
Information statement relating to risks in connection with title transfer collateral arrangements



Dated: 6 December 2017

INFORMATION STATEMENT RELATING TO RISKS IN CONNECTION WITH TITLE TRANSFER COLLATERAL ARRANGEMENTS ("INFORMATION STATEMENT")

THIS INFORMATION STATEMENT WILL APPLY IF YOU HAVE ENTERED INTO, OR MAY IN FUTURE ENTER INTO A COLLATERAL ARRANGEMENT (AS DEFINED IN SECTION 3 BELOW) DURING THE COURSE OF YOUR RELATIONSHIP WITH US.

This Information Statement is provided for information purposes only and does not amend or supersede the express terms of any transaction, agreement, Collateral Arrangement or any rights or obligations you may have under Applicable Law, create any rights or obligations, or otherwise affect your or our liabilities and obligations.

Section 1: Introduction

This Information Statement has been prepared to comply with the FCA Rules in relation to client money and custody assets by informing you of the risks involved and the effects of any security collateral arrangement or title transfer collateral arrangement with respect to money or non-cash assets belonging to you ("**Re-use Risks and Consequences**"). This Information Statement relates only to Re-use Risks and Consequences and does not address any other risks or consequences that may arise as a result of your particular circumstances or as a result of the terms of a particular transaction or agreement.

This Information Statement is not intended to be, and should not be relied upon as, legal, financial, tax, accounting or other advice. Unless otherwise expressly agreed in writing, we are not providing you with any such legal, financial, tax, accounting or other advice and you should consult your own advisors for advice on consenting to a right of use of collateral or margin provided under a security collateral arrangement or on concluding a title transfer collateral arrangement, including the impact on your business and the requirements of, and results of, entering any related transaction or agreement.

Section 2: Re-use Risks and Consequences

- a) Where full ownership in your cash or non-cash assets is transferred by you to us under a title transfer collateral arrangement or if we exercise a right of use in relation to cash or non-cash assets that you have provided to us by way of collateral or margin under a security collateral arrangement ("**Relevant Assets**"), we draw your attention to the following Re-use Risks and Consequences:
1. your rights, including any proprietary rights that you may have had, in those Relevant Assets will be replaced by an unsecured contractual claim for delivery of equivalent cash or non-cash assets subject to the terms of the relevant Collateral Arrangement;
 2. those Relevant Assets will not be held by us in accordance with client money or client asset rules, and, if they had benefited from any client money or client asset protection rights, those protection rights will not apply (for example, the Relevant Assets will not be segregated from our assets and will not be held subject to a trust);

3. in the event of our insolvency or default under the relevant transaction or agreement your claim against us for delivery of equivalent cash or non-cash assets will not be secured and will be subject to the terms of the relevant Collateral Arrangement and Applicable Law and, accordingly, you may not receive such equivalent cash or non-cash assets or recover the full value of the Relevant Assets (although your exposure may be reduced to the extent that you have liabilities to us which can be set off or netted against or discharged by reference to our obligation to deliver equivalent cash or non-cash assets to you);
4. in the event that a resolution authority exercises its powers under any relevant resolution regime in relation to us, any rights you may have to take any action against us, such as to terminate our agreement, may be subject to a stay by the relevant resolution authority and:
 - i) your claim for delivery of equivalent cash or non-cash assets may be reduced (in part or in full) or converted into equity; or
 - ii) a transfer of assets or liabilities may result in your claim on us, or our claim on you, being transferred to different entities,although you may be protected to the extent that the exercise of resolution powers is restricted by the availability of set-off or netting rights;
5. as a result of your ceasing to have a proprietary interest in those Relevant Assets you will not be entitled to exercise any voting, consent or similar rights attached to the Relevant Assets, and even if we have agreed to exercise voting, consent or similar rights attached to any equivalent assets in accordance with your instructions or the relevant Collateral Arrangement entitles you to notify us that the equivalent assets to be delivered by us to you should reflect your instructions with respect to the subject matter of such vote, consent or exercise of rights, in the event that we do not hold and are not able to readily obtain equivalent assets, we may not be able to comply (subject to any other solution that may have been agreed between the parties);
6. in the event that we are not able to readily obtain equivalent assets to deliver to you at the time required: you may be unable to fulfil your settlement obligations under a hedging or other transaction you have entered into in relation to those Relevant Assets; a counterparty, exchange or other person may exercise a right to buy-in the Relevant Assets; and you may be unable to exercise rights or take other action in relation to those Relevant Assets;
7. subject to any express agreement between you and us, we will have no obligation to inform you of any corporate events or actions in relation to those Relevant Assets;
8. you will not be entitled to receive any dividends, coupon or other payments, interests or rights (including securities or property accruing or offered at any time) payable in relation to those Relevant Assets, although the express written terms of the relevant Collateral Arrangement may provide for you to receive or be credited with a payment by reference to such dividend, coupon or other payment (a "**manufactured payment**");
9. a Title Transfer Collateral Arrangement or our exercise of a right of use under a Security Collateral Arrangement in respect of any Relevant Assets and the delivery by us to you of equivalent assets may give rise to tax consequences that differ from the tax consequences that would have otherwise applied in relation to the holding by you or by us for your account of those Relevant Assets;
10. where you receive or are credited with a manufactured payment, your tax treatment may differ from your tax treatment in respect of the original dividend, coupon or other payment in relation to those Relevant Assets.

- b) Where we provide you with clearing services (whether directly as a clearing member or otherwise), we draw your attention to the following additional Re-use Risks and Consequences:
1. if we are declared to be in default by a CCP, the CCP may, pursuant to Applicable Law, try to transfer ("**port**") your transactions and cash or non-cash assets to another clearing member or, if this cannot be achieved, the CCP may terminate your transactions;
 2. in the event that other parties in the clearing structure default (including (but not limited to) a CCP, a custodian, a settlement agent or any clearing broker that we may instruct) you may not receive all of your cash or non-cash assets back and your rights may differ depending on the law of the country in which the relevant party is incorporated (which may not necessarily be English law) and the specific protections that such party has put in place;
 3. in some cases a CCP may benefit from legislation which protects actions it may take under its default rules in relation to a defaulting clearing member (e.g., to port transactions and related assets) from being challenged under relevant insolvency law.

Section 3:

DEFINITIONS:

"Agreement" means any agreement between you and us pursuant to which a Collateral Arrangement arises or may arise.

"Applicable Law" means:

- (a) the rules of a relevant regulatory authority as applicable;
- (b) the rules and policies of any relevant trading venue (as such term is defined in the rules of the relevant regulatory authority), any other trading platform, execution venue, CCP and regulatory and/or self-regulatory organisation; and
- (c) in respect of each party, all other laws, rules, regulations and orders of governmental bodies or regulatory agencies, applicable to such party as in relation to the services under the Agreement, and orders of any court or arbitrator in proceedings to which a party is a party or to which it or its assets are subject.

"Collateral Arrangement" means a (a) title transfer collateral arrangement or (b) security collateral arrangement;

"CCP" means an entity authorised by the relevant regulatory authority to act as a central counterparty or clearing house;

"FCA Rules" means the Handbook issued by the FCA.

"right of use" means any right we have to use, in our own name and on our own account or the account of another counterparty, cash or non-cash assets received by us by way of collateral or margin under a security collateral arrangement between you and us;

"security collateral arrangement" means an arrangement under which a collateral provider provides financial collateral or margin by way of security in favour of, or to, a collateral taker, and where the full ownership of the financial collateral or margin remains with the collateral provider when the security right is established and where the arrangement contains a right of use in favour of the collateral taker;

"title transfer collateral arrangement" means any arrangement under which a collateral provider transfers full ownership of financial collateral to a collateral taker for the purpose of securing or otherwise covering the performance of relevant financial obligations;

"we", "our", "ours" and "us" refer to the provider of this Information Statement that may conduct transactions, or enter into agreements, with you (or, where we are acting on behalf of another person, including where that person is an affiliate, that person) where such transactions or agreements contain a Collateral Arrangement;

"you", "your" and "yours" refer to each of the persons to which this Information Statement is delivered or addressed in connection with entering into, continuing, executing or agreeing upon the terms of transactions or agreements with us (or, where you are acting on behalf of other persons, each of those persons) where such transactions or agreements contain a Collateral Arrangement.