

**RULES FOR THE CLEARING AND SETTLEMENT  
OF EXCHANGE TRADES BY CCP AUSTRIA  
(CCP.A CLEARING RULES)**

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## Part I SCOPE OF APPLICATION

### § 1 Objective and Scope

(1) These Clearing Rules shall govern the clearing and settlement of exchange transactions in securities admitted to listing on the Official Market or Second Regulated Market of Wiener Börse in its function as a securities exchange and executed by exchange members of Wiener Börse through the cash and/or derivatives markets (hereinafter: exchange transactions) in trading in the automated trading systems Xetra® and OMEX®.

(2) These clearing rules shall furthermore apply to the clearing and settlement of transactions in securities traded on the Multilateral Trading System (MTF) operated by Wiener Börse AG, the Third Market, concluded by exchange members of Wiener Börse in its function as a securities exchange through the automated trading systems Xetra® and OMEX® (hereinafter: trades).

(3) The exception to these rules pursuant to par.1 and trades pursuant to par. 2 in securities shall be exchange transactions (hereinafter: **transactions in non-CCP-eligible securities**), which pursuant to § 20 have not been included in the clearing system by CCP Austria Abwicklungsstelle für Börsegeschäfte GmbH (hereinafter: **Clearing Agent or CCP.A**); securities transactions concluded through an intermediary; and ancillary transactions related to securities transactions and trades in options and financial futures contracts. Exchange transactions pursuant to par.1 and trades pursuant to par.2 that do not belong to this group of exceptions shall be referred to as "**CCP-eligible transactions**."

(4) The objective of these Clearing Rules is to secure the delivery and settlement of CCP-eligible transactions. The clearing and settlement system used for this purpose shall process all CCP-eligible transactions on every clearing day.

(5) On the basis of these Clearing Rules, the Clearing agent defines the amount of collateral to be deposited, examines creditworthiness, monitors compliance with collateral requirements and is responsible for the realization of collateral.

(6) Exchange securities transactions concluded in trading in CCP-eligible securities and in trading in options and financial futures contracts shall be deemed transactions for effective delivery on fixed terms pursuant to § 27 par. 3 Stock Exchange Act. This shall also apply to transactions pursuant to Art. 1 par. 2 in CCP-eligible securities.

(7) The Clearing agent shall be responsible for the electronic clearing of transactions, delivery against payment for the fulfillment of CCP-eligible transactions, the handling in the event of default, issuing notices to the clearing members in the event of technical default, and carrying out any other tasks assigned to it within the scope of these Clearing Rules.



## Part II ORGANIZATION OF CLEARING

### II A Clearing agent

#### § 2 CCP.A

- (1) The exchange operating company commissions CCP.A to act as a Clearing agent pursuant to § 26 par. 3 Stock Exchange Act with the task of clearing and settling CCP-eligible transactions securely and reliably.
- (2) The Clearing agent shall act as a central contractual partner for all clearing members, i.e., it shall enter into all CCP-eligible transactions as a counterparty, e.g. as buyer or seller.
- (3) In order to carry out its assignments pursuant to par.1, CCP.A shall maintain position accounts for exchange members for their open positions and unfulfilled orders and shall calculate the collateral requirements for the clearing members (risk management). Within the scope of risk management, CCP.A shall maintain a collateral clearing fund to which all Participating Clearing Members must contribute and shall monitor the creditworthiness of the Participating Clearing Members.
- (4) Furthermore, CCP.A shall monitor, calculate and execute the realization of the collateral of the clearing members. CCP.A is responsible for the definition of securities that may be accepted as collateral as well as for guarantees and the determination of the value of securities used as collateral (hair-cuts) on the basis of the provisions of these Clearing Rules. However, CCP.A shall not be responsible for the safe custody of securities (with the exception of guarantees).
- (5) Exchange transactions concluded in CCP-eligible transactions pursuant to the "Trading Rules for the Automated Trading System Xetra<sup>®</sup> (Exchange Electronic Trading)" through the Xetra<sup>®</sup> trading system and pursuant to the "Rules for the Trading of Warrants" through the OMEX<sup>®</sup> trading system shall be executed exclusively between CCP.A and the respective Participating Clearing Member who is the contractual partner for any of these transactions.
- (6) Exchange transactions concluded in trading in options and financial futures contracts pursuant to the "Rules for the Trading of Options and Financial Futures Contracts on Wiener Börse (Options Rules)" through the OMEX<sup>®</sup> trading system shall be exclusively executed between CCP.A and the respective Participating Clearing Member who is the contractual partner for one of these transactions.
- (7) Should an exchange member pursuant to § 7 not be authorized to participate in clearing directly (Non-participating Clearing Member), said exchange member's trades shall only be executed by the General Clearing Member with whom the exchange member has an agreement to execute its transactions. Should an order or quote entered into the system by an Non-participating Clearing Member be executed by another, then a transaction shall be executed between the Non-participating Clearing Member and the General Clearing Member and at the same time between the General Clearing Member and the Clearing agent.



(8) The Clearing agent shall be responsible for the electronic clearing; it shall be charged with the following:

- a) The electronic clearing of CCP-eligible transactions, and
- b) Checking if sufficient cover for the quantity and monetary amount is available on the delivering and receiving parties' sides;
- c) If cover is available on the delivering and receiving parties' sides on settlement day, the timely forwarding of the instruction of the Clearing Bank, and
- d) In the event of default pursuant to § 37, the Clearing Agent shall determine the incidence of default, and the separations pursuant to § 41; it shall execute cover sales pursuant to § 42 and the cash settlement pursuant to § 43, and
- e) The administration and realization of the collateral deposited by the clearing members, and
- f) The monitoring of the creditworthiness of the Participating Clearing Members.

## **II B Clearing Facilities**

### **§ 3 Clearing Bank**

(1) The settlement of CCP-eligible transactions and the safe custody of collateral are done by Oesterreichische Kontrollbank Aktiengesellschaft in its function as a Clearing Bank on behalf of the Clearing Agent. Therefore, the Clearing Bank is responsible for

- a) the timely book entry of the securities and payments if the cover is sufficient on the delivering and receiving parties' side on delivery day, and
- b) the safekeeping (with the exception of guarantees), banking-relevant administration and valuation of clearing collateral.

(2) Within the framework of the settlement of transactions, the Clearing Bank shall be authorized to automatically debit on behalf of the Clearing Agent (automatic debit order) deposits from cash and securities accounts of the Participating Clearing Member with the Clearing Bank or, in the case of accounts with other banks recognized by the Clearing Agent and the Clearing Bank ("recognized banks"), from said other banks. The Participating Clearing Members shall issue an appropriate irrevocable authorization to the Clearing Bank for the Clearing Agent for the term of its participation in the clearing system.

(3) The Clearing Bank shall be under the obligation to execute the settlement of payment or transfer instructions through its electronic system. The Clearing Bank does not enter into the contractual relationship between the clearing members or accept liability for their actions or neglect of actions.

(4) The Clearing Bank keeps in safe custody the collateral of the Participating Clearing Members (with the exception of guarantees, unless otherwise instructed by CCP.A) for the CCP-eligible transactions.



(5) The General Terms and Conditions of Business ("Business Terms") of the Clearing Bank shall apply unless these contradict the Clearing Rules and the Stock Exchange Act.

## § 4 Clearing Agents

(1) The Clearing Agent may authorize Clearing Agents to process and forward instructions of the Clearing Agent to Participating Clearing Members. Furthermore, the Clearing Agent may permit Clearing Agents the safekeeping of clearing collateral with the exception of guarantees, limited to the group of clients of the Clearing Agent on the condition that it deposits collateral in an equal amount with the Clearing Agent.

(2) Only the following may act as Clearing Agents:

- a) Austrian credit institutions;
- b) All credit institutions licensed to operate in a Member State in so far as the relevant EC Directive for credit institutions applies in full to said credit institutions including their branch offices in third countries;
- c) All companies whose business consists of receiving cash or other repayable monies for depositing from the public and licensed to grant loans for their own account, and who have been licensed to carry on this business in other member states as well as in all full member states of the Organisation for Economic Cooperation and Development (OECD) as well as in countries that have entered into agreements with the International Monetary Fund (IMF), in particular, into the IMF's Special Agreement to Borrow, including their branch offices;
- d) Recognized investment firms within the scope set out in Art. 2 fig. 31 of the Austrian Banking Act, and
- e) Recognized clearing agents pursuant to Art. 2 fig. 33 Austrian Banking Act with their registered offices or licenses in an EEA member state that has signed the European Code of Conduct for Clearing and Settlement.

Clearing agents must have own funds of at least EUR 50,000,000 as defined by Article 23 of the Austrian Banking Act.

(3) Clearing Agents as operators of their own (decentralized) clearing systems shall be under the obligation to include in their systems any relevant clearing information and confirmation notices (instructions) of the Clearing Agent of relevance for their clearing customers (Participating Clearing Members) in their systems and to process these so as to ensure the orderly clearing of CCP-eligible transactions. Vice versa, Clearing Agents shall transmit their clearing customers' instructions to the Clearing Agent.

(4) When integrating the decentralized systems of the Clearing Agent into the central clearing process organized by the Clearing Agent, the Clearing Agent shall ensure that the clearing instructions it processes can be allocated to its individual clearing customers. Furthermore, it shall ensure that in the event of netting for technical reasons, the clearing customers are identified and their individual positions can be removed from the netted overall positions upon request of the Clearing Agent.





(5) The Clearing Agents shall not enter into the transactions of their clearing customers with the Clearing Agent, nor shall they assume any liability for their settlement and delivery.

(6) The Clearing Agents shall be under the obligation to set up the required cash and securities accounts with the Clearing Bank for the Clearing Members assigned to them pursuant to § 13 par. 2.

(7) The Business Terms of the Clearing Agents shall apply to relations with their clearing customers, unless said terms contradict these Clearing Rules or the Austrian Stock Exchange Act.

## II C Clearing Members

### § 5 Requirements for Clearing Members

(1) There are Participating Clearing Members and Non-participating Clearing Members. All clearing members must be exchange members.

(2) Before starting clearing activities, all Participating Clearing Members must enter into a standardized agreement with the Clearing Agent, permit a credit review and furnish proof to the Clearing Agent of the following:

- a) Payment of the requested amount to the Clearing Fund;
- b) Have installed the required technical equipment suited for the respective type of clearing membership;
- c) Have professionally trained staff available; and
- d) Have given instructions to set up the required automatic debit/credit facility; have granted the required authorizations to sign and the letters of commitment;
- e) Have the required cash and securities accounts available, and
- f) Belong to one of the categories pursuant to § 2 Financial Collateral Act (*Finanzsicherheitengesetz, FinSG*).

### § 6 Participating Clearing Members

(1) Exchange members may be Direct Clearing Members or General Clearing Members.

(2) Direct Clearing Members shall be permitted to clear transactions, which are either proprietary trades or agent trades for their own account, but may not clear transactions of exchange members who are not clearing members. They shall

- a) set up the required cash and securities accounts with the Clearing Bank (or, in the case of cash accounts, with a recognized bank), and if given, do so through a Clearing Agent;
- b) have own funds of at least EUR 2,500,000 as defined by § 23 of the Austrian Banking Act.

(3) General Clearing Members are those clearing members who in addition to the clearing of their own trades agree to the clearing of transactions of exchange members (irrespective of whether proprietary or agent trades) who are not members of the clearing system. They

- a) enter into trades of these Non-participating Clearing Members for their own account;



- b) sign the standardized general clearing agreement as a special type of clearing agreement with the Clearing Agent, and shall set up the required cash and securities accounts with the Clearing Bank (or, in the case of cash accounts, with a recognized bank), and if applicable, set up the required cash and securities accounts through a Clearing Agent;
- c) have own funds of at least EUR 5,000,000 as defined by § 23 of the Austrian Banking Act.

## **§ 7 Non-participating Clearing Members**

- (1) Non-participating Clearing Members are those exchange members which participate in the trading system, but are not members of the clearing system.
- (2) Non-participating Clearing Members must enter into a clearing agreement with a General Clearing Member and deposit clearing collateral with said General Clearing Member of at least the same amount which the Clearing Agent would request of them pursuant to § 49 were they General Clearing Members.
- (3) A Non-participating Clearing Member shall enter into a contract exclusively with its respective General Clearing Member pursuant to § 2 par 7.

## **II D Membership and Resignation**

### **§ 8 General Provisions**

- (1) All exchange members who participate in trading in securities and/or in trading in options and financial futures contracts on Wiener Börse in its function as a securities exchange or in trading on an Multilateral Trading System (MTF), Third Market, operated by the exchange operating company Wiener Börse AG must be either Participating or Non-participating Clearing Members.
- (2) Participating Clearing Members may terminate their rights and obligations related directly to their membership in the clearing system by giving a unilateral declaration to the Clearing Agent, who shall be obligated to immediately inform the exchange operating company. As long as the right to participate in the trading system for securities and/or options and financial futures contracts or in trading on the Third Market as MTF is valid, a Participating Clearing Member must change status to a Non-participating Clearing Member before it may terminate its participating membership. A termination of the rights and duties resulting from an Non-participating membership in the clearing system shall be null and void as long as the exchange membership of the clearing member is valid.
- (3) When the obligation of a General Clearing Member to clear the transactions of an Non-participating Clearing Member ends, then the Non-participating Clearing Member shall be under the obligation to immediately furnish a letter of commitment of another General Clearing Member or to become a Participating Clearing Member itself. Until that time, the right to participate in trading of the Non-participating Clearing Member shall be suspended.
- (4) When examining the requirements for membership in the clearing system of CCP-eligible transactions, the exchange operating company, the Clearing Agent and the Clearing Bank shall collaborate. Within the context of the admission procedures and during the entire duration of exchange



membership, the named contractual parties shall exchange any information required for determining that the conditions for admission and membership are met. Applicants and exchange members shall be obligated to give the exchange operating company and the Clearing Agent the required information.

## § 9 Clearing Members

(1) Members of Wiener Börse who wish to be admitted to trading in securities and/or to trading in options and financial futures contracts and to trading on the Third Market as MTF and desire Participating Clearing Membership, shall declare their participation as a Direct Clearing Member or as General Clearing Member. The Participating Clearing Members must notify their linkage to the clearing system through the Clearing Bank or through a Clearing Agent. Those trading participants who desire to become Non-participating Members must name their General Clearing Member.

(2) Non-participating Clearing Members shall furnish a declaration of a General Clearing Member stating its commitment to enter into said Non-participating Clearing Member's trades and to clear such trades.

(3) Participating Clearing members whose transactions are processed by a Clearing Agent must submit a declaration of the Clearing Agent stating said Clearing Agent's commitment to process the transactions.

(4) When exchange membership is suspended or terminated, the right to be a participating or non-participating member in the clearing system also ends. However, the clearing of those transactions executed prior to resignation must still be finalized pursuant to these Clearing Rules.

(5) The provisions above shall not affect the right granted to exchange members by § 15 par. 3 Stock Exchange Act whereby exchange members may be admitted to a clearing system in accordance with the conditions specified by the Schedule of Fees of Wiener Börse AG without having to join the trading system ("**mere clearing members**").

## § 10 Termination or Suspension of Right to Membership

(1) Participating Clearing Members have the right to resign from the clearing system and cancel the clearing agreement without stating any reasons in writing.

(2) The resignation from the clearing system and the cancellation of the clearing agreement shall become effective only after all trades and positions for the clearing of which the Participating Clearing Member is responsible have been settled and delivered pursuant to §§ 18 ff or have been assigned to another Participating Clearing Member, and all obligations including taxes and fees in connection with exchange membership have been settled as well as all CCP-eligible transactions of Non-participating Clearing Members for whom it clears trades.

(3) Should the exchange operating company declare the membership of a General Clearing Member suspended, said General Clearing Member must then notify its Non-participating Clearing Members in order for these to take the appropriate measures to commission another General Clearing Member and assign their open positions to this other General Clearing Member or to become a Participating Clearing Member itself.



(4) Should the exchange operating company declare membership of a Non-participating Clearing Member suspended, then said Non-participating Clearing Member must notify its General Clearing Member in order to give it time to take the appropriate steps. The General Clearing Member shall be responsible for the orderly clearing of all transactions of the Non-participating Clearing Member, but shall not accept any new trades of the Non-participating Clearing Member.

(5) Paragraphs 3 and 4 shall apply mutatis mutandis also in cases in which a clearing agreement has been cancelled pursuant to § 7 par. 2.

(6) The cancellation or the suspension of the clearing agreement shall not release the concerned Participating Clearing Member from the rights and obligations under already executed CCP-eligible transactions for the clearing of which it is responsible. The Clearing Agent shall ensure the orderly clearing of all unfilled orders of the clearing member and of any Non-participating Clearing Members for whom it clears trades, but shall not accept any further orders from the clearing member or from any Non-participating Clearing Members for whom it clears trades. The cancellation of the clearing agreement shall mean that the requirements in the meaning of § 19 par. 1 Stock Exchange Act shall cease to apply.

(7) In the event of the cancellation of a clearing agreement, the right of the member to take part in clearing shall end. The Clearing Agent shall inform the exchange operating company immediately of any cancellation of clearing agreements.

## **§ 11 Cancellation of the Clearing Agreement by CCP.A**

(1) CCP.A shall have the right to cancel the clearing agreement with immediate effect without a period of notice for material reasons. Material reasons may be

- a) Insolvency or similar proceedings have been opened against a Participating Clearing Member or an application to open such proceedings has been dismissed by the court due to a lack of assets or a credit institution has been placed under receivership according to § 83 Austrian Banking Act or a court has ordered a similar measure;
- b) Reasons that may endanger or are potentially a risk to the settlement and delivery of exchange transactions of a Participating Clearing Member or to the settlement and delivery of CCP-eligible transactions of those Non-participating Clearing Members for whom a Participating Clearing Member has agreed to settle and deliver transactions;
- c) The concerned Participating Clearing Member fails to maintain the collateral mandated as security for its transactions at the required level or the collateral mandated as security for the Non-participating Clearing Member for whom it has agreed to deliver and settle transactions, and falls into a state of default in this respect;
- d) The Participating Clearing Member repeatedly breaches the rules set out in these Clearing Rules despite being warned;
- e) It becomes apparent ex post that the requirements for the conclusion of a clearing agreement were not given at the time the agreement was signed or if these requirements cease to be given posteriorly; or



- f) The financial stability of CCP.A is at risk, or a risk to the clearing system or to the orderly execution of clearing is perceived. If a cause can be determined and it is perceived sufficient to eliminate the risk, the first step is to rescind the Clearing Agreement with the Participating Clearing Member who has caused the risk.
- (2) Any termination with immediate effect by CCP.A shall be communicated in writing including a statement of the reasons.

## **§ 12 Compliance with the Clearing Rules and the Clearing Agreement**

- (1) The Clearing Agent shall be obligated to supervise compliance with these Clearing Rules and the clearing agreement.
- (2) The exchange operating company and the Clearing Bank shall send information to the Clearing Agent that indicates the instances in which these Clearing Rules or the clearing agreement have been breached. Likewise, the Clearing Agent and the Clearing Bank shall send information to the exchange operating company that indicates the instances in which these Clearing Rules or the clearing agreement have been breached.
- (3) Every exchange member shall agree to the transmission of information by the exchange operating company and the Clearing Bank to the Clearing Agent indicating breaches of these Clearing Rules or the clearing agreement; by the Clearing Bank and Clearing Agent to the exchange operating company and by the exchange operating company and Clearing Agent to the Clearing Bank for the purpose of surveillance of compliance with these Clearing Rules and the clearing agreement as well as for the purpose of executing clearing.
- (4) Every clearing member shall undertake to release the Clearing Bank by a declaration in writing from the bond to banking secrecy pursuant to Art. 38 Banking Act and to the Data Protection Act for the purpose of executing clearing and for reporting suspicious incidents of breaches of these Clearing Rules or of the clearing agreement.

## **Part III CLEARING PROCEDURE**

### **III A Cash Accounts and Securities Accounts**

#### **§ 13 Obligation to Open Cash and Securities Accounts**

- (1) Every Participating Clearing Member must maintain cash and securities accounts suitable for the clearing and collateralization of CCP-eligible transactions with the Clearing Bank (or, in the case of cash accounts, with a recognized bank) or, if applicable, maintain such accounts through a Clearing Agent.
- (2) The following cash and securities accounts must be opened:



- a) as clearing accounts and securities accounts:
    - (i) a cash account for each clearing currency for clearing cash amounts, and
    - (ii) a securities account for clearing securities transactions;
  - b) as collateral cash and securities accounts:
    - (i) a collateral account for cash deposited as security and/or
    - (ii) a collateral account for the safekeeping of the securities deposited as collateral.
- (3) A Clearing Agent must implement suitable measures to enable the Clearing Agent technical access within its systems to the cash and securities clearing accounts of the respective clearing customers of the Clearing Agent.
- (4) The Business Terms of the Clearing Bank (or, in the case of cash accounts, of the recognized bank) shall apply to the clearing accounts, and collateral cash and securities accounts.
- (5) The collateral cash and securities accounts shall be pledged in favor of the Clearing Agent or established as security in another form acceptable to the Clearing Agent. The Clearing Agent is to be assigned as sole authorized signatory for each of these accounts; no other parties (including the Participating Clearing Members) shall be authorized to draw on the accounts.
- (6) The use of the clearing collateral shall follow these Clearing Rules should it become necessary to realize the collateral (§§ 49 ff).

## § 14 Position Management

- (1) The Clearing Agent shall maintain the position accounts for trades in CCP-eligible securities for computing the collateral to be maintained. The position accounts shall contain all unfilled orders and open positions, running as of the trading day until delivery. Trades in default shall be taken into account in the position accounts until they are settled in cash pursuant to § 43.
- (2) The Clearing Agent shall maintain position accounts (SICS accounts) for CCP-eligible transactions concluded by exchange members in trading in CCP-eligible securities and for options trades requiring physical delivery pursuant to § 27.
- (3) The Clearing Agent shall maintain three different types of position accounts for exchange transactions concluded by exchange members in trading in options and financial futures contracts:
- a) Market maker accounts (also in the special form of global market maker or specialist accounts) and
  - b) Proprietary accounts, and
  - c) Agent accounts
- (4) The position accounts will record all trades in CCP-eligible securities by exchange members.
- (5) The SICS account of a Participating Clearing Member or of a Clearing Agent shall record all concluded trades mentioned in par.2 of the Participating Clearing Member itself and of the Non-participating Clearing Member for whom said Participating Clearing member clear trades for its own account. The SICS account will record the net trades per delivery day and per security.



(6) All exchange transactions concluded by market makers in trading in options and financial futures contracts, resulting from bids entered by the market makers shall be recorded on the market maker accounts. Market maker accounts thus shall be permitted to be used only for the management of trades resulting from the market making activity of the exchange members. Positions in the market maker accounts are recorded net, i.e., each position may be only either long or short.

(7) On the proprietary accounts, only those trades shall be recorded in trading in options and financial futures contracts concluded for own account. Positions in proprietary accounts shall be recorded gross.

(8) On agent accounts, only those trades concluded in trading in options and financial futures contracts of an exchange member shall be recorded that are attributable to a customer order. Positions in agent accounts shall be recorded gross.

(9) The Clearing Agent shall limit the number of open positions permitted on the position accounts of each exchange member pursuant to the provisions on position limits (Art. 6 of Options Rules).

(10) The Clearing Agent monitors the number of open, assigned and exercised positions in all position accounts of an exchange member. The Clearing Agent shall make available to the Participating Clearing Member or its Clearing Agents who settles the accounts, the balance and the details of all transactions for every position account in the system.

## **III B Obligations and Validity of Trades**

### **§ 15 Obligations Resulting from CCP-eligible Transactions**

(1) The Participating Clearing Members shall be liable for all obligations including taxes and fees resulting from their exchange membership and their CCP-eligible transactions as well as all obligations deriving from the exchange membership and CCP-eligible transactions of those Non-participating Clearing Members for whom said Participating Clearing Member clears trades.

(2) As security for the receivables resulting from par. 1, the Participating Clearing Members shall be obligated to deposit in a timely manner the clearing collateral pursuant to § 49 under these Clearing Rules and to contribute to the clearing fund pursuant to § 51.

(3) Every Participating Clearing Member shall be liable individually for the settlement and delivery of the obligations pursuant to par. 1 by the amount of the clearing collateral it has deposited including its contribution to the clearing fund.

### **§ 16 Validity of Orders**

(1) Payment orders and/or instructions to assign securities orders shall become irrevocable as of the point in time the CCP-eligible transaction is matched in the respective trading system (Xetra<sup>®</sup> or OMEX<sup>®</sup>).

(2) The concerned exchange members and the Clearing Agent shall be notified of every trade concluded through an automated trading system (matching of orders or quotes) by means of trade





confirmation note sent via the trading system. This notification shall contain all important details of the transaction.

## § 17 Objections

(1) Objections to the contents of a trade confirmation note or against the contents of a settlement notification of the Clearing Agent must be made immediately to the Clearing Agent upon receipt, but at the latest 60 minutes before the start of trading in the respective instrument on the next clearing day by means of telegramme, electronically, telefax or telegraph, as otherwise the trades shall be deemed as approved and may no longer be rescinded (§ 15 par.1 Settlement Finality Act, (*Finalitätsgesetz*)). Objections by Non-participating Clearing Members shall follow the same procedures but must be raised vis-à-vis the General Clearing Member who has executed the trade.

(2) As the Clearing Agent becomes counterparty to the transactions, the objections apply likewise to the contracting party or parties of the matched transaction(s) on the buy and on the sell side (Complementary Transaction). The Clearing Agent shall inform the contractual partner of the Complementary Transaction of the objections before the start of trading on the clearing day pursuant to par. 1.

(3) The fact that objections are raised does not discharge exchange members from the obligations arising from the transactions concluded. If the party raising the objections does not file a complaint with the Court of Arbitration within three clearing days after the objections have been raised, the transaction objected to and the respective Complementary Transaction shall be deemed as accepted and may no longer be rescinded (§ 1 Settlement Finality Act (*Finalitätsgesetz*)).

(4) If a complaint is filed with the Court of Arbitration, the Clearing Agent shall inform the contractual partner of the Complementary Transaction on the fourth clearing day after the objections have been raised and, after receipt of the statement of complaint, invite it to intervene in the action as a third party in support of the plaintiff.

## III C Fulfillment of Securities Trades

### § 18 Time of Fulfillment

(1) Transactions in CCP-eligible securities are usually fulfilled on the third clearing day after the conclusion of the trade by the Participating Clearing Members. In the case of well-founded reasons for special cases, the exchange operating company has the right to decide in agreement with the clearing agency and taking into account the availability of the clearing bank that CCP-eligible transactions in individual CCP-eligible securities or certain types or groups of CCP-eligible securities be settled on a day other than the third clearing day after the day of the trade; the exchange operating company also has the right to change the clearing calendar and clearing period for such CCP-eligible securities. This decision must be published by the exchange operating company in the Official Bulletin of the exchange operating company.





(2) The settlement period shall be the period between the day of the conclusion of the trade and delivery day. Within this period, the Participating Clearing Members shall ensure that, on the one hand, the securities are delivered, and on the other hand, that payment is made on delivery day in the corresponding cash value of the securities.

(3) The buyer shall be under the obligation to pay on delivery day the cash value of the traded securities. The seller is under the obligation to deliver the traded securities on delivery day.

(4) The Participating Clearing Members shall furthermore be under the obligation to permit the automatic debit for the account of the exchange operating company for the amount of any fees due on the day of the trade execution arising from their own trades executed or from trades of their clearing customers executed or from trades of the Non-participating Clearing Members and their customers for whom they clear trades and connected to the CCP-eligible transaction as well as any fees related to the settlement of said trades pursuant to the Schedule of Fees of the exchange operating company or in the event of default, the prescribed interest on arrears on the third clearing day after the day of trade execution or to pay these fees in accordance with any other instruction of the exchange operating company.

(5) The delivery days for trades in CCP-eligible securities shall be published in the Clearing Calendar pursuant to § 31.

## **§ 19 Procedures within the Settlement Period**

(1) The data required for the clearing shall be recorded and stored by the Clearing Agent. For the term of the settlement period, a record shall be kept of all sums of all order volumes executed per member and price determined indicating the trade partner.

(2) On the first day of the settlement period, the Clearing Agent shall make available to every Participating Clearing Member, and if given, for every Non-participating Clearing Member for whom it clears trades, as well as for every Clearing Agent – for every Participating Clearing Member for whom it clears trades – the information on the respective CCP-eligible transactions for each individual clearing member in computer-readable form. The information shall include:

- a) A list of trades; this is a list of all trades concluded during the trading period in CCP-eligible securities which in cases of one-day trading periods may be replaced by the trade confirmation notes pursuant to § 16 par. 2;
- b) A settlement note; this is the cash settlement of these trades indicating the balance debited or credited to the cash account of the clearing member on delivery day,
- c) A delivery list; this is a list stating the number of shares or nominal value including any serial numbers yet to be drawn by lots by order of balance for each security category on delivery day for the securities (delivery balance) that must be delivered by the Participating Clearing Member (deliverer) for which said Participating Clearing Member must have cover on the securities account on delivery day;
- d) An acceptance list; this is a list stating the number of shares or nominal value of the securities balance per security category on delivery day that are to be accepted



(acceptance balance) by the Participating Clearing Member (buyer) for which it shall receive a credit booking on the respective securities account on delivery day.

- (3) The trade confirmations pursuant to § 16 par. 2 shall be broken down so as to indicate separately all trades allotted to a Non-participating Clearing Member.
- (4) The settlement note shall at the same time serve as a statement of account indicating entries booked per delivery day for the cash account and shall be subject to any changes that may be made by the Clearing Agent in the course of separation procedures pursuant to § 41.
- (5) The delivery list shall serve at the same time as a debit order against the securities account and as a debit statement per delivery day and shall be subject to any changes that may be made by the Clearing Agent in the course of separation procedures pursuant to § 41.
- (6) The acceptance list shall at the same time serve as a statement for credited amounts per delivery day and shall be subject to any changes that may be made by the Clearing Agent in the course of separation procedures pursuant to § 41.

## **§ 20 Procedure in the Case of Non-CCP-eligible Securities**

- (1) Non CCP-eligible securities are securities for which it is not possible to carry out settlement via the systems of the Clearing Agent. The exchange operating company shall define on the instructions of the Clearing Agent which securities are not deemed CCP-eligible and shall publish these in the Official Bulletin of the exchange operating company.
- (2) All transactions in non-CCP-eligible securities shall be cleared directly between the contractual partners outside of these Clearing Rules at the latest on the third clearing day after the day the trade has been concluded without CCP.A entering into the transaction pursuant to § 2 par. 2.
- (3) At the end of the day on which a trade has been concluded, the trade information on transactions in non-CCP-eligible securities shall be handed over to the concerned exchange members in an appropriate form and these shall be informed thereof. The processing of the respective clearing instructions by the Clearing Agent and the management of positions for these trades are not the subject of these Clearing Rules.

## **III D Delivery and Settlement of Trades in Options and Financial Futures Contracts**

### **§ 21 Types of Delivery and Settlement**

- (1) Exchange transactions in financial futures contracts shall be settled in cash upon delivery. The final settlement day and the settlement method are laid down in the "Rules for the Trading of Options and Financial Futures Contracts on Wiener Börse (Options Rules)" as well as in the respective contract specifications.
- (2) Exchange transactions in options are, depending on the respective options contract, automatically exercised and settled in cash by the Clearing Agent on expiry day, or if they are



exercised by the buyer of the option during the exercise period, they are settled by the Clearing Agent on the exercise day by physical delivery of the securities (delivery against payment). The type of fulfillment, the final settlement day and the possible exercise days are laid down in the Options Rules as well as the respective contract specifications.

(3) When exercised, an options transaction shall be deemed as delivered and settled only after the money amount agreed on in the contract has been paid or the agreed-on delivery volume has been delivered by the seller and/or accepted.

## § 22 Delivery and Settlement of Transactions

(1) Exchange transactions in financial futures contracts shall be delivered and settled on the clearing day after the last trading day (final settlement day).

(2) Options that are to be fulfilled by settlement in cash shall be exercised automatically on the last trading day by the Clearing Agent and fulfilled on the clearing day after the last trading day.

(3) Options that are to be fulfilled by physical delivery shall be exercised by the buyer on the exercise day within the exercise period. The seller of the option has to deliver or accept the securities on the delivery day defined pursuant to Art. 21 par. 1, with the day on which the transaction was concluded corresponding to the assignment day of the option.

(4) If an option has the intrinsic value of zero on the last trading day after the end of trading or the option was not exercised by the end of the exercise period on this day, the position shall be deleted on the position accounts of the counterparties. Such options that expire worthless shall be deemed as delivered and settled as of the following clearing day.

## § 23 Procedure during the Settlement Period

(1) The financial obligations resulting from options transactions shall be settled with the Participating Clearing Members by netting the premiums on the first clearing day after the day on which the transaction was concluded. The financial obligations resulting from trading in financial futures contracts shall be settled with the Participating Clearing Members by netting against the variation margin as of the first clearing day after the day on which the transaction was concluded.

(2) The settlement payments include the one-time payments of premiums on options (Art. 34 Options Rules) or the variation margin pursuant to par. 4 for financial futures contracts (Art. 32a Options Rules) settled daily as well as all fees pursuant to the Schedule of Fees of the exchange operating company and other cash liabilities arising out of the trading and the clearing of exchange transactions concluded on Wiener Börse in trading in options and financial futures contracts.

(3) The settlement amounts shall be debited or credited to the cash accounts of the Participating Clearing Members with the Clearing Bank or with recognized banks.

(4) The variation margin shall be balanced on every clearing day between buyers and sellers. If there is a positive difference between the settlement price on the day on which the trades are matched and the buy price (or afterwards between consecutive settlement prices), the seller of a financial futures contract to be settled daily is obliged to pay the difference between the buy price (or afterwards between the previous settlement price) and the current settlement price of the financial futures



contract. In this case, the buyer of the financial futures contract shall receive the difference between the buy price (or the previous settlement price) and the current settlement price of the financial futures contract. If the current settlement price is below the price of the previous day, the payment flow between buyer and seller is reversed.

(5) The buyer of an option is obliged to pay the price of the option (premium plus fees in accordance with the Schedule of Fees) on the first clearing day after the day on which the transaction was concluded. The account of a writer of an option shall be credited with the value of the option (premium minus fees in accordance with the Schedule of Fees) on the first clearing day after the day on which the transaction was concluded.

(6) The Participating Clearing Members shall be under the obligation to permit the automatic debit for the account of the exchange operating company for the variation margin payments and options premiums on the first day after the day of trade execution arising from their own trades executed or from trades of their clearing customers executed or from trades of the Non-participating Clearing Members and their customers for whom they clear trades and arising in connection with the exchange transaction as well as any fees related to the settlement of said trades pursuant to the Schedule of Fees of the exchange operating company or in the event of default, the prescribed interest on arrears on the clearing day after the day of trade execution or the Participating Clearing Member shall pay these fees in accordance with any other instructions of the exchange operating company.

## **§ 24 Opening and Closing Out of Positions**

(1) In trading in options and financial futures contracts, the exchange member may identify agent trades and proprietary trades to indicate that a position is either opened or increased, or closed out or decreased (closing out of positions). Open positions can only be closed out within the respective position accounts.

(2) Should an exchange member fail to add these attributes, the trade positions, which are booked to the gross position accounts (proprietary trading and agent trading), shall be opened in accordance with the default settings ('buy to open' or 'sell to open').

(3) Positions which are booked on net position accounts (market maker positions), shall always be closed out regardless of the respective identification ('buy to close' or 'sell to close').

(4) A short position of a customer in an instrument shall be maintained on an agent account (omnibus account) separate from the long position of another customer in the same instrument. Customer positions may not be closed out against other customer positions. Thus, the closing out of agent accounts shall only be permissible for the purpose of closing out two opposite positions held by one and the same customer.

(5) Should a transaction on a gross position account designated as a closing-out transaction be without a sufficient number of open positions on these position accounts, the system will automatically open as many positions as correspond to the number of contracts which could not be closed out. For the contracts which could not be closed out, a buy-to-close transaction shall become a buy-to-open transaction, and a sell-to-close transaction shall become a sell-to-open transaction.



(6) All open and unexercised positions in options series shall be automatically deleted from the position accounts at the end of the last trading day of the contracts. All short positions assigned and long positions exercised shall be deleted from the position accounts after delivery and/or payment for exercise and assignments in these positions.

(7) Positions in financial futures contracts shall be deleted from the position accounts of the exchange members after final settlement or cash settlement in these positions.

(8) As a rule, corrections to transactions and position assignments shall be permissible only within the individual types of position accounts. All other changes shall only be permitted with the explicit consent of the Clearing Agent.

## **§ 25 Delivery and Settlement of Financial Futures Contracts**

(1) Open positions on the last trading day of a financial futures contract shall be balanced by netting the variation margin for the last time, with any differences calculated pursuant to Art. 23 par. 4 being credited or debited to the cash account of the Participating Clearing Member by the Clearing Agent on delivery day.

(2) The amount booked shall be calculated pursuant to Art. 23 par. 4 on the basis of the difference between the settlement price of the financial futures contract on the clearing day before the final settlement day and its final settlement price, and/or in the case of positions opened on the last trading day, on the basis of the difference between the price of the financial futures contract and its final settlement price.

## **§ 26 Delivery and Settlement of Options Settled in Cash**

(1) Open in-the-money positions of an options series (intrinsic value greater than zero) shall be automatically exercised and assigned by the Clearing Agent in accordance with the rules in the contract specifications on the exercise day. All series exercised shall be settled in cash. The Clearing Agent shall announce on every exercise day which options series will automatically be exercised in accordance with the applicable contract specifications.

(2) Cash settlement shall be determined by the difference between the exercise price of the options series and its final settlement price and shall be executed on delivery day.

(3) The cash settlement due for positions exercised and positions assigned shall be netted and the resulting difference shall be credited or debited to the cash account of the Participating Clearing Member on delivery day.

## **§ 27 Delivery and Settlement of Options by Physical Delivery**

(1) Open in-the-money positions of an options series (intrinsic value greater than zero) may be exercised by the buyer on exercise day.

(2) The Clearing Agent assigns the exercised positions to the sellers. All exercised positions shall be fulfilled pursuant to §§ 18 et seq by physical delivery against payment on the third clearing day after the assignment day.



- (3) Assignments shall be made by the Clearing Agent on a random basis and shall be binding and irrevocable. The stock exchange members shall be informed of the assignment method used; prior notification shall be required for any change to the assignment method to take effect.
- (4) In the case of American-style options, assignments to sellers of options can be made throughout the life of the options contract, including the expiry day. In the case European-style options, assignments to sellers of options can be made only on the expiry day. The stock exchange and the concerned clearing members of the assignment shall be notified thereof by 7:00 a.m. on the clearing day following the exercise day, at the latest.
- (5) All the assignments made for the agent accounts of a stock exchange member have to be assigned by the latter to its customers in accordance with the method employed by the Clearing Agent.
- (6) All assignments for the proprietary or market-maker accounts of an exchange member have to be delivered and settled by said exchange member and may not be passed on to customers.
- (7) The assignment day shall be the clearing day after the exercise day.

## **III E Fulfillment of Collateral to be Deposited**

### **§ 28 Collateral Cash and Securities Accounts**

- (1) Participating Clearing Members shall be responsible for the timely submittal and deposit of collateral for the CCP-eligible transactions.
- (2) The collateral requirement is defined on the basis of the exchange transactions in CCP-eligible securities of the Participating Clearing Member and on those of the Non-participating Clearing Members for whom it clears trades.
- (3) Should the market or position conditions require a margin call, or in the event of other material reasons, e.g. potential risk to the financial stability of the Clearing Agent or imminent insolvency of Participating Clearing Members, the Clearing Agent shall have the right to demand an exceptionally higher level of clearing collateral ('margin calls') to be furnished by Participating Clearing Members on short notice.
- (4) Due to the objective risks, a margin call shall be fixed by the Clearing Agent at an amount adequate to cover the overall risk and shall remain valid until recalled by the Clearing Agent.

### **§ 29 Fulfillment of the Collateral Requirements**

- (1) Clearing margins (increase or change of clearing margins) shall be deposited at the latest by 9.00 a.m. on the next clearing day after having received the margin call.
- (2) The clearing collateral to be deposited shall be deemed as deposited only as of the time it is booked to the corresponding collateral cash or securities account and for which drawing rights to the collateral cash and securities accounts in the meaning of § 13 par. 5 have been authorized and the objective requirements regarding the establishment and maintenance of clearing collateral have been



met in accordance with the applicable legislation. Upon request by the Clearing Agent, the clearing member shall be obligated to submit at its own expense the respective proof (e.g. legal opinions) on the effective establishment of collateral.

(3) Margin calls shall have to be fulfilled immediately by the Participating Clearing Members, unless stipulated otherwise by the Clearing Agent in individual cases, but at the latest within two hours on the same clearing day.

### **§ 30 Deposit of Guarantees**

(1) Participating Clearing Members may deposit guarantees with the Clearing Agent in order to meet the collateral requirements.

(2) The guarantees shall have to be issued by an EEA credit institution recognized by the Clearing Agent, with which the Clearing Member is not affiliated in the meaning of Art. 228 par. 3 Austrian Commercial Code. The Clearing Agent shall reserve the right to revoke the recognition of an EEA credit institution and its guarantees in justified cases. Guarantees issued mutually by two Clearing Members for each other shall not be permitted and shall not be accepted by the Clearing Agent.

(3) The Clearing Agent shall only accept guarantees which correspond to their standard guarantees with respect to content and form. A guarantee shall be deemed as deposited only at the time it has been physically deposited with the Clearing Agent and the Clearing Agent has confirmed its acceptance.

## **III F General Provisions**

### **§ 31 Clearing Calendar**

(1) Transactions concluded in trading in CCP-eligible transactions are cleared in accordance with the clearing calendar published by the exchange operating company in the Official Bulletin (Clearing Calendar). Every day on which the systems of the Clearing Agent are available for clearing shall be deemed a clearing day in the meaning of these rules. Every clearing day shall be deemed a delivery day in this context.

(2) The Clearing Calendar shall be compiled by the Clearing Agent in agreement with the exchange operating company taking into account the business hours of the Clearing Bank. All dates and periods of relevance clearing, e.g. clearing days, days on which trades are matched, delivery days, the trading period, the settlement period, separation days and the cash settlement day shall be specified in the Clearing Calendar.

(3) If required by special circumstances (e.g. initial public offerings or capital increases, drawing of lots or calls, etc.) in the case of individual securities, options or financial futures contracts, the exchange operating company shall, upon request of the Clearing Agent, change the Clearing Calendar and the clearing period for these securities or instruments accordingly, taking into account the business hours of the Clearing Bank.





(4) The Participating Clearing Members and the Clearing Agents shall be obligated to ensure adequate cover on their cash and securities accounts and access to said accounts on all days on which trades are matched and on all delivery days to ensure the orderly clearing and collateralization of trades. The Clearing Bank shall be obligated to fulfill its tasks in accordance with Art. 3 on all days on which trades are matched and on all delivery days.

### **§ 32 Trades in Debt Securities**

(1) For the delivery and settlement of transactions in CCP-eligible debt securities, accrued interest shall be calculated at the rate at which the security bears interest, unless stipulated otherwise and announced by the exchange operating company.

(2) The accrued interest shall be due to the seller up to and including the calendar day preceding delivery day. The calculation method and the booking of the accrued interest shall be based on the rules of the underlying security for computing accrued interest.

(3) The coupon shall be detached on the evening of the banking business day before the interest falls due.

(4) If a coupon falls due on the delivery day, the buyer is not entitled to any interest on this coupon. In this case, the seller shall be exempt from paying the interest accrued in connection with the last coupon falling due.

### **§ 33 Trades in Securities Categories Issued in Series**

(1) For the delivery balance in securities categories, for which series are issued, the Participating Clearing Members and the Clearing Agents of the Clearing Agent shall have to announce the series to be delivered and the nominal value of the series by 1.00 p.m. on the banking business day following the day on which the trade was concluded, at the latest.

(2) The Clearing Agent shall notify the Participating Clearing Members and the Clearing Agents of the series delivered and the nominal value of the series for the acceptance balance in these securities categories in computer-readable form per delivery day.

### **§ 34 Dividends and Stock Options**

(1) If a stock option is exercised not later than two clearing days before the ex-dividend markdown (ex-day), the dividend, including the corresponding amount of tax, shall be due to the new owner of the share.

(2) If the ex-day precedes or coincides with the delivery day of the option and the dividend, including the corresponding amount of tax, is due to the new owner of the shares, the old owner has to reimburse the net dividend payable to the new owner. This reimbursement shall be made within the settlement.





## **§ 35 Subscription Rights and Stock Options**

- (1) If a stock option is exercised not later than two clearing days before the rights markdown, the stock rights shall be due to the new owner of the shares.
- (2) If the rights markdown precedes or coincides with the delivery day of the option and the subscription rights are due to the new owner, the old owner of the shares has to cede the subscription rights on the delivery day, at the latest.
- (3) If the subscription rights associated with the share are not ceded in due time, the Clearing Agent - provided rights trading is still taking place - will buy the rights at the first price quoted on the following clearing day for the account of the old owner of the shares and charge the purchase price, including incidental expenses, to the former owner.
- (4) If such buy-in is not possible, the Clearing Agent will debit the equivalent of the subscription rights, calculated on the basis of the first price quoted in subscription rights trading to the cash account of the old owner of the shares and credit the amount to the new owner. If there is no trading, the theoretical value of the subscription right on the day of rights markdown is used as a basis.

## **§ 36 Treatment of Changes to Share Capital**

The treatment of changes to the share capital (share capital changes and capital market transactions) in the case of stock options is defined in the Special Terms and Conditions of Business of the Exchange Operating Company in agreement with the Clearing Agent.

# **Part IV DEFAULT**

## **IV A General Provisions**

### **§ 37 Definition of Default**

- (1) A Participating Clearing Member shall be deemed to be in default
  - a) if the member's deposit with the Clearing Bank or the Clearing Agent at the time pursuant to § 39 par.3 fails to show sufficient cover to meet its delivery obligation pursuant to §§ 15 and 18 or clearing is prevented by a suspension of deliveries (default of delivery);
  - b) if acceptance of the securities to be received on the settlement day is denied or rejected or if it is not possible for reasons not in the control of the Clearing Member concerned (default of acceptance);
  - c) if its cash account with the Clearing Bank (if given, with a recognized bank) or the Clearing Agent on the settlement day at the time pursuant to § 46 par.3 fails to show sufficient cover to meet its payment obligation pursuant to §§ 15 and 18 or, if applicable,



on maturity of a receivable from a cover purchase pursuant to § 42 par.7 or from a cash settlement pursuant to § 43 (default of payment);

- d) if it fails to meet in due time its obligation to deposit sufficient collateral and guarantees pursuant to §§ 28 and 30 on the collateral account or deposit with the Clearing Bank or the Clearing Agent or by depositing a guarantee with the Clearing Agent (default of provision of collateral);
- e) if it has failed to fulfill other obligations pursuant to these Clearing Rules.

(2) If a Participating Clearing Member proves to the Clearing Agent that one of the defaults described in par.1 is not the result of insolvency or inability to render performance, that the default was not caused intentionally and that the member will fulfill its obligations promptly, then the Clearing Agent may declare the Participating Clearing Member to be in technical default (technical default). The Clearing Agent is authorized to revoke the status of technical default at its discretion, thereby causing a default pursuant to par.1 to revive.

(3) The Participating Clearing Members shall inform the Clearing Agent immediately whenever obligations pursuant to Sections III B to III E cannot be fulfilled or compliance with these or other obligations is at risk. This shall apply in particular in the case of imminent insolvency or imminent overindebtedness of the Participating Clearing Member.

## **§ 38 Consequences of Default**

(1) If a Participating Clearing Member is in default pursuant to § 37 par.1 or if it has issued a notice pursuant to § 37 par.3, the Clearing Agent shall inform the Exchange Operating Company without delay. The Exchange Operating Company shall then initiate expulsion proceedings against the Clearing Member. In the event of technical default pursuant to § 37 par.2, the special provisions of § 48 apply.

(2) The default status is signaled to the Clearing member in the clearing system and by the account balance.

(3) For the duration of the expulsion proceedings, the Exchange Operating Company may declare the membership as suspended. If the reasons are of a temporary or curable nature and if the member is not grossly at fault, then instead of an expulsion its membership may be declared suspended as long as the said reasons persist.

(4) The Clearing Agent shall retain, as additional clearing collateral, the securities to be taken over by the Participating Clearing Member concerned pursuant to par.1 or 3 (acceptance balances) as well as its credit-side cash balances.

(5) In the event of default the Clearing Agent is authorized to realize, pursuant to the rules of §§ 53ff, the collateral provided pursuant to § 49 and the acceptance balances and credit-side cash balances pursuant to § 4 of the Participating Clearing Member being in default.

(6) If the collateral provided by a Participating Clearing Member is realized by the Clearing Agent, this Clearing Member shall replenish its collateral by 9:00 a.m. on the next banking day, failing which default will occur pursuant to § 47.



(7) For the duration of the default, penalty interest shall be payable for individual types of default on the amount outstanding in the case of exchange transactions pursuant to § 59 pursuant to § 48t Stock Exchange Act and for all CCP-eligible transactions interest on arrears in the amount of three times the base interest rate pursuant to § I, Section One, § 1 of the 1<sup>st</sup> Euro Changeover Act (*Euro-Justiz-Begleitgesetzes*).

## **IV B Proceedings in the Event of Default**

### **§ 39 Occurrence of Default of Delivery**

(1) Each Participating Clearing Member shall provide cover on its securities account with the Clearing Bank in the amount of the outstanding delivery balances shown in the delivery lists plus shortfalls resulting from its own clearing in CCP-eligible securities of Non-participating Clearing Members assigned to it.

(2) Each Participating Clearing Member assigned to a Clearing Agent shall enable said Clearing Agent to provide cover on the securities account kept for it by the Clearing Agent with the Clearing Bank in the amount of the outstanding delivery balances shown in the delivery lists resulting from its own transactions in CCP-eligible securities as well as from the transactions of Non-participating Clearing Members assigned to it, plus shortfalls.

(3) A Participating Clearing Member is deemed to be in default if by 2:00 p.m. on the clearing day after settlement day, the Participating Clearing Member's securities account or the securities account maintained by a Clearing Agent for the Non-participating Clearing Member assigned to it fails to show sufficient cover to meet delivery obligations pursuant to par.1 or 2 or clearing is prevented by a blockage of deliveries.

### **§ 40 Procedure in the Event of Default of Delivery**

In the event of default of delivery, the Clearing Agent shall conduct the following procedures in the following order:

- a) separation procedure
- b) covering procedure
- c) cash settlement procedure

### **§ 41 Separation Procedure**

(1) The separation procedure starts on the delivery day. The separation procedure continues not longer than 10 clearing days after the delivery day specified pursuant to §§ 15 and 18 and may be ended early by ex post delivery or in the course of the cover procedure (up to and including the last exchange clearing day of the procedure).



- (2) In the separation procedure, the Clearing Agent determines for each buyer (receiving party) the share of the quantity not deliverable due to default of delivery (shortfall), by which its acceptance balance in the securities category concerned is reduced and separates these quantities from the quantities that can be fulfilled.
- (3) The netting of open positions of a direct clearing member may prolong the separation procedure for shortfalls or for part of shortfalls in exceptional cases and may last longer than 10 clearing days deviating from par. 1. In such cases as well, the Clearing Agent takes all measures pursuant to §§ 42 and 43 in order to achieve swift fulfilment in the event of default in delivery (§44).
- (4) The ratio of the amount by which an acceptance balance is reduced to the shortfall is equivalent to the ratio of the amount of this acceptance balance to the total amount of all acceptance balances in the securities category concerned. The allocation of the shortfall shall be carried out with due regard to the smallest denomination deliverable. If an amount remains in the acceptance balance that is smaller than the smallest deliverable denomination, this quantity need not be delivered.
- (5) Prior to booking to the securities accounts, the Clearing Agent shall reduce the delivery balance in the category of securities of the defaulting seller by the shortfall and the acceptance balance of each buyer by its share of the shortfall.
- (6) Prior to booking to the cash accounts of the concerned receiving party, the Clearing Agent shall correct the original cash balance shown on the settlement note for the receiving parties by crediting the corresponding correction amounts. The correction amounts shall correspond to the value of the receiving party's share of the shortfall. In calculating the amount, the purchase done at the highest price is used first, followed by the one at the next-lower price, until a quantity is reached that amounts to the share of the shortfall.
- (7) Prior to posting to the cash account, the Clearing Agent shall correct the cash balance of the defaulting seller by debiting an amount equivalent to the sum of all credits pursuant to par.6.
- (8) The shortfall, the shares of the shortfall pursuant to par.2 and 4, and the amounts by which the cash balances are corrected pursuant to par.6 and 7 shall be recorded by the Clearing Agent in its books.
- (9) During the separation procedure, the delivery obligations for the following delivery days of the defaulting seller shall be increased by the shortfall calculated in the separation procedure until the delivery obligation regarding the shortfall has been fulfilled.
- (10) During the separation procedure, the payment obligations for the following delivery days of the buyers affected by the default shall be increased by the correction amount calculated pursuant to par.6 until the delivery obligation regarding the shortfall has been fulfilled.
- (11) If, on one of these delivery days, the entire delivery obligation in a securities category is composed of the delivery balance (for the current delivery day) and one or several shortfalls and if the securities account does not have sufficient cover to meet the entire delivery obligation, the existing cover shall be used first to deliver the oldest shortfall and any remaining quantity shall then be used to deliver part of the delivery balance.
- (12) The Clearing Agent shall inform the Exchange Operating Company and each Participating Clearing Member concerned of the contents and details of the current separation procedure.



## § 42 Covering Procedure

(1) During the separation procedure, a Participating Clearing Member who is in default of delivery shall either arrange for the retroactive covering of the shortfalls determined pursuant to § 41 par.2 itself or instruct by the eighth clearing after settlement day the Clearing Agent by written order to obtain cover for the shortfalls. Such an order may be terminated by mutual consent.

(2) Deliveries made as part of retroactive coverings by the defaulting Clearing member shall be posted to the securities account of the defaulting Clearing member at the latest by 2:00 p.m. on the ninth clearing day after settlement day in order to bring the covering procedure to successful completion. Deliveries made by the Clearing Agent as part of the covering procedure shall be posted by that time to a separate securities account of the Clearing Agent on behalf of the defaulting Clearing Member.

(3) If the cover procedure cannot be completed successfully by the ninth clearing after settlement day, the Clearing Agent initiates the cover purchases pursuant to par. 5 for the open shortfall. Deliveries by the Clearing Agent within the scope of the covering procedure will be booked to a separated securities account of the Clearing Agent in favor of the defaulting clearing member and shall have priority during fulfillment over deliveries by the defaulting of delivery direct clearing member.

(4) If the covering procedure cannot be completed successfully by the defaulting of delivery direct clearing member or by the Clearing Agent pursuant to §41 par. 1 and 3 by the end of the separation procedure, open shortfalls of the same securities category shall be settled in cash by the Clearing Agent pursuant to Article 43 ("**Cash Settlement**") on the clearing day after finalization of the separation procedure.

(5) If so ordered by the defaulting Clearing Member or in the event of the initiation of a cover purchase pursuant to par. 3 , the Clearing Agent shall attempt to make a covering purchase for the separated shortfall by the clearing day preceding the cash settlement. Partial cover purchases are acceptable under par. 2 and 3.

(6) When executing a cover purchase, the Clearing Agent shall attempt to find a seller for the securities category being sought among the exchange members while preserving the anonymity of the clearing member who has fallen into default of delivery. In addition, it shall publish the shortfall in the securities category concerned on its web site [www.ccpa.at](http://www.ccpa.at) indicating the date by which delivery is required. The exchange members may place binding offers for the securities being offered in writing by fax. CCP.A has the right (but not the duty) to accept the first bidder's offer. When several offers are received in short intervals, the offer at the lower price shall be accepted.

(7) On the day the covering purchase is due, the payment obligations of the defaulting seller shall be increased by the purchase price for the covering purchase including the charges and fees incurred by the Clearing Agent plus a processing fee pursuant to the Schedule of Fees of the Exchange Operating Company.

## § 43 Cash Settlement

(1) If a shortfall is not covered retroactively and sufficiently during the separation procedure, the remaining shortfall determined at 2:00 p.m. on the last day of the separation procedure shall be settled



by the Clearing Agent in cash on the subsequent clearing day. If the last day of the separation procedure defined in §41 is after the subscription period, then cash settlement for subscription rights takes place already on the last day of the subscription period.

(2) The amount at which an open shortfall is settled in cash shall be 120% of the current market value of the shortfall of the concerned receiving party valued at the closing price quoted at the close of trading on the last day of the separation period less the original market value of the shortage (in case of netted transactions value calculated according to par.3) plus any fees pursuant to the Schedule of Fees of the exchange operating company plus interest on arrears, if any. The amount shall be settled in euro rounded to two decimal places in accordance with commercial practice. Instruments in foreign currencies shall be converted at the ECB's mean rate of exchange on the relevant day.

(3) If the last price pursuant to par.2 is lower than the price of the original transaction, or in the case of netted transactions, lower than the resultant median price, then instead of the closing price pursuant to par.2 this price shall be used as a basis for cash settlement pursuant to par.2.

(4) The cash settlement amount for an open shortfall in subscription rights is calculated on the basis of the subscription price (plus last price of the subscription right on the last day of trading in subscriptions rights multiplied by the subscription ratio) compared to the first available closing price of the security after the end of the subscription period or in the case of new issues, compared to the first available last price of a security pursuant to par. 2 and par. 3. Should there be no last price for the open shortfall of subscription rights until the close of trading on the last day of the separation period, then the theoretical value of the subscription right ('subscription right discount) is used. If a subscription right entitles the holder to subscribe to different securities, the subscription prices and prices are added in each case and divided by the number of the different securities.

(5) The cash settlement amount payable by the defaulting seller shall be debited by the Clearing Bank to the seller's cash account as instructed by the Clearing Agent on the first clearing day after the end of the separation period – in the event of a cash settlement of subscription rights, on the first clearing after availability of the last price pursuant to par. 4 – and credited to the cash accounts of the buyers concerned less any fees pursuant to the Schedule of Fees of the Exchange Operating Company.

## **§ 44 Fulfillment in the Event of Default on Delivery**

(1) Retroactive (partial) deliveries made during the separation procedure pursuant to § 41 are deemed to be in (partial) fulfillment as defined in §§ 15 and 18.

(2) Open positions that are settled in cash after the end of the separation procedure pursuant to § 43 par.3 are deemed to have been fulfilled analogously to par.1.

## **§ 45 Default of Acceptance in the Event of Physical Fulfillment**

If the buyer refuses to accept the securities offered to it, the buyer shall compensate the Clearing Agent for lost interest, calculated analogously to the interest on arrears pursuant to § 59, and shall also compensate the Clearing Agent for any further direct damages suffered.



## § 46 Occurrence of Default of Payment

- (1) Each Participating Clearing Member shall provide cover on its cash account with the Clearing Bank (or if given with a recognized bank) in the amount of the open balances shown in the settlement notes resulting from its own CCP-eligible trades as well as from those of the Non-participating Clearing Members assigned to it as well as for receivables from a covering purchase pursuant to § 42 par.7 or from a cash settlement pursuant to § 43 plus all open payment obligations towards the Exchange Operating Company from fees pursuant to the Schedule of Fees as well as interest on arrears, if any.
- (2) Each Participating Clearing Member assigned to a Clearing Agent shall enable its Clearing Agent to provide cover on the cash account maintained for it by the Clearing Agent in the amount of the open balances shown on the settlement notes resulting from its own transactions in CCP-eligible trades as well as from the trades of the Non-participating Clearing Members assigned to it as well as for receivables from a covering purchase pursuant to § 42 par.7, if applicable, or from a cash settlement pursuant to § 43 plus all open payment obligations towards the Exchange Operating Company from fees pursuant to the Schedule of Fees as well as interest on arrears, if any.
- (3) Default of Participating Clearing Member shall be deemed to occur if its cash account or the cash account of its Clearing Agent by 10:00 a.m. or for the second booking run by 2:00 p.m. on settlement day (in the case of receivables from a covering purchase pursuant to § 42 par.7 on the due date of the covering purchase and in the case of receivables from a cash settlement pursuant to § 43 on the day named in § 43 par.4) fails to show sufficient cover in the form of a credit balance or credit granted to meet its payment obligations pursuant to par.1 or par.2.

## § 47 Default of the Deposit of Collateral

- (1) Each Participating Clearing Member shall provide cover on its collateral cash and/or securities account in the amount of the collateral requirements shown in the margin lists plus the guarantees required by the Clearing Agent as well as margin calls resulting from its own CCP-eligible trades as well as from the corresponding exchange transactions of the Non-participating Clearing Members assigned to it.
- (2) Each Participating Clearing Member assigned to a Clearing Agent shall enable its Clearing Agent to arrange at any time for sufficient cover on the collateral cash and/or securities account maintained for it by the Clearing Agent in the amount of the collateral requirements shown in the margin lists plus the guarantees required by the Clearing Agent as well as margin calls resulting from its own CCP-eligible trades or from trades of the Non-participating Clearing Members assigned to it.
- (3) Default of collateral of a Participating clearing member shall be deemed to occur if the collateral cash account and/or securities account of this Clearing member or of a Clearing Agent for the Participating Clearing Members assigned to it on the delivery day pursuant to § 29 par.1 fails to show sufficient cover at the time indicated therein for fulfilling the collateral obligations pursuant to par.1 or 2 or if it fails to carry out instructions to change the composition of the clearing collateral by the date specified by the Clearing Agent.
- (4) A default of collateral of a Participating Clearing Members shall also be deemed to occur if it fails to deposit the required guarantees with the Clearing Agent in due time or fails to maintain them at





the required level or fails to replace a guarantee that has been terminated or used within five banking business days after its termination or use.

## **§ 48 Technical Default**

(1) Immediately after the declaration of technical default pursuant to § 37 par.2 by the Clearing Agent, the affected Clearing member shall upon request of the Clearing Agent present the reasons in writing to the Clearing Agent without delay. In the event of technical default, the Clearing Agent may refrain from making a report to the exchange operating company pursuant to § 38 par.1.

(2) The Clearing Agent may take recourse to a Participating Clearing Member to recover losses incurred by it or other exchange members due such member's technical default. In addition, §§ 59 and 60 apply accordingly.

(3) The Participating Clearing Member being in technical default shall remove the causes of the technical default promptly and lastingly.

## **Part V COLLATERAL**

### **V A Ensuring the Stability of the Clearing Agent**

#### **§ 49 Clearing Collateral**

(1) The Clearing Members shall deposit clearing collateral for the clearing and settlement of their CP-eligible trades themselves or, in the case of Non-participating Clearing Members, through a General Clearing Member.

(2) Each Participating Clearing Member who is assigned to a Clearing Agent shall enable its Clearing Agent to provide clearing collateral in the amount specified for it by the Clearing Agent. Each Clearing Agent shall provide clearing collateral in the amount specified by the Clearing Agent for a Participating Clearing Member assigned to it as far as it has been enabled to do so by the Participating Clearing Member assigned to it.

(3) Excess collateral cover shall be released by the Clearing Agent upon request of the Participating Clearing Member.

(4) The clearing collateral deposited by the Clearing Members shall serve as collateral in the form of a pledge (or in the form of any other collateral accepted by the Clearing Agent) or a bank guarantee for all those accounts receivable by the Clearing Agent arising from the clearing of CCP-eligible transactions pursuant to the Clearing and Settlement Rules, as well as for all accounts receivable by the exchange operating company that have arisen from, or in connection with, trading and/or clearing of CCP-eligible transactions along with taxes and fees, including receivables from losses caused by the exchange member.





(5) Clearing collateral may be provided in the form of cash deposits in currencies accepted by the Clearing Agent, securities, and bank guarantees. The securities and currencies accepted as collateral and their collateral value shall be promulgated by the Clearing Agent by publication in the Official Bulletin of the Exchange Operating Company.

(6) A Clearing Member's own issues shall not be accepted as collateral. The Clearing Agent reserves the right of refusing to credit a certain category of securities otherwise accepted as collateral against the collateral provided by a Clearing Member.

(7) The Clearing Agent has the right to call for a different composition of the clearing collateral deposited at any time. Any change shall examine in particular when the credit rating of an issuer of a security accepted as collateral has deteriorated or is at risk of deteriorating.

## **§ 50 Calculation of Collateral**

(1) After commencement of the clearing and settlement operations, the clearing collateral shall be determined with due consideration of the risks of the concluded transactions such that any loss to the Clearing Agent and the other exchange members as well as the Exchange Operating Company in the case of non-fulfillment is avoided as far as possible and that any fees pursuant to the Schedule of Fees of the Exchange Operating Company as well as any interest on arrears is covered.

(2) The object in calculating collateral is the Clearing Member's credit risk. By the end of day on which trades are matched, at the latest, the Clearing Agent shall book all new transactions to the position accounts of the exchange members. In this process, the position accounts shall be adjusted for the transactions fulfilled pursuant to §§ 15 and 18.

(3) The credit risk is the potential loss sufferable by the Clearing Agent if a Participating Clearing Member fails to fulfill the payment or delivery obligations assumed by the conclusion of CCP-eligible transactions. The Clearing Agent shall calculate the collateral requirements on a netting basis per exchange member.

(4) The clearing collateral shall be increased by a risk premium as appropriate for the credit rating of the Participating Clearing Member determined pursuant to § 52. This premium shall be published on the Clearing Agent's web site [www.ccpa.at](http://www.ccpa.at).

(5) Upon the request of the Clearing Agent, the Exchange Operating Company shall promulgate the methods used for calculating the credit risk by publication in the Official Bulletin of the exchange operating company. Calculation of the clearing collateral shall be undertaken by the Clearing Agent at least once daily on the basis of the then current stock exchange prices.

(6) The Clearing Agent shall inform the Participating Clearing Members of the calculated collateral requirements at the end of each clearing day. The Clearing Members shall ensure availability of cover or modification of the required collateral pursuant to § 29 in due time.

(7) The Clearing Agent shall address margin calls directly to the Participating Clearing Members affected.



## § 51 Clearing Fund

- (1) Notwithstanding the provisions of collateral pursuant to § 49, each Participating Clearing Member shall contribute the specified amount to the clearing fund maintained by the Clearing Agent.
- (2) The contribution shall be made to the Clearing Agent in the form of a euro cash deposit or a bank guarantee and shall serve exclusively to cover open liabilities in the event of a default that cannot be covered fully by the clearing collateral pursuant to § 49 and the contribution of the defaulting Participating Clearing Member to the clearing fund pursuant to par.1.
- (3) A Direct Clearing Member pursuant to § 6 par.2 shall provide bank guarantees or euro cash deposits in the amount of EUR 1,000,000. This sum is reduced to EUR 50,000 if the clearing member clears and settles only CCP-eligible transactions in securities.
- (4) A General Clearing Member pursuant to § 6 par.3 shall provide bank guarantees or euro cash deposits in the amount of EUR 5,000,000. This sum is reduced to EUR 250,000 if the General Clearing Member clears and settles only CCP-eligible transactions in securities or to EUR 1,000,000 if the General Clearing Member, apart from clearing CCP-eligible transactions in securities, clears only trades in options and financial futures contracts resulting from its own exchange membership.

## § 52 Credit Rating Categories

- (1) Prior to and during participation in clearing and settlement, each Participating Clearing Member shall be classified by the Clearing Agent in a credit rating category. The classification serves the preservation of the stability of the Clearing Agent, shall be carried out confidentially and shall evaluate the current economic and financial situation of the Participating Clearing Member.
- (2) The Participating Clearing Member shall be classified on the basis of its financial ratios. To enable calculation of the ratios, the Participating Clearing Member shall deliver to the Clearing Agent the financial statements (including notes and management report) of the last three financial years compiled in accordance with the applicable accounting standards and audited, as applicable. If the entity was founded less than three years ago, the financial statements available shall be submitted. Ratings of the Participating Clearing Member available from rating agencies and other institutions shall likewise be delivered to the Clearing Agent.
- (3) If the financial statements are not available at the time of classification, the Clearing Agent has the right to classify the member in the lowest credit rating category pursuant to par.5. Upon special request, the Clearing Agent may accept letters of comfort it has standardized issued by group companies for use in classifying Participating Clearing Members. In such a case, these group companies and their respective financial statements and valuations, which have to be submitted, shall be taken into account as well.
- (4) CCP.A is authorized to obtain additional evidence and information on credit standing, including interim financial reports and media reports as well as reports of national and international news agencies and use them for credit rating.
- (5) The credit review includes the calculation of the classical financial ratios of the Participating Clearing Members concerned. Once the analysis of the financial statements and information available has been completed, the Participating Clearing Member shall be classified in one of the rating



categories 1 to 8, with category 1 comprising the companies with the highest creditworthiness and category 8 the companies with the lowest creditworthiness.

(6) For the purpose of the ongoing monitoring of creditworthiness, the Participating Clearing Member shall submit to the Clearing Agent its financial statements (including the notes and the management report and, if a letter of comfort was issued pursuant to par.3, also the financial statements of the group company) compiled in accordance with the accounting standards applicable in the respective case and audited, if applicable, within six calendar months after the end of the respective financial year.

(7) The Clearing Agent is authorized to re-evaluate the classification of a Participating Clearing Member in a credit rating category at any time.

## **V B Realization of Collateral**

### **§ 53 Realization of Collateral on the Cash Market**

(1) Upon occurrence of default pursuant to § 37 par.1,

- a) all open clearing and settlement transactions of the exchange member concerned shall be cleared and settled in accordance with the Rules regardless of the accounts involved and the status of the transaction. New transactions of the Participating Clearing Member shall no longer be accepted for clearing and settlement;
- b) collateral provided to cover any remaining open liabilities pursuant to § 37 par.1, including open interest on arrears pursuant to § 59 and fees of the Exchange Operating Company pursuant to the Schedule of Fees as well as any loss caused by the exchange member shall be realized by the Clearing Agent. The collateral shall be realized in the following order:
  - (i) cash collateral and all cash balances that would lead to a credit to the cash account of the Participating Clearing Member on the delivery day;
  - (ii) securities collateral and securities to be received from the defaulting Participating Clearing Member;
  - (iii) bank guarantees pursuant to § 49 par.5 of the defaulting Participating Clearing Member;
  - (iv) all contributions of the defaulting Participating Clearing Member to the clearing fund pursuant to § 51.

(2) The transactions to be executed pursuant to par.1 (b) (II) for realization may be ordered by the Clearing Agent through exchange members or offered by the Clearing Agent itself anonymously.

(3) As of the fifth clearing day upon occurrence of default, the Clearing Agent is authorized to realize the collateral pursuant to par.1 (b) (iii) and (iv), even if realization of collateral pursuant to par.1 (b) (ii) has not been completed yet.



(4) Under § 6 Financial Collateral Act (*Finanzsicherheitengesetz, FinSG*), the Clearing Agent has the irrevocable right to realize the collateral provided at its discretion without any further consent by the Clearing Member, without judicial approval of or consent to the realization terms and without an auction, without having to give prior warning of the realization or having to observe any waiting period. Realization or valuation of the collateral shall be carried out by the Clearing Agent in accordance with the principles of fair dealing in accordance with the market price of the collateral on the day of realization or valuation. After full coverage of all open liabilities and potential additional margin obligations for additional collateral, any surplus shall be surrendered to the clearing member (in the case of bank guarantees to the issuer) or credited to its account.

(5) The Clearing Agent shall have the right, in the event of default, to sell the securities pledged without the purchase price having to be paid immediately and in cash, or to transfer them to one of its securities accounts for appropriation pursuant to § 5 par.2 Financial Collateral Act (*Finanzsicherheitengesetz, FinSG*) and to then offset their value against the open liabilities of the clearing member or to use them in lieu of payment. Pledged cash collateral may be offset against open liabilities of the clearing member or used in lieu of payment. Bank guarantees provided as collateral shall be used by drawing against the bank guarantee.

(6) Realization is permitted even if bankruptcy or liquidation proceedings, composition or reorganization, receivership or similar proceedings are opened against the assets of the clearing member or such proceedings are still continuing.

(7) In the event of realization or termination, the collateral provided or the assets replacing it may be included in the netting procedure on termination pursuant to § 58.

## **§ 54 Realization of Positions on Futures and Options Market**

(1) Upon occurrence of default pursuant to § 37 par.1, all open clearing and settlement transactions of the exchange member concerned shall continue to be cleared and settled in accordance with the Clearing Rules regardless of the accounts involved and the status of the transactions. New transactions of the Participating Clearing Member shall no longer be accepted for clearing and settlement;

(2) Upon occurrence of default, the Clearing Agent shall start with realizing the positions on the position accounts of the exchange member to cover open liabilities from obligations pursuant to § 15 par.1. The Clearing Agent shall conduct the following procedures in the following order:

- a) net all open positions of the exchange member concerned across all of its position accounts. In the case of a defaulting General Clearing Member,
  - (i) its positions and, if applicable, the positions of the Non-participating Clearing Member(s) having caused the default shall be netted,
  - (ii) positions of Non-participating Clearing Members not involved in causing the default shall be transferred to other General Clearing Members, if possible.
- b) on the third clearing trading day after occurrence of the default, close out the short positions remaining after netting pursuant to (a) against the long positions remaining after netting.



- c) by the eighth clearing trading day after occurrence of the default, close out the short positions remaining pursuant to (b) by “buy-to-close” transactions.
  - d) by the eighth clearing trading day after occurrence of the default, close out the long positions remaining pursuant to (b) by “sell-to-close” transactions. Closing out shall be performed only as far as this is required to cover all open liabilities from obligations pursuant to § 15 par.1.
- (3) Transactions to be executed pursuant to par.2 (c) and (d) may be ordered by the Clearing Agent through exchange members or may be offered by the Clearing Agent itself anonymously.

## **§ 55 Realization of Collateral on the Futures and Options Market**

- (1) As of the third clearing day upon occurrence of default, at the latest, the Clearing Agent is authorized to realize the collateral in the order pursuant to § 53 par.1 (b).
- (2) As of the tenth clearing day upon occurrence of default, the Clearing Agent is authorized to realize the collateral pursuant to § 53 par.1 (b) (iii) and (iv), even if realization of collateral pursuant to § 53 par.1 (b) (ii) has not been completed yet.

## **V C Use of the Clearing Fund**

### **§ 56 Realization**

- (1) When realization of the clearing collateral pursuant to §§ 53 and 55 has been completed and further open liabilities of the Participating Clearing Member remain, the Clearing Agent shall start to realize the contributions to the clearing fund of all other Participating Clearing Members. The Clearing Agent shall proceed in the following order:
- a) calculate the preliminary amount of the remaining open liabilities of the Participating Clearing Member, compare it with the remaining clearing fund and calculate the percent share of the liabilities;
  - b) realize the contributions of all Participating Clearing Members to the clearing fund at the percentage rate calculated;
  - c) cover all open liabilities from the realized collateral.
- (2) Contributions to the clearing fund realized pursuant to par.1 shall be replaced by the individual Participating Clearing Members within 10 banking business days after having been used pursuant to par.1 in conjunction with § 53 par.4 ff by making new contributions to the clearing fund in the required amounts, unless the Participating Clearing Member notifies the Clearing Agent of its resignation from direct participation in the clearing and settlement system not later than on the fifth banking business day after use of its contributions to the clearing fund. The resigning Participating Clearing Member shall, however, remain liable even without providing new contributions to the clearing fund for liabilities due to cases of default that occurred up to the time of its resignation on a prorated basis pursuant to the rules for the clearing fund by analogy even after the end of its participation in the clearing system.



(3) The amounts remaining after coverage of all open liabilities shall be refunded by the Clearing Agent to the Participating Clearing Members on a pro-rated basis within 5 banking business days after the payment of new contributions to the clearing fund pursuant to par.2.

(4) If a defaulting Participating Clearing Member renders the performance owed by it fully or in part after the Clearing Agent has used the contributions of other Clearing Members to the clearing fund, the Clearing Agent shall refund such performance to the other Clearing Members on a pro-rated basis, proportionately to their use.

## **V D Other Provisions Governing Collateral**

### **§ 57 Release of Clearing Collateral and Contributions**

(1) If the right to participate directly in clearing and settlement is terminated, the obligation to make contributions to the clearing fund shall expire – except in cases pursuant to § 56 par. 2 - either one month after the termination of membership becomes effective in the clearing system or one month after the day on which all contracts on the accounts of the Participating Clearing Member have been cleared and settled, whichever is later.

(2) In the event of termination of participating clearing membership, the clearing collateral and the contributions to the clearing fund shall be refunded only after all obligations of the Participating Clearing Member concerned pursuant to § 15 par.1 as well as from any default that may already have occurred have been settled.

### **§ 58 Offsetting upon Realization or Termination**

(1) In the event of realization or termination, the Clearing Agent has the right to determine the value of financial obligations existing between itself as the central party of the contract and the clearing member concerned by clearing/offsetting so that the party with the higher liabilities has to pay the calculated net balance to the other party.

(2) Offsetting upon termination shall likewise be required pursuant to § 9 par.1 Financial Collateral Act when bankruptcy or liquidation proceedings, composition or reorganization, receivership or similar proceedings have been opened against the assets of the Participating Clearing Member or such proceedings are still continuing and the rights subject to offsetting upon termination have been assigned or attached by court order or otherwise or have been disposed of otherwise.

(3) Offsetting upon termination may be effected without prior warning, judicial approval or consent, without auction and without having to observe a waiting period. The collateral included in the offsetting procedure upon termination shall be valued pursuant to the principles set out in § 53 par.4.



## Part VI MISCELLANEOUS

### § 59 Penalty Interest and Interest on Arrears

(1) The Participating Clearing Member being in default shall pay penalty interest in the amount stipulated by the Art. 48t Stock Exchange Act per day for the duration of the default in delivery or default of depositing collateral in the case of exchange transactions. Penalty interest shall be calculated by the Clearing Agent up to the time of fulfillment or depositing of collateral and collected by official notice issued by the Financial Market Authority.

(2) For the duration of the default of delivery or default of payment, in the case of CCP-eligible transactions the Participating Clearing Member being in default shall pay to the Clearing Members affected statutory interest on arrears pursuant to § 1333 of the Austrian General Civil Code, calculated on the shortfall pro rata temporis. Interest on arrears shall be collected by the Clearing Agent by debiting the cash account of the Participating Clearing Member being in default and credited to the cash accounts of the receiving parties affected by the default.

### § 60 Liability

(1) Participating Clearing Members shall be liable to the Clearing Agent and the other exchange members for the timely and orderly fulfillment of their obligations in accordance with the Clearing and Settlement Rules as well as for losses resulting from their violation.

(2) In the event a Participating Clearing Member is prevented from providing orderly fulfillment (especially if owing to technical disruptions), the clearing member affected shall immediately inform CCP.A accordingly. The measures initiated by the Clearing Agent shall be binding on all Clearing Members affected. Any liability of the Clearing Agent for such measures shall be excluded.

(3) The Participating Clearing Member shall immediately follow the relevant instructions of the Clearing Agent and ensure orderly fulfillment as soon as possible.

(4) Any liability of CCP.A and its assistants for losses arising due to circumstances outside of their control or for losses outside of the control of CCP.A or its assistants shall be excluded.

(5) CCP.A and its assistants shall not be liable towards exchange members for any losses, profits foregone or damages, unless such losses, profits foregone or damages have been caused by willful conduct or by gross negligence. Liability for consequential damages shall be excluded in all cases.

(6) CCP.A and its assistants shall not be liable towards third parties who are not exchange members for any losses, damages, consequential damages or profits foregone arising from or in connection with the clearing and settlement of CCP-eligible transactions.

(7) CCP.A and its assistants shall not be liable for losses caused by a disruption of operations due to force majeure, revolt, war or natural catastrophes or due to other events or incidents for which it is not responsible (e.g. strikes, lawful lock-outs, traffic disruptions) or by acts of sovereign states.

(8) This shall also apply to damages suffered by exchange members as a consequence of technical problems or due to the partial or complete inoperability of the computer systems used by the members or due to errors in data input within the context of trading or clearing and settlement, and the





management of collateral provided inasmuch as said circumstances are not caused by willful conduct or by gross negligence on the part of CCP.A or its assistants.

## **§ 61 Assignment**

The assignment of rights or transfer of obligations under the Clearing Agreement or the Clearing Rules by a Participating Clearing Member shall only be possible with the consent of CCP.A.

These rules shall enter into force on 31 January 2005\*).

\*)Date of entry into force of original version

Promulgated by Official Notice issued by the exchange operating company, Wiener Börse AG, No. 49 of 17 January 2005 and amended by Official Notice No. 1696 of 16 November 2005 (this amendment took effect on 21 November 2005), No. 204 of 15 February 2006 (this amendment took effect on 6 March 2006), No. 141 of 25 January 2007 (this amendment took effect on 1 February 2007), No. 1188 of 19 July 2007 (this amendment took effect on 1 August 2007) and No. 1672 of 25 October 2007 (this amendment took effect on 1 November 2007).

*(Note: This translation of the German original serves merely information purposes.)*





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