

EMIR AND MiFIR CLEARING MEMBER DISCLOSURE J.P. Morgan AG

CLEARING MEMBER DISCLOSURE UNDER EMIR AND MiFIR

1. INTRODUCTION

- 1.1 As a client of J.P. Morgan AG (“**JPMAG**”), you are required to confirm the type of account that you would like JPMAG to maintain in respect of each CCP through which your trades are cleared. It is important that you understand the implications of the different levels of segregation available to you, and how your margin is treated, in order to choose the type of account or accounts that will suit your needs.

Requirement for disclosure under EMIR and MiFIR

- 1.2 Article 39(7) of the European Market Infrastructure Regulation (“**EMIR**”) requires clearing members and CCPs to make certain disclosures in relation to the levels of protection associated with different levels of segregation of clients’ positions and assets (i.e. margin), including a description of the main legal implications of the respective levels of segregation and applicable insolvency law.
- 1.3 These disclosure obligations also apply where a set of contractual relationships between a CCP, clearing member, client of a clearing member and indirect client allow the client of a clearing member to provide clearing services to an indirect client (an “**Indirect Clearing Arrangement**”). Indirect Clearing Arrangements for OTC derivatives were introduced by EMIR and for exchange traded derivatives were introduced by the Markets in Financial Instruments Regulation (“**MiFIR**”). Making these disclosures in relation to Indirect Clearing Arrangements enables a clearing member to comply with its obligations to disclose the levels of protection available for Indirect Clearing Arrangements under Commission Delegated Regulation (EU) No 2017/2154 supplementing MiFIR with regard to regulatory technical standards on indirect clearing arrangements, and Commission Delegated Regulation (EU) No 2017/2155 amending Commission Delegated Regulation (EU) No 149/2013 which supplements EMIR with regard to regulatory technical standards on indirect clearing arrangements (together, the “**Indirect Clearing RTS**”).
- 1.4 The Indirect Clearing RTS also require a clearing member to publicly disclose the general terms on which it is prepared to facilitate Indirect Clearing Arrangements.
- 1.5 JPMAG is a clearing member of various CCPs and as such provides clients with access to clearing of certain exchange traded and over-the-counter (“**OTC**”) transactions through those CCPs. A CCP for these purposes is a central counterparty authorised under EMIR that interposes itself between the counterparties to a contract, becoming the buyer to every seller and the seller to every buyer. JPMAG retains the ability to resign from any CCP at any time at its sole discretion.
- 1.6 This document sets out the disclosure of JPMAG as a clearing member. It may be updated from time to time, with the most recent version being made available on the following website: <https://www.jpmorgan.com/pages/disclosures>. You should ensure that you consider the most recent version of the disclosure on the website, which will supersede and override any previous versions.
- 1.7 JPMAG also provides details of prices and fees connected with its clearing services, which can be found on the following website: <https://www.jpmorgan.com/pages/disclosures>.
- 1.8 You should also refer to the CCPs for their own disclosures, which JPMAG does not accept any responsibility for.

What does this document cover?

- 1.9 This document considers certain protections and risks that are associated with JPMAG’s offer of clearing services. In particular, it provides a generic description of the different levels of segregation that are available to you (i.e. omnibus and individual segregation). The type of segregation that you choose will impact on the level of protection that your positions and assets are afforded.
- 1.10 Where JPMAG offers to facilitate Indirect Clearing Arrangements, this document also provides a generic description of the different levels of segregation that are available to your indirect client (i.e. gross omnibus segregation and net omnibus segregation). The type of segregation that your indirect client chooses will impact the level of protection that their positions and assets are afforded.
- 1.11 CCPs may operate a number of different account structures and contractual mechanisms to facilitate segregation and porting under EMIR and MiFIR. This document does not address any CCP specific account structures, offerings, protections or risks (including the risk of a CCP defaulting or risks associated with specific mechanisms aimed at facilitating porting); nor does it seek to address any other risks that may be associated with trading, such as market or operational risk, or the default of any other third parties. Additional considerations and risks will also arise where JPMAG is not a direct member of a CCP, but instead accesses the CCP via another clearing member. Such arrangements are outside the scope of this document.

- 1.12 JPMAG is subject to German law. The insolvency related disclosures contained in this document therefore address the position under German law. In addition, in respect of CCPs the position in insolvency 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, and in respect of collateral provided under the laws of any other country your rights and risks in relation to such collateral will also be subject to the laws applicable to it. The CCPs must in each case also have been authorised by the relevant competent authority pursuant to EMIR or, in respect of third country CCPs, recognised by the European Securities and Markets Authority (“ESMA”).
- 1.13 Considerations or risks arising under other laws which are not considered in this document may also be relevant to your position, such as the law governing the CCP rules or related agreements, the law of the jurisdiction of incorporation of the CCP and the law of the location of any assets.

What is the status of this document?

- 1.14 This document is provided for information purposes only. It is not a legally binding document and does not constitute part of any agreement between you and JPMAG (the “**Agreement**”). As such, it does not amend or vary any provision of the Agreement or otherwise affect the interpretation of the Agreement. Accordingly the terms of the Agreement will remain unaffected by this document.
- 1.15 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. It is your responsibility to review and conduct your own due diligence on the relevant legal regimes, 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 JPMAG clears trades for you. You may wish to appoint your own professional advisors to assist you with this.
- 1.16 This document contains JPMAG’s own interpretation of the matters considered. It does not constitute any form of legal or other advice, and accordingly must not be relied upon by you or any third party as such. You should seek your own legal advice in relation to the matters covered by this document and the Agreement.
- 1.17 JPMAG will not in any circumstances be liable, whether in contract or tort, for breach of statutory duty or otherwise, for any losses or damages that may be suffered as a result of using or relying on this document. Such losses or damages include (a) any loss of profit or revenue, damage to reputation or loss of 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.

What will you need to do?

- 1.18 You are strongly encouraged to carefully consider the segregation options that are available to you. JPMAG will require a reasonable period of time to facilitate any changes to your account structure. In times of market stress, changes to account structure may be difficult or even impossible to implement, which means JPMAG may not be able to fulfil any request for change at such times. You should therefore ensure that you do not delay the assessment of the options available to you.
- 1.19 You may also wish to consider putting in place arrangements with a back-up clearing member, and carrying out operational testing in respect of those arrangements, in order to facilitate porting of positions and assets in the event of a default by JPMAG. In the event that such back-up arrangements are not put in place (or transfers do not take place within a period specified by the CCP), then CCPs may take steps to manage their risk in the event of a default by JPMAG, including liquidating the assets and positions held by JPMAG in respect of your transactions.
- 1.20 JPMAG will seek to ensure that your choice of omnibus or individual segregation (as further described below) is reflected in JPMAG’s client accounts at the CCP level. However, CCPs may offer a variety of different account structures and JPMAG may not (and is not required to) support all of these. JPMAG will inform you separately of the types of CCP account structures that it supports and you must then confirm the type of account that you would like JPMAG to maintain in respect of each CCP through which JPMAG clears your trades.
- 1.21 Where JPMAG offers to facilitate Indirect Clearing Arrangements, you will also need to confirm to JPMAG whether you intend to provide clearing services through JPMAG to your indirect clients and inform JPMAG of your indirect clients’ choice of indirect client accounts.

2. AN OVERVIEW OF THE DIFFERENT LEVELS OF SEGREGATION

- 2.1 JPMAG offers its clients a choice between omnibus client segregation and individual client segregation. This is replicated at the CCP level, although the exact account structure will depend on the CCP’s own offering. CCPs are, however, obliged under EMIR to offer to keep separate records and accounts that enable JPMAG, as a clearing member, to distinguish in accounts with the CCP:
 - (a) the assets and positions of JPMAG from those held for the account of its clients (“**omnibus client segregation**”); and

- (b) the assets and positions held for the account of a client from those held for the account of other clients (“**individual client segregation**”).
- 2.2 Under EMIR, CCPs must upon request also offer to open more accounts in the name of the clearing member or for the account of the clearing member’s clients.
- 2.3 The requirement under EMIR to distinguish assets and positions in the accounts with the CCP is satisfied where:
 - (a) the assets and positions are recorded in separate accounts, as set out in clause 2.1;
 - (b) the netting of positions recorded on different accounts is prevented; and
 - (c) the assets covering the positions recorded in an account are not exposed to losses connected to positions recorded in another account.
- 2.4 Where JPMAG offers to facilitate Indirect Clearing Arrangements JPMAG offers its clients, and they in turn may offer their indirect clients, a choice between gross omnibus client segregation and net omnibus client segregation. This is replicated at the CCP level, although the exact account structure will depend on the CCP’s own offering. CCPs are, however, obliged under EMIR and MiFIR to keep separate records and accounts that enable JPMAG, as a clearing member, to distinguish in accounts with the CCP:
 - (a) the assets and positions of JPMAG and JPMAG’s client from those held for the account of its indirect clients (“**net omnibus client segregation**”); and
 - (b) the assets and positions of JPMAG and JPMAG’s client from those held for the account of its indirect clients where the positions of one indirect client do not offset the positions of another indirect client, and where the assets held for the account of one indirect client cannot be used to cover the positions of another indirect client (“**gross omnibus client segregation**”).
- 2.5 Individual client segregation is not available for Indirect Clearing Arrangements with JPMAG. Gross omnibus client segregation is only available for Indirect Clearing Arrangements with CCPs authorised under EMIR.
- 2.6 When gross omnibus client segregation is used, JPMAG shall ensure that the CCP has all the necessary information to identify the positions held for the account of each indirect client on a daily basis, provided that you in turn ensure that JPMAG has all the necessary information to identify the positions held for the account of each indirect client on a daily basis (you are required to do this under the Indirect Clearing RTS).

3. AN OVERVIEW OF TITLE TRANSFER AND SECURITY INTEREST MARGIN

- 3.1 When clearing transactions for you through a CCP, JPMAG usually enters into two separate transactions: (i) a principal-to-principal transaction with the CCP; and (ii) a principal-to-principal transaction with you. As the principal to the CCP, JPMAG is required to provide assets to the CCP as margin.
- 3.2 JPMAG will in turn require margin from you to support your cleared positions. Depending on the Agreement, this margin may be transferred to JPMAG on a title transfer basis or by way of security interest.
- 3.3 Where JPMAG offers to facilitate Indirect Clearing Arrangements, in addition to the structure described above, there will usually be a principal-to-principal or agency transaction between you and your indirect client. You may require margin from your indirect client in order to support their cleared positions and the manner by which you transfer margin to JPMAG may have an impact on whether you require margin from your indirect client on a title transfer basis or by way of security.
- 3.4 The way in which JPMAG holds your margin will impact on the protections that your assets are afforded under the different levels of segregation. This is further described in the sections on omnibus client segregation and individual client segregation below.

How do title transfer collateral arrangements work?

- 3.5 If you transfer cash or securities margin to JPMAG pursuant to a title transfer collateral arrangement, then the margin will become the absolute property of JPMAG free from any equity, right, title or interest that you might otherwise have.
- 3.6 Subject to the terms of the Agreement, JPMAG will have a contractual obligation to repay an equivalent amount of cash or to redeliver equivalent securities to you. You will have no right to any specific securities or cash, whether held with JPMAG, posted to a CCP or otherwise.
- 3.7 You will bear credit exposure on JPMAG with respect to JPMAG’s obligation to redeliver title transfer collateral to you, i.e. to repay an equivalent amount of cash or to redeliver equivalent securities. This means that if JPMAG was to fail, you will only hold a claim against JPMAG’s estate for a payment of cash or the delivery of securities along with all of JPMAG’s other unsecured creditors. If JPMAG is declared to be in default by a CCP, you may to a certain extent benefit from a right of recourse to any assets that JPMAG transfers to the CCP which is described in more detail below.

How do margin transfers by way of security work?

- 3.8 If you provide cash margin or securities margin to JPMAG on a security interest basis, you will, subject to the Agreement, retain an ownership interest in such asset, which assets will be pledged, or alternatively – in the case of securities - transferred for security purposes, to JPMAG on the basis that you will grant JPMAG a security interest with respect to such assets and JPM will hold an interest in such assets subject to fiduciary duties of a secured party.
- 3.9 If you default in your obligations, JPMAG will be entitled to exercise its security interest in accordance with the Agreement, e.g. by selling or realising the securities or by taking the cash margin and using it to discharge your liabilities.
- 3.10 JPMAG may, subject to the Agreement and applicable law, exercise a right to transfer full title to securities that you have transferred to it by way of security to itself (right of use), at which point they will become the absolute property of JPMAG. JPMAG may then transfer title to those securities to a CCP or may itself use the securities and fund the margin at the CCP with cash or other assets. In this scenario you will bear a credit exposure on JPMAG similar to the situation where you placed title transfer collateral with JPMAG.
- 3.11 If it is agreed between you and JPMAG that a trust account with a third party bank is to be used for cash collateral provided to JPMAG by you ("**trust account**"), your right to the cash held in such account can potentially benefit (although there is no certainty in that respect) from protection in the case of JPMAG defaulting. However, if money is transferred from the trust account to the CCP as margin collateral you will be in a position that will be similar to the situation if you had transferred cash as margin collateral to JPMAG.

4. OMNIBUS CLIENT SEGREGATION

What are the main features of omnibus client segregation?

- 4.1 As described above, under the omnibus client segregation option the assets and positions of JPMAG that are held at a CCP will be distinguished from those held for the account of JPMAG's clients. This means that your positions and assets will be recorded in a separate client omnibus account and not commingled with JPMAG's own positions and assets.
- 4.2 This account structure offers the protection that the netting of positions recorded on different accounts should be prevented and the assets covering the positions in the client omnibus account should not be exposed to losses connected with the positions in JPMAG's own account or any other account with the CCP.
- 4.3 Your positions and assets will, however, be commingled in an account with the positions and assets of other clients of JPMAG that have opted for omnibus segregation. JPMAG may operate several client omnibus accounts with the same CCP.
- 4.4 Clients who transfer cash margin to JPMAG pursuant to a title transfer collateral arrangement will have their assets and positions recorded in an account at the CCP together with other JPMAG clients who provide cash margin on this basis.
- 4.5 The client omnibus accounts at the CCP level will reflect the positions and assets of all JPMAG's clients that have opted for omnibus client segregation and have cleared positions with that CCP. As such, one of the risks of the omnibus account structure is that your assets may be exposed to losses connected with the positions of other clients in the relevant client omnibus account, as the assets in the account can be used in relation to any position in that omnibus account (whether it relates to you or to any of JPMAG's other clients).
- 4.6 JPMAG will keep separate records and accounts that enable it to distinguish both in the accounts held with the CCP and in its own accounts its assets and positions from the assets and positions held for the account of its clients at the CCP.
- 4.7 JPMAG would not usually net clients' positions off against each other when clearing the positions with a CCP. However, when a CCP calls for margin to cover the positions in an omnibus account, it will normally call for a net amount needed to support the net of all the positions in the omnibus account ("**net omnibus account**"). As a consequence, JPMAG will generally handle client margin on a pooled omnibus basis. Some CCPs also offer accounts where margin is called by the CCP on the basis of the gross positions recorded in the omnibus account ("**gross omnibus account**").
- 4.8 Depending on the Agreement, the pool of margin that JPMAG holds may be applied to margin client omnibus accounts at the different CCPs in respect of which JPMAG provides clearing services. JPMAG may also call for margin in respect of your cleared transactions related to a number of different CCPs simultaneously and without making any distinction between them. A feature inherent in these structures is that your margin will not be applied solely to your positions and there may not be a connection between your trading decisions and the locations at which your margin is placed. Timing differences between the time at which a CCP calls for margin and the time at which JPMAG receives margin from you may also contribute to different margin being provided to the CCP from that which you provided.
- 4.9 When calculating the margin required from you, JPMAG may do so on the basis of each of your positions alone and call for margin on a gross basis (i.e. JPMAG will not take into account any other clients' positions in the omnibus

account). Unless a gross omnibus account is used, the CCP will usually call for a net amount needed to support the net of all the positions in the omnibus account, which may result in JPMAG holding a surplus of margin received from you that is not passed to a CCP. A margin surplus may also arise if you pre-fund margin with JPMAG in anticipation of entering into certain trades, but some or all of that margin is not required to be passed to a CCP (e.g. because you do not enter into the relevant trades). Any surplus margin in relation to your cleared positions over and above the CCPs' margin requirements that is held by JPMAG rather than with a CCP is referred to in this disclosure as "**gross excess margin**". JPMAG may also hold margin for you where you do not transfer margin to JPMAG sufficiently in advance of when the margin has to be transferred to the relevant CCP.

What protections and risks would be associated with an omnibus account on a default of JPMAG?

4.10 A key risk for you in respect of your cleared positions is the default of your clearing member. JPMAG's insolvency would involve a number of risks to your assets, including delays in your ability to access your assets and shortfalls in assets affecting JPMAG's creditors (and, in respect of client money or assets, shortfalls being shared amongst JPMAG's clients). The operation of statutory provisions may also prevent or unwind any transfer of your positions and assets to another clearing member or the payment of balances to you directly by a CCP.

4.11 In the event of JPMAG's insolvency, the position is likely to be as follows:

Would assets be exposed to losses on other accounts?

- (a) Your assets covering positions in the client omnibus account will not be exposed to losses connected with the positions in JPMAG's own account or any other account with the CCP.
- (b) However, your assets may be exposed to losses connected with the positions of other clients in the same client omnibus account given that all margin in such an account can be used to meet losses connected with any position in that account.

Could positions and assets be ported?

- (c) If you have back-up arrangements in place with another clearing member the positions and assets that are held in the relevant omnibus account at the CCP could be ported to the account of that other clearing member, provided that the porting takes place in accordance with EMIR and the CCP's default rules. If porting applies your transactions with JPMAG could be replaced by transactions with the back-up clearing member, whilst the positions and assets at the CCP level that relate to those transactions could be transferred to a client omnibus account of the back-up clearing member (please also see sec. 7.3).
- (d) The ability to port will also depend on the ability of the relevant CCP to support the porting process and the existence of viable back-up arrangements with a new clearing member who is willing to accept the transfer. If you have not appointed a back-up clearing member, you may be able to agree with the CCP that it may choose a back-up clearing member on your behalf. However, if you have not appointed a back-up clearing member prior to JPMAG's 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. Porting of positions and assets in omnibus accounts may be limited to circumstances where all clients represented in the relevant omnibus account have reached an agreement with the same new clearing member and they all request the CCP to port the positions of assets to that clearing member. Shortfalls in the omnibus account may prevent porting from taking place or cause the new clearing member to call for additional margin. For these reasons, it may be difficult to achieve porting in respect of an omnibus account.
- (e) In addition, in respect of net omnibus accounts, the back-up clearing member is likely to require additional margin to cover its exposure to each of the clients in the omnibus account individually on a gross basis. EMIR does not provide for porting of any gross excess margin that may be held by JPMAG, and there is no specific protection provided for under German insolvency rules..
- (f) Subject always to the restrictions in the insolvency of JPMAG, it is possible that porting may be easier to achieve in respect of gross omnibus accounts. This is because the CCP is more likely to have sufficient assets to facilitate the porting of the positions and assets that relate to you and those that relate to other clients separately if it has called margin on a gross basis. However, whether this is feasible will depend on considerations such as the exact account structure and the records of the CCP.

How would gross excess margin be treated?

- (g) If the gross excess margin held for you by JPMAG has been provided pursuant to a title transfer collateral arrangement, it will form part of JPMAG's own assets and will be available for distribution to its general creditors. If you have provided margin on a title transfer basis, you will need to claim for the gross excess margin as an unsecured creditor in JPMAG's insolvency. Return of any gross excess margin would also be subject to the ability of JPMAG to enforce any security interest or the application of set-off.
- (h) The position would be similar in circumstances where you have transferred margin to JPMAG, but equivalent margin has not been passed to the CCP due to the timing of the insolvency or the timing of the margin transfer from you and any CCP cut-off times for margin transfers. In such circumstances you will also need to claim that amount from JPMAG. In this case you would have a claim as an unsecured creditor. The amount of the claim

would be subject to the terms of the Agreement, the enforcement of any security interest and the application of any set-off. Conversely, JPMAG will have a claim against you if JPMAG has prefunded a margin call from the CCP without having received the margin from you.

What would happen if the positions and assets could not be ported?

- (i) If you do not wish to port your positions and assets to a back-up clearing member or those positions and assets cannot be ported in accordance with the relevant CCP's rules (e.g. because the porting cannot take place within a predefined transfer period), the CCP may take steps to manage its risks. This may include liquidating the positions and assets in the omnibus account. Any positive balance may be returned to you directly when the CCP knows how much of the balance is owed to each client and your identity is known to the CCP or, if not, to JPMAG (or JPMAG's insolvency administrator) for the account of its clients. If you are due a payment from JPMAG as a result of close-out calculations relating to the transactions between you and JPMAG, the amount due from JPMAG to you will be reduced by any amount that you receive (or are deemed to receive) directly from the CCP. Given the features of the omnibus account described in paragraph 4.8 above, any assets returned directly to you by the CCP may not be the same as the assets that you provided to JPMAG. In any case, CCPs will not usually know the identity of the clients in an omnibus account and are therefore unlikely to be able to return balances directly to you.
- (j) If you have transferred securities margin to JPMAG on a security interest basis, then you will retain an interest in those securities (provided JPMAG has not subsequently exercised a right to transfer title to those securities to itself) and therefore, subject to any right of JPMAG to enforce the security interest, have a claim for those securities in the insolvency of JPMAG.
- (k) In relation to title transfer clients, you have to be prepared that any balance returned to JPMAG in respect of title transfer clients would form part of JPMAG's own assets and be available for distribution to JPMAG's general creditors. If you have transferred margin to JPMAG on a title transfer basis, you may need to claim for the balance as an unsecured creditor in the insolvency of JPMAG, subject to any available rights of set-off and the ability of JPMAG to enforce any security interest.
- (l) If you have posted cash collateral in a trust account you should be entitled to the return of such amount that is not to be applied in accordance with the Agreement and was not transferred to JPMAG.
- (m) It is possible that any close-out mechanism in the Agreement or by virtue of law could take effect, which would mean that your trades with JPMAG would be subject to the operation of netting and set-off and the calculation of a close-out amount, which would either be payable by JPMAG to you or by you to JPMAG. In the event that a close-out amount is payable by you, your rights will also be subject to the enforcement by JPMAG of any security interest under the Agreement. This may override many of the considerations set out above. Insolvency set-off may apply in place of any close-out under the Agreement.

Omnibus Client Segregation for Indirect Clearing Arrangements - default of JPMAG

- 4.12 Where JPMAG offers to facilitate Indirect Clearing Arrangements JPMAG offers its clients, and they in turn may offer their indirect clients, a choice between gross omnibus client segregation and net omnibus client segregation.
- 4.13 When using net omnibus client segregation, the assets and positions of JPMAG and JPMAG's client that are held at the CCP will be distinguished from those held for the account of JPMAG's client's indirect clients. This means that indirect clients' positions and assets will be recorded in a separate client omnibus account and not commingled with JPMAG's own, or your own, positions and assets.
- 4.14 The main features of the omnibus client segregated account set out in clauses 4.2 - 4.9 above will also apply to a net omnibus client segregated account.
- 4.15 The protections and risks associated with an omnibus client segregated account on a default of JPMAG set out in clauses 4.10. and 4.11 will also apply to a net omnibus client segregated account.
- 4.16 When using gross omnibus client segregation, the assets and positions of JPMAG and JPMAG's client that are held at the CCP will be distinguished from those held for the account of JPMAG's client's indirect clients and the positions of one indirect client will not offset the positions of another indirect client, and the assets held for the account of one indirect client cannot be used to cover the positions of another indirect client. This means that indirect clients' positions and assets will be recorded in a separate client omnibus account and not commingled with JPMAG's own, or your own, positions and assets.
- 4.17 The main features of the individual client segregated account set out in clauses 5.1 – 5.7 below will also apply to a gross omnibus client segregated account, save that more than one indirect client can have their positions and assets held in one single gross omnibus client segregated account rather than separate accounts as is the case for individual client segregation (even though each indirect client's positions and assets in that single account are not used to offset the positions of other indirect clients in the account nor to cover positions of other indirect clients in the account). Therefore, references in clauses 5.1 – 5.7 to separate accounts for each client should be read as references to separate positions and assets of each indirect client within a single gross omnibus client segregated account. You should also refer to the CCPs for their own disclosures, for which JPMAG does not accept any responsibility.

- 4.18 The protections and risks associated with an individual client segregated account on a default of JPMAG set out in clauses 5.8 and 5.9 will also apply to a gross omnibus client segregated account. You should also refer to the CCPs for their own disclosures, for which JPMAG does not accept any responsibility.

Omnibus Client Segregation for Indirect Clearing Arrangements – default of JPMAG's client

- 4.19 The Indirect Clearing RTS contain additional requirements in the case of a default of JPMAG's client. You are required to disclose to your indirect clients the details of the different levels of segregation and a description of the risk involved with the respective levels of segregation offered, including upon your default. This document does not address the situation between you and your indirect clients in the case of your default.
- 4.20 When the assets and positions of one or more indirect clients are managed by JPMAG in a net omnibus client segregated account, JPMAG shall ensure that there are procedures for a prompt liquidation of the assets and positions of indirect clients following your default, which shall include liquidating the positions of the indirect clients at the level of the CCP. After the completion of the default management process, JPMAG shall readily return to you, for the account of the indirect clients, any balance owed from the liquidation of the assets and positions of the indirect clients. JPMAG expects that the period of time to liquidate the assets and positions of indirect clients may vary from one to ten business days, although this will depend on a number of factors, including the size of indirect client assets and positions (including those held in net omnibus segregated accounts, gross omnibus segregated accounts and with non-EEA CCPs) as well as general market conditions.
- 4.21 Porting is not available for net omnibus client segregated accounts due to the risk, identified in the Indirect Clearing RTS, that the information on the positions held for the account of each indirect client is not passed on to all the entities involved in the Indirect Clearing Arrangement so, in the case of the default of the client, the identification of which assets and positions belong to which indirect client might not be unequivocally and quickly determined. In such a situation porting would be unrealistic and the time taken to attempt porting would introduce delays and risk to the adequate management of the default, including the liquidation of the assets and positions in the account.
- 4.22 When the assets and positions of one or more indirect clients are managed by JPMAG in a gross omnibus client segregated account, JPMAG shall ensure that there are procedures to conduct a transfer of the assets and positions held by you for the account of your indirect clients to another client or clearing member (i.e. porting) and, where there is no porting, procedures to initiate the payment of the proceeds from a liquidation of the assets and positions of indirect clients to each of those indirect clients.
- 4.23 JPMAG will contractually commit to at least trigger the porting procedures for the transfer of the assets and positions held by you for the account of your indirect clients to another client or clearing member designated by all the indirect clients whose assets and positions are being transferred, on the relevant indirect clients' request and without your consent. That other client or clearing member shall be obliged to accept those assets and positions only where it has previously entered into a contractual relationship with the relevant indirect clients by which it has committed itself to do so.
- 4.24 JPMAG will require that a porting request is made by an indirect client within four hours of the notification by JPMAG to the indirect client on the default of the client. JPMAG will then attempt to carry out the porting within one day to minimise the risk of under-collateralisation should the value of any margin relating to that indirect client fluctuate (although JPMAG will retain the right to attempt porting for a longer period where it considers it an appropriate course of action). The porting request must be made in writing by a suitably authorised individual and details of the client or clearing member who will receive the positions and assets being ported must be provided. JPMAG will always retain the right to not attempt porting where it determines that it is not possible or not an appropriate course of action.
- 4.25 Where porting does not take place for any reason within JPMAG's predefined transfer period, JPMAG shall ensure the prompt liquidation of the assets and positions of indirect clients following your default, which shall include liquidating the positions of the indirect clients at the level of the CCP. Following the liquidation, JPMAG shall contractually commit to at least trigger the procedures for the payment of the liquidation proceeds to each of the indirect clients directly.
- 4.26 The Indirect Clearing RTS recognise that, in some circumstances, the direct return of the liquidation proceeds to the indirect client cannot be conducted, such as in the case of the failure of a client providing indirect clearing services that is established in a third country where the insolvency regime would not allow the direct return of the liquidation proceeds. In addition, JPMAG will only trigger the payment of the liquidation proceeds provided that JPMAG is able to identify the indirect clients in a manner that is acceptable to JPMAG (including through anti-money laundering and other similar checks on an indirect client), and is not prevented by Applicable Law (as determined by JPMAG in its sole discretion) or otherwise from completing the payment.
- 4.27 After the completion of the default management process for your default and when JPMAG has not been able to identify the indirect clients or to complete the payment of the liquidation proceeds to each of the indirect clients, JPMAG shall readily return to you, for the account of the indirect clients, any balance owed from the liquidation of the assets and positions of the indirect clients.
- 4.28 It is possible for each indirect client under the gross omnibus client segregated account structure to be treated differently – some may have their positions and assets ported, some may receive liquidation proceeds directly and others may have their liquidation proceeds transferred to the client on their behalf.

5. INDIVIDUAL CLIENT SEGREGATION

What are the main features of individual client segregation?

- 5.1 As described above, under the individual client segregation option JPMAG will be able to distinguish in the accounts held at the CCP the assets and positions held for the account of one client from those held for the account of other clients. This means that your positions and assets will be recorded in a separate individual client account and not commingled with JPMAG's or any other clients' positions and assets.
- 5.2 This account structure offers the protection that the netting of positions recorded on different accounts should be prevented and the assets covering the positions in the individual client account should not be exposed to losses connected with the positions in JPMAG's own account or any other account, including any client omnibus account.
- 5.3 JPMAG will keep separate records and accounts that enable it to distinguish both in the accounts held with the CCP and in its own accounts its assets and positions from the assets and positions held for the account of each of its clients with individual segregation at the CCP.
- 5.4 If you opt for individual segregation, JPMAG will seek to ensure that all margin that you provide in respect of cleared positions will be posted to the CCP or CCPs indicated by you and distinguished from the margins of other clients or clearing members. It is your responsibility to ensure that you always indicate the relevant CCP or CCPs in respect of all margin transfers that you make to JPMAG. Where no CCP is indicated in respect of any part of a margin transfer, JPMAG may determine how to treat such margin in accordance with the Agreement.
- 5.5 In certain circumstances, JPMAG will not be required to transfer assets you provide to JPMAG to a CCP. In accordance with the Agreement, JPMAG will not be required to transfer to a CCP any assets you provide to JPMAG that are not related to individually segregated clearing activities at a CCP, provided that the assets are not dedicated to cover current positions with a CCP and that they are clearly identifiable as such. Additionally, if you transfer margin to JPMAG in excess of the margin required by the relevant CCP and that excess margin is not in the form of assets that are eligible to be posted to the CCP (in accordance with the CCP's rules), JPMAG will not be under any obligation to transform such assets into assets that would be eligible to be posted to the CCP. JPMAG will transfer such non-eligible assets to the CCP only if the CCP has the operational and technical means to receive them. However, the assets will not be eligible to meet the CCP's margin requirement. If you transfer margin to JPMAG in the form of a bank guarantee in favour of JPMAG, then JPMAG will not be required to post to the CCP an amount of eligible margin equal to that value of the bank guarantee that exceeds the margin called from the client by JPMAG. This disclosure does not address in any further detail the treatment of assets that are not transferred to the CCP.
- 5.6 CCPs have cut-off times and there are protocols, customs and usages in relation to the operations of CCPs, which means that JPMAG may not always be able to transfer margin to the relevant CCP. As such, if you do not transfer margin to JPMAG sufficiently in advance of when the margin has to be transferred to a relevant CCP, margin subsequently received by JPMAG from you may, in JPMAG's sole and absolute discretion in accordance with the Agreement, be returned to you or held by JPMAG until such time that it can be transferred to the CCP.
- 5.7 If you pre-fund margin with JPMAG in anticipation of entering into certain trades, but some or all of that margin is not required by the CCP (e.g. because you do not enter into the relevant trades), then it is your responsibility to instruct JPMAG to recall any excess from the CCP. JPMAG may, in its sole and absolute discretion in accordance with the Agreement, recall such margin from the CCP even in the absence of your instructions and hold it itself until it is able to return it to you.

What protections and risks would be associated with an individual account on a default of JPMAG?

- 5.8 A key risk for you in respect of your cleared positions is the default of your clearing member. JPMAG's insolvency would involve a number of risks to your assets, including delays in your ability to access your assets and shortfalls in assets affecting JPMAG's creditors (and, in respect of client money or assets, shortfalls being shared amongst JPMAG's clients). The operation of statutory provisions may also prevent or unwind the transfer of your positions and assets to another clearing member or the return of balances to you directly by a CCP..
- 5.9 In the event of JPMAG's insolvency, the position is likely to be as follows:

Would assets be exposed to losses on other accounts?

- (a) Your assets covering positions in an individual client account will not be exposed to losses connected with the positions in JPMAG's own account or any other account with the CCP, including client omnibus accounts.

Could positions and assets be ported?

- (b) If you have back-up arrangements in place with another clearing member, the insolvency of JPMAG should not prevent the porting of the positions and assets that are held in the relevant individual client account at the CCP to the account of that other clearing member, provided that the porting takes place in accordance with EMIR and the CCP's default rules.. This means that your transactions with JPMAG could be replaced by transactions with the back-up clearing member and the positions and assets at the CCP level that relate to those transactions could be transferred to an individual client account of the back-up clearing member (please also see sec. 7.3).

- (c) The ability to port will also depend on the ability of the relevant CCP to support the porting process and the existence of viable back-up arrangements with a new clearing member who is willing to accept the transfer. If you have not appointed a back-up clearing member, you may be able to agree with the CCP that it may choose a back-up clearing member on your behalf. However, if you have not appointed a back-up clearing member prior to JPMAG's 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. Porting of positions and assets in an individual client account is, however, not dependent on other clients having reached an agreement with the same new clearing member and may therefore be more readily facilitated than for omnibus accounts. Shortfalls in the individual client account may prevent porting from taking place or cause the new clearing member to call for additional margin. However, shortfalls in an individual client account would not be due to the failures of any other clients and are likely to only reflect the change in value of the positions from the time of the last margin call until the time of porting. As there is generally no gross excess margin held by JPMAG, issues surrounding CCPs' netting of client positions when calling for margin or the ability to port gross excess margin should not arise, except where you have not provided margin to JPMAG sufficiently in advance of when the margin has to be transferred to the relevant CCP, in which case JPMAG may, in its sole and absolute discretion and in accordance with the Agreement, hold margin it subsequently receives from you.

How would gross excess margin be treated?

- (d) Subject always to the restrictions in the insolvency of JPMAG, you would generally not need to claim separately for any gross excess margin held by JPMAG, as all margin related to your current positions at a CCP would usually be passed to the CCPs. However, where you have transferred margin to JPMAG and equivalent margin has not yet been passed to the CCP due to the timing of the insolvency or the timing of the margin transfer from you and any CCP cut-off times, then you would need to claim for that separately from JPMAG as an unsecured creditor. This would also be the case if JPMAG has recalled surplus margin from a CCP, but has not yet transferred it to you. If the margin represented title transfer margin, you would have a claim as an unsecured creditor in respect of that amount. The amount of the claim would be subject to the terms of the Agreement, the enforcement of any security interest and the application of any set-off. Conversely, JPMAG will have a claim against you if it has prefunded a margin call from the CCP without having received the margin from you.

What would happen if the positions and assets could not be ported?

- (e) If you do not wish to port your positions and assets to a back-up clearing member or those positions and assets cannot be ported in accordance with the relevant CCP's rules (e.g. because the porting cannot take place within a predefined transfer period), the CCP may take steps to manage its risks. This may include liquidating the positions and assets in the individual client account. Any positive balance may be returned directly to the client when known to the CCP or, if it is not, to JPMAG (or its insolvency administrator) for the account of the client. If you are due a payment from JPMAG as a result of close-out calculations relating to the transactions between you and JPMAG, the amount due from JPMAG to you will be reduced by any amount that you receive (or are deemed to receive) directly from the CCP. In any case, CCPs may be more likely to know the identity of the client in respect of an individual client account than in respect of an omnibus client account and therefore be able to return assets directly to you.
- (f) If you have transferred securities margin to JPMAG on a security interest basis, then you will retain an interest in those securities (provided JPMAG has not subsequently exercised a right to transfer title to those securities to itself) and therefore, subject to any right of JPMAG to enforce the security interest, have a claim for those securities in the insolvency of JPMAG.
- (g) In relation to title transfer clients, you have to be prepared that any balance returned to JPMAG in respect of title transfer clients will form part of JPMAG's own assets and be available for distribution to JPMAG's general creditors. If you have transferred margin to JPMAG on a title transfer basis, you may need to claim for the balance as an unsecured creditor in the insolvency of JPMAG, subject to any available rights of set-off and the ability of JPMAG to enforce any security interest.
- (h) If you have posted cash collateral in a trust account you should be entitled to the return of such amount that is not to be applied in accordance with the Agreement and was not transferred to JPMAG.
- (i) It is possible that any close-out mechanism in the Agreement or by virtue of law could take effect, which would mean that your trades with JPMAG would be subject to the operation of netting and set-off and the calculation of a close-out amount, which would either be payable by JPMAG to you or by you to JPMAG. In the event that a close-out amount is payable by you, your rights will also be subject to the enforcement by JPMAG of any security interest under the Agreement. This may override many of the considerations set out above. Insolvency set-off may apply in place of any close-out under the Agreement.

6. SPECIAL RESOLUTION REGIME FOR BANKS – ADDITIONAL MEASURES

- 6.1 JPMorgan Chase & Co. is a global systemically important financial institution (“G-SIFI”) and JPMAG is subject to the special recovery and resolution regime for German banks. In addition to early intervention, recovery and reorganisation and bank insolvency procedures, this regime includes the possibility of four resolution options being

employed in respect of JPMAG, which may also be combined. These are the transfer to a private sector purchaser, the transfer to a bridge bank, the transfer to assets and liabilities to a special, publicly controlled asset management vehicle and the bail-in of eligible liabilities. In the event of one or more of these resolution options being used, there may be questions as to the continuation or transfer of the clearing membership with of each of the CCPs. It is possible that these arrangements may involve different considerations and outcomes than those outlined above.

- 6.2 In specific circumstances, in particular in case of a risk for the stability of the financial system (*Gefahr für die Stabilität des Finanzsystems*), BaFin may instruct that our assets and liabilities be spun-off (as a whole or in part (*Ausgliederung*) to another credit institution.
- 6.3 Additionally, the German Federal Government (*Bundesregierung*) could order a moratorium on credit institutions generally if the financial difficulties of credit institutions could lead to serious consequences for the German economy taken as a whole.

7. ADDITIONAL INSOLVENCY CONSIDERATIONS

- 7.1 If JPMAG enters 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 individual client accounts and omnibus client accounts.
- 7.2 Our insolvency proceedings are most likely to be insolvency proceedings initiated and controlled by Bundesanstalt für Finanzdienstleistungsaufsicht (*BaFin*), the German financial supervision authority (BaFin could also order other measures in respect of us). All powers in respect of our insolvent estate will rest 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 a uncertain outcome).
- 7.3 In the case of insolvency of JPMAG it cannot be ruled out that despite the porting process being available under CCP rules, restrictions on the transfer of assets that are considered to form part of our insolvency estate will apply, and the insolvency administrator may challenge elements of such porting or other legal action in connection with any clearing related transactions.

8. THE DEFAULT FUND AND OTHER RESOURCES

- 8.1 To limit its exposures to its clearing members, CCPs are required under EMIR to maintain a pre-funded default fund to cover losses that exceed those to be covered by margin requirements arising from the default of one or more clearing members, including in an insolvency. The default fund should at least enable the CCP to withstand (under extreme but plausible market conditions) the default of the clearing member to which it has the largest exposures or of the second and third largest clearing members, if the sum of their exposures is larger. Each clearing member is required to contribute to the default fund. CCPs are also required to maintain other financial resources.
- 8.2 If another clearing member fails, JPMAG and its clients may therefore benefit from the protections that the CCP's margin requirements, default fund and other financial resources provide.

9. INDIRECT CLEARING ARRANGEMENTS INVOLVING LONG CHAINS

- 9.1 The Indirect Clearing RTS introduce new rules where there is either:
 - (a) a set of contractual relationships between a CCP, a clearing member, the client of a clearing member, an indirect client and the client of an indirect client, which arrangement allows these entities to provide clearing services to an end indirect client; or
 - (b) a set of contractual relationships between a CCP, a clearing member, the client of a clearing member, an indirect client, the client of an indirect client and its client, which arrangement allows these entities to provide clearing services to an end indirect client.
- 9.2 These arrangements are known as long chains and do not change the protections and risks as between you and JPMAG, save that only net omnibus segregated accounts are permitted in long chains.
- 9.3 As part of a long chain arrangement, JPMAG may (i) provide clearing services (as clearing member) to another J.P. Morgan group entity (as the client of JPMAG as the clearing member), or (ii) receive clearing services (as the client of a clearing member) from a third party (as clearing member). In such situations, you may be treated as the indirect client by JPMAG (in situation (i)) or by the third party (in situation (ii)). This does not change the protections and risks as between you and JPMAG (save that only net omnibus segregated accounts are permitted in long chains), however you should also refer to any third party for its own disclosures. For the avoidance of doubt, references in this paragraph to "third party" may include J.P. Morgan group entities. Please see further the Schedule of Risk Disclosures for CCPs and Indirect Clearing Providers.

10. GENERAL TERMS ON WHICH JPMAG IS PREPARED TO FACILITATE INDIRECT CLEARING ARRANGEMENTS

- 10.1 JPMAG is required, without prejudice to the confidentiality of contractual arrangements with individual clients, to publicly disclose the general terms on which it is prepared to facilitate Indirect Clearing Arrangements, including

minimum financial resources and operational capacity requirements for clients that provide Indirect Clearing Arrangements.

10.2 JPMAG will apply the following considerations:

- (a) *Authorisations*: clients must be duly authorised and have in place appropriate licenses and approvals to conduct Indirect Clearing Arrangements in their jurisdictions.
- (b) *General Due Diligence Requirements*: JPMAG may use certain criteria to assess the client, taking into account the nature, scale and complexity of the client's business and shall include but not be limited to the following: (i) sufficient credit strength, including any guarantees or credit support; (ii) adequate internal risk control systems including risk management to support Indirect Clearing Arrangements; (iii) clear understanding of the client's intended trading strategy; (iv) adequate payment systems and arrangements that, in JPMAG's reasonable discretion enable the client to ensure a timely transfer of assets or cash as margin, as required by JPMAG in relation to the clearing services it provides; (v) adequate systems settings and access to information that, in JPMAG's reasonable discretion, helps the client to respect any maximum trading limit agreed or set by JPMAG; (vi) any collateral provided to JPMAG by the client shall be in accordance with the agreement; (vii) the client has sufficient operational resources, including technological interfaces and connectivity to carry out the transactions; (viii) any involvement of the client in a breach of the rules ensuring the integrity of the financial markets, including involvement in market abuse, financial crime or money laundering activities; and (ix) any further criteria JPMAG may determine in its sole discretion from time to time.
- (c) *Clients Agreements with their clients*: Where applicable clients will need to demonstrate that they have adequate arrangements in place with their clients which give effect to the Indirect Clearing Arrangements.

SCHEDULE OF CCP LINKS

Please click on the links below to access the CCP websites which will have sections containing the Article 39 disclosures required by EMIR in respect of CCPs upon EMIR authorisation. Links to CCP Rulebooks are also added as reference. Please note that each CCP, not J.P. Morgan, maintains these links.

| | |
|---|--|
| <p>BME CLEARING</p> <p>Website: http://www.bmeclearing.es/</p> <p>CCP Rulebook: http://www.bmeclearing.es/ing/Resources/BMEClearing/RuleBook.aspx</p> | <p>CASSA DI COMPENSAZIONE E GARANZIA</p> <p>Website: http://www.ccg.it/jportal/pcontroller/NavigatorHandler?nodo=1</p> <p>CCP Rulebook: http://www.lseq.com/node/5437</p> |
| <p>EUROPEAN COMMODITY CLEARING AG</p> <p>Website: http://www.ecc.de/ecc-en/</p> <p>CCP Rulebook: http://www.ecc.de/ecc-en/about-ecc/rules</p> | <p>EUREX CLEARING AG</p> <p>Website: http://www.eurexclearing.com/clearing-en/</p> <p>CCP Rulebook: https://www.eurexclearing.com/clearing-en/resources/rules-and-regulations/</p> |
| <p>ICE CLEAR EUROPE</p> <p>Website: https://www.theice.com/homepage.jhtml</p> <p>CCP Rulebook: https://www.theice.com/clear-europe/regulation</p> | <p>LCH CLEARNET LTD</p> <p>Website: http://www.lchclearnet.com/</p> <p>CCP Rulebook: http://www.lchclearnet.com/rules-regulations</p> |
| <p>LCH CLEARNET SA</p> <p>Website: http://www.lchclearnet.com/</p> <p>CCP Rulebook: http://www.lchclearnet.com/rules-regulations</p> | <p>NASDAQ OMX</p> <p>Website: http://www.nasdaqomx.com/</p> <p>CCP Rulebook: http://www.nasdaqomx.com/euroclearing/rulebook</p> |

SCHEDULE OF RISK DISCLOSURES FOR CCPS AND INDIRECT CLEARING PROVIDERS

Please click on the links below to access the Risk Disclosures of clearing members of F&O CCPs from whom JPMAG may receive clearing services (as the client of such clearing member) in accordance with clause 9.3 of the EMIR and MiFIR Clearing Member Disclosure above.

J.P. MORGAN SECURITIES PLC (“JPMS plc”)

Risk Disclosure: <https://www.jpmorgan.com/global/disclosures>
(please check here periodically)

F&O CCPs that JPMAG accesses through JPMS plc: LME, LCH CLEARNET LTD and ICE CLEAR EUROPE

ERSTE GROUP BANK AG

Risk Disclosure: <https://www.esp.pl/en/home>
(please check here periodically)

F&O CCP that JPMAG accesses through Erste Bank Group AG: KDPW_CCP S.A.

HSBC BANK PLC

Risk Disclosure: <http://www.gbm.hsbc.com/financial-regulation/market-structure/emir/clearing>
(please see section “Clearing account segregation” and click on the “HSBC Risk Disclosure Document”)

F&O CCP that JPMAG accesses through HSBC Bank plc: Athens Exchange Clearing House SA (ATHEXClear)