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17 C.F.R. §§ 1.49 and 22.9

*VIA EMAIL*
Mr. Richard Haynes
Acting Director
Division of Clearing and Risk
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

August 10, 2026

**Re: Request of Eurex Clearing AG for No-Action Relief on behalf of itself, futures commission merchants that are clearing members of Eurex Clearing AG, and Clearstream Banking S.A. from Regulations 1.49(c)(1), 1.49(e)(1)(i), and 22.9**

Dear Mr. Haynes,

Pursuant to Regulation 140.99, Eurex Clearing AG ("Eurex Clearing") respectfully requests that the Division of Clearing and Risk ("Division") of the Commodity Futures Trading Commission ("CFTC" or "Commission") issue no-action relief confirming that the Division will not recommend that the Commission commence enforcement action against Eurex Clearing, futures commission merchants ("FCMs") that are clearing members of Eurex Clearing, and Clearstream Banking S.A. ("CBL") with respect to Commission Regulations 1.49(c)(1), 1.49(e)(1)(i), and 22.9 in order to permit Eurex Clearing and its clearing member FCMs to maintain customer securities as margin for cleared swap transactions at CBL, a central securities depository ("CSD") based in Luxembourg.

As detailed below, Eurex Clearing makes this request so that it may continue to accept and maintain securities collateral from its FCM clearing members and provide uninterrupted Derivatives Clearing Organization ("DCO") activities in the U.S. upon Clearstream Europe AG's ("CEU") return of its German deposit taking credit institution license in early 2027. Eurex Clearing strongly believes that having this relief in place would provide clarity and certainty to its FCM clearing members and their U.S. and global clients.

## I. Background

Eurex Clearing is registered as a DCO with the CFTC under Section 5b of the Commodity Exchange Act.[1] As part of its DCO application, Eurex Clearing included CEU, formerly Clearstream Banking AG, based in Eschborn, Germany, as a depository for cleared swap customer collateral. CEU is a CSD authorized by the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, "BaFin") pursuant to Article 16 (core and non-banking-type ancillary services) and Article 54 (banking-type ancillary services) of Regulation (EU) No 909/2014, as amended ("CSDR").

On December 20, 2018, Eurex Clearing received no-action relief from the Division from Commission Regulations 1.49(d)(3), 1.49(e)(1)(i), and 22.9 on behalf of itself and FCMs that are clearing members of Eurex Clearing 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.[2] This no-action relief was from Commission Regulations 1.49(d)(3) and 22.9, as CEU does not maintain regulatory capital in excess of $1 billion, and from Commission Regulation 1.49(e)(1)(i), as an FCM holding customer securities denominated in U.S. dollars at CEU (outside the U.S.) does not constitute the FCM holding U.S. dollar denominated assets in the U.S. to meet its U.S. dollar obligations to customers.

In Q1 2027, CEU intends to return its deposit taking credit institution license, which is ancillary to CEU's core business as a CSD and unrelated to CEU's performance as a depository for customer securities collateral. After doing so, CEU intends for non-Euro ("EUR") corporate action payments on securities collateral held by FCMs at CEU to go to cash-linked accounts at CBL, whereas currently such payments go to cash-linked accounts at CEU.[3] So that Eurex Clearing may continue to maintain existing securities collateral and accept new securities collateral at CEU, accept securities collateral at CBL, and provide uninterrupted DCO activities in the U.S., Eurex Clearing is respectfully requesting no-action relief for itself, FCMs that are clearing members of Eurex Clearing, and CBL from (i) Commission Regulations 1.49(c)(1) and 22.9, as Luxembourg is not designated money center country under 1.49(a)(1), and (ii) Commission Regulation 1.49(e)(1)(i), as an FCM holding customer securities denominated in U.S. dollars at CBL (outside the U.S.) does not constitute the FCM holding U.S. dollar denominated assets in the U.S. to meet its U.S. dollar obligations to customers. Eurex Clearing notes

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[1] 7 U.S.C. § 7a-1.

[2] CFTC Staff Letter 18-31 (Dec. 20, 2018), available at: https://www.cftc.gov/csl/18-31/download.

[3] Corporate action payments in EUR are treated differently and rather go to designated cash accounts at European central banks. For FCMs, such European central banks would need to reside in money center countries.

that it is not requesting no-action relief with respect to Commission Regulation 1.49(d(3), as it did previously for CEU, because CBL maintains regulatory capital in excess of $1 billion and does not anticipate its regulatory capital falling below $1 billion in the future.

## II. Facts

CBL is organized as a joint stock company (*société anonyme*) under Luxembourg law. Both CEU and CBL are wholly-owned subsidiaries of Clearstream Holding AG, which is itself a wholly-owned subsidiary of Deutsche Börse AG.[4] CBL is located in and operates from its registered office located in Luxembourg, Grand Duchy of Luxembourg.

Like CEU, CBL is licensed as a CSD and is authorized to provide depository services in accordance with the CSDR (pursuant to Article 16 (core and non-banking-type ancillary services) and Article 54 (banking-type ancillary services) of CSDR, like CEU). Accordingly, CBL provides services of safekeeping and administration, settlement, collateral management, credit and securities lending and borrowing, and depositing of funds. CBL will provide the same securities depository services for FCM clearing members as CEU currently provides.

CBL also acts as an international CSD ("ICSD") together with Euroclear Bank SA/NV. In this capacity, both ICSDs act as issuer CSDs for issuances of international securities, also called "Eurobonds," and operate an interoperable link (the "Bridge") authorized under Article 19 (5) of CSDR.

CBL is supervised: (i) as a CSD by the Commission de Surveillance du Secteur Financier ("CSSF") in its capacity as designated competent authority in accordance with Article 11 of CSDR and the Law of 6 June 2018 on CSDR; and (ii) as an operator of a securities settlement system ("SSS"), supervised by the Banque centrale du Luxembourg ("BcL") in accordance with Article 127 (2) and (5) of the Treaty of the Functioning of the European Union and Article 110 of the Law of 10 November 2009 on payment services ("Law of 10 November 2009"), as amended, having implementing Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, as amended ("SFD").[5]

Lastly, CBL fulfills all CPSS-IOSCO Principles for Financial Market Infrastructures ("PFMIs") relating to CSDs and SSS, as is required by all EU member states, including Luxembourg. The International Monetary Fund has concluded that CBL fully observes the principles in the PFMIs that are applicable to CSDs.

[4] Deutsche Börse Group, Organization, at: https://www.deutsche-boerse.com/dbg-en/about-us/deutsche-boerse-group/organisation/subsidiaries.

[5] Under the EU framework, CSDR is an EU Regulation directly applicable to all EU Member States, including Luxembourg, whereas SFD is a directive that requires implementation by or transposition into national law by the EU Member States. The Law of 10 November implements the SFD in Luxembourg.

## III. Safekeeping of Collateral Deposited at CBL

### a. FCM Clearing Member Accounts at CBL

FCM clearing members will open accounts at CBL in substantially the same manner as at CEU. Each FCM clearing member will have one or more segregated accounts at CBL, i.e., at least a master (main) account and a designated linked account to hold securities deposited by customers to margin their cleared swap transactions. Each FCM clearing member will obtain a Commission Regulation 22.5 Acknowledgment Letter from CBL as required. CBL will provide daily account balance information for each FCM customer account it maintains to the relevant designated self-regulator organization (either Chicago Mercantile Exchange ("CME") or the National Futures Association ("NFA")) pursuant to applicable CME/NFA rules.

Customer collateral in the form of securities will be pledged to Eurex Clearing under a Luxembourg-law pledge agreement. The pledge is perfected by Eurex Clearing's requirement that pledged securities accounts be titled as pledged accounts at CBL, holding customer assets. The securities will be held in the FCM clearing member's customer collateral account(s) with CBL, clearly labelled as Commission Regulation 22.5 accounts. Eurex Clearing's secured claim would be calculated in a manner consistent with Part 22 of the Commission's regulations. The accounts will be established in a way that restricts the disposal right of the FCM clearing member as the holder of the account, and the securities in such account(s) can only be transferred with the prior consent of Eurex Clearing. Accordingly, the FCM clearing member has no opportunity to use this customer collateral for its own proprietary business, and the customer collateral is remote from the FCM clearing member in case of the FCM clearing member's insolvency. In an FCM default, Eurex Clearing's secured claim over pledged securities would become due, and Eurex Clearing would be entitled to sell or appropriate 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, Eurex would direct CBL to return any securities remaining in the pledge account to the bankruptcy trustee for the defaulting FCM.

### b. CBL's Use of Sub-Custodians

CBL uses an international network of linked CSDs to hold securities via 60 CSD links. As discussed further in Section III(c), the legal framework that applies to CBL with respect to linked CSDs offers protections for all customer securities deposited with CBL that are substantially similar to the protections offered by CEU with respect to linked CSDs. Like CEU, CBL must comply with all CSDR requirements applicable to links as well as applicable Luxembourg law. 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. CBL's links are supported by appropriate contractual arrangements that set forth CBL's respective rights and obligations of the linked CSDs. CBL must also review all link arrangements at least annually, taking into account all relevant developments, including market and IT developments, and any developments in local legislation.

### c. Luxembourg Law with Respect to Customer Collateral

Luxembourg law provides for all necessary protections of customer collateral, both integrating all CSDR regulatory protections, which is consistent with the PFMIs, and having its own legal framework that provides such protection.

#### i. Nature of a participant's entitlement to securities collateral deposited at CBL under Luxembourg law

Securities deposited by a participant at CBL are subject to robust protections, equally as strong as the protections governing securities deposited at CEU, and which additionally align with the U.S. Uniform Commercial Code's ("UCC") requirements. Under Luxembourg law, the nature of a participant's[6] entitlement is defined by Articles 3 (1) and 10 (2) of the Law of 1 August 2001 on the circulation of securities and ther fungible instruments (the "Securities Law").[7] Under this law, participants' entitlements are proprietary rights, effective against third parties.[8] Additionally, Luxembourg law has affirmed that this proprietary right extends to distributions from such securities.[9] Accordingly, in case of insolvency of the CSD, these proceeds do not form part of the depository's estate and can be claimed by participants without competition from the depository's other creditors. Additionally, under Luxembourg law, securities and the ancillary rights held by CBL for its participants do not form part of CBL's insolvency estate.[10] In the event of a shortfall, all available securities are apportioned among participants on a pro-rata basis.[11] If CBL holds securities of the same kind for its own account, those securities are included in the pool available to participants. CBL may only retain any securities after participant claims have been satisfied.

Luxembourg law governing the nature of a participant's entitlement to securities collateral held at CBL aligns with the rights provided under Article 8 of the UCC, including § 8-503. Both the Luxembourg framework and the

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[6] Participant in this context means any client of CBL, including FCM clearing members.
[7] Law of 1 August 2001 on the circulation of securities and other fungible instruments (Mém. A 2001, No. 106), as amended. The unofficial translation is available on the CSSF website at: https://www.cssf.lu/wp-content/uploads/L_010801_CircSec.pdf.
[8] *Id.* Art. 3 (1).
[9] *See* Luxembourg District Court, 29 October 2008, No. 1314/08 of the role; Luxembourg District Court, 29 October 2008, No. 1315/08 of the role (holding that, since the financial instruments do not enter the depository's estate and the distributions paid in relation to such instruments actually increase the estate of the depositor (only), such distributions do not form part of the (insolvency) estate of the depository and therefore depositors can claim immediate payment of such distributions without being in competition with other creditors).
[10] Securities Law Art. 10 (1).
[11] *Id.* Art. 10 (2).

UCC establish an indirect holding system whereby participants hold an intangible, pro-rata property interest in a pool of fungible securities, rather than direct ownership of specific assets.[12] Both frameworks reject the traditional legal concept where an owner can identify and reclaim a specific, individual asset. Instead, a participant has a proprietary claim for a quantity of fungible securities against their intermediary.[13] As discussed, to ensure the security of this framework under Luxembourg Law, assets held by CBL for participants are legally segregated and made immune to claims by the intermediary's own creditors.

Additionally, this principle of segregation is complemented by the Luxembourg-law prohibition on upper-tier attachment.[14] Specifically, Article 11 of the Securities Law provides the same structural principle embodied in Article 8 of the UCC.[15] Under the Securities Law, in an intermediated holding system, enforcement measures may only be directed against the debtor's securities account and may not affect securities held at a higher level of the custody chain. By confining attachment and execution strictly to the legal relationship between the account holder and its immediate intermediary, Article 11 effectively prohibits any form of upper-tier attachment and reflects the principle that investors do not hold an individualizable property right in specific securities held upstream, but rather a relational and fungible entitlement exercisable solely against their intermediary. This approach mirrors that of Article 8 of the U.S. Uniform Commercial Code, which excludes any direct attachment of assets held by upper-tier securities intermediaries and thereby safeguards fungibility, equal treatment of investors, and the integrity of clearing and settlement infrastructures.

### ii. Settlement finality under Luxembourg law

In addition to Luxembourg-law protections for a participant's entitlement to securities collateral, EU law governing settlement finality protects any transfer instructions that are processed within CBL's SSS, including a participant's deposit of securities collateral with CBL, a collateral transfer, and netting in the system. Specifically, Article 111 of the Law of 10 November 2009 (implementing the SFD) provides that even in the event of insolvency proceedings against a participant, transfer orders and netting in systems are legally enforceable between parties and binding on third parties, provided that the transfer orders were entered into the system before the opening of the insolvency proceedings.[16] Accordingly, any instructions by a clearing member, including an FCM clearing member, processed within CBL's SSS are binding, irrevocable, and enforceable against third parties due to the application of this principle of finality of the settlement. This law therefore provides legal certainty for settlement instructions by protecting such

[12] UCC § 8-503(b).
[13] *Id.* § 8-503(c)-(e).
[14] Securities Law Art. 11 ¶¶ 1, 2.
[15] *See* UCC § 8-112, 8-503.
[16] Law of 10 November 2009, Article 111.

instructions from the effects of an insolvency by a participant in CBL's SSS, including clearing members.

Additionally, for collateral specifically, while EU settlement finality law protects the transfer itself, separate Luxembourg law protects the validity and enforceability of the financial collateral arrangement (i.e., the pledge and transfer of title themselves). Specifically, the Law of 5 August 2005 on financial collateral arrangements provides that financial collateral arrangements are "valid and enforceable against third parties, commissioners, receivers, liquidators . . . notwithstanding reorganisation measures, winding-up proceedings or any other similar national or foreign proceedings."[17] Accordingly, Luxembourg law provides legal certainty in addition to the law governing settlement finality that collateral arrangements are legally shielded from insolvency proceedings and remain fully enforceable.

### iii. EU law regarding use of sub-custodians

Regarding CBL's use of an international network of linked CSDs (i.e., sub-custodians) to hold securities, EU law provides specific regulations and protections governing a CSD's ("requesting CSD") use of foreign CSDs to hold securities. Specifically, Article 84 (Conditions for the Adequate Protection of Linked CSDs and of their Participants) of Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 ("CSDR RTS on CSD Requirements") provides specific requirements governing CSD links.[18] Specifically, Article 84 requires that, before establishment of a CSD link, the a CSD must perform an assessment of the local legislation applicable to the foreign CSD and must ensure that the securities maintained by the foreign CSD benefit from a level of asset protection comparable to that ensured by the rules applicable to the SSS operated by the requesting CSD.[19] This assessment must specifically address the entitlement of the CSD to the securities, the impact of insolvency proceedings regarding segregation requirements, settlement finality, and procedures and time limits to claim the securities.[20]

CBL complies fully with Article 84 and obtains an opinion of legal counsel confirming all points required by Article 84, including the enforceability of the entitlement to the securities, the segregation of the foreign CSD's assets from those of its clients, and the recoverability of the clients' securities in the event of a bankruptcy. Further, and beyond Article 84's express requirements, CBL

[17] Law of 5 August 2005 on financial collateral arrangements (Mém. A 2005, No. 128), as amended. The unofficial translation is available on the CSSF website at: https://www.cssf.lu/en/Document/law-of-5-august-2005/. A "financial collateral arrangement" is defined as "a pledge agreement, a title transfer collateral arrangement, a repurchase agreement or a fiduciary transfer arrangement." *Id.* Art. 1 (4).

[18] Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing CSDR, Article 84, at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0392&from=EN. The unofficial translation is available on the CSSF website at: https://www.cssf.lu/en/Document/law-of-5-august-2005/.

[19] *Id.* Art. 84(e)

[20] *Id.* Art. 84 last paragraph.

ensures any foreign CSD adheres to and complies with the risk-management policies and procedures of CBL and has appropriate risk-management expertise.

CBL's compliance with Article 84 is additionally required by the CSDR Article 16 (3) and forms a key part of CBL's ongoing CSDR compliance. CBL's regulatory supervisory authorities, the CSSF and BcL, routinely assess CBL's compliance and processes for CSD links as part of their ongoing supervision and annual review.

#### iv. Differences in Luxembourg versus German law with respect to sub-custodians

Eurex Clearing has identified two differences that exist between Luxembourg law and German law with respect to the law governing CBL and CEU's use of sub-custodians. Neither difference affects the protections EU and Luxembourg law afford to securities collateral, which are as strong as those under German law.

First, regarding the use of sub-custodians under Luxembourg law, CBL's liability is limited to the diligent selection and instruction of sub-custodians, whereas under German law, CEU is fully liable for the negligence of a sub-custodian and is prohibited from contracting out of such liability. Were a participant to have a claim against a sub-custodian, CBL would use its best efforts to effect recovery on behalf of the participant. This liability difference between Luxembourg and German law does not affect the nature of the protections offered to securities collateral under EU and Luxembourg law, including, as discussed above, the nature of a participant's entitlement to collateral, which aligns with the UCC, settlement finality, or the use of sub-custodians.

Second, German law requires that the requesting CSD and foreign CSD execute a "three-point declaration,"[21] whereas Luxembourg law does not have this specific contractual requirement. That Luxembourg law does not have this specific contractual requirement, however, does not affect the protection or regulations governing customer collateral held by CBL. As discussed in the above sections, CBL is required to comply with all EU and Luxembourg requirements governing CBL's entitlement to collateral, segregation, settlement finality, collateral protection in the event of an insolvency, and the manner of using foreign CSDs.

Moreover, CBL has in fact as part of its global practice, implemented the German-law requirement into its processes such that it obtains a formal "three-point declaration" that meets the requirement of German law from all foreign CSDs. CBL does not utilize any custodians or CSDs from whom it

[21] This declaration provides that the foreign CSD (a) recognizes that the securities deposited with it are customer securities of the requesting CSD; (b) will not assert any security interest or lien on the securities deposited by the requesting 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 requesting CSD with a third party or transfer them to another country without the express consent of the requesting CSD.

does not obtain a formal "three-point declaration." CBL therefore ensures that German clients of CBL as well as CBL are in compliance with German law with respect to this requirement. Accordingly, this difference between German and Luxembourg law is purely legal and represents no difference between CBL and CEU as to their standard practice. CBL publishes all "three-point declarations" by foreign CSDs for all markets on its website. [22]

## IV. Need for No-Action Relief from Commission Regulations 1.49(c)(1) and 22.9

Commission Regulation 1.49(c)(1) provides:

> (c) *Permissible locations of depositories*. (1) Unless a customer provides instructions to the contrary, a futures commission merchant or a derivatives clearing organization may hold customer funds:
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> (i) In the United States;
>
> (ii) In a money center country; or
>
> (iii) In the country of origin of the currency.

Luxembourg is not a designated money center country under 1.49(a)(1) and will not be the country of origin for all currency.[23] Nevertheless, treatment of Luxembourg as a money country comports fully with the Commission's 2003 rationale in adopting Commission Regulation 1.49, including 1.49(a)(1)'s definition of a money center country. Specifically, the Commission's 2003 Final Rule provided:

> The G7 countries represent the world's largest industrial democracies. Furthermore, representatives from these countries meet several times a year to coordinate their cooperation on issues of economic policy. In this regard, the United States and its financial regulatory agencies have had successful cooperation with the respective financial regulatory agencies of these countries.[24]

While not a G7 member, Luxembourg nevertheless embodies the same characteristics cited in the Commission's rationale. It is a highly developed

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[22] BaFin Three-Point Declarations for CBL, at: https://www.clearstream.com/caas/v1/media/1315046/data/94c40adc58f57f4e74ddaa2d759518c8/tpd-cbl.pdf.

[23] On at least four separate occasions over the last decade, the Commission has granted no-action relief from Rule 1.49(d)(3)'s requirement that a depository hold $1 billion in regulatory capital. *See e.g.,* CFTC Staff Letters 14-123, 14-124, 16-05, 16-59, and 24-01. As the Commission staff reasoned in each of these no-action letters, "[t]he $1 billion regulatory capital requirement . . . serves as a proxy for a bank or trust company's suitability as a depository for customer funds, both in terms of financial strength and operational sophistication." We respectfully submit that CBL strongly meets all of the Commission's considerations to serve as a depository.

[24] CFTC Final Rule, Denomination of Customer Funds and Location of Depositories, 68 Fed. Reg. 5545, 5546 (Feb. 4, 2003).

industrial democracy with one of the most stable governments globally. U.S. regulators have a long history of successful cooperation with Luxembourg authorities through EU-level dialogues and bilateral engagements,[25] and its financial system is deeply integrated with global markets, making regulatory alignment and cooperation essential and well-established.

Moreover, on an individual basis, Luxembourg is comparable to the money center countries within the EU, including France, Italy, and Germany, from a regulatory, economic, and political perspective. As an EU member state, Luxembourg is subject to the same core financial regulatory framework as France, Italy, and Germany. This includes Capital Requirements Regulation ("CRR") and Capital Requirements Directive ("CRD IV") for prudential supervision of credit institutions, Bank Recovery and Resolution Directive (BRRD) for resolution planning and deposit protection, and CSDR for harmonized supervision of EU central securities depositories. Luxembourg is both politically and economically stable. As a reflection of this, Luxembourg enjoys the highest credit ratings from S&P (AAA), Moody's (Aaa), and Fitch (AAA). These ratings are comparable to the aggregate credit ratings for Germany, slightly higher than those for France, and significantly higher than Italy. Moreover, it ranks in the 88th percentile on the World Bank's Political Stability Index. Luxembourg City is the EU's main judicial and financial hub and one of the three official capitals of the EU.

Accordingly, Luxembourg aligns fully with the money center countries listed in Commission Regulation 1.49(a)(1) from an economic, political, and legal perspective, and as such aligns with the Commission's prior rationale.

## V. Need for No-Action Relief from CFTC Rule 1.49(e)(1)(i)

Commission Regulation 1.49(e)(1)(i) provides:

> (e) *Segregation requirements*. (1) Each futures commission merchant and each derivatives clearing organization must, as of the close of each business day, hold in segregated accounts on behalf of commodity or option customers:
>
> (i) Sufficient United States dollars, held in the United States, to meet all United States dollar obligations . . . .

As discussed above, U.S. dollar-denominated customer securities held at CBL will receive all the robust protections provided for by EU and Luxembourg law, including: (i) a participant's entitlement to securities collateral held at CBL which is unaffected by insolvency and which aligns with the UCC; (ii) settlement finality of a participant's deposit of securities collateral at CBL, including against a subsequent insolvency; and (iii) EU law governing

[25] The CSSF is signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("MMoU"). *See* Appendix A, Signatories to the IOSCO MMoU, at: https://www.iosco.org/v2/about/?subSection=mmou&subSection1=signatories.

a CSD's use of foreign CSDs to hold securities collateral. CBL additionally complies with all PFMIs relating to CSDRs and SSS and is comprehensively regulated on all points by the CSSF and BcL.

## VI. Relief Requested

Eurex Clearing respectfully requests that the Division confirm that it will not recommend that the Commission take enforcement against Eurex Clearing, FCMs that are clearing members of Eurex Clearing, or CBL 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 relief would be subject to the following conditions, which are substantially similar to the conditions in CFTC Staff Letter 18-31 issued with respect to CEU:

1. The relief is limited to CBL's holding of customer-owned securities as margin for customer swap transactions cleared through Eurex Clearing, and does not extend to the holding of customer margin for futures contracts by CBL.
2. The relief is conditioned upon each FCM clearing member of Eurex Clearing providing each prospective Eurex Clearing Customer[26] 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 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 cleared through Eurex Clearing, this relief 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 CBF 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

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

transactions cleared through Eurex Clearing: Germany, France, United States, Canada, United Kingdom, and Japan.

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 PFMI; 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 the conditions, Eurex Clearing must notify the Commission and its FCM clearing members immediately, and, within 14 days thereafter, that entity will no longer be an eligible depository for purposes of this relief.
7. The amount of U.S. dollar-denominated securities held at CBL pursuant to the relief from Commission Regulation 1.49(e)(1)(i) shall be no greater than the sum of the amounts of such customer collateral authorized by the FCM's Eurex Clearing Customers to be held at or through CBL.
8. 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, regulations 1.11 and 39.15.

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Thank you for your attention to this matter. Please do not hesitate to contact us at matthias.graulich@eurex.com and eric.seinsheimer@eurex.com.

Yours faithfully,

Matthias Graulich
Member of the Executive Board of
Eurex Clearing AG

Eric Seinsheimer
Director, Legal (Americas) & US CCO

**<u>Certification</u>**

**Pursuant to CFTC Rule 140.99**

I hereby certify that the material facts set forth in the attached letter, dated August 10, 2026 are true and complete to the best of my knowledge. If at any time any material representation made in the attached letter ceases to be true and complete, I will ensure that Commission staff is informed promptly in writing of all material changed facts and circumstances.

Matthias Graulich
Member of the Executive Board of
Eurex Clearing AG

Eric Seinsheimer
Director, Legal (Americas) & US CCO