clear to trade

# e u r e x  c l e a r i n g  *circular 117/12*

**Date:** 20 December 2012
**Recipients:** All Clearing Members and Non-Clearing Members of Eurex Clearing AG
**Authorized by:** Thomas Book

## Clearing outsourcing to the U.S.

**Related Eurex Clearing Circular:** 076/12

**Contact:** Member Services & Admission, T +49-69-211-1 17 00, memberservices@eurexclearing.com

**Content may be most important for:**

Ü All departments

**Attachments:**

1. Updated sections of the Clearing Conditions for Eurex Clearing AG
2. Announcement of Outsourcing of Clearing Functions of Clearing Members of Eurex Clearing AG
3. Announcement of Outsourcing of Back-Office Functions of Eurex Trading Members (NCMs)

On 19 December 2012, the Executive Board of Eurex Clearing AG decided with effective date **14 January 2013** on amendments to the Clearing Conditions for Eurex Clearing AG ("Clearing Conditions") which reflect an update on the outsourcing framework implemented on 1 October 2012 for clearing, risk management and back-office functions which have to be performed by Clearing Members (CMs) or Non-Clearing Members (NCMs) in the context of clearing.

The changes are required for Eurex Clearing to allow CMs and NCMs to outsource their clearing, risk management and back-office functions to U.S. insourcers without any product restrictions.

Pursuant to Chapter I, Part 1, Number 17.2.2 of the Clearing Conditions, each CM or NCM or Registered Customer (RC) accepts each amendment and addition to the Clearing Conditions, unless it objects by written notice to Eurex Clearing AG before the end of the Business Day prior to the actual effective date of such amendment or addition to the Clearing Conditions. The right to terminate the Clearing Agreement and the Clearing License according to Chapter I, Part 1, Number 2.1.4 Paragraph 1 of the Clearing Conditions shall remain unaffected.

Eurex Clearing AG
Mergenthalerallee 61
65760 Eschborn
Mailing address:
60485 Frankfurt/Main
Germany

T +49-69-211-1 17 00
F +49-69-211-1 17 01
memberservices@
eurexclearing.com
Internet:
www.eurexclearing.com

Chairman of the
Supervisory Board:
Hugo Bänziger

Executive Board:
Andreas Preuss (CEO),
Jürg Spillmann, Thomas Book,
Gary Katz, Michael Peters,
Peter Reitz

Aktiengesellschaft mit
Sitz in Frankfurt/Main
HRB Nr. 44828
Amtsgericht
Frankfurt/Main

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**CHAPTER I PART 1 IS BEING ADJUSTED.**

**AMENDMENTS ARE MARKED AS FOLLOWS:**

**INSERTIONS ARE UNDERLINED.**

**DELETIONS ARE CROSSED OUT.**

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# Chapter I
# General Provisions

## Part 1
## General Clearing Provisions

[…]

### 15 Transmission of information by Eurex Clearing AG; Outsourcing of Clearing Functions

[…]

**15.2 Fulfilment and ~~partial~~ outsourcing of Clearing-related functions**

[…]

**15.2.3** Any Outsourcing shall fulfil the following requirements:

[…]

(3) the orderly conduct of the Outsourced Functions is ensured; in this respect, the Outsourcer is required to:

[…]

(b) establish and maintain throughout the term of the Outsourcing appropriate procedures documented in writing for supervising the performance of the Outsourced Functions by the Insourcer; in this respect, the Outsourcer is required to (i) ensure access at any time to the Outsourced Functions (except in the case of an Outsourcing by a Non-Clearing Member to its Clearing Member), (ii) monitor the Insourcer's capability to perform the Outsourced Functions on an ongoing basis, (iii) establish guidelines for each Outsourced Function that the Insourcer must follow in performing such Outsourced Function, and (iv) conduct audits at the Insourcer on a regular basis either by (a) checking, or by authorising an independent auditor to check, the documents and processes related to the Outsourced Functions in the business premises of the Insourcer, or by (b) obliging the Insourcer to certify and document the orderly performance of the Outsourced Functions in accordance with the guidelines for each Outsourced Function and the principles for Outsourcing set out in this Number 15.2.3;

[…]