clear to trade

e u r e x c l e a r i n g *circular 148/13*

Date: 11 December 2013
Recipients: All Clearing Members of Eurex Clearing AG
Authorized by: Heike Eckert

Amendments to the Clearing Conditions regarding the implementation of a qualification requirement for clearing staff and the revised amendment process for rules and regulations of Eurex Clearing AG

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Content may be most important for:	**Attachment:**
Ü All departments	Updated sections of the Clearing Conditions for Eurex Clearing AG

Summary:

This circular explains amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions), which reflect the qualification and registration requirement for qualified clearing staff in the back-office.

Furthermore, the Executive Board of Eurex Clearing (Eurex Clearing) decided to revise the amendment process for the rules and regulations of Eurex Clearing.

Attached to this circular are the updated sections of the Clearing Conditions including amendments to the Clearing Agreements as decided by the Executive Board of Eurex Clearing.

All amendments will come into effect on **2 January 2014.**

Amendments to the Clearing Conditions regarding the implementation of a qualification requirement for clearing staff and the revised amendment process for rules and regulations of Eurex Clearing AG

This circular explains amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions), which reflect the qualification and registration requirement for qualified clearing staff in the back-office.

Furthermore, the Executive Board of Eurex Clearing AG (Eurex Clearing) decided to revise the amendment process for the rules and regulations of Eurex Clearing.

Attached to this circular are the updated sections of the Clearing Conditions including amendments to the Clearing Agreements as decided by the Executive Board of Eurex Clearing.

All amendments will come into effect on **2 January 2014.**

Implementation of a qualification requirement for clearing staff for all clearing memberships: Qualified Clearing Staff

The Executive Board of Eurex Clearing decided on amendments to the Clearing Conditions which reflect the qualification and registration requirement for qualified clearing staff in the back-office. All General Clearing Members and Direct Clearing Members (Clearing Members) of Eurex Clearing will be required to have at least one Qualified Clearing Staff (QCS) available during market-specific business hours defined by Eurex Clearing for each clearing license within the firm, who has successfully passed the newly created Clearer Test within a transitional period of twelve months. The requirement does not apply to firms holding a Specific Lender or Specific Repo License.

1. Fulfilment of the admission requirement

- Eurex Clearing allows for a transitional period to comply with the new requirement until 1 January 2015 for all currently admitted Clearing Members and related clearing licenses.
- Final compliance with the requirement is only ensured if the Clearing Member has successfully registered at least one QCS per clearing license at the latest by 1 January 2015.

2. Clearer Test

- The Clearer Test can be taken by any person as there are no specific registration requirements.
- A Clearer Test consists of two modules.
    - Basic Module: covers core clearing knowledge valid for all clearing licenses
    - Market Module: covers expertise of market-specific products and clearing-relevant processes for a specific clearing license
- The cost of each module will be EUR 200.00/GBP 180.00. During the transitional period, the Basic Module can be taken free of charge.
- The Basic Module applies to all markets.
- An individual Market Module is available for each clearing license of Eurex Clearing.
- From 16 December 2013 onwards, preparation material in form of a manual with sample questions is provided per module and available free of charge on the website of Deutsche Börse Group under the following link:

www.deutsche-boerse.com/qcs_qbo

- Capital Markets Academy of Deutsche Börse AG also offers preparation courses as part of the programme “Certified Clearing Specialist”. The course is not a requirement to take the Clearer Test. More details are available under:

  www.deutsche-boerse.com/ccs

- The Clearer Test (all modules) is offered on a regular basis in the following locations: Amsterdam, Chicago, Eschborn, Hong Kong, London, Milan, Mumbai, New York, Paris, Singapore, Taipei, Tokyo and Zurich.
- For now, all modules are only available in English.
- For more information about the Clearer Test, test locations and registration procedures please contact the Capital Markets Academy via e-mail to academy@deutsche-boerse.com or via telephone under +49-69-211-1 37 67.

3. Qualified Clearing Staff

- In order to become a recognized QCS for a specific clearing license, the Basic Module and the respective Market Module (Clearer Test) have to be successfully passed.
- The same individual may be registered as a QCS for multiple clearing licenses of a Clearing Member.
- To register to become an admitted QCS, please apply electronically by using the “Electronic Exchange Admission Service (eXAS)” via log-in to the Member Section available on Eurex Clearing’s website www.eurexclearing.com under the following link:

  Member Section > eXAS – Trader, QBO & User IDs

- Please contact Member Services & Admission for further assistance regarding the registration process and the admission requirement itself.

Please also consider all additional information provided in Eurex Clearing circular 038/13 sent on 26 March 2013.

Revised amendment process for rules and regulations of Eurex Clearing AG

The Executive Board of Eurex Clearing decided to further increase its customer orientation through the introduction of a revised amendment process for the rules and regulations of Eurex Clearing.

1. Scope

The scope of the amendment process embraces the following rules and regulations:

- Clearing Conditions
- Clearing Agreements (limited to those attached to the Clearing Conditions)
- (OTC IRS) Procedures Manual
- Default Management Auction Rules
- Default Management Committee Rules

Any other documents are not affected by the revised amendment process, including all documents to which the Clearing Conditions or other documents refer (e.g. Price List, Connection Agreement, Auction Terms of Eurex Clearing AG, etc.). Clearing parameters such as e.g. margin parameters, margin groups, eligible collaterals, haircuts, fees etc. are not part of the process described below either.

2. Changes of Special Provisions

a) Determination of Special Provisions

Eurex Clearing classified the following parts of its rules and regulations as Special Provisions:

- Clearing Conditions Chapter I Part 1 Number 1.5, Number 6, Number 7, Number 9, Number 17.2 and 17.3 as well as Chapter I Part 3 Subpart D Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions
- Clearing Conditions Chapter III Part 2 Number 2.4 Paragraph (1), Chapter IV Part 2 Number 2.6 Paragraph (1)(b), Chapter V Part 2 Number 2.2.1 Paragraph (4) and (7), Chapter V Part 3 Number 3.2.2.2 Paragraph (9), Chapter VIII Part 2 Number 2.1.15 Paragraph (7), Chapter VIII Part 3 Number 3.2.5 Paragraph (7), Chapter IX Part 2 Number 2.6.4 Paragraph (4), Chapter IX Part 2 Number 2.7.2 Paragraph (2)
- Appendices 1, 2, 3, 7, 8 and 9 of the Clearing Conditions (to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests)
- (OTC IRS) Procedures Manual (to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing, the Clearing Members, Non-Clearing Members and Registered Customers)
- Default Management Auction Rules
- Default Management Committee Rules

b) Process description

Prior to a change of the Special Provisions Eurex Clearing will invite all affected Clearing Members, affected Non-Clearing Members and affected Registered Customers to submit comments on the proposed changes within one month after the publication of the invitation (consultation period). The announcement of a consultation will be published via electronic circular and will include further information on the consultation process. During the consultation period, comments on proposed changes can be submitted through nomination of at least two dedicated representatives at the Clearing Member. Each affected Clearing Member, affected Non-Clearing Member and affected Registered Customer will be invited to appoint representatives for the respective consultation who can provide the comments on behalf of the entity. Eurex Clearing will provide a specific form for the appointment of the representatives together with the announcement of the consultation.

Eurex Clearing will assess the comments received during the consultation period taking into account the interests of Eurex Clearing and all Clearing Members, Non-Clearing Members and Registered Customers. If necessary, Eurex Clearing will consult the Risk Committee within the scope of its competence or, where required, seek advice from other sources in order to assess the comments properly. There is no obligation of Eurex Clearing to implement a comment. The outcome from the consultation will be published either on the Eurex Clearing website www.eurexclearing.com or via electronic circular.

After the assessment of the comments, which were received within the consultation period, Eurex Clearing will decide about the change of the Special Provisions.

Changes to the Special Provisions will be announced at least three months prior to the effective date either via electronic circular to the Clearing Members, Non-Clearing Members and Registered Customers or on the Eurex Clearing website (www.eurexclearing.com). There will be no further consultation of the published Special Provision changes.

c) Exemptions

Changes to the Special Provisions are exempt from a consultation when they are editorial changes, changes necessary to comply with statutory or regulatory requirements, as well as changes due to Extraordinary Market Conditions as defined in and pursuant to Chapter I Part 1 Number 17.3.1 Paragraph 2 of the attached Clearing Conditions (the "Exemptions").

Exemptions will become effective at least 10 Business Days after their publication.

3. Changes of the general Clearing Conditions

Changes to the Clearing Conditions, which are not considered a Special Provision or Exemption, do not require a dedicated Clearing Member consultation phase. Eurex Clearing will publish such changes at least 15 Business Days prior to the effective date.

Eurex Clearing will assess whether any comments received during the first 10 Business Days after the publication of the changes to the Clearing Conditions from affected Clearing Members, affected Non-Clearing Members or affected Registered Customers would prevent the published changes becoming effective. If necessary, Eurex Clearing will consult the Risk Committee within the scope of its competence or, where required, seek advice from other sources in order to assess the comments properly. There is no obligation of Eurex Clearing to implement a comment. Eurex Clearing will inform at the time of the publication of rules and regulation changes how Clearing Members, Non-Clearing Members and Registered Customers may submit their comments.

If Eurex Clearing considers a comment to have significant relevance and decides to implement such a comment it will inform all Clearing Members, Non-Clearing Members or Registered Customers via electronic circular before the initially announced effective date that the announced changes will be postponed. Any revised change will again be published at least 15 Business Days before the (revised) effective date. Please note that after such a revision there will be no further obligation for Eurex Clearing to assess any further comments of the affected Clearing Members, affected Non-Clearing Members and affected Registered Customers.

Attached to this circular are the changed and enhanced sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing which will come into effect on 2 January 2014.

Pursuant to Chapter I, Part 1, Number 17.2.2 of the Clearing Conditions, each Clearing Member or Non-Clearing Member or Registered Customer 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 13 of the Clearing Conditions shall remain unaffected.

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

Resources > Rules and Regulations > Clearing Conditions

11 December 2013

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CHANGES ARE MARKED AS FOLLOWS:

AMENDMENTS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[…]

Chapter I General Provisions

[…]

Part 1 General Clearing Provisions

[…]

2.1.2 General Prerequisites for Clearing Licenses

[…]

(5) […]

(c) The use of at least one sufficiently qualified clearing staff member ~~of staff~~per Clearing License in the back office for the orderly fulfilment of the clearing obligations during the times specified in the Special Clearing Provisions~~is required~~; a sufficient qualification is assumed if the test for clearing staff members offered by Eurex Clearing AG (clearer test) has been passed successfully.~~such member shall be available via telephone and fax on each Business Day until 7 p.m. (Frankfurt am Main time) From 7 p.m. (Frankfurt am Main time) on and until the end of a Business Day, the applicant shall ensure that a sufficiently qualified staff member is available by telephone.~~ Number 1.2.6 shall remain unaffected.

[…]

2.1.3 Prerequisites for Governmental Entities and Supranational Organisations

[…]

(2) […]

(a) have available ~~liable equity capital~~ own funds pursuant to Number 2.1.2 Paragraph (3);

[…]

Chapter II Transactions Concluded at Eurex Deutschland and Eurex Zürich (Eurex Exchanges)

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) […]

(e) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). ~~for purposes of an orderly implementation of the clearing obligations in the back-office. A sufficient qualification can be assumed if the screening test for back-office staff offered by Eurex Clearing AG (clearer test) has been passed successfully and the staff member is~~ The clearing staff member has to be physically present and available via telephone and fax ~~until 19:00 hours (Frankfurt am Main time)~~ during the Business Day until 19:00 CET~~s valid for the Eurex Exchanges~~. From 19:00 CET to ~~hours (Frankfurt am Main time)and until~~ 22.30 CET~~the end of the Business Day valid for the Eurex Exchanges~~, the applicant has to ensure that a sufficiently qualified ~~staff~~ clearing staff member is available via telephone. ~~Chapter I Part 1 Number 1.2.6 shall remain unaffected.~~

[…]

Chapter III Transactions at Eurex Bonds GmbH (Eurex Bonds)

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) […]

(c) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 20:00 CET, the applicant

has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

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

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) […]

(c) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 20:00 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

Part 3 Special Conditions regarding the Clearing of CG Pooling Repo Transactions with holders of a Specific Repo License and corresponding GC Pooling Repo Transactions with Clearing Members

[…]

3.1 Specific Repo License

[…]

(5) […]

d) the obligation to have available ~~a liable equity capital~~ own funds in accordance with Chapter I Part 1 Number 2.1.2 Paragraph (3);

[…]

g) the requirement to use a qualified clearing staff member in accordance with Chapter I Part 1 Number 2.1.2 Paragraph (5)(c).

[…]

Chapter V Transactions Concluded at the Frankfurter Wertpapierbörse

[...]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) […]

(c) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 20:00 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

Chapter VI Transactions Concluded at the Irish Stock Exchange (ISE Dublin)

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

(1) […]

~~(2) A Clearing License requires liable equity of the applying institute in an amount to be determined by Eurex Clearing AG. For institutions not subject to the scope of application of the German Banking Act, own funds must be equivalent to the liable equity capital.~~

(~~3~~2) […]

(a) […]

(b) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 21:00 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

(~~b~~c) […]

(~~c~~d) […]

(~~d~~e) […]

(~~e~~f) […]

[…]

Chapter VII Transactions Concluded on the European Energy Exchange (EEX)

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites for Clearing Licenses

[…]

(2) […]

[…]

(b) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 20:00 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.~~Provision of at least one sufficiently qualified staff member for orderly conduct of the clearing obligations in the back office. At least one sufficiently qualified staff member shall be available via telephone, e-mail and telefax at any time during the Business Day.~~

[…]

Chapter VIII Clearing of OTC Derivative Transactions

[…]

Part 2 Clearing of OTC Credit Derivative Transactions

[…]

2.1.4.1 Prerequisites of the CD Clearing License

[…]

(2) […]

(f) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 22:30 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

Part 3 Clearing of OTC Interest Rate Derivative Transactions

[…]

3.1.3.1 Requirements for the Granting of an Interest Rate Derivative Clearing License

[…]

(g) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 22:30 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

Chapter IX Clearing of Securities Lending Transactions

[…]

Part 1 General Provisions

[…]

1.1.2 Prerequisites of Clearing Licenses

[…]

(2) […]

(d) The use of at least one sufficiently qualified clearing staff member according to Chapter I Part 1 Number 2.1.2 Paragraph (5)(c). The clearing staff member has to be physically present and available via telephone and fax during the Business Day until 19:00 CET. From 19:00 CET to 20:00 CET, the applicant has to ensure that a sufficiently qualified clearing staff member is available via telephone.

[…]

1.1.3 Specific Lender License

[…]

(6) […]

(g) the provisions relating to the failure to deliver Equivalent Principal Collateral at the Maturity Date pursuant to Number 2.6.5; ~~and~~

(h) the provisions relating to the failure to deliver Principal Collateral or return Equivalent Principal Collateral during the term of a Securities Lending Transaction pursuant to Number 2.6.3; and~~.~~

(i) the requirement to use a qualified clearing staff member in accordance with Chapter I Part 1 Number 2.1.2 Paragraph (5)(c).

[…]

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Clearing Conditions for Eurex Clearing AG

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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

[...]

16 Publications and Notices

16.1 If provided for in these Clearing Conditions, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published either (i) via electronic circular to the Clearing Members, Non-Clearing Members, Registered Customers and the Link Clearing Houses or (ii) on the Eurex Clearing AG website (www.eurexclearing.com). Unless otherwise provided for in these Clearing Conditions, such publication will be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice, except that in case of changes or amendments (x) of the Special Provisions (as defined in Number 17.3.1), such publication will be made at least three months prior to the effective date fixed in the relevant notice and (y) in the cases set forth in the first paragraph of Number 17.3.1 Paragraph (2), such publication will be made at least ten (10) Business Days prior to the effective date fixed in the relevant notice.

16.2 Unless Number 16.1 is specified in these Clearing Conditions to apply, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published on the Eurex Clearing AG website under www.eurexclearing.com for at least three Business Days. Such notices will become effective immediately upon publication.

16.3 All notices to be given between Eurex Clearing AG and a Clearing Member or a Non-Clearing Member or Registered Customer shall be given in such form and at such address as agreed and/or notified from time to time by the relevant party. Notices may be given in the German or in the English language. Upon written request by a Clearing Member, Non-Clearing Member or Registered Customer all notices from Eurex Clearing AG (except for automated reports) to such requesting party shall be given in the German and in the English language or one of these languages. Unless otherwise specified in these Clearing Conditions notices by Clearing Members, Non-Clearing Members or Registered Customers may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.

16.4 Each Clearing Member, Non-Clearing Member and Registered Customer acknowledges that Eurex Clearing AG will send to Clearing Members, Non-Clearing Members and Registered Customers notices –and reports in the systems of Eurex Clearing AG in an area which is only individually accessible to it (the "**Access Area**"). Eurex Clearing AG is not entitled to access or change the Access Area of a Clearing Member, Non-Clearing Member or Registered Customer without its

consent. Reports and notifications stored in an Access Area will regularly be exchanged against new notices or reports with 10 Business Days of their storage in the Access Area.

16.5 Each Clearing Member, Non-Clearing Member and Registered Customer acknowledges that the notices and reports which are made accessible in the individual Access Area may also contain declarations (*Willenserklärungen*), in particular acceptances (*Annahmen*) of Transactions and other declarations of particular importance.

17 Miscellaneous

17.1 Governing law; Place of jurisdiction

17.1.1 Unless provided otherwise, the rights and obligations arising out of, and in connection with, these Clearing Conditions shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of the Federal Republic of Germany. Only the German language version of these Clearing Conditions is legally binding.

17.1.2 Any non-contractual rights and obligations arising out of, and in connection with, these Clearing Conditions shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of the Federal Republic of Germany.

17.1.3 Exclusive place of jurisdiction for all disputes arising out of, or in connection with, these Clearing Conditions is Frankfurt am Main.

17.2 Changes and Amendments ~~and Additions~~ to the Clearing Conditions

17.2.1 Eurex Clearing AG reserves the right to change or amend the Clearing Conditions and the Procedures Manual at any time; any changes and amendments ~~to~~ of these Clearing Conditions shall be published in accordance with Number 16.1.

17.2.2 In case of changes or amendments of Special Provisions (as defined in Number 17.3.1) the procedures set forth in Number 17.3 shall apply. In case of all other changes and amendments of the Clearing Conditions (except for changes or amendments pursuant to Number 17.3.1 Paragraph (2)) Eurex Clearing AG shall assess whether the comments received from affected Clearing Members, affected Non-Clearing-Members and affected Registered Customers within ten (10) Business Days of the publication of the change or amendment, taking into account the interests of Eurex Clearing AG, all Clearing Members, Non-Clearing-Members and Registered Customers, stand in the way of the published change or amendment becoming effective. If necessary, Eurex Clearing AG will consult the Risk Committee within the scope of competence of the Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to implement comments of affected Clearing Members, affected Non-Clearing-Members or affected Registered Customers the relevant changes and amendments will be published again pursuant to Number 16; there will, however, be no new assessment of the comments of the Clearing Members, Non-Clearing-Members and Registered Customers pursuant to this Number 17.2.2.

~~17.2.2~~17.2.3 Each Clearing Member, Non-Clearing Member and Registered Customer accepts each change and amendment ~~and addition to~~ of 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 change or amendment ~~or addition to~~ of the Clearing Conditions. Eurex Clearing AG will inform the Clearing Members, Non-Clearing Members and Registered Customers of the effects of such approval in the relevant publication of the changes and amendments ~~and additions to~~ of

these Clearing Conditions. The right to terminate the Clearing Agreement ~~and the Clearing License according~~ pursuant to Number ~~2.1.4~~ 7.2.1 Paragraph (~~1~~5) shall remain unaffected.

~~17.2.3~~17.2.4 Unless provided otherwise in the relevant Clearing Link Agreement, each Link Clearing House accepts each change and amendment ~~and addition to~~ of the Clearing Conditions, unless it objects by written notice to Eurex Clearing AG before (but excluding) the actual effective date of such changes and amendments ~~and additions to~~ of the Clearing Conditions. Eurex Clearing AG will inform the Link Clearing House of the effects of such deemed approval in the relevant publication of the changes and amendments ~~and additions to~~ of these Clearing Conditions. Termination rights, if any, of a Link Clearing House pursuant to the relevant Clearing Link Agreement shall remain unaffected.

17.3 Consultation in case of changes and amendments of the Clearing Conditions

17.3.1 Scope of Application and Definitions

(1) Prior to the publication of changes or amendments of the Special Provisions (as defined below), Eurex Clearing AG will, pursuant to Number 16, invite all affected Clearing Members, affected Non-Clearing-Members and affected Registered Customers to submit comments to the proposed changes and amendments within one month after the publication of the relevant invitation ("**Consultation**").

"**Special Provisions**" are Numbers 1.5, 6, 7, 9, 17.2 and 17.3, Subpart D Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions, Chapter III Part 2 Number 2.4 Paragraph (1), Chapter IV Part 2 Number 2.6 Paragraph (1)(b), Chapter V Part 2 Number 2.2.1 Paragraph (4) and (7), Chapter V Part 3 Number 3.2.2.2 Paragraph (9), Chapter VIII Part 2 Number 2.1.15 Paragraph (7), Chapter VIII Part 3 Number 3.2.5 Paragraph (7), Chapter IX Part 2 Number 2.6.4 Paragraph (4), Chapter IX Part 2 Number 2.7.2 Paragraph (2), Appendices 1, 2, 3, 7, 8 and 9 (to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests) as well as the Procedures Manual (to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing AG, the Clearing Members, Non-Clearing-Members and Registered Customers), the DMC Rules and the DM Auction Rules and any newly added provisions relating to the subject matter of these provisions. Rules or Agreements (except for those set forth in the preceding sentence), which are referred to in these provisions, do not qualify as Special Provisions.

(2) A Consultation pursuant to Paragraph (1) does not take place with regard to (i) editorial changes or amendments, (ii) changes or amendments necessary to comply with statutory or regulatory requirements, as well as (iii) changes or amendments (except for changes or amendments to Numbers 6, 7, 9, 17.2 or 17.3) due to Extraordinary Market Conditions (as defined below).

"**Extraordinary Market Conditions**" are, as determined by Eurex Clearing AG,

(a) events or circumstances which affect or may affect the orderly Clearing, the orderly settlement and liquidation of Transactions or the existence or orderly functioning of the Clearing Process.

(b) other market disruptions which render impossible or impracticable the orderly determination of closing prices (*Schlusskursen*) or settlement prices; or

(c) events or circumstances which establish non tolerable insecurity, volatility or risks with regard to Transactions or the Clearing which may negatively impact on the financial or commodities markets relevant for the Clearing,

which, in each case, render it impractical for Eurex Clearing AG to continue to operate the Clearing in accordance with the Clearing Conditions while sufficiently managing its risks. Extraordinary Market Conditions may also occur if only a single Clearing Member (e.g. in case of a default) or a group of Clearing Members is/are affected. The default of a Clearing Member does not per se constitute Extraordinary Market Conditions.

17.3.2 Eurex Clearing AG will, taking into account the interests of Eurex Clearing AG and all Clearing Members, Non-Clearing-Members and Registered Customers assess the comments received by the affected Clearing Members, affected Non-Clearing-Members and affected Registered Customers in the Consultation and, if necessary, consult the Risk Committee within the scope of competence of the Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to accept proposed changes or amendments by affected Clearing Members, affected Non-Clearing-Members or affected Registered Customers an amended version of the relevant changes or amendments taking into account the proposed changes or amendments will be published pursuant to Number 16; there shall be no new Consultation pursuant to Number 17.3.

17.3.3 Eurex Clearing AG will in connection with regular meetings of the Risk Committee within the scope of competence of the Risk Committee or, where required, otherwise deliver a summary report of the comments received during the Consultation as well as on the position taken by Eurex Clearing AG.

17.4 Current Version of the Clearing Conditions

~~17.2.4~~The current valid version of the Clearing Conditions is available via the internet (www.eurexclearing.com).

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Chapter VIII Clearing of OTC Derivative Transactions

Part 1 General Provisions

[…]

1.5 ~~Emergencies~~Emergency Resolutions

(1) The Executive Board of Eurex Clearing AG may adopt a resolution in response to ~~an Emergency~~ Extraordinary Market Conditions (as defined in Chapter I Part 1 Number 17.3.1 Paragraph (2)) ("**Emergency Resolution**") which shall supersede and supplant all resolutions or provisions of Chapter VIII of the Clearing Conditions that are contrary to or inconsistent with the Emergency Resolution, except for this provision. In urgent matters such decision may also be taken by a senior officer generally appointed by the Executive Board of Eurex Clearing AG for such purposes, provided that the decision by such officer is afterwards approved by the Executive Board of Eurex Clearing AG.

~~(2) For the purposes of this provision, "**Emergency**" means the occurrence of an event or circumstance which, as determined by Eurex Clearing AG, (i) is likely to result in market conditions that may be expected to affect the ability of Eurex Clearing AG to arrange for a fair and orderly settlement and (ii) is likely to affect the functioning of the clearing system operated by Eurex Clearing AG pursuant to the provisions of Chapter VIII of the Clearing Conditions unless corresponding action is taken.~~

(~~3~~2) Except as otherwise determined in an Emergency Resolution or in connection with a corresponding ~~Emergency~~ action due to Extraordinary Market Conditions, the powers exercised by Eurex Clearing AG under this Number 1.5 shall be in addition to and not in derogation of the powers granted to Eurex Clearing AG elsewhere in these Clearing Conditions.

(~~4~~3) Eurex Clearing AG will consult with the Risk Committee before any Emergency Resolution is adopted if such prior consultation is possible taking account of the circumstances of the relevant case and in accordance with the principle of good faith and if this would not constitute a breach of law or of requirements set out in an order of a court of competent jurisdiction or stipulated by a competent governmental, quasi-governmental, or regulatory body. Otherwise, the Risk Committee will be consulted after the Emergency Resolution was adopted. In this case, a decision of the Executive Board of Eurex Clearing AG or the designated Member(s) of the Executive Board of Eurex Clearing AG has to be obtained before an Emergency Resolution will be implemented and the decision may not be taken by a senior officer generally appointed by the Executive Board of Eurex Clearing AG.