clear to trade

eurex clearing *circular 104/12*

Date: 16 November 2012
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
Authorized by: Michael Peters

⚠ **Action required** ⚠ **High priority**

Amendments to the Clearing Conditions for Eurex Clearing AG for the use of the Stop Button and extension of exemptions for supranationals

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

Content may be most important for:	**Attachments:**
➲ Middle + Backoffice ➲ Auditing/Security Coordination	Updated sections of the Clearing Conditions for Eurex Clearing AG

Summary:

Please find attached to this circular the updated sections of the Clearing Conditions for Eurex Clearing AG as decided by the Executive Board of Eurex Clearing AG.

The nature of the changes are outlined in this circular.

The updated sections of the Clearing Conditions for Eurex Clearing AG will become effective on **3 December 2012**.

The complete document will be available as of the effective date on the Eurex Clearing website www.eurexclearing.com under the path:

Resources > Rules and Regulations > Clearing Conditions

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

Amendments to the Clearing Conditions for Eurex Clearing AG for the use of the Stop Button and extension of exemptions for supranationals

Please find attached to this circular the updated sections of the Clearing Conditions for Eurex Clearing AG as decided by the Executive Board of Eurex Clearing AG.

The changes include:

1. allowing Clearing Members to provide a written request to Eurex Clearing AG to exclude a Non-Clearing Member from trading or to revoke such exclusion in emergency cases where the Clearing Member cannot activate or de-activate the Stop Button itself; and
2. adding the European Stability Mechanism (ESM) to the list of supranational entities which may be exempted in whole or in part from the general and special prerequisites for the granting of a Clearing License.

The updated sections of the Clearing Conditions for Eurex Clearing AG will become effective on **3 December 2012**. The complete document will be available as of the effective date on the Eurex Clearing website www.eurexclearing.com under the path:

Resources > Rules and Regulations > Clearing Conditions

Pursuant to Chapter I, Part 1, Number 16.2.2 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 2.1.4 Paragraph 1 of the Clearing Conditions shall remain unaffected.

16 November 2012

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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

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11 Other Agreements between Clearing Members and Non-Clearing Members with regard to the Clearing of Eurex Transactions, FWB Transactions and EEX Transactions

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11.3 SONSTIGE AUFLAGEN

11.3.1 Upon request by its Clearing Member and in order to ensure the Clearing of Transactions, a Non-Clearing Member is obliged – in addition to the Pre-Trade Limits for Eurex Transactions and EEX Transactions set forth in Number 11.2 –to agree on additional obligations of the Non-Clearing Member vis-à-vis the Clearing Member pursuant to Number 11.1 or additional restrictions with respect to the entry or the execution of orders or quotes as well as the use of the OTC Trade Entry Facility (the "**Other Conditions**").

11.3.2 Provided that such Other Conditions agreed upon with a Clearing Member are not fulfilled by the Non-Clearing Member or the duties of a Non-Clearing Member named in Number 10.1 are not fulfilled in due time, the respective Clearing Member may, by way of a Stop Button entry in the System declare vis-à-vis the Markets and Eurex Clearing AG that it is no longer willing to execute the Clearing of Transactions concluded at these Markets and of transactions concluded off-exchange of the relevant Non-Clearing Member. Thereby, the Markets and Eurex Clearing AG are requested to exclude the respective Non-Clearing Member from trading on the Markets and from the possibility of entering further Transactions into the system via the OTC Trade Entry Facility for the term of non-fulfilment of its above-mentioned duties. In substantiated exceptional cases in which the Clearing Member is unable to use the Stop Button, the declaration according to Clause 1 and Clause 2 may also be submitted in writing. In case of FWB Transactions, the Clearing Member may limit statements pursuant to Clause 1 or requests pursuant to Clause 2 above to certain login names or identifier codes (trading locations). In case of FWB Transactions, the Clearing Member must notify the respective Non-Clearing

Member of the use of the Stop Button without delay. Upon the Clearing Member's request, the Stop Button will be provided by Eurex Clearing AG for FWB Transactions with regard to the Non-Clearing Member denominated by such Clearing Member to the extent that the Clearing Member is the respective Non-Clearing Member's settling agent for securities not being cleared through Eurex Clearing AG; the same applies if the Clearing Member has been authorized by the settling agent to declare on its behalf statements pursuant to Clause 1 and make requests pursuant to Clause 2 for the respective Non-Clearing Members..

11.3.3 A Clearing Member may agree with its Non-Clearing Members for Eurex Transactions and EEX Transactions that in the event of exceeding certain values which are pre-agreed in accordance with this Number 11.3 as Other Conditions, the Non-Clearing Member is restricted to enter and execute orders or quotes and to use the OTC Trade Entry Facility, during such exceedance, and that existing orders or quotes are being cancelled in the system. Subject to this Number 11.3.3, only those values may be agreed on which may be entered into the system. By way of system-entry, the Clearing Member or the Non-Clearing Member declares that an agreement has been concluded in accordance with this Number 11.3.3.

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11.6 Non-Fulfilment of Other Conditions

11.6.1 Upon the declaration of a Clearing Member, by way of the Stop Button entry in the System, vis-à-vis the Markets and Eurex Clearing AG that it is no longer willing to execute in whole the Clearing of Transactions of a certain Non-Clearing Member, because such Non-Clearing Member does not fulfil the Other Conditions agreed upon pursuant to Number 11.3, the Management Boards of these Markets shall immediately order the preliminary exclusion of the relevant Non-Clearing Member from trading pursuant to Number 11.7. With regard to FWB Transactions, the Clearing Member may limit a corresponding declaration and the Management Board of FWB may limit the temporary exclusion from trading of the respective Non-Clearing Member to certain login names of the respective Non-Clearing Member or to certain identifier codes (trading locations). Upon the Clearing Member's statement pursuant to Clauses 1 or 2 above, the authorisation of the respective Non-Clearing Member to have the Transactions concluded off-exchange cleared by Eurex Clearing AG shall cease to exist. The authorisation to use the OTC Trade Entry Facilities to enter over-the-counter transactions into the System shall entirely be revoked for a limited period or, in case of FWB Transactions, be revoked with a limitation to certain login names or certain identifier codes (trading locations).

From this point onward and from the respective Non-Clearing Member's temporary exclusion from trading on, the regulations on the matching of trades pursuant to the respective rules and regulations of the Markets and the Conditions for Utilisation of the OTC Trade-Entry Facilities (General Conditions for Participation) of Eurex Clearing AG, with regard to orders, quotes and transactions concluded off-exchange of the concerned Non-Clearing Member, shall not apply any more.

11.6.2 The preliminary exclusion from trading on the Markets and the preliminary revocation of the authorisation to have Transactions concluded off-exchange cleared by Eurex Clearing

AG as well as the revocation of the authorisation to use the OTC Trade-Entry Facilities shall be ordered or directed by the Markets and Eurex Clearing AG until the Clearing Member, by way of a new system entry (deactivation of Stop Button) within the meaning of Number 10.2 declares vis-à-vis the Markets and Eurex Clearing AG that it is again willing to execute the clearing of Transactions and of over-the-counter transactions concluded off-exchange of the concerned Non-Clearing Member. In substantiated exceptional cases in which the Clearing Member is unable to use the Stop Button, the declaration according to Clause 1 and Clause 2 may also be submitted in writing.

11.6.3 From the point of ordering the suspension of the Exchange admission of the concerned Non-Clearing Member by the Markets and of revocation of the authorisation of the Non-Clearing Member to have its Transactions concluded off-exchange cleared by Eurex Clearing AG and of revocation of the utilisation authorisation of the OTC Trade-Entry Facilities pursuant to Number 11.6.1, the system shall prevent other orders, quotes or Transactions of the concerned Non-Clearing Member from being entered into the system. Orders and quotes of the concerned Non-Clearing Member already existing into the System shall be deleted.

At the same time, the System ensures that the concerned Non-Clearing Member cannot modify or release Transactions already entered into the System. In addition, Transactions already entered into the System by this Non-Clearing Member cannot be released any more by its counterparty.

Furthermore, the relevant Non-Clearing Member shall from this point onwards not be authorised to conduct the measures for account keeping, such as Trade Adjustments, Closing Position Adjustments, Member Position Transfer or Give-Up Trades provided for in the rules and regulations of the Eurex Exchanges and the EEX. The possibility to use the respective facilities of the system shall be technically prevented for the concerned Non-Clearing Member.

11.6.4 Clearing Members are obliged to submit written documentation to the Management Boards and the Eurex Clearing AG of the Markets of each single case on the Business Day on which they have declared vis-à-vis the Markets and Eurex Clearing AG by way of a Stop Button entry into the System pursuant to Number 11.6.1 that they are no longer willing to execute the clearing of Transactions and over-the-counter transactions concluded off-exchange of one of their Non-Clearing Members. This documentation shall contain details on the facts, in particular the amount of the agreed limit(s) respectively positions, the orders/quotes, type of agreed other duties (e.g. compliance with economic stability criteria) and conditions, the time of submission of a declaration pursuant to Number 11.6.1 and the time of revocation of a declaration pursuant to Number 11.6.1.

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Preamble

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Chapter I General Provisions

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Part 1
General Clearing Provisions

1 General Provisions

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2 Clearing Members

2.1 Clearing License

2.1.1 Granting of Clearing License

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2.1.2 General Prerequisites for Clearing Licenses

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2.1.3 Prerequisites for Governmental Entities and Supranational Organisations

(1) Upon request and upon the sole risk assessment of Eurex Clearing AG, certain governmental entities and supranational organisations may be admitted as Clearing Members under modified conditions. These are:

(a) [...]

(b) [...]

(c) the European Central Bank, the European Financial Stability Facility, the European Stability Mechanism and the Bank for International Settlement;

[...]

[...]