurex Clearing AG, the Security Trustee and the Clearing Member and have entered into the Security Trust Agreement, the above set-off shall be applied in accordance with the Security Trust Agreement.

Eurex Clearing AG will credit the Eligible Margin Assets actually delivered (as a consequence of the set-off described herein in which case the Eligible Margin Assets shall be identical to the Eligible Margin Assets forming part of the Segregated Margin and Segregated Variation Margin of the Affected Clearing Member (as of the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions)) in respect of the Opening Margin to an internal margin account pursuant to Subpart A Number 4.1.2.

5.2.4 Assignment of Eurex Clearing AG's Difference Claim

- (1) For the purpose of the Immediate Re-Establishment, Eurex Clearing AG assigns, ~~at the time when the Direct Covered Transactions are concluded~~ immediately following the Opening Time, its Difference Claim against the Clearing Member (if any) together with any ancillary rights to the ICM Client (for the avoidance of doubt, such assignment shall not be considered to be made by way of security). The ICM Client accepts such assignments. Section 401 BGB does apply.

~~5.2.7. Procedure in case of non-occurrence or partial effectuation of a re-establishment~~

~~If, for any reason, the RE-ESTABLISHMENT under Subpart B Number 5.2 is not effected in whole following receipt by Eurex Clearing AG of an RE-ESTABLISHMENT ELECTION NOTICE by the RE-ESTABLISHMENT CUT-OFF TIME, Subpart A Number 7.3.3 and, if applicable, Subpart C Number 6.3.3 apply.~~

[...]

Part 3 Subpart C: Provisions regarding Transactions between Clearing Member and ICM Client under the Clearing Conditions for ICM-ECD

[...]

6.3 Consequences of a Termination

[...]

6.3.2 Difference Claim

With regard to the relevant Corresponding Standard Agreement referred to in Subpart C Number 6.3.1, the difference claim which was created by the signing of the ICM Clearing Agreement for ICM-ECD shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2-1 of the General Clearing Provisions) from one party to the relevant Corresponding Standard Agreement to the respective other party as of the end of the Last Valuation Date (as defined in Number 7.3.2 Paragraph (1) of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (i) if no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (ii) if an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (iii) if an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date. If either (i) the Interim Participation Conditions or, as the case may be, (ii) the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date, such difference claim shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.1 of the General Clearing Provisions) from one party to the relevant Standard Agreement to the respective other party as of the Opening Time and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Exchange Price Approach. ~~(e)Each such claim shall be a "Difference Claim".~~

To determine the Difference Claim, the ICM Client will use the determinations notified to it by Eurex Clearing AG pursuant to Subpart ~~G-A~~ Number 7.3.2.

6.3.3 Payment of Difference Claim

- (1) Unless either (i) an IP Election is made by the Re-Establishment Cut-Off Time and the Interim Participation Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) ~~set out in Subpart B Number 5.1.2~~

or (ii) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time and the Immediate Re-Establishment Conditions are satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Dates set out in Subpart B Number 5.2.2, are satisfied, such party to the relevant Corresponding Standard Agreement which is the obligor of the Difference Claim shall be obliged to pay the determined amount of the Difference Claim to the other party as soon as reasonably practicable following the notification by the determining party of the payable amount.

[...]

6.4 Post Settlement

Following the Termination Date and prior to the end of the Last Valuation Date or the Opening Time, as the case may be, payment and delivery claims arising under Corresponding Covered Transactions which were due and enforceable but unsettled at the Termination Date or will become due and enforceable prior to the end of the Last Valuation Date or the Opening Time, as the case may be, and for which a binding valid and irrevocable settlement has occurred between the ICM Client and the Clearing Member shall for the purpose of the Difference Claim be disregarded and deemed to have been settled (the “**Post Settlement**”).

[...]

Part 3 Subpart D: Provisions regarding transactions between Clearing Member and ICM Client under a Client Clearing Agreement for ICM-CCD

[...]

2.1 Client Clearing Agreement

[...]

2.1.2 A Client Clearing Agreement of an “**Eligible Client Clearing Agreement Type**” shall provide for the following mandatory provisions:

- (8) **Close-out Netting:** Upon the occurrence of a Termination Event, Insolvency Termination Event and a Termination Date with respect to the Clearing Member under the Clearing Conditions, the Clearing Member and the ICM Client agree by reference to such Termination Event, Insolvency Termination Event and Termination Date, however described under the Client Clearing Agreement and further specified in the Clearing Agreement, (hereinafter a “**Client Clearing Termination Event**”) on a separate termination and on a separate, legally valid and enforceable close-out

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netting of all Client Clearing Transactions entered into under such Client Clearing Agreement, taking into account all Credit Support Margin and Credit Support Variation Margin actually delivered, and resulting in a separate difference claim owed by either party.

It must be legally ensured that such difference claim (i) arises and becomes due and enforceable at the same time as the Difference Claim under Subpart A Number 7.3.2 of these Individual Clearing Model Provisions, (ii) is not contingent, (iii) is determined by reference to the values of the corresponding terminated Covered Transactions between Eurex Clearing AG and the Clearing Member and the values of the corresponding equivalent Eligible Margin Assets subject to the ~~terminated~~ expired Redelivery Claims under the corresponding Standard Agreement between Eurex Clearing AG and the Clearing Member (determined in accordance with the Clearing Conditions), (iv) is denominated in the Clearing Currency (using the same currency exchange methods as applied by Eurex Clearing AG) and (v) shall be payable in accordance with Subpart A Number 7.3.3 Paragraph (1). The resulting difference claim is herein referred to as the “**Client Clearing Termination Claim**”.

Subject to the requirements of the applicable laws, the forgoing must not apply to the occurrence of a close-out netting following a default by the ICM Client under the Client Clearing Agreement (however described in the Client Clearing Agreement).

[...]

3 Specific Clearing Member Obligations, Non-Compliance with Eligible Client Clearing Agreement Type

[...]

3.2 Right to Refuse Payment of the Difference Claim in the case of Non-Compliance

Eurex Clearing AG is entitled to refuse performance (Zurückbehaltungsrecht) of the Difference Claim of the Clearing Member against Eurex Clearing AG pursuant to Subpart A Number 7.3.2 vis-à-vis the Clearing Member and the ICM Client and/or the Security Trustee, as applicable, as security taker as long as Eurex Clearing AG's has not received from the relevant claiming party either a confirmation that the Client Clearing Agreement and the Client Clearing Termination Claim fulfils the respective requirements of an Eligible Client Clearing Agreement Type or any other evidence to the satisfaction of Eurex Clearing AG that it is entitled to claim performance from Eurex Clearing AG.

[...]

Part 4 Net Omnibus Clearing Model Provisions

[...]

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8.3 Consequences of a Termination

[...]

8.3.2 Difference Claim

The difference claim, which was created at the time of entering into the Net Omnibus Clearing Agreement, of either Eurex Clearing AG or the Affected Clearing Member, as the case may be, under the Standard Agreement between Eurex Clearing AG and the Affected Clearing Member, shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2-1 of the General Clearing Provisions) against the respective other party as of the end of the Last Valuation Date (as defined in Number 7.3.2 Paragraph (1) of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions using the Liquidation Price Approach (and the difference claim so determined in respect of the Net Omnibus Transactions under the Standard Agreement is a “**Difference Claim**”).

[...]

Chapter IV Clearing of Transactions at Eurex Repo GmbH (Eurex Repo)

[...]

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

[...]

3.5 Termination of GC Pooling Repo Transactions

[...]

3.5.1 Termination by notice of GC Pooling Repo Transactions

- (1) Eurex Clearing AG shall be entitled to terminate by notice, with the legal consequences as described in Number 3.5.3, individual or all GC Pooling Repo Transactions with holders of a Specific Repo License prior to the obligations arising from the Term Leg becoming due and payable if, with regard to the holder of a Specific Repo License, a circumstance comes into existence which constitutes a Termination Event (*Beendigungsgrund*) pursuant to Chapter I Part 1 Number 7.2.1 Paragraph 2 to Paragraph ~~5-4~~ or Paragraph ~~7-6~~ to Paragraph ~~4312~~.

[...]

3.5.2 Automatic termination of GC Pooling Repo Transactions

If, at any time, a circumstance comes into existence with regard to the holder of a Specific Repo License which constitutes a Termination Event (*Beendigungsgrund*) pursuant to Chapter I Part 1 Number 7.2.1 Paragraph 65, an automatic termination of the GC Pooling Repo Transactions concluded between Eurex Clearing AG and the relevant holder of a Special Repo License shall take immediate effect with the legal consequences as described in Number 3.5.3, without the requirement of a termination by notice pursuant to Number 3.5.1.

[...]

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

[...]

(3) Damages claims pursuant to Paragraph 2 shall be determined by Eurex Clearing AG in accordance with the following provisions:

- a) Valuation Date shall be the day of the opening of the proceedings pursuant to Paragraph 1 provided that the opening of the proceedings occurs earlier than 17:23 (local time, Frankfurt/Main) or, if the opening of the proceedings occurs later than such point in time, the Business Day immediately succeeding the day of the opening of the proceedings.
- b) The value of the damages claim for each GC Pooling Repo Transaction shall be determined pursuant to the provisions regarding the calculation of the Single Transaction Amount in Chapter 1 ~~Paragraph Part 1~~ Number 7.3.42 ~~Paragraph 1 and Paragraph 2 Item c.~~

~~(4) Eurex Clearing AG shall notify the value of the damages claim determined by it according to Paragraph 2 to the affected holder of a Specific Repo License as soon as reasonably practicable after its determination, together with reasonable detail regarding the data and information forming the basis of the determination.~~

~~(5) The debtor of the damages claims pursuant to Paragraph 2 must pay the amount determined to the other party as soon as reasonably practicable following the notification by Eurex Clearing AG of the payable amount pursuant to Paragraph 4. The debtor of the damages claim shall not be obliged to pay any interest on the amount of the damages claim unless it is in default (*Verzug*) following the receipt of a payment reminder (*Mahnung*) by the other party. Default interest shall be paid on the basis of the effective overnight interest rate for Euro.~~

[...]

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Chapter VIII Clearing of OTC Derivative Transactions

[...]

Part 2 Clearing of OTC Credit Derivative Transactions

[...]

2.1.10 Consequences of a Termination

- (1) The provisions relating to the consequences of a Termination set out in Chapter I Part 1 Number 7.3 and the Elementary Clearing Model Provisions, ~~and~~ the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions, as applicable, shall apply.
- (2) Notwithstanding Chapter I Part 1 Number 7.5 Eurex Clearing AG may with the advice of and in consultation with the CDS DMC (Chapter VIII Number 2.1.2.3) with respect to the terminated CCP Transactions with the Affected Clearing Member
 - (a) conduct risk reducing trades ("**Hedging Transactions**"). The costs and expenses incurred in connection with the entering into Hedging Transactions are herein referred to as "**CDS DM Hedging Transaction Costs**"; and/or,

[...]

Appendix 2 to the Clearing Conditions: Clearing Agreement with a Non-Clearing Member and/or Registered Customer for the Elementary Clearing Model

[...]

Part 1 General Provisions

[...]

2 Legal Relationships

[...]

- 2.3 References in the Elementary Clearing Model Provisions to a Standard Agreement shall be construed so as to exclude any Standard Agreement pursuant to the Individual Clearing Model Provisions and the Net Omnibus Clearing Model Provisions.

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[...]

4 Consequences of Termination of NCM-Related Transactions and RC-Related Transactions

4.1 Unless otherwise agreed by the Clearing Member and the Non-Clearing Member/Registered Customer pursuant to Chapter I Part 2 Number 2.1.5, the Clearing Member and the Non-Clearing Member/Registered Customer agree the following if a Termination Date has occurred with respect to the Clearing Member pursuant to the regulations in Chapter I Part 1 Number 7.2.2 of the Clearing Conditions:

- (1) all mutual payment and delivery obligations existing between the Clearing Member and the Non-Clearing Member/Registered Customer arising from Transactions between the Clearing Member and the Non-Clearing Member/Registered Customer under their Standard Agreement and all redelivery claims in respect of Margin and Variation Margin, if any, shall automatically expire without notice as of the Termination Time and an obligation between such two parties created by the Agreement to make a unilateral difference payment in the ~~Clearing~~ Termination Currency becomes immediately due ("**Unilateral Difference Claim**"). The parties to these transactions shall not be obligated to perform the original obligations and may no longer claim performance.
- (2) The Non-Clearing Member/Registered Customer shall determine the Unilateral Difference Claims, ~~each~~ substituting the original payment and delivery obligations of the terminated Transactions between Clearing Member and Non-Clearing Member/Registered Customer under their Standard Agreement, in application of Chapter I Part 1 Number 7.3.2 of the Clearing Conditions. The Non-Clearing Member/Registered Customer shall immediately notify the Clearing Member of the result and provide the Clearing Member with the data forming the basis of the determination.

[...]

Appendix 3 to the Clearing Conditions: Clearing Agreement with a Non-Clearing Member and/or Registered Customer for the Individual Clearing Model under Eurex Clearing AG Documentation

[...]

Part 1 General Provisions

[...]

3.2 Creation of Security Interests pursuant to the Security Trust Agreement

[...]

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3.2.3 The ICM Client agrees with the Clearing Member and Eurex Clearing AG that the provisions on enforcement of the security interests created in the Security Trust Agreement and on the discharge of its Relevant ~~Difference~~ Claim and/or Shortfall Claim (including a discharge resulting from direct payments or deliveries by Eurex Clearing AG to the ICM Client or from the discharge of the Aggregate Security Trustee Claim (as defined in the Security Trust Agreement)) against the Clearing Member shall be binding as between them.

[...]

**Appendix 4 to the Clearing Conditions:
Agreement for the Participation in the Individual Clearing Model under Client
Clearing Documentation with a Non-Clearing Member and/or Registered
Customer**

[...]

Part 1 General Provisions

[...]

3.2 Creation of Security Interests pursuant to the Security Trust Agreement

[...]

3.2.3 The ICM Client agrees with the Clearing Member and Eurex Clearing AG that the provisions on enforcement of the security interests created in the Security Trust Agreement and on the discharge of its Relevant ~~Different-Difference~~ Claim and/or Shortfall Claim (including a discharge resulting from direct payments or deliveries by Eurex Clearing AG to the ICM Client or from the discharge of the Aggregate Security Trustee Claim (as defined in the Security Trust Agreement)) against the Clearing Member shall be binding as between them.

[...]

**Appendix 5 to the Clearing Conditions:
Transfer Agreement for an Interim Participant to a Clearing Member**

[...]

**2 Transfer of Relevant Direct Covered Transactions to New Clearing Member
(Novation)**

[...]

Attachment 2 to Eurex Clearing circular 086/14	Eurex04
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2.1 The Non-Clearing Member/Registered Customer and the New Clearing Member agree that the Non-Clearing Member/Registered Customer transfers by way of novation to the New Clearing Member all Relevant Direct Covered Transactions with Eurex Clearing AG (the “**Transfer**”) at the following time (the “**Transfer Time**”): (a) in the case of an immediate re-establishment with a Replacement Clearing Member pursuant to Subpart B Number 5.2 of the Individual Clearing Model Provisions, at 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions) provided the Immediate Re-Establishment Conditions pursuant to Subpart B Number 5.2.2 of the Individual Clearing Model Provisions are satisfied by such time, or (b) in the case of an Interim Participation pursuant to Subpart B Number 5.1 of the Individual Clearing Model Provisions at 13:00 hours (Frankfurt am Main time) on the Business Day on which the conditions pursuant to Subpart B Number 5.1.6 of the Individual Clearing Model Provisions are satisfied by such time.

[...]

**Appendix 10 to the Clearing Conditions:
Form of Security Trust Agreement and Pledge and Assignment Agreement for
the Individual Clearing Model Provisions (Clearing Members in England and
Wales)**

[...]

Preamble

[...]

(B) The Clearing Member intends to appoint a Security Trustee in connection with the Individual Clearing Model Provisions and, in order to secure the Aggregate Security Trustee Claim, the Clearing Member intends to pledge and assign certain rights and claims to the Security Trustee in its capacity as such for the benefit of the Secured Parties, in each case in accordance with Part 3 of this Agreement.

[...]

Part 2 Security Trust Provisions

[...]

2 Declaration of Trust (*Treuhand*)

The Security Trustee shall, with respect to pledges (*Pfandrechte*) over Difference Claims granted to the Security Trustee pursuant to Clause 8 of this Part 2 (Pledges of Difference Claims), acquire, hold and enforce such pledges and, with respect to assignments for security purposes (*Sicherungsabtretungen*) of Difference Claims made to the Security Trustee pursuant to Clause 9 of this Part 2 (Assignments of Difference Claims for

Security Purposes), acquire, hold and enforce such Difference Claims, in each case for the purpose of securing the Aggregate Security Trustee Claims (as defined in Clause 7.1 of this Part 2), as trustee (*Treuhänder*) for the benefit of the Secured Parties, and shall act in accordance with the terms and subject to the conditions of this Agreement in relation to such security interests and such Difference Claims. The Parties agree that neither the security interests granted in this Agreement nor the Difference Claims to which the security interests relate shall, in any insolvency of the Security Trustee, form part of the Security Trustee's estate, irrespective of which jurisdiction's insolvency proceedings apply.

[...]

7 Security Trustee Claim

7.1 The Clearing Member hereby irrevocably and unconditionally, by way of an independent promise to perform obligations (*abstraktes Schuldversprechen*), promises to, whenever a Clearing Member Obligation that is owed (*geschuldet*) by the Clearing Member to a Secured Party has become due (*fällig*), pay an equal amount or make a relevant delivery, respectively, to the Security Trustee. The claims of the Security Trustee against the Clearing Member pursuant to the preceding sentence that are outstanding from time to time are hereinafter collectively referred to as the "**Aggregate Security Trustee Claim**" and each such claim of the Security Trustee is hereinafter referred to as a "**Security Trustee Claim**".

A "**Clearing Member Obligation**" means (i) any payment and delivery claim under all Relevant Transactions and all Relevant Redelivery Claims of an ICM Client against the Clearing Member, (ii) any Relevant Difference Claim of an ICM Client against the Clearing Member and (iii) any Shortfall Claim of an ICM Client against the Clearing Member.

7.2 The Aggregate Security Trustee Claim shall rank with the same priority as the Clearing Member Obligations.

7.3 The Aggregate Security Trustee Claim is separate and independent from any claims in respect of any Clearing Member Obligations, provided that:

7.3.1 the Aggregate Security Trustee Claim shall be reduced to the extent that any Clearing Member Obligations have been discharged (*erfüllt*);

7.3.2 the Clearing Member Obligations shall be reduced to the extent that the Aggregate Security Trustee Claim has been discharged (*erfüllt*); if and to the extent that the discharge of the Aggregate Security Trustee Claim can be allocated to a Clearing Member Obligation arising under a particular Clearing Agreement, only such Clearing Member Obligation shall be reduced; otherwise all Clearing Member Obligations under all Clearing Agreements with the Secured Parties shall be reduced on a pro rata basis; and

7.3.3 the Aggregate Security Trustee Claim shall correspond to the aggregate Clearing Member Obligations.

7.4 The Aggregate Security Trustee Claim will become due (*fällig*), if and to the extent that the Clearing Member Obligations or any of them have become due (*fällig*).

[...]

8 Pledges of Difference Claims

[...]

8.3 Waiver

8.3.1 The Clearing Member expressly waives its defence pursuant to Section 1211 BGB in connection with Section 770 paragraph 1 BGB that the Aggregate Security Trustee Claim may be avoided (*Anfechtung*).

8.3.2 The Clearing Member expressly waives its defence pursuant to Section 1211 BGB in connection with Section 770 paragraph 2 BGB that the Security Trustee may satisfy or discharge the Aggregate Security Trustee Claim by way of set-off (*Aufrechnung*).

8.3.3 To the extent legally possible, the Clearing Member expressly waives its defences pursuant to Section 1211 paragraph 1 sentence 1 alternative 1 BGB that the principal debtor of the Aggregate Security Trustee Claim has a defence against the Aggregate Security Trustee Claim (*Einreden des Hauptschuldners*).

9 Assignments of Difference Claims for Security Purposes

9.1 Assignments

9.1.1 The Clearing Member hereby offers to assign to the Security Trustee for security purposes (*Sicherungsabtretung*) all its present and future Difference Claims which it has or may have against Eurex Clearing AG in respect of any ICM Clearing Agreement that has been entered into or will be entered into by the Clearing Member with Eurex Clearing AG, subject to Clause 9.1.3 of this Part 2.

9.1.2 The Security Trustee hereby accepts such assignments.

9.1.3 A Difference Claim which is subject to the assignment for security purposes will only be transferred to the Security Trustee immediately upon the pledge of such Difference Claim coming into existence in accordance with Clause 8.1 of this Part 2 and provided further that the assignment for security purposes of a Difference Claim is subject to the condition precedent (*aufschiebende Bedingung*) that a Termination with respect to the Clearing Member has occurred and the applicable Termination Event either (a) prevents the Aggregate Security Trustee Claim against the Clearing Member from becoming due (*fällig*) or (b) renders it temporarily legally impossible (*vorübergehend unmöglich*) for the Clearing Member to perform the Aggregate Security Trustee Claim.

9.1.4 The Security Trustee hereby offers to re-assign, subject to Clause 9.1.6 of this Part 2, to the Clearing Member the Difference Claims assigned to it in accordance with Clause 9.1.1 of this Part 2.

9.1.5 The Clearing Member accepts the reassignment pursuant to Clause 9.1.4 of this Part 2.

9.1.6 Any re-assigned Difference Claim will only be transferred to the Clearing Member upon the Aggregate Security Trustee Claim against the Clearing Member subsequently becoming due (*fällig*) and, if applicable, ceasing to be temporarily legally impossible (*vorübergehend unmöglich*) for the Clearing Member to perform.

[...]

11 Purpose of Security

The security interests granted hereunder are granted to the Security Trustee only and for the purpose of securing the Aggregate Security Trustee Claim.

[...]

13 Enforcement of Security Interests

13.1 Enforceability

13.1.1 The pledges granted to the Security Trustee in respect of any ICM Clearing Agreement hereunder shall in each case become enforceable (*Pfandreife*) if the relevant Security Trustee Claim in respect of the relevant ICM Clearing Agreement has become due (*fällig*) in whole or in part upon the occurrence of a Termination Date with respect to the Clearing Member:

- (i) at the end of the Last Valuation Date in respect of the relevant ICM Clearing Agreement, in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or
- (ii) at the Opening Time in respect of the relevant ICM Clearing Agreement, in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~with respect to the Clearing Member.~~

13.1.2 The assignments for security purposes granted to the Security Trustee in respect of any ICM Clearing Agreement hereunder shall in each case become enforceable upon the occurrence of a Termination Date with respect to the Clearing Member:

- (i) at the end of the Last Valuation Date in respect of the relevant ICM Clearing Agreement, in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP

Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or

(ii) at the Opening Time in respect of the relevant ICM Clearing Agreement, in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~at the end of the Valuation Date with respect to the Clearing Member.~~ Such enforcement does not require that the relevant Security Trustee Claim or the Aggregate Trustee Claim is due (*fällig*).

[...]

13.2 Notification of the Clearing Member and the Secured Parties

13.2.1 Upon having become aware that a Termination Event or Termination Date (with respect to the Clearing Member), ~~and/or~~ the end of the related Valuation Date and/or the end of the related Last Valuation Date has occurred, both Eurex Clearing AG and the Clearing Member shall notify the Security Trustee hereof in writing without undue delay (*unverzüglich*). Eurex Clearing AG shall further notify the Security Trustee if it becomes aware of the determination and amount of any Difference Claim or Relevant Difference Claim of or against the Clearing Member resulting from the occurrence of any such event or date.

[...]

16.3 Successor Security Trustee

In the event that the Security Trustee becomes insolvent, the Clearing Member shall, in consultation with the then existing Secured Parties, procure that the Aggregate Security Trustee Claim and the security interests granted to the Security Trustee hereunder will be transferred to a successor security trustee that performs substantially the same functions as the Security Trustee Services.

[...]

Part 3 Pledges and Assignments by Clearing Member to Eurex Clearing AG

[...]

2.6 The pledges in respect of any ICM Clearing Agreement for ICM-ECD or any Client Clearing Agreement with any ICM Client will in each case become enforceable

(*Pfandreife*) upon the occurrence of a Termination Date with respect to the Clearing Member:

- (i) at the end of the Last Valuation Date in respect of the relevant ICM Clearing Agreement for ICM-ECD or the relevant Client Clearing Agreement, in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or
- (ii) at the Opening Time in respect of the relevant ICM Clearing Agreement for ICM-ECD or the relevant Client Clearing Agreement, in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~at the end of the Valuation Date~~. The enforcement of the pledges is subject to Clauses 2.8 and 2.9 of this Part 3.

[...]

3 Assignments for Security Purposes by Clearing Member to Eurex Clearing AG

3.1 Subject to Clause 3.3 of this Part 3, the Clearing Member hereby offers to assign to Eurex Clearing AG all its present and future Relevant Difference Claims which it has or may have against present or future ICM Clients to secure all of ~~the present and future~~ Eurex Clearing AG's Secured Claims of Eurex Clearing AG against the Clearing Member (*Sicherungsabtretung*).

[...]

3.10 Eurex Clearing AG may in each case enforce the assigned claims in respect of any ICM Clearing Agreement for ICM-ECD or any Client Clearing Agreement with any ICM Client upon the occurrence of a Termination Date with respect to the Clearing Member:

- (i) at the end of the Last Valuation Date in respect of the relevant ICM Clearing Agreement for ICM-ECD or the relevant Client Clearing Agreement, in each of the following cases: (a) no IP Election or Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time, (b) an IP Election is made by the Re-Establishment Cut-Off Time but the Interim Participation Conditions are not satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date (as defined in Number 7.3.3 Paragraph (1) of the General Clearing Provisions), or (c) an Immediate Re-Establishment Election is made by the Re-Establishment Cut-Off Time but the Immediate Re-Establishment Conditions are not

satisfied by 13:00 hours (Frankfurt am Main time) on the Business Day following the Valuation Date; or

- (ii) at the Opening Time in respect of the relevant ICM Clearing Agreement for ICM-ECD or the relevant Client Clearing Agreement, in case either (a) the Interim Participation Conditions or, as the case may be, (b) the Immediate Re-Establishment Conditions are satisfied by the Opening Time.

~~at the end of the Valuation Date.~~ Any enforcement of the assigned claims does not require that Eurex Clearing AG's Secured Claims are due and payable.

- ~~3.11 The enforcement proceeds resulting from the collection of a Relevant Difference Claim of the Clearing Member against a particular ICM Client shall solely be applied to the discharge of those of Eurex Clearing AG's Secured Claims that arise (i) if ICM-ECD is applicable with respect to such ICM Client, under the same ICM Clearing Agreement for ICM-ECD between Eurex Clearing AG, the Clearing Member and such ICM Client or (ii) if ICM-CCD is applicable with respect to such ICM Client, in respect of the relevant Standard Agreement between Eurex Clearing AG and the Clearing Member pursuant to ICM-CCD that relates to such ICM Client.~~

[...]

Part 4 General Provisions

[...]

4 Amendments

- 4.1 Amendments to this Agreement (including this Clause) require the consent of Eurex Clearing AG and the Clearing Member and the prior written consent of all Parties the Security Trustee, except that amendments to Part 3 shall not require ~~the any~~ consent of the Security Trustee.
- 4.2 As regards the consent of the Clearing Member, Number 17.2 of the General Clearing Provisions (Chapter I Part 1 of the Clearing Conditions), shall apply *mutatis mutandis* in the case of amendments to the form of this Agreement set out in Appendix 10 of the Clearing Conditions.