

# Investment Business - Information Pack

(Global Markets)

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SMBC Bank EU AG

01 December 2025



SMBC BANK EU AG

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## Glossary

Term	Definition
Compliance	The Compliance Department of SMBC EU AG
The Bank	SMBC EU AG, including former SMBC Nikko Capital Markets Europe GmbH (SMBC Nikko CM Europe)
DMA	Direct Market Access
EEA	European Economic Area
MAR	Market Abuse Regulation
MiFID II	Markets in Financial Instruments Directive 2014/65/EU
MiFIR	Markets in Financial Instruments Regulation (EU) No 600/2014
MTF	Multilateral Trading Facilities
OTF	Organised Trading Facilities
RFP	Request for Proposal
RFQ	Request for Quote
ToSTNeT	Tokyo Stock Exchange Trading Network
WpHG	Wertpapierhandelsgesetz (Securities Trading Act)
KWG	Kreditwesengesetz (Banking Act)

## 1. Information about the Bank and its Services

In accordance with the requirements of Art. 24 (4) MiFID II, Art. 47 (1) MiFIR and § 63 (7) WpHG, we hereby provide you with the following information about SMBC Bank EU AG (“the Bank” or “we”) and our investment services.

Business	Universal Bank (Commercial & Investment Banking)
Establishment date	25 September 2017, merged with SMBC Nikko Capital Markets Europe GmbH (SMBC Nikko CM Europe) since 25 April 2022
Executive board	Naoki Okubo (Chair), Stanislas Roger, Dr. Niklas Dieterich, Yosuke Uemura
Supervisory board	Hideo Kawafune
Legal form	Aktiengesellschaft (stock corporation)
Capital stock	€ 5.1bn
Ownership	100% Sumitomo Mitsui Banking Corporation (SMBC subsidiary incorporated in Germany)
Head office	Main Tower, Neue Mainzer Straße 52-58, 60311 Frankfurt am Main, Germany
Network	Head office in Frankfurt and branches in Amsterdam, Dublin, Düsseldorf, Madrid, Milan, Paris and Prague
Commercial register	<i>Amtsgericht</i> (District Court) in Frankfurt am Main under HRB 110214
VAT-ID	DE815784709
Banking permission	The Bank has the banking permission according to § 32 KWG
Intermediary	In connection with the provision of our services, the Bank use contractually bound intermediaries who are registered in Germany

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Authorisation authority	European Central Bank. Authorised since 9 November 2018
Supervision authority	Bundesanstalt für Finanzdienstleistungsaufsicht 'BaFin' (Federal Financial Supervisory Authority)  Bankenaufsicht (banking supervision) Graurheindorfer Straße 108, 53117 Bonn, Germany  Wertpapieraufsicht (securities supervision) Marie-Curie-Straße 24-28, 60439 Frankfurt am Main, Germany  For proof of our authorisation, please see the relevant entry in the <a href="#">BaFin Unternehmensdatenbank (company register)</a>

The Bank provides business and financial services in the European Economic Area (EEA) as a wholly owned European subsidiary of Sumitomo Mitsui Banking Corporation, one of the largest commercial banks in Japan. Therefore, we are ideally positioned to provide our clients with additional value as a partner for investments in the increasingly important Japanese financial markets.

In April 2022, the Bank merged with SMBC Nikko Capital Markets Europe GmbH (SMBC Nikko CM Europe), enabling us to offer investment services as a universal bank, thereby better serving clients by offering banking and securities products through a single entity with a full range of financial services.

The Bank strives to offer a broader range of high value-added financial products, services and solutions in order to become a long-term strategic partner for all our clients. We conduct all customary banking transactions, in particular securities and derivative products. However, we do not offer investment advice. In the case of advisory-free business, you make your investment decision independently of any investment recommendation on our part. In this case we only obtain the necessary information about your knowledge and experience; this does not include information about your investment objectives and financial circumstances.

We provide all information required to clients or potential clients in electronic format, except where the client or potential client is a retail client or potential retail client who has requested receiving the information on paper, in which case that information will be provided on paper, free of charge.

## 2. General Description of the Nature and Risks of Financial Instruments

This document contains a general description of the nature and risks of financial instruments. However, this document is not intended to be a complete listing of all financial instruments in which you may invest, nor is this document intended to provide an exhaustive description of all the risks that may be associated with all financial instruments.

Rather, it is a description of the principal risks arising from those financial instruments, techniques and services that we generally offer to our clients. We may supplement these descriptions from time to time, including by providing information that relates to a particular financial instrument (for example in our marketing material).

In particular, the scope and content of the information provided takes into consideration (a) your categorisation as a professional or eligible counterparty client within the meaning of the MiFID II and (b) given your categorisation our reasonable assessment of the scope and level of your knowledge and understanding of the nature and risks of financial instruments. If you do not agree with your client categorisation please let us know as we will need to revise it our client relationship, the nature of the services that we provide to you and the information that we must provide to you with respect to the nature and risks of financial instruments. Similarly, please let us know if you do not understand any of the contents of the descriptions below.

### 2.1 General Introduction

You should not make an investment unless you are prepared to bear the risk of loss arising from that investment.

All financial instruments involve a certain degree of risk and even low-risk financial instruments and strategies contain an element of uncertainty and past performance is not a reliable indicator of future performance. The value of an investment and the income received from an investment can go down as well as up, and investors may not get back the amount that they invested. There can be no assurance that expected or targeted returns for any investor will be achieved. Even if a financial instrument performs as anticipated, changes in exchange rates or taxation may have an adverse effect on the price or value of, or income received from, the financial instrument. Investment returns may be constrained by charges levied and inflation may reduce the value of investments. Also, financial instruments (even those which share similar characteristics) may be exposed to different risks, different combinations of risk, or may exhibit or be exposed to those risks to different degrees. Furthermore, where an investor's portfolio holds two or more financial instruments, the aggregate risk of the portfolio may be different in nature or extent from the risks of the individual financial instruments of which the portfolio is comprised. As set out in the descriptions below, certain principal risks typically impact particular financial instruments. However, they may be subject to other risks, for example, because of any specific features of the particular financial instrument. Further, many of the risks described below apply generally to financial instruments and individual financial instruments may be impacted by multiple risks.

The terminology used to describe different types of financial instruments may not be used uniformly or consistently, may differ between markets or countries /jurisdictions, and may have



different meanings in different contexts (for example, for the purposes of financial services regulation and taxation). The precise features (and, therefore, the risks) of a particular financial instrument will depend on the specific terms and conditions that apply to that financial instrument. A financial instrument might have peculiar features that distinguish it from similarly categorised financial instruments and those distinctions may only become apparent in certain market conditions or upon the occurrence of certain events that may be issuer-specific and therefore may result in unexpected outcomes. For example, without limitation, broad discretion may be granted to the issuer, counterparty or another person to (a) amend the terms and conditions of the financial instrument; (b) determine the economic outcome (which may include unilateral termination); (c) determine the value of the financial instrument; or (d) determine whether and in what form collateral must be provided (including the value of such collateral). Therefore, it is important to review and understand those terms before making any investment.

Certain financial instruments may be highly speculative and may be suitable only for experienced and financially sophisticated investors who are willing to bear the risks associated with such investments, which can include the loss of all or a substantial portion of any the value of or all such investments. Investors should ensure that they fully understand the features of the financial instrument and the risks involved, before deciding whether or not to invest in any such financial instrument.

## 2.2 Types of Financial Instruments

### 2.2.1 Shares

A share is an instrument representing a shareholder's rights in a company. Shares may be issued in bearer or registered form and may be certificated or non-certificated. One share represents a fraction of a corporation's share capital. Dividend payments and an increase in the value of the security are both possible, although not guaranteed. The shareholder has financial and ownership rights which are determined by law and the issuing company's articles of association. Unless otherwise provided, transfers of bearer shares do not entail any formalities. However, transfers of registered shares are often subject to limitations.

### 2.2.2 Bonds

A bond is a negotiable debt instrument issued in bearer or registered form by a company or a government body to creditors and whose par value at issuance represents a fraction of the total amount of the debt. The duration of the debt as well as the terms and conditions of repayment are determined in advance. Unless stipulated otherwise, a bond is repaid either at the maturity date, or by means of annual payments, or at different rates determined by drawing lots. The interest payments on bonds may be either: (i) fixed for the entire duration; or (ii) variable and often linked to reference rates, e.g. Interbank Offered Rate (IBOR)). The purchaser of a bond (the creditor) has a claim against the issuer (the debtor).

### 2.2.3 Derivates

There are many different types of derivative financial instruments, with different characteristics and subject to different conditions. As mentioned elsewhere, derivatives are sometimes combined or embedded in other financial instruments. Derivatives are complex instruments

and individual transactions may comprise more than one derivative and may be tailored to the particular requirements of the parties. Certain of the risks arising from the use of derivatives may depend on whether the derivative is exchange traded or over-the counter (“OTC”).

The main categories of derivatives are: options, futures (forwards) and swaps. The term “contract for difference” (used, in particular, in the UK) is sometimes used to describe certain types of cash settled derivatives transaction. The terminology used to describe the different types of derivatives may not be used uniformly or consistently, may differ between markets or countries and may have different meanings in different contexts (for example, for the purposes of financial services regulation and taxation). Derivatives are suitable only for sophisticated investors and investors should carefully review all the terms and conditions of the derivative transaction to ensure they have a comprehensive understanding of their rights and obligations and of how the derivative may function in different market conditions.

a) Options:

An option, in this context, is simply the right to buy or sell an underlying asset. Options are broadly divided into puts and calls. Simplistically:

a) a call option gives the purchaser (holder) the right to buy an underlying asset from the seller (writer) of the option, and imposes the obligation on the seller of the option to sell the underlying asset to the option purchaser; and

b) a put option gives the purchaser the right to sell an underlying asset to the seller of the option, and imposes the obligation on the seller of the option to buy the underlying asset from the option purchaser.

Instead of the physical delivery of an underlying asset, an option may give the purchaser the right to receive a cash amount (for example, an index option) or the right to require the seller to enter into another transaction with the purchaser (for example, a “**swaption**”, which is an option to enter into a swap transaction). The terms of the option will typically specify, as well as the identity and amount of the underlying asset, the price at which that asset will be purchased/sold (the “**strike price**”), whether it is physically or cash settled, the date(s) on which the option may be exercised (by the purchaser) and the date on which the option expires (after which the purchaser can no longer exercise the option). The purchase price payable by the purchaser for the option is called the “**premium**” and it is usually (but not necessarily) paid up front when the option is purchased.

Buying options generally involves less risk than selling (writing) options as the purchaser can allow the option to lapse (i.e., not exercise the option). For example, in the case of a call option, a purchaser of an option would likely not exercise the option if the market price of the underlying asset is less than the strike price. However, selling (writing) options involves considerably more risk. The seller of an option assumes the legal obligation to purchase or sell the underlying asset (or pay the cash settlement amount) if the option is exercised, regardless as to the difference between the strike price and the market price prevailing at the time of exercise. In the case of call options, if the seller of the option does not own the underlying asset, the seller is exposed to unlimited risk as the seller will need to purchase the underlying asset in the market (or, as relevant, pay the cash settlement amount) and the market price may be significantly higher than the strike price.

This risk could be increased further by other factors, for example, if the underlying asset is illiquid. If the option seller owns the underlying asset (a “**covered call**”), the risk is reduced. The maximum loss arising from the purchase of an option is, essentially, the cost of that option (also known as the premium) plus any associated commissions and other transaction-related costs.

If an option is not exercised before expiry, in accordance with its terms, it may expire worthless. Accordingly, it is important to identify the applicable terms for exercise, which may include specific provisions relating to time and method of notification. Failure to observe those terms may invalidate any purported exercise of the option.

#### b) Futures:

Futures involve the obligation to make, or to take, delivery of the underlying asset at a future date, or in some cases the payment of a cash amount. Futures transactions share the characteristics of forward transactions however, historically, the term “futures” has typically been used to describe standardised exchange traded transactions (whether physically or cash settled) and the term “forwards” has typically referred to individually negotiated over-the-counter physically settled transactions, in both cases where the delivery date is for a future date that is beyond the date on which a “spot” transaction for the relevant underlying asset commonly settles. However, this terminology is not consistently applied and, for example, currency forwards may be structured as “non-deliverable forwards” meaning that the relevant currencies in the currency pair are not exchanged on the settlement date. Where a future is physically settled, an investor who does not want to make or take physical delivery must close out the position (typically by entering into an equal and opposite position) before any applicable cut-off time. There can be no assurance that it will be possible to close out the position on advantageous terms or at all.

#### c) Swaps:

This term typically describes a financial instrument under which the parties agree to exchange certain cash flows based on the value of, or return from, one or more underlying assets or other reference points (for example, an index or interest rate). Parties are exposed to the market risk of the relevant underlying.

The term “contract for difference” (or “CFD”) is generally used to describe a contract between two parties, typically described as “buyer” and “seller”, stipulating that the seller will pay to the buyer the difference between the value of an asset (often a share or an index) on one date and its value at a subsequent date (if the difference is negative, then the buyer pays the difference to the seller). In effect CFDs are financial derivatives that allow traders to take advantage of prices moving up (long positions) or prices moving down (short positions) on underlying financial instruments and are often used to speculate on those markets.

The terms “swap” and “contract for difference” are sometimes used interchangeably to refer to the same financial instrument.

Some examples of swaps include the following:

- **Interest rate swaps** – Typically, these swaps involve the exchange of cash flows based on two or more interest rates, where the cash flows exchanged are calculated

by reference to a notional principal amount. For example, one party might pay the other a floating or variable rate of interest (based on the notional principal amount) in return for the payment by the other party of a fixed rate of interest (based on the notional principal amount). Companies use interest rate swaps to alter their interest rate exposure. A company paying floating interest rate can obtain fixed rate exposure by entering into a swap. Therefore, the company can enter into a swap in which they receive floating rate and pay the fixed rate.

- **FX/currency swaps** – FX swaps are risk management tools that can be utilised in order to hedge FX risks and exposures generated through commercial activity. These products allow users to guarantee future cash-flows and remove the risks presented by market fluctuations for known future revenues or expenditures. Under a bilateral swap contract a party simultaneously borrows one currency and lends another in order to hedge against unfavourable movements in exchange rates. A cross currency swap is, similarly to an FX swap, a bilateral agreement, where two parties exchange interest payments and principal denominated in two different currencies. Depending on the market conditions at inception, the bid/offer spread of an FX or currency swap can vary. When market circumstances are negative the spread will be wider and vice versa when market circumstances are positive. During the lifetime of a product, the market conditions (positive or negative) will be reflected in the way the contract is marked to market. Whilst trading FX swaps companies can hedge against FX risk, inflation risks and interest rate risk but if interest rate developments differ from expectations, there is a risk that choosing a different strategy would have led to better financial results. In the event of (interim) termination, one party may be faced with an amount payable to the other party close to/equal to the negative market value of the FX swap taking into account normal market conditions
- **Inflation linked swaps** – An inflation swap is a contract under which risk is transferred from one party to another. Party 1 pays a fixed cash flow to party 2, while party 2 pays a floating cash flow which is linked to inflation. The cash flow paid is linked to a notional amount, however the notional is not exchanged.
- **RPI swap** – An RPI swap is a swap which involves an exchange of interest calculated by reference to the Retail Prices Index (RPI) and another reference rate (e.g. LIBOR). This swap allows parties to hedge the risk of inflation being lower or higher than expected.

OTC derivatives, such as the swaps described above, are typically documented under industry standard terms (for example, the ISDA Master Agreement) which contain key provisions governing the contractual relationship between the parties, including their respective rights, liabilities and obligations. These terms (which, in fact, comprise a number of documents, including a master agreement, a schedule, relevant definitions and the individual confirmation containing specific provisions relating to the particular transaction) govern how the derivative will operate in different circumstances, including where there is a market disruption event impacting the relevant underlying asset. In these circumstances, the investor may have no ability to influence the outcome. Although the terms and conditions used by banks, investment firms and other participants for these transactions may be based on industry standard terms, they may be tailored by the particular bank, investment firm or other participant and an investor may have limited ability to make amendments. These are often very technical and complex

documents and the parties should ensure that they have appropriate expertise to review and understand them and/or seek independent advice before entering into a transaction.

Collateral (sometimes referred to as “margin”) is an important feature of derivatives transactions. This relates to the “contingent liabilities” that typically arise under a derivatives transaction and where one or both parties are exposed to the credit (or performance) risk of the other party. Collateral is used to manage the credit exposure between the parties to the derivatives transaction until the obligations of the parties have been completed. The risks arising from the provision of collateral are described further below.

## 2.2.4 Money Market Instruments

Money market instruments are a class of short term instruments that are normally dealt on the money market and include treasury bills, certificates of deposit and commercial papers (including euro commercial paper). Money market instruments are similar to other fixed income securities where the investor becomes a creditor of the issue of the security. They have maturities at issuance of 397 days or less. They have a nominal value which should be returned to you when the investment matures at the end of its term. However if instruments are sold before reaching maturity a capital gain or loss may be realised.

A certificate of deposit is a promissory note issued by a bank in exchange for a deposit. Holders of the certificate of deposit have restricted access to the funds deposited until the maturity date, at which point the funds are returned with interest. The major risk of purchasing a certificate of deposit in the money markets, other than counterparty risk, is that there is greater uncertainty associated with holding the investment for a long period of time and the holder of the certificate foregoes the opportunity to invest in other instruments.

Commercial paper (including euro commercial paper) is an unsecured short-term debt instrument issued by a company to meet short-term liabilities. The maturity date on commercial paper is normally close to its issue date. Commercial paper is typically issued at a discount (for lower interest rates). Commercial paper is often unsecured meaning that counterparty default risk is higher than with other debt securities. As with certificates of deposit, there are risks associated with holding a more illiquid asset than a debt or equity security – however, the short maturity period for commercial paper mitigates this risk. Treasury bills are short-term debt instruments backed by governments with a maturity of less than one year. The principal and interest rates of bills are paid to investors cumulatively at the maturity date; as such investors do not receive regular interest payments. Bills are issued at relatively low value and are therefore accessible to a wide range of investors. However, due to their low risk they offer low returns and do not generate steady cash flows.

Money market instruments are exposed to a number of risks, including liquidity risk, interest rate risk, credit risk and FX risk.

## 2.2.5 Structured Deposits

Our structured product range is currently limited to structured deposits.

Structured deposits are deposits where the interest rate or return is derived from or based on an underlying asset or index (similar to a structured product). The deposits are placed with a

credit institution (such as a bank or building society) and, therefore, the investor is subject to the credit risk of that credit institution as well as other risks, principally the market risk relating to the underlying asset or index. The terms of structured deposits may prohibit termination prior to the scheduled maturity or provide that such termination can only occur upon payment of an exit fee that may not be a fixed amount or a percentage of the original amount invested. All structured deposits are capital protected but may be affected by withdrawal before maturity.

## 2.2.6 Dual Currency Investments

Dual currency investments - The dual currency investment (also known as option linked premium deposit) allows a client to earn interest over a flexible term with the added feature that if the prevailing spot market is at a predefined rate on maturity the deposit will convert. In this scenario the client will, on expiry, be returned their deposit plus interest in an alternate currency. Dual currency investments are “capital at risk” investments and are subject to the following main risks:

- Market risk – This can materialise due to macroeconomic factors and may have an impact on a particular instrument or more broadly on currency markets as a whole. The client deposit is subject to a potential conversion dependent upon pre-defined market conditions on expiry.
- Credit risk – When investing in a dual currency investment the client is taking on a credit risk to the deposit taking bank. In the event that bank should default on its obligations or become insolvent a client may receive back less, in original currency terms, than originally deposited. This is dependent upon market conditions on expiry.
- Dual currency investments are also subject to volatility risk if there are adverse market conditions and this can increase market risk. Levels of volatility will depend on the currency pairs which are relevant for each dual currency deposit. Major currencies may be more stable than emerging market currencies.
- FX risk arises when investing in dual currency investments. Fluctuations in the market will have a direct impact on the outcome for the client. Liquidity risk may also arise. FX markets are typically highly liquid but this may depend on the currency pairs selected.

## 2.3 Principal Investment Risks

This section contains a list of the principal categories of general investment risks that are typically associated with financial instruments. Not all of these risks will apply to all financial instruments and different financial instruments (including those which share similar characteristics) may exhibit some or all of these risks to different degrees.

### 2.3.1 Company Risk

A share purchaser does not lend funds to the company, but becomes a co-owner of the company. He or she thus participates in its development as well as in chances for profits and losses, which makes it difficult to forecast the precise yield on such an investment. An extreme case would be if the company went bankrupt, thereby wiping out the total sums invested.



### 2.3.2 Price Risk

Share prices may undergo unforeseeable price fluctuations causing risks of loss. Price increases and decreases in the short, medium and long-term alternate without it being possible to determine the duration of those cycles. General market risk must be distinguished from the specific risk attached to the company itself. Both risks, jointly or in aggregate, influence share prices.

### 2.3.3 Dividend Risk

The dividend per share mainly depends on the issuing company's earnings and on its dividend policy. In case of low profits or losses, dividend payments may be reduced or not made at all.

### 2.3.4 Issuer Risk

This refers to the risks associated with the particular issuer of a particular financial instrument. The value of a financial instrument may decline because of a number of reasons, which directly relate to the issuer, such as (without limitation) insolvency, management performance, the availability and/or cost of financing, financial leverage, reputation, and reduced demand for the issuer's goods or services, as well as the historical and prospective earnings of the issuer and the value of its assets.

The issuer may also fail to perform its obligations under the terms and conditions applicable to the financial instrument. Issuer risk also relates to the risk arising from corporate events such as mergers, acquisitions and takeovers (including the failure to execute any such transaction), as well as other events that may result in the dilution of any ownership interest of an investor in the issuer.

### 2.3.5 Credit Risk

Credit (or counterparty) risk arises from the inability or unwillingness of a counterparty, issuer or other relevant person (for example, a custodian or broker) to perform their contractual obligations, or the perception or expectation that this may be the case or may occur in the future. As such, there is some overlap with issuer risk, described above.

For example, an investor will be exposed to the credit risk of (a) the parties with whom it enters into transactions (including derivatives transactions and stock loans); (b) any person with whom it deposits its assets or funds or to whom it transfers collateral; (c) the issuer of a fixed income security; (d) and any person who owes monies to the investor.

This risk may arise in the course of the settlement of a transaction, for example, where the purchase price for a financial instrument has been paid but where the financial instrument has not been delivered.

### 2.3.6 Credit Rating Risk

Credit ratings are opinions about credit risk. They express an opinion about the ability and willingness of an issuer, such as a company or state or government, to meet its financial obligations in full and on time. Credit ratings can also speak to the credit quality of an individual financial instrument, such as a corporate or government bond, and the relative likelihood that

the issuer may default. Credit ratings are not an absolute measure of default probability. Since there are future events and developments that cannot be foreseen, the assignment of credit ratings is not an exact science. Credit ratings are not intended as guarantees of credit quality or as exact measures of the probability that a particular issuer or debt issue will (or will not) default.

As they are opinions, credit ratings assigned by different ratings agencies (or other ratings providers) may differ in respect of the same issuer or financial instrument.

### 2.3.7 Interest Rate Risk

Interest rates may fluctuate significantly at any time and from time to time. As a result of such fluctuations, the value of financial instruments may increase or decrease in value. For example, when interest rates increase, fixed income instruments will generally decline in value. Long - term fixed income securities or instruments will normally have more price volatility because of this risk than short-term fixed income instruments. A wide variety of market factors can cause interest rates to rise, including central bank monetary policy, rising inflation and changes in general economic conditions.

### 2.3.8 Market Risk

The term “market risk” is sometimes used generically to describe the systematic risk to which investors may be exposed and which may result in losses due to factors affecting financial markets generally, or particular geographies, countries, sectors or issuers. As such, many of the risks described elsewhere in this document may comprise components of market risk.

The value of a financial instrument may decline due to general market conditions which are not specifically related to a particular issuer, such as real or perceived adverse economic conditions, changes in the general outlook for corporate earnings, changes in interest or currency rates, inflation, adverse investor sentiment generally and the forces of supply and demand. The value of financial instruments may also be impacted by market disruptions and by the activities of other market participants which influence prices. The value of particular financial instruments may be impacted by the price or value of other financial instruments (whether or not there is a direct relationship with those other financial instruments); and values may go up or down, sometimes rapidly or unpredictably.

### 2.3.9 Currency Risk

This refers to the risks relating to the currency in which the financial instrument is denominated. Where a financial instrument is denominated in a currency that is different from the investor’s “base currency” (this generally refers to the currency in which the performance of the portfolio is measured and is typically, but not always, the currency in which the investor is located), the investor is exposed to the risk that the relative value of the two currencies (or exchange rate) may deviate over time. So, although the value of the financial instrument might increase when measured in the currency of denomination, when measured in (or converted into) the base currency, the investor might experience a loss. This would happen where the currency in which the financial instrument is denominated falls in value relative to the base currency. This risk also arises where the investor hold funds in a currency other than the base currency.



Currency rates may fluctuate significantly, including over short periods of time, for a number of reasons, including changes in interest rates; intervention (or the failure to intervene) by foreign governments; central banks or supranational entities such as the International Monetary Fund; or by the imposition of currency controls or other political developments.

Currency risk also refers to the risk that events may occur that adversely impact the currency in which a financial instrument is denominated. For example, a government may impose exchange controls (which may artificially impact the applicable exchange rate) or other restrictions on the repatriation of the proceeds of sale.

### 2.3.10 Legal and Regulatory Risk

Changes in, or the introduction of new, rules, regulations and laws (including with respect to particular categories of financial instruments, issuers, and taxation) or the way in which they are applied or interpreted may impact your financial instruments and/or the implementation of your investment strategies.

Investors may be exposed to the risks arising under the rules, laws and regulations of jurisdictions other than the jurisdiction in which the investor is located and/or with which the investor is familiar. For example, where you invest in financial instruments that are subject to the rules, laws and regulations in other jurisdictions and/or you invest in financial instruments traded in markets in other jurisdictions, it is important to recognise that those laws and regulations may differ from those with which you are familiar and may have unexpected consequences.

Further, such rules, regulations and laws may be subject to inconsistent or arbitrary application or interpretation and may be changed with retroactive effect. Both the independence of judicial systems and their immunity from economic, political or nationalistic influences remain largely untested in many countries. Judges and courts in many countries might not be experienced in the areas of business and corporate law. Legislatures might revise established law solely in response to economic or political pressure or popular discontent. There is no guarantee that an overseas investor would obtain a satisfactory remedy in local courts in case of a breach of local laws or regulations or a dispute over ownership of assets. An investor may also encounter difficulties in pursuing legal remedies or in obtaining and enforcing judgments in overseas courts. This may be exacerbated by the arrangements under which financial instruments are held in custody; for example, if an investor's ownership interest is not recognised in the overseas jurisdiction where the arrangements for holding the relevant financial instrument involve a nominee.

Governments or their agencies may also acquire distressed assets from financial institutions and acquire ownership interests in those institutions. The implications of government ownership and disposition of these assets will vary, and such a program may have positive or negative effects on the liquidity, valuation and performance of an investor's holdings.

### 2.3.11 Liquidity Risk

Liquidity risk exists when particular financial instruments are difficult to purchase or sell (e.g., if they are not publicly traded and/or have no market that is currently available or may become less liquid in response to market developments). This can reduce a portfolio's returns because

the portfolio may be unable to transact at advantageous times or prices, or at all. Investments that are illiquid or that trade in lower volumes may be more difficult to value.

Liquidity risk may be attributable to a number of factors including: the particular terms and conditions of the instrument; legal, regulatory or contractual restrictions on their sale or transfer; the fact that the instrument is not publicly traded (for example, because it is not listed on an exchange); or in response to market developments or adverse investor perceptions. Liquidity risk may arise where ownership in a particular financial instrument is concentrated in one or a small number of investors, and this may impact the value of the instrument. Liquidity risk may also arise as the result of the reduced number and capacity of traditional market participants to make a market in the relevant financial instrument. Additionally, market participants may attempt to sell holdings at the same time as the investor, and there may be insufficient liquidity to accommodate all these intended sales. These factors may exist at the time of investment or may arise subsequently.

Certain financial instruments may be intended to be held until maturity. Although the issuer or another person (who may be associated with the issuer) may agree to act as market maker in the relevant financial instrument, they may place limitations on their responsibilities to make a market (for example, in certain market conditions). Also, if there is only one market maker (and, particularly if that person is associated with the issuer), it will be difficult to verify whether the price offered by the market maker represents fair value.

### 2.3.12 Call or Redemption Risk

Certain financial instruments, in particular fixed income securities (including hybrid investments such as structured products), will be subject to the risk that the issuer may exercise its right to redeem the security earlier than expected (a “call”). Issuers may redeem or call the financial instrument prior to the original scheduled maturity for a number of reasons (e.g., declining interest rates, changes in credit spreads and improvements in the issuer’s credit quality and, in the case of structured products or hybrid investments, changes in the reference price of the relevant asset, reference rate or index). If an issuer redeems or calls a financial instrument before the original scheduled maturity, the investor’s objective in acquiring that financial instrument may be frustrated and may receive a return that is lower than the return the investor would receive at maturity. The investor may not realise the full anticipated investment returns and may be forced to reinvest in lower-yielding financial instruments or financial instruments with greater credit risks or other less favourable features

### 2.3.13 Hedging Risk

The execution of certain strategies are intended to reduce (or “hedge”) one or more risks relating to one or more financial instruments held in the investor’s portfolio or certain risks in the portfolio as a whole. There can be no assurance that such risk reduction techniques will be successful or, indeed, that we will be able to execute the relevant transactions.

Hedging transactions (for example, through the use of derivatives) may not correlate perfectly with, or may be more sensitive to market events than, the exposure that is being hedged. Furthermore, hedging transactions will involve additional risks, for example (in relation to derivatives transactions) credit risk to the counterparty. Therefore, not only might hedging

transactions fail to accomplish their objective, they may also result in additional or increased risks.

Hedging transactions (such as derivatives) typically have a defined termination or maturity date and this maturity date might not coincide with the period of time for which the underlying financial instrument is held. When the hedging transaction terminates, it might not be possible to execute a similar hedging transaction or an investor may only be able to enter into a similar hedging transaction on terms that are less advantageous.

### 2.3.14 Leverage or Gearing Risk

Leverage and gearing describe various techniques and investment strategies that are typically intended to generate returns through increased exposure to financial instruments or other assets (including currencies and indices). Examples of these techniques include the following: borrowing (often using a portfolio of financial instruments as collateral) and investing the proceeds in financial instruments; and using derivatives to gain an (increased) exposure to a financial instrument, greater than the exposure that would be achieved by purchasing the financial instrument directly. These techniques and strategies may be applied to one or more financial instruments or may be embedded in a financial instrument (for example, a structured product or a hedge fund).

These techniques and strategies can magnify both profits and losses in a financial instrument or portfolio, even where there is a relatively small movement in the relevant underlying asset(s). Depending on the technique or strategy used and (as applicable) the terms and conditions of the financial instrument in which the technique or strategy is embedded, the amount of losses incurred by an investor could result in the loss of the entire amount committed. In certain circumstances, the investor may be liable to make further payments: for example, where an investor has borrowed money secured against a portfolio of financial instruments and uses the proceeds of the loan to make further investments, the investor would be liable to repay the loan even in the event of the entire loss of value of the portfolio.

### 2.3.15 Non-Domestic Market Risk

Where an investment is made outside the investor's domestic (or home) market, the investor will be exposed to the risks of that market, as well as practical issues, for example relating to local language considerations. The precise nature and extent of those risks will be specific to that market and the following describes, in general terms, some of the risks that might be encountered.

Even in developed markets, the laws, rules, regulations, trading conventions and practices may differ from those with which the investor is familiar. For example, the nature and extent of investor protections, the level of transparency (including with respect to accounting, auditing and reporting standards) and relevant corporate governance standards may be different.

Further, the rights typically associated with particular financial instruments, including with respect to the exercise of voting rights, may differ and these may be impacted by the arrangements under which financial instruments are held in custody. For example, an investor's ownership interest may not be recognised in the overseas jurisdiction where the arrangements for holding the relevant financial instrument involve a nominee. Information

relating to the financial instruments distributed from the issuer may not be received on a timely basis or at all. This may also impact the processing of corporate actions.

### 2.3.16 Tax Risk

Dividends, interest and other amounts payable (including, without limitation, principal amounts) with respect to financial instruments and other funds held by an investor may be subject to taxes, including withholding taxes. The effect of taxation will reduce the return on the relevant financial instrument. Where tax is withheld (which may be effected by a tax authority in another jurisdiction), an investor may be able to recover the amount withheld or otherwise offset part or all of the amount withheld against the investor's tax liability. However, there can be no assurance that any such recovery will be successful. The location of the custodian (or its nominee) may also impact the tax treatment and (where applicable) the process for recovery of tax withheld.

Tax laws and regulations, and their interpretation and application, may change from time to time, including with retroactive effect. As a result of such changes, investors might incur unanticipated tax liabilities and/ or may lose tax benefits previously attaching to particular financial instruments. As a result, the actual investment return may differ (potentially, significantly) from the expected return. Unless otherwise agreed in writing, we are not responsible for providing tax advice and are not responsible for and provide no guarantee or assurance with respect to the tax treatment of any financial instrument.

### 2.3.17 Bail-In Risk

This is the risk that the financial instruments of certain issuers, including banking institutions, building societies, investment firms and certain banking group companies, may be subject to action taken by governmental, banking and/or other regulatory authorities, for example to address banking crises pre-emptively, whether or not the express terms of such financial instruments anticipate such action. The relevant authorities may have broad discretion on the action that they may take and their powers may be extended in response to particular events. Examples of the actions that they may be able to take could include the following:

- a) The reduction, including to zero, of the principal of the fixed income instruments of such issuers;
- b) The conversion of such fixed income instruments into equity securities or other instruments of ownership (resulting in the dilution of ownership interests of existing shareholders);
- c) The variation of the terms, including with respect to maturity, of such fixed income instruments; and
- d) Shareholders being divested of their shares.

In addition to bail-in risk, certain issuers (principally, banking institutions) may issue a hybrid form of subordinated fixed income security known as contingent convertible securities ("CoCos"). These financial instruments are intended to either convert into equity or have their principal written down upon the occurrence of certain "triggers" linked to regulatory capital thresholds or where the issuer's regulatory authorities question the continued viability of the

entity as a going -concern. There may be broad discretion conferred on the issuer with respect to the determination as to whether any of these triggers have occurred and the specific features and characteristics of CoCos may vary significantly, as they are typically tailored to the particular issuer and its regulatory requirements. Therefore, it is particularly important to review the relevant terms and conditions.

Some additional risks associated with CoCos are:

- a) Typically, there is no stated maturity and the coupon is fully discretionary. This means coupons can potentially be cancelled at the issuer's discretion or at the request of the relevant regulatory authority in order to help the issuer to absorb losses;
- b) If the CoCos are converted into the issuer's underlying equity securities following a conversion event, each holder will be subordinated due to their conversion from being the holder of a debt instrument to being the holder of an equity instrument;
- c) The market value of the CoCos will fluctuate based on unpredictable factors including, without limitation: i. the creditworthiness of the issuer and/or fluctuations in such issuer's applicable capital ratios; ii. supply and demand for the CoCos; iii. general market conditions and available liquidity; and iv. economic, financial and political events that affect the issuer, its particular market or the financial markets in general.

### 2.3.18 Unlisted and Non-Exchange Traded Financial Instruments Risk

Financial instruments that are not traded or listed on an exchange may present greater risks. For example, these may include increased liquidity risk and lower levels of transparency with respect to accounting, auditing and reporting standards. It may also be more difficult to assess the value of such financial instruments; bid and offer prices might not be quoted, and even where they are, it may be difficult to establish a fair price.

### 2.3.19 Collateral Risk

Financial instruments and/or strategies relating to financial instruments may involve exposure to the risks associated with the provision of collateral (sometimes referred to as "margin"). For example, if an investor enters into a derivatives transaction, the investor may be required to provide the counterparty with collateral to mitigate the risk that the investor might fail to perform the obligations arising under the derivatives transaction and, depending on the nature of the derivatives transaction and changes in the value of the underlying asset, the investor may be required to deposit additional collateral. Failure to provide collateral may result in the termination of the relevant transaction and the investor will remain liable for any remaining losses.

Please note that the arrangements for the provision of collateral are typically not mutual or bilateral. This means that the investor might not receive collateral in circumstances where the investor is exposed to the counterparty to the transaction, but will be required to deliver collateral in circumstances where the counterparty is exposed to the investor.

Where collateral is provided, the recipient of the collateral may reserve the right to return "equivalent" collateral rather than the same collateral. In many circumstances, this right is primarily intended to address issues relating to the delivery of collateral that is "fungible" in

nature. Assets are fungible where they are equivalent and, therefore, interchangeable. For example, ordinary shares of the same issuer are fungible with one another. However, those rights may entitle the counterparty to return other assets and/or cash.

Further, the investor may be exposed to the credit risk of the person (typically the counterparty to the transaction) to whom the collateral is provided in the event that the collateral is not returned and the investor may be an unsecured creditor with respect to any claim in the event of the insolvency of the person to whom the collateral has been provided.

In certain circumstances (for example, in the case of exchange traded derivatives), the investor's collateral may be passed on to third parties, including clearing houses and clearing brokers. In such circumstances, the investor may be exposed to the risk that the third party fails to return the collateral, for example in the event of that third party's insolvency.

The arrangements under which collateral is provided and held may be governed by the laws of jurisdictions other than the jurisdiction in which the investor is located and/or with which the investor is familiar.

A detailed analysis and explanation of the consequences of providing collateral (including the concept of fungibility) is beyond the scope of this document and involves complex legal concepts and analysis. Before entering into transactions that require (or may require) the provision of collateral, investors should ensure that they understand the arrangements applicable to the collateral, the circumstances in which they may be required to provide additional collateral, and the legal and practical consequences of such arrangements. Where necessary, investors should obtain their own independent advice.

### 2.3.20 Clearing House Risk

On many exchanges, the performance of a transaction may be "guaranteed" by the exchange or a clearing house. However, in most circumstances, an end investor is unlikely to obtain the direct benefit of the guarantee and the investor may not be protected in the event that a broker or other intermediary involved in the execution or settlement and clearing of the transaction fails to perform its obligations. Investors are also exposed, although typically indirectly, to the credit or default risk of the exchange or clearing house, as well as any broker or other intermediary involved. In the event of the default of any of these persons, the investor's transactions may be terminated unilaterally and the investor may lose part or all of the amount invested.

### 2.3.21 Risks specific to certain types of bond

Additional risks may be associated with certain types of bond, for example floating rate notes, reverse floating rate notes, zero coupon bonds, foreign currency bonds, convertible bonds, reverse convertible notes, structured bonds, high yield bonds, indexed bonds and subordinated bonds. For such bonds, you are advised to make inquiries about the risks referred to in the issuance prospectus and not to purchase such securities before being certain that all risks are fully understood. In the case of subordinated bonds, you are advised to enquire about the ranking of the debenture compared with the issuer's other debentures. Indeed, if the issuer becomes bankrupt, those bonds will only be redeemed after repayment of all higher ranked creditors and as such there is a risk that you will not be reimbursed. In the



case of reverse convertible notes, there is a risk that you will not be entirely reimbursed, but will receive only an amount equivalent to the underlying securities at maturity.

### 2.3.22 Off-exchange transactions

When trading financial derivative products with us, you will be entering into off exchange derivative transactions. All positions entered into with us must be executed with us and cannot be executed with any other entity. Transactions in off-exchange derivatives may involve greater risk than investing in on-exchange derivatives because there is no exchange market on which to close an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an off-exchange transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted by us, and, even where they are, we may find it difficult to establish a fair price, particularly when the relevant exchange or market for the underlying is closed or suspended.

### 2.3.23 Suspensions of Trading:

Under certain trading conditions it may be difficult or impossible to liquidate a position. This may occur, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted. Placing a stop-loss order will not necessarily limit your losses to the intended amounts, because market conditions may make it impossible to execute such an order at the price stipulated.

### 2.3.24 Insolvency:

Our insolvency or default, or that of any other brokers involved with your transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.

### 3. Conflicts of Interest

#### 3.1 Purpose

As a multi-service financial institutions engaging in a variety of activities and offering a wide variety of products and services to a broad and diverse client base, the Bank will from time to time encounter actual and potential conflicts of interest that arise from the Bank as well as from all entities of SMBC taking multiple roles in a transaction, or providing products and services across different desks, divisions, legal entities or the Bank operated trading venues.

A conflict of interest is generally a situation in which the firm or part of the firm or a business unit or any of its employees and contingent workers has a business or personal interest which potentially competes with such an interest of any or more of a client, the firm or part of a firm and business unit. Whereby client means existing client, a potential client or past client where fiduciary or other duties remain.

In accordance with the regulatory obligations set by MiFID II, as amended and implemented nationally, the Bank will manage conflicts fairly and will put in place policies and procedures to ensure that any actual or potential conflicts of interest are identified and managed effectively. In this way, the Bank seeks to avoid the risk of material damage to the interests of the clients.

The Bank has the obligation to manage conflicts of interest effectively by implementing adequate procedures and a robust control environment with effective systems to identify, mitigate and manage the risks. Not doing so risks clients' interests being overlooked in favour of commercial or personal interests.

Conflicts identification and resolution is a critical tool to prevent conflicts arising that could result in: legal/regulatory risk, reputational risk and damage to client relationships. One policy cannot describe all circumstances in which conflicts of interest arise. Rather, it is the aim to provide an overarching framework for the identification and management of conflicts of interest. Therefore, this policy is to be revised annually, and aims at setting out key principles and relevant measures.

Where actual or potential conflicts of interest were identified, their materiality has to be assessed; they should be prevented where possible or mitigated appropriately. In any case, an actual or potential conflict of interest has to be located within the conflicts of interest register.

Disclosing a conflict of interest remains to be the last resort (ultima ratio principle), meaning that all other instruments which are suitable for handling the conflict of interest will be preferred.

#### 3.2 Procedures and Measures for Managing Conflicts of Interest

The Bank maintains a Conflicts of Interest Policy and has implemented procedures to identify, prevent and manage any actual or potential conflict of interest that may arise between the Bank, its managers, employees, other SMBC Group companies and its customers, or between one customer and another.



### 3.2.1 Identifying Conflicts of Interest

The Bank and its employees have to undertake all appropriate steps to identify conflicts of interest that arise or could arise with regards to conducting business.

For the purposes of identifying the types of conflicts of interest that arise or may arise in the context of providing a service which entails a risk of damage to the interests or our client or the integrity of the financial market, the Bank and its employees must take into account whether:

- the Bank is likely to make a financial gain, or avoid a financial loss, at the expense of the client;
- the Bank has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;
- the Bank has a financial or other incentive to favour the interests of one client or group of clients over the interests over another;
- the Bank receives or will receive a monetary or non-monetary inducement from a third party or another Sumitomo Mitsui Financial Group entity or related division in relation to a service provided to the client;
- The interests of one client may be preferred to those of another;
- the Bank or its employees carry on the same business as the client;
- Employees of the Bank have multiple roles across more than one legal entity or have multiple roles outside of the company with an impact on the client relationship;
- Business is being placed on behalf of the client with another group entity, which may not be in the client's best interest.

These criteria should be taken into account when considering, if a behaviour entails or may entail a conflict of interest. Self-understanding, the mentioned criteria are a non-exhaustive list and other factors need to be considered on a case-by-case basis.

Where identified through the above outlined criteria, conflicts of interest must be recorded immediately within the conflicts of interest register.

### 3.2.2 Methods of Conflicts Management

**Segregation of Duties** - establishing adequate segregation of duties, e.g. entrusting conflicting activities within the chain of transactions or of services to different employees, or entrusting supervisory and reporting responsibilities for conflicting activities to different employees.

**Information Barriers** - establishing information barriers and physical separation of certain departments specifically between private and public side business lines in order to prevent information flow between conflicting business activities. This also includes system access restrictions.

**Outside Activities** - preventing employees who are also active outside the institution from having inappropriate influence within the institution regarding those other activities; This also includes preventing members of the management body from holding directorships in competing institutions.

Multi-Level-Procedures and Deal-Treeing - establishing adequate procedures for transactions with related parties (e.g. requiring transactions to be conducted at arm's length; requiring that all relevant internal control procedures fully apply to such transactions; requiring a binding consultative advice by members of the supervisory board; an approval by shareholders of the most relevant transactions; limits to the exposure of such transactions).

### 3.2.3 Consent

Where the Bank is not reasonably confident that the arrangements it has in place to manage conflicts of interest are sufficient to ensure that the risk of damage to the interest of the client may be prevented, the Bank must disclose the general nature and/or source of the conflict to the client which may be impacted, if it wishes to proceed to undertake the business for that client.

Consenting conflicts of interest should aim at enabling existing or potential clients or third parties to make an informed decision before conducting business with the Bank.

### 3.2.4 Declining to act

In certain circumstances, bearing in mind the nature of the conflict and the risks involved, the Bank may wish to refrain from acting for the client. Therefore, each division must ensure that its established organizational and administrative arrangements are effective to identify and manage relevant conflicts of interest.

In the case that applied measures and procedures are not effective it has to be decided whether 1) the Conflict of Interest will be disclosed or 2) acting for the client or undoing an action which would lead to harming the client's interest or potentially harming the interests of the client is the adequate measure. With special regards to transactions refusing, discontinuing or changing any part of the transaction is the remaining option.

### 3.2.5 Disclosure of Conflicts of Interest

Where there is no reasonable confidence that the arrangements that are in place to manage conflicts of interest are sufficient to ensure that the risk of damage to the client's interests will be prevented, the Bank must disclose the general nature and/or source of the conflict to the client or potential client. Disclosure is not a sole measure being used to manage the conflict but it should be highlighted, that disclosing a conflict of interests as a measure remains a last resort.

The disclosure has to be provided promptly and clearly. It has to include a description of the conflict of interest and potential risk of the conflict in sufficient detail which needs to be written in a suitable way so that it is understood by the client. The disclosure has to include the statement, that organizational and administrative measures set out by the Bank to prevent or manage the conflict are not sufficient in order to ensure with confidence that the risk of damage to the clients' interest will be prevented.

The disclosure must be made in a durable medium (paper or any other instrument which enables the client to store the information for future reference for an adequate period of time and which allows for the unchanged reproduction of that information) and must include sufficient detail, taking into account the nature of the client, to enable that client to take an

informed decision with respect to the service, in the context of which the conflict of interest arises.

The disclosure must be addressed personally to the client.

### **3.2.6 Procedures & Policy Application**

The Bank will manage conflicts of interest where the client's interest threatens to be unduly harmed and will manage the conflicts of interest.

Therefore, various arrangements have been established by Compliance, designed to achieve these objectives:

- Relevant policies and procedures for inter client conflicts including policies for order management and execution, allocation policies and procedures for treeing.
- Identification of actual, potential or perceived conflicts of interest for advisory transactions is managed through the group wide Sumitomo Mitsui Financial Group Conflicts process where all relevant client transactions are reported;
- Controls over the handling and flows of confidential and inside information are outlined in the Information Barriers policies;
- Restricted lists are in place in order to prevent before entering a relationship and check an ongoing base whether relationships are effected by sanctions or other restrictions

### **3.2.7 Training & Awareness**

All Bank employees have to receive a COI training as part of the new joiner induction process. Furthermore all business divisions are responsible for ensuring their employees understand the responsibilities under this policy for the identification, management and escalation of conflicts of interest. Each department is responsible to extend the relevant training material in order to suit their divisional requirements.

## **3.3 General Types of Situations Leading to Conflicts of Interest**

### **3.3.1 Outside Business Interest**

Every business activity (e.g. consultancy, management positions, heading a trust, business participations or ventures) outside the Bank needs to be reported and the approval of the responsible business area head / board member is required. Where either new joiners or existing employees have affiliations or personal relationships which could conflict with their roles, these should be disclosed.

### **3.3.2 Personal Account Dealing**

The Bank's Personal Account Dealing Policy sets out the conditions for the Employees' personal account dealing activities. The main goal, besides avoiding market abuse, is to avoid conflicts of interest between clients of the firm and Employees of the firm.

### 3.3.3 Remuneration

The Bank has policies and procedures in place in accordance with regulatory requirements, taking into account the interests of all the clients, and designed to ensure that clients are treated fairly and their interests are not impaired by the remuneration practices.

### 3.3.4 Gifts & Entertainment

It is prohibited for all Employees to receive or offer gifts and entertainment for themselves or their families which would negatively influence their integrity which might constitute an inappropriate incentive.

### 3.3.5 Inducements

Inducements from third parties in relation to a service provided to you are acceptable to the Bank only if: a) the inducement is disclosed to you; b) it is either the payment of a normal fee or commission to continue the quality of our services to you; and c) it does not impair our duty to act in your best interests.

### 3.3.6 Order Execution

The Bank has defined and implemented an Order Execution policy which describes how clients' orders are executed. The Order Execution policy sets out how the Bank deals with clients' orders to act in their best interest.

### 3.3.7 Strategic and Proprietary Information

The Bank employees will have access to information relating to its clients, employees, service providers, controls, policies & procedures, security and data which must be safeguarded and treated as confidential. The Bank has Information Security policies and controls in place which must be adhered to.

## 3.4 Regulatory References

- Provisions of Part 11 of the German Securities Trading Act (WpHG) and the German Ordinance specifying the rules of conduct and organisational requirements for investment service providers (WpDVerOV)
- BaFin's Minimum Requirements for the Compliance Function and Additional Requirements Governing Rules of Conduct, Organisation and Transparency (MaComp)
- BaFin's Minimum Requirements for Risk Management (MaRisk)
- BaFin's Issuer guideline (Emittentenleitfaden)
- MiFID II and MiFIR
- The EBA Guidelines on internal governance (GL 44)

## 4. Order Execution

### 4.1 Purpose

This section is designed to inform you, the client, on how transactions are executed to provide a general understanding of our dealing arrangements per product type in line with the Best Execution requirements as defined in MiFID II and based on the client classification for which you have received a notification letter from the Bank.

Best Execution applies to Professional Clients of the Bank regardless of whether they are an Elective Professional Client or per se Professional Client and does generally not apply to business conducted with Eligible Counterparties. The Bank does not undertake business with Retail clients.

Best Execution is in relation to the following products:

- Cash Equities
- Equity Linked Products (incl. Convertible Bonds and Covered Warrants)
- Credit
- Rates
- Derivatives

### 4.2 What is Best Execution

Best Execution is the requirement to take all sufficient steps to obtain, when executing orders, the best possible result for the client taking into account various execution factors relevant to the execution of an order.

The execution factors are in general:

- Price – the price at which a financial instrument is executed –
- Costs – the costs that will be payable by the client as a result of the execution of the transaction
- Speed and Settlement – the speed of execution and settlement of the order
- The likelihood of Execution and Settlement – the likelihood that the transaction will be executed and settled
- Nature of the transaction and any other consideration relevant to the execution

In coming to your determination with regards to the priority of such execution factors, a variety of criteria may be taken into account which may include, but are not limited to, the type of financial instrument that is the subject to the order, the type of order and its specific characteristics, such as the size of the order or the liquidity of the underlying, as well as the execution venues to which the order could be directed. Appropriate consideration must be made based on a transaction by transaction basis and may vary per asset class.

### 4.3 When does Best Execution apply

The obligation to provide best execution will always arise in circumstances where the Bank receives instructions from a client to execute a transaction on their behalf, that gives rise to contractual or agency obligations owed by the Bank to the client. Such contractual or agency obligations will arise where we are required to exercise discretion in relation to the execution of a client instruction or order.

The best execution obligation may also apply when the Bank deals on its own account, acting in a principal capacity, and a client is placing a legitimate reliance on us to protect their interest in relation to the execution of a transaction.

Where we receive **specific instructions** from you in relation to every aspect of a transaction, such that we have no discretion over how an order is executed, we will execute so far as reasonably possible the transaction in accordance with those instructions. Specific instructions may prevent us from taking some or all of the steps set out in the Policy that are designed to obtain best execution. By following client specific instructions we will satisfy our obligation to provide best execution in relation to the order. In respect of those aspects of execution which are not covered by the specific instruction, we will process the order in accordance with this section.

### 4.4 Execution Venues

When executing your transactions or when placing your orders with (or transmitting your orders to) other entities (including affiliates) to execute, the Bank will take all sufficient steps in order to obtain on a consistent basis the best possible result.

The factors affecting choice of execution venue include, but are not limited to financial instrument, price, market liquidity, the size and nature of the order, credit and settlement risk, realized performance (latency, liquidity, price improvement, and whether a client has informed us they do not consent to their orders being executed outside of a regulated market or MTF.

Our choice of venue may be constrained by the fact that there may be only one venue where an order can be executed due to the nature of the instrument, your order or your individual requirements.

Venues:

- Regulated Markets, Multilateral Trading Facilities and Organised Trading Facilities
- The Bank and its Affiliates where we internalise orders (either on a risk or as a riskless principal basis)
- Other exchanges that are not Regulated Markets,
- Systematic Internalisers,
- Market makers or other liquidity providers
- Non-EEA entities performing a similar function to any of the above.

Execution venues can include venues of which we are direct members or participant and venues that we access through third party brokers or dealers.

The Bank is not a member of any exchanges or other regulated markets. For the purposes of ensuring efficiency and access to a wider range of markets, particularly in relation to Japanese equities, the Bank has entered into agreements with third party brokers, including SMBC Nikko Securities Inc. ("SMBC Nikko"). In addition the Bank may be a member of MTFs and transact with a number of third parties who may be an OTF or Systematic Internaliser. Accordingly, the "execution venues" referred to herein are SMBC Nikko, MTFs, OTFs, Systemic Internalisers and other third-party brokers.

Where the Bank has access to multiple venues for execution, the Bank will select the most appropriate execution venue.

## 4.5 Aggregation and allocation of orders

The Bank may aggregate orders of (i) multiple clients and (ii) one or more clients and its own orders, where the Bank believes the aggregation to be fair and equitable taking into account received, any relevant instructions received from the client, the relative sizes of the orders and the current liquidity of the market for the relevant financial product, and the Bank's obligations to act in the interests of its clients and to avoid conflicts of interest.

Where the Bank executes an aggregated order, unfair preference will not be given to own account orders, or to any particular client, in the subsequent allocation procedure. Where a client order and an own account order have been aggregated, priority will be given to satisfying the client order if the aggregate total of all orders cannot be satisfied, unless the Bank can demonstrate on reasonable grounds that without the Bank's participation it would not have been possible to execute those orders on such favourable terms, or at all.

## 4.6 Monitoring and Notification

The Bank will monitor the effectiveness of its execution arrangements and Order Execution Policy and assess on a regular basis whether the execution venues it has selected provide for the best possible result for orders it executes on your behalf.

The Bank will also notify you of any material changes to its order execution arrangements; such notification may be made via the Bank website.

## 4.7 Asset Class Information

### 4.7.1 General

The Bank owes a duty of best execution when executing Client Orders. We consider ourselves to be in receipt of an order where an execution instruction is given to us that give rise to contractual or agency-like obligations to client. Specifically, this will be the case where clients commit to a trade that is not immediately executable, leaving discretion with us as to the manner of execution and exact terms of the resulting transaction; and the execution can be booked to the clients account, without the need to re-confirm the price, size or any other factor(s) with you; or where we execute an order usually on a riskless principal basis on their behalf.

Best execution obligations are unlikely to apply where clients have asked us for a quote (RFQ). However, this should be reviewed on a transaction-by-transaction basis depending on the



circumstances of the request. Furthermore, where clients provide us with a specific instruction, such as the time an order should be placed, to the extent that we follow such instructions, we have satisfied any best execution requirements with respect to that aspect of the order.

#### 4.7.2 Cash Equities

For the majority of Cash Equity executions, except in certain circumstances, the obligation to provide best execution will ordinarily apply.

The Bank is not a member of any exchanges or other regulated markets, nor is it a systematic internaliser in cash equities. For the purposes of ensuring access to Japanese exchanges and markets in relation to Japanese equities, the Bank has entered into execution agreements with SMBC Nikko Securities Inc. ("SMBC Nikko").

The Cash Equities Desk of the Bank and/or SMBC Nikko assess each client order based on their accompanying instructions. Client specific instructions determine how each order is split into components and also dictate how these are executed. Consequently, the prioritisation of execution factors may vary on a per-order basis.

Outside of any specific instructions provided by the client, the most important execution factor when handling orders will be the price of the relevant financial instrument. Subject to any specific instruction, the following provides an example of the execution factors prioritisation that may be applied:

1. Price
2. Likelihood of Execution
3. Size
4. Costs
5. Speed
6. Other Considerations

Once an order has been received it is split for execution in accordance with any accompanying Specific Instructions. As part of assessing how to split a client order, this may be done manually, via an algorithm provided by SMBC Nikko or by a combination of the two. This process will follow a differing priority of execution factors to meet the desired overall objective on a per order basis. Client Specific Instructions permitting, market impact is taken into consideration.

In order to meet the obligation to take all necessary steps to obtain on a consistent basis the best possible result for the execution of client orders SMBC Nikko (the Cash Equities Desk) may use one or more of the execution venues listed below:

- Execution venues
- Chi-X Japan
- Fukuoka Stock Exchange
- Nagoya Stock Exchange
- Sapporo Stock Exchange
- SBI Japan Next
- Tokyo Stock Exchange



- ToSTNET

Direct Markets Access (“DMA”) orders received by the Bank are passed through a Smart Order Router unless a specific venue is instructed. In circumstances, when we do not take an active role in determining client execution parameters, we will seek to transact that order in accordance with their instructions. The Bank reserves the right however to intervene in the routing and execution of DMA orders where the original parameters could result in adverse market impact.

### 4.7.3 Equity Linked Products

For Equity Linked Products, the Bank primarily trades in a principal capacity providing responses to client’s Requests for Quotes (RFQ) and therefore we may act as a liquidity provider. As the Bank operates in a competitive market for the execution of clients RFQ’s in Equity Linked Products, the expectation is that clients have access to multiple dealers and pricing sources and hence are in competition. .

As with RFQ/reverse inquiries, if the Bank provides quotes or negotiates a price on an RFP basis with you based on your requirements, we will not generally presume to receive a Client Order where best execution will apply.

Typically executions in convertible bond markets are undertaken via two main approaches, through a RFQ or via a Resting Order. In a resting order in the over-the-counter markets, clients give us an instruction to buy or sell on their behalf a specified size in a specified convertible bond with the aim of achieving the best possible outcome within the available appetite or supply in the market. We will attempt to fill their Resting Order on an over-the-counter basis.

When seeking to execute a client resting order the Bank will seek to fill the transaction as soon as possible, at the target price or a better price, whilst applying a mark-up or spread as compensation for our work and (residual) risks. This mark-up or spread should be within a range of what we consider reasonable for the product type, tenor and size of the trade.

The Bank does not charge a commission but we do impose a mark-up/down or spread on where we execute trades in the market and where we execute them with clients (there is no agreed consistent mark up and reasonableness is based on a number of factors such as time of day, market conditions, order size, maturity of the transaction, counterparty credit risk).

Generally, an important execution factor for our clients will be the price the relevant financial instrument is executed at. As part of the price finding process for Equity Linked Product transactions, we will also take into consideration a number of other execution factors such as liquidity of the underlying, maturity of the transaction, counterparty credit risk and platform/technology dependencies.

However, depending on the complexity of the product, client engagement in creating the product/transaction and bespoke nature of the transaction, the primary execution factors may vary, with likelihood and speed of execution potentially being a more important factor than price.

For equity linked products, the following provides an example of the execution factors prioritisation that may be applied:

1. Price
2. Size
3. Costs
4. Speed
5. Likelihood of Execution
6. Other Considerations.

As we trade Equity Linked Products on a principal basis, the execution venue will usually be the Bank and its affiliates. The Bank will look to hedge its risks through a variety of Trading Venues including brokers, exchanges and other dealers.

- Bloomberg AIQ
- BGC
- CHU
- CME
- GFI
- Nagoya Stock Exchange
- Osaka Exchange
- OTC
- SBU
- SGX Singapore Stock Exchange
- ToSTNET
- Tradeweb
- Tradition
- Tokyo Stock Exchange
- Vantage Capital Markets LLP.

#### 4.7.4 Credit

Typically executions in Credit securities are undertaken via two main approaches, via a resting order or through a RFQ.

When seeking to execute a client resting order the Bank will seek to fill their transaction as soon as possible, at the target price or a better price, whilst applying a mark-up or spread as compensation for our work and (residual) risks. This mark-up or spread will be within a range of what we consider reasonable for the product type, tenor and size of the trade.

Generally, the most important execution factor for our clients will be the price the relevant financial instrument is executed at. However, in more illiquid markets, the primary execution factors may vary, as such, likelihood of execution may become the primary execution factor. Subject to any Specific Instruction, the following provides an example of the execution factors prioritisation that may be applied:

1. Price

2. Likelihood of Execution
3. Size
4. Costs
5. Speed
6. Other Considerations.

As we trade Credit securities on a principal basis often, the execution venue will usually be the Bank or our affiliates. Below, we list the other execution venues that we use frequently to hedge our own market risk, or as a riskless principal, we may use them to fill a resting order that you have left with us.

- Barx
- Bloomberg AIQ
- BGC
- Chicago Board Options Exchange
- EMSX
- Eurex
- GFI
- ICAP
- Market Axess
- OTC
- Tradeweb
- Tradition.

#### 4.7.5 Rates

Typically executions in Rates securities are undertaken via two main approaches, via a resting order or through a RFQ. Most trading in the market for Rates securities instruments happens through RFQ.

When seeking to execute a client resting order the Bank will seek to fill their transaction as soon as possible, at the target price or a better price, whilst applying a mark-up or spread as compensation for our work and (residual) risks. This mark-up or spread will be within a range of what we consider reasonable for the product type, tenor and size of the trade.

Generally, the most important execution factor for our clients will be the price the relevant financial instrument is executed at. However, in more illiquid markets, the primary execution factors may vary, as such likelihood of execution may become the primary execution factor. Subject to any Specific Instruction, the following provides an example of the execution factors prioritisation that may be applied:

1. Price
2. Likelihood of Execution
3. Size
4. Costs

5. Speed
6. Other Considerations.

As we always trade Interest Rate Products on a principal or riskless principal basis, the execution venue will usually be the Bank or our affiliates. Below, we list the other execution venues that we use frequently to hedge our own market risk, or as a riskless principal, we may use them to fill a resting order that a client has left with us.

- Barx
- BGG
- Bloomberg AIQ
- Bond Broker
- EMSX
- Eurex
- Osaka Exchange
- OTC
- Tradeweb
- Tradition
- Tokyo Stock Exchange.

#### 4.7.6 Derivatives

The Bank arranges derivative transactions between its clients and approved group booking entities and does not execute derivative transactions on a principal basis. Thus the provision of Best Execution will be a relatively rare occurrence.

As the Bank operates in a competitive market for the execution of client RFQ's in derivatives, the expectation is that clients have access to multiple dealers and pricing sources or alternatively employ independent benchmark advisers to assess market prices and hence are in competition. Best execution obligations are unlikely to apply where clients have asked us for a quote, as we generally take the view that there is no legitimate reliance being placed on us to meet the relevant best execution requirements; however in all cases we endeavour to provide the most competitive pricing achievable.

The markets for vanilla and complex interest rate, foreign exchange, cross currency and commodity derivatives are in most instances well established and competitive, whereby multiple market participants will stand ready to respond to clients' RFQ/reverse inquiry or requests for proposal (RFP). Such processes are carried out via direct requests through meetings, voice, email or electronic messaging.

In relation to RFQs or reverse inquiries (e.g. the client approaches the Bank to provide banking services), where we provide quotes or negotiate a price with clients on request, we will not generally presume to be receiving a Client Order where best execution will apply.

When transacting on a RFP basis, clients will usually, after an initial broad contest, choose a small number of providers to discuss the transaction in detail. This process will eventually lead to a (potentially exclusive) quote based on the parameters requested by the client. The time between the initial client contact and the quote varies from a few days to a very protracted

period. As with RFQ/reverse inquiries, if the Bank provides quotes or negotiates a price with you based on your requirements, we will not generally presume to receive a Client Order where best execution will apply.

Furthermore, where clients provide us with a Specific Instruction, such as the time an order should be placed, to the extent that we follow such instructions, we have satisfied any best execution requirements with respect to that aspect of the order.

The Bank does not charge a commission but we do impose a mark-up/down or spread on where the relevant group entities execute trades in the market and where we execute them with clients (there is no agreed consistent mark up and reasonableness is based on a number of factors such as, but not limited to, time of day, market conditions, order size, maturity of the transaction, counterparty credit risk).

When seeking to execute a resting order the Bank will seek to fill the transaction as soon as possible, at the target price or a better price, whilst applying a mark-up or spread as compensation for our work and (residual) risks. This mark-up or spread will be within a range of what we consider reasonable for the product type, tenor and size of the trade.

Generally, an important execution factor for our clients will be the price the relevant financial instrument is executed at. As part of the price finding process for Derivative transactions, we will also take into consideration a number of other execution factors such as liquidity of the underlying, maturity of the transaction, counterparty credit risk and platform/technology dependencies.

However, depending on the complexity of the product, client engagement in creating the product/transaction and bespoke nature of the transaction, the primary execution factors may vary, with likelihood and speed of execution potentially being a more important factor than price.

Subject to any Specific Instruction, the following provides an example of the execution factors prioritisation that may be applied:

1. Price
2. Likelihood of Execution
3. Size
4. Costs
5. Speed
6. Other Considerations.

The Bank does not trade derivatives on a principal basis, but arranges them between the clients and relevant affiliates. The execution venue will usually be the Bank's affiliates, who will look to hedge their risks through a variety of trading venues including brokers, exchanges and other dealers, such as:

- 360T
- Autobahn
- Barx
- Bloomberg FXGo
- Bloomberg BBTI
- OTC
- Thompson Reuters FXAll
- Tradeweb
- XTrader

## 5. Product Governance

### 5.1 The Bank as a Distributor

As a distributor of financial products we have certain obligations, including a requirement to check the target market of the manufacturer and if necessary to identify a target market for the products we distribute. We distribute products which have been manufactured either by us or by third parties. We will distribute products and/or related services to you, only if they are appropriate to you.

### 5.2 Onward distribution

To the extent you are not the end investor in any distribution chain for a particular product, you will define your own target market for the relevant product having regard to your knowledge of your own client base. Since we do not possess sufficient information in order to assess whether all purchasers of products distributed by us fall within the relevant target market, you should take into account the target market identified by the manufacturer and confirm in each case that the relevant product meets your investment needs and objectives or those of your underlying clients as the case may be.

### 5.3 Proportionality Types

We have categorised our investment products according to their risk and complexity into one of three types:

- Type 1 (Low) are those non-complex products (e.g. government bonds) for which it is determined that our existing governance arrangements adequately address the requirements of the product governance rules.
- Type 2 (Medium) are those investment products (e.g. convertible bond or fixed/float swap) for which it is determined that our existing governance arrangements provide a strong framework to support the requirements of the product governance rules but that certain additional protections are required.
- Type 3 (High) are those investment products (e.g. structured notes or deal contingent hedges) which require the highest level of protections to ensure compliance with product governance rules. While existing governance arrangements and the additional enhancements for Type 2 products provide a strong framework for Type 3 products, certain additional protections are required

The overview of all products with their proportionality types can be found in section 5.5

## 5.4 Appropriateness

Since we offer only products to clients that are available to both professional clients and ECPs and only ever deal with Professional Clients and ECPs, thus there is no need at the current stage to consider the client category when perform a target market reconciliation / appropriateness test.

When assessing appropriateness for non-advised services, a firm is also required to determine whether the client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service offered or demanded. Where such an appropriateness test requirement applies in respect of a client, the firm may assume that a professional client or ECP has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client or ECP.

Thus, we take the following approach for the appropriateness test:

Where you request at your own initiative the provision of services in relation to the execution or reception and transmission of your orders in respect of type 1 and 2 products, then, unless otherwise agreed, we are not required to assess the appropriateness of such transaction or service for you and you will not, therefore, have the benefit of certain conduct of business regulations relating to the assessment of appropriateness.

Since type 3 products are highly complex and require specific background we will perform an appropriateness check on a case-by-case basis (for the point of sale) if you wish to trade such product and we may inform you on this assessment. Only if you have sufficient knowledge and experience and understand the risks of type 3 products, thus are deemed appropriate you may enter into a transaction.

## 5.5 Current product list and categorisation

Nr.	Product	Department	Product Complexity
1	Asset Backed Securities	FIST/DCM	Complex
2	Commercial Paper	FIST/DCM	Non-Complex
3	Corporate Bond	FIST/DCM	Non-Complex
4	Financial Institutions Group Bonds	FIST/DCM	Non-Complex
5	Government Bond	FIST/DCM	Non-Complex
6	High Yield Bonds	FIST/DCM	Complex
7	Medium Term Notes	FIST/DCM	Non-Complex

8	Project Bonds	FIST/DCM	Complex
9	Structured Notes	FIST/DCM	Complex
10	Japanese Listed Equities	EST/ECM	Non-Complex
11	Non-Japanese Listed Equities	EST/ECM	Non-Complex
12	Convertible Bonds	EST/ECM	Complex
13	Equity Non-Trading Products (Research)	EST/ECM	Non-Complex
14	Outgoing Remote Booking - Brussels	FX & Derivatives	Complex
15	Outgoing Remote Booking - London	FX & Derivatives	Complex
16	Outgoing Remote Booking - New York	FX & Derivatives	Complex
17	Derivatives: Currency Rate Swaps	FX & Derivatives	Complex
18	Derivatives: Derivative Transaction (Collateral)	FX & Derivatives	Complex
19	Derivatives: FRAs	FX & Derivatives	Complex
20	Derivatives: Futures (Margin Money Deposit)	FX & Derivatives	Complex
21	Derivatives: Inflation Swap	FX & Derivatives	Complex
22	Derivatives: Interest Rate Options	FX & Derivatives	Complex
23	Derivatives: Interest Rate Swaps	FX & Derivatives	Complex
24	Derivatives: Synthetic Swap	FX & Derivatives	Complex
25	Foreign Exchange FX1 (Spot)	FX & Derivatives	Complex
26	Foreign Exchange (Short Dated Swap)	FX & Derivatives	Complex
27	FX2	FX & Derivatives	Complex



## 6. Information about Investment Firm and Systematic Internaliser

### 6.1 Scope

The Bank has elected to be a Systematic Internaliser (SI) for the following non-equity asset classes / sub asset classes that are “Traded on a Trading Venue” (TOTV) where we provide quotes:

- Structured Finance Products
- Sovereign Bonds
- Other Public Bonds
- Corporate Bonds
- Convertible Bonds
- Covered Bond

### 6.2 Provision of quotes

As an SI when we are requested for a quote in respect of a financial instrument which is traded on trading venue and agree to provide a quote (an “SI quote”) outside of a trading venue, we will make public such an SI quote where the quote is in respect of a “liquid instrument” and is at or below the size specific to the instrument (SSTI). Note that we are not required to publish (or to give you access to) quotes in instruments that are not deemed liquid by the European Securities and Markets Authority (ESMA) or where the quote size is above SSTI.

### 6.3 Publication mechanism

Where we are obliged to make SI quotes public, these will be made available through [traxapa.com](https://traxapa.com), which is our selected quote publication service. Quote Identification SI quotes published by the Bank can be identified as follows: Market Identifier Code (MIC) NCML

### 6.4 Access to quotes

If as an on-boarded client you are interested in trading on the same terms as a published SI quote, you should note the SI quote ID and enquire with your usual the Bank contact via your regular method of communication who will confirm whether the SI quote is still executable

### 6.5 Access criteria

We have established access criteria which we will take into account when determining whether you may be given access to a published quote, which we apply in an objective and non-discriminatory way. We may decline to trade with you at the published SI quote on the basis of:

- (a) commercial considerations, including risk limits and capital costs associated with our relationship with you and the economic value of our relationship with you;
- (b) operational considerations, including any operational preferences or requirements you may have;

(c) legal and regulatory considerations, including whether you are on-boarded and in compliance with the terms of any agreements with us, and whether there are any legal or regulatory restrictions preventing us from dealing with you.

## 6.6 Quote validity

If the SI quote is no longer executable you may be offered an updated SI quote. We reserve the right to update our published SI quotes at any time or withdraw such SI quotes without cancelling or amending the published information due to exceptional market conditions. Factors influencing whether the SI quote is still available include whether the SI quote has already been executed against by another client, price movements, market conditions, inventory status and the time elapsed since the provision of the SI quote. In any event the Bank reserves the right to limit the number of transactions it is willing to enter into on the basis of a published SI quote to one transaction.

## 6.7 Reporting Obligations

Where we act as an SI and enter into a transaction in a TOTV instrument, we will support you by virtue of our responsibility to make a post trade report.

## 7. General Terms of Business

### 7.1 General Information

a) These Terms of Business, any accompanying documents as amended from time to time (together, the “**Terms**”), set out the terms of the contract between you and us, together the parties to these Terms.

b) Subject as otherwise stated herein, these Terms supersede any previous written or oral terms of business or agreements between the parties in relation to the matters dealt with in these Terms and contain the entire agreement between the parties relating to the subject matter of these Terms at the date hereof to the exclusion of any terms implied by law which may be excluded by contract.

c) Notwithstanding the foregoing, certain transactions arranged or entered into by us will be, in addition to these Terms, governed and documented by individual contractual provisions and/or a master agreement (for example, an ISDA Master Agreement, German Master Agreement for Financial Derivatives (*Deutscher Rahmenvertrag für Finanztermingeschäfte*), a Global Master Repurchase Agreement, Global Master Securities Lending Agreement, or other agreements) (all together and each a “**Relevant Agreement**”). To the extent there is a conflict between these Terms and the terms of the Relevant Agreement, the terms of the Relevant Agreement shall prevail.

For the avoidance of doubt, the General Business Conditions (*Allgemeine Geschäftsbedingungen*) including the Special Conditions for Dealing in Securities (*Sonderbedingungen für Wertpapiergeschäfte*) as published by the German Banking Association (*Deutscher Bankenverband*) (together the “**AGB Banken**”) do not apply.

d) Unless otherwise specified, these Terms govern all business transacted by us with or for you and all services provided by us to you in connection with Securities trading and Derivatives Business.

### 7.2 Client Categorisation

a) We have separately notified you of your status as a “professional client” or an “eligible counterparty”. Subject to your right to request a different status referred to below, we will treat you as such for all purposes. Categorisation is undertaken on the basis of our internal client categorisation process. Different rules and different levels of protection apply to you depending upon your client categorisation.

b) You have the right to request a different client categorisation from our categorisation of you. In the event we intended to categorise you as a “professional client” and you request categorisation as an “eligible counterparty”, should we agree to such categorisation, you understand and are required to confirm in writing to us that you will be afforded a lesser degree of protection. In such case, we will provide you with additional information for your confirmation.

c) If you are classified as "retail client", we will not provide any services to you. However, you can request categorisation as "professional client". In such case, you understand and are required to confirm in writing to us that you will be afforded a lesser degree of protection. We will provide you with additional information for your confirmation.

d) You agree that you are responsible for keeping us informed about any change that could affect your client categorisation. Should we become aware that you no longer fulfil the conditions that made you eligible for professional client or eligible counterparty treatment (as applicable), we will reassess your circumstances and reclassify you accordingly.

### 7.3 Agency

Unless otherwise agreed, if you are acting as agent on behalf of a principal, we will treat you alone as our client for the purposes of the Applicable Regulations and you will be liable as such. You accept these Terms for yourself and on behalf of each of the principal(s). No other person (whether identified to us or not) shall be our client nor have any rights under these Terms.

### 7.4 Applicable Regulations and Exchange Action

a) These Terms, the provision of Services by us and/or any Affiliate and all Transactions are subject to Applicable Regulations so that: (i) if there is any conflict between these Terms and any Applicable Regulations, the latter will prevail; and (ii) we and any Affiliate acting on our behalf may take or omit to take any action we consider reasonably necessary to ensure compliance with any Applicable Regulations and whatever we do or omit to do in order to comply with them will be binding on you.

b) From time to time, an Exchange may require us in respect of Transactions in Securities, to meet certain disclosure requirements or otherwise provide you with notice of certain Exchange requirements. Any such requirement or notice will be deemed to form part of these Terms when provided to you and will be binding on you accordingly.

c) If an Exchange (or intermediate broker, Clearing Member or agent, acting at the direction of, or as a result of action taken by, an Exchange) takes any action which affects a Transaction (including an action in respect of an Exchange Transaction), then we may take any reasonable action which we, or the Exchange (or intermediate broker, Clearing Member or agent, acting at the direction of, or as a result of action taken by an Exchange), at our, or its discretion, considers desirable to reasonably correspond with such action or to mitigate any loss incurred as a result of such action. Any such reasonable action will be binding on you subject to applicable laws.

d) We may refuse to enter into, execute, transmit, deal in or otherwise arrange any Transaction, provide any Service or perform any obligation pursuant to these Terms where such action or performance: (i) would cause us to breach any prohibition or restriction imposed or specified by Applicable Regulations and/or an Applicable Regulator; (ii) would be prohibited, or made impracticable to effect on reasonable commercial terms, by any suspension or removal from trading of Securities or Derivatives imposed by Applicable Regulations or an Applicable

Regulator pursuant to Applicable Regulations; or (iii) where we have agreed with you or any other person that we are not obliged to, or shall not, make public or otherwise report a Transaction, but we are nonetheless required by Applicable Regulations to report, publish or arrange the publication of such Transaction (pursuant to a market transparency requirement or otherwise), however, notwithstanding such agreement, we may publish or arrange the publication of such Transaction and may delegate such reporting or publication to another person.

## 7.5 Services

a) We do not offer investment advice. In the case of advisory-free business, you make your investment decision independently of any investment recommendation on our part. In this case we only obtain the necessary information about your knowledge and experience; this does not include information about your investment objectives and financial circumstances.

b) Pursuant to these Terms, we may in our sole discretion and in accordance with Applicable Regulations contemplate or execute Transactions in Securities and Derivatives and ancillary services related to Transactions Securities and Derivatives including dealing and brokerage services and introducing and arranging (all together the “**Services**”). For other services we may provide, please see at [EMEA Products and Services](#).

c) We set out under Chapter 2 of the Information Pack a non-exhaustive list of the descriptions of the risks involved in Transactions in certain types of Securities and Derivatives. By entering into these Terms, you acknowledge and confirm you have read, understand and accept the risk statements contained in Chapter 2 of the Information Pack.

d) Unless agreed in writing separately to these Terms, we will not provide any investment advice or otherwise act on your behalf in deciding to effect Transactions nor do we recommend whether or not a particular Transaction is suitable for you. We will not make any investment or other decisions on your behalf. You have sole responsibility for making any investment decisions. We will not provide you with any investment, legal or tax advice in relation to any Transaction.

e) Notwithstanding Clause 7.5 (d), we may, from time to time and at our own discretion, provide you with information about Securities or Derivatives. However, we are not obliged to provide you with continuous information nor advice in relation to any Securities and Derivatives purchased (or proposed to be purchased) by you pursuant to these Terms or otherwise and we give no representation, warranty or guarantee as to the accuracy or completeness of such information.

## 7.6 Appropriateness

a) In respect of the Services, we may require you to provide information in relation to your knowledge and experience in the investment field relevant to the specific type of product or service (and updates to such information as necessary) relating to you, your agents, employees, or others and you agree to provide such information as we may require.

b) On the basis that we have categorised you as a “professional client” or an “eligible counterparty”, we assume, as we are entitled to do, that you have the necessary experience and knowledge in order to understand the risks involved in Transactions in respect of the Services for the purposes of assessing whether a Transaction is appropriate for you (where we have an obligation to make such an assessment).

c) Where you request at your own initiative the provision of Services in relation to the execution or reception and transmission of your orders in respect of non-complex instruments, then, unless otherwise agreed, we are not required to assess the appropriateness of such Transaction or Service for you and you will not, therefore, have the benefit of certain conduct of business regulations relating to the assessment of appropriateness.

## 7.7 Use of Brokers, Introductory, Arranging and Order Routing Services

a) To effect Transactions in Securities, we may instruct a broker (“**Broker**”). A Broker instructed by us may be an Affiliate. Unless agreed in writing to the contrary, for Transactions in Securities we will remain your counterparty to Transactions, when acting as principal.

b) Where agreed in writing, separately from these Terms, we may act solely in the role of an introducer and introduce you to a broker dealing in Securities for the purposes of marketing and/or effecting any transactions in Securities (“**Introduced Broker**”). In such circumstances, the Introduced Broker will be acting as principal as your contractual counterparty to the transactions. For the avoidance of doubt, we will not be your contractual counterparty in respect of any transactions entered into by you when carried out by an Introduced Broker and in relation to any such transactions in which you will be the client of that Introduced Broker. Where you deal with or through a routing broker or Introduced Broker, where relevant, its execution policies will apply to the execution of the order.

c) We may provide an order routing service in Securities. Orders will be routed to a routing broker. You are responsible for the proper entry and transmission of the data relating to an order.

d) We reserve the right to reasonably refuse to route an order at any time and may be under no obligation to divulge the reason.

e) You understand that when you are responsible for placing, amending and cancelling orders, their placing, amendment and cancellation shall be governed by Applicable Regulations. Accordingly, amendment and/or cancellation of orders cannot be guaranteed.

f) You must ensure that all orders and transactions made pursuant to this Clause comply with the relevant Applicable Regulations applicable for you.

g) All transactions between you and an Introduced Broker, or a routing broker in respect of which we provide order routing services, shall be subject to the terms of business (if any) and any other agreement or arrangement between the relevant broker and you

(“**Introduced/Routing Broker Terms**”). You may be required to enter into written Introduced/Routing Broker Terms as a pre-condition for us introducing/routing your orders to such a broker.

h) As between us and you, if there is inconsistency between these Terms and Introduced/Routing Broker Terms, these Terms will prevail.

i) We make no representation or warranty as to the services provided by, or creditworthiness of, routing brokers or Introduced Brokers. Where a broker, routing broker or Introduced Broker, is an overseas broker, then the services of that overseas broker may not be regulated by BaFin.

You agree that:

- (1) the acceptance or rejection of orders routed by us is at the discretion of the routing broker or Introduced Broker (as applicable), for which we do not have any responsibility therefor; and
- (2) we shall not be liable for any breach by a routing broker or an Introduced Broker of such Introduced/Routing Broker Terms.

## 7.8 Third Party Services

a) We may provide the Services with or through our Affiliates or Third Party Provider. You authorise us to use the services of Third Party Provider and Affiliates in our provision of the Services without your further consent and on such terms as we may reasonably determine and without a diminution of our rights.

b) Third Party Provider may include Infrastructure. Infrastructure have certain rules and regulations with which we must comply. You must read such rules and regulations and represent and warrant to us that you shall comply with such rules and regulations (to the extent applicable) and any other terms and conditions that Third Party Providers require with respect to your use of Third Party Services.

## 7.9 Order Execution

When you buy and sell Securities through us, the principles and rules set out in our Order Execution in Chapter 4 of the Information Pack apply. The Order Execution forms part of these Terms. We may amend the Order Execution in accordance with supervisory requirements and shall inform you of any amendments.

We reserve the right to not accept or execute your order subject to Applicable Regulations.

Following the execution of a transaction carried out pursuant to these Terms, we will provide you the key details with regard to the execution (as agreed or otherwise determined in our reasonable discretion) in a durable medium.



## 7.10 Basis of Dealing

a) Except as agreed with you or otherwise stated in these Terms or required by Applicable Regulations for Securities Transactions, we deal as principal and not as your agent.

(i) Transactions in Securities, when we deal as principal, are executed by us based on a fixed or determinable price for the Securities agreed between you and us (*Festpreisgeschäft*) and shall result in a purchase contract (*Kaufvertrag*) between you and us. Accordingly, we shall take delivery of the Securities from you as the purchaser, and we shall deliver the Securities to you as the seller. We shall calculate the agreed price. Where interest-bearing bonds are concerned, the price includes accrued interest, to the extent applicable.

Except where otherwise agreed between you and us, delivery of the Securities and payment of the purchase price shall be made within the ordinary course of business and local market conditions and usances applicable to the respective Securities.

(ii) When executing orders placed by you for the purchase or sale of Securities as an agent on your behalf (*Kommissionsgeschäft*), we will conclude your order to purchase or sale of the Securities for your account with another market participant or with a central counterparty (the “**Execution Trade**” - *Ausführungsgeschäft*) or we will engage another commission agent (*Zwischenkommissionär*) to conclude the Execution Trade.

In electronic trading on an exchange, your order may be executed directly against us or the intermediate agent if the terms and conditions for trading on the exchange permit this.

The executed transactions are subject to regulations and local market conditions and terms applicable to the market where the Securities are executed by us for you. In addition, the general terms and conditions of our counterparties when executing Transactions for you with them shall apply.

We will inform you as soon as practical possible about the execution of your order. If your order was executed directly in electronic trading on an exchange against us or the intermediary agent, no separate notification is required.

We shall invoice you the price for the Execution Trade and will charge you our execution fees for executing the Transaction for you. To the extent applicable, any reimbursement of our expenses related to the execution of a Transaction (*Ersatz von Aufwendungen*) would be claimed by us from you in accordance with applicable law. These expenses may include payment of all brokerage fees, transfer fees, registration fees, stamp duty and all other liabilities, charges, costs and expenses payable in connection with the Transactions effected by us as your agent which we considered to be reasonably necessary in connection with the respective Transaction, unless we have expressly agreed otherwise.

To the extent applicable, you agree that we will retain the sales commission paid to us by the issuer of a Security or any other form of commission or fees (including, without limitation, fees paid to us by any of our Affiliates) (all together the “**Commission**”), provided that we are permitted to accept the Commission under the provisions of the WpHG (particularly Section 70 WpHG). In this respect, you explicitly agree that we are entitled to receive the Commission.

When placing orders, you can specify price limits for the Execution Trade ("**Limited Price Orders**" – *preislich limitierte Aufträge*).

An order without price limit shall be valid for one trading day in accordance with the Order Execution. When the order for same-day execution is not received in time to allow it to be dealt with in ordinary course of business, it shall be valid for the next trading day. If the order is not executed, we will notify you without undue delay (*unverzüglich*).

Limited Price Orders shall be valid until the last trading day of the current month. Unless the order is executed on the same day, an order received on the last trading day of a month shall be valid in accordance with the Order Execution for the next month. We shall inform you about the period of the validity of your order without undue delay.

Orders without price limits for the purchase or sale of subscription rights (*Bezugsrechte*) shall be valid for the duration of trading in such subscription rights. Orders with price limits for the purchase or sale of subscription rights shall become void upon expiry of the penultimate day of trading in such subscription rights. The period of validity of orders for the purchase or sale of subscription rights shall be determined by the practices for the relevant market.

In the event of a dividend payments, other distributions, granting of subscription rights, capital increase from company funds (*Kapitalerhöhung aus Gesellschaftsmitteln*), orders with price-limits for the purchase or sale of shares at German execution venues shall expire at the close of business on the trading day on which the shares, including the aforementioned rights, are last traded if the rules and regulations of the execution venue provide for expiration. In the event of a change in the proportion of paid-in capital of partly paid shares or in the normal value of shares or in the event of a share split, orders with price limits shall expire at the close of business on the trading day preceding the day of which such shares are quoted with an increased proportion of paid-up capital or with the changed nominal value or with a share split.

In the event, that price determination does not take place at a German execution venue due to special circumstances affecting the issuer (price suspension), all of your orders for the relevant securities at this execution venue shall expire, if the terms and conditions of this execution venue provide therefor.

Execution of your orders at foreign execution venues shall be governed by the respective customs and practices of the relevant foreign execution venues.

We will notify you of the expiry of your orders without undue delay.

With regards to Transactions when we act as your agent, we may be liable for the settlement and execution of the Executed Trades with our counterparties or the counterparties of our intermediary agent. If we engage an intermediary agent, we shall be liable until the completion of the Executed Trade, only for the exercise of due care in the selection and instructions of such agents.

b) In the context of Derivatives Transactions, we will be entering into Derivatives with you which are customised, bilateral agreements negotiated directly with you. As such, there is only one execution venue with which we will execute orders with you directly on a private basis in most circumstances (being us, or an Affiliate of ours, acting as your counterparty in a principal

capacity), although, if required in accordance with EMIR, these orders may be required to be cleared through a central counterparty. If you decide to proceed with any Derivatives quote, we may give you, and to the extent best execution applies pursuant to the rules of the Applicable Regulations, we will assume that we have provided the best possible result.

c) Please be aware that where we act in response to a request for a quote, we will meet our obligations to take all sufficient steps to obtain the best possible result for you by executing the order immediately after the quote is provided if you accept the order immediately, or if the quote is not accepted immediately, as soon as it is reasonably practicable after the quote is accepted by you, provided that, taking into account the changing market conditions and the time elapsed between the offer and acceptance of the quote, the quote is not manifestly out of date.

d) You expressly consent to us executing your orders outside of a regulated market, a multilateral trading facility or an organised trading facility (as defined in the Applicable Regulations).

e) Unless you have expressly instructed us otherwise, you hereby instruct us, not to make public any limit order relating to a transaction in Securities which is not immediately executed under prevailing market conditions.

f) We may, in certain circumstances, aggregate your order with our own orders and with orders of other clients. In some cases, aggregation may result in you obtaining a less favourable price than would otherwise have been the case.

## 7.11 Direct Electronic Access

Should we, or our Affiliates, provide you with direct electronic access in relation to Securities trading to a trading venue: (i) without routing orders through us, or our Affiliates' internal electronic trading system; or (ii) through the use of a nominated technical system or technical connection between us, your rights and obligations arising from such provision will be set out in a separate prevailing written agreement.

## 7.12 Instructions

a) Unless otherwise notified by us, you may transmit your Instructions to us by telephone or in writing, including by email or electronic message protocol or system via electronic links and electronic trading platforms and your Instructions shall be transmitted to us at your risk. Instructions shall not take effect unless actually received by us and, in the case of any Instructions transmitted to any system, when formally acknowledged by us. We shall not be required to confirm any such Instruction prior to execution or otherwise, and you agree to indemnify us and hold us harmless if we suffer any loss in reliance thereon.

b) We are not obliged to accept or execute any Instruction nor need we give any reasons for declining to do so acting reasonably and in good faith.

c) We shall be entitled to rely on and treat as binding any Instructions which we believe to be from you or a person authorised to act on your behalf, and which we have accepted in good faith. Without prejudice to the above, you acknowledge that we may rely conclusively on, and you shall be bound by, any Instructions or other communications which purport to originate from you without any duty to make any investigation or enquiry as to the validity of such reliance.

d) If any Instruction is ambiguous or conflicts (in part or whole) with another Instruction, you agree that we are entitled to act in good faith on what we reasonably understand to be the Instruction and any action we take or omit to take as a result will be binding on you.

### 7.13 Unsettled Positions

a) Except as otherwise stated or agreed between us, we will have no responsibility for taking or failing to take action in respect of any rights you may have under any Unsettled Position unless we receive timely Instructions from you.

b) Where any action is taken by us or a third party pursuant to any Applicable Regulations which affects any of your Unsettled Positions generally or corresponding Exchange Transactions, we will make such allocation amongst the affected customer Unsettled Positions as we think reasonably fit, to which allocation you shall be bound. We shall use commercially reasonable efforts promptly to notify you of such event.

### 7.14 Payment and Delivery and Default Rate

a) By entering into a Transaction in Securities you become obliged, in respect of each Unsettled Position resulting from such Transaction, to pay or deliver such amount of cash or Securities to us or at our direction as we are required to pay or deliver to (or at the direction of) the Clearing Member or the Infrastructure within such time as we may specify and undertake that you will effect such payment or delivery in sufficient time to enable us to meet our obligations to the Clearing Member or the Infrastructure on time.

b) You will not be entitled to receive delivery of Securities or payment of cash from us, nor to any right of ownership or other proprietary interest in or in relation to such Securities or cash, in settlement of a Transaction unless and until you have complied with Clause 7.14(a) and we have received unconditional and final delivery of such Securities (including, where relevant, payment or delivery of any cash amounts or other assets that the Infrastructure or Clearing Member is permitted to make in accordance with Applicable Regulations in lieu of, or in substitution for, its obligation to deliver Securities) or payment of cash from the Infrastructure or Clearing Member to the extent that the amount and/or the Securities owed by us to you does not exceed the amount you owe us pursuant to Clause 7.14(a).

c) If you fail to pay any sum when due in respect of a Transaction, interest will be payable on the unpaid sum from the date payment is due until payment is received. Interest will be calculated at a rate of up to the statutory default interest rate pursuant to Section 288 of the

German Civil Code, as amended from time to time. Such interest will be payable on demand and may be deducted by us from any amount due to you.

### 7.15 Position Limits

a) When required or we deemed it necessary for the purposes of complying with Applicable Regulations, we have the right to limit or require the reduction of the size and number of Unsettled Positions (net or gross) which may at any time be outstanding, or to terminate any one or more or all Unsettled Positions in order to reduce the Unsettled Positions carried with us and acting reasonably.

b) BaFin and/or other competent authorities may impose position limits in respect of certain commodity derivatives, and position management controls may be imposed by an Exchange. In order to ensure that such position limits and position management controls are complied with, we may require you to limit, terminate or reduce positions at any time and we may be required to close out any one or more or all of your Transactions.

### 7.16 Pre-hedging

a) We may undertake pre-hedging activity in respect of Transactions conducted by us as principal with you by executing principal transactions in the market before and/or after executing your Transaction.

b) When you indicate your interest in a Transaction or seek a request for quote in a Transaction, we may use that information to engage in pre-hedging activity, which may include entering into transactions prior to executing your Transaction or request with a view to facilitating your Transaction or request. Any transactions entered into by us with a view to facilitating your Transaction will be entered into by us as principal, not as an agent for you.

c) Any pre-hedging or hedging transactions entered into by us may be commensurate with the size and nature of your order, could be at different prices from the price at which we execute your Transaction, may affect the market price of or liquidity of the product(s) you are buying and/or selling and may result in profit, or loss, to us.

d) When engaging in pre-hedging activity, we have in place procedures to ensure that your Transaction is executed in an orderly fashion and in a manner unlikely to disadvantage you or create undue market impact although there is no guarantee that these activities will result in the desired outcome.

e) Any pre-hedging will be in accordance with our internal guidelines and policies and the principles established by our relevant regulators and will take into consideration prevailing market conditions and the size and nature of your anticipated Transaction.

### 7.17 Short-selling

You are required to advise us if any sale order (in whole or part) given to us is a Short Selling and we shall have the right to refuse to accept any short sale order.

## 7.18 Late Settlement and Settlement Fails

a) Unless otherwise agreed and without prejudice to any other remedy a party may have under these Terms, Applicable Regulations and/or by law, if at any time a party fails to deliver Securities in compliance with the obligation under these Terms (the “**Defaulting Party**”), the non-failing party is entitled upon given reasonable notice to the Defaulting Party, such relevant notice period should be in line with international market standards:

- (1) to borrow or to buy for the account of the Defaulting Party such Securities necessary to make delivery thereof and to deliver the same in accordance with the international market standards; and
- (2) to purchase or otherwise acquire for the account of the Defaulting Party Securities equivalent to any Securities borrowed pursuant to sub-paragraph (1) above and to use such Securities to perform its obligations to the lender of such Securities to deliver Securities equivalent to the borrowed Securities all of which in accordance with the international market standards.

b) In connection with the requirements of the CSDR, we may be charged cash penalties (“**Cash Penalties**”) or receive payments of cash penalties (“**Penalty Credits**”) in connection with our provision of Services to you which relate to a Transaction executed by or for you that fails to settle (“**Settlement Fail**”). Unless otherwise agreed with you, we may, at our reasonable discretion, charge you an amount up to any Cash Penalties we incur for Settlement Fails or make a payment to you in connection with a Penalty Credit, in each case, that may arise in connection with Transactions executed by or with you.

## 7.19 No holding of Client Money and Client Securities, Consent to Omnibus Accounts and Financial Collateral

a) Transactions in Securities will be settled on a delivery versus payment basis which means, that there will be a simultaneous exchange of the cash and the securities, if not otherwise agreed. Consequently, we will not hold “client money” or “client securities” in the meaning of the applicable laws on your behalf in connection with Transactions carried out under these Terms.

If under certain circumstances we shall hold client money or client securities on your behalf (such as for example upon the occurrence of a failed trade), we will hold those monies or securities separate from our own monies/securities in accordance with the applicable laws.

b) We may obtain collateral in the form of a full title transfer agreement from you as a professional clients and eligible counterparties to secure or cover your obligations. In this regard, we are required in accordance with Section 84(8)2 WpHG to inform clients of the risks and consequences associated with such full title transfer agreement.



c) You expressly agree that SMBC may hold your monies or financial instruments received from you or for you in omnibus accounts together with all of our clients' money or financial instruments separated from our own accounts.

## 7.20 Communication and Notices

a) Any notice or other communication in connection with these Terms shall be in writing and sent to the email address and/or address most recently provided by us. A notice or other communication shall take effect from the time it is received. Notwithstanding the foregoing, you consent to us communicating with you via notices published on our website. We will communicate with you, and you will communicate with us, in English, unless otherwise required by applicable laws or agreed otherwise in writing.

b) The parties agree that electronic transmission of information cannot be guaranteed to be secure or error free and could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use and they will both use commercially reasonable procedures to check for the then most commonly known viruses before sending electronically. The parties recognise that such procedures may not guarantee that transmissions will be malware-free and each party shall be responsible for protecting its own interests in relation to electronic communications.

## 7.21 Reporting Trading Information

a) We will not make any trade or transaction reports for you in respect of Transactions, unless otherwise agreed with you in writing, or unless such obligation to report is required by Applicable Regulations or falls upon us whilst acting as a Systematic Internaliser.

b) We may be required to report details in respect of Transactions to a relevant regulatory authority pursuant to Applicable Regulations (including under Article 26 MiFIR) or to a trade repository or otherwise in accordance with Applicable Regulations ("**Transaction Reporting Requirements**").

c) We may from time to time require you to provide all information (and updates to such information as necessary) relating to you and your agents, employees, underlying principals or others as we may reasonably require in order to comply with any market transparency requirements and Transaction Reporting Requirements as we may reasonably believe may arise in respect of your Transactions. You agree that you will deliver to us such information and represent to us that such information at the time of delivery is true, accurate and complete in every material respect and you acknowledge and agree that we may rely on the information without investigation, unless and until you inform us otherwise. You undertake to inform us about any material changes or updates to such information without undue delay.

d) We may refuse to enter into, execute, transmit, deal in or otherwise arrange any Transaction where you have not provided such information (and waived or procured the waiver of any confidentiality or data protection/privacy obligations in respect of such information) as we may reasonably require: (i) in order for us to comply with any Transaction Reporting Requirements



or market transparency requirements in respect of a Transaction; or (ii) where our non-receipt of such information (including, without limitation, an applicable legal identifier code) would mean that we are prohibited by Applicable Regulations from entering into, executing, transmitting, dealing or otherwise arranging (as the case may be) such Transaction.

e) You shall confirm, before concluding a Transaction outside the rules of an Exchange (whether acting as, or on behalf of, the buyer or seller thereof), whether you are a Systematic Internaliser in respect of the relevant Transaction.

f) Unless otherwise agreed, we will provide you with trading confirmations promptly following the execution of an order with essential information concerning the execution of the order in accordance with Applicable Regulations on reporting information to clients. We will supply to you, upon request, information about the status of your order.

## 7.22 Information provision

To the extent that we request information, documentation or assistance from you to comply with internal policies and procedures and/or Applicable Regulation, this shall be promptly provided to us upon our request. You acknowledge and agree that we are expressly permitted to make certain information public and/or to provide information to public authorities, where we are required to do so by Applicable Regulations or where we are requested by the relevant authorities without prior notice.

## 7.23 Your Representations, Warranties and Undertakings

a) You represent, warrant and undertake to us, as of the date of these Terms and as of the date of each Transaction, that:

- (1) you have all necessary authority, powers, consents, capacity, licences, approvals and authorisations, and have taken all necessary action to enable you lawfully to enter into and perform your obligations under these Terms and each Transaction;
- (2) these Terms, each Transaction and the obligations created under them are binding upon you, are enforceable against you in accordance with such terms; and do not and will not violate the terms of any Applicable Regulations, charge or agreement by which you are bound;
- (3) at the time of transfer by you of any Security, you will have full and unqualified right to make such transfer and upon such transfer the transferee will receive all right, title and interest in and to those Securities free from any adverse interest;
- (4) all information which you have and will provide to us is true, complete and accurate and you will promptly provide us with any further information properly required from time to time by any competent authority, Exchange, Infrastructure, Third Party Provider or us, as applicable and related to the Services provided by us under these Terms;
- (5) any person (including any third party) appointed by you to give and/or receive notices, Instructions and/or other communications on your behalf under these Terms has all the requisite power, authority and regulatory or governmental

- consents to give and receive such notices, Instructions and/or other communications;
- (6) you are familiar with the relevant Exchange rules related to Transactions and you will not take any action or make any omission that will cause any person to be in breach of or in default under the Exchange rules;
  - (7) in using the Services, you will comply at all times with, and not in any way violate, any Applicable Regulations as well as all applicable laws, statutes and regulations relating to anti- bribery and anti-corruption;
  - (8) you have not relied, are not relying and will not rely on any communication or information (written or oral) from us as investment advice or as an assurance as to the expected performance of any Transaction, and you have taken or will have taken such review and/or advice as you consider necessary to ensure that any Transaction meets your needs prior to entering into any Transaction;
  - (9) you represent and warrant that your use of the Electronic Services, as applicable, will be for the purposes of your business, trade or profession. It is acknowledged and agreed by you and us that the requirements of the E-Commerce Directive (2000/31/EC), as implemented in Germany, are excluded to the fullest extent permissible by law; and
  - (10) no Insolvency Event has occurred and is continuing or will occur by your entering into, or performing your obligations under these Terms.

b) You will notify us promptly if there is any material change in any such information provided, or if any of the above representations shall materially change or cease to be true and correct.

## 7.24 Appointment of an Agent

a) You may only appoint and use an agent or agents to act on your behalf in respect of your dealings with us under these Terms, including entering into Transactions, performing your obligations under these Terms and providing us with Instructions ("**Agent**"), if prior to acting as Agent, the Agent agrees to be bound by the form of the Agency Agreement attached in Schedule 1 ("**Agency Agreement**"). Such agreement shall be completed, duly signed and dated by the Agent and returned to us.

b) You represent, warrant and undertake to us to the extent that you are represented by an Agent that:

- (1) your appointment of the Agent is lawful and in compliance with applicable laws and regulations;
- (2) the Agent has the necessary authority from you to act on your behalf to contractually bind you to these Terms and Transactions;
- (3) the Agent has the necessary authority from you to act on your behalf to contractually bind you to other agreements that are specifically contemplated in these Terms including, without limitation, to make the representations and warranties on your behalf;

- (4) the Agent has the necessary authority from you to act on your behalf to provide any consents on your behalf and respond to the consent letter accompanying these Terms; and
  - (5) the Agent has the necessary authority from you to act on your behalf to undertake business with us in accordance with these Terms, including entering into Transactions, performing your obligations under these Terms and providing us with instruction related to the Services contemplated under these Terms.
- c) Upon receipt of the duly executed Agency Agreement, you agree that we may discharge our obligations to you under these Terms by relying on and dealing with and providing the Services to the Agent acting on your behalf.
- d) You shall notify us immediately if a person is no longer appointed as your Agent. Upon receipt of such notification in writing, we shall cease to treat such person as your Agent.
- e) Where you appoint an Agent, any actions or omissions of the Agent under these Terms, including providing instructions and orders, shall be deemed to be your own actions.

## 7.25 Liability

- a) Subject to Clauses 7.25(b) and 7.25(c) below and unless otherwise provided in these Terms, we will not be liable for any loss, damage or expense (together “**Loss**”), which may be incurred by you unless such Loss results from our wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*).
- b) We may be liable for Losses arising from our negligence (*Fahrlässigkeit*), if we are in breach of an essential contractual obligation (*wesentliche Vertragspflicht*). Such essential contractual obligations are our main obligations when providing our Services to you under these Terms, provided that you have reasonably relied on us fulfilling such essential contractual obligations and the lack of fulfilling these obligations would jeopardise the purpose for which we are providing our Services to you under these Terms. If we shall breach such essential contractual obligation, we shall be only liable for reasonable Losses, which were typically foreseeable and incurred as result of such a breach (*vertragstypischer Schaden*).
- c) No limitation or exclusion of liabilities shall apply to either party’s liability for death and personal injury (*Leben, Körper und Gesundheit*).
- d) In case of liability for acts or omissions of third parties pursuant to applicable statutory law, the limitations of our liability in accordance with Section 4.25 lit. a) to c) (both included) shall also apply to our liabilities for such acts and omissions of third parties.

## 7.26 Termination for Material Cause

- a) Subject to Clause 7.1(c) above, either party (the “**Terminating Party**”) may terminate these Terms and all Transactions if a material cause (*wichtiger Grund*) has occurred in relation to

the other party (“**Non-Terminating Party**”), which makes it unacceptable for the Terminating Party to continue the business relationship under these Terms, after due consideration of the Non-Terminating Party’s legitimate interests (“**Material Cause**”).

b) A Material Cause shall be deemed to exist for us, as the Terminating Party, without limitation, in the following circumstances:

- (1) when you are in material breach of any of your obligations under these Terms or in a material breach in any other agreement you have entered into with us;
- (2) any representation or warranty made by you is materially incorrect when made or repeated or deemed to have been made or repeated;
- (3) the initiation of any criminal, disciplinary or enforcement action against you by any regulatory authority, Exchange and/or Infrastructure;
- (4) an Insolvency Event has occurred with respect to you;
- (5) where you are a fund management company for a fund under these Terms, and you have, for whatever reason, lost the right to manage the relevant fund and/or the relevant fund is liquidated or the assets for the relevant fund are transferred to another fund;
- (6) an event of default or similar event occurs under any other agreement between us; and
- (7) where you act as agent on behalf of a principal, any of the foregoing occurs in relation to such principal.

c) You must notify us immediately upon becoming aware that any of the events listed above in Section 7.26(b) has occurred.

d) Following the occurrence of a Material Cause, we may, without prior notice to you, take any actions that we reasonably consider to be necessary under such circumstances, including, but not limited to:

- (1) withholding delivery of Securities or payment of cash to you that we would otherwise be required to make in connection with any Transactions;
- (2) buying-in or selling-out Securities for your account and at your risk in settlement of an Unsettled Position; and
- (3) terminating any Transaction, if we shall determine at our reasonable discretion that such action is required by Applicable Regulations or is otherwise necessary or reasonable for the purposes of limiting risk; and you agree to indemnify us for any loss we suffer as a result of taking such action.

In each case, we shall use commercially reasonable efforts promptly to notify you of such event, but will not be liable for any loss incurred by you as a result of such action or any failure to notify.

## 7.27 Conflicts of Interest Policy

We have policies and procedures to identify, consider and manage potential conflicts of interest and protect the integrity of our relationships with our clients. Our personnel are required to comply with such policies and procedures and may not do anything directly or indirectly that is prohibited thereunder. A copy of our conflicts policy is available under the following source: <https://www.smbcgroup.com/emea/notices-and-reporting/customer-information-and-notices/#conflicts>.

We shall provide reports to you in relation to the execution of Transactions as may be required in accordance with Applicable Regulations.

## 7.28 Fees, Charges and Payments

We will separately agree with you our fees and charges from time to time.

## 7.29 Taxes

a) All sums payable by you will be paid free and clear of any taxes, unless you are required by law to withhold or deduct tax. In this case, unless we agree otherwise, you will pay an additional amount so that we receive an amount after withholding or deduction of tax that equals the amount that we would have received without such withholding or deduction.

b) You are responsible for paying any taxes due and making claims relating to taxes (such as for exemption from withholding tax), for filing any tax returns and for providing information to the tax authorities in relation to any business we carry on with or for you. You agree to reimburse us for any fees (including irrecoverable VAT, if any) we incur on your behalf or otherwise in connection with the provision of the Services to you in accordance with these Terms.

## 7.30 Confidentiality and Privacy

a) We are not obliged to disclose to you, or to take into consideration in providing the Services, information where the disclosure of it to you would be a breach of duty or confidence to any other person.

b) Neither party ("**Receiving Party**") will disclose any information relating to the other party ("**Disclosing Party**") obtained in connection with these Terms, including information relating to these Terms, the Services or any Transaction ("**Confidential Information**"), to any third party except: (i) with the consent of the Disclosing Party; (ii) as is reasonably necessary to implement or perform these Terms, including (without limitation) disclosure to Exchanges, clearing houses, brokers and other intermediaries and counterparties; (iii) as is required by court order or otherwise by Applicable Regulations; (iv) to Applicable Regulators, on their request; (v) to its personnel, professional advisers other service providers, insurers and

auditors on a need to know basis respectively; and (vi) to its Affiliates which are subject to confidentiality obligations and on a need to know basis.

c) Clause 7.30(b) shall not apply to any information which:

- (1) is in or subsequently enters the public domain other than as a result of a breach of Clause 7.30(b);
- (2) has been or is subsequently received by the Receiving Party from a third party which is under no confidentiality obligation in respect of that information;
- (3) has been or is subsequently independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or
- (4) was previously known to the Receiving Party free of any obligation to keep it confidential.

d) Clauses 7.30(a) to 7.30(c) (both included) shall remain in full force and effect notwithstanding any termination of these Terms.

e) Where you are a legal entity or are acting on behalf of other individuals, in respect of the processing of any personal data pursuant to these Terms:

Each party acknowledges that:

- (1) the status of each party is a question of fact determined under Data Protection Laws; and
- (2) without limiting foregoing sub-section Clause 30(e)(1), the parties acknowledge that, in relation to personal data processed under these Terms, it is their mutual understanding that they are each an independent data controller. Each party shall comply with its obligations under Data Protection Laws in relation to the processing of personal data under, or in connection with the performance of, these Terms.

Each party shall only process personal data for the purposes of performing its obligations, and exercising its rights under these Terms.

In respect of each individual whose personal data you provide to us, you shall ensure that you are able lawfully to provide those personal data to us and will, before doing so, ensure that the individuals to whom the personal data relates have:

- (1) been informed of our identity, the personal data (or categories of personal data) to be disclosed and the information set out in our privacy notice for customers, which is available at <https://www.smbcgroup.com/emea/notices-reporting/privacy>; and
- (2) where relevant, any necessary consents required under Data Protection Law have been collected from those individuals.

If a party receives a written request from an individual to exercise any of their rights under Data Protection Law, which concerns processing of personal data undertaken by the other party, the party receiving the request shall:

promptly and without undue delay, and in any event within three calendar days from the date on which it received the request, forward the request to other party; and

cooperate and provide reasonable assistance in relation to that request to enable the other party to respond in accordance with Data Protection Laws (including in compliance with applicable deadlines and information requirements).

Each party shall, taking into account the state of the art, the costs of implementation and the nature, scope, context and purpose of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including the risk of unauthorised or unlawful processing of personal data, and of accidental or unlawful loss, alteration, unauthorised disclosure or destruction of, or damage to, personal data.

Each party ("**Notifying Party**") shall promptly notify the other party ("**Notified Party**") after becoming aware of a personal data breach affecting personal data, and the Notifying Party shall:

- (1) provide the Notified Party a reasonable description of the personal data breach; and
- (2) upon the Notified Party's written request, provided the Notified Party with reasonable cooperation and assistance in respect of the personal data breach.

Each party shall only process or transfer personal data in or, in the case of transfer, to, any country or territory outside of the European Union if and for so long as:

- (1) an Adequacy Decision is in place; or
- (2) the transfer is subject to a derogation in accordance with Article 49 GDPR; or
- (3) it is made in accordance with Article 46 GDPR, including where standard contractual clauses approved by the European Commission are in place between the exporting party and the data recipient.

### 7.31 Set-off Limitation

You may only set off claims against us if your claims are undisputed or have been confirmed by a final court decision.

### 7.32 Assignment claims of German investment management company against fund

In case you are a German investment management company (*Kapitalverwertungsgesellschaft*) within the meaning of the German Investment Code



(*Kapitalanlagegesetzbuch (KAGB)*), you hereby assign to us any claims for reimbursement of expenses you have acquired or may acquire in your capacity as the investment management company against the investment fund (*Sondervermögen*) for which or for which account you have entered the respective Transactions under these Terms. This assignment serves as security for our present, future, limited or contingent claims against you under these Terms, for any claim arising from non-performance in the event of termination of the Terms. You shall remain entitled to collect the assigned claims in the ordinary course of business until such right is revoked by us.

### 7.33 Termination and Amendment

a) These Terms shall continue in full force and effect until terminated by us or you by written notice from one party to the other. Such notice may be given no less than thirty (30) calendar days prior to the date of termination, provided that such notice may be immediately effective following the occurrence of a Material Cause as set out above.

b) Termination shall be without prejudice to the completion of Transactions already initiated and will not affect outstanding rights or liabilities.

c) Any amendments to these Terms shall be sent to you no later than two months before the amendment shall be entered into force.

The amendment shall be effective only once you accept it, where appropriate, by way of the deemed consent as set out in the following Section 7.33(d).

d) Lack of response on your part shall only be deemed to constitute acceptance of the amended terms ("**Deemed Consent**" (*Zustimmungsfiktion*)) if:

- (1) the amendment is required to align these Terms with a change in legal position (Rechtslage) because a provision of these Terms:
  - (a) is no longer consistent with the legal position as a result of a change in the law, including directly applicable legislation of the European Union, or
  - (b) is rendered ineffective or may no longer be used or becomes unenforceable as a result of a final court decision, including by a court of first instance, or
  - (c) is no longer in compliance with our regulatory obligations as a result of a binding administrative act (verbindliche Verfügung) issued by a competent national or international authorities (e.g. the BaFin or the European Central Bank) and
- (2) you have not rejected the amendments prior to the proposed date of the entry into force of the amendment.

In our notice informing you about the amendment, we shall expressly draw your attention to the consequences of remaining silent.

Deemed Consent as set out above, shall not apply to amendments (i) related to the amendment of provisions in this Section 7.33 and related to the fees for our Services, (ii)

affecting obligations related to the primary services under these Terms (*Hauptleistungspflichten*) under the fees for the primary services, (iii) which amount to the conclusion of a new agreement, or (iv) which would significantly shift the previously agreed contractual obligations and reciprocal obligations (*Leistungen und Gegenleistungen*) under these Terms in our favour. For these cases we shall then seek your consent to the amendments.

e) If we make use of Deemed Consent, you are entitled to terminate these Terms affected by the amendment without notice and free of charge prior to the proposed date the amendments shall be effective; for the avoidance of doubt, Section 7.33(b) shall apply. In our notice informing you about the amendment, we shall expressly draw your attention to your right to terminate.

### 7.34 Complaints

We put in place internal procedures for handling complaints fairly and promptly. You may submit a complaint to us by letter, email, telephone or in person. We will work with you to resolve complaints in a timely manner. We will provide you with details of its complaints procedures on request or when acknowledging a complaint.

### 7.35 Recording of Telephone Conversation and E-Communications

a) Irrespective of other existing regulatory requirements for recordings, we are obliged pursuant to Section 83 WpHG to arrange for recordings of telephone conversations or electronic communications (including email communication) involving investment services and the reception, transmission and execution of client orders. This obligation of recording also applies if those conversations or communications do not result in the conclusion of such transactions or in the provision of client order services. You will be informed prior to the recording about such recording and the possibility to object. If you object to the recording of telephone conversations or electronic communications, where such investment services and activities relate to the reception, transmission and execution of client orders, we may not provide such services via telephone calls and electronic communication.

b) Any recordings shall remain our sole property. We will store the recordings for a period of five years and subject to a request of the competent authority for a period of up to seven years. A copy of any recordings will be available free of charge upon written request from you in accordance with the Applicable Regulations.

c) You acknowledge and consent to the monitoring and recording of communications with us, including telephone conversations, subject to locally applicable laws and regulations.

### 7.36 Severability Clause

Should any provision of these Terms (partially or in its entirety) become invalid or unenforceable, the validity and enforceability of the remaining provisions of these Terms shall remain unaffected. Any resulting gap of a provision becomes invalid or unenforceable shall be filled by supplementary interpretation, considering the interests of the parties to these Terms.

## 7.37 Governing Law and Jurisdiction

These Terms and any non-contractual obligations arising from or connected with or in relation to these Terms shall be governed and construed in accordance with the laws of the Federal Republic of Germany.

The courts of Frankfurt am Main shall have exclusive jurisdiction to settle any dispute arising out of or in connection with these Terms (including a dispute regarding the existence, validity or termination of these Terms) subject to the rules of the German civil law procedure code (*Zivilprozessordnung*).

## 7.38 Definitions

In these Terms, the following words and expressions have the following meanings:

Adequate Decision	means, in respect of a third country, a territory, or one or more specified sectors within that third country, a finding of adequacy pursuant to Article 45 of the GDPR to the extent applicable to a transfer of personal data outside of the European Union pursuant to these Terms.
AGB Banken	as defined in Section 7.1(c).
Agency Agreement	as defined in Section 7.24
Agent	as defined in Section 7.24(a).
Affiliate	means any entity that directly or indirectly controls, is controlled by or is under common control with us pursuant to Section 15 of the German Stock Corporation Act ( <i>Aktiengesetz</i> ), as amended from time to time, including joint ventures.
Applicable Regulations	includes any applicable laws and regulations, including, but not limited to, the BaFin guidelines and circulars ( <i>Rundschreiben</i> ), applicable laws and regulations and interpretation of and requirements imposed by any other relevant regulatory authority (including, but not limited to, the European Securities and Markets Authority), any Infrastructure rules, customs, guidance, usages and interpretations and regulations of any relevant exchange and/or procedures of clearing houses and any all other applicable laws, rules and regulations in force from time to time as they relate to us and/or you.
Applicable Regulators	means BaFin or any other relevant regulatory authority regulating and/or supervising us and/or you in any jurisdiction.
BaFin	means the Federal Financial Supervisory Authority ( <i>Bundesanstalt für Finanzdienstleistungsaufsicht</i> ) and any successor.
Broker	as defined in Section 7.7(a).
Cash Penalties	as defined in Section 7.18(b).
Clearing Member	means any third party which is a clearing member of any Exchange or clearing house and which has been appointed by us to provide us with clearing and settlement services in respect of orders placed by you.
Commission	as defined in Section 7.10(a)(ii).
Confidential Information	as defined in Section 7.30(b).
CSDR	means, Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement

		in the European Union and on central securities depositories, as amended from time to time.
Data Protection Laws		means any law, enactment, regulation or order applicable in Germany and the European Union concerning the processing of personal data, including: the GDPR; any law, enactment, regulation or order transposing, implementing, adopting, supplementing or derogating from, the GDPR and the EU Directive 2002/58/EC in each Member State and each to the extent applicable to the activities or obligations of the parties under or pursuant to these Terms.
Deemed Consent		as defined in Section 7.33(d)
Derivatives		as defined in Section 7.5(b).
Derivatives Business		means all business, including the sale, purchase and trading of Derivatives, undertaken by us.
Disclosing Party		as defined in Section 7.30(b).
EMIR		means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as amended from time to time.
Electronic Services		means all electronic communications between you and us including, but not limited to, access to and use of systems that route orders and any related software or hardware we may provide to you to enable you to use such services including those which may be provided pursuant to Clause 7.11.
Equities Transactions		means buying or selling of equity securities, commonly shares or other equity interests in a company, which can include common stock, preferred stock and other similar instruments that represent ownership in a company.
Exchange		any market, including a regulated market, multilateral trading facility or organised trading facility (as such terms are defined in MiFIR) or alternative trading system, on which we agree to provide dealing services to you under these Terms.
Exchange Transaction		means a transaction entered into on an Exchange to which we are party as principal or agent.
Executed Trade		as defined in Section 7.10(a)(ii).
GDPR		means the Regulation (EU) 2016/679 (General Data Protection Regulation), as amended from time to time.
German Civil Code		means the German Civil Code – Bürgerliches Gesetzbuch, as amended from time to time.
Information Pack		means the Investment Business - Information Pack (Global Markets) provided to you.
Infrastructure		means Exchange, clearing house, payment system, settlement system, securities depository and trade repository.
Insolvency Event		means any and all of the following: <ul style="list-style-type: none"> <li>(1) you are dissolved (other than pursuant to a consolidation, amalgamation or merger);</li> <li>(2) you become insolvent or you are unable to pay your debts or you fail or admit in writing your inability generally to pay your debts as they become due;</li> <li>(3) you make a general assignment, arrangement or composition with or for the benefit of your creditors;</li> <li>(4) (a) you have instituted or it has instituted against you, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over you in the jurisdiction of your incorporation or organisation or the</li> </ul>

jurisdiction of your head or home office, and proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for your winding-up or liquidation by it or such regulator, supervisor or similar official, or (b) it has been instituted against you a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for your winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in sub-clause (a) above and either (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for your winding-up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within 15 calendar days of the institution or presentation thereof;

- (5) a resolution has been passed for your winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (6) you seek or you become subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for you or for all or substantially all of your assets;
- (7) you have a secured party take possession of all or substantially all its assets or you have a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of your assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 calendar days thereafter;
- (8) you cause or you are subject to any event with respect to which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) above (both included); and
- (9) you take any action in furtherance of, or indicating consent to, approval of, or acquiescence in, any of the foregoing acts.

Instruction	means any instructions given by you or on your behalf in respect of your account, allocations to such accounts, or the Services provided to you by us pursuant to these Terms including, without limitation, an instruction to enter into a Transaction with or for you.
Introducing Broker	as defined in Section 7.7(b).
Introduced/Routing	as defined in Section 7.7(g).
Limited Price	as defined in Section 7.10(ii).
Orders	
Loss	as defined in Section 7.25(a).
Material Cause	as defined in Section 7.24(a).
MiFIR	means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as amended from time to time.
Non-Terminating Party	as defined in Section 7.24(a).

Notified Party	as defined in Section 7.30(e)(6).
Notifying Party	as defined in Section 7.30(e)(6).
Order Execution	as described in Chapter 4 (Order Execution) of the Information Pack.
Penalty Credits	as defined in Section 7.18(b).
Receiving Party	as defined in Section 7.30(b).
Relevant Agreement	as defined in Section 7.1c).
Routing Broker	as defined in Section 7.7(g).
Terms	
Securities	means any of debt instruments or shares sold, purchased or traded by us.
Short Selling	as defined in Section Art 2(1)(b) of the Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (EU) 236/2012, as amended from time to time and subject to Applicable Regulations.
Settlement Fail	as defined in Section 7.18(b).
Services	as defined in Section 7.5(b).
Systemic Internaliser	means as defined in Article 4(1)(20) of Directive 2014/65/EU, as amended from time to time.
Termination Party	as defined in Section 7.24(a).
Terms	as defined in Section 7.1.
Third Party Provider	means any third party appointed by us and/or our Affiliates to provide Services.
Third Party Services	means Services provided through our Affiliates or Third Party Providers.
Transaction	means any transaction contemplated or executed by or between you and us, or any third party, pursuant to these Terms.
Transaction Reporting Requirements	as defined in Section 7.20(a).
Unsettled Position	means, at any time, any Transaction, in respect of which your obligations to either deliver Securities or to pay cash to us remains to be fulfilled, either in full or part.
VAT	means value added tax (Mehrwertssteuer);
WpHG	German Securities Trading Act (Wertpapierhandelsgesetz), as amended from time to time.



## Schedule Form of Agency Agreement

AGENCY AGREEMENT dated \_\_\_\_\_

between

SMBC Bank EU AG, whose registered office is at

Neue Mainzer Straße 52-58, 60311 Frankfurt, Germany ("**SMBC EU**");

and

[INSERT agent's name and details] (the "**Agent**") acting for and on behalf

of [INSERT] (the "**Underlying Customer**")

The defined terms in this Agency Agreement shall have the meanings set out in the General Terms of Business (the "**Terms**"), unless expressly specified otherwise in this Agency Agreement.

If there is any conflict or inconsistency between this Agency Agreement and the Terms, the provisions in the Terms shall prevail.

### 1. Capacity

The Agent in all of its dealings with SMBC EU as related to the Terms shall act as the agent for and on behalf of the Underlying Customer.

The Agent, acting for and on behalf of the Underlying Customer, shall:

- a) comply with the Terms when acting as agent of the Underlying Customer pursuant to the Terms;
- b) receive the Services provided by SMBC EU; and
- c) receive notices, disclosures and any other information on behalf of the Underlying Customer from SMBC EU in discharge of its obligations under the Terms and Applicable Regulations.

The Agent shall, at SMBC EU's request, supply SMBC EU with such financial or other information about the Underlying Customer as SMBC EU may reasonably require.

Where there has been a material change in the nature of the relationship between the Agent and the Underlying Customer, including where there has been a material deterioration of the financial conditions of the Underlying Customer, the Agent shall notify SMBC EU promptly in writing and shall not enter into a Transaction on behalf of the Underlying Customer without the prior written agreement of SMBC EU.



The Agent shall notify SMBC EU prior to or promptly after it provides SMBC EU with an Instruction on behalf of the Underlying Customer and inform SMBC EU of the identity, address and any other details which SMBC EU may require to provide its Services under the Terms to the Underlying Customer. Without limitation to the foregoing, where the Agent enters into a Transaction on behalf of an Underlying Customer, it will provide SMBC EU with all the information it requires for the settlement of such Transaction no later than twenty-four (24) hours prior to the due date for settlement of that Transaction.

## 2. Representations and Warranties

The Agent as principal for itself warrants, represents and undertakes to SMBC EU that:

- a) it has all necessary authority, powers, consents, licences, approvals and authorisations, and has taken all necessary action to enable it to lawfully: (i) for and on behalf of the Underlying Customer, enter into and perform the obligations of the Underlying Customer under the Terms and each Transaction; and (ii) enter into and perform its obligations under this Agency Agreement. The Agent will provide SMBC EU with copies and other evidence of such consents, licenses, approvals and authorisations as SMBC EU may reasonably require;
- b) any obligation of the Agent under this Agency Agreement does not violate any Applicable Regulations, charge or agreement by which it is bound;
- c) at the time of transfer by the Agent of any Financial Instruments, it will have full and unqualified right to make such transfer and upon such transfer, the transferee will receive all right, title and interest in and to those Financial Instruments free from any adverse interest;
- d) all information which the Agent has and will provide to SMBC EU shall be true, complete and accurate and the Agent will promptly provide SMBC EU with any further information properly required from time to time by any competent authority, Exchange, Third Party Provider or SMBC EU, as applicable;
- e) the Agent's undertaking and performance of its obligations (as agent for the Underlying Customer and as principal) will not conflict with, or result in a breach or default under the laws of the jurisdiction of incorporation or establishment of the Agent, or any agreement or instrument to which it is a party or by which it is bound (including, without limitation, the agreement by which the Underlying Customer has appointed the Agent) or any provision of its constitutive documents;
- f) in entering into any Transaction on behalf of the Underlying Customer, the Agent has no reason to believe that the Underlying Customer would not be able to enter into such Transaction or perform its obligations thereunder;
- g) all Securities and monies delivered by the Agent pursuant to a Transaction will be owned or beneficially owned by the Underlying Customer and shall be free of all liens, charges, encumbrances, outstanding security interest whatsoever, other than those that may arise in favour of SMBC EU;
- h) it is subject to and fully in compliance with the anti-money laundering and anti-terrorist financing laws and regulations applicable in its jurisdiction; and
- i) it shall only enter into a Transaction on behalf of the Underlying Customer pursuant to the Terms, when the Agent has, under its management, assets of the Underlying Customer which are sufficient, at the time of such Transaction is entered into, to satisfy

that the Underlying Customer's obligations under the Transaction by the applicable settlement date of such Transaction and the Agent has the full authority of that Underlying Customer to use such assets to meet such obligations.

### 3. SMBC EU Liability

The provisions of the Section 7.25 (Liability) of the Terms shall apply to this Agency Agreement.

### 4. Agent's Liability

The Agent will be jointly and severally liable together with the Underlying Customer for any loss, liability, damages, costs and/or expense which may be sustained by SMBC EU as a result of a breach by the Underlying Customer of its obligations under the Terms.

### 5. Indemnity

The Agent will indemnify SMBC EU and its Affiliates and respective personnel on demand against all proceedings, reasonable fees and expenses, payments, liabilities, injury, costs (including, without limitation, the reasonable costs of professional advisors) and damages arising out of any breach by the Agent of this Agency Agreement.

The Agent will indemnify and will keep SMBC EU and its Affiliates and their respective personnel indemnified against all reasonable costs, charges, liabilities and reasonable expenses whatsoever incurred by any of them (including but not limited to all costs, charges, liabilities and expenses arising out of any claims, actions or proceedings brought against us by Third Party Provider) pursuant to or in connection with this Agency Agreement, unless due to the wilful default, dishonesty or fraud of SMBC EU, including in respect of fees, taxes and charges incurred by SMBC EU or otherwise payable by SMBC EU.

### 6. Default

The Agent must notify SMBC EU immediately upon becoming aware that the Underlying Client is in default under the Terms or an Agency Agreement Event of Default has occurred.

Following the occurrence of an Agency Agreement Event of Default, SMBC EU may, without prior notice to the Agent, take any and all actions that it reasonably considers to be necessary or desirable in the circumstances in its absolute discretion and shall not be responsible for any losses occasioned by such action.

Following the occurrence of an Agency Agreement Event of Default, SMBC EU may by notice to the Agent:

- a) terminate or suspend this Agency Agreement in whole or in part;
- b) demand performance by the Agent of its obligations to SMBC EU in such manner as is determined by SMBC EU; or

- c) seek repayment of any losses suffered by SMBC EU in consequence of the Agency Agreement Event of Default.

Agency Agreement Event of Default shall mean:

- a) a material breach of any of the Agent's obligations under this Agency Agreement or any other agreement entered into with SMBC EU;
- b) any representation or warranty by the Agent is materially incorrect when made or repeated or deemed to have been made or repeated;
- c) the initiation of any criminal, disciplinary or enforcement action against the Agent by any regulatory authority or Exchange;
- d) the commencement of any insolvency, liquidation, administration, reorganisation or analogous proceeding with respect to the Agent; and/or
- e) an event of default or similar event occurs under any other agreement between the Agent and SMBC EU.

## 7. Assignment claims of a German investment management company against fund

If you are a German investment management company (Kapitalververwaltungsgesellschaft) within the meaning of the German Investment Code (Kapitalanlagegesetzbuch (KAGB)), you hereby assign to us any claims for reimbursement of expenses you have acquired or may acquire in your capacity as the investment management company against the investment fund (Sondervermögen) for which or for which account you have entered into the respective Transactions under the Terms. This assignment serves as security for our present, future, limited or contingent claims against you under these Terms, for any claim arising from non-performance in the event of termination of the Terms. You shall remain entitled to collect the assigned claims in the ordinary course of business until such right is revoked by us.

## 8. Termination

The Agency Agreement shall continue in full force and effect until terminated: (i) by SMBC EU or the Agent by written notice to the other party; (ii) upon termination of the Terms; or (iii) upon notice by the Underlying Customer to SMBC EU that the Agent ceases to be its Agent. Notice may be given by SMBC EU and the Agent no less than thirty (30) calendar days prior to the effectiveness of the termination, provided that such notice may be immediately effective following an default of the Underlying Client pursuant to the Terms or Agency Agreement Event of Default.

The Agent shall immediately notify SMBC EU if the Agent is no longer appointed as the agent of the Underlying Customer. Upon receipt of such notification, this Agency Agreement shall terminate immediately.

Termination shall be without prejudice to the completion of Transactions already initiated and will not affect outstanding rights or liabilities.

## 9. General

Any amendment of this Agency Agreement shall not be binding on the parties unless set out in writing, expressed to amend this Agency Agreement and validly signed by authorised representatives of each of the parties.

SMBC EU may, upon dispatch of written notice to the Agent, transfer to an Affiliate any or all of its rights, powers, liabilities and obligations under or pursuant to this Agency Agreement.

Should any provision of this Agreement (partially or in its entirety) become invalid or unenforceable, the validity and enforceability of the remaining provisions of these Agreement shall remain unaffected. Any resulting gap of a provision becomes invalid or unenforceable shall be filled by supplementary interpretation, taking into account the interests of the parties to these Agreement.

This Agency Agreement and any non-contractual claims in connection with it will be governed by and construed in accordance with the laws of the Federal Republic of Germany. The courts of Frankfurt am Main shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of the Agreement) subject to rules of the German civil law procedure code (*Zivilprozessordnung*).

If the Agent does not have its registered office or principal place of business in European Union, it must immediately appoint a party as an agent for service in European Union and notify SMBC EU of such appointment as soon as practically possible.

Signed by

For and on behalf of \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Place, date

## 8. Data Privacy Notice

The Bank respects an individual's privacy and complies with applicable privacy laws in jurisdictions in which we provide and receive services. Our Notice sets out how we, as data controller, will collect and use personal data.

You can easily find our Data Protection Notice for your country under the following link:

**Germany:**

<https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-germany.pdf>

**France:** <https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-paris.pdf>

**Netherlands:**

<https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-amsterdam.pdf>

**Italy:** <https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-milan.pdf>

**Spain:** <https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-madrid.pdf>

**Czech:** <https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-prague.pdf>

**Ireland:** <https://www.smbcgroup.com/emea/images/SMBC/media/SMBC/pdf/CIN/privacy-smbceu-dublin.pdf>

The above documents are also available on our website: [EMEA-Privacy](#)

In all cases, any complaints, and requests to exercise data subject rights can be addressed to the Data Protection Officer whose contact details are [DEFRRPrivacyOffice@de.smbcgroup.com](mailto:DEFRRPrivacyOffice@de.smbcgroup.com)