

Morgan Stanley & Co. International plc
("MSI plc")
Indirect Clearing Offering Criteria

1. Who should read this document and why?

- 1.1. This document should be reviewed by clients of MSI plc (an "Indirect Client") who would like MSI plc to act as the direct client of a clearing member (the "Clearing Member") for the purposes of an indirect clearing arrangement wherein such Indirect Client's exchange-traded derivatives transactions are indirectly cleared by such Clearing Member on an EU domiciled central counterparty ("EU CCP") authorised under the European Markets Infrastructure Regulation ("EMIR").
- 1.2. The Indirect Clearing RTS (as defined below) requires MSI plc, as a direct client of a Clearing Member, to, *inter alia*, offer Indirect Clients at least a choice between holding their positions and assets in a basic net omnibus account structure and a gross omnibus account structure (each as more fully described below). For this reason, Indirect Clients should review this document in conjunction with the "EMIR/MiFIR Segregation Risks Public Disclosure" available at the following link under the heading "Derivatives Clearing Disclosures": <http://www.morganstanley.com/disclosures>, which is also relevant in the context of MSI plc acting as a direct client and offering indirect clearing services to Indirect Clients and should be read by Indirect Clients as if it included the following modifications:
 - Paragraph 2.7 (*Basic Omnibus Indirect Client Account*) should be read as if the below text immediately followed paragraph (b):

“(c) at the level of the direct client, an omnibus account is opened with transactions (including corresponding assets) held for the account of its indirect clients. This means such transactions will be segregated from any transactions (including corresponding assets in the direct client's accounts) relating to any indirect clients that have also opted for a basic omnibus indirect client account and which are recorded in a different basic omnibus indirect client account; and any transactions (including corresponding assets the direct client's accounts) relating to any indirect clients that have opted for a gross omnibus indirect client account. Full mutualisation of risk within a basic omnibus indirect client account is permitted.”
 - Paragraph 2.8 (*Gross Omnibus Indirect Client Account*) should be read as if the below text immediately followed paragraph (b):

“(c) at the level of the direct client, an omnibus account is opened with transactions (including corresponding assets) held for the account of its indirect clients, in which the direct client will ensure that the positions of an indirect client do not offset the positions of another indirect client and the assets of an indirect client cannot be used to cover the positions of another indirect client. This means such transactions will be segregated from any transactions (including

corresponding assets in the direct client's accounts) relating to any indirect clients that have opted for a basic omnibus indirect client account; and any transactions (including corresponding assets in the direct client's accounts) relating to any indirect clients that have also opted for a gross omnibus indirect client account and which are recorded in a different gross omnibus indirect client account; and any transactions (including corresponding assets in the direct client's accounts) relating to any indirect clients that have opted for the same gross omnibus indirect client account."

- Paragraph 5.4 (*Return of amounts directly to client*) should be read as if the below sentence replaced the last sentence of the second paragraph:

"If this is not possible, which is likely to be the case with indirect clients that have opted for a basic omnibus indirect client account, the clearing member will return such amounts to the direct client, for the account of the indirect clients, which may mean that such indirect clients are left with unsecured claims in relation to such amounts with respect to the direct client."

- 1.3. This document does not constitute legal or any other form of advice and must not be relied on as such. It provides high level summaries of the key terms upon which MSI plc are prepared to offer indirect clearing services as a direct client and some of the key issues and criteria that should be met, but does not constitute a detailed analysis of all issues which may be relevant to Indirect Clients. Indirect Clients should conduct their own due diligence and instruct their own professional advisors as appropriate. Should Indirect Clients have questions on the content of this document, MSI plc can provide assistance – Indirect Clients should contact their usual account representative.
- 1.4. The below is disclosure, and is subject to detailed legal documentation.

2. What are the requirements of the Indirect Clearing RTS?

In accordance with Article 2(1)(a) of the Commission Delegated Regulation (EU) No 2017/2154 of 22 September 2017 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements (the "**Indirect Clearing RTS**") a direct client that facilitates indirect clearing services should do so on reasonable commercial terms and shall publicly disclose the general terms and conditions under which it provides those services. This document constitutes MSI plc's disclosure for the purposes of the Indirect Clearing RTS in MSI plc's capacity as a direct client.

3. Basic omnibus segregated accounts and gross omnibus segregated accounts

The Delegated Regulation contemplates two types of accounts for the purposes of the provision of indirect clearing services to indirect clients: the basic omnibus segregated account and the gross omnibus segregated account.

A basic omnibus segregated account is an account in which the assets and positions held by MSI plc as a direct client on behalf of all Indirect Clients opting for such account are held. A gross omnibus segregated account is an account in which the assets and positions held by MSI plc as a direct client on behalf of all Indirect Clients opting for such account are held and in relation to which the positions of one Indirect Client do not offset the positions of another Indirect Client and the assets of one Indirect Client cannot be used to cover the positions of another Indirect Client.

For the purposes of the below disclosure, paragraphs 4.2 to 4.3 apply to the provision of indirect clearing services in relation to both types of accounts, but for gross omnibus segregated accounts MSI plc requires additional conditions to be satisfied, as more fully described in paragraph 4.4.

4. Indirect clearing offering criteria

4.1 **Scope of indirect clearing services offered:** If an Indirect Client satisfies the conditions described in paragraph 4.2 below, MSI plc will be able to offer such Indirect Client indirect clearing services as a direct client of a clearing member at certain EUCCPs – details for which are specified in the Annex hereto – on the terms described below, other than in relation to over-the-counter (OTC) derivatives.

4.2 **Minimum Indirect Client Requirements:**

- (a) The Indirect Client must execute all documentation determined as being necessary by MSI plc, in order for MSI plc to provide indirect clearing services. In executing such documentation, the Indirect Client acknowledges that it has read and understood all disclosure statements with respect to its trading activities that MSI plc has provided to it, including the appropriate disclosure statement on indirect clearing.
- (b) Indirect Clients will not be permitted to offer indirect clearing services to their own clients.
- (c) For gross omnibus segregated accounts, all of the requirements set out in the paragraph entitled “Additional requirements and terms and conditions for gross omnibus segregated accounts” below.

4.3 **Terms of indirect clearing service:** The following minimum terms will apply to the offering by MSI plc of indirect clearing services to an Indirect Client:

(a) **Margin terms:**

- (i) **Margin calls:** Generally, an Indirect Client will receive a single, consolidated margin call representing all of its activity across EU CCPs, to be settled by the Indirect Client on a net settlement basis.
- (ii) **Eligible margin:**
 - (I) **Cash:** When cash margin is transferred to MSI plc, such margin will be transferred to MSI plc as “client money” in accordance with the UK Financial Conduct Authority’s client asset protection rules (“**CASS**”). In this context, CASS provides that money held by MSI plc as Indirect Client money will be ring-fenced from MSI plc’s insolvency estate upon an MSI plc administration or liquidation and will instead be held on trust for the benefit of the relevant Indirect Clients.
 - (II) **Non-cash:** If MSI plc agrees to accept non-cash margin, such margin will be held by MSI plc as custodian. MSI plc will be permitted to rehypothecate, use or otherwise permit the grant of security over the non-cash assets transferred by an Indirect Client to MSI plc.

- (iii) **Security Interest:** MSI plc will require each Indirect Client to grant a security interest in favour of MSI plc over all non-cash margin and cash margin transferred to MSI plc as “client money”.
- (b) **Triggering default management provisions:** The Clearing Member is required to promptly liquidate assets and positions relating to its indirect clients upon MSI plc’s default. Upon such liquidation, the Clearing Member will calculate separate liquidation amounts in respect of MSI plc’s proprietary positions and the positions of Indirect Clients.
- (c) **General terms:**
 - (i) MSI plc will commit to honour all obligations of the Indirect Client towards the Clearing Member with regard to the transactions entered into in relation to indirect clearing services.
 - (ii) MSI plc will keep separate records and accounts that enable MSI plc to distinguish between its own assets and positions and those held for the account of Indirect Clients.
 - (iii) As permitted by the Indirect Clearing RTS, MSI plc will assign a basic omnibus segregated account to Indirect Clients that have not chosen an account within a reasonable period of time (such period of time to be established by MSI plc). The Indirect Client may elect to choose a different type of account at any time by requesting so in writing to MSI plc (subject to any additional requirements and charges to be imposed in relation to such change).
 - (iv) MSI plc will, in accordance with the choice of its Indirect Clients (or in accordance with the assignment described in 4.3(c)(iii) above), request the Clearing Member to open and maintain in the CCP either a basic omnibus segregated account or a gross omnibus segregated account.
 - (v) In accordance with Article 5(6) of the Indirect Clearing RTS, MSI plc is required to provide Indirect Clients with sufficient information to allow such Indirect Clients to identify the Clearing Member and EU CCP used to clear the Indirect Clients’ positions. For such details, please refer to the Annex attached hereto, as amended from time to time.

4.4 **Additional requirements and terms and conditions for gross omnibus segregated accounts:** In addition to the above terms, the following terms apply to the provision by MSI plc of indirect clearing services to Indirect Clients that wish to elect a gross omnibus segregated account:

- (a) **Information (general):** In order to allow the Clearing Member to calculate separate margin requirements for each Indirect Client, the Indirect Client will be required to provide MSI plc with all information necessary to allow MSI plc, each Clearing Member and each relevant EU CCP to make those calculations.
- (b) **Information (default):** As a condition to MSI plc providing an Indirect Client with indirect clearing services in relation to gross omnibus segregated accounts, and in order to allow the Clearing Member to facilitate “porting” or

the direct return of assets to Indirect Clients following a default by MSI plc (including its insolvency), MSI plc will need:

- (i) to establish with the Indirect Client and the Clearing Member suitable arrangements achieving this that are legally robust and are satisfactory to MSI plc; and
 - (ii) to ensure that MSI plc's offering of indirect clearing facilitates the provision by it (or someone on its behalf) to the Clearing Member of all information the Clearing Member might require to effect such "porting" or direct return of assets (including the identity of Indirect Clients and all data the Clearing Member might require to effect all know-your-customer and anti-money laundering checks on such Indirect Clients).
- (c) **Pricing:** MSI plc has set out in MSI plc's "Clearing Member Pricing Disclosure for Direct and Indirect Clearing" the factors relevant to the cost of opening and maintaining a gross omnibus segregated account at each EU CCP in the context of MSI plc acting as a clearing member. Such factors are also relevant in the context of MSI plc acting as a direct client and opening and maintaining such accounts at a Clearing Member as part of MSI plc's indirect clearing services.

5. Legal documentation

- (a) **General:** Full, detailed and complete legal documentation will need to be entered into between MSI plc and the Indirect Client in order for MSI plc to provide indirect clearing services to its Indirect Clients, reflecting the above terms and conditions. This will be in the form of additional terms incorporated into or appended to the existing Customer Agreement between MSI plc and the Indirect Client.
- (b) **Specific provisions:** In addition, this legal documentation will also include additional overlay arrangements appointing agents, trustees or creating security to facilitate "porting" or the direct return of assets to Indirect Clients on MSI plc's default.

Annex

Clearing Member and EU CCP Information

Clearing Member	EU CCP
BNP Paribas Securities Services S.C.A.	ATHEXClear
Dom Maklerski Banku Handlowego S.A.	GIR KDPW
Banco Santander S.A.	OMIClear
Morgan Stanley & Co. LLC	ICE Clear Europe (IFED market only)
Morgan Stanley Europe SE	Morgan Stanley Europe SE intends to apply for membership at EU CCPs. For more information, Indirect Clients should contact their usual account representative