

Chapter IV of the Clearing Conditions of Eurex Clearing AG

Clearing of Repo Transactions

As of 03.02.2020

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

Part 1 General Provisions

[...]

1.4 Tax Information Undertakings

(1) For the purpose of this Chapter IV, "Tax Information" shall mean information required by the respective recipient to comply with the rules and regulations of tax authorities.

(2) Upon application for a Clearing License or a Basic Clearing Member Clearing License, as the case may be, pursuant to Number 1.1, the applicant shall be required to provide Eurex Clearing AG, upon request, any Tax Information.

Further, each Clearing Member or Basic Clearing Member is obliged to inform Eurex Clearing AG without undue delay about any changes to the Tax Information previously provided to Eurex Clearing AG.

(3) Upon request by Eurex Clearing AG, each Clearing Member or Basic Clearing Member shall provide any other Tax Information (including, inter alia, Tax Information required by Eurex Clearing to comply with its reporting requirements under 26 CFR § 1.1441-1 et seq. or any successor or replacement regulation thereto).

(4) Upon the request of a Clearing Member or Basic Clearing Member, Eurex Clearing AG shall provide such Clearing Member or Basic Clearing Member with Tax Information relating to Eurex Clearing AG that is available to Eurex Clearing AG, provided that the provision of the Tax Information would not materially prejudice the legal or commercial position of Eurex Clearing AG.

(5) If the identity of the original parties to an Original GC Pooling Repo Transaction or MTF Repo Transaction has been disclosed to each other, each Clearing Member or

Basic Clearing Member shall provide each corresponding Clearing Member or Basic Clearing Member (and vice versa) upon request with any Tax Information, provided that the provision of the Tax Information would not materially prejudice the legal or commercial position of the Clearing Member or Basic Clearing Member that has received such request.

[...]

Part 2 Clearing of Repo Transactions

[...]

2.10 Tax

(1) Deduction or withholding of Taxes

The parties to the Repo Transaction shall make all payments under the Repo Transaction without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law.

If a party to a Repo Transaction that is required to make a payment (in such capacity, the “Payer”) is so required to make a deduction or withholding from the payment owed by it, the Payer shall:

- (a) promptly notify the obligee of the payment obligation to which such deduction or withholding relates (the “Recipient”) of such requirement;
- (b) pay or otherwise account for the full amount required to be deducted or withheld to the relevant authority;
- (c) upon written demand of the Recipient, forward to the Recipient documentation reasonably acceptable to the Recipient evidencing such payment to such authority; and
- (d) pay to the Recipient, in addition to what the Recipient is otherwise entitled to in respect of the Repo Transaction, such additional amount as is necessary to ensure that the amount actually received by the Recipient (after taking account of such withholding or deduction) is equal to the amount that the Recipient would have received had no such deduction or withholding been required.

For the purposes of this Chapter IV, “Tax” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) imposed by any government or other taxing authority in respect of any transaction effected pursuant to or contemplated by, or any payment under or in respect of, the relevant Repo Transaction.

(2) Reimbursement of Eurex Clearing AG by the Clearing Member or Basic Clearing Member acting as Payer

If Eurex Clearing AG is required to pay any additional amount to the Recipient in accordance with Paragraph (1) (d) (for the purposes of this Number 2.9 the “**Eurex Clearing Gross-up Amount**”), the relevant Clearing Member or Basic Clearing Member which is acting as Payer in relation to Eurex Clearing AG shall pay to Eurex Clearing AG an amount equal to the Eurex Clearing Gross-up Amount. If the relevant Clearing Member or Basic Clearing Member acting as Payer in relation to Eurex Clearing AG is required to make any deduction or withholding in respect of the amount so payable by it, Paragraph (1) shall apply *mutatis mutandis*.

(3) Transaction Tax

If the Clearing Member or Basic Clearing Member acting as the seller (cash taker) in the Repo Transaction (“**Seller**”) or Eurex Clearing AG is required to pay any amount on account of any Transaction Tax (other than any Transaction Tax that would not be chargeable but for the Clearing Member or Basic Clearing Member acting as the buyer (cash provider) in the Repo Transaction (“**Buyer**”) or, as applicable, Eurex Clearing AG’s failure to comply with its obligations under the Clearing Agreement) chargeable in connection with any Repo Transaction, the Seller shall notify Eurex Clearing AG, and, as applicable, Eurex Clearing AG shall notify the Buyer of such payment requirement. Upon receipt of the relevant notification, Eurex Clearing AG shall pay to the Seller or, as applicable, the Buyer shall pay to Eurex Clearing AG an amount equal to such amount payable by the Seller or Eurex Clearing AG, as the case may be. If Eurex Clearing receives any such notification from the Seller, it shall forward such notification to the Buyer and the Buyer shall, upon receipt of such notification, pay to Eurex Clearing an amount equal to the amount payable by Eurex Clearing to the Seller in accordance with the preceding sentence.

For the purposes of this Chapter IV, “**Transaction Tax**” means any transaction, stamp, transfer, registration, documentation or similar Tax.

(4) Sales Tax

All amounts payable by any party to a Repo Transaction to the other party of such Repo Transaction are exclusive of any Sales Tax chargeable on any supply to which such sums relate and an amount equal to such Sales Tax shall in each case be paid by the party making such payment on receipt of an appropriate Sales Tax invoice.

For the purposes of this Chapter IV, “**Sales Tax**” means value added tax and any other Tax of a similar nature.

(5) Retrospective changes in law

Unless otherwise agreed between the parties to the relevant Repo Transaction, amounts payable by one party to another in relation to a Repo Transaction shall be determined by reference to applicable law as at the date of the relevant payment and

no adjustment shall be made to amounts paid and no party shall have any claims or rights against any other party, as a result of:

(a) any retrospective change in applicable law which is announced or enacted after the date of the relevant payment; or

(b) any decision of a court of competent jurisdiction which is made after the date of the relevant payment (other than where such decision results from an action taken with respect to the Repo Transaction or amounts paid or payable under the Repo Transaction).

[...]
