



Deutsche Bank EMIR Article 39(7) Clearing Member Disclosure Document

Investor Services Euronext / Deutsche Bank AG, Amsterdam Branch

June 2014

Passion to Perform



Clearing Member Disclosure Document

Introduction

Throughout this document references to “we”, “our” and “us” are references to Deutsche Bank AG acting as clearing Member. References to “you” and “your” are references to the client.

What is the purpose of this document?

To enable us to comply with our obligations as a clearing member under EMIR⁽¹⁾, which requires that where we are providing services to you that involve us clearing equities & fixed income (“**Securities**”) through an EU central counterparty (“**CCP**”), we must:

- offer you a choice of an Individual Segregated Client Account (“**ISA**”) or an Omnibus Segregated Client Account (“**NOSA**”) (as discussed under “*The types of account available*” in Part One B below);
- publicly disclose the levels of protection and costs associated with different levels of segregation; and
- describe the main legal implications of different levels of segregation.

We have provided the costs associated with the different levels of segregation separately. Details can be found at: <http://deutschebank.nl/emir.html>

Organisation of this document

This document is set out as follows:

- Part One A provides some background to clearing.
- Part One B gives information about the difference between the ISA and the OSA, explains how this impacts on the clearing of your Securities and sets out some of the other factors that might affect the level of protection you receive in respect of Securities or cash assets (“**Assets**”) provided to us as margin.
- Part One C sets out some of the main insolvency considerations.
- Part Two provides an overview of the main variations on the different levels of segregation that the CCPs offer, together with an explanation of the main implications of each, and sets out links to further information provided by the CCPs.

What are you required to do?

You must review the information provided in this document and the relevant CCP disclosures and confirm to us in writing which account type you would like us to maintain with respect to each CCP on which we clear the Securities for you from time to time. We will explain how we would like you to make this confirmation. If you do not confirm within a reasonable timeframe, we will continue to follow up with you because your confirmation is required. In the meantime, we will continue to clear your Securities, either using the existing account structure within the OSA structure, as this is the most similar of the new account types to the existing account structure.

(1) Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.



Important

Whilst this document will be helpful to you when making this decision, this document does not constitute legal or any other form of advice and must not be relied on as such. This document provides a high level analysis of several complex and/or new areas of law, whose effect will vary depending on the specific facts of any particular case, some of which have not been tested in the courts. It does not provide all the information you may need to make your decision on which account type or level of segregation is suitable for you. Nothing contained herein should be considered an offer, or an invitation to offer or a solicitation or a recommendation by us for a particular account type, level of segregation or transaction and no representation or warranty is made as to the accuracy or completeness of the disclosure provided. It is your responsibility to review and conduct your own due diligence on the relevant rules, legal documentation and any other information provided to you on each of our client account offerings and those of the various CCPs on which we clear Securities for you. Before entering into any arrangement you should be aware that certain transactions give rise to substantial risks and are not suitable for all investors. You may wish to appoint your own professional advisors to assist you.

WE SHALL NOT IN ANY CIRCUMSTANCES BE LIABLE, WHETHER IN CONTRACT, TORT, BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY LOSSES OR DAMAGES THAT MAY BE SUFFERED AS A RESULT OF USING THIS DOCUMENT. SUCH LOSSES OR DAMAGES INCLUDE (A) ANY LOSS OF PROFIT OR REVENUE, DAMAGE TO REPUTATION OR LOSS OR ANY CONTRACT OR OTHER BUSINESS OPPORTUNITY OR GOODWILL AND (B) ANY INDIRECT LOSS OR CONSEQUENTIAL LOSS. NO RESPONSIBILITY OR LIABILITY IS ACCEPTED FOR ANY DIFFERENCES OF INTERPRETATION OF LEGISLATIVE PROVISIONS AND RELATED GUIDANCE ON WHICH IT IS BASED. THIS PARAGRAPH DOES NOT EXTEND TO AN EXCLUSION OF LIABILITY FOR, OR REMEDY IN RESPECT OF, FRAUDULENT MISREPRESENTATION.

Please note that this disclosure has been prepared on the basis of Dutch law save as otherwise stated. However, issues under other laws may be relevant to your due diligence. For example, the law governing the CCP rules or related agreements; the law governing our insolvency; the law of the jurisdiction of incorporation of the CCP; and the law of the location of any Assets.

Nothing contained herein is intended to create or shall be construed as creating a fiduciary relationship between you and Deutsche Bank. You are not permitted to reproduce in whole or in part the information provided in this document without our prior written consent. Information provided herein may be a summary or translation and is subject to change without notice.

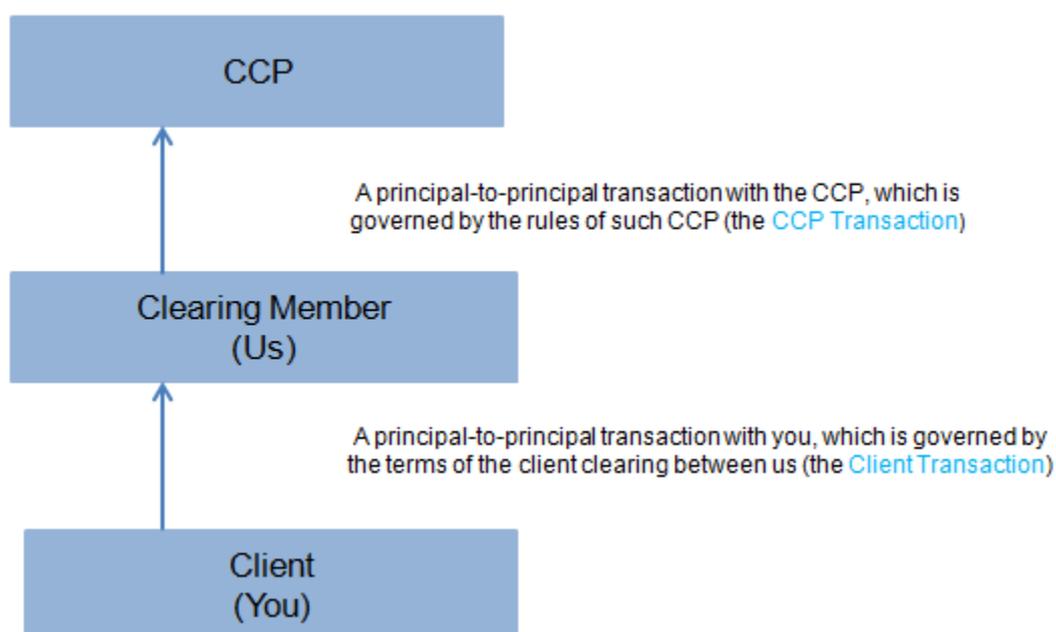


Part One A: A brief background to clearing

Some markets distinguish two main types of clearing models: the “agency” model and the “principal-to-principal” model, others only recognize the “principal-to-principal” model. DSS Euronext is active Clearing Member at LCH.Clearnet SA, a CCP who adopted the “principal-to-principal” model, and this document assumes all transactions are cleared according to this model.

The “principal-to-principal” clearing model

When clearing transactions for you through a CCP, we usually enter into two separate transactions, in order to reflect the obligation/liability versus the CCP and to you as our client.



The terms of each Client Transaction are equivalent to those of the related CCP Transaction, except that (i) each Client Transaction will be governed by a client clearing agreement⁽²⁾ between you and us and (ii) we will take the opposite position in the CCP Transaction to the position we have under the related Client Transaction.

Under the terms of the client clearing agreement between you and us, a Client Transaction will arise without the need for any further action by either you or us, as soon as the CCP Transaction arises between us and the CCP. Once both of those transactions have been entered into, your transaction is considered to be “cleared”.

(2) References to “client clearing agreement” in this disclosure shall mean the agreement between you and us that governs the Client Transactions and any ancillary or related documents or agreements agreed and entered into between the parties.



As the principal to the CCP, we are required to provide Assets to the CCP (directly or indirectly via a Dutch Central Bank Guarantee) as collateral to cover our margin obligation (exposure from us to CCP) for the CCP Transactions that relate to you and to ensure the CCP has as much collateral as it requires at any time. We will therefore ask you for collateral to cover your margin obligation (exposure from you to us). By default, unless otherwise bilaterally agreed, there is no direct relation between the collateral you provide to us and which we provide to the CCP, meaning that we may provide collateral in another form (cash) or different securities, especially where you provide it in a form which we cannot transfer to the CCP.

If you have provided us with Securities as collateral, to cover your margin obligation to us, you may face what we call “transit risk” - this is the risk that, if we were to default, the Assets that are recorded in your account with us may be different versus what we have deposited with the CCP to cover our margin obligations.

However, the CCPs may call margin from us before we call margin from you. This could mean that we are exposed to you for the interim period, unless we agreed a pool of collateral up-front which is sufficiently covering your margin obligation. Normally we request you to place extra/new collateral if the level of unused collateral value is close to zero. The arrangements between you and us relating to how the margin calls will be funded/covered will be set out in the client clearing agreement between you and us.

Please see Part One B for an explanation of how this is relevant to the choice of account types.

What if you want to transfer your Client Transactions to another clearing member?

There may be circumstances where you wish to transfer some or all of your Client Transactions to another clearing member on a business as usual basis (i.e. in the absence of us having been declared in default by a CCP). We are not obliged to facilitate this under EMIR but we may be willing to do so subject to our ability to transfer the CCP Transactions to which they relate and the collateral provided to the CCP in connection with them (which will depend on the relevant CCP's rules) and any conditions set out in our client clearing agreement. You will also need to find a clearing member that is willing to accept such Client Transactions and the related CCP Transactions and assets.

It may be easier to transfer Client Transactions and CCP Transactions that are recorded in an ISA than those recorded in an OSA (both types of account being described in more detail in Part One B) for the same reasons as set out below under “*Will the CCP Transactions and assets relating to you be automatically ported to a back-up clearing member?*”.

What happens if we are declared to be in default by a CCP?

If we are declared to be in default by a CCP, there are two possibilities with respect to the CCP Transactions and assets related to you:

- the CCP will, at your request and subject to conditions set by the respective CCP within are/should be described in their Rule Book, try to transfer (“**port**”) to another clearing member (a “**back-up clearing member**”), such CCP Transactions and assets; or, if this cannot be achieved,
- the CCP will terminate the CCP Transactions that are registered in the our name, following the applicable measures in case of declaration of a default as described in their Rule Book (see “*What happens if porting is not achieved*” below).



The porting process may differ depending on the CCP but, in practice, it is likely to involve a close-out (with us) and a re-establishment (with the back-up clearing member) of the CCP Transactions or a transfer of the open CCP Transactions and related assets from us to the back-up clearing member.

Will the CCP Transactions and Assets relating to you be automatically ported to a back-up clearing member?

No, there will be a number of conditions which must be satisfied before the CCP Transactions and assets that relate to you can be ported to a back-up clearing member. These conditions will be set by the CCPs and will include obtaining your consent.

The type of account and level of segregation you choose will have an impact on the ability to port CCP Transactions and assets to a back-up clearing member upon our default.

ISA model: In all cases, you will need to have a back-up clearing member that has agreed to accept your CCP Transactions. You may wish to appoint a back-up clearing member upfront as part of your clearing arrangements but the back-up clearing member is probably unlikely to be able to confirm that it is willing to accept the CCP Transactions until the default occurs. The back-up clearing member may also have conditions that they require you to meet. You may also be able to agree with the CCP that it may choose a back-up clearing member on your behalf. If you have not appointed a back-up clearing member prior to our default or agreed with the CCP that it may appoint one on your behalf, then this may mean that porting is less likely to occur.

OSA model: If you choose an OSA (described in more detail in Part One B), in most cases, all of our clients who have CCP Transactions and Assets relating to them recorded in the same OSA will have to agree to use the same back-up clearing member and the back-up clearing member will have to agree to accept all of the CCP Transactions and Assets recorded in that OSA. For this reason it is likely that a trustee acting on behalf of all participating clients would be required to arrange a back-up clearing member directly up-front or via the CCP.

Both ISA and OSA model: If porting is achieved, your Client Transactions with us will terminate in accordance with our client clearing agreement. We would expect your back-up clearing member to put in place new client transactions between itself and you.

Whilst porting within an OSA model would be more complex (more parties to pre-agree on specific agreements), but not impossible, it is likely to be easier to achieve porting if you choose an ISA (described in more detail in Part One B), because you solely can appoint a back-up clearing member with respect to just your CCP Transactions and the related assets.

What happens if porting is not achieved?

Each CCP is permitted to specify a period of time after which, if it has not been able to achieve porting, it will be permitted to actively manage its risks in relation to the CCP Transactions. This period of time will vary across CCPs. If you want to port your open CCP Transactions and Assets, you will need to notify the CCP and show that you can satisfy the conditions within this period. Alternatively, you will have up-front agreements/arrangements in place between yourselves (either via the trustee, in case of the OSA model), the CCP and us.



Otherwise, the CCP will terminate the CCP Transactions and perform a close-out calculation in respect of them in accordance with the CCP rules. If there is an amount owed by the CCP in respect of the CCP Transactions, to the extent that the CCP knows your identity and how much of that amount relates to you, the CCP may pay such amount directly to you, subject to having a pledge agreement in place. If the CCP does not know your identity and/or does not know how much of the amount relates to you and/or such pledge agreement is not in place, the CCP will pay it to us (or our insolvency practitioner) for the account of our clients.

It is more likely that a CCP will be able to pay any such amount directly to you if you select an ISA (described in more detail in Part One B). This is because your identity will typically be disclosed to the CCP in this case. Note that also in this case a pledge agreement, whereby you act as pledgee and we as pledgor would still be required.

If the CCP terminates the open CCP Transactions, then the open Client Transactions between us are also likely to terminate. The termination calculations in respect of those open Client Transactions will be performed in accordance with the client clearing agreement between us and such calculations will likely mirror those performed by the CCP in respect of the open CCP Transactions. If you are due a payment from us as a result of the close-out calculations in respect of our Client Transactions, the amount due from us to you will be reduced by any amount that you receive (or are deemed to receive) directly from the CCP.

Please see Part One C for a consideration of the main insolvency considerations.



Part One B: Your choice of account type and the factors to consider

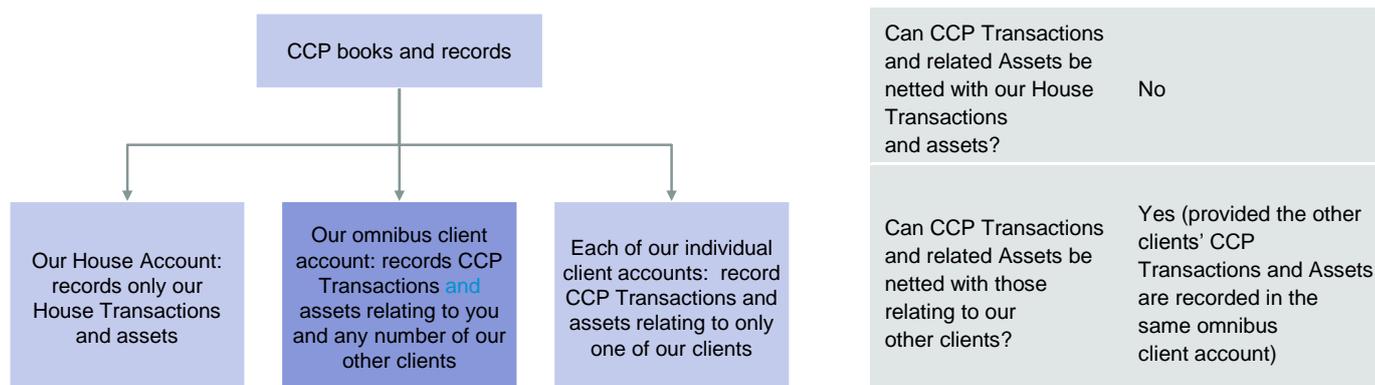
The types of account available

Reference to accounts means the accounts in the books and records of each CCP. The CCP uses these accounts to record the CCP Transactions that we enter into in connection with the clearing of your related Client Transactions and the Assets that we provide to the CCP in respect of such CCP Transactions.

There are two basic types of client account available – OSAs and ISAs. Some of the CCPs then offer different levels of segregation within these general account types as further described in Part Two of this document.

Omnibus Segregated Client Account (“OSA”)

Under this account type, the CCP Transactions and Assets that relate to them in the CCP’s accounts are segregated from any CCP Transactions we have cleared for our own account (our “**House Transactions**”) and any Assets we have provided as collateral to cover our margin obligation for those House Transactions at the CCP. However, the CCP Transactions and Assets that relate to you will be commingled with the CCP Transactions and Assets relating to any of our other client’s CCP Transactions and Assets that are recorded in the same OSA.



The CCP will agree not to net the CCP Transactions relating to you with our House Transactions or any CCP Transactions not recorded in the same OSA, nor use the Assets relating to such CCP Transactions with respect to any House Transaction or CCP Transaction recorded in any other account for margin calculation purposes.

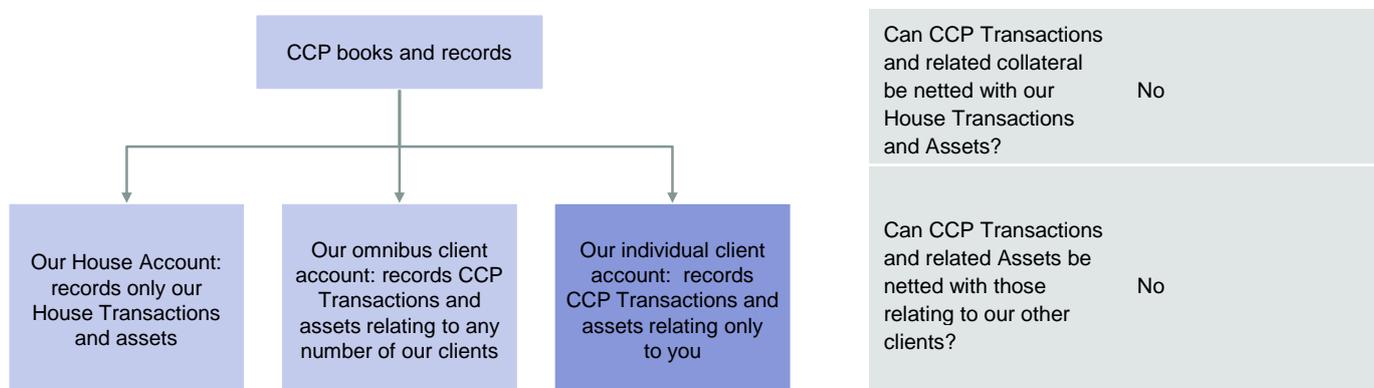
From a margin calculation perspective, however, both we and the CCP may net the CCP Transactions that are recorded in the same OSA cross clients (Net OSA, also called NOSA) or per client only (Gross OSA, also called NOSA). The assets provided in relation to the CCP Transaction recorded in the same OSA can be used in relation to any CCP Transaction (whether it relates to you or to any of our other clients) credited to that OSA.

Please see Part Two for an overview of the risks you may face if you choose an OSA and for details of the different levels of segregation that may be available at different CCPs.



Individual Segregated Client Account (“ISA”)

Under this account type, the CCP Transactions and assets that relate to you in the CCP’s accounts are segregated from those relating to our House Transactions and to the CCP Transactions and Assets that relate to any of our other clients.



From a margin calculation perspective, the CCP will agree not to net the CCP Transactions relating to you with our House Transactions, nor use the Assets relating to such CCP Transactions in relation to our House Transactions.

Further, and in contrast to an OSA, the CCP will agree not to net, from a margin calculation perspective, the CCP Transactions relating to you that are recorded to an ISA with those of any other client recorded to any other account, nor use the Assets related to such CCP Transactions in relation to the CCP Transactions relating to any of our other clients.

Please see Part Two for an overview of the risks you may face if you choose an ISA and additional features of ISAs that may be available at different CCPs.

Affiliates

We treat our affiliates in the same way as clients when complying with EMIR. This means that affiliates also have a choice between types of account and the account type chosen by each of our affiliates may vary across each CCP. In some cases, this may mean that OSAs available to you may also include transactions for our affiliates.

Other factors that may impact on the level of protection you receive in respect of Assets that you provide to us as collateral for Client Transactions

There are a number of factors that, together, determine the level of protection you will receive in respect of assets that you provide to us as collateral for Client Transactions:

- whether you choose an OSA or an ISA (as discussed under “*The types of account available*” above);
- whether, if you choose an OSA, you would want a gross or net account;
- in each case, whether such Assets are transferred to us by way of title transfer or security interest;
- whether we call any excess margin from you and you delivering collateral covering excess margin to us;



- whether you will get back the same type of Asset as you provided as collateral; and
- the bankruptcy and other laws that govern us and the CCP.

The rest of Part One B sets out further details for each of these variables and their implications under French or Dutch Law.

Would you prefer a gross or net OSA?

While the CCPs are only required to offer one type of OSA (and one type of ISA), some of them have developed a range of accounts within these two types with features that provide different degrees of segregation. These are discussed in more detail in Part Two. There are two main levels of segregation within OSAs:

- Net is where the margin called by the CCP in respect of the CCP Transactions is called on the basis of the net CCP Transactions cross (posting) client account recorded in the OSA.
- Gross is where the margin called by the CCP Transactions is called the sum of the net CCP Transactions recorded per (posting) client account in the OSA.

It may be realistic /feasible to port CCP Transactions and their related Assets, both in business as usual and default circumstances, if you choose a gross OSA than if you choose a net OSA. This is because the CCP is more likely to have sufficient Assets to facilitate the porting of the CCP Transactions that relate to you and those that relate to another client separately if it has called the margin on a gross basis. That said, different CCPs' accounts have been designed in different ways and so you should consider the CCP's information about the specific accounts to understand the real differences. Porting within a NOSA or GOSA is only possible at all-or-nothing basis, meaning all that porting the recorded CCP Transactions and Assets for one participating client (or a subset of participating clients) is not possible.

Please see Part Two for more details on this.

Will you provide cash or non-cash Assets as collateral for the Client Transactions?

As noted under “*The “principal-to-principal” clearing model*” in Part One A, as a clearing member of the CCP, we are required to transfer assets to the CCP in respect of the CCP Transactions related to your Client Transactions. CCPs only accept certain types of liquid cash and non-cash assets as margin. LCH.Clearnet SA also has a Contra Guarantee Model (“**CGM**”) agreed with the Dutch Central Bank, whereby we provide securities collateral to the Dutch Central Bank. The Dutch Central Bank provides a guarantee to LCH.Clearnet SA covering our margin obligations (note that this CGM only covers the (main) GOSA we hold with LCH.Clearnet SA.

As is market practice, we will decide what types of assets to accept from you as collateral for your Client Transactions. This will be set out in the client clearing agreement between us. What we will accept from you as collateral for the Client Transactions will not necessarily be the same type of assets that the CCP or the Dutch Central Bank will accept from us for the CCP Transactions.

Do you provide assets to us on a title transfer or a security interest (pledge) basis?

The basis on which we are willing to accept assets from you will be set out in the client clearing agreement between us.



Title Transfer

Where the client clearing agreement provides for the transfer of assets by way of title transfer collateral arrangement, when you transfer assets (“**Transferred Assets**”) to us, we become the *full owner* of such Assets and you lose all rights in such Assets. We will record in our books and records that we have received such Transferred Assets from you with respect to the applicable Client Transaction. We will be obliged to deliver to you equivalent Assets to such Transferred Assets (“**Equivalent Assets**”) in the circumstances set out in the client clearing agreement.

We may either transfer such Transferred Assets on to the CCP with respect to the CCP Transaction related to the Client Transaction, or we may transfer other Assets to the CCP with respect to such CCP Transaction.

You bear our credit risk with respect to our obligation to deliver Equivalent Assets to you. This means that if we were to fail, unless we are declared to be in default by the CCP, you will have no right of recourse to the CCP or to any Assets that we transfer to the CCP and you will instead have a claim against our estate for a return of the Assets along with all our other general creditors. Even if we are declared to be in default by the CCP, the extent of your rights in relation to the CCP, if any, will depend on the particular CCP.

Pledge

Where the client clearing agreement is governed by Dutch law and includes a pledge arrangement, when you transfer Assets to us, you *retain* full beneficial ownership of such Assets. Such Assets are transferred to us on the basis that the Assets still belong to you, but you have granted us a pledge with respect to such Assets.

We may enforce that pledge if you default in your obligations to us. Absent the exercise of any right of use by us (see below), only at the point of such enforcement would title in such Assets or their liquidation value transfer to us. We will record in our books and records that we have received such Assets from you with respect to the applicable Client Transaction.

Prior to any such default, you may also give us a right to use such Assets. Until such time as we exercise such right of use, the Assets continue to belong to you. Once we exercise the right of use, (e.g. by posting the Assets to a CCP or Dutch Central Bank as part of the CGM), the Assets will cease to belong to you and in effect become our Asset, at which point you will bear our credit risk in a similar way to the title transfer arrangements. The circumstances in which we may exercise such right of use and the purposes for which we may use any Assets will be set out in the client clearing agreement between us and in a separate pledge agreement.

How will any excess margin we call from you be treated?

We are required to treat excess margin in a particular way in relation to an ISA. Excess margin is any amount of collateral Assets we require from you or you provide to us in respect of a Client Transaction that is over and above the amount of collateral the CCP requires from us in respect of the related CCP Transaction.

If you choose an ISA and we collect excess margin from you in respect of the related Client Transactions, we are required to pass collateral equal to such excess margin on to a CCP. If you provide us with collateral which are not related to your ISA clearing activities at a particular CCP and such assets are not dedicated to cover your current positions with that CCP, then we do not need to post such assets on to that CCP. If such excess margin is covered in a form of guarantee, then we have no obligation to provide additional collateral to the CCP. The details of this will be set out in the client clearing agreement between you and us.



If you choose an OSA, we are not required to pass any excess margin on to the CCP. Depending on the terms on which we hold excess margin, you may take credit risk on us in respect of it.

Will you get back the same type of asset as you originally provided to us as collateral for a Client Transaction?

In a business as usual situation, whether we will deliver the same type of asset to you that you originally provided to us will be governed by the client clearing agreement between us.

In the event of our default, if you are due a payment, you may not receive back the same type of Asset that you originally provided to us as collateral. This is because we may provide different Assets to the CCP (or Dutch Central Bank as part of the CGM) and the CCP is likely to have wide discretion to liquidate and value assets and make payments in various forms, and also because the CCP does not know what form of asset you originally provided to us as collateral to cover your margin obligation for the Client Transaction. This risk is present regardless of what type of client account you select.

Please see Part One C for a consideration of the main insolvency considerations.



Part One C: What are the main insolvency considerations?

General insolvency risks

If we enter into insolvency proceedings, you may not receive all of your Assets back or retain the benefit of your positions; and there are likely to be time delays and costs (e.g., funding costs and legal fees) connected with recovering those Assets. These risks arise in relation to both ISAs and OSAs because

- except for certain CCP-specific structures described herein and the comments below under “*Margin rights*”, you will not have any rights directly against the CCP; and you will only have contractual claims against us (i.e. rather than being able to recover particular Assets as owner);
- our insolvency proceedings are most likely to be insolvency proceedings opened and controlled by Bundesanstalt für Finanzdienstleistungsaufsicht (*BaFin*), the German financial supervision authority (although it is possible that BaFin could order other measures in respect of us). In such insolvency proceedings you will generally not be able to take any action against us. All powers in respect of our insolvent estate are with the insolvency administrator of our insolvent estate and all actions have to be taken against or with the consent of the insolvency administrator (which can be a time consuming process with an uncertain outcome); and
- any stage of a cleared transaction (e.g., Client Transactions, CCP Transactions and porting) may be challenged by the insolvency administrator over our insolvent estate if, broadly speaking, it was not on arm’s length terms. If successful, the court has broad powers to unwind or vary all of those stages.

Please also note that

- this disclosure deals only with our insolvency. You may also not receive back Assets and positions if other parties in the clearing structure – e.g. the CCP itself, a custodian or a settlement agent – default;
- insolvency law may override the terms of contractual agreements, so you should consider the legal framework as well as the terms of disclosures and legal agreements;
- a large part of your protection comes from CCP arrangements and the legal regimes surrounding them. Therefore, you should understand these in order to evaluate the level of protection that you have on our default. It is important that you review the relevant disclosures by the CCP in this respect; and
- we may act through the Amsterdam branch of Deutsche Bank AG which is established in the Netherlands. As a general rule, Dutch courts will not put branches of foreign entities into Dutch insolvency proceedings, a position which is reinforced by EU law. This means that, despite us acting through a Dutch branch, most of our insolvency-related questions will be determined by German law. Additionally:
 - in relatively limited cases, Dutch courts will take insolvency jurisdiction even in relation to Dutch branches of foreign companies; and
 - the interaction of key default issues – e.g. porting, recovery of assets, close-out netting and other insolvency matters – are complex and likely to be determined by a combination of German law, Dutch law and the law of the location of any collateral.

We suggest that you take legal advice on the interaction of these legal systems because it is beyond the scope of this disclosure.



Insolvency of CCPs and others

Except as set out in this section “*Insolvency of CCPs and others*”, this disclosure deals only with our insolvency. You may also not receive all of your Assets back or retain the benefit of your positions if other parties in the clearing structure default – e.g. the CCP itself, a custodian or a settlement agent.

In relation to CCP insolvency, broadly speaking our (and therefore your) rights will depend on the law of the country in which the CCP is incorporated and the specific protections that the CCP has put in place. You should review the relevant CCP disclosures carefully in this respect and take legal advice to fully understand the risks in this scenario.

In addition, please note the following:

- we expect that an insolvency official will be appointed to manage the CCP. Our rights against the CCP will depend on the relevant insolvency law and/or that official;
- it will be difficult or impossible to port CCP Transactions and related collateral, so it would be reasonable to expect that they will be terminated at CCP level. The steps, timing, level of control and risks relating to that process will depend on the CCP, its rules and the relevant insolvency law. However, it is likely that there will be material delay and uncertainty around when and how much Assets or cash we will receive back from the CCP. Subject to the bullet points below, it is likely that we will receive back only a percentage of assets available depending on the overall Assets and liabilities of the CCP;
- it is unlikely that you will have a direct claim against the CCP because of the principal-to-principal model described in Part One A;



- under the client clearing agreement, Client Transactions will terminate at the same time as the matching CCP Transactions unless the relevant CCP rules provide otherwise. This will result in a net sum owing between you and us. However, your claims against us are limited recourse so that you will only receive amounts from us in relation to Client Transactions if we receive equivalent amounts from the CCP in relation to relevant CCP Transactions;
- if recovery of provided collateral in this scenario is important, then you should explore “bankruptcy remote” or “physical segregation” structures offered by some CCPs. These tend to be offered only in relation to ISAs and generally involve either:
 - us retaining Assets in our name by title transfer (i.e. it allows the CCP to apply margin if we default but should keep the Assets out of the CCP's insolvency if it defaults); or
 - the CCP holding the Assets in a blocked or controlled margin account.

It is beyond the scope of this disclosure to analyse such options but your due diligence on them should include analysis of matters such as whether other creditors of the type described in “Porting – preferential creditors” below will have priority claims to provided collateral; whether collateral or positions on one account could be applied against collateral or positions on another account (notwithstanding the contractual agreement in the CCP's rules); the likely time needed to recover collateral; whether the collateral will be recovered as assets or cash equivalent; and any likely challenges to the legal effectiveness of the structure (especially as a result of the CCP's insolvency).

Collateral rights

Generally speaking, your risk of loss will be lowest in relation to the pledge or security interest; and higher if you provided collateral on title transfer basis. If you provide Assets to us by way of security interest or pledge (as is the case today) and we have not exercised a right of use over those Assets, then you should have a legal right to recover the balance of those assets (after settling your obligations to us) ahead of other creditors. However, please note that, depending on the exact set up of our security arrangements, it may be that some preferential creditors will still have a prior claim to your Assets (please see “Porting – preferential creditors” below which deals with a similar point). If you have transferred the Assets to our name by way of security (e.g. by giving us a mortgage over the Assets) then you bear also the risk if there is a shortfall in any of the Assets that we are holding (which is in theory possible).

The actual result will be highly fact specific and will depend on, amongst other things, the exact terms of our legal arrangements; how we have operated accounts; and claims that other intermediaries (e.g. custodians and settlement systems) have to those Assets.

We do not expect the above position to change materially if you have an ISA or an OSA.

Application of article 102b EGInsO

You should also observe the provisions of article 102b Induction Code to the German Insolvency Code (*EGInsO*) (**EGInsO**)⁽³⁾ which apply to clearing members and porting procedures.

(3) Article 102b of the Induction Code to the German Insolvency Code (EGInsO) is in force since 16 February 2013 and was implemented into German law in connection with the default procedure set out in article 48 of Regulation (EC) 648/2012 (European Market Infrastructure Regulation or EMIR). As the provisions of article 102b of the Induction Code to the German Insolvency Code (EGInsO) are only in force and effect since 16 February 2013, no case law or academic commentary is available discussing its application, affects on porting procedures governed by German law, porting procedures governed by English law or affects on insolvency law and insolvency proceedings



Article 102b EGIInsO overrules the generally applicable principles of German insolvency law and provides for a legal preference of porting procedures which may not be challenged by the insolvency administrator of our insolvent estate.

Despite the fact that porting procedures are mandatorily preferred by German law, the insolvency administrator of our insolvent estate could nonetheless challenge any related transaction and you would be required to take action against the insolvency administrator of our insolvent estate (which can be a time consuming process with an uncertain outcome).

German Banking Act (Kreditwesengesetz)

In serious circumstances, in particular in the case of a risk for stability of the financial system (*Gefahr für die Stabilität des Finanzsystems*), BaFin may instruct that we are spun-off (*Ausgliederung*) to another credit institution if this is required to avoid our insolvency. It is unlikely that you will be able to stop such transfer and you would most likely be required to enforce any early termination rights which you had against us against the assuming credit institution.

Additionally, if financial difficulties of credit institutions could lead to serious consequences for the German economy taken as a whole, the German Federal Government (*Bundesregierung*) could order a moratorium on credit institutions generally. It is unlikely that you will be able to stop a moratorium or to enforce any early termination rights against us as a result of a moratorium.

Close-out netting

If we default and the CCP cannot port the CCP Transactions and collateral (e.g. because a back-up clearing member cannot be found) then we would expect it to terminate and net our CCP Transactions and apply related Assets.

You and we would want this to work differently from normal, bilateral close-out netting that would apply to all positions and Assets between us and the CCP – e.g. Assets on an ISA relating to you could be netted with our house or another client account at the CCP.

There is a risk that this netting across accounts could happen automatically as a result of applicable insolvency law.

A similar risk occurs between us and you in relation to Client Transactions.

We understand that industry-wide legal opinions are being prepared on the effectiveness of close-out provisions in standard client clearing agreements and their annexes. You should seek legal advice and/or access to such opinions for more information in this respect because the interaction of key issues – e.g., applicable insolvency law, contractual governing law – are complex and will require careful analysis of applicable conflicts of law rules in all relevant jurisdictions.



Porting – prohibition

As mentioned herein, except in specific structures, a CCP only owes us (not you) obligations in relation to CCP Transactions and related Assets.

As a result, when these contracts and Assets are transferred to a back-up clearing member, there is a risk of insolvency challenge because our Assets have effectively been taken from us on or around the time of our insolvency. Applicable laws may not permit this and there is a risk that the courts may therefore not permit or may unwind any porting and related Client Transactions with your back-up clearing member.

Porting – preferential creditors

As mentioned under “*What happens if we are declared to be in default by a CCP?*” in Part One A, a CCP’s porting structure may be based on or supported by a security interest. This can take different forms but generally involves us creating security over our rights against the CCP in relation to an ISA or OSA in your favour or in favour of another person (e.g. an independent trustee) to hold the security on your behalf. Broadly speaking, the security interest should support the argument that these Assets are not part of our insolvency estate (i.e. are not to be shared with our other creditors).

However, depending on the exact structure, insolvency law gives certain statutory creditors priority over secured creditors. This means that some creditors may have a claim on client account assets ahead of you. Statutory creditors are likely to include, amongst others, our insolvency official (e.g. in respect of its costs and expenses), a relatively small amount of unsecured creditors, some employee salaries and pension contributions.

Mismatch of CCP/Client Transactions and assets

It could be that our net Assets in relation to CCP Transactions do not match our net obligations to each other in relation to the matching Client Transactions. This can slow down or make porting impossible either operationally or legally.

For example, it may occur at CCP level as a result of Fellow Client Risk (see the explanation of this term in Part Two of this document) in an OSA, with the result that there are insufficient Assets available for porting to satisfy our obligations to you in relation to the Client Transactions.

Alternatively, it could be that all of your Client Transactions with us are netted automatically as a result of applicable insolvency law (please see above under “*Close-out netting*”).



Part Two: CCP client account structures⁽⁴⁾

As noted in Part One B, each CCP may offer at least one OSA and/or at least one ISA by changing some of the features. This Part Two contains an overview of the main levels of segregation within each account type of which we are aware that the CCPs offer, together with an overview of the main protections afforded by and the main legal implications of each.

The descriptions given in this Part Two are very high level and consider the typical features of these account types and levels of segregation. However, the particular characteristics of the accounts will affect the exact levels of protection they offer and the legal implications so you must review the information provided by the CCPs to fully understand the risks of the specific account we maintain in relation to you at each CCP. Each CCP is required to publish information about the account structures it offers and we have provided a link to the relevant part of the website of each CCP we use. You may also need to seek professional advice to understand the differences in detail. However, we hope that the questions raised and factors described in both parts of this document will help you to know which questions to ask and to understand the impact of the answers you receive.

The descriptions have been prepared on the basis of publicly available disclosure documents made available by a selection of CCPs. We are not responsible for, and do not accept any liability whatsoever, for any content or omissions or inaccuracies contained in the information produced by any CCP.

The Annex seeks to compare the main account types and levels of segregation against the following risks:

Risks used to compare each account type and level of segregation

	Explanation of risk
Transit Risk	– Whether you are exposed to us at any point in the process of providing or receiving collateral in respect of Client Transactions.
Fellow Client Risk	– Whether Assets provided to the CCP in respect of CCP Transactions related to you could be used to cover losses in CCP Transactions relating to another client.
Liquidation Risk	– Whether, if the CCP Transactions and Assets relating to them were to be ported, there is a risk that any non-cash assets would be liquidated into cash. If this were to happen, the value given to such Assets by the CCP may differ from what you perceive to be the full value of the assets.
Haircut Risk	– Whether the value of the Assets that relate to CCP Transactions might be reduced or not increase by as much as you expect because the CCP applied a haircut that did not properly reflect the value of the Asset.
Valuation Mutualisation Risk	– Whether the value of the Assets that relate to CCP Transactions could be reduced or not increase by as much as you expect because the Assets posted in relation to other clients' CCP Transactions have decreased in value.
CCP Insolvency Risk	– Whether you are exposed to the insolvency or other failure of the CCP.

(4) In preparing this document reference has been made to the client account disclosure documentation made available on the websites of the following CCPs: LCH Clearnet Limited, LCH.Clearnet SA, Eurex Clearing AG, NASDAQ OMX Clearing and CME Clearing Europe Limited as at 24 October 2013.



Typical client account characteristics

	Net Omnibus Segregated Client Account ("NOSA")	Gross Omnibus Segregated Client Account ("GOSA")	Individual Segregated Client Account ("ISA")
Who will the CCP Transactions recorded in the account relate to?	<ul style="list-style-type: none"> – NOSA Accounts record both Assets and CCP Transactions that relate to you to one or more of our other clients. 	<ul style="list-style-type: none"> – GOSA accounts record assets and CCP Transactions that relate to you and to one or more of our other clients. 	<ul style="list-style-type: none"> – Only assets and CCP Transactions that relate to you should be recorded in an Individual Client Account.
Which losses can assets recorded in the account be used for?	<ul style="list-style-type: none"> – Assets that are provided to the CCP as collateral regarding a CCP Transaction recorded in a NOSA accounts may be used to cover any losses in that account, whether such losses relate to the CCP Transactions relating to you or CCP Transactions relating to another client. 	<ul style="list-style-type: none"> – Assets that are provided to the CCP as collateral regarding the CCP Transactions recorded in a GOSA accounts may be used to cover any losses in that account, whether such losses relate to the CCP Transactions relating to you or CCP Transactions relating to another client. 	<ul style="list-style-type: none"> – Assets that are provided to the CCP as collateral to cover the margin for CCP Transactions recorded in an ISA accounts may only be used to cover losses in that account.
Will the CCP know which CCP Transactions and types of assets relate to you?	<ul style="list-style-type: none"> – The CCP does know which CCP Transactions relates to you, but does not know which part of the provide collateral recorded in a NOSA accounts relate to you or your Transactions. 	<ul style="list-style-type: none"> – The CCP does know which CCP Transactions relates to you, but does not know which part of the provided collateral recorded in a GOSA accounts relate to you of your Transactions. 	<ul style="list-style-type: none"> – Yes.
Will the CCP record the assets provided by value only or will it identify the type of asset provided?	<ul style="list-style-type: none"> – The CCP may identify in its records the type of asset provided as collateral for the NOSA accounts but will not be able to identify which type of collateral Assets relate to any client's CCP Transactions within that NOSA. 	<ul style="list-style-type: none"> – The CCP may identify in its records the type of asset provided as collateral for the GOSA accounts but is unlikely to be able to identify anything other than the value of the assets provided in respect of any client's CCP Transactions within that Gross Omnibus Client Account. 	<ul style="list-style-type: none"> – The CCP should identify in its records the type of asset provided as collateral for an Individual Client Account. – Note that this collateral is considered to be assets belonging to the Clearing Member



	Net Omnibus Segregated Client Account ("NOSA")	Gross Omnibus Segregated Client Account ("GOSA")	Individual Segregated Client Account ("ISA")
Will the CCP Transactions recorded in one Client account with the CCP be netted?	– Yes, your CCP Transactions recorded in an account opened by us will be netted before margin will be calculated by both the CCP and us.	– Yes, your CCP Transactions recorded in an account opened by us will be netted before margin will be calculated by both the CCP and us.	– Yes, your CCP Transactions recorded in an account opened by us will be netted before margin will be calculated by both the CCP as your us.
Will the margin be calculated on a gross or net basis?	<ul style="list-style-type: none"> – The margin will be calculated by the CCP on a net basis for all CCP Transactions registered in our name, irrespective which of our client within the same NOSA account executed the CCP Transaction. – We will calculate margin per net position per underlying client. 	<ul style="list-style-type: none"> – The margin will be calculated by the CCP on a gross basis, meaning that the CCP will sum the margins calculated on a net basis per our client account within one GOSA. – We will calculate the margin per net position per underlying client. 	<ul style="list-style-type: none"> – The margin will be calculated on a net basis per our client within such ISA. – We will calculate the margin per net position per underlying client.
Will you have to enter into any documentation or operational arrangements directly with the CCP?	– You may have to enter into legal documentation to which the CCP is party. It is unlikely this is already possible to arrange up-front, therefore it is more likely that this have to be arranged case-by-case, whereby the requirements and turn-around time are (to be) published by the CCP.	– You may have to enter into legal documentation to which the CCP is a party. It is unlikely this is already possible to arrange up-front, therefore it is more likely that this have to be arranged case-by-case, whereby the requirements and turn-around time are (to be) published by the CCP.	– You may have to enter into legal documentation to which the CCP is a party. It is also possible that you will have to set up some operational arrangements with the CCP directly.
Transit Risk	– Yes	– Yes	– Yes
Fellow Client Risk	– Yes	– Yes	– No
Liquidation Risk	– Yes (unless the CCP is able to port the assets recorded in the account or is able to transfer the assets to you without needing to liquidate some or all of them first).	– Yes (unless the CCP is able to port the assets recorded in the account or is able to transfer the assets to you without needing to liquidate some or all of them first).	– Yes (unless the CCP is able to port the assets recorded in the account or is able to transfer the assets to you without needing to liquidate some or all of them first).
Haircut Risk	– Yes	– Yes	– Yes



	Net Omnibus Segregated Client Account ("NOSA")	Gross Omnibus Segregated Client Account ("GOSA")	Individual Segregated Client Account ("ISA")
Valuation Mutualisation Risk	- Yes	- Yes	- No
CCP Insolvency Risk	- Yes	- Yes	- Yes
How likely it is that porting will be achieved if we default?	- There is a significant risk that porting will not be achieved in respect of positions and assets recorded in a NOSA.	- There is a significant risk that porting will not be achieved in respect of positions and assets recorded in a GOSA.	- If you have satisfied all of the CCP's and back-up clearing member's conditions, porting is more readily facilitated in the event of our default.



Additional features that may be available for Individual Segregated Client Accounts

Some CCPs may offer additional ISAs with special features that have been designed to mitigate certain of the risks identified under “*Typical account structures*” above. Below is a high level overview of some of the common additional features. The extent to which any risks are mitigated by these additional features, if at all, will depend on the structures used by an individual CCP. Again, therefore, you must review the information provided by the CCPs in order to evaluate the actual risks to you and you may need some professional advice. It is likely that these additional features will only be available to certain types of clients that meet each CCP’s requirements. These additional features are not required by EMIR. Accordingly, not all CCPs will offer them nor are we obliged to facilitate access to them.



Additional feature	High level overview of the additional feature	Which risks might this feature mitigate?
Extended porting period	<ul style="list-style-type: none"> - In the event of our default, this feature has been designed to allow more time for porting to be achieved. - For a set period of time (decided by the CCP, could be hours, not per se days) following our default, the CCP Transactions and Assets that relate to you will continue to be held in an account which the CCP will identify as directly relating to you. If you find a back-up clearing member, these CCP Transactions and assets will then be transferred to one of their client accounts. If you do not find a back-up clearing member, they will be terminated and the close-out value returned to you. - Where the CCP treats the Client as an interim clearing member, it is possible that the CCP may expect you to contribute to the default fund and may require additional margin, including variation margin, to be provided in respect of the CCP Transactions transferred to you. - It is possible that you may have to set up such accounts as the CCP requires and have the ability to make payments directly to the CCP. The CCP may also have an additional list of requirements that you will have to satisfy to be able to use the extended porting period. 	<ul style="list-style-type: none"> - This may make porting more likely to be achieved.
Separate custody account (in the name of the CCP) for the assets that have been provided as margin for positions relating to you	<ul style="list-style-type: none"> - The Assets relating to your positions are held in a separate account (in the CCP's name) at the CCP's custodian and/or CSD from any other assets held for the CCP. - It is likely that you will have to enter into additional legal documentation with us and the CCP. 	<ul style="list-style-type: none"> - This may make porting more likely to be achieved.
Ability for you to keep assets required as margin for positions relating to you in a custody account in your name	<ul style="list-style-type: none"> - It is likely that you will have to enter into additional legal documentation and security arrangements with us and the CCP, and any custodian or settlement bank used under this structure. - This additional feature may be restricted to certain types of non-cash assets. - The custodian may be specified by or require the approval of the CCP. - There will be additional operational requirements that you will need to meet in order to use this type of additional feature. 	<ul style="list-style-type: none"> - Transit Risk - CCP Insolvency Risk - This may make porting more likely to be achieved.
Ability for you to post margin directly to the CCP	<ul style="list-style-type: none"> - You may be able to post margin directly to the CCP rather than you posting it to us, and us in turn posting it on to the CCP. - This form of account may require you to have an account with particular custodians and settlement banks. The custodians and settlement banks are likely to be specified by the CCP. - You will have to enter into additional legal documentation with us and the CCP. - There will be additional operational requirements which you will need to meet in order to use this type of additional feature. 	<ul style="list-style-type: none"> - Transit Risk



Links to CCP disclosure documents

Please note that these links have been included for convenience only. In the event that any of them do not work, you should contact the relevant CCP directly.

LCH Clearnet Ltd:

http://www.lchclearnet.com/Images/EMIR_Account_Structures_Brochure_tcm6-63942.pdf

LCH Clearnet SA:

http://www.lchclearnet.com/images/emir_account_structures_brochure_tcm6-63942.pdf