



eurex clearing circular 066/16

Date: 20 May 2016
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG
Authorized by: Thomas Laux

Amendment of Eurex Clearing AG's capital structure

Reference to Eurex Clearing circular: 134/15

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Content may be most important for:

☉ All departments

Attachments:

1. Amended sections of the Clearing Conditions of Eurex Clearing AG
2. Sample of the new letter of comfort provided by Deutsche Börse AG in favour of Eurex Clearing AG

Summary:

Eurex Clearing AG (Eurex Clearing) amends its capital structure to further strengthen the default waterfall. In particular, Eurex Clearing will:

1. increase its own contribution to the Clearing Fund (Dedicated Amount),
2. provide additional own contributions (Further Dedicated Amounts) if Clearing Members provide Further Contributions (Assessments), and align the structure of the default waterfall and the letter of comfort issued by Deutsche Börse AG for the benefit of Eurex Clearing, and
3. clarify liabilities between Eurex Clearing and its Clearing Members with respect to certain financial losses.

The changes contribute to Eurex Clearing's continuous efforts to optimise and provide maximum transparency around the CCP's default management process and default waterfall. The Risk Committee of Eurex Clearing advised the Supervisory Board of Eurex Clearing to implement these changes during its meeting on 12 November 2015.

The amendments relate to Special Provisions of the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) with the consequence that a consultation process (Consultation) was initiated, which started on 19 November 2015 and ended on 19 December 2015. During the Consultation, Eurex Clearing received comments from its customers regarding the contemplated amendments. Eurex Clearing reviewed all comments and slightly amended the version of the Clearing Conditions which was consulted.

The attached amendments will come into effect on **15 June 2016**. The amended sections of the Clearing Conditions, as concluded by the Executive Board of Eurex Clearing, are attached to this circular.



Amendment of Eurex Clearing AG's capital structure

Eurex Clearing AG (Eurex Clearing) amends its capital structure to further strengthen the default waterfall. In particular, Eurex Clearing will:

1. increase its own contribution to the Clearing Fund (Dedicated Amount),
2. provide additional own contributions (Further Dedicated Amounts) if Clearing Members provide Further Contributions (Assessments), and align the structure of the default waterfall and the letter of comfort issued by Deutsche Börse AG for the benefit of Eurex Clearing, and
3. clarify liabilities between Eurex Clearing and its Clearing Members with respect to certain financial losses.

The changes contribute to Eurex Clearing's continuous efforts to optimise and provide maximum transparency around the CCP's default management process and default waterfall. The Risk Committee of Eurex Clearing advised the Supervisory Board of Eurex Clearing to implement these changes during its meeting on 12 November 2015.

The amendments relate to Special Provisions of the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) with the consequence that a consultation process (Consultation) was initiated, which started on 19 November 2015 and ended on 19 December 2015. During the Consultation, Eurex Clearing received comments from its customers regarding the contemplated amendments. Eurex Clearing reviewed all comments and slightly amended the version of the Clearing Conditions which was consulted.

The attached amendments will come into effect on 15 June 2016. The amended sections of the Clearing Conditions, as concluded by the Executive Board of Eurex Clearing, are attached to this circular.

1. Increase of Eurex Clearing's own contribution to the Clearing Fund (Dedicated Amount)

Eurex Clearing's default waterfall foresees that losses resulting from the default of a Clearing Member are primarily borne by the margin collateral and the Contributions to the Clearing Fund provided by such defaulted Clearing Member. If these funds are insufficient to cover all losses, Eurex Clearing's own contribution to the Clearing Fund (Dedicated Amount) will be applied, prior to utilising any non-defaulted Clearing Members' resources.

When determining the exact amount of the Dedicated Amount, two main aspects have to be taken into consideration:

- The amount contributed by the CCP has to ensure that all stakeholders' main incentive is to strengthen the CCP's risk management, and
- The amount contributed by the CCP has to be compliant with regulatory requirements.

To meet these objectives, in line with expected market and business developments, Eurex Clearing will increase its Dedicated Amount by EUR 50 million as of 15 June 2016 and plans to increase its Dedicated Amount by additional EUR 50 million in 2017 to a total of EUR 150 million.

2. Additional own contributions by Eurex Clearing; alignment of the default waterfall structure and the letter of comfort provided by Deutsche Börse AG

The currently applicable default waterfall foresees the following enforcement steps: Upon a Clearing Member's default, Eurex Clearing primarily uses all available financial resources of the defaulted Clearing Member to cover the losses arising from such default. If such resources are insufficient to cover all losses, Eurex Clearing applies its Dedicated Amount as mentioned under item 1. Only if such amount is exhausted, Eurex Clearing will also use the non-defaulted Clearing Members' contributions to the Clearing Fund. In case such contributions are also insufficient to cover all losses arising from the default, non-defaulted Clearing Members

are required to provide additional contributions to the Clearing Fund (Assessments). After the Assessments are exhausted, further losses are covered by the remaining equity capital of Eurex Clearing.

In addition, Deutsche Börse AG issued a letter of comfort in favour of Eurex Clearing. In the current version of the letter of comfort, Deutsche Börse AG states that it will provide Eurex Clearing with up to EUR 700 million to cover remaining losses.

In the future, the default waterfall and the letter of comfort shall be structured as follows: Eurex Clearing will allocate further own funds to the Clearing Fund (Further Dedicated Amount). The Further Dedicated Amount is determined on a pro rata basis with respect to the value of the Assessments actually delivered to Eurex Clearing by the non-defaulted Clearing Members. Eurex Clearing's Further Dedicated Amount will be realised by Eurex Clearing simultaneously with the Assessments delivered by the non-defaulted Clearing Members. Eurex Clearing commits to provide an amount of up to EUR 300 million as Further Dedicated Amount. The Further Dedicated Amount shall be realised on the same liquidation group logic as Clearing Members' Further Contributions (Assessments).

Provisions in the following parts of the Clearing Conditions will be amended:

- Chapter I Part 1 Numbers 6.2.1 and 6.3

In line with the increase of Eurex Clearing's Dedicated Amount (see item 1. above), the current letter of comfort provided by Deutsche Börse AG in favour of Eurex Clearing will be repealed and replaced by a new letter of comfort in favour of Eurex Clearing in which the maximum amount will be reduced from EUR 700 million to EUR 600 million.

The new letter of comfort provided by Deutsche Börse AG will come into effect on the same day as the amended Clearing Conditions and will be published on the Eurex Clearing website www.eurexclearing.com. A final draft of the letter of comfort provided by Deutsche Börse AG in favour of Eurex Clearing is attached to this circular.

3. Clarification of liabilities between Eurex Clearing and its Clearing Members with respect to certain financial losses

Additionally, Eurex Clearing introduces a compensation claim of Eurex Clearing against its Clearing Members with respect to certain non-default financial losses.

In case of losses arising from currencies for which Eurex Clearing does not maintain an account with a central bank, such losses will be borne by Eurex Clearing and those Clearing Members who have actually delivered Eligible Margin Assets in such currencies, on a pro rata basis. The maximum reimbursement obligation of each Clearing Member is limited to the total cash amount delivered to Eurex Clearing in such currency, and the maximum own contribution of Eurex Clearing is limited to EUR 50 million. The amendments aim to adjust with market standards and to ensure the integrity of Eurex Clearing.

Provisions in the following parts of the Clearing Conditions will be amended:

- Chapter I Part 1 Number 3.4.6.

As of the effective date 15 June 2016, the full updated Clearing Conditions will be published on the Eurex Clearing website www.eurexclearing.com under the following link:

[Resources > Rules and Regulations](#)

eurex clearing circular 066/16

Pursuant to Chapter I Part 1 Number 17.2.3 of the Clearing Conditions, the changes and amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless it objects in writing to Eurex Clearing before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions. The right to terminate the Clearing Agreement or the Clearing License according to Chapter I Part 1 Number 2.1.4 Paragraph 2 Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions remains unaffected.

If you have any questions or require further information, please contact Risk Control at tel. +49-69-211-1 24 52 or the DMP Section directly via e-mail: DMP_Inbox@eurexclearing.com.

20 May 2016

CHAPTER I WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Chapter I General Provisions

[...]

Part 1 General Clearing Provisions

[...]

3.4 Currency Conversion, Use of Cash Margin and Income on Margin Assets, Participation of Clearing Members in Investment Losses

[...]

3.4.5e Eurex Clearing AG may demand from a Clearing Member the reimbursement of expenses arising from the investment of the cash actually delivered in respect of Margin. A liability for reimbursement exists for expenses such as charges on any account balances (including in connection with any applicable bank levies, taxes or similar regulatory instruments), negative interest rates, penalty fees, commissions and other payments with a similar effect which are determined by the accounting central bank or accounting commercial bank or governmental agencies in respect of the respective cash funds.

3.4.6 In case the Clearing Member pays Eligible Margin Assets in the form of cash, denominated in a Commercial Bank Currency, to Eurex Clearing AG as Elementary Proprietary Margin, Elementary Omnibus Margin, Segregated Margin and/or Net Omnibus Margin and Eurex Clearing AG either holds such cash amounts on an account maintained with a commercial bank or invests such cash amounts, partly or in whole, for purposes of liquidity management and liquidity generation (each an "Investment") and Eurex Clearing AG suffers an Investment Loss through such Investment, Eurex Clearing

AG is entitled to claim compensation for the Investment Loss from the Clearing Member in accordance with the following provisions:

(i) **“Investment Loss”** means any loss incurred by Eurex Clearing AG with respect to an Investment because the amount invested in such Investment was not or not fully repaid to Eurex Clearing AG or a third party by the contractual counterparty of the relevant Investment (**“Investment Counterparty”**) on the date on which it shall be repaid in accordance with the relevant contractual terms of the Investment or an instruction by Eurex Clearing AG.

“Commercial Bank Currency” means any currency accepted by Eurex Clearing AG as Eligible Margin Assets for which Eurex Clearing AG does not maintain an account with a central bank. Eurex Clearing AG shall publish a list of the Commercial Bank Currencies on its website (www.eurexclearing.com).

(ii) Eurex Clearing AG shall participate in the Investment Loss on a pro rata basis (**“Own Contribution”**). The maximum Own Contribution shall be EUR 50,000,000 (**“Maximum Own Contribution”**). The Maximum Own Contribution refers to all past and future Investment Losses and, in case of the occurrence of an Investment Loss, the Maximum Own Contribution shall be reduced by the relevant Own Contribution (**“Available Own Contribution”**). Eurex Clearing AG shall publish the current Available Own Contribution on its website (www.eurexclearing.com).

In case of the occurrence of Investment Losses with respect to more than one Commercial Bank Currency on a Business Day, Eurex Clearing AG allocates the Available Own Contribution to the Commercial Bank Currencies as follows: the product of (A) the Available Own Contribution and (B) the ratio of (i) the sum of the Eligible Margin Assets in form of cash, denominated in the relevant Commercial Bank Currency, which were paid by all Clearing Members to Eurex Clearing AG with respect to all Standard Agreements and (ii) the sum of the Eligible Margin Assets in form of cash, denominated in all Commercial Bank Currencies, which were paid by all Clearing Members to Eurex Clearing AG with respect to all of their Standard Agreements (**“Available Currency-Related Own Contribution”**).

(iii) Eurex Clearing AG shall determine the relevant Own Contribution with respect to each Commercial Bank Currency separately on the basis of the following formula: the product of (A) the Investment Loss and (B) the ratio of (i) the Available Own Contribution or the Available Currency-Related Own Contribution and (ii) the sum of the Eligible Margin Assets in form of cash, denominated in the relevant Commercial Bank Currency, which were paid by all Clearing Members to Eurex Clearing AG with respect to all of their Standard Agreements plus the Available Own Contribution or the Available Currency-Related Own Contribution.

(iv) Eurex Clearing AG shall determine the Clearing Member's share in the Investment Loss with respect to each Commercial Bank Currency separately and on the basis of the following formula: the product of (A) the Investment Loss and (B) the ratio of (i) the sum of the Eligible Margin Assets in form of cash, denominated in the Commercial Bank Currency, which were paid by the relevant Clearing Member to Eurex Clearing AG with respect to all Standard Agreements and (ii) the sum of the Eligible Margin Assets in form of cash, denominated in the Commercial Bank

Currency, which were paid by all Clearing Members to Eurex Clearing AG with respect to all of their Standard Agreements plus the Available Own Contribution or the Available Currency-Related Own Contribution (“**Clearing Member-Related Investment Loss**”). Eurex Clearing AG shall notify the Clearing Member about the Clearing Member-Related Investment Loss without undue delay (“**Investment Loss Notice**”).

- (v) The Clearing Member shall pay to Eurex Clearing AG the Clearing Member-Related Investment Loss by the time specified in the Investment Loss Notice at the latest. If the Clearing Member fails to do so by the time specified in the Investment Loss Notice, Eurex Clearing AG is entitled to directly debit the Clearing Member Cash Account in an amount equal to the requested amount in accordance with the daily cash clearing procedure pursuant to Number 1.4.1 of the General Clearing Provisions.
- (vi) If the Investment Loss is reduced through a payment by the Investment Counterparty or a third party (“**Reduction Amount**”) after the Clearing Member paid its Clearing Member-Related Investment Loss to Eurex Clearing AG, Eurex Clearing AG shall distribute the Reduction Amount between all Clearing Members, which paid their Clearing Member-Related Investment Loss to Eurex Clearing AG, and Eurex Clearing AG by applying, *mutatis mutandis*, the share in the Investment Loss determined under Paragraph (iii) or (iv).
- (vii) In case of the occurrence of an Investment Loss, the Clearing Member is not entitled to require Eurex Clearing AG to enforce any rights or security interests which Eurex Clearing AG may have against the Investment Counterparty and/or a third party, before claiming the payment of the Clearing Member-Related Investment Loss from the Clearing Member. In the case Eurex Clearing AG has claimed the payment of the Clearing Member-Related Investment Loss from the Clearing Member on the occurrence of an Investment Loss, Eurex Clearing AG will take any action as is required to enforce any rights or security interests which Eurex Clearing AG may have against the Investment Counterparty and/or a third party with respect to the Investment Loss.

[...]

CHAPTER I WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Chapter I General Provisions

[...]

Part 1 General Clearing Provisions

[...]

6.2 Realisation of the Clearing Fund

[...]

6.2.1 In case of a Realisation Event, the (Further) Contributions of Clearing Members to the Clearing Fund will be realised (with respect to Interim Participants as modified by the specific provisions set out in Subpart A Number 15 of the Individual Clearing Model Provisions) in accordance with the following order of priority with respect to each **“Relevant Liquidation Group”**, i.e. each Liquidation Group (as defined in Number 7.5.1) ~~within the scope of the Clearing Fund~~ to which Terminated Transactions (as defined in Number 7.5) belong (whereby each Paragraph (1) to (10) of such order of priority shall, ~~within the scope of the Clearing Fund~~, be applied to all Relevant Liquidation Groups simultaneously before, in each case, the respective next Paragraph is applied and whereby all Terminated Transactions ~~within the scope of the Clearing Fund~~ which do not form part of any Liquidation Group shall collectively be treated as one **“Relevant Liquidation Group”** within the scope of the Clearing Fund for the purposes of this Number 6):

- (1) first, the applicable Liquidation Group Ratio of the Contribution of the Affected Clearing Member;

- (2) second, the applicable Liquidation Group Ratio of any remainder of the Contribution of the Affected Clearing Member ;
- (3) third, the applicable Liquidation Group Ratio of the Dedicated Amount;
- (4) fourth, the applicable Liquidation Group Ratio of any remainder of the Dedicated Amount;
- (5) fifth, the applicable Liquidation Group Ratio of the Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1));
- (6) sixth, the applicable Liquidation Group Ratio of any remainder of the Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) (with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1));
- (7) seventh, the applicable Liquidation Group Ratio of the Contributions of all other Non-Affected Clearing Members;
- (8) eighth, the applicable Liquidation Group Ratio of any remainder of the Contributions to the of all other Non-Affected Clearing Members;
- (9) ninth, the applicable Liquidation Group Ratio of the Further Contributions of all Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1)); and
- (10) tenth, the applicable Liquidation Group Ratio of the Further Contributions of all other Non-Affected Clearing Members including the applicable Liquidation Group Ratio of the Further Dedicated Amount; Eurex Clearing AG shall realise the applicable Liquidation Group Ratio of the Further Contributions of all other Non-Affected Clearing Members and the applicable Liquidation Group Ratio of the Further Dedicated Amount on a pro rata basis; the sum of all Further Dedicated Amounts with respect to all Liquidation Groups shall not exceed the amount of EUR 300,000,000.

With respect to each Relevant Liquidation Group, the term “**Liquidation Group Ratio**” means the fraction of the amount which may be realised, in each case, under Paragraph (1) – (10) which is to be determined as follows:

- (i) with respect to Paragraph (1), the ratio of (A) the part of the Contribution Requirement of the relevant Affected Clearing Member applicable to such Relevant Liquidation Group and (B) its aggregate Contribution Requirement,
- (ii) with respect to Paragraphs ~~(2)(a) and (2)(b)~~, the ratio of (A) the part of the Contribution Requirement of the relevant Affected Clearing Member applicable to such Relevant Liquidation Group and (B) its aggregate Contribution Requirement (in each case, not taking into account Relevant Liquidation Groups in respect of which

the relevant claims have already been discharged pursuant to Paragraph (1), ~~and in the case of Paragraph (2) (b), also Paragraph (2) (a)),~~

- (iii) with respect to Paragraph (3), the ratio of (A) the part of the ~~Clearing Fund Related~~ Total Margin Requirement determined for such Relevant Liquidation Group and (B) the aggregate ~~Clearing Fund Related~~ Total Margin Requirement,
- (iv) with respect to Paragraph (4), the ratio of (A) the part of the ~~Clearing Fund Related~~ Total Margin Requirement determined for such Relevant Liquidation Group and (B) the aggregate ~~Clearing Fund Related~~ Total Margin Requirement (not taking into account Relevant Liquidation Groups in respect of which the relevant claims have already been discharged pursuant to the respective preceding Paragraphs),
- (v) with respect to Paragraphs (5) and (7), the ratio of (A) the part of the Contribution Requirement of the relevant Clearing Members applicable to such Relevant Liquidation Group and (B) their aggregate Contribution Requirements,
- (vi) with respect to Paragraphs (6) and (8), the ratio of (A) the part of the Contribution Requirement of the relevant Clearing Members applicable to such Relevant Liquidation Group and (B) their aggregate Contribution Requirement (in each case, not taking into account Relevant Liquidation Groups in respect of which the relevant claims have already been discharged pursuant to the respective preceding Paragraphs), ~~and~~
- (vii) with respect to Paragraphs (9) ~~and (10)~~, the ratio of (A) the part of the requirement for Further Contributions of the relevant Non-Affected Clearing Members that are Non-Bidding Participants pursuant to Number 7.5.3 Paragraph (5) with respect to the relevant DM Auction(s) (as defined in Number 7.5.3 Paragraph (1)), applicable to such Relevant Liquidation Group and (B) their aggregate requirement for Further Contributions, and
- (viii) with respect to Paragraphs (10), (A) the Liquidation Group Ratio of the Further Contributions of all other Non-Affected Clearing Members means the ratio of (a) the part of the contribution requirement for Further Contributions of any other Non-Affected Clearing Members applicable to such Relevant Liquidation Group and (b) the sum of the aggregate contribution requirement for Further Contributions of such Non-Affected Clearing Members, and (B) the Liquidation Group Ratio of the Further Dedicated Amount means the product of (a) the applicable Liquidation Group Ratio determined with respect to the Dedicated Amount pursuant to Paragraph (iii) above and (b) the ratio of (A) the sum of the Further Contributions of all Non-Affected Clearing Members, which have actually been delivered to Eurex Clearing AG with respect to the Relevant Liquidation Group and (B) the sum of all Further Contributions Eurex Clearing AG is entitled to require from all Non-Affected Clearing Members with respect to the Relevant Liquidation Group up to the relevant Liability Cap.

Where, in case of Paragraphs (5) to (10), with respect to a Relevant Liquidation Group the (Further) Contributions of several Non-Affected Clearing Members are still available and the amount needed to discharge the claims in respect of the Relevant Liquidation Group is lower than such available (Further) Contributions, with respect to each such

Non-Affected Clearing Member's (with respect to Paragraphs (5) and (6) and Paragraph (9) limited to Non-Bidding-Participants) only the Non-Affected Clearing Member's Ratio shall be realised under the relevant Paragraph.

The "**Non-Affected Clearing Member's Ratio**" with respect to a Non-Affected Clearing Member shall be the ratio of (A) its available (Further) Contribution with respect to the Relevant Liquidation Group and (B) all available (Further) Contributions of all Non-Affected Clearing Members (with respect to Paragraphs (5) and (6) and Paragraph (9) limited to Non-Bidding-Participants) with respect to the Relevant Liquidation Group.

"Total Margin Requirement" means the sum of the Additional Margin requirement, the Spread Margin requirement and the Initial Margin requirement of all Clearing Members in respect to which no Termination Date has occurred ("**Non-Affected Clearing Members**").

[...]

6.3 Further Contributions to the Clearing Fund (Assessments); Replenishment of Contributions to the Clearing Fund

6.3.1 If, following a Realisation Event, Eurex Clearing AG determines that the Contributions of the Non-Affected Clearing Members may not be sufficient to cover the respective claims secured by the Clearing Fund in accordance with Number 6.2.1 above, it shall at its discretion be entitled to require from the Non-Affected Clearing Members, within a Capped Period, by making one or several demands, and the Non-Affected Clearing Members shall, subject to the Liability Cap, be obliged to make, further Contributions ("**Further Contributions**") to the Clearing Fund, in each case as soon as possible but no later than one Business Day following receipt of Eurex Clearing AG's demand.

The "**Liability Cap**" for each Non-Affected Clearing Member shall, with respect to the Clearing Fund, be two times the originally applicable Contribution Requirement to the Clearing Fund for such Non-Affected Clearing Member and shall apply for the relevant Capped Period.

A "**Capped Period**" shall, with respect to the Clearing Fund, be a period of twenty (20) Business Days which shall commence on the Termination Date and which, if one or more further Termination Date(s) occur within such twenty (20) Business Day period shall, in the case of each such further Termination Date, be extended by twenty (20) Business Days from (and including) the relevant further Termination Date, subject to a maximum duration of three (3) months. If, following the occurrence of a Termination Date, the Clearing Fund will not be realised, the Capped Period shall end upon finalisation of the default management process with respect to such Termination Date as notified by Eurex Clearing AG to the Clearing Members.

A Non-Affected Clearing-Member shall not be obliged to pay Further Contributions, if the respective Non-Affected Clearing-Member has terminated all of its Clearing Licenses and such terminations have become effective prior to the start of the respective Capped Period. If a Clearing Member which has terminated all its Clearing Agreements with Eurex Clearing AG has not settled all its Transactions within a Capped Period, such Clearing Member remains liable for any subsequent Capped Period(s) in accordance with

the foregoing sentence until it is no longer a party to any Transactions with Eurex Clearing AG.

Without undue delay after the end of each Capped Period each Non-Affected Clearing Member shall be obliged to replenish the Clearing Fund up to the relevant Contribution Requirement applicable to it; this shall not apply if a Non-Affected Clearing Member has terminated all its Clearing Licenses and the relevant terminations have become effective before such replenishment obligation has become due.

6.3.2 Where Eurex Clearing AG requires Further Contributions from the Non-Affected Clearing Members, Eurex Clearing AG will allocate further own funds to the Clearing Fund (**Further Dedicated Amount**). Eurex Clearing AG will determine the Further Dedicated Amount separately for each Liquidation Group. The Further Dedicated Amount is determined by reference to the pro rata amount of Further Contributions actually delivered to Eurex Clearing AG by the Non-Affected Clearing Members as set out in Number 6.2.1 (viii). Eurex Clearing AG will allocate a Further Dedicated Amount to the Clearing Fund up to a maximum amount of EUR 300.000.000. Such maximum amount shall cover all future Realisation Events irrespective of whether they occur within one or more Capped Period.

[...]

15 June 2016

Letter of Comfort
(Patronatserklärung)

in favour of
Eurex Clearing AG

issued by
Deutsche Börse AG

1. Deutsche Börse AG hereby undertakes to provide Eurex Clearing AG with financial funding to enable Eurex Clearing AG to comply with its obligations.
2. The maximum aggregate liability of Deutsche Börse AG under this Letter of Comfort shall in no event exceed six hundred million euros (€600,000,000).
3. Eurex Clearing AG may utilise the financial funding made available pursuant to clause 1 in one or more amounts by delivering a written request to Deutsche Börse AG stipulating the reasons for such funding required in reasonable detail. Deutsche Börse AG shall provide the requested financial funding to Eurex Clearing AG by itself and/or via third parties within three (3) Bank Business Days of Deutsche Börse AG receiving a written request. For the purposes of this Letter of Comfort, a “Bank Business Day” means a day on which banks are open for general business in Frankfurt/Main.
4. The maximum aggregate liability of Deutsche Börse AG under clause 2 shall be reduced by the amount of each payment of financial funding paid under this Letter of Comfort.
5. In case funding is provided in the form of debt (*Fremdkapital*) to Eurex Clearing AG, Eurex Clearing AG shall repay the amount received as soon as the financial position of Eurex Clearing AG permits Eurex Clearing AG to do so without Eurex Clearing AG failing to comply with any of its obligations. The liability of Deutsche Börse AG shall be re-increased by the amount of each repayment received by Deutsche Börse AG under this Letter of Comfort, but shall in no event exceed an aggregate amount of six hundred million euros (€600,000,000). Eurex Clearing AG shall not be obliged to pay interest on the amounts received under this Letter of Comfort.
6. In order to prevent Eurex Clearing AG from being over-indebted, Deutsche Börse AG hereby subordinates any of its claims for repayment under clause 5 to all existing and future claims of the other creditors of Eurex Clearing AG, provided that the subordinated claims of Deutsche Börse AG shall only be satisfied simultaneously, and on a pro rata basis, with those claims of other creditors against Eurex Clearing AG for which a subordination has been agreed. This subordination shall also apply prior to Eurex Clearing AG’s insolvency. The subordination shall terminate as soon as and to the extent that, Eurex Clearing AG is no longer over-indebted, or if Eurex Clearing AG would not have been over-indebted without such subordination.

7. The parties to this Letter of Comfort agree that no third party – including, for the avoidance of doubt and without limitation, Clearing Members, Non-Clearing Members and/or Registered Customers (each as defined in Eurex Clearing AG’s clearing conditions), exchanges, multilateral trading facilities, trade capture platforms, information providers and their respective operators – shall have any rights under or in connection with this Letter of Comfort.
8. Eurex Clearing AG may not assign any rights or claims that may arise under or in connection with this Letter of Comfort to any third party without Deutsche Börse AG’s prior written consent.
9. This Letter of Comfort may be terminated at any time by Deutsche Börse AG giving three (3) months’ prior written notice to Eurex Clearing AG. Upon such termination becoming effective, Deutsche Börse AG shall not be liable in relation to any rights or claims which Eurex Clearing AG may have against Deutsche Börse AG under this Letter of Comfort, unless such rights or claims have become due in accordance with clause 3 before the termination has become effective. Termination of this Letter of Comfort shall be without prejudice to Eurex Clearing AG’s obligations to repay payments of financial funding under clause 5 and to the subordination under clause 6. Eurex Clearing AG shall publish the receipt of a termination notice without undue delay on its website (www.eurexclearing.com).
10. This Letter of Comfort, and all contractual and non-contractual rights and obligations arising from or in connection with it, shall be governed by, and construed in accordance with, German law. The courts of Frankfurt/Main shall have exclusive jurisdiction over any disputes arising from or in connection with this Letter of Comfort.
11. This Letter of Comfort, including this clause, may not be amended, altered or modified except by written instrument executed by Deutsche Börse AG and Eurex Clearing AG.
12. The letter of comfort in favour of Eurex Clearing AG dated 20 November 2012 shall be repealed and replaced by this Letter of Comfort with effect as of 15 June 2016.

[Name and position of signatory]
for and on behalf of Deutsche Börse AG

[Name and position of signatory]
for and on behalf of Eurex Clearing AG

[Name and position of signatory]
for and on behalf of Deutsche Börse AG

[Name and position of signatory]
for and on behalf of Eurex Clearing AG