

Chapter 3

Commission Delegated Regulation (EU) 2017/2154

Article 5 Obligations of clients

(1) A client that provides indirect clearing services shall offer indirect clients a choice between at least the types of accounts referred to in Article 4(2) and shall ensure that those indirect clients are fully informed about the different levels of segregation and the risks associated with each type of account.

(2) The client referred to in paragraph 1 shall assign one of the types of accounts referred to in Article 4(2) to indirect clients that have not chosen one within a reasonable period of time established by the client. The client shall inform the indirect client about the risks associated with the type of account assigned without undue delay. The indirect client may choose a different type of account at any time by requesting so in writing to the client.

(3) A client that provides indirect clearing services shall keep separate records and accounts that enable it to distinguish between its own assets and positions and those held for the account of its indirect clients.

(4) Where the assets and positions of several indirect clients are held by the clearing member in an account as referred to in Article 4(2)(b), the client shall provide the clearing member with all the necessary information on a daily basis to allow the clearing member to identify the positions held for the account of each indirect client.

(5) A client that provides indirect clearing services shall, in accordance with the choice of its indirect clients, request the clearing member to open and maintain in the CCP the accounts referred to in Article 4(4).

(6) A client shall provide its indirect clients with sufficient information to allow those indirect clients to identify the CCP and the clearing member used to clear their positions.

(7) Where the assets and positions of one or more indirect clients are held by the clearing member in an account as referred to in Article 4(2)(b), the client shall include in the indirect clearing arrangement with its indirect clients all necessary terms and conditions to ensure that, in the case of default of that client, the clearing member may promptly return to the indirect clients the proceeds from the liquidation of the positions and assets held for the account of those indirect clients in accordance with Article 4(7).

(8) A client shall provide the clearing member with sufficient information to identify, monitor and manage any material risks arising from the provision of indirect clearing services that could affect the resilience of the clearing member.

(9) A client shall have arrangements in place to ensure that, when it defaults, all information it holds in respect of its indirect clients is made immediately available to the clearing member, including the identity of the indirect clients referred to in Article 5(4).