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e u r e x c l e a r i n g *circular 039/13*

Date: 27 March 2013
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
Authorized by: Thomas Book

Clearstream Banking S.A., Luxembourg recognized by Eurex Clearing as additional securities collateral location

Related Eurex Clearing circular: 075/12

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Content may be most important for:

Ü All departments

Attachments:

1. Updated sections of the Clearing Conditions for Eurex Clearing AG
2. Application for Set-up/Deletion/Change of Securities Accounts and Clearer Cash Accounts

Summary:

On 27 March 2013, the Executive Board of Eurex Clearing AG decided with effective date **15 April 2013** on amendments to the Clearing Conditions for Eurex Clearing AG which reflect the alternative for Clearing Members to collateralize margin requirements resulting from the Elementary Clearing Model with securities provided in Clearstream Banking S.A., Luxembourg.

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

Clearstream Banking S.A., Luxembourg recognized by Eurex Clearing as additional securities collateral location

On 27 March 2013, the Executive Board of Eurex Clearing AG decided with effective date 15 April 2013 on amendments to the Clearing Conditions for Eurex Clearing AG ("Clearing Conditions") which reflect the alternative for Clearing Members to collateralize margin requirements resulting from the Elementary Clearing Model with securities held in collateral accounts with Clearstream Banking S.A., Luxembourg (Luxemburg law).

Key facts

- All operational procedures and deadlines in place for collateralization over the Creation 6-series accounts at Clearstream Banking AG, Frankfurt apply simultaneously to Creation accounts at Clearstream Banking S.A., Luxembourg.
- The securities collateral fee introduced on 1 October 2012 will apply accordingly (please see Eurex Clearing circular 075/12).
- If a Clearing Member wants to make use of the new service it has to fill out, sign and submit the attached application form and the Pledge Agreement. The Pledge Agreement will be provided as soon as possible.

Next steps

In order to provide our Clearing Members with adequate collateral facilities Eurex Clearing is planning to enhance the connection to Clearstream Banking S.A., Luxembourg, allowing Clearing Members to cover the distribution to the Clearing Fund and a potential shortfall of liable equity capital also over collateral accounts at Clearstream Banking S.A., Luxembourg.

Attached to this circular are the changed and enhanced sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing on 27 March 2013, which will come into effect on 15 April 2013.

According to Chapter I, Part 1, Number 17.2.2 of the Clearing Conditions, the changes and enhancements to the Clearing Conditions communicated in the present circular are deemed to have been approved by each Clearing Member and Non-Clearing Member as well as by each Registered Customer, unless they object in writing to Eurex Clearing AG prior to the end of the business day preceding the actual day the adjustments and enhancements come into effect. The right to terminate the Clearing Agreement and the Clearing License in accordance with Chapter I, Part 1, Number 2.1.4, Paragraph 1 of the Clearing Conditions remains unaffected thereof.

The complete Clearing Conditions with the changes and enhancements communicated in the present circular will be available as of the effective date on the Eurex Clearing website www.eurexclearing.com under the link:

Resources > Rules and Regulations > Clearing Conditions

27 March 2013

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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

[...]

2 Clearing Members

2.1 Clearing License

[...]

2.1.2 General Prerequisites for Clearing Licenses

[…]

(4) The applicant shall have available the following accounts:

(a) Securities Accounts:

(aa) a securities account or sub-account with Clearstream Banking AG, Clearstream Banking S.A. or with SIX SIS Ltd., pledged to Eurex Clearing AG with respect to Margin in accordance with the Elementary Clearing Model Provisions (the "**Pledged Securities Account**"), unless the Clearing Member uses the Collateral Management System Xemac ("**Xemac**") of Clearstream Banking AG to grant the pledges or assignments for security purposes pursuant to Number 6.6 of the Elementary Clearing Model Provisions;

[...]

3 General Provisions regarding Margin

[...]

3.2 Eligible Margin Assets and Valuation

[...]

3.2.2 For the purpose of assessing compliance with the Margin Requirement pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, the following general provisions apply:

[...]

(3) If Eligible Margin Assets in the form of Securities are credited to the Pledged Securities Account or Securities Margin Account, as applicable, such Securities shall – for the purpose of assessing compliance with the Margin Requirement – be deemed to be actually delivered immediately after notification by Clearstream Banking AG, Clearstream Banking S.A. or by SIX SIS Ltd. of such credit. If such notification occurs after the cut-off time specified by Eurex Clearing AG from time to time with respect to each of Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS Ltd., as applicable, such Securities shall – for the purpose of assessing compliance with the Margin Requirement – be actually delivered on the Business Day following such confirmation.

[...]

[...]

Part 2
Elementary Clearing Model Provisions

[...]

6 Margin

[…]

6.6 Delivery of Eligible Margin Assets in the form of Securities

6.6.1 In order to provide Eligible Margin Assets in the form of Securities as cover in respect of Margin, the Clearing Member shall transfer Eligible Margin Assets in the form of Securities to its relevant Pledged Securities Account unless otherwise provided in this Number 6.6.

(1) The Clearing Member shall instruct Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS Ltd. in a timely manner to transfer the Securities to its Pledged Securities Account and procure that Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS Ltd., as applicable, then informs Eurex Clearing AG of such transfer.

[...]

6.7 Redelivery or Release of Eligible Margin Assets

[...]

6.7.2 Subject to the occurrence of a Termination Date, the release of Eligible Margin Assets in the form of Securities shall be effected if a Clearing Member, prior to the then applicable cut-off time specified by Eurex Clearing AG with respect to each of Clearstream Banking AG, Clearstream Banking S.A. and SIX SIS Ltd., as applicable, with respect to any Business Day, requests a release of pledged Securities or Securities assigned for security purposes (in the case of Swiss book entry securities) by Eurex Clearing AG and if and to the extent the aggregate value of all Eligible Margin Assets actually delivered in respect of Margin exceed the aggregate Margin Requirements pursuant to the Elementary Clearing Model Provisions and the Individual Clearing Model Provisions. Such request shall be processed by Eurex Clearing AG during that same Business Day; the relevant Eligible Margin Assets to be returned shall be selected by the Clearing Member. In the case of a pledge pursuant to Number 6.6.4, the relevant Security shall be released in Xemac accordingly.

If fulfilment of such a request would render the remaining aggregate value of the Eligible Margin Assets actually delivered inadequate for the next Business Day of a Market, as determined by Eurex Clearing AG, Eurex Clearing AG shall notify Clearstream Banking AG, Clearstream Banking S.A. or SIX SIS Ltd., as applicable, that it approves such release if the amount of Eligible Margin Assets required to cover such shortfall has been provided by the time specified by Eurex Clearing AG.

[...]

[...]

Chapter IV
Clearing of Transactions at Eurex Repo GmbH (Eurex Repo)

Part 1
General Provisions

[…]

1.1 Clearing Licenses

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1.1.2 Prerequisites for Clearing Licenses

[…]

(2) The applicant shall meet the following additional requirements:

(a) Evidence of technical connection to the systems of Eurex Clearing AG,

(b) in the event of participation in the clearing for GC Pooling® Repo transactions, of the participation admission and technical connection to the Collateral Management System Xemac® ("**Xemac**") of Clearstream Banking AG ~~("**CBF**")~~, including the possibility of participation in the international Collateral Management, i.e.

aa) either via own participation authorisation in Xemac, or

bb) via a respective agreement with another settlement institute which is authorised to participate in Xemac.

[…]

[…]

Part 2
Clearing of Transactions at Eurex Repo GmbH

[…]

2.5 Payment of Interests and Dividends, as well as other Corporate Actions (Compensation)

(1) If interests or dividends are paid on the underlying security during the term of a Eurex Repo Transaction, e.g. during the Purchase Agreement and the Repurchase Agreement, Eurex Clearing AG shall arrange for the credit of the accrued amount of interests or dividends to the Clearing Member which has sold the respective securities. Besides, Eurex Clearing AG shall arrange for

the charge of an amount equal to the amount of interests or dividends to the Clearing Member which has purchased the respective securities. Cash settlement shall be made through the RTGS Accounts, the euroSIC Accounts, the accounts with Euroclear Bank S.A./N.V. in Brussels or with Clearstream Banking ~~Luxembourg~~ S.A. In case of Euro GC Pooling Repo transactions, the compensation payment shall be initiated via Eurex Clearing AG through Xemac.

[…]

[…]

Chapter V
Transactions Concluded at the Frankfurter Wertpapierbörse[9]

Part 1
General Provisions

[…]

1.1 Clearing Licenses

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) The applicant shall meet the following additional requirements:

(a) […]

(b) Evidence of authorisation to use the securities lending facility offered by Clearstream Banking AG~~, Frankfurt,~~ for settlement purposes.

[…]

[…]

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9 With regard to the clearing of transactions concluded at the Rhenish-Westfalian Exchange in Düsseldorf (Rheinisch-Westfälische Börse zu Düsseldorf) which share the securities and rights named in Chapter, Chapter V and all remaining provisions of the Clearing Conditions for Eurex Clearing AG shall apply.

Part 2
Clearing of transactions concluded at the Frankfurter Wertpapierbörse (FWB)

[…]

2.2 Failure to Deliver

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2.2.1 Failure to Deliver Shares pursuant to Article 15 of Regulation (EU) No. 236/2012

[…]

(7) If a Clearing Member did not agree with Eurex Clearing AG on a gross delivery management service (Chapter I Part I Number 1.4.2 Paragraph (2) and Number 1.3.1 Paragraph (1) (b) through (e)), and fails to deliver shares, Eurex Clearing AG will charge, in addition to the obligations set forth in this Number 2.2.1, an additional fee on grounds of delay. For each day of non-delivery ("**non-delivery day**"), this fee equals 0.01% of the original equivalent value of the shares to be delivered. A non-delivery day means any business day following the delivery's due date, unless the shares are delivered on this day, at the latest, in the course of the second Same Day Settlement run of Clearstream Banking ~~Frankfurt~~ AG. This provision shall apply exclusively to claims resulting from transactions conducted through the electronic trading system at FWB or off exchange via this electronic trading system.

[…]

[…]

2.2.2 Failure to Deliver other Securities except Shares pursuant to Article 15 of Regulation (EU) No. 236/2012

[…]

(8) If a Clearing Member has not agreed upon Gross Delivery Management Service with Eurex Clearing AG (Chapter I Part 1 Number 1.4.2 Paragraph (2) and Number 1.3.1 Paragraph (1) (b)-(e)), and if such Clearing Member comes in default with the delivery of securities, Eurex Clearing AG shall levy an additional default fee besides the obligations specified in this provision. Such fee shall amount to 0.01% of the original countervalue of the securities to be delivered for each day of default (default day). A default day is each Business Day following the due date of delivery, unless the securities are delivered at the latest on such Business Day within the second same-day settlement booking run of Clearstream Banking ~~Frankfurt~~ AG.

This regulation shall exclusively apply to claims from transactions which have been concluded via the electronic trading system at FWB or off-exchange via this electronic trading system.

[…]

[…]

2.3 Corporate Actions

(1) Where corporate actions pursuant to Paragraph (2) are carried out in respect of securities which relate to unperformed FWB Transactions, Eurex Clearing AG shall process these actions as follows on an individual basis when clearing such transactions with its Clearing Members: The value date of the requisite debits and credits on accounts of Clearing Members involved will be ascertained on the basis of the due days determined and announced by Clearstream Banking AG~~, Frankfurt/Main~~. In the absence of further agreements or rulings in particular in Paragraph (2), securities shall be transferred with the rights and duties which existed at the conclusion of the transaction.

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[…]

Chapter IX
Clearing of Securities Lending Transactions

Part 1
General Provisions

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1.1 Clearing License

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1.1.2 Prerequisites of Clearing Licenses

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(2) The applicant shall provide evidence for the compliance with the following requirements (as applicable to the respective content of the Clearing License):

(a) settlement accounts for equities and Exchange Traded Funds with

- Clearstream Banking AG~~, Frankfurt am Main~~ ("CBF"), including a CBF(I) account, and/or
- SIX SIS Ltd., Zürich ("SIX SIS");

and/or settlement accounts for fixed income securities with

- CBF as a CBF(I) account, or
- Clearstream Banking S.A.,~~ Luxembourg ("CBL"),~~ or
- Euroclear Bank SA/NV~~ ("Euroclear")~~;

[…]

1.1.3 Specific Lender License

[…]

(5) The prerequisites to be fulfilled for the granting of the Specific Lender License are the following:

[…]

(d) settlement accounts for equities and Exchange Traded Funds with

- Clearstream Banking AG~~, Frankfurt am Main~~ ("CBF"), including a CBF(I) account, and/or
- SIX SIS Ltd., Zürich ("SIX SIS");

and/or settlement accounts for fixed income securities with

- CBF as a CBF(I) account, or

- Clearstream Banking S.A.~~, Luxembourg ("CBL")~~, or

- Euroclear Bank SA/NV ~~("Euroclear")~~;

[…]

[…]

Part 2
Terms and Conditions of Securities Lending Transactions

The terms and conditions of each Securities Lending Transaction are set forth in this Part 2.

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2.6 Failure to Deliver

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2.6.5 Failure to Deliver by the Lender on the Maturity Date

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(2) […]

(h) If after a successful Buy-In pursuant to Number 2.6.4 Paragraph (7) or in the event of a cash settlement after an unsuccessful or only partially successful Buy-In pursuant to 2.6.4 Paragraph (8) with respect to a specific Securities Lending Transaction, the Lender fails to actually deliver the Equivalent Principal Collateral in the form of Non-Cash Principal Collateral to the Borrower in full until 2pm (Frankfurt time) for Principal Collateral held on accounts with Clearstream Banking ~~Luxembourg~~ S.A. and until 3pm (Frankfurt time) for Principal Collateral held on accounts with Euroclear Bank S.A./N.V., Brussels, on the Business Day after the Buy-In Date, Eurex Clearing AG shall be entitled to determine that the Lender's obligation to return the Equivalent Principal Collateral shall be replaced by an obligation of the Lender to pay to the Borrower a cash amount in the Transaction Currency determined by Eurex Clearing AG in accordance with Paragraph (c).

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