



## eurex clearing *circular 050/17*

**Date:** 2 June 2017  
**Recipients:** All Clearing Members, Non-Clearing Members, Basic Clearing Members,  
 FCM Clients and Registered Customers of Eurex Clearing AG  
**Authorized by:** Heike Eckert

### **Amendments to the Clearing Conditions and other related documents of Eurex Clearing AG**

**Contact:** Your Key Account Manager Clearing or [clearing.services-admission@eurexclearing.com](mailto:clearing.services-admission@eurexclearing.com)

**Content may be most important for:**

➡ All departments

**Attachments:**

1. Amended sections of the Dispute Resolution Rules  
 2a., 2b.: Amended sections of the Clearing Conditions  
 of Eurex Clearing AG

**Summary:**

This circular contains information with respect to Eurex Clearing's service offering and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other related documents regarding the following topics:

1. Dispute Resolution Procedure in absence of a Dispute Resolution (DR) Committee Panel
2. Euroclear UK & Ireland as Settlement Location for Loaned Securities

The amended sections of the Dispute Resolution Rules and the Clearing Conditions, as decided by the Executive Board of Eurex Clearing, are attached to this circular.

The amendments with regard to topics 1 and 2 will come into effect on **27 June 2017**.

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions or Dispute Resolution Rules.

**Amendments to the Clearing Conditions and other related documents  
of Eurex Clearing AG**

This circular contains information with respect to Eurex Clearing's service offering and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other related documents regarding the following topics:

1. Dispute Resolution Procedure in absence of a Dispute Resolution (DR) Committee Panel
2. Euroclear UK & Ireland as Settlement Location for Loaned Securities

The amended sections of the Dispute Resolution Rules and the Clearing Conditions, as decided by the Executive Board of Eurex Clearing, are attached to this circular.

The amendments with regard to topics 1 and 2 will come into effect on 27 June 2017.

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions or Dispute Resolution Rules.

**1. Dispute Resolution Procedure in absence of a DR Committee Panel**

In the absence of a validly established DR Committee Panel, Eurex Clearing may decide to either (a) appoint a central securities depository to determine the Outturn or (b) determine itself the Outturn of a Dispute Resolution Procedure.

To reflect the changes, the following provisions in the Dispute Resolution Rules will be amended:

- Part 1 Number 2.2
- Part 2 Number 10 (new)
- Part 3 Number 15 (new)

**2. Euroclear UK & Ireland as Settlement Location for Loaned Securities**

Loaned Securities which are UK equities will be settled at Euroclear UK & Ireland. For settlement at Euroclear UK & Ireland as well as the corporate action handling, an obligation of the Clearing Member to provide matching settlement instructions is defined.

To reflect the changes, the following provisions of the Clearing Conditions will be amended:

- Chapter I Part 1 Number 1.4.2
- Chapter IX Part 1 Numbers 1.1.2, 1.1.3, 1.2.1, 1.4, 1.8 (new)
- Chapter IX Part 2 Numbers 2.1.2, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.2.1, 2.2.2, 2.4, 2.4.1, 2.4.2, 2.4.5, 2.6.2, 2.6.4, 2.6.5, 2.6.6 (new), 2.6.7

As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**Resources > Rules and Regulations > Clearing Conditions**

**eurex clearing circular 050/17**

Pursuant to Chapter I Part 1 Number 17.2.2 and Number 17.2.6 of the Clearing Conditions, the amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Basic Clearing Member, FCM Clearing Member, Non-Clearing Member and each Registered Customer and FCM Client affected by such amendment unless it objects in writing to Eurex Clearing within the Regular Notification Period of at least fifteen (15) business days prior to the actual effective date of such amendment of the Clearing Conditions.

If you have any questions or require further information, please contact your Key Account Manager Clearing or send an e-mail to: [clearing.services-admission@eurexclearing.com](mailto:clearing.services-admission@eurexclearing.com).

2 June 2017

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**AMENDMENTS ARE MARKED AS FOLLOWS:**

**INSERTIONS ARE UNDERLINED**

**DELETIONS ARE CROSSED OUT**

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## **DISPUTE RESOLUTION RULES**

### **Part 1: General Provisions**

#### **1 Procedures; Definitions; References**

##### **1.1 Dispute Resolution Procedure and Ad hoc Verification Procedure**

Pursuant to Chapter IX Part 2 Number 2.4.1 Paragraph (2) (d) Sub-Paragraph 2 and Number 2.4.2 Paragraph (2) of the Clearing Conditions of Eurex Clearing AG, as may be amended from time to time (the "**Clearing Conditions**"), in the case of certain disputes between a Lender Clearing Member and a Borrower Clearing Member on the taking of action in connection with a Voluntary Reorganisation or a Securities Distribution in the form of rights with options that relates to a Loaned Security, and in order to determine whether the Outturn intended by the Lender Clearing Member or the Outturn intended by the Borrower Clearing Member shall be processed, Eurex Clearing AG will conduct a dispute resolution procedure (a "**Dispute Resolution Procedure**"). Pursuant to Chapter IX Part 2 Number 2.7.4 of the Clearing Conditions, Eurex Clearing AG may, in certain circumstances where a Termination Date occurs in respect of a Borrower Clearing Member, conduct, on an ad hoc basis, a verification procedure (the "**Ad hoc Verification Procedure**") with respect to instructions that are provided by a Lender Clearing Member in relation to the taking of action in connection with a Voluntary Reorganisation that relates to a Loaned Security. Each Dispute Resolution Procedure and each Ad hoc Verification Procedure is governed by these dispute resolution rules (the "**Dispute Resolution Rules**").

##### **1.2 Definitions**

Terms used and not defined in these Dispute Resolution Rules shall have the meanings ascribed to them in the Clearing Conditions. In addition, the terms set out below shall have the meaning ascribed to them below:

"**Ad hoc Verification Committee**" has the meaning given to such term in Number 11.1.

"**Ad hoc Verification Committee Member**" has the meaning given to such term in Number 11.2.

"**Affiliate**" means, in respect of an entity, any undertaking which is or becomes (i) a subsidiary undertaking or parent undertaking of such entity or (ii) a subsidiary undertaking of a parent undertaking of such entity.

"**Back-up Contact Person**" has the meaning given to such term in Number 3.1.

"**Contact Person**" has the meaning given to such term in Number 3.1.

"**Dispute Resolution Procedure Commencement Date**" means, if a Dispute Resolution Procedure shall be conducted in accordance with the Clearing Conditions,

- (i) if the Borrower Clearing Member has rejected (in accordance with Chapter IX Part 2 Number 2.4.1 Paragraph (2) (d) Sub-Paragraph 2 and Number 2.4.2 Paragraph (2) of the Clearing Conditions) a Lender Election or an Outturn Instruction provided by

the Lender Clearing Member (and such rejection has not been reversed) in respect of a Voluntary Reorganisation, the Intended Settlement Date; and

- (ii) if the Borrower Clearing Member has (in accordance with Chapter IX Part 2 Number 2.4.1 Paragraph (2) (d) Sub-Paragraph 2 and Number 2.4.2 Paragraph (2) of the Clearing Conditions) disputed a Lender Election or an Outturn Instruction provided by the Lender Clearing Member in respect of a Voluntary Reorganisation, the date on which such dispute is submitted by the Borrower Clearing Member through the VCA Input System.

**"DR Committee"** has the meaning given to such term in Number 4.1.

**"DR Committee Member"** has the meaning given to such term in Number 4.2.

**"DR Committee Member Fee"** has the meaning given to such term in Number 17.2.

**"DR Committee Member Standard of Care"** means the standard of care customarily applied by a major custodian bank with sufficient knowledge and expertise in taking corporate actions in an unbiased manner.

**"DR Committee Panel"** has the meaning given to such term in Number 2.1.

**"DR Committee Panel Participant"** has the meaning given to such term in Number 2.22.1.

**"DR Committee Participation Agreement"** has the meaning given to such term in Number 2.2.

**"Eligible DR Committee Member"** means an Eligible DR Participating Institution that

- (i) is neither the Lender Clearing Member nor the Borrower Clearing Member (nor any Affiliate of any of these) in respect of any Securities Lending Transactions to which the Dispute Resolution Procedure relates; and
- (ii) does not act as an Agent Lender with respect to any Securities Lending Transaction to which the Dispute Resolution Procedure relates and is not an Affiliate of any such Agent Lender.

**"Eligible DR Participating Institution"** means a bank that

- (i) provides custody services in any member state of the European Union; and
- (ii) holds all permits and licenses required for the rendering of such custody services.

**"Expected Outturn Statement"** has the meaning given to such term in Number 5.1.

**"Final Feedback"** has the meaning given to such term in Number 7.3.

**"First Feedback"** has the meaning given to such term in Number 6.3.

**"Service Fee"** has the meaning given to such term in Number 17.1.

**"Termination Effective Date"** has the meaning given to such term in Number 2.3.

**"Verification Decision"** has the meaning given to such term in Number 13.1.

### 1.3 References

References to a "Lender Clearing Member" in these Dispute Resolution Rules shall include the holder of a Specific Lender License acting as the lender in respect of the relevant Securities Lending Transaction.

Any reference to a time of a day in these Dispute Resolution Rules shall be to the time in Frankfurt am Main, Germany.

## 2 Establishment and Composition of the DR Committee Panel

### 2.1 DR Committee Panel

Eurex Clearing AG establishes a dispute resolution committee panel (the "**DR Committee Panel**"). Each DR Committee that will decide on a certain dispute between a Lender Clearing Member and a Borrower Clearing Member on the taking of action in connection with a certain Voluntary Reorganisation that relates to a Loaned Security and each Ad hoc Verification Committee that will decide on the Outturn Instruction in relation to a Voluntary Reorganisation upon the occurrence of a Termination Date in respect of a Borrower Clearing Member will be selected from time to time from the institutions participating in the DR Committee Panel (each a "**DR Committee Panel Participant**").

The DR Committee Panel shall not constitute an association (*keine Gesellschaft*) and not qualify as an arbitration tribunal (*kein Schiedsgericht*). DR Committee Panel Participants shall (in such capacity) only have the obligations set out in these Dispute Resolution Rules and the DR Committee Participation Agreement (as defined below), but shall, in particular, not have any further advisory obligations.

As a consequence of the random selection process set out in these Dispute Resolution Rules, a DR Committee Panel Participant may be selected and be obliged to act as a DR Committee Member and/or Ad hoc Verification Committee Member of more than one DR Committee or Ad hoc Verification Committee at the same time even if other DR Committee Panel Participants have not been selected to participate in any DR Committees or Ad hoc Verification Committees.

### 2.2 Establishment of the DR Committee Panel

For the purpose of the initial establishment of the DR Committee Panel, Eurex Clearing AG will invite, at the own discretion of Eurex Clearing AG, at least six Eligible DR Participating Institutions to participate in the DR Committee Panel (and, if so selected from time to time, in accordance with these Dispute Resolution Rules, in DR Committees and Ad hoc Verification Committees). Eurex Clearing AG will establish the DR Committee Panel if at least ~~six~~ three Eligible DR Participating Institutions have accepted to participate in the DR Committee Panel (and DR Committees as well as Ad hoc Verification Committees) by signing, in each case, an "Agreement for the Participation in DR Committees" with Eurex Clearing AG in a form provided by Eurex Clearing AG (the "**DR Committee Participation Agreement**") in which the Eligible DR Participating Institution, in particular, confirms to have received these Dispute Resolution Rules and to be bound by and adhere to their terms. Each Eligible DR Participating Institution that has entered into such agreement with Eurex Clearing AG and has neither effectively terminated its participation nor ceased to exist will be a "**DR**

**Committee Panel Participant"**. Eurex Clearing AG may from time to time increase the number of DR Committee Panel Participants.

Eurex Clearing AG will provide the list of the DR Committee Panel Participants to all Lender Clearing Members, Agent Lenders and Borrower Clearing Members.

The DR Committee Panel shall not validly exist if and for as long as less than three Eligible DR Participating Institutions act as DR Committee Panel Participants.

### **2.3** Duration of participation in the DR Committee Panel; Termination of participation

The participation of a DR Committee Panel Participant in the DR Committee Panel shall not be limited in time.

A DR Committee Panel Participant may terminate its participation in the DR Committee Panel at any time upon at least four weeks' prior written notice to Eurex Clearing AG. Eurex Clearing AG may terminate the participation of a DR Committee Panel Participant in the DR Committee Panel at any time upon at least four weeks' prior written notice to the DR Committee Panel Participant. A termination pursuant to the two preceding sentences will, if, on the date on which the termination shall become effective (the "**Termination Effective Date**"), the DR Committee Panel Participant is also a DR Committee Member in one or more Dispute Resolution Procedures and/or an Ad hoc Verification Committee Member in one or more Ad hoc Verification Procedures, only become effective if and when the last Dispute Resolution Procedure in which such DR Committee Member participates and the last Ad hoc Verification Procedure in which such Ad hoc Verification Committee Member participates has been completed; the DR Committee Panel Participant may, however, no longer be selected for participation in a new DR Committee or a new Ad hoc Verification Committee after the Termination Effective Date.

The right of a termination of the participation in the DR Committee Panel for serious cause (*Kündigung aus wichtigem Grund*) shall remain unaffected.

### **2.4** Participation of replacement Eligible DR Participating Institutions in the DR Committee Panel

If a notice of termination of the participation of a DR Committee Panel Participant in the DR Committee Panel has been given in accordance with Number 2.3 above or if a DR Committee Panel Participant has ceased to exist, Eurex Clearing AG may invite, at its own discretion, further Eligible DR Participating Institutions to participate in the DR Committee Panel and enter into a DR Committee Participation Agreement with one Eligible DR Participation Institution, upon which such Eligible DR Participation Institution shall become a DR Committee Panel Participant. In the case of a termination in accordance with Number 2.3 above and if necessary to ensure that a sufficient number of DR Committee Panel Participants will be available for participating in DR Committees, Eurex Clearing AG shall take reasonable efforts to effect a replacement prior to the Termination Effective Date.

Upon the replacement of any DR Committee Panel Participant Eurex Clearing AG will provide an updated list of the DR Committee Panel Participants to all Lender Clearing Members, Agent Lenders and Borrower Clearing Members.



### **3 Contact persons of DR Committee Panel Participants**

#### **3.1 Appointment of contact person and back-up contact person**

Each DR Committee Panel Participant shall appoint a contact person (the "**Contact Person**") and a back-up contact person (the "**Back-up Contact Person**") for the communication and correspondence with Eurex Clearing AG in connection with (i) the participation of the DR Committee Panel Participant in the DR Committee Panel, any DR Committee or any Ad hoc Verification Committee and (ii) these Dispute Resolution Rules.

The contact details (name, address, fax number, telephone number and email address) of the initial Contact Person and Back-up Contact Person shall be provided to Eurex Clearing AG in the DR Committee Participation Agreement. The DR Committee Panel Participant shall notify Eurex Clearing AG of any subsequent change of the Contact Person and/or the Back-up Contact Person in writing (*Textform*).

#### **3.2 Qualification of Contact Person and Back-up Contact Person**

Each DR Committee Panel Participant shall ensure that each Contact Person and Back-up Contact Person notified to Eurex Clearing AG in accordance with Number 3.1 has sufficient knowledge of the securities lending market and the customary market practices therein and holds all necessary expertise to assess corporate actions (including the relevant rights associated therewith, the exercise of such rights and the consequences resulting from such exercise) in relation to Loaned Securities.

## **Part 2 Dispute Resolutions Procedures**

### **4 Establishment of DR Committees**

#### **4.1 General**

Eurex Clearing AG will, in respect of each Dispute Resolution Procedure, establish a dispute resolution committee that will decide on disputes between a Lender Clearing Member and a Borrower Clearing Member on the taking of action in connection with a Voluntary Reorganisation that relates to a Loaned Security as further set out in these Dispute Resolution Rules (each, a "**DR Committee**").

A DR Committee will be established on the first Business Day after the occurrence of a Dispute Resolution Procedure Commencement Date.

For each Dispute Resolution Procedure a separate DR Committee will be established, provided that, if a dispute between a Borrower Clearing Member and a Lender Clearing Member arises in respect of the same Voluntary Reorganisation, but relates to more than one Securities Lending Transaction between such Borrower Clearing Member and Eurex Clearing Lender (and the corresponding Securities Lending Transactions between such Lender Clearing Member and Eurex Clearing Borrower) with Underlying Securities of the same ISIN, only one DR Committee shall be established to decide on such dispute with respect to all such Securities Lending Transactions in one and the same Dispute Resolution Procedure.

A DR Committee shall not constitute an association (*keine Gesellschaft*) and not qualify as an arbitration tribunal (*kein Schiedsgericht*). Instead, the decisions of DR Committees shall constitute expert decisions that shall be binding on the relevant Lender Clearing Member, the relevant Borrower Clearing Member and Eurex Clearing AG as third party determinations within the meaning of Section 317 of the German Civil Code (*Bürgerliches Gesetzbuch*), subject to these Dispute Resolution Rules. DR Committee Members shall (in such capacity) only have the obligations set out in these Dispute Resolution Rules and the DR Committee Participation Agreement (as defined below), but shall, in particular, not have any further advisory obligations.

#### **4.2 Establishment of DR Committees**

Eurex Clearing AG will, on the Business Day referred to in Number 4.1, select, on a random basis, three DR Committee Panel Participants that are not Affiliates of the Lender Clearing Member (or of any Agent Lender acting for such Lender Clearing Member) or the Borrower Clearing Member of the relevant Securities Lending Transactions to which the Dispute Resolution Procedure relates and will separately notify each such DR Committee Panel Participant of such selection by email and by way of a telephone call.

Without prejudice to Number 2.3, each DR Committee Panel Participant so selected shall confirm such selection by way of an email to Eurex Clearing AG (to an email address provided by Eurex Clearing AG to the DR Committee Panel Participants) on the same Business Day. The establishment of the relevant DR Committee shall be completed if Eurex Clearing AG has received such confirmations from all selected DR Committee Panel Participants. Each such selected DR Committee Panel Participant shall then be a "**DR Committee Member**" of such DR Committee.

If a DR Committee Member fails to comply with its obligations as a DR Committee Member, Eurex Clearing AG may remove such DR Committee Member from the relevant DR Committee with immediate effect and may select another DR Committee Panel Participant as a replacement DR Committee Member for such DR Committee in accordance with this Number 4.2. A DR Committee Member that is so removed from a DR Committee shall not be entitled to receive any DR Committee Member Fee and shall have no other claims with respect to such DR Committee.

### **5 Report to DR Committee Members**

#### **5.1 Preparation for reporting**

On the first Business Day after the Dispute Resolution Procedure Commencement Date, Eurex Clearing AG shall request the Borrower Clearing Member (by way of a telephone call which is followed by an email) to provide Eurex Clearing AG, in relation to each Securities Lending Transaction to which the Dispute Resolution Procedure of such DR Committee relates, with a statement in the form of an email to Eurex Clearing AG stating the Outturn requested by the Borrower Clearing Member (the "**Expected Outturn Statement**").

The Borrower Clearing Member shall provide Eurex Clearing AG with the Expected Outturn Statement no later than 24:00 hours on such Business Day, provided that the Borrower Clearing Member shall not be obliged to submit such Expected Outturn Statement if the

Borrower Clearing Member has already provided Eurex Clearing AG with such statement(s) prior to the commencement of the Dispute Resolution Procedure.

If Eurex Clearing AG determines that the Expected Outturn Statement does not meet the formal requirements as communicated to the Borrower Clearing Members by Eurex Clearing AG from time to time, Eurex Clearing AG will inform the Borrower Clearing Member (by way of a telephone call or email) of such deficiency and the Borrower Clearing Member shall, without undue delay, provide an updated Expected Outturn Statement in which such deficiencies have been corrected.

If the Borrower Clearing Member provides the Expected Outturn Statement (or, as relevant, updated Expected Outturn Statement) at or prior to the point in time set out in the second sub-paragraph of this Number 5.1, Eurex Clearing AG will attach such Expected Outturn Statement to the relevant report in accordance with Number 5.2. If the Borrower Clearing Member provides the Expected Outturn Statement (or, as relevant, updated Expected Outturn Statement) after the point in time set out in the second sub-paragraph of this Number 5.1, Eurex Clearing AG shall forward such Expected Outturn Statement (subject to anonymization of information in accordance with Number 16) to the DR Committee Members, provided that the DR Committee Members may, but are not obliged to, take such Expected Outturn Statement into account when providing their First Feedbacks and, as relevant, Final Feedbacks.

## **5.2 Submission of report to DR Committee Members**

No later than 10:00 hours on the second Business Day after the Dispute Resolution Procedure Commencement Date, Eurex Clearing AG will provide the DR Committee Members of the relevant DR Committee with a report (via email) containing the following information in respect of each Securities Lending Transaction to which the Dispute Resolution Procedure of such DR Committee relates:

- (i) Trade information such as ISIN of the Loan Securities, Novation Time, Value Date of the respective Securities Lending Transaction;
- (ii) Each Lender Election of the Lender Clearing Member in relation to the relevant Voluntary Reorganisation and the related Outturn Instruction(s) of the Lender Clearing Member;
- (iii) the applicable Eurex Clearing Deadline;
- (iv) all related rejection(s) and/or, if applicable, statement(s) of dispute of the relevant Borrower Clearing Member (including any reasons for such rejections or disputes stated by the Borrower Clearing Member).

Eurex Clearing AG will attach to such report the Expected Outturn Statement received from the Borrower Clearing Member in accordance with Number 5.1 or the relevant statement(s) submitted by the Borrower Clearing Member prior to the commencement of the Dispute Resolution Procedure (subject, in each case, to anonymization of information in accordance with Number 16). Eurex Clearing AG shall send a copy of the report to the relevant Lender Clearing Member and the relevant Borrower Clearing Member.

## **6 Investigation by DR Committee Members; Requests for Clarifications; First Feedback**

### **6.1 Investigation**

Each DR Committee Member shall, no longer than until the end of the fourth Business Day after the Dispute Resolution Procedure Commencement Date investigate the dispute in respect of the Voluntary Reorganisation on the basis of the information (including the report referred to in Number 5.2 and the attachments thereto) provided to it by Eurex Clearing AG as well as any specifications of the relevant Voluntary Reorganisation published or otherwise provided by or on behalf of the issuer of the Loaned Securities to which such Voluntary Reorganisation relates.

### **6.2 Clarification Requests**

Each DR Committee Member may, no later than 12:00 hours on the third Business Day after the Dispute Resolution Procedure Commencement Date, request clarifications of the information provided by Eurex Clearing AG by email to Eurex Clearing AG stating whether the Lender Clearing Member and/or the Borrower Clearing Member should provide such clarification(s). Eurex Clearing AG will forward such clarification requests by email to the Lender Clearing Member and the Borrower Clearing Member and send a copy to the other DR Committee Members of such DR Committee without undue delay. The Lender Clearing Member and/or the Borrower Clearing Member (as relevant) shall provide Eurex Clearing AG via email with such clarifications within 24 hours after Eurex Clearing AG has forwarded the relevant clarification request. Eurex Clearing AG will forward any clarification received by it to the DR Committee Members and the relevant counterparty of the Dispute Resolution Procedure by email and, if reasonably practicable, by telephone call.

All clarification requests and clarifications shall be subject to anonymization in accordance with Number 16.

### **6.3 Submission of First Feedback**

Each DR Committee Member shall take and submit to Eurex Clearing AG by email no later than at the end of the fourth Business Day after the Dispute Resolution Procedure Commencement Date, its first decision on the outcome of the Dispute Resolution Procedure (the "**First Feedback**"). The decision included in the First Feedback shall be taken by applying the DR Committee Member Standard of Care and may only be a confirmation of either (i) the final Outturn provided by the Lender Clearing Member or (ii) the expected Outturn stated by the Borrower Clearing Member in the Expected Outturn Statement (or, if the Borrower Clearing Member has not submitted an Expected Outturn Statement, in the last statement by the Borrower Clearing Member prior to the commencement of the Dispute Resolution Procedure setting out the expected Outturn). The email with the First Feedback shall also include a short reasoning of the decision set out in the First Feedback.

## **7 Consequences of First Feedbacks; Final Feedback**

### **7.1 Unanimous First Feedbacks**

If all First Feedbacks provide for the same decision, the First Feedbacks shall be considered final and binding and Eurex Clearing AG will, on the fifth Business Day after the Dispute Resolution Procedure Commencement Date, notify the Lender Clearing Member, the Borrower Clearing Member and the DR Committee Members via email of such outcome.

#### **7.1.1 Unanimous First Feedbacks in favour of Lender Clearing Member**

If the unanimous First Feedbacks provide for decisions in favour of the Outturn requested by the Lender Clearing Member, such Outturn shall be processed on the later of

- (i) the fifth Business Day after the Dispute Resolution Procedure Commencement Date; and
- (ii) the relevant Intended Settlement Date.

#### **7.1.2 Unanimous First Feedbacks in favour of Borrower Clearing Member**

If the unanimous First Feedbacks provide for decisions in favour of the Outturn requested by the Borrower Clearing Member, Eurex Clearing AG will, on the fifth Business Day after the Dispute Resolution Procedure Commencement Date, (a) cancel all Outturn Instructions provided by the Lender Clearing Member in respect of the Securities Lending Transaction(s) to which the Dispute Resolution Procedure relates, (b) reverse (to the extent that any Preliminary Outturn has already been processed) the relevant Preliminary Outturn and (c) create an Outturn instruction of the Borrower Clearing Member (reflecting the Outturn last requested by the Borrower Clearing Member (either prior to the Dispute Resolution Procedure or, in accordance with these Dispute Resolution Rules, during the Dispute Resolution Procedure)).

Such Outturn instruction of the Borrower Clearing Member shall be processed, on the later of

- (i) the fifth Business Day after the Dispute Resolution Procedure Commencement Date; and
- (ii) the relevant Intended Settlement Date.

#### **7.1.3 Information to Lender Clearing Member, Borrower Clearing Member and CR Committee Members; Completion of Dispute Resolution Procedure**

Eurex Clearing AG shall, after the relevant action pursuant to Number 7.1.1 or Number 7.1.2 has been taken, notify the Lender Clearing Member, the Borrower Clearing Member and each CR Committee Member of the CR Committee by email of the result of the Final Feedbacks (including the reasoning provided to it) and, upon submission of such notifications, the Dispute Resolution Procedure shall be completed.

## 7.2 Non-unanimous First Feedbacks

If the three First Feedbacks from the DR Committee Members do not provide for the same decision, Eurex Clearing AG will, on the fifth Business Day after the Dispute Resolution Procedure Commencement Date, forward (subject to anonymization in accordance with Number 16) the First Feedback of each DR Committee Member to each other DR Committee Member of the DR Committee.

Each DR Committee Member may then reconsider its decision until the end of the sixth Business Day after the Dispute Resolution Procedure Commencement Date. For purposes of such reconsideration a DR Committee Member may submit clarification requests to Eurex Clearing AG relating to the reasoning of the relevant other DR Committee Member(s). Number 6.2 shall apply *mutatis mutandis* to such clarification requests, provided that the relevant other DR Committee Member(s) shall provide Eurex Clearing AG with the requested clarifications in a timely manner allowing the requesting DR Committee Member to complete its reconsideration within the timeframe set out in the first sentence of this sub-paragraph.

## 7.3 Submission of Final Feedback

If the three First Feedbacks from the DR Committee Members have not provided for the same decision, each DR Committee Member shall take, and submit to Eurex Clearing AG by email no later than at the end of the sixth Business Day after the Dispute Resolution Procedure Commencement Date, its final decision on the outcome of the Dispute Resolution Procedure (the "**Final Feedback**"). The decision included in the Final Feedback shall also be taken by applying the DR Committee Member Standard of Care and may only be a confirmation of either (i) the final Outturn provided by the Lender Clearing Member or (ii) the expected Outturn stated by the Borrower Clearing Member in the Expected Outturn Statement (or, if the Borrower Clearing Member has not submitted an Expected Outturn Statement, in the last statement by the Borrower Clearing Member prior to the commencement of the Dispute Resolution Procedure setting out the expected Outturn). The email with the Final Feedback shall also include a short reasoning of the decision set out in the Final Feedback (which reasoning may be identical to the reasoning underlying the First Feedback).

## 8 Implementation of Final Feedbacks

### 8.1 Majority in favour of Lender Clearing Member

If the majority of the Final Feedbacks provides for a decision in favour of the Outturn requested by the Lender Clearing Member, such Outturn shall be processed on the later of

- (i) the seventh Business Day after the Dispute Resolution Procedure Commencement Date; and
- (ii) the relevant Intended Settlement Date.

### 8.2 Majority in favour of Borrower Clearing Member

If the majority of the Final Feedbacks provides for decisions in favour of the Outturn requested by the Borrower Clearing Member, Eurex Clearing AG will, on the seventh Business Day after the Dispute Resolution Procedure Commencement Date, (a) cancel all

Outturn Instructions provided by the Lender Clearing Member in respect of the Securities Lending Transaction(s) to which the Dispute Resolution Procedure relates, (b) reverse (to the extent that any Preliminary Outturn has already been processed) the Preliminary Outturn and (c) create an Outturn instruction of the Borrower Clearing Member (reflecting the Outturn last requested by the Borrower Clearing Member (either prior to the Dispute Resolution Procedure or, in accordance with these Dispute Resolution Rules, during the Dispute Resolution Procedure));

The Outturn set out in such Outturn instruction of the Borrower Clearing Member shall be processed, on the later of

- (i) the seventh Business Day after the Dispute Resolution Procedure Commencement Date; and
- (ii) the relevant Intended Settlement Date.

**8.3 Information to Lender Clearing Member, Borrower Clearing Member and CR Committee Members; Completion of Dispute Resolution Procedure**

Eurex Clearing AG shall, after the relevant action pursuant to Number 8.1 or Number 8.2 has been taken, notify the Lender Clearing Member, the Borrower Clearing Member and each CR Committee Member of the CR Committee by email of the result of the Final Feedbacks (including the reasoning provided to it) and, upon submission of such notifications, the Dispute Resolution Procedure shall be completed.

**9 Acceptance by Borrower Clearing Member or Withdrawal by Lender Clearing Member during Dispute Resolution Procedure**

**9.1** The Borrower Clearing Member may, at any time during the Dispute Resolution Procedure, accept, through the VCA Input System, any (updated) Outturn Instruction of the Lender Clearing Member. Eurex Clearing AG will forward such acceptance to the Lender Clearing Member (upon which the Dispute Resolution Procedure shall be completed) and inform (subject to anonymization in accordance with Number 16) the DR Committee Members of the DR Committee of such acceptance and the Outturn set out in the Outturn Instruction of the Lender Clearing Member shall be processed on the later of (i) the first Business Day after such acceptance and (ii) the applicable Intended Settlement Date.

**9.2** The Lender Clearing Member may, at any time during the Dispute Resolution Procedure, but no later than by the Update Deadline, withdraw its Outturn Instruction through the VCA Input System. Eurex Clearing AG will forward such withdrawal to the Borrower Clearing Member (upon which the Dispute Resolution Procedure shall be completed) and inform (subject to anonymization in accordance with Number 16) the DR Committee Members of the DR Committee of such withdrawal. Upon such withdrawal, the Outturn Instruction will cease to exist and no Outturn will be processed.

**10 Dispute Resolution Procedure in the absence of a DR Committee Panel**

If a Dispute Resolution Procedure has commenced, but, due to the lack of a valid DR Committee Panel, no DR Committee can be established for such Dispute Resolution Procedure, Eurex Clearing AG may, in its discretion, on the first Business Day after the

occurrence of the relevant Dispute Resolution Procedure Commencement Date decide to either (a) appoint a central securities depository to determine, or (b) itself determine, the Outturn in respect of such Dispute Resolution Procedure. Eurex Clearing AG shall notify the Lender Clearing Member and the Borrower Clearing Member of such decision. Following such notification, the provisions of Numbers 4.1, 5 to 7 and 9 shall apply *mutatis mutandis* as if the central securities depository (that has been appointed pursuant to lit. (a) and has accepted such appointment) or Eurex Clearing AG, respectively, constituted the DR Committee of such Dispute Resolution Procedure, except that an Outturn shall already be processed on the basis of the First Feedback and the provisions on the Final Feedback shall not apply.

### **Part 3 Ad hoc Verification Procedures**

#### **4011 Establishment of Ad hoc Verification Committees**

##### **40-411.1 General**

Eurex Clearing AG will, if an Ad hoc Verification Procedure is commenced in accordance with Chapter IX Part 2 Number 2.7.4 of the Clearing Conditions, establish a committee that will, on an ad hoc basis, either (i) if no Dispute Resolution Procedure has been commenced in respect of a Loaned Security and the related Voluntary Reorganisation, verify the relevant Lender Election and Outturn Instruction provided by the Lender Clearing Member or (ii) if a Dispute Resolution Procedure has already been commenced in respect of a Loaned Security and the related Voluntary Reorganisation, decide on the relevant dispute between the Lender Clearing Member and the Borrower Clearing Member on the taking of action in connection with such Voluntary Reorganisation, in each case as further set out in these Dispute Resolution Rules (each, an "**Ad hoc Verification Committee**").

Such Ad hoc Verification Committee will be established pursuant to Number 11.2 on the Termination Date that has occurred with respect to the Borrower Clearing Member.

For each Ad hoc Verification Procedure, a separate Ad hoc Verification Committee will be established, provided that, if a Voluntary Reorganisation relates to Underlying Securities of the same ISIN, but to more than one Securities Lending Transaction between such Lender Clearing Member and Eurex Clearing Borrower, the same Ad hoc Verification Committee shall decide with respect to all such Securities Lending Transactions in one and the same Ad hoc Verification Procedure.

An Ad hoc Verification Committee shall not constitute an association (*keine Gesellschaft*) and not qualify as an arbitration tribunal (*kein Schiedsgericht*). Instead, the decisions of Ad hoc Verification Committees shall constitute expert decisions that shall be binding as third party determinations within the meaning of Section 317 of the German Civil Code (*Bürgerliches Gesetzbuch*), subject to the provisions of these Dispute Resolution Rules. Ad hoc Verification Committee Members shall (in such capacity) only have the obligations set out in these Dispute Resolution Rules and the DR Committee Participation Agreement (as defined below), but shall, in particular, not have any further advisory obligations.



**10-211.2** Establishment of Ad hoc Verification Committees

On the relevant Termination Date Eurex Clearing AG will select, on a random basis, three DR Committee Panel Participants that are not Affiliates of the Lender Clearing Member (or of any Agent Lender acting for such Lender Clearing Member) or the Borrower Clearing Member of the relevant Securities Lending Transactions to which the Ad hoc Verification Procedure relates and will separately notify each such DR Committee Panel Participant of such selection by email and by way of a telephone call, provided that, if, prior to such time, a Dispute Resolution Procedure has already been commenced, and a DR Committee has been established, in relation to the relevant Loaned Security and the related Voluntary Reorganisation, such DR Committee shall be converted into an Ad hoc Verification Committee and Eurex Clearing AG will notify the relevant DR Committee Members accordingly and each of them shall then be an "**Ad hoc Verification Committee Member**" of such Ad hoc Verification Committee.

Without prejudice to Number 2.3, each DR Committee Panel Participant so selected shall (unless such DR Committee Panel Participant is a DR Committee Member of the DR Committee that is converted into an Ad hoc Verification Committee) confirm such selection by way of an email to Eurex Clearing AG (to an email address provided by Eurex Clearing AG to the DR Committee Panel Participants) on the same Business Day. The establishment of the relevant Ad hoc Verification Committee shall be completed if Eurex Clearing AG has received such confirmations from all selected DR Committee Panel Participants. Each such selected DR Committee Panel Participant shall then be an "**Ad hoc Verification Committee Member**" of such Ad hoc Verification Committee.

If an Ad hoc Verification Committee Member fails to comply with its obligations as an Ad hoc Verification Committee Member, Eurex Clearing AG may remove such Ad hoc Verification Committee Member from the relevant Ad hoc Verification Committee with immediate effect and may select another DR Committee Panel Participant as a replacement Ad hoc Verification Committee Member for such Ad hoc Verification Committee in accordance with this Number 11.2. An Ad hoc Verification Committee Member that is so removed from an Ad hoc Verification Committee shall not be entitled to receive a DR Committee Member Fee and shall have no other claims with respect to such Ad hoc Verification Committee.

**4412** Information to Ad hoc Verification Committee Members

Eurex Clearing AG will, as soon as reasonably possible, provide each Ad hoc Verification Committee Member with the following information (unless such information has already been made available to such Ad hoc Verification Committee Member in its capacity as a DR Committee Member) in respect of each Securities Lending Transaction to which the Ad hoc Verification Procedure of such Ad hoc Verification Committee relates:

- (i) The (if applicable, updated) Outturn Instruction of the Lender Clearing Member in relation to the relevant Voluntary Reorganisation;
- (ii) any related rejection(s) and/or, if applicable, statement(s) of dispute in the Expected Outturn Statement of the relevant Borrower Clearing Member (including any reasons for such rejections or disputes stated by the Borrower Clearing Member),

subject, in each case, to anonymization of information in accordance with Number 16. Eurex Clearing AG shall send a copy of such information to the relevant Lender Clearing Member.

## **12.13 Clarifications; Decisions by Ad hoc Verification Committee Members**

### **~~12.13.1~~ Clarifications**

Each Ad hoc Verification Committee Member may, prior to the point in time by which the Verification Decision shall be submitted to Eurex Clearing AG in accordance with Number 13.2, request, by email to Eurex Clearing AG, clarifications from the Lender Clearing Member of the information provided by Eurex Clearing AG. Eurex Clearing AG will forward such clarification requests by email to the Lender Clearing Member and send a copy to the other Ad hoc Verification Committee Members of such Ad hoc Verification Committee without undue delay. The Lender Clearing Member shall provide Eurex Clearing AG via email with such clarifications in a timely manner to allow the Ad hoc Verification Committee Members to submit their Verification Decisions by the time set out in Number 13.2. Eurex Clearing AG will forward any clarification received by it to the Ad hoc Verification Committee Members by email and, if reasonably practicable, by telephone call.

All clarification requests and clarifications shall be subject to anonymization in accordance with Number 16.

### **~~12.213.2~~ Submission of Verification Decisions**

Each Ad hoc Verification Committee Member shall take, and submit to Eurex Clearing AG by email no later than 14:00 hours on the Business Day immediately following the day on which Eurex Clearing AG has provided the information pursuant to Number 12, a decision on the outcome of the Ad hoc Verification Procedure (the "**Verification Decision**") in accordance with Numbers 13.3 and 13.4, respectively. The Verification Decision shall be taken by applying the DR Committee Member Standard of Care. The email in which the Verification Decision is submitted shall include a short reasoning for the Verification Decision.

### **~~12.313.3~~ Verification Decision without preceding Dispute Resolution Procedure**

If the Ad hoc Verification Procedure has not been preceded by a Dispute Resolution Procedure on the same matter, the Verification Decision may only be either a confirmation or a rejection of the Outturn provided by the Lender Clearing Member in its (updated) Outturn Instruction.

### **~~12.413.4~~ Verification Decision with preceding Dispute Resolution Procedure**

If the Ad hoc Verification Procedure has been preceded by a Dispute Resolution Procedure on the same matter, the Verification Decision may only be a confirmation of either (i) the Outturn provided by the Lender Clearing Member in its (latest) Outturn Instruction or (ii) the expected Outturn stated by the Borrower Clearing Member in the Expected Outturn Statement (or, if the Borrower Clearing Member has not submitted an Expected Outturn Statement, in the last statement by the Borrower Clearing Member prior to the commencement of the Dispute Resolution Procedure setting out the expected Outturn).

## **13.14 Consequences of Verification Decisions**

### **13.14.1** Majority in favour of Lender Clearing Member

If the majority of the Verification Decisions provides for a decision in favour of the Outturn requested by the Lender Clearing Member, such Outturn shall be processed with respect to the relevant Securities Lending Transaction(s) between the Lender Clearing Member and Eurex Clearing Borrower at the beginning of business on the second Business Day following the day on which Eurex Clearing AG has provided the information pursuant to Number 12.

### **13.14.2** Majority not in favour of Lender Clearing Member (after preceding Dispute Resolution Procedure)

If the majority of the Verification Decisions does not provide for a decision in favour of the Outturn requested by the Lender Clearing Member and the Ad hoc Verification Procedure was preceded by a Dispute Resolution Procedure on the same matter, (a) all Outturn Instructions provided by the Lender Clearing Member in respect of the Securities Lending Transaction(s) to which the Ad hoc Verification Procedure relates shall be cancelled and (b) the Outturn last requested by the Borrower Clearing Member (either prior to the Dispute Resolution Procedure or, in accordance with these Dispute Resolution Rules, during the Dispute Resolution Procedure), shall be processed between the Lender Clearing Member and Eurex Clearing Borrower at the beginning of business on the second Business Day following the day on which Eurex Clearing AG has provided the information pursuant to Number 12.

### **13.14.3** Majority not in favour of Lender Clearing Member (without preceding Dispute Resolution Procedure)

If the majority of the Verification Decisions does not provide for a decision in favour of the Outturn requested by the Lender Clearing Member and the Ad hoc Verification Procedure was not preceded by a Dispute Resolution Procedure on the same matter, the following shall apply:

- (i) Eurex Clearing AG shall, no later than 15:00 hours on the Business Day immediately following the day on which Eurex Clearing AG has provided the information pursuant to Number 12, inform the Lender Clearing Member (subject to anonymization of information in accordance with Number 16) of such Verification Decisions (including the reasoning provided by each Ad hoc Verification Committee Member).
- (ii) (a) All Outturn Instructions provided by the Lender Clearing Member in respect of the Securities Lending Transaction(s) to which the Ad hoc Verification Procedure relates shall be cancelled and cease to exist (and, accordingly, no Outturn shall be processed) and (b) Eurex Clearing Borrower shall be entitled to exercise its right (pursuant to Number 2.2.2 Paragraph (2) and Number 2.7.3 Paragraph (2) of the Clearing Conditions; if the Securities Lending Transaction is a Fixed Term Loan, such provisions shall be applied *mutatis mutandis*) to return all Equivalent Loan Securities to which the relevant Securities Lending Transaction relates (including, as applicable, its right to discharge its obligation to return the Equivalent Loan Securities by payment of a cash amount in accordance with Number 2.7.3 Paragraph (2) of the Clearing Conditions).

**13-414.4** Information to Lender Clearing Member and Ad hoc Verification Committee Members; Completion of Ad hoc Verification Procedure

Eurex Clearing AG shall, after the relevant action pursuant to Number 14.1, 14.2 or 14.3, respectively, has been taken, notify the Lender Clearing Member and each Ad hoc Verification Committee Member of the Ad hoc Verification Committee by email of the relevant result and, upon submission of such notifications, the Ad hoc Verification Procedure shall be completed.

**15 Ad hoc Verification Procedure in the absence of a DR Committee Panel**

If an Ad hoc Verification Procedure has commenced, but, due to the lack of a valid DR Committee Panel, no Ad hoc Verification Committee can be established for such Ad hoc Verification Procedure, Eurex Clearing AG may, in its discretion, on the Termination Date that has occurred with respect to the Borrower Clearing Member decide to either (a) appoint a central securities depository to make the determinations, or (b) itself make the determinations, in respect of such Ad hoc Verification Procedure. Eurex Clearing AG shall notify the Lender Clearing Member and the Borrower Clearing Member of such decision. Following such notification, the provisions of Numbers 11 to 14 shall apply *mutatis mutandis* as if the central securities depository (that has been appointed pursuant to lit. (a) and has accepted such appointment) or Eurex Clearing AG, respectively, constituted the Ad hoc Verification Committee of such Ad hoc Verification Procedure.

**Part 4: Miscellaneous Provisions****1416 Anonymity**

Eurex Clearing AG will not disclose the identity of any DR Committee Member or of any Ad hoc Verification Committee Member to any other DR Committee Member or Ad hoc Verification Committee Member, and no DR Committee Panel Participant shall disclose its selection as a DR Committee Member of any DR Committee or its selection as an Ad hoc Verification Committee Member of any Ad hoc Verification Committee to any other DR Committee Member, any other Ad hoc Verification Committee Member or any other person or entity (including any Lender Clearing Member or Borrower Clearing Member and any Agent Lender). In addition, the identity of the Lender Clearing Member and/or the Borrower Clearing Member or Agent Lender of the relevant Securities Lending Transaction(s) to which the Dispute Resolution Procedure relates will not be disclosed by Eurex Clearing AG to any DR Committee Panel Participant, any DR Committee Member, any Ad hoc Verification Committee Member or any other person or entity (in each case other than Deutsche Börse AG).

**1517 Service Fee; Fees payable to DR Committee Members and Ad hoc Verification Committee Members****15-17.1** Service Fee

The Lender Clearing Member or the Borrower Clearing Member whose Outturn Instruction or requested Outturn, as applicable, has been overruled in the Dispute Resolution Procedure

in accordance with these Dispute Resolution Rules shall be obliged to pay a service fee to Eurex Clearing AG.

If an Ad hoc Verification Procedure has been conducted, the service fee will always be borne by Eurex Clearing AG.

The applicable service fee (the "**Service Fee**") will be a fixed fee as published in the Price List for Eurex Clearing AG applicable from time to time.

If, during a Dispute Resolution Procedure,

- (i) the Borrower Clearing Member has accepted an Outturn Instruction of the Lender Clearing Member in accordance with Number 9.1, the Service Fee will be payable by the Borrower Clearing Member,
- (ii) the Lender Clearing Member has withdrawn an Outturn Instruction in accordance with Number 9.2, the Service Fee will be payable by the Lender Clearing Member,

provided that such Service Fee will be a reduced fee (as notified by Eurex Clearing AG) the determination of which will reflect the early termination of the Dispute Resolution Procedure.

**15.217.2** Fees payable to DR Committee Members and Ad hoc Verification Committee Members

Each DR Committee Member participating in the Dispute Resolution Procedure in respect of which the DR Committee has been established and each Ad hoc Verification Committee Member participating in the Ad hoc Verification Procedure in respect of which the Ad hoc Verification Committee has been established will receive, as remuneration for its services rendered in connection with such participation, a fee equal to 20 % of the applicable Service Fee (as may be reduced pursuant to Number 17.1) (the "**DR Committee Member Fee**"). If an Ad hoc Verification Procedure was preceded by a Dispute Resolution Procedure on the same matter and an Ad hoc Verification Committee Member also acted as a DR Committee Member in the relevant DR Committee, the DR Committee Member Fee shall only be payable in respect of the participation in the Ad hoc Verification Committee.

Other than the payment of the DR Committee Member Fee, DR Committee Members and Ad hoc Verification Committee Members shall not have any claims for the payment of any remuneration, indemnification or reimbursement of costs and expenses against Eurex Clearing AG, the Lender Clearing Member or the Borrower Clearing Member.

Without prejudice to its entitlement as a DR Committee Member or an Ad hoc Verification Committee Member (if applicable) for the payment of a DR Committee Member Fee, a DR Committee Panel Participant shall not have any claims against Eurex Clearing AG, any Lender Clearing Member or any Borrower Clearing Member for the payment of any fee, remuneration, indemnification or reimbursement of costs and expenses in relation to its participation in the DR Committee Panel.

## **1618 Further obligations of DR Committee Panel Participants**

### **16.118.1 Information obligations**

Each DR Committee Panel Participant shall inform Eurex Clearing AG without undue delay (i) if it becomes aware that it no longer qualifies as an Eligible DR Participating Institution and (ii) if it merges with any other DR Committee Panel Participant or will otherwise cease to exist.

### **16.218.2 Compliance with applicable laws**

Each DR Committee Panel Participant, each DR Committee Member and each Ad hoc Verification Committee Member shall comply with all applicable laws and regulations (including, without limitation, laws and regulations relating to insider information and insider trading) and shall ensure that each of its directors, officers, employees and other persons acting for it in connection with these Dispute Resolution Rules also complies with all such applicable laws and regulations.

## **1719 Confidentiality**

None of the DR Committee Panel Participants, DR Committee Members or Ad hoc Verification Committee Members shall disclose any information (other than information that is or becomes public information other than as a result of a direct or indirect breach by the relevant DR Committee Panel Participant, DR Committee Member or Ad hoc Verification Committee Member of the confidentiality obligation in this Number 19), which it has acquired in connection with a Dispute Resolution Procedure or an Ad hoc Verification Procedure, to any person except:

- (i) if required by applicable law, regulation, binding court order or any competent supervisory authority;
- (ii) to its officers, employees or agents; or
- (iii) to its auditors or legal or other professional advisors.

## **1820 Communications**

Unless otherwise provided for in these Dispute Resolution Rules, any communication hereunder shall be made via email.

Any statement, notice or other declaration received by Eurex Clearing AG from, or submitted to, a Contact Person or Back-up Contact Person shall, until a change of such Contact Person or such Back-up Contact Person has become effective in accordance with Number 3.1, be binding on the relevant DR Committee Panel Participant (including in its capacity as a DR Committee Member or an Ad hoc Verification Committee Member), provided that Eurex Clearing AG may, but is not obliged to, (a) rely on any statement, notice or other declaration made on behalf of such DR Committee Panel Participant by any other duly authorised representative thereof and (b) direct any statement, notice or other declaration to any other duly authorised representative of such DR Committee Panel Participant.

## **19.21 Governing Law; Place of Jurisdiction; Binding Version**

**19.421.1** Unless provided otherwise, the rights and obligations arising out of, and in connection with, these Dispute Resolution Rules shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

**19.221.2** Any non-contractual rights and obligations arising out of, and in connection with, these Dispute Resolution Rules shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

**19.321.3** Exclusive place of jurisdiction for all disputes arising out of, or in connection with, these Dispute Resolution Rules is Frankfurt am Main.

**19.421.4** Only the German version of these Dispute Resolution Rules is legally binding.

## **20.22 Amendments**

**20.422.1** Eurex Clearing AG reserves the right to amend the Dispute Resolution Rules in accordance with Chapter I Part 1 Number 17.2 of the Clearing Conditions; any amendments to these Dispute Resolution Rules shall be published in accordance with Chapter I Part 1 Number 16.1 of the Clearing Conditions and shall be effective vis-à-vis all entities that are party to any Clearing Agreement.

The current valid version of the Dispute Resolution Rules that is binding on all entities that are party to any Clearing Agreement is available via the internet ([www.eurexclearing.com](http://www.eurexclearing.com)).

**20.222.2** Amendments to the Dispute Resolution Rules shall be binding on any DR Committee Panel Participant that is not a party to any Clearing Agreement if so agreed in writing between Eurex Clearing AG and such DR Committee Panel Participant.

\*\*\*\*\*

**AMENDMENTS ARE MARKED AS FOLLOWS:  
INSERTIONS ARE UNDERLINED  
DELETIONS ARE CROSSED OUT**

\*\*\*\*\*



Chapter I of the Clearing Conditions of Eurex Clearing AG

# General Provisions

As of ~~0327.0406~~.2017

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## **Part 1    General Clearing Provisions**

### **1            General Rules**

[...]

### **1.4         Settlement of Transactions**

[...]

#### **1.4.2      Settlement of Transactions in Securities**

[...]

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

[...]

Chapter IX of the Clearing Conditions of Eurex Clearing AG

# Clearing of Securities Lending Transactions

As of ~~0327.0406~~.2017

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## Part 1 General Provisions

[...]

(6) A Lender Clearing Member (other than a holder of a Specific Lender License) may, by way of an election in the relevant Loan Information (as defined in Number 1.2.2 Paragraph (3)), with respect to each individual Securities Lending Transaction, elect that;

[...]

### 1.1 -Clearing License

[...]

#### 1.1.2 Prerequisites of Clearing Licenses

[...]

(2) The applicant shall provide evidence for the compliance with the following requirements (as applicable to the respective content of the Clearing License):

(a) a CBF(I) account with Clearstream Banking AG ("**CBF**"), and accounts with

[...]

– Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V. (NECIGEF) (**Euroclear Nederland**), and/or

– Euroclear UK & Ireland Limited ("**EUI**")

[...]

(b) (i) cash accounts required pursuant to Chapter I Part 1 Number 2.1.2 Paragraph (4) (b) for cash payments in EUR, CHF and GBP, -provided that for cash payments in CHF and/or GBP (except for payments in GBP to be made to or received from Eurex Clearing AG in respect of Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location), which are not made in respect of Margin, the applicant may alternatively use a multicurrency cash account with

[...]

#### 1.1.3 Specific Lender License

[...]

(5) The prerequisites to be fulfilled for the granting of the Specific Lender License are the following:

[...]

(e) a CBF(l) account with Clearstream Banking AG (“**CBF**”), and accounts with

[...]

– Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V. (NECIGEF) (Euroclear Nederland), and/or

– EUI

[...]

(f) the applicant has authorised Eurex Clearing AG, by providing the appropriate power of attorney, to give, release and transmit all delivery instructions in its name vis-à-vis the respective settlement location recognised by Eurex Clearing AG and to supplement, change or cancel delivery instructions as may be necessary for the timely and correct fulfilment of its delivery and payment obligations vis-à-vis Eurex Clearing AG (provided that no such authorisation is required with respect to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location);

[...]

## **1.2 Conclusion of Transactions**

[...]

### **1.2.1 Novation**

[...]

(2) If provided for by the rules of the relevant Third Party Flow Provider, Eurex Clearing AG may accept for inclusion in the Clearing lending transactions which have been disbursed and collateralised between the Lender Clearing Member and the Borrower Clearing Member in full or in part (except for lending transactions that relate to securities for which EUI acts as the settlement location) prior to the inclusion into the Clearing (the “**Settled Original Securities Lending Transactions**”). If the Settled Original Securities Lending Transaction is accepted for inclusion in the Clearing, Eurex Clearing AG conducts the novation in accordance with Paragraph (1) above, provided that the effectiveness of the novation pursuant to this Paragraph (2) shall be subject to the condition precedent that Eurex Clearing AG has received the required Principal Collateral pursuant to Number 2.3.4 from the Borrower Clearing Member in full.

[...]

### **1.2.2 Novation Principles and Criteria**

[...]

- (3) The Securities Lending Transactions resulting from the novation shall be established with the agreed terms (including, without limitation, the loan quantity, the Value Date, whether the Securities Lending Transaction is an Open Term Loan or a Fixed Term Loan, the Underlying Securities or, in the case of Loaned Assets in the form of cash, their underlying currency, the lending rate, the rebate and the manufactured payment rate) set out in the respective loan information received by Eurex Clearing AG from the relevant Clearing Members via the Third Party Flow Provider (such information, as amended from time to time and accepted by Eurex Clearing AG, the "**Loan Information**"). To the extent the rules of the Third Party Flow Provider so provide, the relevant Clearing Members may, during the term of Securities Lending Transactions, at any time agree on an amendment of the Loan Information (including the reduction or the extension of the term of a Fixed Term Loan). The relevant Securities Lending Transactions shall be amended accordingly, provided that Eurex Clearing AG is entitled to reject such amendment. The provisions on Returns or Recalls (as defined in Number 2.2.2 Paragraph (2) and (3), respectively) shall remain unaffected.

[...]

### 1.3 Margin Requirement

- (1) The Borrower Clearing Member, and, unless and to the extent Number 2.1.5 Paragraphs (2) or (5) apply, the Lender Clearing Member, are subject to an own margin requirement (as set out in Chapter I Part 1 Number 3 together with Part 2 Number 6).

[...]

### 1.4 Set-Off

- (1) A set-off in relation to the following claims is excluded:

[...]

- (c) cash claims pursuant to Number 2.6.4 Paragraphs (7), (8), (9) ~~and or (10)~~, and Number 2.6.5 Paragraph (2) and Number 2.6.6 Paragraphs (4), (5), (6) or (7), provided that a cash claim pursuant to Number 2.6.4 Paragraphs (7), (8), (9) ~~and or (10)~~ or pursuant to Number 2.6.6 Paragraphs (4), (5), (6) or (7) may be set off with a cash claim pursuant to Number 2.6.5 Paragraph (2).

[...]

### 1.8 Priority of Clearing Conditions over conflicting Rules or Records of Settlement Locations; Reimbursement Obligation

Each of the Lender Clearing Member and the Borrower Clearing Member agrees that, unless otherwise provided in this Chapter IX, (i) the delivery and payment obligations arising under the Clearing Conditions shall prevail over all conflicting provisions or records of any settlement location, (ii) the contents of all Securities Lending Transactions

to which Eurex Clearing AG is a party shall solely be determined pursuant to the Clearing Conditions and (iii) if and as soon as the Lender Clearing Member or the Borrower Clearing Member becomes aware that the records of any settlement location on the contents (including, without limitation, any Outturn (as defined in Number 2.4.2 Paragraph (1) (as applicable, in conjunction with Number 2.4.2 Paragraph (2))) of any Securities Lending Transaction deviate from the contents of a Securities Lending Transaction following from the application of the Clearing Conditions, it shall promptly notify Eurex Clearing AG thereof and shall take all actions (including, without limitation, provide all instructions to such settlement location) that are required to ensure that the records of such settlement location match the contents of the relevant Securities Lending Transaction resulting from the application of the Clearing Conditions.

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If a Clearing Member obtains any payment or securities in respect of a Securities Lending Transaction pursuant to the rules of any settlement location to which such Clearing Member is not entitled to pursuant to the Clearing Conditions, it shall promptly reimburse Eurex Clearing AG for any such payments or deliveries.

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## Part 2 Terms and Conditions of Securities Lending Transactions

[...]

### 2.1 General Provisions of Securities Lending Transactions

[...]

#### 2.1.2 Eligible Principal Collateral Assets and Redelivery Claim

(1) Principal Collateral to be provided by the Borrower Clearing Member of Eurex Clearing Borrower may be in the form of financial instruments (the **“Non-Cash Principal Collateral”** and the respective financial instrument(s) generally, the **“Principal Collateral Underlying Security”** or **“Principal Collateral Underlying Securities”**, respectively) or, only in the case of Securities Loans, in the form of cash in a specific currency (the **“Cash Principal Collateral”**), as accepted by Eurex Clearing AG. The currency of the relevant Principal Collateral is herein referred to as the **“Principal Collateral Currency”**. The Principal Collateral provided by Eurex Clearing Borrower to the Lender Clearing Member under a Securities Lending Transaction shall always be equivalent to the Principal Collateral received by Eurex Clearing Lender from the Borrower Clearing Member under the related Securities Lending Transaction.

[...]

(3) Unless Number 2.1.5 Paragraph (2) applies, the purpose of the delivery of Principal Collateral is to ~~secure~~ cover the claim for (i) delivery of Equivalent Loaned Assets on the Maturity Date (including in the case of a transformed Securities Lending Transaction pursuant to Number 2.7.4 Paragraph (1) (c)) or (ii) payment of the applicable cash amount in the event of a cash settlement pursuant to Number 2.4.1 Paragraph (2) (c) and (d) (ii), Number 2.4.2 Paragraph (1) (a), Number 2.4.5, Number 2.6.4 Paragraph (8), (9) and (10) as well as Number 2.7.2 Paragraph (4) (b) and (c), Number 2.7.3 Paragraph (2) and Number 2.7.4 Paragraph (1) (c) (iii). For the avoidance of doubt, in respect of a Securities Lending Transaction relating to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, Principal Collateral shall not cover any claims of the Lender Clearing Member against Eurex Clearing Borrower and Eurex Clearing Lender against the Borrower Clearing Member, that, in each case, result from any Securities Distribution.

[...]

#### 2.1.5 Provision of Principal Collateral, Equivalent Principal Collateral and Pledge-Back Principal Collateral

[...]



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(2) [...]

The purpose of any such pledge is to secure Eurex Clearing Borrower's obligation (i) to deliver the Equivalent Loaned Assets on the Maturity Date (including in the case of a transformed Securities Lending Transaction pursuant to Number 2.7.4 Paragraph (1) (c)) or (ii) to pay the applicable cash amount in the event of a cash settlement pursuant to Number 2.4.1 Paragraph (2) (c) and (d) (ii), Number 2.4.2 Paragraph (1) (a), Number 2.4.5, Number 2.6.4 Paragraph (8), (9) and (10) as well as Number 2.7.2 Paragraph (4) (b) and (c), Number 2.7.3 Paragraph (2) and Number 2.7.4 Paragraph (1) (c) (iii), in each case with regard to the specific Securities Lending Transaction only. The pledge will not secure a Difference Claim of a Clearing Member against Eurex Clearing AG upon the occurrence of a Termination with respect to the Clearing Member or a difference claim of the Clearing Member against Eurex Clearing AG in the event of a close-out with respect to Eurex Clearing AG pursuant to Chapter I Part 1 Number 9. For the avoidance of doubt, in respect of a Securities Lending Transaction relating to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, the pledge shall not secure any obligations of Eurex Clearing Borrower in respect of any Securities Distribution.

[...]

## 2.1.6 Settlement

[...]

(6) The term “**actually delivered**” or “**actually deliver**” when used in this Chapter IX shall be interpreted as to refer to the following point in time:

[...]

(e) with respect to the delivery of Pledge-Back Principal Collateral by the SLLH (Title Transfer/Pledge) by way of a pledge pursuant to Number 2.1.5 Paragraph (5): the point in time on a Business Day immediately after the credit to the relevant securities account (that is used for the granting of such pledge) held with such Tri-Party Collateral Agent; or

(f) with respect to the delivery of securities to Eurex Clearing Lender in any of the circumstances set out in Number 2.4.1 Paragraph (3), Number 2.4.2 Paragraph (3) or (4), the point in time on a Business Day immediately after notification by the respective settlement location of the credit to the relevant Eurex Clearing AG securities account; or

(g) in all other cases with respect to deliveries by Eurex Clearing AG to Clearing Members, the actual credit of the relevant Underlying Asset or Eligible Principal Collateral Asset to the securities or cash account of the relevant Clearing Member.

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### 2.1.7 Currency Conversions

For the purpose of determining any prices, sums or values (including Market Value and Required Collateral Value (as defined in Number 2.3.2 below)) on any Business Day, prices, sums or values stated in currencies other than the currency for the Securities Lending Transaction specified in the Loan Information (the “**Transaction Currency**”) or the Principal Collateral Currency or any other relevant currency, as applicable, ~~shall~~ may, if reasonably required, be converted by Eurex Clearing AG (i) into the Transaction Currency on the basis of the exchange rate published by Eurex Clearing AG as of the previous Business Day, or (ii) into the Principal Collateral Currency or such other relevant currency, as applicable, on the basis of the current exchange rates published by Eurex Clearing AG.

### 2.1.8 Tax

[...]

#### (5) Transaction Tax

If the Lender Clearing Member or Eurex Clearing ~~Lender-AG~~ is required to pay any amount on account of any Transaction Tax (other than any Transaction Tax that would not be chargeable but for the Lender Clearing Member’s or, as applicable, Eurex Clearing ~~AG~~Lender’s, failure to comply with its obligations under the Clearing Agreement) chargeable in connection with any Securities Lending Transaction, the Lender Clearing Member shall notify Eurex Clearing ~~Borrower-AG~~, and, as applicable, Eurex Clearing ~~Lender-AG~~ shall notify the Borrower Clearing Member of such payment requirement. Upon receipt of ~~such the relevant~~ notification, Eurex Clearing ~~Borrower-AG~~ shall pay to the Lender Clearing Member or, as applicable, the Borrower Clearing Member shall pay to Eurex Clearing ~~Lender-AG~~ an amount equal to such amount payable by the Lender Clearing Member or Eurex Clearing ~~Lender-AG~~, as the case may be. If Eurex Clearing Borrower receives any such notification from the Lender Clearing Member, it shall forward such notification to the Borrower Clearing Member and the Borrower Clearing Member shall, upon receipt of such notification, pay to Eurex Clearing Lender an amount equal to the amount payable by Eurex Clearing Borrower to the Lender Clearing Member in accordance with the preceding sentence.

[...]

## 2.2 Delivery and Return of Loaned Assets

### 2.2.1 Delivery of Loaned Assets

[...]

(3) In respect of Loaned Securities for which EUI acts as the settlement location, the Lender Clearing Member and Eurex Clearing Borrower shall provide all instructions to EUI that are required to effect a transfer of the Loaned Securities to Eurex Clearing Borrower, and Eurex Clearing Lender and the Borrower Clearing Member

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shall provide all instructions to EUI that are required to effect a transfer of the Loaned Securities to the Borrower Clearing Member, in each case in accordance with this Number 2.2.1. The Lender Clearing Member and the Borrower Clearing Member shall, in respect of any such transfer, only provide instructions on the transfer of the entirety of the relevant Loaned Securities, but not only on the transfer of any portions thereof.

If and for as long as the Borrower Clearing Member or the Lender Clearing Member negligently or wilfully fails to provide any such required instruction in accordance with the preceding sub-paragraph, Eurex Clearing AG may, in order to enhance settlement discipline, irrespective of whether Eurex Clearing AG has suffered a loss, charge the Borrower Clearing Member or the Lender Clearing Member (as applicable) an amount of EUR 300 or USD 500 for each day of such failure (with a maximum of EUR 3,000 or USD 5,000).

Each of the Lender Clearing Member and the Borrower Clearing Member shall reimburse Eurex Clearing AG for any fees or penalties that may be payable by Eurex Clearing AG to EUI as a result of any instruction required to effect a transfer of Loaned Securities (in relation to Loaned Securities for which EUI acts as the settlement location) having been provided after any deadline applicable pursuant to the rules of EUI, unless Eurex Clearing AG has negligently or wilfully caused the delay of such instruction.

## 2.2.2 Return of Equivalent Loaned Assets

[...]

(8) [...]

If such Maturity Date is a Business Day immediately following Good Friday, Easter Monday or Labour Day and if, with respect to the Underlying Securities of the relevant Securities Lending Transaction, a corporate action pursuant to Number 2.4.1 Paragraph (2) or Number 2.4.2, requiring an ISIN or a nominal change, is to be carried out on one of these holidays, the Maturity Date of the relevant Securities Lending Transaction shall be postponed to the next following Business Day (i.e. to the second Business Day following Good Friday, Easter Monday or Labour Day).

[...]

In the case of a Recall request by the Lender Clearing Member to Eurex Clearing Borrower, the date specified as “**Maturity Date**” shall be a date which falls (i) not prior to the last day of the standard settlement period of the relevant cash markets for the settlement of the Equivalent Loaned Securities applicable to the date of receipt of such Recall request, as determined by Eurex Clearing AG, and (ii) not after the 31<sup>st</sup> Business Day after the date on which the Recall has been received by Eurex Clearing Borrower or after the date pursuant to item (i) (b) of the definition of Maturity Date. Moreover, the Maturity Date shall not fall prior to the last day of the standard settlement period of the relevant cash market for the settlement of the

Equivalent Loaned Securities applicable to the date of receipt of such Recall request, as determined by Eurex Clearing AG, unless the Recall request has been mutually agreed by the Borrower Clearing Member and the Lender Clearing Member.

[...]

(11) In respect of Equivalent Loaned Securities for which EUI acts as the settlement location, the Borrower Clearing Member shall provide all instructions to EUI that are required to effect a transfer of Equivalent Loaned Securities to Eurex Clearing Lender, and Eurex Clearing Borrower shall provide all instructions to EUI that are required to effect a transfer of Equivalent Loaned Securities to the Lender Clearing Member, in each case in accordance with this Number 2.2.2. The Borrower Clearing Member shall, in respect of any such transfer, only provide instructions on the transfer of the entirety of the relevant Equivalent Loaned Securities that are to be delivered on the Maturity Date but not only on the transfer of any portions thereof.

If and for as long as the Borrower Clearing Member negligently or wilfully fails to provide any such required instruction, Eurex Clearing AG may, in order to enhance settlement discipline, irrespective of whether Eurex Clearing AG has suffered a loss, charge the Borrower Clearing Member an amount of EUR 300 or USD 500 for each day of such failure (with a maximum of EUR 3,000 or USD 5,000).

(12) If the Borrower Clearing Member provides any instruction to EUI for a transfer of Equivalent Loaned Securities to Eurex Clearing AG, but no obligation of the Borrower Clearing Member to make such transfer is due in accordance with this Chapter IX, the Borrower Clearing Member shall promptly submit appropriate instructions to EUI for a retransfer of such Equivalent Loaned Securities to the Borrower Clearing Member. If and for as long as the Borrower Clearing Member negligently or wilfully fails to provide any such required instruction to EUI, Eurex Clearing AG will, in order to enhance settlement discipline, irrespective of whether Eurex Clearing AG has suffered a loss, charge the Borrower Clearing Member an amount of EUR 300 or USD 500 for each day of such failure (with a maximum of EUR 3,000 or USD 5,000).

(13) The Borrower Clearing Member shall reimburse Eurex Clearing AG for any fees or penalties that may be payable by Eurex Clearing AG to EUI as a result of any instruction required to effect a transfer of Equivalent Loaned Securities (in relation to Equivalent Loaned Securities for which EUI acts as the settlement location) having been provided after any deadline applicable pursuant to the rules of EUI, unless Eurex Clearing AG has negligently or wilfully caused the delay of such instruction.

[...]

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## 2.3 Delivery and Return of Principal Collateral and Pledge-Back Principal Collateral

[...]

### 2.3.2 Marking to Market of Principal Collateral and Pledge-Back Principal Collateral during the term of a Securities Lending Transaction

- (1) The aggregate Market Value (as defined in Paragraph (4) below) of the Eligible Principal Collateral Assets actually delivered in respect of the Principal Collateral to Eurex Clearing Lender by the Borrower Clearing Member and to the Lender Clearing Member by Eurex Clearing Borrower (excluding any Equivalent Principal Collateral repaid or re-delivered under Paragraph (2)) in respect of a Securities Lending Transaction (the "**Posted Collateral**") shall equal the Market Value of the number or aggregate nominal amount, as applicable, of the Underlying Assets equivalent to the Loaned Assets taking into account the applicable Mark-Up Percentage, if any, ~~(the "**Required Collateral Value**")~~ in respect of such Securities Lending Transaction (the "**Required Collateral Value**").

[...]

- (3) [...]

the Borrower Clearing Member shall provide to Eurex Clearing Lender, and Eurex Clearing Borrower shall provide to the Lender Clearing Member, such further Eligible Principal Collateral Assets in respect of the Principal Collateral as will eliminate the deficiency (on the next Business Day at the time published by Eurex Clearing AG pursuant to Chapter I Part 1 Number 16.2 on its website ([www.eurexclearing.com](http://www.eurexclearing.com)) with respect to the relevant currency or the relevant Tri-Party Collateral Agent, if applicable).

[...]

## 2.4 Corporate Actions

[...]

In respect of any corporate action relating to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, a Clearing Member shall not provide any instruction to EUI that changes the default processing of such corporate action ("*Skip Transformation*"). If, contrary to the previous sentence, a Clearing Member negligently or wilfully provides any such "*Skip Transformation*" instruction to EUI, Eurex Clearing AG may, in order to enhance settlement discipline, irrespective of whether Eurex Clearing AG has suffered a loss, charge such Clearing Member an amount of EUR 300 or USD 500 for each such instruction.

### 2.4.1 Distributions in respect of Underlying Securities

In relation to any Securities Lending Transaction, if a relevant date on which the holders of the Underlying Securities are identified as being holders of an entitlement to any

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interest, dividends, rights or other distributions of any kind (the “**Record Date**”) falls in the period from, and including, the Value Date (taking into account any postponement pursuant to Number 2.6.1 or 2.6.2) to, and excluding the Maturity Date (taking into account any postponement pursuant to Number 2.6.4 or 2.6.5), in accordance with the following provisions the Borrower Clearing Member shall pay or deliver to Eurex Clearing Lender under such Securities Lending Transaction, and Eurex Clearing Borrower shall pay or deliver to the Lender Clearing Member under the related Securities Lending Transaction, a sum of money, securities or other assets which were agreed between the Lender Clearing Member and the Borrower Clearing Member or, if no such agreement was reached, which are equivalent to the amount of such interest, dividends, rights or other distributions of any kind that would be received by the Lender Clearing Member as a holder thereof on the Record Date assuming such Loaned Securities were retained by the Lender Clearing Member on the Record Date (each a “**Distribution**”), provided that, in respect of Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, the amount and type of the Distribution shall be the amount and type determined by EUI and communicated to Eurex Clearing AG (subject, however, to Number 2.1.8). No such obligation to pay a Distribution pursuant to the preceding sentence applies, if – on the trade date of the Original Securities Lending Transactions – the Underlying Securities did not include a claim to interest, dividends, rights or other distributions resulting from the respective corporate action.

Unless otherwise provided under this Number 2.4.1 and subject to Number 2.1.8, payments or deliveries of Distributions by the Borrower Clearing Member and Eurex Clearing Borrower, respectively, shall be made on the date on which they would be received by the Lender Clearing Member in respect of the Loaned Securities assuming such Loaned Securities were retained by the Lender Clearing Member on the Record Date, as determined by Eurex Clearing AG (“**Distribution Settlement Date**”), provided that, in respect of Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, an obligation of Eurex Clearing AG to pay or deliver a Distribution to a Clearing Member shall only become due after Eurex Clearing AG has received delivery or payment from such Clearing Member in respect of any Distributions that are to be paid or delivered by that Clearing Member to Eurex Clearing AG with respect to any Securities Lending Transaction.

[...]

(2) Distribution in the form of Securities if EUI does not act as the settlement location

[...]

(d) Specific provisions in case of Securities Distributions in the form of rights

[...]

In case the Market Default cannot be effected by the settlement location in the relevant market, the Securities Lending Transaction regarding the Securities Distribution in the form of rights with options shall be redeemed by way of cash settlement on the Distribution Settlement Date and each of the Borrower

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Clearing Member and Eurex Clearing Borrower shall be obliged to pay to Eurex Clearing Lender and the Lender Clearing Member, respectively, a respective cash amount in respect of the relevant Securities Lending Transaction.

[...]

(3) Securities Distribution if EUI acts as the settlement location

A Securities Distribution with respect to Securities for which EUI acts as the settlement location shall only result in a unilateral claim against the Borrower Clearing Member and Eurex Clearing Borrower, respectively, for a delivery of the relevant securities in accordance with Number 2.4.1 Paragraph (1) and (2), but shall not result in any amendment of any existing Securities Lending Transaction or in the creation of any new Securities Lending Transaction.

**2.4.2 Mandatory Reorganisations, and Voluntary Reorganisations and Mandatory Reorganisations With Options**

Mandatory Reorganisations (as defined in Paragraph (1) below), ~~and~~ Voluntary Reorganisations (as defined in ~~this Number 2.4.2 Paragraph (2) below~~) and Mandatory Reorganisations With Options (as defined in Paragraph (4) below) shall have the following effects on Securities Lending Transactions set out in Paragraph (1), (2), (3) or (4) below, as relevant.:

(1) Mandatory Reorganisations

**“Mandatory Reorganisations”** are corporate actions where the participation of the relevant holder of the relevant Underlying Securities in the corporate action is mandatory and not based on an individual decision or election of such holder of the relevant Underlying Securities. Mandatory Reorganisations may be based on a decision of the competent corporate bodies of the respective company, e.g. the shareholders' meeting, or be triggered by third parties, e.g. in case of a squeeze out following a takeover offer. Any reference to a “Mandatory Reorganisation” shall not include a Mandatory Reorganisation With Options (as defined in Paragraph (4) below).

[...]

(2) Voluntary Reorganisations

**“Voluntary Reorganisations”** are certain corporate actions that, in respect of the relevant Underlying Securities, are not mandatory but require a decision/election of the holder of the Underlying Securities to participate in the corporate action (including exchange offers, repurchase offers, tender, acquisition, takeover or purchase offers and the execution of rights pursuant to Number 2.4.1 Paragraph (2) (d)). Any reference to a “Voluntary Reorganisation” shall not include a Mandatory Reorganisation With Options (as defined in Paragraph (4) below).

If the Lender Clearing Member wishes to receive Distributions or to execute any rights with regard to Voluntary Reorganisations (except for any Voluntary Reorganisations that relate to any Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location), it may proceed in accordance with the following provisions and shall submit a Lender Election through the VCA Input System (as defined below). In respect of any Voluntary Reorganisations that relate to any Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, the VCA Input System (as defined below) may not be used, Number 2.4.2 Paragraph (2) (a) to (c) do not apply and only Number 2.4.2 Paragraph (3) applies.

[...]

(a) [...]

\_\_\_\_\_ **“Outturn Instruction”** means a statement on the Outturn (including the exact number and amount of any Equivalent Loan Securities that shall be redelivered and/or the exact amounts of any cash components that shall be payable) that would result from the execution of the Lender Election.

[...]

~~(d) By signing the relevant Clearing Agreement with Eurex Clearing AG, each Lender Clearing Member and each Borrower Clearing Member (i) acknowledges to be bound by the provisions of the Dispute Resolution Rules (including, without limitation, the processing of an Outturn and/or the reversal of any Preliminary Outturn in accordance with the Dispute Resolution Rules), (ii) irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG (and, for such purpose releases Eurex Clearing AG from the limitations on self-contracting pursuant to Section 181 BGB and similar provisions in any other applicable laws) to issue all statements and take all actions on behalf of such Lender Clearing Member and/or Borrower Clearing Member that are required or expedient in order to effect the processing of any Outturn or Preliminary Outturn and/or, as applicable, the reversal of any Preliminary Outturn in accordance with this Paragraph (2) and (iii) agrees and undertakes to issue all statements and take all actions that are necessary to effect the processing of any Outturn or Preliminary Outturn and/or, as applicable, the reversal of any Preliminary Outturn in accordance with this Paragraph (2) or resulting from the Dispute Resolution Procedure.~~

(3) Voluntary Reorganisations in respect of Loaned Securities for which EUI acts as the settlement location

\_\_\_\_\_ If a Voluntary Reorganisation relates to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, the following applies:

(a) A Voluntary Reorganisation that relates to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location shall only be processed through Eurex Clearing AG in case of those Loaned Securities or



Equivalent Loaned Securities the ISINs of which are published by Eurex Clearing AG on its website (www.eurexclearing.com) from time to time. Such Voluntary Reorganisations shall be processed in accordance with Paragraph (3) (a) to (f).

Voluntary Reorganisations that relate to any other Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location shall not be processed through Eurex Clearing AG and shall not result in any amendments to any existing Securities Lending Transaction or in any rights or obligations of Eurex Clearing AG. The Lender Clearing Member and the Borrower Clearing Member may agree bilaterally on the legal consequences such Voluntary Reorganisation shall have between them.

- (b) The Lender Clearing Member may, with respect to each Securities Lending Transaction to which such Voluntary Reorganisation relates, submit elections and instructions in the form of an "ACON" message through the CREST system of EUI (subject to the requirements as to form and content as determined by EUI from time to time) to Eurex Clearing Borrower (the "**Lender VCA Election Message**") prior to or after the related ACON VCA Lender Deadline.

"ACON VCA Lender Deadline" means 24 hours before the latest point in time, as applicable pursuant to the terms of the relevant Voluntary Reorganisation for a valid exercise of rights (vis-à-vis the issuer of the relevant Underlying Security or Underlying Securities or any other relevant party) by the holder of the relevant Underlying Security or Underlying Securities in respect of such Voluntary Reorganisation.

- (c) If a Lender VCA Election Message or Borrower VCA Matching Message is submitted later than 60 minutes before the close of business of EUI (for its CREST service) on a Business Day, such Lender VCA Election Message or Borrower VCA Matching Message shall, for the purposes of these Clearing Conditions, not be effective and the Lender Clearing Member or Borrower Clearing Member shall provide all instructions to EUI that are required to reverse the effects of such Lender VCA Election Message or Borrower VCA Matching Message, respectively, in the CREST system of EUI. The Lender Clearing Member shall only send one Lender VCA Election Message and the Borrower Clearing Member shall only send one Borrower VCA Matching Message in respect of the same Voluntary Reorganisation and any additional Lender VCA Election Message or additional Borrower VCA Matching Message in respect of such Voluntary Reorganisation shall, for the purposes of this Paragraph (3), not be effective.

- (d) If a Lender VCA Election Message has been submitted in compliance with Paragraph (3) (c) by no later than the ACON VCA Lender Deadline, Eurex Clearing Lender will, after having been informed by EUI of the Lender VCA Election Message, submit an instruction (in the form of an "ACON" message

through the CREST system of EUI) corresponding to such Lender VCA Election Message to the Borrower Clearing Member.

The Borrower Clearing Member shall submit a matching instruction (in the form of an "ACON" message through the CREST system of EUI) to Eurex Clearing Lender (the "**Borrower VCA Matching Message**") by no later than the ACON VCA Borrower Deadline.

"**ACON VCA Borrower Deadline**" means one hour before the latest point in time, as applicable pursuant to the terms of the relevant Voluntary Reorganisation for a valid exercise of rights (vis-à-vis the issuer of the relevant Underlying Security or Underlying Securities or any other relevant party) by the holder of the relevant Underlying Security or Underlying Securities in respect of such Voluntary Reorganisation.

Eurex Clearing Borrower will, after having been informed by EUI of the Borrower VCA Matching Message, submit an instruction (in the form of an "ACON" message through the CREST system of EUI) corresponding to such Borrower VCA Matching Message to the Lender Clearing Member.

An Outturn shall be processed at the close of business on the Intended EUI VCA Settlement Date with respect to both related Securities Lending Transactions in accordance with the Lender VCA Election Message, provided that the Borrower VCA Matching Message was submitted by no later than the ACON VCA Borrower Deadline.

"**Intended EUI VCA Settlement Date**" means a date, as predetermined by EUI in respect of the Voluntary Reorganisation to which the relevant Lender VCA Election Message relates, for the processing of the relevant Outturn.

If the Borrower Clearing Member negligently or wilfully fails to submit a Borrower VCA Matching Message by the ACON VCA Borrower Deadline it shall be obliged to pay a contractual penalty to Eurex Clearing AG irrespective of whether Eurex Clearing AG has suffered a loss. The contractual penalty shall be an amount of EUR 300 or USD 500 for each day of such failure (with a maximum of EUR 3,000 or USD 5,000).

(e) If a Lender VCA Election Message has been submitted in compliance with Paragraph (3) (c), but after the ACON VCA Lender Deadline, the following applies:

(A) Eurex Clearing Lender will, after having been informed by EUI of the Lender VCA Election Message, submit an instruction (in the form of an "ACON" message through the CREST system of EUI) corresponding to such Lender VCA Election Message to the Borrower Clearing Member.

(B) If the Borrower Clearing Member submits a Borrower VCA Matching Message in compliance with Paragraph (3) (c) Eurex Clearing Borrower will, after having been informed by EUI of the Borrower VCA Matching Message,

submit an instruction (in the form of an "ACON" message through the CREST system of EUI) corresponding to such Borrower VCA Matching Message to the Lender Clearing Member and an Outturn shall be processed on the Intended EUI VCA Settlement Date with respect to both related Securities Lending Transactions in accordance with the Lender VCA Election Message.

(C) If the Borrower Clearing Member does not submit a Borrower VCA Matching Message, Eurex Clearing Borrower will not submit an instruction to the Lender Clearing Member and an Outturn in accordance with the Market Default shall be processed at the close of business on the Intended EUI VCA Settlement Date with respect to both related Securities Lending Transactions.

(f) References in this Paragraph (3) to "Outturn", "processed" or "processing" shall have the same meaning as ascribed to such respective terms in Paragraph (2) above, except if and to the extent that the benefit of a Voluntary Reorganisation (if exercised in accordance with the Lender VCA Election Message) equals a Securities Distribution. Number 2.4.1 Paragraph (3) applies *mutatis mutandis*.

(4) Mandatory Reorganisations With Options in respect of Loaned Securities for which EUI acts as the settlement location

"Mandatory Reorganisations With Options" are certain corporate actions in respect of which the participation as such of the relevant holder of the relevant Underlying Securities is mandatory, but in respect of which the holder of the relevant Underlying Securities has the option to choose between different benefits.

If a Mandatory Reorganisation With Options relates to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location, the following applies:

(a) The Lender Clearing Member may, with respect to each Securities Lending Transaction to which a Mandatory Reorganisation With Options relates, submit an election (specifying the selection of an option that is available pursuant to the terms of such Mandatory Reorganisation With Options) in the form of an "ACON" message through the CREST system of EUI (subject to the requirements as to form and content as determined by EUI from time to time) to Eurex Clearing Borrower (the "**Lender MRWO Election Message**") prior to or after the related ACON MRWO Deadline.

"ACON MRWO Deadline" means 24 hours before the latest point in time, as applicable pursuant to the terms of the relevant Mandatory Reorganisation With Options for a valid exercise of a permissible option (vis-à-vis the issuer of the relevant Underlying Security or Underlying Securities or any other relevant party) by the holder of the relevant Underlying Security or Underlying Securities in respect of such Mandatory Reorganisation With Options.

(b) If a Lender MRWO Election Message or Borrower Objection Message (as defined in Paragraph (4) (d) (B)) is submitted later than 60 minutes before the close of business of EUI (for its CREST service) on a Business Day, such Lender MRWO Election Message or Borrower Objection Message shall, for the purposes of these Clearing Conditions, not be effective and the Lender Clearing Member or Borrower Clearing Member shall provide all instructions to EUI that are required to reverse the effects of such Lender MRWO Election Message or Borrower Objection Message, respectively, in the CREST system of EUI. The Lender Clearing Member shall only send one Lender MRWO Election Message and the Borrower Clearing Member shall only send one Borrower Objection Message in respect of the same Mandatory Reorganisation with Options and any additional Lender MRWO Election Message or additional Borrower Objection Message in respect of such Mandatory Reorganisation with Options shall, for the purposes of this Paragraph (4), not be effective.

(c) If the relevant Lender MRWO Election Message has been submitted in compliance with Paragraph (4) (b) by no later than the ACON MRWO Deadline, Eurex Clearing Lender will, after having been informed by EUI of the Lender MRWO Election Message, submit an instruction (in the form of an "ACON" message through the CREST system of EUI) corresponding to such Lender MRWO Election Message to the Borrower Clearing Member and an Outturn shall be processed on the Intended MRWO Settlement Date with respect to both related Securities Lending Transactions in accordance with the Lender MRWO Election Message.

"Intended MRWO Settlement Date" means a date, as predetermined by EUI in respect of the Mandatory Reorganisation with Options to which the relevant Lender MRWO Election Message relates, for the processing of the relevant Outturn.

(d) If a Lender MRWO Election Message has been submitted in compliance with Paragraph (4) (b) ,but after the ACON MRWO Deadline, the following applies:

(A)Eurex Clearing Lender will, after having been informed by EUI of the Lender MRWO Election Message, submit an instruction (in the form of an "ACON" message through the CREST system of EUI) corresponding to such Lender MRWO Election Message to the Borrower Clearing Member and (subject to Paragraph (4) (d) (B)) an Outturn shall be processed on the Intended MRWO Settlement Date with respect to both related Securities Lending Transactions in accordance with the Lender MRWO Election Message.

(B)The Borrower Clearing Member may object to the instruction that has been submitted by Eurex Clearing Lender in accordance with Paragraph (4) (d) (A) until 24 hours after the submission of such instruction by Eurex Clearing Lender (the "**Objection Deadline**") by sending a notice in writing (*Textform*) to Eurex Clearing AG (the "**Borrower Objection Message**").

If the Borrower Clearing Member objects in compliance with Paragraph (4) (b) by no later than the Objection Deadline, (i) Eurex Clearing Borrower will send a corresponding (objecting) notice in writing (*Textform*) to the Lender Clearing Member, (ii) the processing of the Outturn referred to in Paragraph (4) (d) (A) shall be reversed and (iii) an Outturn shall be processed at the close of business on the Intended MRWO Settlement Date with respect to both related Securities Lending Transactions in accordance with the Market Default. The Lender Clearing Member, the Borrower Clearing Member and Eurex Clearing AG shall provide all instructions to EUI that are required to (i) reverse the effects that the Lender MRWO Election Message and the corresponding instruction of Eurex Clearing Lender may have and (ii) process the Outturn on the basis of the default option of the relevant Mandatory Reorganisation with Options.

If the Borrower Clearing Member does not so object by the Objection Deadline in compliance with Paragraph (4) (b), the Outturn referred to in Paragraph (4) (d) (A) shall continue to be processed.

- (e) The Borrower Clearing Member shall not send conflicting messages through the CREST system of EUI, other than an objecting message in the case of Paragraph (4) (d). If a Borrower Clearing Member sends such conflicting message, it shall provide all instructions to EUI that are required to reverse the effects of such conflicting message. If and for as long as such Borrower Clearing Member negligently or wilfully fails to provide any such required instruction in accordance with the preceding sentence, Eurex Clearing AG will, in order to enhance settlement discipline, irrespective of whether Eurex Clearing AG has suffered a loss, charge such Borrower Clearing Member an amount of EUR 300 or USD 500 for each day of such failure (with a maximum of EUR 3,000 or USD 5,000).
- (f) References in this Paragraph (4) to “Outturn”, “processed” or “processing” shall have the same meaning as ascribed to such respective terms in Paragraph (2) above, except that:
- (A) any references in such defined terms to “Voluntary Reorganisation” shall be read as references to “Mandatory Reorganisation With Options”; and
- (B) if and to the extent that the benefit of a Mandatory Reorganisation With Options (if exercised in accordance with the Lender MRWO Election Message) equals a Securities Distribution, Number 2.4.1 Paragraph (3) applies *mutatis mutandis*.
- (g) For the avoidance of doubt, Number 2.4.1 Paragraph (2) (d) shall apply to Mandatory Reorganisations with Options in relation to Loaned Securities or Equivalent Loaned Securities for which EUI does not act as the settlement location.

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(5) By signing the relevant Clearing Agreement with Eurex Clearing AG, each Lender Clearing Member and each Borrower Clearing Member (i) acknowledges to be bound by the provisions of the Dispute Resolution Rules (including, without limitation, the processing of an Outturn and/or the reversal of any Preliminary Outturn in accordance with the Dispute Resolution Rules) to the extent a Dispute Resolution Procedure may be conducted in accordance with this Number 2.4.2, (ii) irrevocably authorises (*bevollmächtigt*) Eurex Clearing AG (and, for such purpose releases Eurex Clearing AG from the limitations on self-contracting pursuant to Section 181 BGB and similar provisions in any other applicable laws) to issue all statements and take all actions on behalf of such Lender Clearing Member and/or Borrower Clearing Member that are required or expedient in order to effect the processing of any Outturn or Preliminary Outturn and/or, as applicable, the reversal of any Preliminary Outturn in accordance with this Number 2.4.2 and (iii) agrees and undertakes to issue all statements and take all actions that are necessary to effect the processing of any Outturn or Preliminary Outturn and/or, as applicable, the reversal of any Preliminary Outturn in accordance with this Number 2.4.2 or resulting from a Dispute Resolution Procedure.

### 2.4.3 Principal Collateral Distributions and Principal Collateral Mandatory Reorganisations

(1) [...]

“**Principal Collateral Mandatory Reorganisation Record Date**” means the relevant date on which any holder of the relevant Principal Collateral Underlying Securities is identified as being entitled to the proceeds of the relevant Principal Collateral Mandatory Reorganisation.

(2) If a substitution is not effected in accordance with Paragraph (1), the Lender Clearing Member shall pay or deliver to Eurex Clearing Borrower, and Eurex Clearing Lender shall pay or deliver to the Borrower Clearing Member, in each case in accordance with the following provisions, a sum of money, securities or other assets which are equivalent to (i) the amount of the Principal Collateral Distribution or (ii) the amount of the proceeds of the Principal Collateral Mandatory Reorganisation, as the case may be, that the Lender Clearing Member would have received following the Principal Collateral Distribution Record Date or Principal Collateral Mandatory Reorganisation Record Date, as the case may be, (in each case without taking into account any credit, benefit or other relief in respect of Tax under any applicable law) if the Lender Clearing Member had retained the Non-Cash Principal Collateral on the Principal Collateral Distribution Record Date or Principal Collateral Mandatory ~~Reorganisation~~ Reorganisation Record Date, as the case may be (such sum being the “**Principal Collateral Distribution Amount**” and the “**Principal Collateral Mandatory Reorganisation Amount**”, respectively). No such obligation to pay or deliver the Principal Collateral Distribution Amount pursuant to the preceding sentence applies, if – on the day the Non-Cash Principal Collateral was provided to Eurex Clearing Lender or the Lender Clearing Member, respectively

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– such Non-Cash Principal Collateral did not include a claim to interest, dividends, rights or other distributions resulting from the respective corporate action.

[...]

#### **2.4.5 Fractions**

No fractions of securities or financial instruments shall be delivered with respect to any Mandatory Reorganisation, Securities Distribution, Principal Collateral Mandatory Reorganisation or Principal Collateral Distribution. Instead, (except in respect of Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location) the relevant party to the Securities Lending Transaction that is subject to the respective delivery obligation shall pay to the other party to such Securities Lending Transaction a cash amount in the currency of the Underlying Securities or Principal Collateral Underlying Security equal to the value of the fractional Securities Distribution, fractional Principal Collateral Distribution or other fractional amount of securities under Number 2.4.2 or Number 2.4.4, as determined by Eurex Clearing AG as soon as reasonable practicable and in its reasonable discretion and notified to the Clearing Members. Such cash amount shall be paid on the Business Day after the notification by Eurex Clearing AG thereof.

[...]

#### **2.6 Failure to Deliver**

[...]

##### **2.6.2 Failure to Deliver by the Borrower Clearing Member on the Value Date**

(1) [...]

Each party to a Non-Collateralised Transaction or the related Securities Lending Transaction shall return any (Equivalent) Loaned Assets or (Equivalent) Principal Collateral received by it in relation to a Non-Collateralised Transaction or the related Securities Lending Transaction on such Business Day. In respect of the return to the Lender Clearing Member of any (Equivalent) Loaned Securities for which EUI acts as the settlement location, Number 2.2.1 Paragraph (3) shall apply *mutatis mutandis*.

[...]

##### **2.6.4 Failure to Deliver by the Borrower Clearing Member on the Maturity Date**

(2) [...]

(c) with respect to Voluntary Reorganisations pursuant to Number 2.4.2 Paragraph (2), the contractual penalty shall be calculated on the basis of the offer as follows:

[...]

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- Different conversion offers in the event of mandatory corporate actions

[...]

Price bidder's security: Price for a bidder's security, which is determined as follows: (i) If new issues or new securities are offered, the issue price of the newly issued security offered for subscription will be used as the basis, (ii) if existing securities are offered and Eurex Clearing AG has a determined ~~S~~settlement ~~p~~Price for the corresponding security, such fixed Settlement Price shall be used as the basis, (iii) otherwise, the closing price on the stock exchange with the largest turnover in the corresponding security shall be used as the basis. The price of the bidder's securities shall, if necessary, be converted into the currency of the Underlying Security on the basis of the exchange rates published by Eurex Clearing AG on the Market Deadline in connection with a Voluntary Reorganisation.

[...]

(6) [...]

A Buy-In Request that relates to Loaned Securities or Equivalent Loaned Securities for which EUI acts as the settlement location must be provided in writing (*Textform*).

(7) In the event a Buy-In pursuant to Paragraph (6) is successful, (i) the purchase price for the ~~securities p~~Purchased ~~Securities~~ in such Buy-in shall be borne by the Borrower Clearing Member and shall be paid on the Business Day following the Buy-In Date in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1 and (ii) the delivery obligations of the Borrower Clearing Member under the Non-Performed Transaction shall be replaced by the obligation of the Borrower Clearing Member to pay such purchase price.

[...]

(8) [...]

- in case the Underlying Securities are equity securities, the ~~S~~settlement ~~P~~price of the Underlying Securities determined by Eurex Clearing AG multiplied by 2 and multiplied by the number of Equivalent Loaned Securities; and
- in case the Underlying Securities are fixed income securities, the ~~s~~Settlement ~~p~~Price of the Underlying Securities as determined by Eurex Clearing AG, plus 300 bp and with such sum to be multiplied by the number of Loaned Securities.

[...]

## 2.6.5 Failure to Deliver by the Lender Clearing Member on the Maturity Date

(1) [...]



If any party to a Non-Returned Transaction or the related Securities Lending Transaction has already received any Equivalent Loaned Assets or Equivalent Principal Collateral from the respective other party on such Maturity Date or such Business Day prior to the postponement in relation to such Non-Returned Transaction or the related Securities Lending Transaction, such party shall return such assets on such Business Day. Number 2.2.1 Paragraph (3) shall apply *mutatis mutandis* in respect of any Equivalent Loaned Securities for which EUI acts as the settlement location in relation to the required instruction of the Borrower Clearing Member for a return by Eurex Clearing Lender to the Borrower Clearing Member.

[...]

#### **2.6.6 Failure to Deliver by the Borrower Clearing Member on the due date for a Securities Distribution with respect to Securities for which EUI acts as the settlement location**

(1) If, in any of the circumstances set out in Number 2.4.1 Paragraph (3) or Number 2.4.2 Paragraph (3) (e) (B), the Borrower Clearing Member fails to actually deliver the relevant securities to Eurex Clearing Lender on the relevant due date or, if such delivery obligation has been postponed, on the relevant next Business Day (the “**Non-Performed Delivery Obligation**” and the securities not delivered, the “**Non-Delivered Securities**”), such delivery obligation (and the corresponding delivery obligation of Eurex Clearing Borrower to the Lender Clearing Member) shall, subject to Paragraph (2), be postponed to the next following Business Day.

If any party to a Securities Lending Transaction or related Securities Lending Transaction to which the Non-Performed Delivery Obligation relates has already received any such securities from the respective other party on such due date or such Business Day prior to the postponement, such party shall return such assets on such Business Day. Number 2.2.1 Paragraph (3) shall apply *mutatis mutandis* in respect of any such securities for which EUI acts as the settlement location (i) in relation to the required instruction of the Lender Clearing Member for a return by the Lender Clearing Member to Eurex Clearing Borrower and (ii) in relation to the required instruction of the Borrower Clearing Member for a return by Eurex Clearing Lender to the Borrower Clearing Member.

(2) If the Borrower Clearing Member has not actually delivered the relevant Non-Delivered Securities on the third Business Day after such delivery obligation had originally become due (without taking into account any postponement in accordance with Paragraph (1)), Eurex Clearing AG is entitled, vis-à-vis the Borrower Clearing Member, to commence a buy-in and to purchase securities equivalent to the Non-Delivered Securities in accordance with the terms and conditions of Paragraphs (3) to (8) below (a “**Securities Buy-In**”).

(3) The Securities Buy-In shall be conducted on the fourth Business Day after the delivery obligation in respect of the Non-Delivered Securities had originally become due (without taking into account any postponement in accordance with Paragraph (1)) (the “**Securities Buy-In Date**”) if the Non-Performed Delivery Obligation has not been discharged in full by the end of trading on the Business Day

preceding the Securities Buy-In Date; the Borrower Clearing Member is not entitled to deliver the relevant Non-Delivered Securities after that point in time. Eurex Clearing AG is entitled to defer the Securities Buy-In Date by one or more Business Days.

Eurex Clearing AG will inform the Borrower Clearing Member and the Lender Clearing Member of the Securities Buy-In and the results thereof via fax or telephone.

- (4) If and to the extent that a Securities Buy-In pursuant to Paragraphs (2) and (3) is successful, (i) the Borrower Clearing Member shall, on the Business Day following the Securities Buy-In Date and in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1, pay to Eurex Clearing AG an amount equal to the purchase price paid or payable by Eurex Clearing AG for the securities purchased by Eurex Clearing AG in such Securities Buy-In and (ii) the delivery obligations of the Borrower Clearing Member in respect of the Non-Delivered Securities shall be replaced by the obligation of the Borrower Clearing Member to pay the amount referred to in (i).
- (5) If and to the extent that a Securities Buy-In pursuant to Paragraphs (2) and (3) is not successful, a cash settlement shall occur on the Business Day following the Securities Buy-In Date with respect to the remaining Non-Performed Delivery Obligations as well as the corresponding delivery obligations of Eurex Clearing Borrower vis-à-vis the Lender Clearing Member in connection with the related Securities Lending Transaction. Number 2.6.4 Paragraph (8) shall apply to such cash settlement *mutatis mutandis*, except for the references to Number 2.2.2 Paragraph (1) and Number 2.3.3 set out therein.
- (6) If the Non-Delivered Securities are subscription rights, no Securities Buy-In shall be made. Instead, the Market Default shall be applied with respect to such Non-Delivered Securities on the date relevant for the exercise of such subscription rights.
- (7) If the Non-Delivered Securities constitute fixed income securities and such securities have not been actually delivered to Eurex Clearing Lender by the sixth Business Day preceding the maturity of such fixed income securities (and no successful Securities Buy-In has been conducted) a cash settlement shall occur on the fifth Business Day preceding the maturity of the fixed income securities. Number 2.6.4 Paragraph (8) Sentences 2 and 3 shall apply *mutatis mutandis* to such cash settlement.
- (8) Eurex Clearing AG will charge a buy-in fee from the Borrower Clearing Member if a Securities Buy-In has been conducted (irrespective of whether it has been successful or not) (the "**Securities Buy-In Fee**"). The Securities Buy-In Fee shall be denominated in the Transaction Currency and amount to 10 per cent. of the market value of the securities (that are equivalent to the Non-Delivered Securities) bought or to be bought in the Securities Buy-In, with a minimum of EUR 250 or CHF 375 and a maximum of EUR 5,000 or CHF 7,000.

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### **2.6.6.2.6.7 Further rights**

Eurex Clearing AG charges a fee pursuant to Chapter V Number 2.2.1 Paragraph (3) (e) from the defaulting Clearing Member for each cash settlement carried out pursuant to Number 2.6.4, Number 2.6.5 or Number 2.6.56. The right of Eurex Clearing AG and the Clearing Member which did not receive delivery in time to claim further damages shall remain unaffected.

## **2.7 Specific Provisions relating to Termination Events and Default Management Process**

[...]

### **2.7.4 Effect of Termination on Process relating to Voluntary Reorganisations**

[...]

#### **(2) Termination in respect of Lender Clearing Member**

[...]

##### **(a) If the Securities Lending Transaction is an Open Term Loan,**

[...]

- (iv) if the Equivalent Loaned Securities to which the terminated or returned ing Securities Lending Transaction relates can be delivered by Eurex Clearing Borrower to the relevant account of the Lender Clearing Member prior to the applicable Market Deadline, the Borrower Clearing Member shall be subject to a contractual penalty (to which Number 2.6.4 Paragraph (2) (c) applies) if the Borrower Clearing Member, upon a Recall request by Eurex Clearing Lender pursuant to item (iii) above, fails to deliver to Eurex Clearing Lender the relevant Equivalent Loaned Securities by such Market Deadline; and

[...]