

Form DCO—Exhibit Q—Composition of Governing Boards

Request: Attach as Exhibit Q, documents that demonstrate compliance with the composition of governing boards requirements set forth in § 39.26, including but not limited to documentation describing the composition of Applicant’s Board of Directors, including the number or percentage of public directors and customer representatives.

Response:

Proposed Commission Rule 39.26 would require that the customers of Clearing Members comprise at least 10% of the DCO’s Board of Directors and proposed Commission Rule 40.9 would require that Public Directors comprise at least 35% of DCO’s Board of Directors as well as the board of all “parent companies” which “operate” the DCO.

Supervisory Board of Eurex Clearing

Under the Articles of Association of Eurex Clearing,¹ the Supervisory Board has 12 members, elected for three-year terms by the shareholders, three members of whom are required to be representatives of Clearing Members.

Eurex Clearing does not provide compensation to the members of the Supervisory Board. By a decision by the General meeting of Shareholders; they are compensated by Eurex Zürich AG, a parent of Eurex Clearing.

We further note that it is likely that the Eurex Clearing Supervisory Board will be required to be reconstituted to meet requirements under EMIR. We have requested elsewhere in this Application that any necessary changes to Board structure be made at that time.

Supervisory Board of DBAG

As described further in Exhibit P, DBAG “operates” Eurex Clearing within the meaning of proposed rule 40.9(b)(2)(i). DBAG, as a 50% owner of Eurex Zürich AG, is the “parent company” of Eurex Clearing that “operates” Eurex Clearing within the meaning of the proposed rule. DBAG “exercise[s] . . . control . . . over the day-to-day business operations” of Eurex Clearing’s business and compliance functions.² Accordingly, the DBAG Supervisory Board is also subject to the Commission’s proposed rules on board composition requirements. The individual members of the Supervisory Board have represented to Eurex Clearing that they do not have a material relationship with DBAG or Eurex Clearing are:

1. David Krell
2. Dr. Konrad Hummler
3. Dr. Manfred Gentz

¹ The Eurex Clearing Articles of Incorporation are provided in Attachment 1 to Exhibit A-8.

² “Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest,” 75 Fed. Reg. 63732, at 63751 (Oct. 18, 2010).

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4. Herbert Bayer
5. Richard D. A. Berliand
6. Richard Hayden

In addition, the individual members of the Supervisory Board listed below are associated with Clearing Members or Eurex Clearing customers:

1. Hermann-Josef Lamberti
2. Thomas Neisse
3. Joachim Faber

We note that, DBAG is a public company listed on the Frankfurt Stock Exchange. A business combination between DBAG and NYSE Euronext has been reported.³ The holding company created by the combination would become the parent to DBAG. We have requested elsewhere in this Application that any necessary changes to Board structure be made at that time.

³ See, e.g., Deutsche Boerse, NYSE in talks as merger frenzy grips, Reuters (Feb. 9, 2011).