



TERMS OF BUSINESS 2018

Comprehensive suite of industry standard contractual terms for derivatives clearing

Whether your firm provides clearing services for exchange-traded derivatives (ETD) or for cleared OTC derivatives, or executing services for ETD, you need to ensure that your contractual documentation is up-to-date and compliant with the latest regulatory developments and business practices. FIA has maintained a suite of Terms of Business for the provision of

client clearing services for over 15 years, in partnership with the law firm Clifford Chance LLP. In mid-2018, we released our newest, fully updated and comprehensive state-of-the-art set of industry standard contractual terms for derivatives clearing—the **FIA Terms of Business 2018**.

The updated FIA Terms of Business 2018:

- Reflect the latest regulatory developments in Europe, predominantly but not exclusively MiFID II/R;
- Amend comprehensively certain legal concepts and terms to reflect industry trends and clearing service evolution;
- Introduce brand-new indirect clearing terms;
- Consolidate and streamline various pre-2018 agreements and modules; and
- Retain and enhance the concept of Core Provisions so firms will be able to rely on FIA netting and collateral opinions.

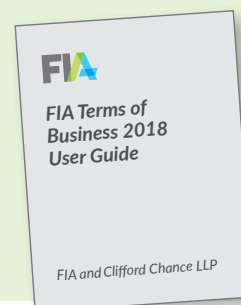
Starting with the base agreement, the FIA Terms of Business 2018 provide a modular structure allowing firms to document customized client relationships. The terms have been drafted with a principal-to-principal clearing model in mind and do not apply to the US FCM clearing model. The agreement is governed by English law and assumes that a firm is either a clearing member of an EU or non-EU CCP providing clearing services to its clients, or a client of a clearing member providing clearing services to its clients (*i.e. indirect clients*).

A sample version of the FIA Terms of Business 2018 is available to anyone who wishes to preview the document. A customizable template agreement and user guide are available for purchase.

FIA Terms of Business 2018 – User Guide

FIA has also developed a User Guide for the FIA Terms of Business 2018 to assist firms in understanding the regulatory background to most of the provisions and to provide alternative/optional clauses that firms may use in the FIA Terms of Business 2018, as appropriate. The User Guide consists of:

- Explanation of clauses;
- Regulatory references and notes;
- Alternative/additional provisions; and
- Diagrams, decision trees and other user information



Learn more about the FIA Terms of Business 2018 and how to subscribe at [FIA.org/2018ToBs](https://www.fia.org/2018ToBs). If you have further questions, please contact Mitja Siraj at msiraj@fia.org.

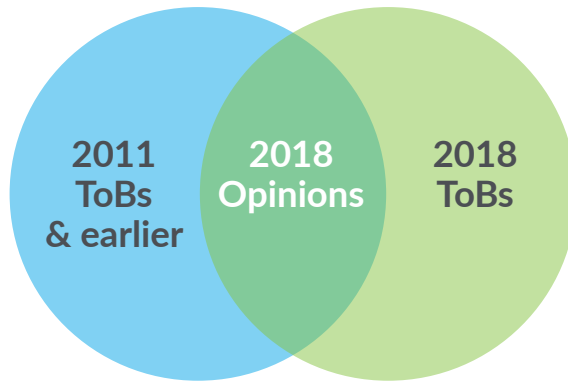


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Using the FIA Terms of Business 2018 with FIA legal opinions

The updated FIA netting and collateral opinions will continue to cover all previous Core Provisions (as amended by Non-material amendments), as well as the new Core Provisions in FIA Terms of Business 2018. The concept of Core Provisions remains unchanged; however, the Core Provisions themselves have been further optimised and rationalised in the FIA Terms of Business 2018.



Key Supplements

FIA maintains a documentation library with industry standard agreements, opinions and disclosures that help you meet regulatory requirements and common commercial objectives. Two recent additions include:

REGULATORY PATCH:

In June 2017 FIA published the [Regulatory Patch](#) which was designed to make the 2011 Professional Client Agreement compliant with a number of EU regulations, including but not exclusively MiFID II/R.

INDIRECT CLEARING TERMS:

In March 2018 FIA published eight sets of Indirect Clearing Terms, which can be used in conjunction with the FIA Terms of Business 2018 or the 2011 Professional Client Agreement to document an indirect clearing arrangement that is subject to the MiFIR Indirect Clearing RTS. More information on the FIA Indirect Clearing Terms can be found [here](#).

Features of the FIA Terms of Business 2018

KEY PROVISIONS
Scope and service clauses
Margin and collateral
Representations, warranties and covenants
Events of default, close-out netting, payment netting and set-off
Limited recourse, indemnity, confidentiality, information collection, data protection and FATCA
Termination, governing law and jurisdiction and interpretation
ALTERNATIVE/ADDITIONAL PROVISIONS
Retail client provisions
Trustee Schedule
Custody Schedule
Agency Schedule
Commodities Provisions
Indirect Clearing Terms
Two-way default provisions
Two-way margining provisions
OTC Clearing Provisions

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