

# General Terms and Conditions of Business

## Securities Market

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## Part I General

### § 1 Definitions

The definitions below serve to clarify the terms used in this document and apply exclusively to this document:

Accounts   Abrechnungskonten	Accounts in the meaning of Article 39 EMIR are position accounts pursuant to § 23 maintained by CCPA and any accounts maintained by the clearing members as well as any cash collateral accounts and securities collateral accounts pursuant to § 22 para. 2 lit. b maintained by the clearing facilities
Clearing agents   Abwicklungs-Agenten	Support their agent clients by providing technical and procedural clearing functions for transactions for which they are responsible under a corresponding agreement. Clearing agents do not enter into the transactions of their agent clients nor do they assume liability for delivery
Settlement bank   Abwicklungsbank	A central bank or an authorized credit institution, which bears a minimal credit and market risk according to an internal assessment of CCPA
Clearing facilities   Abwicklungseinrichtungen	Settlement bank, CSD and collateral custodian
Clearing calendar   Abwicklungskalender	CCPA determines all dates and periods essential for clearing in the clearing calendar in agreement with the exchange operating company, while also taking the availability of the clearing facilities into account; see § 32
Cash settlement accounts and securities settlement accounts   Abwicklungskonten und - depots	Are the cash and securities accounts stated in § 22 used for the clearing of transactions
Clearing service agreement   Abwicklungsservice- Vereinbarung	An agreement between a Non-Clearing Member and a General Clearing Member defining the rights and obligations related to the indirect participation of the Non-Clearing Member in clearing and according to which the General Clearing Member commits itself to enter into the transactions of the Non-Clearing Member pursuant to § 10 para. 6 and to clear such transactions
Clearing collateral   Abwicklungssicherheiten	Refers to the clearing collateral ("margins") CCPA requires of clearing members in the form of specific, eligible monetary deposits and securities for the purpose of limiting its credit risk exposure, as well as to acceptance balances and credit-side cash balances of a clearing member in default pursuant to § 35 para. 5
Clearing agreement   Abwicklungsvereinbarung	An agreement between a clearing member and CCPA defining the rights and obligations related to clearing membership and the direct participation of the clearing member in clearing
Agent clients   Agentenkunden	Are clearing members that have commissioned a clearing agent or payment agent according to a corresponding agreement. The clearing members remain responsible for the fulfillment of their transactions towards CCPA pursuant to these General Terms and Conditions of Business
Default fund   Ausfallfonds	In order to further limit CCPA's remaining credit risk exposure to clearing members, CCPA maintains a pre-financed fund to cover losses that may arise from the default of one or more clearing members, including the commencement of insolvency proceedings against one or more clearing members, and that may exceed the cover provided by the clearing collateral

Trigger event   Auslösendes Ereignis	May be the suspension or the expulsion of exchange membership pursuant to § 34 Austrian Stock Exchange Act, or the insolvency of a clearing member or a Non-Clearing Member assigned to it; after the occurrence of such an event, a clearing client or a jointly appointed party of other clients pursuant to § 46 para. 2 may request CCPA to transfer its assets and positions to another clearing member in the meaning of § 46
Exchange transactions   Börsegeschäfte	Are transactions in securities concluded by exchange members through the cash market of the Vienna Stock Exchange in its function as a securities exchange and which have been admitted to the official market and executed via an automated trading system
Exchange members   Börsemitglieder	Companies admitted as members to the Vienna Stock Exchange in its function as a securities exchange. Exchange membership is governed by §§ 28 et seq Austrian Stock Exchange Act
Official broker   Börsesensal	Intermediary for securities transactions pursuant to § 61 Austrian Stock Exchange Act
Exchange operating company   Börseunternehmen	Wiener Börse AG, with its registered office in Vienna and the business address Wallnerstraße 8, 1010 Vienna, recorded in the companies register of the Commercial Court of Vienna under FN 161826 f
CCPA   CCPA	CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH with its registered office in Vienna and the business address Strauchgasse 1-3, 1010 Vienna, recorded in the companies register of the Commercial Court of Vienna under FN 251 990 z; it is a central counterparty charged by the exchange operating company Wiener Börse AG pursuant to § 9 para. 3 Austrian Stock Exchange Act to act as clearing house for clearing transactions concluded on the Vienna Stock Exchange in its function as a securities exchange or in trading on the "Vienna MTF" operated as a multilateral trading facility (MTF)
Ccp-eligible securities   CCP-fähige Wertpapiere	All securities that can be traded on the Vienna Stock Exchange with the exception of those excluded from clearing pursuant to § 29
Clearing clients   Clearingkunden	Non-Clearing Members and Registered Clients
Clearing members   Clearingmitglieder	Are exchange members that meet the membership requirements of CCPA at all times and with whom CCPA has a valid clearing agreement. Clearing members are responsible for the fulfillment of any financial obligations arising from membership and liable to CCPA. According to § 14, Direct Clearing Membership and General Clearing Membership exists
CRR   CRR	Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ("capital requirements regulation")
CSD   CSD	A corporation which is in particular responsible for the keeping and administration of securities as well as the settlement of securities transactions, whereby CCPA utilizes the services of OeKB CSD GmbH with its registered office in Vienna, the business address is Strauchgasse 1-3, 1010 Vienna and the company is registered in the companies register of the Commercial Court of Vienna under FN 428 085 m
CSDR   CSDR	Regulation (EU) No 909/2014 of the European Parliament and Council of 23 July 2014, on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and

	2014/65/EC and Regulation (EU) No 236/2012 ("Central Securities Depositories Regulation") also the Commission Delegated Regulation 2018/1229 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline, the Commission Delegated Regulation (EU) 2017/389 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host member states and any other delegated regulations issued on this basis
Direct Clearing Members   Direkt-Clearingmitglieder	Are clearing members that have the right to clear their own transactions and the transactions of their Registered Clients and other clients
Individual client segregation   Einzelkunden-Kontentrennung	The keeping of separate records and accounts in the meaning of Article 39 para. 3 EMIR enabling each clearing member to distinguish in accounts with CCPA the assets and positions held for the account of a clearing client from those held for the account of other clients. This type of account separation is referred to as segregated accounts
EMIR   EMIR	European Markets Infrastructure Regulation, acronym for Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and, provided no reference is made to specific provisions of the aforementioned regulation, also the Commission Delegated Regulation No 153/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 with regard to regulatory technical standards on requirements for central counterparties and any other delegated regulations issued on this basis
General Clearing Members   General-Clearingmitglieder	Are clearing members that in addition to the clearing of their own transactions and those of their Registered Clients and other clients have the right to clear transactions of Non-Clearing Members (this includes their own transactions and those of their Registered Clients or other clients)
Transactions   Geschäfte	Exchange transactions and transactions on the "Vienna MTF" in ccp-eligible securities that are transmitted to CCPA by the trading system in accordance with the clearing calendar for the account of a clearing member
Transactions on the "Vienna MTF"   Geschäfte am "Vienna MTF"	Securities transactions concluded by exchange members on the "Vienna MTF" operated by the exchange operating company Wiener Börse AG as a multilateral trading facility (MTF) through an automated trading system
Clients   Kunden	In connection with clearing members, they are their clearing clients and other clients; in connection with Non-Clearing Members, they are their Registered Clients and other clients
Client service agreement   Kundenservice-Vereinbarung	An agreement between a Registered Client and a clearing member or a Non-Clearing Member (who in turn has an agreement with a clearing member) defining the rights and obligations related to the indirect participation of the Registered Client in clearing and according to which the clearing member commits itself to enter into the transactions of the Registered Client pursuant to § 15 para. 3 and to clear such transactions
Non-Clearing Members   Non-Clearingmitglieder	Are exchange members that have joined the trading system but are not clearing members and do not take part directly in clearing
Omnibus client segregation   Omnibus-Kunden-Kontentrennung	The keeping of separate records and accounts in the meaning of Article 39 para. 2 EMIR enabling each clearing member to distinguish in accounts with

	CCPA between their own assets and positions and from those held for the account of their clients
Payment agent   Payment-Agent	An authorized credit institution which supports its agent clients with the execution of payments on the basis of a corresponding agreement. Payment agents do not enter into the transactions of their agent clients nor assume liability for their fulfillment
Position   Position	The netted balance of all transactions per security and trade day
Position accounts   Positionskonten	The accounts pursuant to § 23 maintained by CCPA for managing positions and calculating collateral; position accounts record the transactions of clearing members (their own as well as those of their other clients and those of their clearing clients, including the clients of Non-Clearing Members) until the transactions are fulfilled pursuant to § 27
Registered Clients   Registrierte Kunden	Companies in the meaning of Article 2 no. 15 EMIR which are neither exchange members nor clearing members and are registered separately as clients of clearing or Non-Clearing Members with CCPA and for which clearing members in the meaning of Article 39 para. 3 EMIR and § 14 para. 7 keep assigned, individual single client accounts
Cash collateral accounts and securities collateral accounts   Sicherheitenkonten und –depots	The accounts mentioned in § 22 on which clearing collateral is deposited
Collateral custodian   Sicherheitenverwahrer	An authorized credit institution or a central bank, which operates the safekeeping of clearing collateral on behalf of CCPA
Other clients   Sonstige Kunden	Are natural persons and legal entities that have a contractual relationship with a clearing member or a Non-Clearing Member for the clearing of their transactions, without such other client being a clearing member or a Registered Client
Stop status   Stopp-Status	Refers to the temporary suspension of the right to trade for a Non-Clearing Member. As long as the stop status is in force, CCPA does not carry out any further transactions assigned to the Non-Clearing Member or its clients
Assets   Vermögenswerte	Collateral, pursuant to Article 39 para. 10 EMIR, held to cover positions (thus clearing collateral in the meaning of these General Terms of Business) and includes the right to transfer assets equivalent to that collateral or the proceeds of the realisation of any collateral, but not default fund contributions
Official publication medium   Veröffentlichungsorgan	Is used to disseminate important information relating to CCPA mentioned in § 6 unless otherwise provided for in the Austrian Stock Exchange Act, the General Terms and Conditions of Business of the exchange operating company or in these General Terms and Conditions of Business. The official publication medium (bulletin) is available on the website of Wiener Börse AG at <a href="http://www.wienerboerse.at">www.wienerboerse.at</a> which also contains a link to the website of CCPA ( <a href="http://www.ccpa.at">www.ccpa.at</a> )

## § 2 Objective and scope

(1) These General Terms and Conditions of Business shall apply to the clearing of exchange transactions and to transactions concluded on the “Vienna MTF” of the Vienna Stock Exchange.



- (2) The exception to these rules shall be exchange transactions in securities, which pursuant to § 29, have not been included in the clearing systems by CCPA and to securities transactions that are concluded via an official broker of the Vienna Stock Exchange.
- (3) The objective of these General Terms and Conditions of Business is to ensure the fulfillment of exchange transactions. The clearing systems used for this purpose processes the exchange transactions pursuant to the clearing calendar.
- (4) Clearing members shall ensure that their clients accept the application of these General Terms and Conditions of Business and comply with their provisions and shall ensure that Non-Clearing Members impose the same obligations on their clients.
- (5) In these General Terms and Conditions of Business, CCPA shall define the procedures and framework for the organisation of clearing, the clearing procedures, the handling of default events and the depositing and realisation of clearing collateral and contributions to the default fund. Moreover, CCPA also makes general definitions in the General Terms and Conditions of Business.
- (6) The transactions concluded in trading in ccp-eligible securities are transactions for delivery at a fixed date pursuant to § 50 para. 3 Austrian Stock Exchange Act.
- (7) CCPA shall be responsible for the electronic clearing, delivery against payment for the fulfillment of transactions, the handling of default cases, the ascertainment of technical default of clearing members as well as for all other tasks assigned to CCPA pursuant to these General Terms and Conditions of Business.

### § 3 Clearing house, clearing systems

- (1) The clearing of transactions concluded on the Vienna Stock Exchange shall be processed via CCPA as the clearing house in accordance with the Austrian Stock Exchange Act.
- (2) Each exchange member that takes part in trading on the Vienna Stock Exchange shall ensure the clearing of its transactions by participating in the clearing system (either directly as a clearing member or indirectly as a Non-Clearing Member) and shall have a valid clearing agreement with CCPA at all times, with CCPA being under the obligation to clear the transactions concluded by the exchange member. This shall not affect the right defined in § 30 Austrian Stock Exchange Act.
- (3) Clearing members and clearing agents shall at all times comply with the technical requirements, guidelines and instructions of CCPA as well as follow any related instructions without delay. CCPA shall be entitled to inspect the technical facilities at any time to ascertain proper working order. CCPA shall have the right to have any defects repaired at the expense of the clearing member or of the clearing agent immediately if such defects may influence the clearing system.
- (4) Clearing members, clearing agents and payment agents shall refrain from any behaviour that may have a negative influence on the clearing system and could disrupt the operation of the clearing system. Clearing members shall immediately notify CCPA if the clearing is restricted or not possible at all, especially when due to technical disruptions.
- (5) Emergency measures, taken by CCPA in the case of disruptions to the clearing process, shall be binding for clearing members, clearing agents and clients. The same shall apply to all measures taken by CCPA for maintaining or reinstating undisrupted clearing operations.

## § 4 Membership in clearing

- (1) Membership applicants for the clearing system shall prove to CCPA that at the time they obtain membership they meet all requirements of these General Terms and Conditions of Business (especially § 14) as well as all provisions of the law and EMIR, and that they have the required technical facilities and connections to the clearing system. The admission criteria are published on the website of CCPA.
- (2) Clearing members shall notify CCPA without delay in writing of any changes that concern their membership, compliance with the admission criteria or their clearing clients.
- (3) CCPA shall be entitled to check at any time if the conditions for admission as a clearing member (still) apply. In this connection, clearing members shall provide the required information. For this purpose, clearing members shall provide CCPA with all relevant materials and documents, which prove that the applicant meets the requirements of the General Terms and Conditions of Business. Pursuant to Article 37 EMIR, CCPA shall conduct a thorough inspection of the compliance with the admission criteria at least once a year.
- (4) Clearing members shall comply with EMIR, the Austrian Stock Exchange Act, the Central Counterparties Implementing Act, CSDR, these General Terms and Conditions of Business and the General Terms and Conditions of Business of the exchange operating company as well as any other legal provisions relating to the execution, clearing and settlement of transactions, all as amended.

## § 5 Technical connection

- (1) Clearing shall be conducted through automated clearing systems. Clearing members receive technical access to the clearing systems based on the clearing agreement that shall be concluded with CCPA.
- (2) All costs for setting up the technical facilities for taking part in clearing and for connecting to the clearing system including the data lines shall be borne by the clearing member.
- (3) The clearing member shall maintain the technical facilities and connections required for participating in clearing at all times. In the event of any required technical changes, CCPA shall inform the clearing members in a timely manner.

## § 6 Official notices

- (1) Unless otherwise specified pursuant to the Austrian Stock Exchange Act, the General Terms and Conditions of Business of the exchange operating company or these General Terms and Conditions of Business, official notices concerning CCPA shall be published in the official publication medium (bulletin) of the exchange operating company on its website ([www.wienerboerse.at](http://www.wienerboerse.at)) to which a link has been set up from the website of CCPA ([www.ccpa.at](http://www.ccpa.at)).
- (2) These General Terms and Conditions of Business, any amendments to it as well as the Schedule of Fees of CCPA shall be published in the official publication medium.
- (3) The General Terms and Conditions of Business of the exchange operating company shall apply to the entry into force of official notices published in its official publication medium.
- (4) Other information that shall be disclosed pursuant to EMIR will be published on the website of CCPA. According to Article 39 para. 7 EMIR, CCPA shall disclose the level of protection and the costs associated with

the different levels of segregation CCPA provides at reasonable commercial terms as well as explanations on the different levels of segregation that include a description of the main legal implications of the respective levels of segregation offered any information on the insolvency legislation.

(5) Pursuant to Article 38 para. 5 EMIR, CCPA shall publicly disclose any breaches by clearing members of the criteria referred to in Article 37 para. 1 EMIR and the requirements defined in Article 38 para. 1, except where the national competent authority, after consulting with ESMA, considers that such disclosure would pose a threat to financial stability or to market confidence or would seriously jeopardize the financial markets or cause disproportionate damage to the parties involved. CCPA shall not be liable for such disclosures.

## § 7 Liability

(1) Clearing members shall be liable to CCPA and to other clearing members for the timely and orderly fulfillment of their obligations in accordance with these General Terms and Conditions of Business as well as for any damage resulting from their violation.

(2) In the event that a clearing member or one of its clearing clients is prevented from carrying out orderly fulfillment (particularly due to technical disruptions), the clearing member concerned shall immediately inform CCPA. The measures initiated by CCPA shall be binding for all clearing members and clearing clients concerned. CCPA shall not be liable for such measures.

(3) The clearing member and the clearing clients shall follow the relevant instructions of CCPA immediately and shall ensure orderly fulfillment as soon as possible.

(4) Any liability of CCPA or its vicarious agents for damage arising due to circumstances beyond their control or for damage, whose causes are beyond the sphere of control of CCPA or its vicarious agents, shall be excluded.

(5) CCPA and its vicarious agents shall not be liable to clearing members or clearing clients for any losses, profits foregone or damages, unless these losses, profits foregone or damages have been caused by willful conduct or by gross negligence. Liability for consequential damages shall be excluded in any case.

(6) CCPA and its vicarious agents shall not be liable to clearing agents or other third parties (including other clients and any of their jointly commissioned parties pursuant to § 46 para. 2) for any losses, damage, consequential damages or profits foregone arising from or in connection with the clearing of transactions.

(7) CCPA and its vicarious agents shall not be liable for damage caused by a disruption of operations due to force majeure, epidemic, war or natural disasters or as a consequence of other events or incidents beyond their control (e.g. strikes, lawful lock-outs, traffic disruptions) or by restraints imposed by sovereign bodies.

(8) The same applies to any damage suffered by clearing members or clearing clients due to technical problems, the partial or complete lack of usability of the IT system of CCPA or resulting from errors in the input of data within the scope of clearing or in the administration of the collateral lists and the contributions deposited to default fund, provided the damage has not been caused by willful intent or gross negligence on the part of CCPA or its vicarious agents.

## § 8 Assignment

Any assignment of rights or transfer of obligations by a clearing member under the clearing agreement or these General Terms and Conditions of Business shall require the consent of CCPA.

## § 9 Amendments to the General Terms and Conditions of Business

- (1) Amendments to these General Terms and Conditions of Business shall be disclosed by publication in the official publication medium. The amendments shall be deemed accepted, as long as no objection is raised in writing within 14 days.
- (2) The refusal of consent to reasonable and acceptable General Terms and Conditions of Business resulting from such an objection shall constitute a material reason for the termination of the clearing agreement by CCPA with immediate effect.

## Part II The Organisation of clearing

### II A Clearing house

#### § 10 CCPA

- (1) CCPA is charged by the exchange operating company as clearing house to securely and reliably clear the transactions of its clearing members, pursuant to § 9 para. 3 Austrian Stock Exchange Act. CCPA has the right to charge clearing members fees for clearing services in accordance with the Schedule of Fees of CCPA published in the official publication medium.
- (2) CCPA shall act as central contractual party for all clearing members, i.e. it enters into all transactions as a counterparty, e.g. as buyer or seller.
- (3) In order to perform its tasks pursuant to para. 1, CCPA shall maintain position accounts for clearing members and their clearing clients for open positions and unsettled transactions. In this context, CCPA defines the amount of clearing collateral required and to be deposited by each clearing member making a distinction between the own transactions of the clearing member and aggregated for its other clients, and individually for each clearing client (and accordingly for Non-Clearing Members and their clients). To further increase the security of fulfillment of transactions, CCPA creates a default fund to which all clearing members shall make contributions, and monitors the creditworthiness of the clearing members.
- (4) CCPA monitors, calculates and carries out the realisation of the clearing collateral that the clearing members (apart from the contributions to the default fund) shall deposit for themselves and their clients (including clients of Non-Clearing Members). CCPA shall be responsible for defining the assets accepted as clearing collateral and for determining the collateral value of securities (“haircuts”) on the basis of these General Terms and Conditions of Business. However, CCPA shall not be responsible for the safekeeping of the clearing collateral.
- (5) Transactions are executed with the entry into the transaction by CCPA pursuant to para. 2 between CCPA and the respective clearing member in whose name and for whose account the transaction has been sent to CCPA.
- (6) In the case of transactions of Non-Clearing Members who themselves take part in trading in ccp-eligible securities, but pursuant to § 15 do not have the right to take part in clearing, the General Clearing Member shall enter directly into the transaction of the Non-Clearing Member, thereby executing the transaction between CCPA and the General Clearing Member pursuant to para. 5.
- (7) CCPA shall be responsible for the electronic clearing; therefore, it is responsible for
- a) The electronic clearing of transactions,
  - b) Verification, if sufficient cover as regards quantity and cash are available on the sell and on the buy side;
  - c) Giving instructions with respect to quantity and cash to the clearing facilities concurrently and verification of the results,
  - d) In the event of default pursuant to § 34, the determination of the occurrence of a default, carrying out the extension pursuant to § 38; the execution of buy-ins pursuant to § 39, and cash settlements pursuant to § 40,

- e) The administration, realisation, and, if applicable, transfer of clearing collateral,
- f) The administration, collection and realisation of the default fund, and
- g) The monitoring of the creditworthiness of clearing members.

(8) Should the license of CCPA to act as an authorised Central Counterparty in accordance with EMIR be withdrawn, the national competent authority will define a point in time, from which CCPA shall no longer be permitted to accept new orders to clear transactions and will only be permitted to carry out the clearing of open transactions according to these General Terms and Conditions of Business. The time as of which no new transactions are accepted shall be published on the website of CCPA.

## II B Clearing infrastructure

### § 11 Clearing facilities

(1) The settlement of transactions, including fees and taxes, and the safekeeping of clearing collateral shall be done by the clearing facilities (settlement bank, CSD and collateral custodian) on behalf of CCPA. Therefore, the clearing facilities shall be responsible for

- a) The timely booking of the securities and payments provided the cover is sufficient on the delivering and receiving parties' side on actual settlement day, whereby the CSD is booking the securities and the settlement bank is booking the payments, and
- b) The safekeeping of securities, banking processes administration and the valuation of clearing collateral, whereby the clearing collateral is kept with a collateral custodian.

(2) As part of the settlement, the clearing facilities shall carry out direct debits (direct debit procedure) from cash and securities accounts of the clearing members on behalf of CCPA. For this purpose, the clearing members shall grant the clearing facilities a corresponding irrevocable authorization in favour of CCPA for the duration of their participation in clearing.

(3) The clearing facilities shall be under the obligation to execute the settlement of payment or transfer instructions through their electronic system. The clearing facilities do not enter into the contractual relationship between the clearing members and clients and do not assume any liability for their actions or omissions.

(4) The collateral custodians keep in safe custody the clearing collateral that clearing members deposit for themselves and for their clients including the clients of Non-Clearing Members.

(5) The General Terms and Conditions of Business of each clearing facility shall apply provided they do not contradict these General Terms and Conditions of Business and mandatory law.

### § 12 Clearing agents

(1) CCPA may authorize clearing agents to process and forward instructions between CCPA and clearing agent clients. Furthermore, CCPA may permit the administration of the clearing collateral by clearing agent, restricted to the group of agent clients of the clearing agent.

(2) Only the following entities shall be permitted to act as a clearing agent:

- a) Austrian credit institutions;

- b) All credit institutions authorized to operate in a member state, as long as they are fully subject to the valid EC Directives for credit institutions,
  - c) All enterprises whose business consists of accepting cash or other repayable funds for deposit from the public and 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 other full member states of the Organization for Economic Cooperation and Development (OECD) and in countries that have entered into agreements with the International Monetary Fund (IMF), in particular, into lending agreements in connection with IMF's special agreement to borrow, including their branch offices,
  - d) Recognized investment firms within the scope of Article 4 para. 1 no. 2 of Regulation (EU) No 575/2013,
  - e) Clearing Houses pursuant to § 2 no. 33 Austrian Banking Act with their registered office or license in an EEA member state that are authorized according to EMIR, and/or
  - f) Central Securities Depositories pursuant to § 2 no. 34 Austrian Banking Act with their registered office in an EEA member state and are authorized according to CSDR.
- (3) Clearing agents shall have eligible own funds of at least EUR 50,000,000.00 as defined by Article 4 para. 1 no. 71 CRR.
- (4) Clearing agents shall properly process the clearing notifications and trade confirmations of their agent clients, to forward them on request and guarantee the clearing of transactions pursuant to these General Terms and Conditions of Business. Vice versa, clearing agents shall transmit instructions of their agent clients to CCPA.
- (5) When integrating the decentralized systems of a clearing agent into the central clearing process organised by CCPA, the clearing agent shall ensure that the instructions it processes can be allocated to its individual agent clients. Furthermore, when netting for technical reasons, the clearing agent shall ensure the identification of the agent clients, and upon request of CCPA, also ensure that their individual positions can be removed from the netted overall positions.
- (6) Clearing agents shall not enter into the transactions of their agent clients with CCPA and shall not be subject to the provisions of § 32 para. 4 or assume liability for delivery.
- (7) Clearing agents shall set up the required cash and securities accounts with the clearing facilities for the agent clients assigned to them pursuant to § 22 para. 2.
- (8) The General Terms and Conditions of Business of the clearing agent shall apply to relationships with its agent clients, unless they conflict with these General Terms and Conditions of Business, the Austrian Stock Exchange Act or EMIR.

## II C Clearing members

### § 13 Clearing members and clearing clients

- (1) Clearing members are exchange members that have entered into a clearing agreement with CCPA and thereby have become members of CCPA with all rights and obligations of direct participation in clearing. A clearing member may be either a Direct Clearing Member or a General Clearing Member.
- (2) Clearing clients are participants who – with the exception of any agreement on the transfer of assets and positions to another clearing member pursuant to § 46 and on segregated clearing collateral pursuant to § 15 – do not maintain their own contractual relationships with CCPA and use the services of a clearing member for the clearing and separate processing of its transactions. They take part in clearing indirectly. A clearing client may be a Non-Clearing Member (e.g. with its own exchange membership) or a Registered Client (without exchange membership).
- (3) CCPA may deny a clearing member's participation for risk considerations provided this is done in writing and founded on an extensive risk analysis.

### § 14 Clearing members

- (1) Clearing members shall have sufficient financial resources and operational capacities to be able to meet their obligations arising from the connection to CCPA as a member. Clearing members that clear transactions in the name of their clients shall have the additional financial resources and operational capacities required to carry out these activities. CCPA shall have the right to request relevant fundamental information from the clearing members for ascertaining, monitoring and controlling the relevant risk concentrations in connection with the services provided to clients. The clearing members shall inform CCPA upon request of the criteria they introduce and the measures they take to enable their clients to access the services of CCPA. Clearing members shall remain responsible for ensuring their clients' compliance with the obligations.
- (2) Before taking up clearing activities, each clearing member shall conclude a clearing agreement with CCPA, undergo a credit check, provide information about further clearing memberships at other Central Counterparties and provide proof to CCPA that it
  - a) Has made the required contribution to the default fund;
  - b) Has installed the required technical facilities for the respective category of clearing membership,
  - c) Has the professionally trained staff required (Clearing Diploma) according to the requirements of the Schedule of Fees of CCPA,
  - d) Has provided the required direct debit authorization, the list of authorized signatories as well as the pledge declarations,
  - e) The required cash and securities accounts are available pursuant to § 22, and
  - f) Belongs to one of the categories pursuant to § 2 Austrian Financial Collateral Act.
- (3) Direct Clearing Members shall only be permitted to clear their own transactions and the transactions of their Registered Clients and other clients for their own account. They shall have eligible own funds of at least EUR 2,500,000.00 as defined in Article 4 para. 1 no. 71 CRR.
- (4) General Clearing Members are clearing members that in addition to the clearing of their own transactions and those of their Registered Clients and other clients shall have the right to clear transactions of



Non-Clearing Members (regardless of whether the transactions are their own or of their Registered Clients or other clients) for their own account. They

- a) Shall enter into the transactions of these Non-Clearing Members and their clients for their own account;
  - b) Shall have eligible own funds of at least EUR 5,000,000.00 as defined in Article 4 para. 1 no. 71 CRR.
- (5) A clearing member may use the services of a General Clearing Member for the clearing of some of its transactions and take part in clearing for these transactions only as a Non-Clearing Member. The allocation which transactions are to be cleared through the General Clearing Member shall be agreed between the General Clearing Member and the clearing member which takes part in clearing both directly and indirectly; CCPA shall be notified by the General Clearing Member. This applies accordingly to other constellations in which transactions are to be cleared through two or more clearing members.
- (6) Clearing members shall set up and keep separate records and accounts for themselves and their Non-Clearing Members, which enable them to immediately distinguish in both the position accounts with CCPA pursuant to § 23 and in their own accounts between their own assets and positions and the assets and positions kept for the account of their respective clients (omnibus client segregation).
- (7) The clearing member shall offer its clients (own clients and those of their assigned Non-Clearing Members) at least the possibility to choose between omnibus client segregation and individual client segregation by giving the option of registering as Registered Clients. When a client opts for individual client segregation, clearing members shall set up and keep separate records and accounts that enables them to distinguish in both the position accounts with CCPA pursuant to § 23 and in their own accounts between their assets and positions of these clearing clients and the assets and positions kept for other clients. The clearing member or Non-Clearing Member shall obtain from the client a confirmation on the client's choice in writing.
- (8) In the case of Non-Clearing Members and for other clients (on an aggregated basis), the segregated collateral is deposited on separate cash collateral accounts and securities collateral accounts optionally, while in the case of Registered Clients, this is a standard procedure. The clearing collateral deposited for a Non-Clearing Member or in aggregate form for other clients (each if the segregated deposit of collateral is selected) or for a Registered Client shall be deposited on separate cash collateral accounts and securities collateral accounts and used exclusively as collateral for the positions held for the corresponding Non-Clearing Member, Registered Client or other clients, with a joint cash collateral account and securities collateral account being sufficient for other clients. Any surplus in the clearing collateral deposited for the respective Non-Clearing Member, Registered Client or other client that exceeds the amount required by CCPA of the concerned clearing member for the respective Non-Clearing Member, Registered Client or other client, shall also be deposited by the clearing member on a collateral account or securities account maintained for the Non-Clearing Member, Registered Client or aggregated for other clients and shall be distinguished from the clearing collateral of other clearing members and Non-Clearing Members, Registered Clients and other clients and shall not be permitted to be used to cover losses relating to positions of another account. If, in the case of Non-Clearing Members or other clients, the option is selected not to deposit clearing collateral on separate cash collateral accounts and securities collateral accounts, the collateral allocated by CCPA pursuant to § 47 para. 1. to other clients (aggregated) or Non-Clearing Members shall not be permitted to be used to offset losses in connection with positions on another account.
- (9) The requirement that the assets and positions shall be distinguished in separate accounts is deemed met when
- a) The concerned assets and positions are kept in separate accounts,

- b) It is not possible to net positions in different accounts against each other, this is therefore ruled out, and
- c) The assets that correspond to the positions of an account are not permitted to be used to cover losses relating to positions on another account.

The clearing members shall comply with these provisions also with regard to any accounts they maintain.

(10) The clearing members shall publicly disclose the level of protection in accordance with Article 39 para. 7 EMIR, in particular, the level of protection and the costs associated with the different levels of segregation provided at reasonable commercial terms as well as explanations on the different levels of segregation that include a description of the main legal implications of the respective levels of segregation offered including information on applicable insolvency law.

## § 15 Clearing clients

(1) Non-Clearing Members shall conclude a clearing service agreement with a General Clearing Member according to which a General Clearing Member shall enter into their transactions pursuant to § 10 para. 6, shall establish and maintain the required cash and securities accounts pursuant to § 22, and which specifies the segregated deposit of clearing collateral opted for pursuant to § 2.

(2) CCPA shall open for Non-Clearing Members for the account of the General Clearing Member, segregated position accounts pursuant to § 23 in the clearing systems for their proprietary transactions and agency transactions for their clients (and, if necessary, additional segregated position accounts for any Registered Clients). A Non-Clearing Member may register with CCPA to define that segregated collateral must be deposited in each case by the clearing member for the transactions of the Non-Clearing Member (and optionally, on an aggregated basis, also separately for the transactions of its other clients) based on an agreement between the Non-Clearing Member and CCPA. The depositing of collateral on segregated cash collateral accounts and securities collateral accounts is performed pursuant to § 22 para. 2.

(3) A Registered Client shall conclude a client service agreement with a clearing member or a Non-Clearing Member (who in turn has a clearing service agreement with a General Clearing Member) and has opted for individual client segregation with CCPA pursuant to § 14 para. 7. By registering, the client becomes a Registered Client that takes part in clearing indirectly pursuant to § 13 para. 2. CCPA shall set up segregated position accounts pursuant to § 23 for Registered Clients in the clearing systems for the account of the concerned clearing member. For the transactions of Registered Clients, segregated clearing collateral shall be deposited on separate cash collateral accounts and securities collateral accounts by the respective clearing member pursuant to § 22 para. 2 on the basis of an agreement between the Registered Client and CCPA.

(4) The competent clearing members shall keep separate records and accounts for clearing clients in their clearing systems. The accounts shall at least segregate proprietary transactions of a clearing member and from agency transactions of other clients. The competent clearing member shall notify CCPA in writing about the desired account structure (omnibus client segregation or individual client segregation) for the position accounts held with CCPA pursuant to § 23 and the other accounts and securities accounts pursuant to § 22. For clearing clients that are not covered by § 2 Financial Collateral Act, legal opinions acceptable to CCPA and in particular confirming the finality, security in the event of insolvency and possibility of realising the clearing collateral as well as the portability pursuant to § 46 in the individual case shall be submitted to CCPA prior to the institution of the individual client segregation.

(5) Clearing clients may have the option of transferring their segregated assets and positions to another clearing member within the meaning of § 46 in the case of a trigger event. For this purpose, clearing clients

shall declare this intention to CCPA in writing, ideally prior to the trigger event (otherwise the chances of executing the required transfer may be limited), stating the accepting clearing member. CCPA and the accepting clearing member shall also priorly accept the declaration in writing.

(6) The assets and open positions of clearing clients that meet the requirements pursuant to para. 5 shall be protected and, if necessary, shall be transferred by CCPA to the accepting clearing member pursuant to para. 5 within the meaning of § 46 if the requirements pursuant to § 46 are met. The assets and open positions shall not be permitted to be used for satisfying claims for clearing collateral or other claims of CCPA against the clearing member that are not related to the assets and open positions of the respective clearing clients.

## II D Admission and Withdrawal

### § 16 General Terms

(1) All exchange members that take part in securities trading on the Vienna Stock Exchange in its function as a securities exchange or in trading on the “Vienna MTF” operated as a Multilateral Trading Facility (MTF) by the exchange operating company shall be clearing members or Non-Clearing Members.

(2) When examining the requirements for participation in clearing of transactions, the exchange operating company and CCPA shall collaborate. Within the context of the admission procedures and during the duration of exchange membership, the parties mentioned shall exchange any information required for determining, if the conditions for admission and membership are met. Applicants shall provide CCPA with any information required (also see § 21 para. 4).

### § 17 Admission

(1) Future exchange members that want to be admitted to securities trading or want to participate in trading on the “Vienna MTF” as a MTF and intend to become clearing members, shall declare their participation as Direct Clearing Members or as General Clearing Members. Clearing members shall hereby disclose their access via the clearing facilities or via a clearing agent.

(2) Those exchange members that do not want to become clearing members themselves, shall charge a General Clearing Member to act as responsible party for the clearing of their transactions. They take part in clearing as Non-Clearing Members.

(3) Non-Clearing Members shall provide a declaration of a General Clearing Member according to which the General Clearing Member agrees to enter into their transactions pursuant to § 10 para. 6 and carry out the clearing of such transactions.

(4) Clearing members that charge a clearing agent with the processing of their transactions shall provide a declaration of a clearing agent according to which the clearing agent agrees to process their transactions.

(5) An exchange member may take part in clearing exclusively as General Clearing Member without taking part in trading.

(6) Clearing members that utilize a payment agent to support the settlement of their transactions shall provide a declaration of the payment agent, in which the payment agent commits himself to support payments.

### § 18 Termination or suspension of membership

(1) A clearing member may, without stating reasons, withdraw from taking part in clearing and may terminate the clearing agreement by unilateral declaration sent to CCPA in writing, which then immediately notifies the exchange operating company.

(2) As long as a clearing member has the right to participate in securities trading or in trading on the “Vienna MTF” (MTF), a clearing member shall first become a Non-Clearing Member before it may terminate the clearing membership. Terminating the rights and obligations of clearing membership is null and void as

long as said right to take part in securities trading or in trading on the “Vienna MTF” (MTF) is valid. The Withdrawal and termination of membership shall only take effect after all transactions for which the clearing member is responsible have been fulfilled pursuant to §§ 27 et seq or have been transferred to another clearing member, and all obligations from its exchange membership and those of the Non-Clearing Members assigned to it have been fulfilled including taxes and fees.

(3) When the exchange operating company declares the termination, expulsion or suspension of exchange membership of a clearing member, then said clearing member shall immediately notify its clearing clients and any jointly commissioned party of other clients pursuant to § 46 para. 2, in order to enable them to take the appropriate measures in time to transfer their positions and clearing collateral to another clearing member in the meaning of § 46. As of the time it receives the declaration of the exchange operating company on the termination, expulsion or suspension of exchange membership of a clearing member, CCPA shall not accept any transactions from the clearing member.

(4) When the exchange operating company declares the termination, expulsion or suspension of exchange membership of a Non-Clearing Member, it shall – in addition to notifying its allocated clearing clients and any jointly commissioned parties of other clients pursuant to § 46 para. 2 – also immediately notify the General Clearing Member analogous to para. 3.

(5) Paras. 3 and 4 shall apply mutatis mutandis also in cases in which the clearing agreement has been terminated pursuant to para. 1.

(6) When the exchange membership is declared as terminated, expelled or suspended by the exchange operating company, the rights to participate in clearing as a clearing member shall also be terminated or suspended. However, the clearing of transactions that were open prior to withdrawal shall still be cleared according to these General Terms and Conditions of Business. The termination or suspension of the clearing agreement shall not release the concerned clearing member from the rights and obligations under already concluded exchange transactions that it is under the obligation to clear. CCPA shall ensure the orderly clearing of all open transactions of the clearing member and of any Non-Clearing Members assigned to it but shall not accept any further transactions of the clearing member or of any Non-Clearing Members assigned to it. The termination of the clearing agreement shall effect that one of the requirements § 34 para. 1 Austrian Stock Exchange Act no longer applies.

(7) With the termination of the clearing agreement, the right of the clearing member to participate in clearing shall expire. CCPA shall immediately inform the exchange operating company of the termination of each clearing agreement.

(8) Nonetheless, the withdrawing clearing member shall be liable, even if no new contributions have been made to the default fund and after the termination of participation in clearing, with an amount up to fivefold the amount of its contribution to the default fund for any cases of default that occurred until the time (day) of its withdrawal, on a pro rata basis in accordance with the provisions applicable to the default fund.

## § 19 Suspension and termination of the clearing service agreement of a Non-Clearing Member

(1) A General Clearing Member may suspend the relevant clearing service agreement for a limited period of time should the Non-Clearing Member fail to meet – or meets only partially or with a delay – the requirements and obligations defined in the clearing service agreement.

- (2) The temporary suspension of the clearing service agreement shall be reported immediately by the General Clearing Member to the exchange operating company and CCPA. This notification shall be deemed as a declaration of the General Clearing Member that it is no longer willing to carry out the clearing of the transactions of the concerned Non-Clearing Member. The exchange operating company, pursuant to the General Terms and Conditions of Business of the exchange operating company, or, in the case of imminent danger, CCPA in the name of the exchange operating company may define that the concerned Non-Clearing Member is not permitted to carry out any transactions for the period of suspension (“stop status”)<sup>1</sup>.
- (3) The revocation of the stop status (“release button”)<sup>1</sup> shall be done by the exchange operating company pursuant to the General Terms and Conditions of Business of the exchange operating company as soon as the General Clearing Member declares to the exchange operating company and CCPA that it is again willing to carry out the clearing of transactions of the concerned Non-Clearing Member.
- (4) As the concerned Non-Clearing Member shall not have a valid clearing service agreement during the limited period of suspension, the access to trading of the concerned Non-Clearing Member shall be interrupted with immediate effect by the exchange operating company pursuant to the General Terms and Conditions of Business of the exchange operating company or by CCPA in the case of imminent danger. When the temporary suspension of the clearing service agreement is terminated pursuant to para. 3, the exchange operating company shall restore the corresponding access to trading pursuant to the General Terms and Conditions of the exchange operating company.
- (5) The effects of the suspension of access to trading (no entry of further orders, quotes, changes or transactions for or by the Non-Clearing Member into the system; deletion of any orders or quotes already in the system of the concerned Non-Clearing Members) shall be governed by the General Terms and Conditions of Business of the exchange operating company.
- (6) Transactions concluded prior to the suspension of trading of the concerned Non-Clearing Members shall be properly cleared by the General Clearing Member in accordance with these General Terms and Conditions of Business. The concerned Non-Clearing Member shall not have the right to access the clearing systems and the functions for the duration of the suspension of the clearing service agreement.
- (7) When a clearing service agreement is suspended or when the suspension is terminated, the General Clearing Member shall immediately send a written statement including relevant documentation to the exchange operating company and CCPA. This statement shall contain sufficient information on the facts of the matter and the detailed reasons for the suspension or revocation of the suspension.
- (8) Any consequences initiated in case of a suspended clearing service agreement by the exchange operating company (suspension of exchange membership of the Non-Clearing Member and/or procedures to expel an exchange member) shall be set out in the General Terms and Conditions of Business of the exchange operating company and the Austrian Stock Exchange Act.
- (9) Any termination of the clearing service agreement by the General Clearing Member shall not be affected by the possibility of a limited suspension of trading. When the obligation of a General Clearing Member to clear the transactions of a Non-Clearing Member ends, the Non-Clearing Member shall immediately provide a declaration of another General Clearing Member or shall itself become a clearing

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<sup>1</sup> Explanation: The technical interruption of access to the trading system is executed by a system function that changes the status of the exchange member concerned into “stop status”. The stop status may be technically released by using the “release button”.

member. Until that time, the right to participate in trading of the Non-Clearing Members shall be suspended. The exchange operating company shall block access of the concerned Non-Clearing Member to the trading system and deletes all open orders pursuant to the General Terms and Conditions of Business of the exchange operating company.

## § 20 Dissolution of the clearing agreement by CCPA

(1) CCPA shall have the right to dissolve the clearing agreement for material reasons. Material reasons shall be:

- a) When insolvency or similar proceedings have been opened or an application to open such proceedings has been dismissed by the court due to a lack of assets or receivership has been ordered according to § 83 Austrian Banking Act or a court has ordered a similar measure;
- b) Reasons exist that may endanger or are potentially a risk to the fulfillment of exchange transactions of a Non-Clearing Member or of clients which the clearing member has agreed to fulfill;
- c) The concerned clearing member fails to maintain the clearing collateral or its contribution to the default fund at the required level or has fallen into default in this respect that is to serve as collateral for its transactions or as collateral for transactions entered into for a Non-Clearing Member, a Registered Client or its other clients which the clearing member has agreed to fulfill;
- d) The clearing member violates a provision of these General Terms and Conditions of Business again despite having been warned or has not ceased a violation immediately despite being requested to do so;
- e) It becomes clear afterwards that the requirements for the conclusion of a clearing agreement were not met at the time the agreement was executed or if these requirements cease to be given posteriorly;
- f) If the requirements pursuant to § 14 are no longer met by the clearing member; or
- g) The financial stability of CCPA is at risk or a risk is recognized to the clearing systems or to the orderly execution of clearing. If the cause can be identified and it seems sufficient for eliminating the risk, then the clearing agreement with the clearing member that created the risk shall be terminated first.

(2) When a clearing member no longer meets the admission criteria, the termination shall be notified in writing based on an extensive risk analysis and with sufficient grounds being given. If CCPA believes that the clearing member is not in a position to fulfill its future obligations, it shall immediately notify the national competent authority before declaring dissolution or initiating the corresponding procedures. In any other cases or in the case of imminent danger, it shall be dissolved with immediate effect by CCPA giving a statement of the reasons. § 18 para. 8 applies accordingly.

## § 21 Compliance with the General Terms and Conditions of Business and of the clearing agreement, passing on of information and data

(1) CCPA shall disclose and provide information and data about clearing members, clients and transactions to courts and authorities, in particular to the Austrian Financial Market Authority, Oesterreichische Nationalbank and the European Securities and Markets Authority pursuant to Article 29 EMIR, and monitor compliance with these General Terms and Conditions of Business and the clearing agreement.

(2) The exchange operating company and the clearing facilities shall send information to CCPA that indicates the instances in which these General Terms and Conditions of Business or the clearing agreement

has been breached. CCPA shall likewise send to the exchange operating company information and data which contains indications pointing to breaches of these General Terms and Conditions of Business or of the clearing agreement.

(3) The clearing members and clients agree to the transmission of data and information obtained under these General Terms and Conditions of Business or the clearing agreement by the exchange operating company and clearing facilities to CCPA; by the clearing facilities and CCPA to the exchange operating company, by CCPA to the clearing facilities and by all of the aforementioned to courts and authorities, in particular, the Austrian Financial Market Authority, Oesterreichische Nationalbank and the European Securities and Markets Authority for the purpose of monitoring compliance with these General Terms and Conditions of Business, the clearing agreement and legal provisions as well as the execution of clearing.

(4) The clearing members and clearing clients agree to release CCPA, the exchange operating company and the clearing facilities from the obligation to maintain data secrecy by providing a written declaration, and in the case of the clearing facilities, also from banking secrecy pursuant to § 38 Austrian Banking Act for the purpose of admission and for the ongoing determination of the requirements for participation in clearing pursuant to § 16 para. 2, for the execution of clearing and the reporting of suspected violations of these General Terms and Conditions of Business or of the clearing agreement as well as of the other reporting obligations vis-à-vis courts and authorities, in particular, vis-à-vis the Austrian Financial Market Authority, Oesterreichische Nationalbank and the European Securities and Markets Authority, and to ensure that their clients are also released accordingly.



## Part III Clearing procedures

### III A Cash Accounts and securities accounts

#### § 22 Obligation to pay in contributions

- (1) Each clearing member shall maintain cash and securities accounts for the clearing and collateralization of transactions within the clearing facilities and if applicable through a clearing agent.
- (2) The following cash and securities accounts must be opened:
  - a) As cash settlement accounts and securities settlement accounts:
    - (i) One or more cash accounts for each clearing currency for clearing cash amounts with a settlement bank, if necessary through the use of a payment agent, and
    - (ii) One or more securities settlement accounts for clearing securities transactions with the CSD;
  - b) As cash collateral accounts and securities collateral accounts with the collateral custodians:
    - (i) One or more cash collateral accounts for cash collateral, and optional
    - (ii) One or more securities collateral accounts for the safekeeping of securities deposited as collateral.

The required number of cash and securities accounts depends on the desired account structure (segregated cash collateral accounts and securities collateral accounts for Non-Clearing Members and other clients - if segregated depositing of clearing collateral has been selected - and Registered Clients) as requested by the clearing member; it is possible to deposit aggregated collateral on joint cash collateral accounts and securities collateral accounts for other clients. Segregated cash collateral accounts and securities collateral accounts shall be set up with the concerned clearing member as the holder of the cash and securities accounts. Separate cash collateral accounts and securities collateral accounts for a clearing client may also be set up with this clearing client as the holder of the cash and securities accounts, provided the clearing client is subject to § 2 Financial Collateral Act.

- (3) A clearing agent shall implement suitable measures to enable CCPA within its systems technical access to the cash settlement accounts and securities settlement accounts as well as to the cash collateral accounts and securities collateral accounts managed by the clearing agents. The cash accounts and securities accounts pursuant to para. 2 that a clearing agent has set up for the clearing members assigned to it shall be set up with the concerned clearing member, and, in the case of segregated cash collateral accounts and securities collateral accounts shall be set up with the respective clearing client as holder of the cash and securities accounts, provided that § 2 Financial Collateral Act applies. The clearing agent shall be granted the sole authorization to draw on the cash settlement accounts and securities settlement accounts; no one else (including the clearing member or clearing client) shall have the right to draw on the account. For the cash collateral accounts and securities collateral accounts para. 5 shall apply.

- (4) The General Terms and Conditions of Business of the settlement bank shall apply to the cash settlement accounts, the General Terms and Conditions of Business of the CSD shall apply to the securities settlement accounts and the General Terms and Conditions of Business of the collateral custodians shall apply to cash collateral accounts and securities collateral accounts. § 51 para. 10 last sentence applies accordingly. As regards segregated cash settlement accounts and securities settlement accounts for clients, the respective clearing member shall ensure that netting is not possible between the different cash settlement accounts and securities settlement accounts and therefore excluded.

(5) The cash collateral accounts and securities collateral accounts shall be pledged in favour of CCPA or established as security in another form acceptable to CCPA. CCPA shall be granted the sole authorization to give instructions and/or sign on the cash collateral accounts and securities collateral accounts; no one else (including the clearing member or clearing client) shall have the authorization to dispose or sign regarding these collateral accounts.

(6) The realisation of clearing collateral and of the default fund shall follow these General Terms and Conditions of Business in the event it is necessary (see §§ 51 et seq).

## § 23 Position management

(1) CCPA shall set up and keep separate records and accounts enabling CCPA to distinguish in the position accounts it keeps between the assets and positions held in the name of a clearing member and the assets and positions kept for the account of other clearing members as well as the own assets of CCPA. Furthermore, CCPA shall keep separate records and accounts enabling each clearing member to distinguish in both, the position accounts with CCPA between their own assets and positions and the assets and positions kept for the account of their clients (omnibus client segregation).

(2) In addition to the standard mentioned in para. 1, CCPA offers the possibility of keeping separate records and accounts held in the name of a clearing client in order to distinguish between assets and positions of this clearing client from those held for the account of other clients (individual client segregation).

(3) Upon the corresponding request, CCPA shall grant to clearing members the possibility of opening further position accounts at their expense for the assets and positions held in their own name or in the name of their clients. The desired account structure shall be notified to CCPA in writing and must indicate to whom these position accounts kept by CCPA have been assigned (as well as any other cash settlement accounts and securities settlement accounts kept by others and any cash collateral accounts and securities collateral accounts pursuant to § 22).

(4) CCPA shall only be responsible for the management and respective segregation of the positions accounts it maintains (see § 22 for cash settlement accounts and securities settlement accounts and also the cash collateral accounts and securities collateral accounts). The position accounts shall contain all open unfulfilled orders and open positions, running as of the trade day until delivery. Transactions in default shall be taken into account in the position accounts until they are settled in cash pursuant to § 40.

(5) CCPA shall maintain one or more position accounts in its clearing systems for the transactions concluded by the clearing members or clearing clients depending on the account structure desired (in addition to other cash accounts and securities accounts pursuant to § 22). The position accounts may be one of the following:

- a) Proprietary trading accounts for transactions concluded for their own account or
- b) Individual client accounts for transactions that are attributable to an order of a clearing client.
- c) Omnibus client accounts for transactions that are attributable to an order of an other client.

(6) With respect to the position accounts of a clearing member or the position accounts of clearing agent assigned to it, in the case of standard omnibus client segregation, all own positions of the clearing member itself shall be booked to one or more proprietary trading accounts and those positions based on agent orders of other clients of the clearing member or of any Non-Clearing Member assigned to the clearing member are collected for the account of the clearing member and booked to one or several omnibus client accounts.

Positions based on orders of Non-Clearing Members and of Registered Clients shall be booked to separate individual client accounts, each for the account of the clearing member (individual client segregation).

- (7) Each transaction shall be allocated to exactly one position account.

## III B Obligations and validity of transactions

### § 24 Obligations resulting from transactions

- (1) Clearing members shall fulfil all obligations resulting from their exchange membership, their clearing participation and from their transactions as well as all obligations deriving from the exchange membership, participation in clearing and the transactions of clients assigned to them including taxes and fees.
- (2) As security for the receivables resulting from para. 1, the clearing members shall be obligated to deposit in a timely manner the clearing collateral pursuant to § 47 and to contribute to the default fund pursuant to § 49 of these General Terms and Conditions of Business in time.
- (3) Each clearing member shall be liable for the fulfillment of the obligations of para. 1 with the clearing collateral deposited including its contribution to the default fund.

### § 25 Validity of orders, finality provisions

- (1) Orders for payments and/or securities transfers shall be deemed entered as of the time the transaction is executed in the trading system of the exchange operating company (trade confirmation as the time of entry pursuant to § 10 para. 2 Austrian Settlement Finality Act).
- (2) The concerned exchange members and CCPA shall be informed of each transaction concluded through an automated trading system (matching of orders/quotes) by a trade confirmation that is sent via the trading system. This information shall contain all important details of the transaction.
- (3) Orders for payments and/or securities transfers shall be legally binding as of the time of entry pursuant to para. 1 and shall be valid even in the event of the opening of insolvency proceedings against the assets of a clearing member. Settlements made on the basis of such transfer orders shall not be affected by the opening of insolvency proceedings and may not be revoked by a clearing member or by a third party.
- (4) Should it be impossible after the conclusion of the transaction for the security underlying the transaction to be delivered during the settlement period due to reasons relating to the security and for which none of the clearing members or Non-Clearing Members party to the transaction are responsible (e.g. knock out of the certificate, liquidation of the investment fund, exchange for a security not admitted to listing on the Vienna Stock Exchange, measures taken by the supervisory authority), and, should CCPA gain knowledge of this fact, then the transaction with CCPA is dissolved and CCPA shall transfer the settlement of this transaction to the responsibility of the concerned clearing member and inform it accordingly.

### § 26 Objections

- (1) Objections to the content of a trade confirmation or to the content of a settlement notification of CCPA shall be raised immediately to CCPA upon receipt, but at the latest 60 minutes before the start of trading in the respective instrument on the next clearing day, by telex, electronically, telefax or telegraph otherwise the transactions shall be deemed approved and may no longer be rescinded (time of irrevocability pursuant to § 15 para. 1 third sentence Austrian Settlement Finality Act). Objections of Non-Clearing Members shall be notified accordingly to the General Clearing Member with whom the transaction has been concluded immediately, but at the latest 120 minutes before the start of trading in the respective instrument on the next clearing day, by telex, electronically, telefax or telegraph.

- (2) As CCPA is counterparty to the transactions, the objections shall apply likewise to the counterparty to the transactions on the buy or sell side (fully liable party of the original transaction; “Komplementärgeschäft”). CCPA shall inform the contractual partner(s) of the party who is fully liable for the transaction of the objections before the start of trading on the next clearing day pursuant to para. 1.
- (3) The fact that objections pursuant to para. 1 are raised shall not discharge exchange members from the fulfillment of the obligations arising from the transactions. If the objecting party does not file a lawsuit at the Exchange Court of Arbitration within three clearing days after the objections have been raised, the objected transaction and the respective original transaction shall be deemed as accepted .
- (4) If a lawsuit is filed at the Exchange Court of Arbitration, CCPA shall inform the contractual partner of the original transaction on the fourth clearing day after the objections have been raised and, after receipt of the statement of complaint, request it to serve as a third party in support of the plaintiff.

## III C Fulfillment of transactions

### § 27 Time of fulfillment

- (1) Transactions shall be fulfilled by the clearing members in accordance with the clearing calendar.
- (2) CCPA may, if well-founded due to special circumstances, change the clearing calendar and the settlement period for individual ccp-eligible securities or for certain types or groups of ccp-eligible securities if this is performed in agreement with the exchange operating company and taking into consideration the availability of the clearing facilities. These changes shall be published in the official publication medium.
- (3) The settlement period is the period between the trade day and the intended settlement day. Within this period, clearing members shall ensure that, on the one hand, the securities are delivered, and on the other hand, payment is made on intended settlement day in the amount of the cash value of the securities.
- (4) The buyer shall pay the cash value of the traded securities on intended settlement day in the settlement currency, rounded to two decimal places. The seller shall also deliver the traded securities on intended settlement day. CCPA shall not pay compensation to the clearing members and their clients for losses in connection with the delivery. For securities that are not listed in EURO, but are cleared in EURO, the value of the trading currency is converted based on the reference exchange rate published by the ECB on the day of the trade execution converted into the corresponding value in EURO.
- (5) Clearing members shall permit the automatic debit of fees by CCPA on the clearing day after the conclusion of a transaction; those fees may arise from their transactions and the transactions of clients in accordance with the Schedules of Fees of both CCPA and of the exchange operating company. In addition, clearing members shall pay any penalty interests according to other instructions from the exchange operating company or the Austrian Financial Market Authority.

### § 28 Procedure during the settlement period

- (1) The data required for clearing shall be recorded and stored by CCPA. For the duration of the settlement period, a list of all unsettled positions per security category and per position account of a clearing member and clearing client as well as (on an aggregated basis) other clients with details of the quantity, the value and the settlement currency shall be kept.
- (2) On the first day of the settlement period, CCPA shall provide to each clearing member, and if applicable, to each clearing client assigned to it as well as (on an aggregated basis) to other clients, and to each clearing agent for each clearing member assigned to it, and if applicable, for each clearing client assigned to the clearing member and (on an aggregated basis) other clients, information about the relevant transactions based on the individual clearing members and clearing clients as well as (on an aggregated basis) other clients in computer-readable form. This information shall include:
  - a) Information about all transactions concluded on a trade day;
  - b) Information about all open positions per ccp-eligible security per position account of a clearing member, clearing client or (on an aggregated basis) other clients indicating the quantity, the value and the settlement currency;
  - c) Information about the delivery obligations indicating the number of shares and/or nominal value for all securities to be delivered (delivery balance) by the clearing member (deliverer) and for which cover must be available on the intended settlement day on the securities settlement account;

- d) Information about the securities to be accepted (acceptance balance) for receipt by the clearing member (receiver) on the intended settlement day indicating the number and/or nominal value for which a credit is booked to the clearing member's relevant securities settlement account on the intended settlement day.
- (3) The trade confirmations pursuant to § 25 para. 2 shall be broken down so as to indicate separately all trades allotted to a Non-Clearing Member.
- (4) The delivery balance pursuant to para. 2 lit. c shall be debited from the securities settlement account each clearing day. At the same time, the countervalue is credited to the cash settlement account.
- (5) The acceptance balance pursuant to para. 2 lit. d shall be credited to the according securities settlement account on each clearing day. At the same time, the countervalue is debited from the cash settlement account.

## § 29 Procedure in the case of non-ccp-eligible securities

- (1) Non-ccp-eligible securities are securities, which cannot be settled via the clearing systems of CCPA. The non-ccp-eligible securities shall be defined by the exchange operating company pursuant to the General Terms and Conditions of Business of the exchange operating company at the request of CCPA and published in the official publication medium.
- (2) All transactions in non-ccp-eligible securities are not subject to these General Terms and Conditions of Business and shall be cleared directly between the contractual partners according to the applicable provisions of the exchange operating company without CCPA entering into the transaction pursuant to § 10 para. 2.

## III D Depositing of clearing collateral

### § 30 Providing the required clearing collateral

- (1) Clearing members shall be responsible for the timely provision and deposit of clearing collateral for transactions.
- (2) The required clearing collateral results from the transactions of clearing members as well as from those of clearing clients and other clients.
- (3) CCPA shall be entitled to request short-term increases in clearing collateral from clearing members (“margin call”) if there are corresponding market or position conditions within the scope of an intraday computation of required clearing collateral or if other material reasons such as a possible threat to the financial stability of CCPA or imminent insolvency of clearing members exist.
- (4) Clearing collateral and any increases thereof shall be determined in adequate amounts by CCPA based on the current risk exposure in order to cover the overall risk.

### § 31 Fulfillment of the clearing collateral requirements

- (1) The deposit of clearing collateral determined at the end of a clearing day (increase or change of clearing collateral) shall be done no later than the time defined by CCPA and published in the official publication medium on the next clearing day.
- (2) The clearing collateral to be deposited shall be deemed as deposited only as of the time it is booked to the corresponding, and if applicable, segregated cash collateral account or securities collateral account by the clearing member for which drawing rights to the collateral and securities accounts in the meaning of § 22 para. 5 have been granted and the objective requirements stipulated by the legislation applicable to establishment and maintenance of this clearing collateral have been met in accordance with applicable law.<sup>2</sup> Upon request of CCPA, the clearing member shall submit at its own expense the relevant proof (e.g. legal opinions) on the effective establishment of the clearing collateral.
- (3) Intraday margin calls to raise the clearing collateral shall be fulfilled immediately by clearing members unless otherwise stipulated by CCPA, but at the latest within two hours on the same clearing day. Notwithstanding the provisions of paragraph 2, CCPA shall be entitled to request clearing members in writing by e-mail to fulfill intraday margin calls by transfer to an account of CCPA with a collateral custodian. In such case, the intraday margin calls shall be deemed as deposited only as of the time they are booked to the designated account of CCPA with the collateral custodian. Intraday margin calls shall be released by CCPA to the relevant clearing member as soon as the reasons for the intraday margin call no longer apply.

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<sup>2</sup> On Austrian public holidays on which clearing takes place, the clearing collateral to be deposited may also be provided in coordination with CCPA in the form of a EURO cash deposit by transfer to an account of CCPA.



## III E General

### § 32 Clearing calendar

- (1) The clearing of transactions shall be carried out pursuant to the clearing schedule published by the exchange operating company in the official publication medium (clearing calendar). A clearing day in the meaning of these General Terms and Conditions of Business shall be deemed to be any day on which the clearing systems of CCPA are available for clearing. Each clearing day shall be deemed to be an intended settlement in this context.
- (2) The clearing calendar shall be drawn up by CCPA in agreement with the exchange operating company taking into account the business hours of the clearing facilities. All dates and periods of relevance for clearing such as clearing days, settlement period, extension days and day of buy-in as well as cash settlement shall be specified in the clearing calendar.
- (3) As a rule, the clearing calendar shall be drawn up once a year. If there are any special circumstances (e.g. initial public offerings or capital increases, drawing of lots or calls of certain securities), CCPA may change the clearing calendar and the settlement period for these securities accordingly, in agreement with the exchange operating company and taking into account the business hours of the clearing facilities.
- (4) The clearing members and the clearing agents shall ensure adequate cover on their cash and securities accounts as well as access to said accounts on all clearing days in order to secure the orderly clearing and collateralization of transactions. The clearing facilities shall fulfill their tasks pursuant to § 11 on all clearing days.

### § 33 Transactions in debt securities

- (1) For exchange transactions in ccp-eligible debt securities, accrued interest shall be calculated at the rate at which the security bears interest, unless stipulated otherwise and published by the exchange operating company.
- (2) The accrued interest shall be due to the seller up to and including the calendar day preceding actual settlement 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 is due on actual settlement day, the buyer shall not have any claim to interest on this coupon. The seller shall be exempt from paying the interest accrued in connection with the last coupon falling due.

## Part IV Default

### IV A General terms

#### § 34 Definition of default

- (1) A clearing member shall be deemed in default in the following cases:
- a) If the clearing member's securities settlement account with the CSD (or the securities settlement account managed by a clearing agent for the clearing members assigned to it) fails to show sufficient cover at the time defined in § 36 para. 3 to meet its delivery obligations pursuant to §§ 24 and 27 in conjunction with § 36 paras. 1 and 2 or clearing is prevented by a suspension of deliveries ("default on delivery");
  - b) If the acceptance of the securities to be received on a clearing day is denied or rejected or if it is not possible due to circumstances for which the clearing member concerned is responsible ("default on acceptance");
  - c) If the clearing member's cash settlement account with a settlement bank or the cash settlement account managed by a clearing agent or payment agent for the clearing members assigned to it fails to show sufficient cover on a clearing day at the time defined in § 43 para. 3 to meet its payment obligations pursuant to §§ 24 and 27; and if applicable, when a receivable falls due from a buy-in pursuant to § 39 para. 7 or from a cash settlement pursuant to § 40, each in conjunction with § 43 paras. 1 and 2 ("default on payment");
  - d) If the clearing member's cash collateral account and/or securities collateral account or any such account maintained for a Non-Clearing Member or other clients (if the segregated deposit of clearing collateral is selected for each respectively) or for a Registered Client, or the cash collateral account and/or securities collateral account managed by a clearing agent for the clearing member assigned to it (including the accounts maintained for said clearing member's assigned Non-Clearing Members, other clients or Registered Clients) with the collateral custodians fails to show sufficient cover for the fulfillment of collateral obligations pursuant to §§ 30 and 31 in conjunction with § 44 paras. 1 and 2 at the times defined in § 31; if the clearing member fails to comply with a request to change the composition of the clearing collateral within the period defined by CCPA or fails to comply with a request to replenish realised clearing collateral within the period pursuant to § 35 para. 7; or if the clearing member fails to comply with the obligation to transfer the contribution to the default fund at CCPA pursuant to §§ 49 and 52 para. 3, each in conjunction with § 44 paras. 1 and 2, within the period pursuant to § 49 para. 3 ("default on collateral");
  - e) If a clearing member fails to fulfill other obligations pursuant to these General Terms and Conditions of Business ("other default").
- (2) If CCPA has reason to believe that one of the defaults listed in para. 1 is not based on an insolvency or inability to render performance, that the default was not caused intentionally and that the clearing member will fulfill its obligations without delay, CCPA may declare the clearing member to be in technical default ("technical default"). In the case of technical default on delivery or acceptance, CCPA may refrain from the default notification to the exchange operating company pursuant to § 35 para. 1. CCPA shall have the right to withdraw a technical default at its discretion.
- (3) The clearing members shall inform CCPA immediately if 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 impending insolvency or imminent over-indebtedness of a clearing member.

## § 35 Consequences of default

- (1) If a clearing member is in default pursuant to § 34 para. 1 or has sent a notification pursuant to § 34 para. 3, CCPA shall immediately inform the exchange operating company and the Austrian Financial Market Authority (“default notification”). The measures imposed by the exchange operating company in this case (suspension of the right to participate in trading for all exchange members which take part in the clearing through the clearing member in default; blocking the access to the trading system for the affected exchange members; cancellation of all open orders in the trading system; initiation of expulsion proceedings against the clearing member) result from the General Terms and Conditions of Business of the exchange operating company. CCPA shall have the right to block access to the clearing systems for the concerned clearing member. In the event of technical default pursuant to § 34 para. 2, the special provisions of § 45 shall apply. The default status is displayed to the clearing member in the clearing systems.
- (2) CCPA shall transfer, within the meaning of § 46, the assets and positions of clearing clients and (on an aggregated basis) of other clients under the conditions specified in § 46 to clearing members not affected that have committed themselves in advance to accept the positions and assets pursuant to § 46 para. 2.
- (3) All remaining open positions of the concerned exchange member shall be cleared and closed out with an effort being made to minimize the damage as much as possible, regardless of the accounts involved or the clearing status. With the interruption of access to the trading system after the default notification to the exchange operating company pursuant to para. 1, no new transactions of the clearing member and the affected Non-Clearing Members will be accepted by CCPA for clearing.
- (4) The exchange operating company may suspend exchange membership pursuant to § 34 Austrian Stock Exchange Act for the duration of the expulsion proceedings or if there are reasons that are temporary or that can be remedied.
- (5) CCPA shall retain the securities to be taken over by the concerned clearing member pursuant to para. 1 or para. 4 (acceptance balances) as well as its credit-side cash balances as additional clearing collateral.
- (6) In the event of default, CCPA shall be authorized to realise the collateral provided pursuant to § 47, including the acceptance balances and credit-side cash balances pursuant to para. 5, as well as contributions to the default fund of the clearing member in default in accordance with the rules of §§ 51 et seq.
- (7) If the collateral provided by a clearing member is realised by CCPA, the clearing member shall replenish its clearing collateral by the time published in the official publication medium. Failing to do so shall result in a default on collateral pursuant to § 34 para. 1 lit. d.
- (8) For the duration of the default on delivery and/or payment, cash penalties shall be payable for individual types of default for the amount outstanding for exchange transactions pursuant to § 55.

## IV B Procedure in the event of default

### § 36 Occurrence of default on delivery

(1) Each clearing member shall provide cover on its securities settlement account with the CSD in the amount of the outstanding delivery balances shown on the delivery lists resulting from its own transactions and the transactions of clients.

(2) Each clearing member assigned to a clearing agent shall ensure that the clearing agent is in the position to provide cover on the securities settlement account of the clearing agent held with the CSD in the amount of the outstanding delivery balances shown in the clearing systems, resulting from its own transactions and the transactions of clients.

(3) The relevant point in time as of which default on delivery pursuant to § 34 para. 1 lit. a is the clearing day and time defined by CCPA and published in the official publication medium.

### § 37 Procedure in the event of default on delivery

In the event of default on delivery, CCPA shall proceed with measures according to EMIR and CSDR following the below steps:

- a) Extension period
- b) Buy-in process
- c) Cash settlement

### § 38 Extension period

(1) The start and the duration of the extension period shall be defined by CCPA and published in the official publication medium. It may end earlier by subsequent delivery or in the course of the buy-in process.

(2) In the extension period, the quantities to be delivered per trade day and security type shall be determined for each clearing day and seller. In case of insufficient coverage on the securities settlement account in a certain security type, the available partial quantities will be delivered (partial fulfillment). During the extension period multiple partial fulfillments shall be possible. In the event of partial fulfillment, the delivery obligations of the seller shall be determined in the following sequence:

- a) The positions with the lowest price are fulfilled;
- b) The positions with the smallest quantity are fulfilled;
- c) After this, by random selection;
- d) Fulfillment is done with due regard to the smallest denomination deliverable.

(3) In the extension period, in the case of a default on delivery, the available partial quantities of acceptance balances for certain buyers (receiving party) shall be fulfilled (partial fulfillment). During the extension period multiple partial fulfillments shall be possible. In the event of partial fulfillment, the acceptance balances of the buyer shall be determined in the following sequence:

- a) The positions with the highest price are fulfilled;
- b) The positions with the smallest quantity are fulfilled;

- c) After this, by random selection;
- d) Fulfillment is done with due regard to the smallest denomination deliverable.

(4) In case of partial fulfillment, the cash amount shall be adjusted pro rata to the quantity of securities to be delivered.

(5) The non-delivered quantities (shortfalls) of the affected security type pursuant to paras. 2 and 3 as well as the corresponding cash balance pursuant to para. 4 shall be entered in the accounts by CCPA.

(6) CCPA shall inform each clearing member or its clearing agent of the contents and details of the ongoing extension period.

## § 39 Buy-in process

(1) During the extension period, a clearing member in default on delivery shall either fulfill the shortfalls itself by subsequent delivery determined pursuant to § 38 para. 5 or instruct CCPA by written order at latest by the time defined by CCPA and published in the official publication medium to obtain coverage for the shortfalls. Such an order may be terminated by mutual consent.

(2) In order to successfully fulfill the delivery obligation, subsequent deliveries of the defaulting clearing member during the extension period shall be booked to its securities settlement account at the latest by the time defined by CCPA and published in the official publication medium.

(3) If the delivery obligation cannot be completed successfully by the time defined by CCPA and published in the official publication medium after the intended settlement day, CCPA shall initiate a buy-in pursuant to para. 5 for the open shortfall. Deliveries by CCPA within the framework of the buy-in process shall be booked to a separate securities account of CCPA in favour of the defaulting clearing member and have priority over the fulfillment of deliveries by the clearing member in default.

(4) If the buy-in cannot be completed successfully in part or in full, the open shortfalls of the concerned securities type shall be settled in cash by CCPA pursuant to § 40 ("cash settlement") on the day published in the official publication medium after the intended settlement day.

(5) In case of an instruction from the defaulting clearing member or in the event a buy-in is initiated pursuant to para. 3, CCPA shall attempt to make a buy-in for the non-delivered quantity (shortfall) by the clearing day preceding the cash settlement. Partial buy-ins shall be permitted within the meaning of paras. 2 and 3.

(6) When executing a buy-in, CCPA shall attempt to find a seller for the securities type being sought among the exchange members, while preserving the anonymity of the clearing member in default. To this end, CCPA shall publish the shortfall in the securities type concerned on its website indicating the delivery period. The exchange members may place binding offers for the securities being offered in writing by e-mail or telefax. CCPA shall have the right (but not the duty) to accept the first bidder's offer; otherwise, when several offers are received at short intervals, the offer at the lower price shall be accepted. CCPA may also conduct auctions in connection with buy-ins as it deems necessary within the meaning of Article 37 para. 6 EMIR.

(7) On the day the buy-in falls due, the payment obligations of the seller in default shall be increased by the respective higher price consisting of the original price of the shortfall of the concerned securities type for which the transaction was concluded, on the one hand, and the buy price for the buy-in, and on the other

hand, including the fees and charges incurred by CCPA plus the processing fee in accordance with the Schedule of Fees of CCPA.

## § 40 Cash settlement

- (1) If there is no subsequent and sufficient coverage of a shortfall during the extension period and the buy-in cannot be completed successfully, the remaining shortfall determined on the day of the buy-in at the time defined and published by CCPA shall be settled in cash by CCPA on the next clearing day in the form of a cash compensation. If the day of the buy-in defined and published by CCPA falls after the end of the subscription period, the cash settlement for subscription rights shall be carried out already on the last day of the subscription period.
- (2) Should delivery of the security underlying the transaction be unexpectedly impossible during the extension period for a reason relating to the security and for which none of the clearing members or Non-Clearing Members that are party to the transaction are responsible (e.g. knock out of the certificate, liquidation of the investment fund, exchange for a security not admitted to listing on the exchange operating company, etc.), and, should CCPA gain knowledge of this fact, CCPA will cancel the shortfall early and settle the transactions in cash pursuant to para. 4. The transaction shall then be deemed fulfilled.
- (3) The cash compensation for an open shortfall in securities<sup>3</sup> shall be calculated based on the shortfall multiplied by the "MaxPrice" minus the price of the open sell or buy instruction. The "MaxPrice" shall be defined as the highest price of the following three prices:
- a) Price of the security in the unfulfilled sell instruction
  - b) Price of the security in the unfulfilled buy instruction
  - c) Closing price of the security on the last trade day in the extension period

Settlement shall take place in the currency of this instrument, rounded to two decimal places. Instruments traded in foreign currencies and settled in EURO shall be converted at the ECB's published reference exchange rate on the respective day.

- (4) The cash compensation for an open shortfall in subscription rights<sup>4</sup> shall be determined analogously to the calculation in para. 3, taking into account the special features of the product. In this context, the shortfall of subscription rights shall be multiplied by the "subscription ratio" and multiplied by the difference of the "high price" and the "new price". The subscription ratio shall be the ratio of new shares to the old shares (i.e. new/old). The high price shall be defined as the respective higher price of two prices: the sums price [derived from the subscription price plus the price of the subscription right (standardized for one new share) on the last trade day of the subscription right trading] and the new price. The new price refers to the first official closing price of the concerned new issue after the subscription period has ended.

Should there be no closing price for the open shortfall in subscription rights by the close of trading on the last day of the extension period, then the calculated value of the subscription right (subscription right discount) shall be used for determining the sum price. If a subscription right grants the holder the right to acquire

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<sup>3</sup> Explanation: Cash compensation (securities) =  $shortfall * [MaxPrice - price (purchase price)]$

<sup>4</sup> Explanation: Cash compensation (subscription rights) =  $shortfall * subscription\ ratio * (high\ price - new\ price)$

different securities, the subscription price (sums price) and the new price shall be standardized in each case volume-weighted and to one security.

(5) In cases of cash settlements that are not specifically regulated, the calculation of the cash compensation shall be done analogously to paras. 1 to 4.

(6) The cash compensation that shall be paid by the defaulting seller is debited on the instructions of CCPA from the cash settlement account of the seller by the settlement bank plus any processing fee in accordance with the Schedule of Fees of CCPA and credited to the cash settlement accounts of the concerned buyers minus the processing fee after the failed buy-in on the clearing day defined by CCPA and published in the official publication medium; in case of a cash settlement of subscription rights, on the clearing day defined by CCPA and published in the official publication medium after the subscription rights price shall become available pursuant to para. 4.

(7) Additionally, a cash settlement shall include the fees in accordance with the Schedules of Fees of both CCPA and the exchange operating company and the cash penalties pursuant to § 55 shall fall due.

## § 41 Fulfillment in the event of default on delivery

(1) Subsequent (partial) deliveries made during the extension period or the buy-in process pursuant to §§ 38 and 39 shall be deemed to be (partially) fulfilled within the meaning of §§ 24 and 27.

(2) Open positions that are settled in cash after the end of the extension period pursuant to § 40 para. 3 shall be deemed to be fulfilled analogously to para 1.

## § 42 Default on acceptance in the event of physical fulfillment

In the event of default on acceptance pursuant to § 34 para. 1 lit. b, the buyer shall compensate CCPA for the interest lost and shall compensate CCPA for any further immediate damage suffered.

## § 43 Occurrence of default on payment

(1) Each clearing member shall provide cover on its cash settlement account with the settlement bank in the amount of the outstanding balances, which result from its transactions and the transactions of its clients, and if applicable, for claims resulting from a buy-in pursuant to § 39 para. 7 or from a cash settlement pursuant to § 40 as well as from all open payment obligations towards the exchange operating company and CCPA resulting from any fees pursuant to the Schedules of Fees of both CCPA and the exchange operating company as well as any cash penalties pursuant to § 55 that may fall due.

(2) Each clearing member assigned to a clearing agent or payment agent shall enable its clearing agent or payment agent to provide sufficient cover on the cash settlement account maintained for it in the amount of the outstanding balances, which result from its transactions and the transactions of its clients, and if applicable, for claims resulting from a buy-in pursuant to § 39 para. 7 or from a cash settlement pursuant to § 40 as well as from all open payment obligations towards the exchange operating company and CCPA resulting from any fees in accordance with the Schedules of Fees of both CCPA and the exchange operating company as well as any cash penalties that may fall due.

(3) The relevant points in time as of which a clearing member's default on payment is deemed given pursuant to § 34 para. 1 lit. c shall be the clearing days and times defined by CCPA and published in the official publication medium.

## § 44 Default on depositing of clearing collateral

(1) Each clearing member shall ensure sufficient cover by providing clearing collateral on its cash collateral accounts and/or securities collateral accounts or any such accounts it maintains for Non-Clearing Members and other clients (if the segregated deposit of clearing collateral is selected for each respectively) and for Registered Clients in the amount of the collateral requirements calculated ("margin requirements") plus any amounts required that result from its transactions and the transactions of its clients as well as for the contribution to the default fund requested by CCPA.

(2) Each clearing member assigned to a clearing agent shall put it in the position to provide sufficient cover at all times in the form of clearing collateral on the cash collateral accounts and/or securities collateral accounts the clearing agent maintains for it or for Non-Clearing Members and other clients (in each case when segregated accounts are selected for clearing collateral pursuant) or for Registered Clients in the amount of the margin requirements plus any amounts required that result from its transactions and the transactions of its clients as well as for the contribution to the default fund requested by CCPA.

(3) Cases of default on collateral are described in detail in § 34 para. 1 lit. d.

## § 45 Technical default

(1) After the declaration of a technical default pursuant to § 34 para. 2 by CCPA, the clearing member shall submit a written statement without delay stating the reasons for the default. In case of technical delivery or acceptance default pursuant to § 34 para. 1 lit. a and b as well as para. 2, CCPA may refrain from a default notification to the exchange operating company pursuant to § 35 para. 1.

(2) In case of a technical delivery or acceptance default pursuant to § 34 para. 1 lit. a and b as well as para. 2, CCPA may waive the written statement from a clearing member pursuant to para. 1, if the clearing member fulfills its delivery obligations by the time of the buy-in pursuant to § 39 para. 3.

(3) CCPA may take recourse to a clearing member or clearing agent to recover any losses it incurs or another exchange member incurs due to the clearing member's technical default. In addition, §§ 7 and 55 shall apply accordingly.

(4) The clearing member in technical default shall eliminate the causes of the technical default without delay and sustainably.

## § 46 Transfers pursuant to Article 48 EMIR

(1) When assets and positions of clearing clients and other clients are kept on separately registered accounts (if the segregated deposit of clearing collateral is selected these are the position accounts maintained separately by CCPA pursuant to § 23 and the segregated cash collateral accounts and securities collateral accounts maintained by collateral custodians pursuant to § 22 as well as the cash collateral accounts and securities collateral accounts likewise maintained by collateral custodians for any Non-Clearing Members and other clients pursuant to § 47 para. 1 for their allocated clearing collateral), CCPA shall initiate the procedure, in the case of a trigger event, to transfer their assets and open positions which the triggering clearing member



(also applies when a trigger event occurs at a Non-Clearing Member assigned to it) maintains for clearing clients and other clients to another clearing member designated by the clearing clients or other clients concerned upon request of said clearing clients or other clients and without the consent of the clearing member concerned. The clearing member concerned shall assign to the relevant clearing clients and other clients all rights required for the transfer of these positions and assets in advance, under the condition precedent of the occurrence of a trigger event.

(2) To this end, these clearing clients and other clients shall declare to CCPA in writing, ideally prior to the trigger event (otherwise the chances of the required transfer being executed are limited) this intention stating the accepting clearing member and furnishing its statement of consent, and CCPA shall have accepted the declaration in writing. The accepting clearing member shall contractually commit itself to the clearing client or other clients to accept such assets and open positions and to accept the assignment of all the rights required for their transfer. In the case of other clients, any instructions given or accepted for legally binding transactions or for any other type of declaration in connection with a transfer (in particular, a request for a transfer) shall be done exclusively by a jointly appointed party who has been appointed by all other clients (on their own responsibility) of the triggering clearing member (including any other clients of a Non-Clearing Members assigned to it) and is therefore authorized to act as their joint representative. If the jointly appointed party does not represent all other clients of the triggering clearing member (including any other clients of a Non-Clearing Members assigned to a clearing member) then a transfer is not possible. CCPA shall be furnished with proof that these conditions are met.

(3) CCPA shall transfer to the accepting clearing member within one clearing day as of the request of the clearing client(s) or of a jointly appointed party of the other clients, the assets and open positions on the segregated accounts it maintains for the clearing clients and other clients concerned upon their request and in the case of a trigger event. CCPA shall make the transfer dependent on legal opinions or other evidence, satisfactory to CCPA respectively, to be provided by the clearing member, the clearing clients or the jointly appointed party of the other clients, in particular showing that such action is permissible and feasible. CCPA shall notify the national competent authority of every transfer carried out. CCPA shall not assume any responsibility for the transfer of assets and positions not maintained with it. The clearing collateral deposited by the triggering clearing member in favour of the concerned clearing clients and other clients on segregated cash collateral accounts and securities collateral accounts, and the clearing collateral allocated to any Non-Clearing Members and other clients pursuant to § 47 para. 1, shall continue to serve, also after the transfer, as collateral for the concerned clearing clients and other clients to cover the clearing of the transactions of the respective clients for whom the collateral has been deposited.

(4) If, at the time of the trigger event, the segregated cash collateral account or securities collateral account maintained for a clearing client or (on an aggregated basis) for other clients or a joint cash collateral or securities collateral account maintained for a Non-Clearing Member or other clients pursuant to § 47 para. 1 shows a shortfall, the positions and assets assigned to this clearing client or to the other clients shall be excluded from any transfer pursuant to para. 3, and shall be closed out separately from the assets and positions of the triggering clearing member in accordance with the provisions of section V B (realisation of clearing collateral) and the allocated clearing collateral will be realised if necessary. Any surplus resulting therefrom shall be transferred to the clearing clients separately. This also applies to remaining surpluses of other clients (on an aggregated basis) provided CCPA has knowledge of the corresponding clients and they have furnished proof of their authorization (see also § 51 para. 6). If CCPA does not know who the clients are, the surplus shall be returned to the triggering clearing member for the account of these clients.

(5) Should a clearing client or any jointly appointed party of other clients fail to request CCPA to carry out a transfer on the trade day of the trigger event, within 3 hours of its occurrence or if the transfer is not done for whatever reason within the transfer period pursuant to para. 3, CCPA shall have the right to initiate all

procedures to actively control its risks with respect to the concerned positions and these include the liquidation of the assets and positions allocated to the respective clearing clients or other clients.

## Part V Clearing collateral

### V A Ensuring the stability of CCPA

#### § 47 Clearing collateral

(1) Clearing members shall deposit clearing collateral for the clearing of their transactions and those of their clients (for Non-Clearing Members and other clients, when segregated accounts are selected for clearing collateral, as well as for and Registered Clients on their respective segregated cash collateral accounts and/or securities collateral accounts). If the option is not selected to deposit clearing collateral on segregated cash collateral accounts and securities collateral accounts for Non-Clearing Members and other clients, the collateral deposited by the clearing member on joint cash collateral accounts and securities collateral accounts shall be allocated to the respective clearing member, other clients (aggregated) and any Non-Clearing Members by CCPA in the proportion CCPA has determined the respective clearing collateral requirements without maintaining separate accounts (in particular, if the required collateral is not supplied in full) and CCPA shall inform the clearing member about the respective allocations. If the total clearing collateral deposited by the respective clearing member exceeds the total margin requirements determined by CCPA, then the excess clearing collateral shall be allocated to the clearing member.

(2) Each clearing member assigned to a clearing agent shall enable its clearing agent to provide clearing collateral in the amount specified by CCPA. Each clearing agent shall provide clearing collateral in the amount specified by CCPA for the clearing member assigned to it to the extent that it has been enabled by its assigned clearing member. Non-Clearing Members, other clients and Registered Clients may be obliged by their respective clearing member to enable their clearing member to deposit clearing collateral in the amount specified by CCPA for the concerned Non-Clearing Members, other clients or Registered Clients.

(3) Excess clearing collateral shall be released by CCPA upon request of the 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 CCPA) for all claims of CCPA arising from the clearing of transactions of the clearing members and their clients pursuant to these General Terms and Conditions of Business as well as for all claims of the exchange operating company and CCPA arising from, or in connection with, trading and/or the clearing of transactions of the clearing members and their clients including taxes and fees as well as cash penalties pursuant to § 55. The clearing collateral deposited for the transactions of Non-Clearing Members and other clients (when segregated clearing accounts are selected) and of Registered Clients and held on separate cash collateral accounts and/or securities collateral accounts as well as the clearing collateral allocated to other clients and any Non-Clearing Members pursuant to para. 1 held on joint cash collateral accounts and securities collateral accounts, shall serve exclusively as collateral for the corresponding claims in connection with the respective client.

(5) To cover the initial and ongoing risk positions towards clearing members, CCPA shall accept only highly liquid clearing collateral with minimal credit and market risk. Clearing collateral may be provided in the form of cash deposits in currencies accepted by CCPA and securities that meet certain criteria. The accepted clearing collateral, currencies, haircuts and concentration limits are described in the "Collateral Policy", which is published on the website of CCPA.

(6) Own issues of a clearing member or its group companies are not accepted as clearing collateral. CCPA reserves the right to reject a certain security category as clearing collateral for a clearing member, although it is otherwise accepted as clearing collateral.

(7) CCPA shall have the right to define at any time a different composition of the clearing collateral that must be deposited. A change will be considered, in particular, if the creditworthiness of an issuer of a security accepted as clearing collateral deteriorates or is at risk of deteriorating.

## § 48 Calculation of clearing collateral

(1) The clearing collateral shall be calculated after commencement of clearing activity giving due consideration to the risk of the transactions and so as to ensure that in the event of default any loss to CCPA, the other exchange members and the exchange operating company is avoided as far as possible and the collateral covers any fees falling due pursuant to the Schedules of Fees of both CCPA and the exchange operating company as well as cash penalties pursuant to § 55.

(2) The calculation basis for the clearing collateral is the credit risk of a clearing member, if applicable, of the Non-Clearing Members and of the Registered Clients as well as (on an aggregated basis) of other clients. At the latest by the end of the trade day, CCPA shall book all new transactions in the position accounts of the exchange members or clients. In this process, the position accounts shall be adjusted for the settled transactions pursuant to §§ 24 and 27.

(3) Credit risk is the potential loss that CCPA may incur in the event a clearing member fails to fulfill payment or delivery obligations assumed by concluding a transaction. CCPA shall determine the clearing collateral requirements of a clearing member on a netted basis, but it may, upon request of a clearing member or if required by law, determine the collateral requirement on a detailed basis. The calculation of the clearing collateral requirements for Non-Clearing Members, Registered Clients and (on an aggregated basis) other clients shall be done separately.

(4) The clearing collateral shall be increased by a risk premium depending on the credit rating category of the concerned clearing members determined pursuant to § 50. This premium is published on the website of CCPA.

(5) CCPA defines the methods used to calculate the credit risk in the “Margin Calculation Methodology”. CCPA shall carry out intraday calculations of the clearing collateral based on the current positions and prices.

(6) CCPA shall inform the clearing members of the required clearing collateral requirements at the end of each calculation (“margin run”) completed on a clearing day. The clearing members shall ensure the timely cover or adjustment to the required clearing collateral (“margin call”) pursuant to § 31.

(7) The intraday margin calls shall directly be addressed by CCPA to the concerned clearing members which shall cover the requirements within the specified period.

## § 49 Default fund

(1) Irrespective of the clearing collateral to be deposited pursuant to § 47, each clearing member shall contribute the amount defined to the default fund maintained by CCPA.

(2) The contribution shall be made in the form of a EURO cash deposit by transfer to an account maintained by CCPA and shall serve exclusively to cover open liabilities in the event of default that cannot be

covered fully by the clearing collateral pursuant to § 47, the contribution of the defaulting clearing member to the default fund pursuant to para. 1 and the dedicated own resources of CCPA pursuant to Article 45 EMIR.

(3) The contribution to the default fund shall be subject to a periodic calculation and depends on the exposure of the respective clearing member, with a minimum contribution depending on the type of clearing membership. The calculation method of the default fund is published on the website of CCPA. CCPA also defines the minimum amount below which the size of the default fund is not to fall under any circumstances and publishes this amount on its website. Upon request of CCPA, the clearing members shall make additional contributions to the default fund within three clearing days in accordance with the allocation mechanism defined in the “Public Information on Default Fund Calculation” in order to replenish the minimum amount.

(4) A clearing member failing to comply with its obligation to transfer the contribution to the default fund or to its replenishment shall be deemed in default on collateral pursuant to § 34 para. 1 lit. d.

## § 50 Credit rating categories

(1) Prior to and for the duration of participation in clearing, each clearing member shall be assigned to a credit rating category by CCPA. The categorization serves to safeguard the stability of CCPA, is confidential and assesses the current economic and financial situation of a clearing member.

(2) The clearing member shall be categorized on the basis of its financial ratios. For the purpose of the calculation of the financial ratios, the clearing member shall provide CCPA with the audited annual financial statements (including notes and the management report) of the last three financial years compiled in accordance with the applicable accounting standards. If the entity was founded less than three years ago, the financial statements available must be provided. If available, ratings of the clearing member by rating agencies and other institutions may be provided to CCPA.

(3) If the financial statements are not available at the time of categorization, CCPA may categorize the member in the lowest credit rating category pursuant to para. 5. When categorizing a clearing member, CCPA may accept upon its separate request standardized letters of comfort from group companies. In this case, these group companies with their respective financial statements and ratings shall be taken into account in the credit assessment.

(4) CCPA may obtain additional evidence and information on creditworthiness such as interim financial reports and media reports as well as reports of national and international information agencies and use them for the assessment of creditworthiness.

(5) The credit assessment includes the calculation of the classical financial ratios of the clearing members concerned. Based on the analysis of the financial statements and information available, the clearing member shall be categorized in the credit rating categories 1 to 8. Category 1 represents a company with the highest creditworthiness and category 8 a company with a comparatively low creditworthiness.

(6) For the purpose of the regular assessment of creditworthiness, the clearing member shall submit its audited financial statements to CCPA at the latest within 6 calendar months after the close of its financial year (including the notes and the management report and, if a letter of comfort is available pursuant to para. 3, also the audited financial statements of the group company) prepared in accordance with the respective, applicable accounting standards.

(7) CCPA may review the categorization of a clearing member to a credit rating category at any time.

## V B Realisation of clearing collateral

### § 51 Realisation of clearing collateral

(1) In the event of default pursuant to § 34, CCPA may carry out the realisation of the clearing collateral including the cash balances pursuant to para. 3 lit. a and the acceptance balances pursuant to para. 3 lit. b as well as the contributions of the defaulting clearing member to the default fund in order to cover all remaining open liabilities pursuant to § 34 para. 1 and § 47 para. 4, including open cash penalties pursuant to § 55, fees in accordance with the Schedules of Fees of both, CCPA and of the exchange operating company, and any losses caused by the clearing member or clients.

(2) Clearing collateral deposited for Non-Clearing Members and other clients (when segregated clearing accounts are selected) and for Registered Clients on their separate cash collateral accounts and/or securities collateral accounts as well as clearing collateral allocated to other clients and any Non-Clearing Members pursuant to § 47 para. 1 on omnibus cash collateral accounts and securities collateral accounts shall serve exclusively to satisfy the claims against the clearing member pursuant to para. 1 in connection with the respective Registered Clients, Non-Clearing Members and (on an aggregated basis) other clients in accordance with the rules set out below. Prior to this, other clearing collateral of a clearing member that has not been deposited separately for Non-Clearing Members, Registered Clients or other clients and has not been allocated to Non-Clearing Members and other clients pursuant to § 47, including the cash balances pursuant to para. 3 lit. a and the acceptance balances pursuant to para. 3 lit. b as well as the contributions of the defaulting clearing member to the default fund, shall be realised to cover these claims.

(3) The realisation shall be carried out in the following order:

- a) Cash collateral and all cash balances that would result in a credit on the cash settlement accounts of a clearing member on the actual settlement day;
- b) Securities collateral and acceptance balances (securities that are to be received by the defaulting clearing member);
- c) All contributions of the defaulting clearing member to the default fund pursuant to § 49.

For the cash balances pursuant to lit. a and the acceptance balances pursuant to lit. b as well as the contributions to the default fund pursuant to lit. c, the rules for the realisation of the clearing collateral shall apply with the condition that the contributions to the default fund are in the security ownership of CCPA.

(4) The measures to be taken pursuant to para. 3 lit. b for the realisation may be commissioned by CCPA via exchange members or carried out by CCPA itself.

(5) As of the clearing day defined by CCPA and published in the official publication medium after the occurrence of default, CCPA shall have the right to realise the contributions of the defaulting clearing member to the default fund pursuant to para. 3 lit. c, even if the realisation of the clearing collateral pursuant to para. 3 lit. b has not yet been finalized.

(6) CCPA shall have the irrevocable right pursuant to § 6 Financial Collateral Act, to carry out the realisation of the clearing collateral including the cash balances pursuant to para. 3 lit. a and the acceptance balances pursuant to para. 3 lit. b as well as the contributions of the defaulting clearing member to the default fund as it may deem appropriate without requiring any further consent of the clearing member and any affected Non-Clearing Member, Registered Clients or other clients, without the need for a judicial order or consent to the terms of realisation and without conducting an auction, without prior warning or any waiting

period observed. The realisation or valuation of the collateral shall be carried out by CCPA according to the principles of fair trade practice at the market price of the collateral on the day of realisation or valuation. After full coverage of all open liabilities and any margin obligations for additional collateral or contributions to the default fund, any surplus shall be given to the clearing member or credited to its account. Provided there is no transfer done in the meaning of § 46, CCPA immediately returns any remaining surplus on separate cash collateral accounts and securities collateral accounts after completion of all steps of the procedure in case of a default of a clearing member to the respective Non-Clearing Members and to Registered Clients. This shall also apply to remaining surpluses on other segregated accounts and securities accounts provided that it knows the corresponding clients. If the clients are not known (and no transfer is done in the meaning of § 46), the clearing collateral shall be released to the clearing members for the account of these clients. Any remaining surplus from other clients and from any Non-Clearing Members from clearing collateral allocated pursuant to § 47 para. 1 held on joint cash collateral accounts and securities collateral accounts may be released in favour of the respective client, if CCPA has sufficient proof of corresponding authorization.

(7) In the event of default, CCPA shall have the right to sell securities pledged without the purchase price having to be paid immediately and in cash, or transfer them to one of its securities accounts for appropriation pursuant to § 5 para. 2 Austrian Financial Collateral Act and subsequently 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 a clearing member or used instead of payment.

(8) Realisation shall also be permitted, if insolvency or liquidation proceedings, reorganisation procedures or a similar procedure has been initiated or is still ongoing against the assets of the clearing member, the Non-Clearing Member, Registered Client or other client.

(9) In the event of realisation or termination, the clearing collateral deposited (on separate cash collateral accounts and securities collateral accounts or, pursuant to § 47 para. 1, clearing collateral allocated pursuant to § 51 para. 2) or the assets replacing it including the cash balances pursuant to para. 3 lit. a and the acceptance balances pursuant to para. 3 lit. b as well as the contributions of the defaulting clearing member to the default fund are included in the netting procedure as a result of termination pursuant to § 54.

(10) CCPA shall have the right of disposal relating to the clearing collateral (and at least up to this extent and irrespective of any further rights also for the amounts contributed to the default fund that are transferred in security ownership), which serve as financial collateral in the form of a restricted right in property in the meaning of Article 2 no. 1 lit. c of Directive 2002/47 EC of the European Parliament and of the Council of June 6th 2002 on financial collateral arrangements based on the fact that such collateral arrangements are provided for in its operating rules. Each clearing member and the clearing clients shall confirm in writing that they accept these General Terms and Conditions of Business as operating rules in the meaning of Article 39 para. 8 EMIR. CCPA shall publicly disclose that it has this right of disposal, which it shall exercise in accordance with Article 47 EMIR. Cash collateral accounts and securities collateral accounts and the clearing collateral posted on them shall only be accepted by CCPA, if any statutory, contractual as well as agreed (on the basis of terms and conditions) pledge rights, retention rights and set-off rights have been waived by the collateral custodian and any third parties with corresponding rights with regard to all assets posted on the cash collateral accounts and securities collateral accounts, CCPA shall be granted the sole authorization to give instructions and/or sign on these accounts and no one else (including the clearing member or clearing client) is and will be granted any right of whatever kind to draw, sign or otherwise dispose on these accounts.

## V C Use of the default fund

### § 52 Realisation pursuant to Article 45 EMIR

(1) When the realisation of the clearing collateral and the contributions to the default fund of the defaulting clearing member pursuant to § 51 has been completed and additional liabilities of a clearing member remain unsettled, CCPA shall use own dedicated resources, which are calculated pursuant to Article 45 EMIR.

(2) If there are open liabilities of the defaulting clearing member afterwards, CCPA shall start using the default fund contributions of all other clearing members. CCPA shall proceed in the following order:

- a) Calculate the preliminary amount of the remaining open liabilities of the clearing member, compare it with the remaining default fund and calculate the percentage share of the liabilities;
- b) Realise the contributions to the default fund of all clearing members in the amount of the percentage calculated (provided the contributions to the default fund are the security ownership of CCPA);
- c) Cover all open liabilities from the realised contributions.

If, after the realisation of the default fund contributions of all other clearing members, there are still outstanding liabilities of the defaulting clearing member, CCPA shall use an additional amount of pre-funded allocated own funds in accordance with Article 9 para. 14 CCPRR, the calculation of which shall be based on Commission Delegated Regulation (EU) 2023/840. After exhausting these additional own funds, CCPA may make use of § 52 para. 3, namely the provision of new contributions to the default fund up to five times the amount of the previous contribution.

(3) Default fund contributions realised pursuant to para. 1 shall be replenished by each clearing member within the period specified by CCPA in the official publication medium after realisation pursuant to para. 2 in conjunction with §§ 51 para. 6 et seq by making new contributions to the default fund up to the fivefold amount of the previous contributions in accordance with the request by CCPA, unless the clearing member informs CCPA about the termination of its clearing membership in the clearing at the latest on the bank day after the realisation of the default fund contributions defined by CCPA and published in the official publication medium. § 18 para. 8 shall apply accordingly.

(4) The amounts remaining after coverage of all open liabilities shall be returned to the clearing members in the corresponding percentages by CCPA within 5 bank days after the provision of new contributions to the default fund pursuant to para. 3.

(5) Should a defaulting clearing member provide the resources it owes fully or in part after CCPA has realised the default fund contributions of other clearing members, CCPA shall refund these to other clearing members in proportion to their realisation.



## V D Other provisions on clearing collateral and default fund contributions

### § 53 Release of clearing collateral and default fund contributions

(1) If the clearing membership is terminated, the obligation to contribute to the default fund shall expire – except in cases pursuant to § 52 para. 3 – either one month after effective termination of clearing membership or one month after the day, on which all transactions on the accounts of the clearing member have been cleared and settled, whichever is the later.

(2) In the event of termination of the clearing membership, the clearing collateral and the contributions to the default fund shall be refunded only after all obligations of the clearing member concerned resulting from clearing membership and from any default to CCPA that has already occurred have been settled with CCPA (see also § 18 para. 8). For Registered Clients, Non-Clearing Members and other clients, the collateral deposited on segregated cash collateral accounts and securities collateral accounts, and the clearing collateral deposited for Non-Clearing Members and other clients pursuant to § 47 para. 1 shall be returned after fulfillment of the obligations assumed for them and their clients provided, they have not transferred the obligations pursuant to § 46 and CCPA has been provided with sufficient proof of their authorization.

### § 54 Offsetting due to realisation or termination

(1) In the event of realisation or termination, CCPA shall have the right to determine the value of the financial obligations between itself as the central counterparty and the clearing member concerned by netting/offsetting, so that the party with the higher liabilities has to pay the calculated net balance to the other party. CCPA shall have the right to net/offset the financial obligations entered into for Registered Clients, Non-Clearing Members and other clients against the clearing collateral or equivalent assets deposited for the Registered Clients, the respective Non-Clearing Members or other clients on segregated cash collateral accounts and securities collateral accounts or net/offset the clearing collateral allocated to these pursuant to § 47 para. 1.

(2) The offsetting due to termination shall also be effective pursuant to § 9 para. 1 Financial Collateral Act, even when insolvency or liquidation proceedings, reorganisation procedures or a similar procedure has been initiated or is still ongoing against the assets of the clearing member or a Non-Clearing Member, Registered Client or other clients and the rights that are subject to the offsetting as a result of termination have been assigned or have been seized by court or other order or have been otherwise disposed of.

(3) The offsetting as a result of termination may be carried out without prior warning, judicial approval or consent, without auction and without having to observe a waiting period. The valuation of the clearing collateral included in the netting due to termination shall be done pursuant to the principles set out in § 51 para. 6.

## Part VI Other provisions

### § 55 Cash penalties

For the duration of the default on delivery or default on payment, the defaulting clearing member shall pay cash penalties per day in the amount stipulated in Delegated Regulation (EU) 2017/389. The cash penalties are calculated by the CSD in accordance with the provisions of the CSDR up to the time of fulfillment (actual settlement day) and collected by CCPA on the clearing day published in the official publication medium by means of cash instruction ("payment free of delivery") and distributed to the clearing members affected by the settlement failure.

### § 56 Complaints pursuant to Article 36 EMIR

(1) Clearing members and clearing clients (complaining parties) may submit complaints to CCPA in writing in connection with the provision of services by CCPA or the fulfillment of obligations under these General Terms and Conditions of Business to CCPA (by e-mail to [complaints@ccpa.at](mailto:complaints@ccpa.at) or by using the form on the website <https://www.ccpa.at/beschwerde/>).

(2) CCPA shall conduct an investigation within a reasonable period of time (maximum of 15 bank days) and may request further information and materials from the complaining party, if necessary. After conclusion of the investigation, CCPA shall send the complaining party a written statement with regard to the complaint.

(3) The complaining party shall expressly refrain from taking any measures until the complaint proceedings have been closed (pursuant to paras. 1 and 2) and, insofar as permissible, refrain from filing a complaint with a court of law, court of arbitration or call on the intervention of any other state authority.

### § 57 Applicable law, place of jurisdiction and court of arbitration

(1) These General Terms and Conditions of Business and all aspects of the activities and procedures of CCPA, including the rules governing access to CCPA, the contracts entered into by CCPA with clearing members or in relation with the transfer of assets and positions pursuant to § 46 and the transactions, for which CCPA has assumed clearing and all aspects relating to the clearing collateral and the default fund, shall be subject to Austrian law.

(2) Any disputes pursuant to § 50 para. 4 Austrian Stock Exchange Act are decided by the Court of Arbitration. The exclusive jurisdiction for any other disputes arising from or in connection with the General Terms and Conditions of Business and with the other aforementioned regulations, contracts, aspects and transactions shall fall under the jurisdiction of the respective competent court for the first district of Vienna. However, CCPA shall have the right to file a complaint with any other competent court for disputes that do not fall under the scope of § 50 para. 4 Austrian Stock Exchange Act.

(3) CCPA shall also have the right to petition a final decision on disputes or claims outside the scope of § 50 para. 4 Austrian Stock Exchange Act that results from or in connection with these General Terms and Conditions of Business and the respective contracts with a reference to said terms including any disputes on their validity, violation, dissolution or nullity reached according to the rules of arbitration of the Vienna

International Arbitral Centre of the Austrian Federal Economic Chamber (Vienna Rules) by one or three arbitrators appointed according to these rules. The number of arbitrators shall be three.

Remarks:

“Austrian Stock Exchange Act” = Börsegesetz

“Austrian Settlement Finality Act” = Financial Settlement Act = Finalitätsgesetz

“Austrian Banking Act” = Bankwesengesetz

“Austrian Financial Collateral Act” = Finanzsicherheitengesetz