

**Disclosure pursuant to Article 39 (7) EMIR with
respect to the FCM Clearing Conditions of Eurex
Clearing AG**

July 2023

Disclosure pursuant to Article 39 (7) of Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ("EMIR") with respect to the FCM Clearing Conditions of Eurex Clearing AG

1. Purpose and Scope

Eurex Clearing AG ("**Eurex Clearing**") as a central counterparty ("**CCP**") is required pursuant to Article 39 (7) EMIR to publicly disclose certain information on the levels of protection and segregation which it provides under its client clearing models.

This document (the "**FCM Clearing Conditions Disclosure Document**") sets out the information required to be disclosed under Article 39 (7) EMIR. It provides a summary description of the client clearing models offered by Eurex Clearing under the FCM Clearing Conditions of Eurex Clearing (the "**FCM Clearing Conditions**"), including information on the main legal implications of the clearing models and applicable insolvency law.

Capitalised terms not defined in this FCM Clearing Conditions Disclosure Document shall have the meaning ascribed to them in the FCM Clearing Conditions.

The information in this FCM Clearing Conditions Disclosure Document is subject to change and is qualified in its entirety by the FCM Clearing Conditions. The content of this FCM Clearing Conditions Disclosure Document is restricted to a descriptive summary of certain provisions of the FCM Clearing Conditions as they apply to each of the LSOC-Models and only provides a general overview on the levels of protection and segregation under the relevant LSOC-Models. In particular, it does not provide any guidance on any restrictions or limitations which may arise from the applicable laws of the jurisdictions in which the FCM Clearing Members and/or their FCM Clients have their registered seat. Further, this FCM Clearing Conditions Disclosure Document does not provide (and does not intend to provide) any analysis of, or advice regarding any legal, accounting, regulatory or other effects of the FCM Clearing Conditions. Accordingly, this FCM Clearing Conditions Disclosure Document is not a substitute for an own legal and economic analysis of the FCM Clearing Conditions and the LSOC-Models described herein, and Eurex Clearing does not assume any liability for the content of this FCM Clearing Conditions Disclosure Document or any omissions therefrom.

For a summary description of the client clearing models offered by Eurex Clearing under the Clearing Conditions of Eurex Clearing governed by German law (the "Clearing Conditions"), please refer to the document setting out the information required to be disclosed under Article 39 (7) EMIR with respect to the Clearing Conditions ("Clearing Conditions Disclosure Document") on the website <https://www.eurex.com/ec-en/services/risk-management/client-asset-protection-emir>.

2. The Clearing Models

Eurex Clearing currently offers the following client clearing models under the Clearing Conditions and the FCM Clearing Conditions that provide for different levels of client segregation:

- the Elementary Clearing Model ("**ECM**");
- the Individual Segregated Account ("**ISA**");
- the "**LSOC Without Excess Model**"; and
- the "**LSOC With Excess Model**".

The ECM and the ISA are regulated under the Clearing Conditions. An overview on the levels of protection and segregation under such clearing models is provided in a separate disclosure document ("**Clearing Conditions Disclosure Document**").

The LSOC Without Excess Model and the LSOC With Excess Model (together, the "**LSOC-Models**") are regulated in the FCM Clearing Conditions, which consist of two parts: (i) the FCM Regulations and (ii) the FCM Default Rules. The FCM Clearing Conditions will be partly governed by U.S. and German law and will only be available in the English language. The FCM Regulations comprise general and LSOC model-specific rules in Chapter I as well as product-specific provisions for swaps in Chapter II. Separate FCM Default Rules governed by German law contain rules relating to the default of FCM Clearing Members.

The LSOC-Models will only be offered to FCM Clearing Members which are registered as Future Commission Merchants ("**FCM**") with the U.S. Commodity Futures Trading Commission ("**CFTC**"). The Clearing under the LSOC-Models covers all transactions resulting from the novation of any interest rate derivatives transaction falling under Chapter II Part 2 of the FCM Regulations (each an "**Interest Rate Derivative Transaction**").

The FCM Clearing Member has the choice to provide clearing services to FCM Clients under the LSOC Without Excess Model and the LSOC With Excess Model:

- (i) The LSOC Without Excess Model is the basic LSOC-Model, under which the portion of the FCM Client Margin Account reserved for a particular client (legally segregated value - "**LSV**") is equal to the FCM Client Margin Requirement and the legally segregated value cannot exceed the FCM Client Margin Requirement on a day-to-day basis.
- (ii) The LSOC With Excess Model provides the FCM Clearing Member the option to assign specific portions of the FCM Client Margin Account to specific FCM Clients including excess margin. This requires the FCM Clearing Member to deliver a collateral value report ("**CVR**") to Eurex Clearing in which the LSVs for all FCM Clients are determined. The choice under which LSOC-Model the FCM Clearing Member wants to clear FCM Client Transactions needs to be performed in the systems of Eurex Clearing when setting up the FCM Client Margin Account.

Both LSOC-Models operate as a so-called “agency clearing model”. The FCM Clearing Member will act in its capacity as an agent (for purposes of CFTC Regulation 39.12 (b) (6)) and on behalf and for the account of its FCM Clients and the entire clearing relationship shall be administered and settled through the FCM Clearing Member, so that the FCM Clearing Member is directly bound by the FCM Clearing Conditions and responsible for all payment and delivery obligations in relation to all its FCM Clients. Eurex Clearing treats the FCM Clearing Member as principal for purposes of the rights and obligations arising from all FCM Client Transaction. The FCM Client does not have any direct contractual relationship with Eurex Clearing with the consequence that there are no direct rights and obligations between Eurex Clearing and the FCM Client.

The LSOC-Models are regulated in the FCM Regulations as follows:

- Chapter I Numbers 6.3 and 6.4 of the FCM Regulations contain the provisions for the LSOC Without Excess Model; and
- Chapter I Numbers 6.3 and 6.5 of the FCM Regulations contain the provisions for the LSOC With Excess Model.

Eurex Clearing does not charge separate fees for the use of a specific LSOC-Model. Costs related to clearing are set out in the price list of Eurex Clearing.

2.1. The LSOC Without Excess Model

The LSOC Without Excess Model complies with the requirements stipulated by Part 22 of the CFTC Regulations and only covers the clearing of customer related transactions (the "**FCM Client Transactions**").

The LSOC Without Excess Model is set up as a LSOC-compliant (legally segregated operationally commingled) clearing model. The primary objective of Part 22 of the CFTC Regulations is to minimize the “fellow customer risk” for FCM Clients in case of the default or insolvency of the FCM Clearing Member.

Such rules require that a derivatives clearing organisation (“**DCO**”) is restricted from utilizing the value of margin assets allocated to one FCM Client to meet the obligations arising from Own Transactions of the FCM Clearing Member and from FCM Client Transactions of another FCM Client. The LSOC Without Excess Model provides for the segregation of transactions and margin assets of an FCM Clearing Member from the positions and assets of its FCM Clients and it also provides segregation of transactions and margin assets on a value basis from the positions and margin assets of any other FCM Client of such FCM Clearing Member. The margin assets of all FCM Clients are commingled in the same FCM Client Margin Account, however, the portion of value of the FCM Client Margin Account which is reserved for the relevant FCM Client (LSV) is segregated from the LSV of each other FCM Client. FCM Clients do not bear the risk of losses arising from the Own Transactions of their FCM Clearing Member or from FCM Client Transactions of other FCM Clients of such FCM Clearing Member.

2.1.1. Structure

In addition to the LSOC-Models, the FCM Regulations also provide the FCM Clearing Member with the optionality to clear proprietary transaction ("**Own Transaction**").

Eurex Clearing establishes and maintains with respect to each FCM Clearing Member one or more transaction accounts for Own Transactions of the FCM Clearing Member (each account an "**FCM Clearing Member Own Transaction Account**") and with respect to FCM Client Transactions, a separate account for each FCM Client (each, an "**FCM Client Transaction Account**").

The legal segregation of the contractual rights and obligations arising from Own Transactions and FCM Client Transactions and the segregation of the contractual rights and obligations arising from FCM Client Transactions of one FCM Client and the FCM Client Transactions of any other FCM Client is achieved via the legal combination of certain transactions into separate netting sets. In case of a default or insolvency with respect to the FCM Clearing Member, each netting set is the legal basis for a close-out netting and the determination of a net claim resulting therefrom and/or porting (the latter only applies to FCM Client Transactions). All Own Transactions in all FCM Clearing Member Own Transaction Accounts form a single Netting Set ("**FCM Clearing Member Netting Set**") and all FCM Client Transactions of each FCM Client booked into the relevant FCM Client Transaction Account of such FCM Client form a separate Netting Set (each a "**FCM Client Netting Set**").

Further, Eurex Clearing establishes and maintains for each FCM Clearing Member one internal proprietary margin account (the "**FCM Clearing Member Proprietary Margin Account**") to which the collateral value with respect to all Own Transactions of the FCM Clearing Member shall be booked and one or more internal margin accounts for FCM Client Transactions (each an "**FCM Client Margin Account**") to which the collateral value with respect to the relevant FCM Client Transactions shall be booked.

Within each FCM Client Margin Account, Eurex Clearing establishes the following separate sub-accounts:

- (i) separate margin sub-account linked to each FCM Client Transaction Account (each an "**FCM Client Margin Sub-Account**");
- (ii) one sub-account linked to the FCM Buffer (the "**FCM Client Buffer Sub-Account**");
and
- (iii) one sub-account linked to the Unallocated Excess (the "**FCM Client Unallocated Excess Sub-Account**").

Each FCM Client Margin Sub-Account represents the LSV of all Eligible Margin Assets booked into the FCM Client Margin Account which is reserved for the relevant FCM Client. The collateral in each FCM Client Margin Sub-Account is only allocated to the relevant FCM Client on a value basis; no specific Eligible Margin Assets are allocated to the FCM Clients. Each FCM Client Margin Sub-Account is linked to the FCM Client Transaction Account of the relevant FCM Client.

The FCM Client Buffer Sub-Account represents the value of the Eligible Margin Assets booked into the FCM Client Margin Account which is reserved for the FCM Buffer. The "**FCM Client**

Buffer" provides an additional layer of collateral for each FCM Client Margin Account in accordance with CFTC regulation § 22.13. The FCM Buffer is also value-based and consists of Eligible Margin Assets owned by the FCM Clearing Member, but provided to Eurex Clearing to serve as cover for any collateral shortfall arising from any FCM Client Margin Sub-Account due to entering into new FCM Client Transactions or intraday portfolio shifts. Before issuing intraday margin calls, Eurex Clearing takes into account the value of the FCM Client Buffer. In case of the occurrence of a default or insolvency with respect to the FCM Clearing Member, the FCM Client Buffer can be used to cover any margin shortfall under any FCM Client Margin Sub-Account. But, as the FCM Client Buffer consists of the FCM Clearing Members own assets, the FCM Client Buffer cannot be ported.

The FCM Client Unallocated Excess Sub-Account represents any margin excess arising from any FCM Client Margin Sub-Account due to intraday portfolio shifts of any FCM Client, which are booked from the relevant FCM Client Margin Sub-Accounts into the FCM Client Unallocated Excess Sub-Account once a day at the end of each business day (the "**Unallocated Excess**"). As an FCM Clearing Member is not allowed to hold excess margin on a FCM Client Margin Sub-Account on a day-to-day basis under the LSOC Without Excess Model, all excess margin on the FCM Client Unallocated Excess Sub-Account is returned to the FCM Clearing Member at the end of each business day. Further, the Unallocated Excess cannot be used to cover any (intraday or end-of day) margin shortfall with respect to an FCM Client. In case of the occurrence of a default or an insolvency with respect to a FCM Clearing Member, the Unallocated Excess needs to be returned to the FCM Clearing Member for the benefit of the FCM Clients of the FCM Clearing Member.

2.1.2. Set-off

If any amounts are payable on the same date, the same currency and to or from the same FCM Clearing Member Client Cash Account between Eurex Clearing and an FCM Clearing Member in both directions in respect of a FCM Client Transaction Accounts, Eurex Clearing will aggregate the payments owed by Eurex Clearing into a single aggregated payment amount and will aggregate the payments owed by the FCM Clearing Member into a single aggregated payment amount, separately in respect of the FCM Client Margin Requirement and any Variation Settlement amounts owed (each a separate "**Accumulation Amount**").

The Accumulation Amounts owed by Eurex Clearing to the FCM Clearing Member and by the FCM Clearing Member to Eurex Clearing in respect to the FCM Client Margin Requirement will not be netted against one another.

The Accumulation Amounts owed by Eurex Clearing AG to the FCM Clearing Member and by the FCM Clearing Member to Eurex Clearing for Variation Settlement will be netted against one another.

2.1.3. Margin Requirements and Margin Calls

Eurex Clearing determines a separate net margin requirement for each FCM Client Transaction Account (each a "**FCM Client Margin Requirement**") and requests the FCM Clearing Member to deliver separate cover with respect to each FCM Client Margin Requirement.

Under the LSOC Without Excess Model, it is not permitted that the LSV for an FCM Client exceeds the FCM Client Margin Requirement on a day-to-day basis, but a LSV may exceed the FCM Client Margin Requirement on an intraday basis (excess margin). If any excess margin is attributable to an FCM Client following a close of the end-of-day clearing cycle, Eurex Clearing transfers any excess margin to the FCM Client Unallocated Excess Sub-Account of the FCM Client Margin Account, whereupon such excess margin becomes FCM Client Unallocated Excess.

If the Margin Requirement with respect to an FCM Client exceeds the LSV intraday, Eurex Clearing is permitted to apply any portion of the FCM Client Buffer booked in the FCM Client Buffer Sub-Account to satisfy the margin shortfall for such FCM Client (the “**Encumbered FCM Client Buffer**”). Eurex Clearing will issue a Margin Call with respect to an FCM Client only if the FCM Client Margin Requirement exceeds the sum of the LSV and any Encumbered FCM Client Buffer.

In the end-of day settlement cycle, Eurex Clearing will calculate the Margin Requirement for each FCM Client without regarding any Unencumbered FCM Client Buffer. However, the FCM Clearing Member may elect to use the Encumbered FCM Client Buffer to meet the Margin Call. In such case, the Encumbered FCM Client Buffer becomes part of the LSV and no longer constitutes Encumbered FCM Client Buffer.

Eurex Clearing submits the Margin Call with respect to the relevant FCM Client to the FCM Clearing Member which is required to provide cover to Eurex Clearing on behalf of the relevant FCM Client in an amount not less than the Margin Call.

FCM Client Margin can be provided in the form of cash or in the form of securities. Eligible Margin Assets in the form of cash are transferred to Eurex Clearing via full title transfer. In order to provide Eligible Margin Assets in the form of securities, the FCM Clearing Member shall transfer the securities to the relevant FCM Client Pledged Securities Account with the consequence that all securities credited to such account are pledged in favour of Eurex Clearing.

2.1.4. Collateral Value Decrease

If Eurex Clearing determines that the value of all Eligible Margin Assets recorded in an FCM Client Margin Account has decreased, e.g due to changes in the market value of the Eligible Margin Assets or to changes in foreign exchange rates used to calculate the value (“**Collateral Value Decrease**”), Eurex Clearing AG shall be entitled to demand that an FCM Clearing Member furnish additional Eligible Margin Assets to Eurex Clearing AG up to the amount of the Collateral Value Decrease (“**Collateral Call**”).

In case of the occurrence of a Termination Event with respect to the FCM Clearing Member and a Collateral Value Decrease occurs after such Termination Event, Eurex Clearing shall reduce pro rata the legally segregated value of Eligible Margin Assets recorded in each FCM Client Margin Sub-Account, the FCM Client Unallocated Excess Sub-Account, and the FCM Client Buffer Sub-Account.

2.1.5. Transfer of FCM Client Transactions (porting) and Close-out

If a Termination Event occurs with respect to a FCM Clearing Member and Eurex Clearing has issued a Declaration of Termination with respect to the Own Transactions to the FCM Clearing Agreement, Eurex Clearing is entitled to exercise the following rights separately for each FCM Client Netting Set:

- (i) either its right to treat FCM Client Transactions under the relevant Netting Set as if they are terminated by issuing an FCM Client Declaration of Termination and shall calculate the Difference Claim with respect to such Netting Set, or
- (ii) its right to transfer all FCM Client Transactions under the relevant FCM Client Netting Set (including the relevant Eligible Margin Assets) to one or more other FCM Clearing Members (each a "**Replacement FCM Clearing Member**").

Before treating the relevant FCM Client Transactions as if they are terminated, Eurex Clearing will use reasonable efforts to transfer FCM Client Transactions (including Eligible Margin Assets) to one or more Replacement FCM Clearing Members by initiating a porting process with respect to all FCM Clients of the terminated FCM Clearing Member. Each FCM Client can be ported individually to a separate Replacement FCM Clearing Member.

The porting process is initiated by Eurex Clearing by giving notice to all other FCM Clearing Members, all FCM Clients of the defaulted FCM Clearing Member, and to all Non-FCM Clearing Members of the occurrence of the Termination Event with respect to the FCM Clearing Member and that Eurex Clearing AG is initiating the porting process with respect to the FCM Client Transactions (the "**Replacement Notice**").

(i) Transfer of FCM Client Transactions (porting): If a potential Replacement FCM Clearing Member is willing to accept the transfer of FCM Client Transactions in one or more FCM Client Transaction Accounts, and all FCM Clearing Member Replacement Requirements in respect of the relevant FCM Client Transactions are fulfilled until 13:00 p.m. CET on the Business Day following the date on which the FCM Clearing Member Termination Time occurs (the "**Replacement Cut-Off Time**"), the FCM Client Transactions, and all rights and obligations of the Affected FCM Clearing Member arising from such FCM Client Transactions, shall be transferred to the new FCM Clearing Member. As a result of such transfer, the terminated FCM Clearing Member will be released from all its obligations in relation to the transferred FCM Client Transactions and the Replacement FCM Clearing Member shall have assumed such obligations in relation to such FCM Client Transactions.

In addition to the transferred FCM Client Transactions, Eurex Clearing will also transfer a portion of the value of Eligible Margin Assets booked on the FCM Client Margin Account equal to the LSV of the relevant FCM Client to the Replacement FCM Clearing Member.

(ii) Close-out: As stated above, Eurex Clearing always remains entitled to exercise its termination right with respect to each FCM Client Netting Set by issuing a declaration of termination with respect to the relevant FCM Client (the "**FCM Client Declaration of Termination**"). All FCM Client Transactions forming an FCM Client Netting Set shall be treated as if they are terminated. This may in particular apply, if no Replacement FCM Clearing Member can be identified or if a potential Replacement FCM Clearing Member does not fulfil the FCM Clearing Member Replacement Requirements with respect to an FCM Client Netting Set until the Replacement Cut-Off Time.

Eurex Clearing AG may extend the Replacement Cut-Off Time to facilitate porting of FCM Client Transactions by giving notice to the Affected FCM Clearing Member and all FCM Clients to the Affected FCM Clearing Member, and all other FCM Clearing Members, and to all Non-FCM Clearing Members, in accordance with Number 15.1 Clause (ii) of the FCM Regulations of Eurex Clearing AG.

Eurex Clearing will liquidate such FCM Client Transactions in accordance with the FCM Default Rules and calculates a separate close-out amount (each a "**Difference Claim**") for each FCM Client Netting Set by way of combining the values of all FCM Client Transactions combined in the relevant FCM Client Netting Set. The final amount of the Difference Claim shall (i) if it is a positive figure, be owed by Eurex Clearing to the FCM Clearing Member on behalf of the relevant FCM Client, or (ii) if it is a negative figure, be owed by the FCM Clearing Member on behalf of the relevant FCM Client to Eurex Clearing.

In case Eurex Clearing is the creditor of the Difference Claim, Eurex Clearing is entitled to realize its security interests in the Eligible Margin Assets. Eurex Clearing will realize security interests with a value amounting to the sum of the relevant LSV reserved for the FCM Client and any Encumbered FCM Buffer. In case of a remaining FCM Client Margin shortfall, Eurex Clearing will apply FCM Client Buffer (other than Encumbered FCM Client Buffer) to satisfy an FCM Client Margin shortfall. If the available FCM Client Buffer is insufficient to satisfy in full all FCM Client Margin shortfalls of all FCM Clients linked to the FCM Client Margin Account, Eurex Clearing will apply the available FCM Client Buffer on a pro rata basis to each FCM Client with an FCM Client Margin shortfall.

In the case of Eligible Margin Assets in the form of cash, Eurex Clearing will use such cash and, in the case of Eligible Margin Assets in the form of securities, Eurex Clearing will realize its security interest granted by the defaulted FCM Clearing Member in accordance with the Pledge Agreement.

In case Eurex Clearing is the debtor of the Difference Claim, the Difference Claim shall be discharged by payment of the relevant amount to the defaulted FCM Clearing Member and such payment shall constitute a return to the FCM Clearing Member for the account of the relevant FCM Client. Any remaining pledges in respect of Eligible Margin Assets in the form of securities booked into the FCM Client Margin Account shall expire and the pledged securities shall be released by Eurex Clearing. Any remaining Eligible Margin Assets in the form of cash booked into the FCM Client Margin Account shall be returned to the defaulted FCM Clearing Member for the benefit of its FCM Clients.

2.1.6. Insolvency Law

In case of the occurrence of an Insolvency Termination Event with respect to the FCM Clearing Member, generally, the same will apply as described under item 2.1.5 above.

However, in case of the occurrence of an Insolvency Termination Event, the FCM Clearing Member would be subject to an insolvency proceeding pursuant to the applicable U.S. laws. As a consequence, Eurex Clearing will seek to coordinate with the CFTC and the bankruptcy trustee (or a comparable person responsible for administering the proceeding) with respect to the transfer of FCM Client Transactions and Eligible Margin Assets allocated to the relevant FCM Client. Eurex Clearing may deviate from the provisions and processes described above, if so required by the CFTC and the bankruptcy trustee (or a comparable person responsible for administering the proceeding).

Further, the bankruptcy trustee (or a comparable person responsible for administering the proceeding) may require Eurex Clearing that less than all of the LSV reserved for the particular FCM Client is transferred or realized in order for the Bankruptcy Trustee to comply with the pro rata loss sharing provisions under U.S. insolvency law. The FCM Client Margin that is not subject to the transfer or the realization will be held at the direction of or delivered to the bankruptcy trustee by Eurex Clearing.

2.2. The LSOC With Excess Model

The main difference between the LSOC Without Excess and the LSOC With Excess Model is that, under the LSOC With Excess Model, the LSV reserved for a specific FCM Client is not (necessarily) equal to the FCM Client Margin Requirement for such FCM Client. Rather, the FCM Clearing Member has the option to assign specific (value) portions of the FCM Client Margin Account to specific FCM Clients going beyond the actual FCM Client Margin Requirement (excess margin). Such assignment is done by the FCM Clearing Member by submitting a CVR to Eurex Clearing at least once per Business Day in which the value of the LSVs for all FCM Clients and the FCM Client Buffer are determined.

In addition, please refer to the statements made with respect to the LSOC Without Excess Model under item 2.1. above, which shall apply to the LSOC With Excess Model accordingly.

2.2.1. Structure

Please refer to the statements made with respect to the LSOC Without Excess Model under item 2.1.1. above, which shall apply to the LSOC With Excess Model accordingly.

In addition, the following shall apply:

Under the LSOC With Excess Model, Eurex Clearing establishes within each FCM Client Margin Account in addition to

- (i) one separate FCM Client Margin Sub-Account for each FCM Client,
- (ii) one FCM Client Buffer Sub-Account, and
- (iii) one FCM Client Unallocated Excess Sub-Account,

the following sub-accounts:

- (iv) a separate margin sub-account for each FCM Client for margin assets provided to Eurex Clearing intra-day or end-of-day upon a Margin Call before a new CVR is submitted (each an "**FCM Client Assumed Allocation Sub-Account**").

The FCM Client Assumed Allocation Sub-Account represents the Assumed Allocation which has been allocated by Eurex Clearing to the relevant FCM Client. When an FCM Clearing Member delivers Eligible Margin Assets to Eurex Clearing to satisfy a Margin Call and prior to the delivery of a CVR, Eurex Clearing shall automatically allocate such Eligible Margin Assets among each of the FCM Client Margin Sub-Accounts with respect to which Eurex Clearing determined an FCM Client Margin shortfall (the “**Assumed Allocation**”). Eurex Clearing will consider any Assumed Allocation when determining whether a Margin Call shall be issued with respect to the relevant FCM Client. Once a FCM Clearing Member submits a new CVR to Eurex Clearing allocating all Eligible Margin Assets booked into the FCM Client Margin Account, each FCM Client Assumed Allocation Sub-Account is reduced to zero. In case of the default or insolvency with respect to the FCM Clearing Member, Eurex Clearing shall treat any Assumed Allocation as part of the FCM Client Margin of the relevant FCM Client. Further, the Assumed Allocation can also be used in case of a transfer of the FCM Client Transactions (porting).

2.2.2. Set-off

Please refer to the statements made with respect to the LSOC Without Excess Model under item 2.1.2. above, which shall apply to the LSOC With Excess Model accordingly.

2.2.3. Margin Requirements and Margin Calls

Eurex Clearing determines a separate FCM Client Margin Requirement for each FCM Client.

Under the LSOC With Excess Model, the FCM Clearing Member has the option to assign specific portions of the value of Eligible Margin Assets booked in the FCM Client Margin Account to specific FCM Clients including excess margin.

If the Margin Requirement with respect to an FCM Client exceeds the sum of the LSV and any Assumed Allocation allocated to such FCM Client intraday, Eurex Clearing is permitted to apply any portion of the FCM Client Buffer booked in the FCM Client Buffer Sub-Account to satisfy the margin shortfall for such FCM Client (Encumbered FCM Client Buffer). Eurex Clearing will issue a Margin Call with respect to an FCM Client only, if the FCM Client Margin Requirement exceeds the sum of the LSV, any Assumed Allocation allocated to such FCM Client and any Encumbered FCM Client Buffer allocated to such FCM Client.

In the end-of day settlement cycle, Eurex Clearing will calculate the Margin Requirement for each FCM Client with regarding any Assumed Allocation, but without regarding any Unencumbered FCM Client Buffer. However, the FCM Clearing Member may elect to use the Encumbered FCM Client Buffer to meet the Margin Call. In such case, the Encumbered FCM Client Buffer becomes part of the LSV and no longer constitutes Encumbered FCM Client Buffer.

Eurex Clearing submits the Margin Call with respect to the relevant FCM Client to the FCM Clearing Member which is required to provide cover to Eurex Clearing on behalf of the relevant FCM Client in an amount not less than the Margin Call.

FCM Client Margin can be provided in the form of cash or in the form of securities. Eligible

Margin Assets in the form of cash are transferred to Eurex Clearing via full title transfer. In order to provide Eligible Margin Assets in the form of securities, the FCM Clearing Member shall transfer the securities to the relevant FCM Client Pledged Securities Account with the consequence that all securities credited to such account are pledged in favour of Eurex Clearing.

2.2.4. Collateral Value Decrease

If Eurex Clearing determines that Collateral Value Decrease has occurred with respect to a FCM Client Margin Account, Eurex Clearing AG shall be entitled to issue a Collateral Call.

In case of the occurrence of a Termination Event or Insolvency Termination Event with respect to the FCM Clearing Member and the occurrence of a Collateral Value Decrease, Eurex Clearing shall reduce pro rata the legally segregated value of Eligible Margin Assets recorded in each FCM Client Margin Sub-Account, the FCM Client Unallocated Excess Sub-Account, the FCM Client Buffer Sub-Account and any FCM Client Assumed Allocation Sub-Account.

2.2.5. Transfer of FCM Client Transactions (porting) and Close-out

If a Termination Event occurs with respect to a FCM Clearing Member and Eurex Clearing has issued a Declaration of Termination with respect to the Own Transactions to the FCM Clearing Agreement, Eurex Clearing is entitled to exercise the following rights separately for each FCM Client Netting Set:

- (i) either its right to treat FCM Client Transactions under the relevant Netting Set as if they are terminated by issuing an FCM Client Declaration of Termination and shall calculate the Difference Claim with respect to such Netting Set, or
- (ii) its right to transfer all FCM Client Transactions under the relevant FCM Client Netting Set to one or more other Replacement FCM Clearing Member(s).

Before treating the relevant FCM Client Transactions as if they are terminated, Eurex Clearing will use reasonable efforts to transfer FCM Client Transactions (including Eligible Margin Assets) to one or more Replacement FCM Clearing Members by initiating a porting process with respect to all FCM Clients of the terminated FCM Clearing Member. Each FCM Client can be ported individually to a separate Replacement FCM Clearing Member.

The porting process is initiated by Eurex Clearing by giving notice to all other FCM Clearing Members, all FCM Clients of the defaulted FCM Clearing Member, and to all Non-FCM Clearing Members of the occurrence of the Termination Event with respect to the FCM Clearing Member and that Eurex Clearing AG is initiating the porting process with respect to the FCM Client Transactions (the "**Replacement Notice**").

(i) Transfer of FCM Client Transactions (porting): If a potential Replacement FCM Clearing Member is willing to accept the transfer of FCM Client Transactions in one or more FCM Client Transaction Accounts, and all FCM Clearing Member Replacement Requirements in respect of the relevant FCM Client Transactions are fulfilled by the end of the Replacement Cut-Off Time, the FCM Client Transactions, and all rights and obligations of the Affected FCM Clearing Member arising from such FCM Client Transactions, shall be transferred to the new FCM Clearing Member. As a result of such transfer, the terminated FCM Clearing Member will be released from all its obligations in relation to the transferred FCM Client Transactions and

the Replacement FCM Clearing Member shall have assumed such obligations in relation to such FCM Client Transactions.

In addition to the transferred FCM Client Transactions, Eurex Clearing will also transfer a portion of the value of Eligible Margin Assets booked on the FCM Client Margin Account equal to the LSV of the relevant FCM Client (including any Assumed Allocation with respect to such FCM Client) to the Replacement FCM Clearing Member.

(ii) Close-out: As stated above, Eurex Clearing always remains entitled to exercise its termination right with respect to each FCM Client Netting Set by issuing a FCM Client Declaration of Termination. All FCM Client Transactions forming an FCM Client Netting Set shall be treated as if they are terminated. This may in particular apply, if no Replacement FCM Clearing Member can be identified or if a potential Replacement FCM Clearing Member does not fulfil the FCM Clearing Member Replacement Requirements with respect to an FCM Client Netting Set until the Replacement Cut-Off Time.

Eurex Clearing AG may extend the Replacement Cut-Off Time to facilitate porting of FCM Client Transactions by giving notice to the Affected FCM Clearing Member and all FCM Clients to the Affected FCM Clearing Member, and all other FCM Clearing Members, and to all Non-FCM Clearing Members, in accordance with Number 15.1 Clause (ii) of the FCM Regulations of Eurex Clearing AG.

Eurex Clearing will liquidate such FCM Client Transactions in accordance with the FCM Default Rules and calculates a separate Difference Claim for each FCM Client Netting Set by way of combining the values of all FCM Client Transactions combined in the relevant FCM Client Netting Set. The final amount of the Difference Claim shall

- (i) if it is a positive figure, be owed by Eurex Clearing to the FCM Clearing Member on behalf of the relevant FCM Client, or
- (ii) if it is a negative figure, be owed by the FCM Clearing Member on behalf of the relevant FCM Client to Eurex Clearing.

In case Eurex Clearing is the creditor of the Difference Claim, Eurex Clearing is entitled to realize its security interests in the Eligible Margin Assets. Eurex Clearing will realize security interests with a value amounting to the sum of the relevant LSV reserved for the FCM Client (including any Assumed Allocation with respect to such FCM Client) and any Encumbered FCM Buffer. In case of a remaining FCM Client Margin shortfall, Eurex Clearing will apply any remaining FCM Client Buffer (other than Encumbered FCM Client Buffer) to satisfy an FCM Client Margin shortfall. If the available FCM Client Buffer is insufficient to satisfy in full all FCM Client Margin shortfalls of all FCM Clients linked to the FCM Client Margin Account, Eurex Clearing will apply the available FCM Client Buffer on a pro rata basis to each FCM Client with an FCM Client Margin shortfall.

In the case of Eligible Margin Assets in the form of cash, Eurex Clearing will use such cash and, in the case of Eligible Margin Assets in the form of securities, Eurex Clearing will realize its security interest granted by the defaulted FCM Clearing Member in accordance with the Pledge Agreement.

In case Eurex Clearing is the debtor of the Difference Claim, the Difference Claim shall be discharged by payment of the relevant amount to the defaulted FCM Clearing Member and such payment shall constitute a return to the FCM Clearing Member for the account of the

relevant FCM Client. Any remaining pledges in respect of Eligible Margin Assets in the form of securities booked into the FCM Client Margin Account shall expire and the pledged securities shall be released by Eurex Clearing. Any remaining Eligible Margin Assets in the form of cash booked into the FCM Client Margin Account shall be returned to the defaulted FCM Clearing Member for the benefit of its FCM Clients.

2.2.6. Insolvency Law

In case of the occurrence of an Insolvency Termination Event with respect to the FCM Clearing Member, generally, the same will apply as described under item 2.2.5 above.

However, in case of the occurrence of an Insolvency Termination Event, the FCM would be subject to an insolvency proceeding pursuant to the applicable U.S. laws. As a consequence, Eurex Clearing will seek to coordinate with the CFTC and the bankruptcy trustee (or a comparable person responsible for administering the proceeding) with respect to the transfer of FCM Client Transactions and Eligible Margin Assets allocated to the relevant FCM Client. Eurex Clearing may deviate from the provisions and processes described above, if so required by the CFTC and the bankruptcy trustee (or a comparable person responsible for administering the proceeding).

Further, the bankruptcy trustee (or a comparable person responsible for administering the proceeding) may require Eurex Clearing that less than all of the LSV reserved for the particular FCM Client (including any Assumed Allocation with respect to such FCM Client) is transferred or realised in order for the Bankruptcy Trustee to comply with the pro rata loss sharing provisions under U.S. insolvency law. The FCM Client Margin that is not subject to the transfer or the realization will be held by Eurex Clearing at the direction of or delivered to the bankruptcy trustee.

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