UNITED STATES
COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Division of Clearing and Risk
Market Participants Division

Mr. Matthias Graulich, Member of the Executive Board of Eurex Clearing AG
Mr. Eric Seinsheimer, Director, Legal (Americas) & US CCO
Eurex Clearing AG
Mergenthalerallee 61
65760 Eschborn, Germany
September 17, 2026

Re: No-Action Letter regarding Commission Regulations 1.49(c)(1), 1.49(e)(1)(i), and 22.9 to Permit Futures Commission Merchants that are Clearing Members of Eurex Clearing AG to Deposit Customer-Owned Securities as Margin Collateral for Swap Transactions with Clearstream Banking S.A.

Dear Messrs. Graulich and Seinsheimer:

This is in response to your letter dated August 10, 2026, to the Division of Clearing and Risk ("DCR") of the Commodity Futures Trading Commission ("CFTC" or "Commission"). In your letter, you request that DCR confirm that it will not recommend that the Commission take enforcement action against Eurex Clearing AG ("Eurex Clearing"), its futures commission merchant ("FCM") clearing members, and Clearstream Banking S.A. ("CBL") with respect to Commission Regulations 1.49(c)(1), 1.49(e)(1)(i), and 22.9, for maintaining customer securities as margin for cleared swap transactions with CBL, a central securities depository ("CSD") based in Luxembourg.

DCR and the Market Participants Division ("MPD" and collectively with DCR, the "Divisions") are responding jointly to your request regarding how customer securities are held as margin collateral for cleared swap transactions by both Eurex Clearing, as a registered derivatives clearing organization ("DCO"), and its FCM clearing members.

Relevant Statutory Provisions and Commission Regulations

Section 4d(f) of the Commodity Exchange Act ("CEA") requires each FCM to treat and deal with all money, securities, and property received from a customer to margin a swap cleared through a DCO as belonging to such customer.[1] Section 4d(f) further provides that customer margin shall be separately accounted for and not commingled with the FCM's own

[1] CEA § 4d(f)(2)(A); 7 U.S.C. § 6d(f)(2)(A).

property.[2] FCMs may, however, commingle the margin received from more than one swap customer and deposit such funds in an account with any bank, trust company, or DCO.[3]

Commission Regulation 1.49(c)(1) and 22.9 provide, in relevant part, that unless a customer gives instructions to the contrary, an FCM or DCO may hold customer funds in the United States, in a money center country, or in the country of origin of the currency.[4] The term "money center country" is defined in Commission Regulation 1.49(a)(1) to mean Canada, France, Italy, Germany, Japan, and the United Kingdom.[5]

Commission Regulation 1.49(e)(1)(i) provides, in relevant part, that each FCM and DCO must hold in segregated accounts on behalf of customers sufficient U.S. dollars, held in the United States, to meet all U.S. dollar obligations.[6]

Background and Representations by Eurex Clearing

In support of your request, you represent the following:

1. Eurex Clearing

Eurex Clearing is a DCO registered under section 5b of the CEA. Eurex Clearing is authorized by the Commission as a DCO to clear certain swap transactions, including swap transactions of customers of FCMs that are clearing members of Eurex Clearing.[7]

2. Clearstream Europe A.G. and Previous No-Action Letter

Clearstream Europe A.G. ("CEU"), formerly Clearstream Banking A.G., is a CSD based in Eschborn, Germany. CEU is a subsidiary of Clearstream International S.A., which is part of the Deutsche Börse Group. Eurex Clearing is also part of the Deutsche Börse Group. CEU is currently licensed and regulated by the German Federal Financial Supervisory Authority (Bundesanstalt fur Finanzdienstleistungsaufsicht – "BaFin") as a deposit-taking credit institution under the German Banking Act (Kreditwesengesetz). CEU is licensed as a CSD under the EU's Central Securities Depositories Regulation ("CSDR"), which sets forth enhanced regulations for EU-based CSDs. CEU is recognized as the German CSD under the German Safe Custody Act, serving as a custodian for securities accepted in Germany and

---

[2] CEA § 4d(f)(2)(B); 7 U.S.C. § 6d(f)(2)(B).
[3] CEA § 4d(f)(3)(A)(i); 7 U.S.C. § 6d(f)(3)(A)(i).
[4] 17 C.F.R. §§ 1.49(c)(1), 22.9.
[5] 17 C.F.R. § 1.49(a)(1).
[6] 17 C.F.R. § 1.49(e)(1)(i).
[7] *In the Matter of the Application of Eurex Clearing AG For Registration as a Derivatives Clearing Organization*, Order of Registration (Feb. 1, 2016), available at https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/orgdcoeurexclrorder212016.pdf.

issued by German and international issuers in the form of collective or individual certificates or registration rights.

On December 20, 2018, the Divisions issued a no-action letter to Eurex Clearing regarding Commission Regulations 1.49(d)(3), 1.49(e)(1)(i), and 22.9.[8] The Divisions adopted a no-action position regarding Commission Regulations 1.49(d)(3) and 22.9, as CEU does not maintain regulatory capital in excess of $1 billion. The Divisions also adopted a no-action position regarding Commission Regulation 1.49(e)(1)(i), as an FCM that holds customer securities denominated in U.S. dollars at CEU (outside the United States) does not hold U.S. dollar-denominated assets in the United States to meet its U.S. dollar obligations to customers. This letter applied to the extent that Eurex Clearing and/or such FCMs maintain customer securities to margin swap transactions cleared by Eurex Clearing with CEU as a depository.

However, in Q1 2027, CEU intends to return its German deposit-taking credit institution license. After doing so, Eurex Clearing and its clearing member FCMs intend to maintain customer securities as margin for cleared swap transactions at CBL, an affiliated CSD based in Luxembourg.

3. Clearstream Banking S.A.

CBL is a CSD based in Luxembourg-Ville, Grand Duchy of Luxembourg. Like CEU, CBL is a subsidiary of Clearstream International S.A., which is part of the Deutsche Börse Group. CBL is supervised as a CSD by the Luxembourg Commission de Surveillance du Secteur Financier and as an operator of a securities settlement system ("SSS") by the Banque Centrale du Luxembourg. CBL provides services of safekeeping and administration, settlement, collateral management, credit and securities lending and borrowing, and depositing of funds.

CBL is licensed as a CSD and operates as an international CSD ("ICSD") under the CSDR. CBL adheres to all CPMI-IOSCO *Principles for Financial Market Infrastructures* ("PFMIs")[9] that apply to CSDs and SSSs, as required by each European Union member state, including Luxembourg.

4. International Standards for the Regulation of CSDs

The PFMIs set forth international standards for the regulation of financial market infrastructures, including CSDs. According to the PFMIs, CSDs "play a critical role in the protection of securities and help ensure the integrity of securities transactions."[10] Guidance

---

[8] CFTC Staff Letter 18-31 (Dec. 20, 2018), available at: *https://www.cftc.gov/csl/18-31/download*.
[9] Principles for Financial Market Infrastructures (April 2012), available at: *https://www.bis.org/publications/principles-financial-market-infrastructures.pdf*.
[10] PFMIs, at 72.

contained in the PFMIs provides that CSDs "should support operationally the segregation of securities belonging to a participant's customers on the participant's books" and that "segregation of accounts typically helps provide appropriate protection against the claims of a CSD's creditors or the claims of the creditors of a participant in the event of its insolvency."[11]

CBL fulfills the PFMI guidance of holding securities in segregation and providing appropriate bankruptcy protection. Moreover, the International Monetary Fund has concluded that CBL broadly or fully observes the principles in the PFMIs that are applicable to CSDs.[12]

5. FCM Clearing Member Accounts at CBL

Eurex Clearing's FCM clearing members will deposit customer-owned securities as margin collateral for cleared swap transactions with CBL. Each FCM clearing member of Eurex Clearing will establish one or more segregated accounts at CBL to hold securities deposited by customers to margin their cleared swap transactions. FCM clearing members may hold customer securities either in separate sub-accounts for each customer or commingled in a single sub-account, though with each customer's securities individually allocated using specific customer identifiers. Each FCM clearing member that opens a customer securities account at CBL will obtain an acknowledgment letter from CBL in accordance with Commission Regulations 1.20 and 22.5. CBL is obligated to provide daily account balance information for each FCM customer account it maintains to the relevant designated self-regulatory organization (either Chicago Mercantile Exchange ("CME") or the National Futures Association ("NFA")) pursuant to applicable CME/NFA rules in order to qualify as a depository for customer funds.

Customer securities maintained at CBL in the FCM's account will be pledged in favor of Eurex Clearing under a Luxembourg-law pledge agreement. Further, the Luxembourg-law pledge is perfected by Eurex Clearing's requirement that the pledged securities accounts be titled as pledged accounts within CBL's systems.

In the event of an FCM clearing member default, Eurex Clearing's secured claim over the pledged securities could be drawn upon, and Eurex Clearing would be entitled under the pledge agreement to sell or appropriate the securities to satisfy its claim. In such a situation, Eurex Clearing would notify CBL and would instruct it to transfer the securities in the pledged account accordingly. After application of Eurex Clearing's secured claim,[13] Eurex Clearing would direct CBL to return any securities remaining in the pledge account to the bankruptcy trustee for the defaulting FCM.

---

[11] PFMIs, Principle 11, Explanatory Note 3.11.6.
[12] *See Luxembourg – Financial Sector Assessment Program* (Aug. 2017), available at https://www.imf.org/~/media/Files/Publications/CR/2017/cr17260.ashx.
[13] The amount of the secured claim would be calculated in a manner consistent with Part 22 of the Commission's regulations, commonly referred to as "legally segregated, operationally commingled."

Luxembourg law provides protections for securities deposited by an FCM clearing member with CBL that are consistent with Article 8 of the U.S. Uniform Commercial Code ("UCC"). Under Luxembourg law, the rights of FCM clearing members to such securities are governed by Articles 3(1) and 10(2) of the Law of 1 August 2001 ("Securities Law") concerning the circulation of securities and fungible instruments and that these entitlements are characterized as proprietary rights, enforceable against third parties. Article 11 of the Securities Law parallels the protections found in Article 8 of the UCC, specifically preventing assets held by upper-tier securities intermediaries from being directly attached.

6. CBL's Use of Sub-Custodians

CBL holds customer securities through an international network of 60 linked CSDs. CBL must comply with all CSDR requirements and Luxembourg law applicable to CSD links. Specifically, before establishing a CSD link and on an ongoing basis once a CSD link is established, CBL must identify, assess, monitor, and manage all potential sources of risk for itself and its clients arising from the CSD link and take appropriate measures to mitigate them. In such cases, CBL is liable for the diligent selection and instruction of the relevant sub-custodian.

The legal framework that applies to CBL with respect to linked foreign CSDs offers protections for the customer securities deposited with CBL. CBL is required to comply with all EU and Luxembourg requirements governing a CSD's entitlement to collateral, segregation, settlement finality, collateral protection in the event of an insolvency, and the manner of using linked CSDs.[14] Moreover, as part of its global practice, CBL has implemented the German law requirement to obtain a formal "three-point declaration" from all linked foreign CSDs. Under German law, in order to establish a relationship with a foreign CSD, German CSDs must obtain a "three-point declaration" that provides that the foreign CSD: (a) recognizes that the securities deposited with it are customer securities of the German CSD; (b) will not assert any security interest or lien on the securities deposited by the German CSD (other than for claims that arise from the custody or administration of such securities); and (c) will not sub-deposit the securities deposited by the German CSD with a third party or transfer them to another country without the express consent of the German CSD. In addition, in onboarding a foreign CSD as a sub-custodian, CBL obtains an opinion of legal counsel confirming the enforceability of the entitlement to services. Such legal opinion confirms, among other things, the enforceability of the foreign CSD's obligations, the segregation of the foreign CSD's assets from those of its customers, and the recoverability of customer securities in the event of a bankruptcy.

Despite CBL's use of an international network of custodians, in the event of Eurex Clearing's insolvency, the situs of Eurex Clearing's customer accounts would be with CBL in

---

[14] Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing CSDR, Article 84, at: https://eur-lex.europa.eu/eli/reg_del/2017/392/oj/eng.

Luxembourg, the depository with which Eurex Clearing's FCM clearing members have established securities accounts.

In your request for a no-action letter, you proposed to restrict the scope of securities that FCM clearing members and their customers may use as initial margin for cleared swap transactions to securities of the following six jurisdictions: Canada, France, Germany, Japan, United Kingdom, and United States. Each of the CSDs and intermediaries in the custody chains for these six jurisdictions is either (a) a bank with at least $1 billion in regulatory capital; (b) a CSD regulated as a CSD consistent with the standards set forth in the PFMIs; or (c) a central bank. At each financial institution within each of the custody chains in the six relevant jurisdictions, the relevant securities are held in omnibus accounts and, to the extent such accounts hold customer securities, they are clearly labelled as holding customer securities.

7. Holding of U.S. Dollar-Denominated Securities at CBL

Eurex Clearing is proposing to accept U.S. dollar-denominated securities as initial margin to collateralize cleared swap transactions, and because such U.S. dollar-denominated securities will be held at CBL in Luxembourg, Eurex Clearing and its clearing member FCMs will also require confirmation that DCR will not recommend that the Commission take enforcement action regarding Commission Regulation 1.49(e)(1)(i).

<u>Request for No-Action Letter</u>

1. Commission Regulation 1.49(c)(1) and 22.9

You requested that DCR confirm that it will not recommend that the Commission take enforcement action regarding Commission Regulation 1.49(c)(1) and 22.9 as they relate to Eurex Clearing's FCM clearing members depositing customer securities with CBL to margin cleared swap transactions. You acknowledge that, while CBL is licensed as a bank and a deposit-taking credit institution under Luxembourg law, it does not hold customer funds in the United States, in a designated money center country under Commission Regulation 1.49(a)(1), or in the country of origin of the currency as required under Commission Regulation 1.49(c)(1).

In support of your request, you represent the following:

Luxembourg, while not a G7 member, is a highly developed industrial democracy that is both politically and economically stable. Given its financial system's deep integration into global markets, regulatory alignment and collaboration are both essential and well-established. As a member of the EU, Luxembourg has transposed CSDR regulations with respect to oversight of CSDs into national requirements.

CBL is licensed as a bank and a deposit-taking credit institution under Luxembourg law. CBL is licensed as a CSD and ICSD and is authorized to provide depository services in accordance with the CSDR. CBL's activities pursuant to its banking license include safekeeping and administration, settlement, collateral management, credit and securities lending and borrowing, and depositing of funds. CBL maintains regulatory capital in excess of $1 billion as required under Commission Regulation 1.49(d)(3). Further, CBL adheres to capital requirements set forth in Article 47 of the CSDR, ensuring that its capital, retained earnings, and reserves are aligned with the level of risk associated with its operations as a CSD. [15]

2. Commission Regulation 1.49(e)(1)(i)

You requested that DCR confirm that it will not recommend that the Commission take enforcement action regarding Commission Regulation 1.49(e)(1)(i) on behalf of Eurex Clearing and its clearing member FCMs. You acknowledge that an FCM holding customer securities denominated in U.S. dollars at CBL (outside the United States) does not constitute an FCM holding U.S. dollar-denominated assets in the United States to meet its U.S. dollar obligations to customers under Commission Regulation 1.49(e)(1)(i).

In support of your request, you represent the following:

In the event of insolvency of Eurex Clearing, an FCM, or CBL, any U.S. dollar-denominated customer securities deposited at CBL would be fully protected from the claims of third-party creditors under Luxembourg law as they move through the custody chain back to the United States.[16]

No-Action Position

Based upon the facts and representations made in your submission, the Divisions will not recommend that the Commission commence an enforcement action against Eurex Clearing or FCMs that are clearing members of Eurex Clearing to the extent Eurex Clearing and/or such FCMs maintain customer securities to margin swap transactions cleared by Eurex Clearing with CBL as a depository, notwithstanding the requirements in Commission Regulations 1.49(c)(1), 1.49(e)(1)(i), and 22.9. This no-action position is subject to the following conditions:

---

[15] Commission Delegated Regulation (EU) 2014/909 of 23 July 2014 supplementing CSDR, Article 47, at: *https://www.cssf.lu/en/Document/regulation-eu-no-909-2014-of-the-european-parliament-and-of-the-council-of-23-july-2014/.*

[16] Similarly, with respect to any of the other currencies permitted under this no-action position, you represent that, in the event of an insolvency of Eurex Clearing, an FCM, CBL (if applicable), the intermediary bank (if applicable) and the relevant sub-custodian, securities will be fully protected from the claims of third-party creditors as those securities move through the custody chain back to the originating jurisdiction.

1) The no-action position is limited to CBL's holding of customer-owned securities as margin for customer swap transactions cleared through Eurex Clearing.

2) The no-action position is conditioned upon each FCM clearing member of Eurex Clearing providing each prospective Eurex Clearing Customer[17] with a written disclosure statement prior to the Eurex Clearing Customer entering into swap transactions cleared by Eurex Clearing. The disclosure statement must describe: (a) the Eurex Clearing clearing process; (b) the risks associated with the holding of customer securities in foreign jurisdictions, including the holding of customer securities at CSDs and sub-custodians; and (c) the operation of Framework 2 of Part 190 of the Commission's regulations in the event of an FCM bankruptcy.

3) In the event that an FCM clearing member of Eurex Clearing carries, for another (non-clearing) FCM, a customer omnibus account that includes swap positions listed on Eurex and cleared through Eurex Clearing, this no-action position is conditioned upon the FCM clearing member of Eurex Clearing taking steps reasonably designed to ensure that the non-clearing FCM has provided the written disclosure statement set forth in condition (2) above to its customers who are trading or intend to trade such swaps.

4) Each FCM clearing member of Eurex Clearing must, upon opening an account with CBL to hold customer securities as margin for cleared swap transactions, obtain an acknowledgment letter from CBL in accordance with Commission Regulations 1.20 and 22.5.

5) Eurex Clearing and its FCM clearing members may only accept customer-owned securities that are issued by the governments of, or issuers located in, the following six jurisdictions to margin swap transactions cleared through Eurex Clearing: Canada, France, Germany, Japan, United Kingdom, and United States.

6) Eurex Clearing must at least annually conduct due diligence to determine that each entity in the custody chain for each of the six relevant jurisdictions (as listed above): (1) continues to be either (i) a bank with at least $1 billion in regulatory capital; (ii) a CSD regulated as a CSD consistent with the standards set forth in the PFMIs; or (iii) a central bank; and (2) continues to be in good regulatory standing. To the extent Eurex Clearing determines that any of the entities in the custody chain does not meet one of those conditions, Eurex Clearing must notify the Commission and its FCM clearing members

---

[17] "Eurex Clearing Customer" is defined as each customer with an account at an FCM clearing member of Eurex Clearing for swap positions listed on Eurex and cleared through Eurex Clearing.

immediately, and, within 14 days following such determination, that entity will no longer be an eligible depository for purposes of this no-action position.

7) Eurex Clearing and its FCM clearing members are not excused from their obligation to comply with all other Commission regulations (both with respect to CBL and otherwise), including, but not limited to, Commission Regulations 1.11 and 39.15.[18]

This letter, and the position taken herein, represent the views of the Divisions only, and do not necessarily reflect the views of the Commission or any other division or office of the Commission. This letter, and the no-action position taken herein, are not binding on the Commission. Further, this letter, and the position taken herein, concern enforcement action only and do not represent a legal conclusion with respect to the applicability of any provision of the CEA or the Commission's regulations. Except as explicitly provided in this letter, the no-action position taken in this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the CEA or the Commission's regulations. Because this position is based on the representations contained in Eurex's request letter, any different, changed, or omitted material facts or circumstances may require a different conclusion or render this letter void. Finally, as with all no-action letters, the Divisions retain the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of this letter, in their discretion.

Should you have any questions, please do not hesitate to contact Michael Franklin, Attorney Advisor, DCR, at (202) 418-5818; or Liliya Bozhanova, Associate Director, MPD, at (202) 418-6232.

Sincerely,

Richard Haynes Acting Director, DCR	DJ Hennes Director, MPD

[18] Though under Eurex's proposed structure, the accounts at CBL are not in Eurex Clearing's name, the Divisions interpret Commission Regulation 39.15(c) as applying to Eurex Clearing in that Eurex Clearing must establish arrangements for the holding of customer assets in such a way as to minimize the risk of loss or delay in the access by the DCO to such assets.