Eurex Clearing Circular 062/18

Amendments to the Clearing Conditions of Eurex Clearing AG

Summary

This circular contains information with respect to Eurex Clearing's service offering and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) regarding the following topics:

1. Adjustment of applicable margin types with respect to CTM (Collateralised-to-Market) and STM (Settled-to-Market) OTC transactions;
2. Amendment of the CLS Cut-Off time;
3. Publication of notices via electronic circulars in English only.

The amended sections of the Clearing Conditions, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

The amendments above will become effective as of **6 August 2018**.

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions.

Attachments:

1. Updated sections of Chapter VIII Part 2 Number 2.1.7 (2), Chapter VIII Part 3 Number 3.1.7 (1) and Chapter VIII Part 4 Number 4.1.7 (1) of the Clearing Conditions of Eurex Clearing AG
2. Updated sections of Chapter VIII Part 3 Number 3.1.3 and Chapter VIII Part 3 Number 3.2.1 of the Clearing Conditions of Eurex Clearing AG
3. Updated sections of Chapter I Part 16 Number 16.2 of the Clearing Conditions of Eurex Clearing AG

Date: 3 July 2018

Recipients:
All Clearing Members, Non-Clearing Members, Basic Clearing Members, OTC IRS FCM Clients and Registered Customers of Eurex Clearing AG and Vendors

Authorized by:
Heike Eckert

Target group:
- All departments

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Aktiengesellschaft mit Sitz in Frankfurt/Main
HRB Nr. 44828
USt-IdNr. DE194821553
Amtsgericht Frankfurt/Main

Amendments to the Clearing Conditions of Eurex Clearing AG

1. Adjustment of applicable margin types with respect to CTM (Collateralised-to-Market) and STM (Settled-to-Market) OTC transactions

The applicable margin types with respect to Collateralised-to-Market (CTM) and Settled-to-Market (STM) OTC transactions refer to the forward-looking margin component as “Additional Margin”. As all margin requirements for transactions covered by Chapter VIII are calculated using the Prisma approach, where the forward-looking margin component is normally referred to as “Initial Margin”, the reference to “Additional Margin” is misleading as this term is normally used in the context of the risk-based margining approach. Therefore, the term “Additional Margin” will be replaced with “Initial Margin” in Chapter VIII of the Clearing Conditions. This amendment solely serves the purpose of clarification and is not intended to modify the Clearing Conditions in a substantive way.

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 1:

- Chapter VIII Part 2 Number 2.1.7 (2)
- Chapter VIII Part 3 Number 3.1.7 (1)
- Chapter VIII Part 4 Number 4.1.7 (1)

2. Amendment of the CLS Cut-Off time

The CLS Cut-Off time will be moved from 07:30 CET to 08:00 CET. The Clearing Members will be advised in the OTC Procedures Manual that any payments to be made by the Clearing Member to Eurex Clearing AG shall be made on a net basis directly to the relevant CLS Central Bank Account through the CLS CCP Service by 07:30 CET. A Late Clearing Member has to pay penalties in case of failure to pay by the CLS Cut-Off time of 08:00 CET.

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 2:

- Chapter VIII Part 3 Number 3.1.3
- Chapter VIII Part 3 Number 3.2.1

3. Publication of notices via electronic circulars in English only

Due to standardisation and simplification reasons, notices from Eurex Clearing AG will be published via electronic circulars in English only.

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 3:

- Chapter I Part 16 Number 16.2

The amendments above will become effective as of 6 August 2018. As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

Resources > Rules and Regulations > Clearing Conditions

Pursuant to Chapter I Part 1 Number 17.2.2 and Number 17.2.6 of the Clearing Conditions, each change and amendment of the Clearing Conditions published by this circular to Clearing Members, Non-Clearing Members, Registered Customers, OTC IRS FCM Clients and Basic Clearing Members affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein, are deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions shall remain unaffected.

If you have any questions or need further information, please contact your Group Client Key Account Manager Clearing, or send an e-mail to clearing.services-admission@eurexclearing.com.

3 July 2018

Attachment 1 to Eurex Clearing circular 062/18

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions and OTC XCCY Transactions

As of 06.08.2018

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[…]

Part 2 Clearing of OTC Interest Rate Derivative Transactions

2.1 General Provisions

[…]

2.1.7 Margin Requirements

(1) The following applies in addition to the relevant basic provisions on margin requirements set out in Chapter I:

(2) The applicable Margin Type with respect to CTM Interest Rate Derivative Transactions shall be ~~Additional Margin~~Initial Margin and Variation Margin. The applicable Margin Type with respect to STM Interest Rate Derivative Transactions shall be ~~Additional Margin~~Initial Margin.

[…]

[…]

Part 3 Clearing of OTC FX Transactions

3.1 General Provisions

[…]

3.1.7 Margin Requirements

The basic provisions for the margin requirements are set forth in Chapter I Part 1 Number 3 together with Chapter I Part 2 Numbers 6 and 7. In addition thereto, the following provisions shall apply:

(1) The applicable Margin Type with respect to CTM FX Transactions shall be ~~Additional Margin~~Initial Margin, Variation Margin and Settlement Compensation Margin (as defined in Paragraph (5) below) provided that Variation Margin shall be provided in

USD cash amounts only. The applicable Margin Type with respect to STM FX Transactions shall be ~~Additional Margin~~Initial Margin and Settlement Compensation Margin.

[…]

[…]

Part 4 Clearing of OTC XCCY Transactions

4.1 General Provisions

[…]

4.1.7 Margin Requirements

The basic provisions for the margin requirements are set forth in Chapter I Part 1 Number 3 together with Chapter I Part 2 Numbers 6 and 7. In addition thereto, the following provisions shall apply:

(1) The applicable Margin Type with respect to CTM XCCY Transactions shall be ~~Additional Margin~~Initial Margin, Variation Margin and Settlement Compensation Margin (as defined in Part 3 Number 3.1.7 Paragraph (5)); Variation Margin shall be provided in USD cash amounts only. The applicable Margin Type with respect to STM XCCY Transactions shall be ~~Additional Margin~~Initial Margin and Settlement Compensation Margin.

[…]

[…]

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Attachment 2 to Eurex Clearing circular 062/18

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions and OTC XCCY Transactions

As of 06.08.2018

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AMENDMENTS ARE MARKED AS FOLLOWS:

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DELETIONS ARE CROSSED OUT

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[…]

Part 3 Clearing of OTC FX Transactions

3.1 General Provisions

[…]

3.1.3 OTC Currency Products Clearing License

[…]

[…]

(5) […]

"**Relevant Bank Information**" means any relevant information in relation to the CLS Nostro Bank which Eurex Clearing may reasonably request from such CLS Nostro Bank in order to carry out its ongoing assessment of such CLS Nostro Bank in connection with the Clearing of OTC Currency Transactions, in particular, information in relation to the creditworthiness of the CLS Nostro Bank, the ability of the CLS Nostro Bank to participate in the SWIFT network and to operate SWIFT messages to pay and receive funds in the CLS CCP Service, the CLS Nostro Bank's participation in the regular CLS Bank settlement cycles and its reliability to fulfil payments through the CLS CCP Service by 8:00~~7:30~~ a.m. (Frankfurt am Main time) as well as the operational reliability and holiday coverage.

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[…]

3.2 Product-related terms for OTC FX Transactions

The following product-related terms shall apply to OTC FX Transactions.

3.2.1 Payment obligations

(1) The relevant Clearing Member and Eurex Clearing AG shall pay the amounts payable under and in accordance with the terms of the relevant CCP Transaction as specified in the relevant OTC Trade Novation Report on the basis of the trade record submitted via the relevant ATS and which are as follows:

[…]

(d) […]

[…]

Subject to Number 3.2.2.3 and this Number 3.2.1 Paragraph (1)(d), any payments to be made by the Clearing Member to Eurex Clearing AG under this Number 3.2.1 (other than payments with respect to any relevant Prefunding Amount) shall be made – with respect to each currency of the Currency Pairs – on a net basis and directly to the relevant CLS Central Bank Account through the CLS CCP Service no later than 8:00~~7:30~~ a.m. (Frankfurt am Main time) (the "**CLS Cut-Off Time**") (as timing is of the essence). The provisions of Section 376 German Commercial Code (*Handelsgesetzbuch*) shall, however, not apply.

[…]

[…]

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Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 06.08.2018

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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

[...]

16.2 All notices to be given between Eurex Clearing AG and a Clearing Member or a Non-Clearing Member, Registered Customer, OTC IRS FCM Client or Basic Clearing Member 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, Registered Customer, OTC IRS FCM Client or Basic Clearing Member all notices from Eurex Clearing AG (except for automated reports and electronic circulars) 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, Registered Customers, OTC IRS FCM Clients or Basic Clearing Members may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.

Kapitel VIII der Clearing-Bedingungen der Eurex Clearing AG

Clearing von OTC-Zinsderivat-Transaktionen, OTC-FX-Transaktionen und OTC-XCCY-Transaktionen

Stand 06.08.2018

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ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:

ERGÄNZUNGEN SIND UNTERSTRICHEN,

LÖSCHUNGEN SIND DURCHGESTRICHEN.

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Abschnitt 2 Clearing von OTC-Zinsderivat-Transaktionen

2.1 Allgemeine Bestimmungen

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2.1.7 Margin-Verpflichtungen

(1) Die folgenden Bestimmungen finden zusätzlich zu den in Kapitel I beschriebenen allgemeinen Bestimmungen für die Margin-Verpflichtungen Anwendung:

(2) Die anwendbaren Margin-Arten in Bezug auf CTM-Zinsderivat-Transaktionen sind ~~Additional Margin~~Initial Margin und Variation Margin. Die anwendbare Margin-Art in Bezug auf STM-Zinsderivat-Transaktionen ist ~~Additional Margin~~Initial Margin.

[…]

[…]

Abschnitt 3 Clearing von OTC-FX-Transaktionen

3.1 Allgemeine Bestimmungen

[…]

3.1.7 Margin-Verpflichtungen

Die allgemeinen Bestimmungen für die Margin-Verpflichtungen sind in Kapitel I Abschnitt 1 Ziffer 3 sowie in Kapitel I Abschnitt 2 Ziffern 6 und 7 aufgeführt. Darüber hinaus gelten die folgenden weiteren Bestimmungen:

(1) Die anwendbaren Margin-Arten in Bezug auf CTM-FX-Transaktionen sind ~~Additional Margin~~Initial Margin, Variation Margin und Abwicklungsausgleich-Margin (wie nachstehend in Absatz (5) definiert), wobei Variation Margin ausschließlich in USD und in bar erbracht werden darf. Die anwendbaren Margin-Arten in Bezug auf STM-

FX-Transaktionen sind ~~Additional Margin~~Initial Margin und Abwicklungsausgleich-Margin.

[…]

[…]

Abschnitt 4 Clearing von OTC-XCCY-Transaktionen

4.1 Allgemeine Bestimmungen

[…]

4.1.7 Margin-Verpflichtungen

Die allgemeinen Bestimmungen für die Margin-Verpflichtungen sind in Kapitel I Abschnitt 1 Ziffer 3 sowie in Kapitel I Abschnitt 2 Ziffern 6 und 7 aufgeführt. Darüber hinaus gelten die folgenden weiteren Bestimmungen:

(1) Die anwendbaren Margin-Arten in Bezug auf CTM-XCCY-Transaktionen sind ~~Additional Margin~~Initial Margin, Variation Margin und Abrechnungsausgleich-Margin (wie in Abschnitt 3 Ziffer 3.1.7 Absatz (5) definiert); Variation Margin muss im Wege der Barzahlung in USD geleistet werden. Die anwendbaren Margin-Arten in Bezug auf STM-XCCY-Transaktionen sind ~~Additional Margin~~Initial Margin und Abrechnungsausgleich-Margin.

[…]

[…]

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Kapitel VIII der Clearing-Bedingungen der Eurex Clearing AG

Clearing von OTC-Zinsderivat-Transaktionen, OTC-FX-Transaktionen und OTC-XCCY-Transaktionen

Stand 06.08.2018

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ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:

ERGÄNZUNGEN SIND UNTERSTRICHEN

LÖSCHUNGEN SIND DURCHGESTRICHEN

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Abschnitt 3 Clearing von OTC-FX-Transaktionen

3.1 Allgemeine Bestimmungen

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3.1.3 OTC-Währungsprodukte-Clearing-Lizenz

[…]

[…]

(5) […]

„**Relevante Bankeninformationen**“ sind alle relevanten Informationen in Bezug auf die CLS Nostrobank, welche die Eurex Clearing AG in begründeter Weise von dieser CLS Nostrobank anfordern kann, um ihre laufende Bewertung dieser CLS Nostrobank im Zusammenhang mit dem Clearing von OTC-Währungs-Transaktionen durchzuführen, insbesondere Informationen in Bezug auf die Kreditwürdigkeit der CLS Nostrobank, die Fähigkeit der CLS Nostrobank zur Teilnahme am SWIFT-Netzwerk und die Nutzung von SWIFT-Nachrichten zur Zahlung und zum Empfang von Mitteln im CLS-CCP-Service, die Teilnahme der CLS Nostrobank an den regulären Abwicklungszyklen der CLS-Bank und ihre Zuverlässigkeit, Zahlungen durch den CLS-CCP-Service bis 08:00~~07:30~~ (Frankfurt am Main Zeit) zu tätigen sowie die Betriebszuverlässigkeit und die Urlaubsvertretung.

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3.2 Produktbezogene Bestimmungen für OTC-FX-Transaktionen

Die folgenden produktbezogenen Bestimmungen finden auf OTC-FX-Transaktionen Anwendung.

3.2.1 Zahlungsverpflichtungen

(1) Das betreffende Clearing-Mitglied und die Eurex Clearing AG sind zur Zahlung der folgenden Beträge im Rahmen und gemäß den Bestimmungen der betreffenden CCP-Transaktion, wie diese im jeweiligen OTC Trade Novation Report auf Basis des über das betreffende ATS übermittelten Transaktionsdatensatzes angegeben sind, verpflichtet:

[…]

(d) […]

[…]

Vorbehaltlich Ziffer 3.2.2.3 und dieser Ziffer 3.2.1 Absatz (1)(d), sind alle gemäß dieser Ziffer 3.2.1 von dem Clearing-Mitglied an die Eurex Clearing AG zu leistenden Zahlungen (mit Ausnahme von Zahlungen in Bezug auf den jeweiligen Vorauszahlungsbetrag) in Bezug auf jede Währung des Währungspaars - auf Netto-Basis bis spätestens 08:00~~7:30~~ Uhr (Ortszeit Frankfurt am Main) (der „**CLS-Zeitpunkt**“) direkt auf das betreffende CLS-Zentralbankkonto über den CLS-CCP-Service zu leisten (die Zeitvorgabe ist hierbei wesentlich). Die Bestimmungen des § 376 Handelsgesetzbuch finden jedoch keine Anwendung.

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Kapitel I der Clearing-Bedingungen der Eurex Clearing AG

Allgemeine Bedingungen

Stand 06.08.2018

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ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:

ERGÄNZUNGEN SIND UNTERSTRICHEN,

LÖSCHUNGEN SIND DURCHGESTRICHEN.

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Abschnitt I Allgemeine Clearing-Bestimmungen

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16 Veröffentlichungen und Mitteilungen

[...]

16.2 Sämtliche Mitteilungen zwischen der Eurex Clearing AG und einem Clearing-Mitglied, Nicht-Clearing-Mitglied, Registrierten Kunden, OTC-IRS-FCM-Kunden oder Basis-Clearing-Mitglied erfolgen in der Form und an die Anschrift, die vereinbart und/oder von der betreffenden Partei jeweils mitgeteilt wird. Mitteilungen können auf Deutsch oder Englisch erfolgen. Auf schriftliche Anfrage eines Clearing-Mitglieds, Nicht-Clearing-Mitglieds, Registrierten Kunden, OTC-IRS-FCM-Kunden oder Basis-Clearing-Mitglieds erfolgen alle Mitteilungen der Eurex Clearing AG (mit Ausnahme von automatisierten Reports und elektronischen Rundschreiben) an eine solche anfragende Partei auf Deutsch und Englisch oder in einer dieser Sprachen. Soweit in diesen Clearing-Bedingungen nicht anders vorgesehen, können Mitteilungen eines Clearing-Mitglieds, Nicht-Clearing-Mitglieds, Registrierten Kunden, OTC-IRS-FCM-Kunden oder Basis-Clearing-Mitglieds per Telefax oder E-Mail erfolgen. Von der Eurex Clearing AG veröffentlichte Formulare sind zu nutzen.