



eurex clearing circular 074/17

Date: 8 August 2017
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
Authorized by: Heike Eckert

Update on the clearing of Section 871 (m) Internal Revenue Code (IRC) transactions through Eurex Clearing AG

Related Eurex Clearing circular: 028/17

Contact: Group Client Key Account Management Clearing,
clearing.services-admission@deutsche-boerse.com, or your Clearing Key Account Manager

Content may be most important for:

➡ All departments

Attachment:

Template DEA Reporting

Summary:

This circular contains further information with respect to the clearing of Section 871 (m) IRC transactions through Eurex Clearing AG (Eurex Clearing). Particularly, the provision of required information and a confirmation regarding combined transactions are addressed.

- Retroactively as of 1 January 2017, Eurex Clearing acts as Qualified Derivatives Dealer (QDD). As Eurex Clearing requested all its Clearing Members in Eurex Clearing circular 028/17 to act either as QDD or as primary withholding Qualified Intermediary (QI) in potential 871 (m) IRC transactions, no withholding by Eurex Clearing is required on such transactions.
- All Clearing Members are requested to provide Eurex Clearing with required information for the purposes of Form 1042/1042-S Reporting and Reporting Reconciliation.
- Eurex Clearing hereby confirms that it does not employ any combined transaction strategies despite potentially entering into multiple transactions over the same underlying security.

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1. IRS approval for Eurex Clearing's QDD status as of 1 January 2017

Eurex Clearing received acceptance of its request for the status as Qualified Derivatives Dealer (QDD) by the U.S. Internal Revenue Service (IRS). This status was granted retroactively as of 1 January 2017.

2. No withholding on Section 871 (m) IRC transactions by Eurex Clearing

To establish that no withholding is required by Eurex Clearing, Eurex Clearing has requested all Clearing Members, who are not U.S. Persons, to either act as QDD or primary withholding QI with respect to potential IRC Section 871 (m) transactions as of 1 January 2017.

Eurex Clearing strongly requests its Clearing Members which have not done so yet, to submit a duly signed Form W-8IMY or W-9 certifying their QDD/primary withholding QI status as of 1 January 2017 **by 15 August 2017**, at the latest. If no form is received by then, Eurex Clearing will treat this Clearing Member as a Section 871 (m) IRC non-eligible Clearing Member.

For more information, please refer to Eurex Clearing circular 028/17.

3. Information required from Long Party Clearing Members for the purposes of Form 1042/1042-S Reporting and Reporting Reconciliation

As laid out in Eurex Clearing circular 028/17, Eurex Clearing is not a Responsible Party within the meaning of Treasury Regulations § 1.871-15 (p). Therefore, Eurex Clearing requests Clearing Members, which take a Long Position with respect to equity exposure (Long Party Clearing Members) to provide all information required. Long Party Clearing Members are obliged to determine whether a transaction is a Section 871 (m) IRC transaction and the amount of any Dividend Equivalents (see Treasury Regulations § 1.871-15 (c)) that Eurex Clearing pays or is treated as paying to such Long Party Clearing Members.

In order to facilitate this process, please find attached a template with the information Eurex Clearing requests to be provided by its Long Party Clearing Members. Eurex Clearing relies on the information pursuant to § 1.871-15 (p) to be provided by the Long Party Clearing Member.

Eurex Clearing initially requests that each Long Party Clearing Member provides such information **by 15 September 2017** on transactions that occurred from 1 January 2017 to 31 July 2017.

Beginning on 1 August 2017, Long Party Clearing Members must provide this information on a monthly basis on the last business day of the reporting month (i.e. for August 2017 on 31 August 2017 etc.) to the following e-mail address: reporting871m@eurexclearing.com.

4. Information required from Short Party Clearing Members for the purposes of Reporting Reconciliation

In order to reconcile the Dividend Equivalent Payments received by Short Party Clearing Members with the Dividend Equivalent Payments paid to Long Party Clearing Members, Eurex Clearing requests Short Party Clearing Members to provide information whether a transaction is a Section 871 (m) IRC transaction and the amount of any Dividend Equivalents (see Treasury Regulations § 1.871-15 (c)) that Eurex Clearing receives or is treated as receiving from such Short Party Clearing Members. In order to facilitate this process, Eurex Clearing asks Short Clearing Members to use the attached template when providing the requested information.

Eurex Clearing initially requests that each Short Party Clearing Member provides such information **by 15 September 2017** on transactions that occurred from 1 January 2017 to 31 July 2017.

Beginning on 1 August 2017, Short Party Clearing Members must provide this information on a monthly basis on the last business day of the reporting month (i.e.: information for August 2017 to be provided on 31 August 2017 etc.) to the following e-mail address: reporting871m@eurexclearing.com.

5. Confirmation regarding combined transactions

Where Eurex Clearing is receiving or treated as receiving Dividend Equivalents as Long Party, Eurex Clearing represents that it does not employ any combined transaction strategies despite potentially entering into multiple transactions over the same underlying security. Therefore, withholding agents should not subject any transactions in which Eurex Clearing is the Long Party to the combination rules under the presumptions of Treasury Regulations § 1.871-15 (n).

If you have any questions with respect to either potential tax impacts on your company or how to duly complete the attached template, please contact your tax adviser directly. Eurex Clearing is not in a position to provide assistance beyond the information contained in this circular and in the initial Eurex Clearing circular 028/17, as we are legally not permitted to give any tax advice.

If you have any non-tax related questions, please feel free to contact your Clearing Key Account Manager or send an e-mail to: clearing.services-admission@deutsche-boerse.com.

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