clear to trade

eurex clearing *circular 111/12*

Date: 10 December 2012
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
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Change of Clearing Conditions for Eurex Clearing AG

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Content may be most important for:

➲ All departments

Attachment:

Updated sections of the Clearing Conditions for Eurex Clearing AG

Summary:

In order to comply with customers' demands and further increase transparency of its rules and regulations, Eurex Clearing AG will marginally change its Clearing Conditions for Eurex Clearing AG (Clearing Conditions) effective **28 December 2012**.

Changes for the operational processes will not result from these changes for Clearing Members, Non-Clearing Members and Registered Customers.

Change of Clearing Conditions for Eurex Clearing AG

In order to comply with customers' demands and further increase transparency of its rules and regulations, Eurex Clearing AG will marginally change its Clearing Conditions effective 28 December 2012.

The changes are:

1. Chapter I Section 1 Number 1.3.1: The general ban on set-offs of claims contained in the Clearing Conditions will be deleted;
2. Chapter I Section 1 Number 9.2: Rephrasing in order to clarify the matter of justification of difference claims between the parties;
3. Chapter I Section 2 Number 8.2.2: Rephrasing in order to clarify the matter of justification of difference claims between the parties;
4. Chapter I Section 3 Number 8.3.2: Rephrasing in order to clarify the matter of justification of difference claims between the parties;
5. Chapter I Section 3 Numbers 12.2 and 12.4.2: Rephrasing in order to clarify the matter of treatment of provided collateral and earnings from provided collateral.

Changes for the operational processes will not result from these changes for Clearing Members, Non-Clearing Members and Registered Customers.

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.

As of 28 December 2012, the modified Clearing Conditions will be available on the Eurex Clearing website www.eurexclearing.com under the following path:

Resources > Rules and Regulations

If you have any questions or require further information, please contact Daniel Mirtschink, Eurex Clearing Legal at tel. +49-69-211-1 54 64 or e-mail daniel.mirtschink@eurexclearing.com.

10 December 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

1 General Rules

1.1 […]

1.3 Set-off

1.3.1 Set-off of claims between the Clearing Member and Eurex Clearing AG

Unless otherwise provided in the relevant Special Clearing Provisions, Eurex Clearing AG is at any time entitled to set off its claims vis-à-vis a Clearing Member against claims of such Clearing Member vis-à-vis Eurex Clearing AG in accordance with the rules set forth below. ~~Any other set-off of claims between Eurex Clearing AG and the Clearing Member relating to the rights and obligations under the relevant Standard Agreement or any other Standard Agreement is prohibited.~~

(i) […]

9 Termination Rules with respect to Eurex Clearing AG

(ii) […]

1.1 **9.2** By signing the Clearing Agreement ~~A~~a difference claim of either party to the relevant Standard Agreement between Eurex Clearing AG and the relevant Clearing Member is created ~~by the Clearing Agreement~~. This difference claim shall become unconditional and immediately due against the respective other party upon the expiry of the primary obligations and delivery obligations, respectively, referred to in Number 9.1, and shall be determined on the basis of the Market or Exchange Prices applicable with respect to the relevant terminated Transactions or Redelivery Claims on the second Business Day following (i) the Failure to Pay Event or (ii) the Insolvency Event. Numbers 7.3.1 through 7.3.4 shall apply *mutatis mutandis*.

1.2 […]

Part 2
Elementary Clearing Model Provisions

(iii) […]

8 Consequences of a Termination Event and Termination Date

(iv) […]

1.2.1 8.2 Consequences of a Termination

1.2.2 […]

1.2.3 8.2.2 Difference Claim

The difference claim ~~which was created at the time of entering into the Clearing Agreement~~ of either Eurex Clearing AG or the Affected Clearing Member, as the case may be, under the Standard Agreement between Eurex Clearing AG and the Affected Clearing Member, which was created by the signing of the Clearing Agreeement shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2 of the General Clearing Provisions) against the respective other party as of the end of the Valuation Date (as defined in Number 7.3.2 of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions (each a "**Difference Claim**").

(v) […]

Part 3
Individual Clearing Model Provisions

(vi) […]

(vii) 8.3 Consequences of a Termination

(viii) […]

1.2.4 8.3.2 Difference Claim, Shortfall Claim of the Non-Clearing Member and Regress Claim of Clearing Member

(1) With regard to each Corresponding Standard Agreement referred to in Number 8.3.1, the difference claim which was created ~~at the time of entering into~~ by the signing of the Clearing Agreement shall become unconditional and immediately due in the Termination Currency (as defined in Number 7.3.2 of the General Clearing Provisions) from one party to the relevant Standard Agreement to the respective other party as of the end of the Valuation Date (as defined in Number 7.3.2 of the General Clearing Provisions) and shall be determined in accordance with Number 7.3 of the General Clearing Provisions (each such claim shall be a "**Difference Claim**").

(2) […]

12 Specific Provisions regarding Eligible Margin Assets in form of Securities

1.3 […]

1.4 12.2 Cash Income

Upon payment of any interest, dividends or other distributions in cash in relation to Securities or Equivalent Securities (as defined in Number 12.4.2), as the case may be, credited to the Securities Margin Account of a Clearing Member (the "**Cash Income**"), Eurex Clearing AG shall pay to the Clearing Member a cash amount equivalent to and in the same currency as such Cash Income (net of any withholding or deduction) (the "**Equivalent Notional Cash Income**"). Following the credit of ~~such~~any Cash Income or Equivalent Notional Cash Income, as the case may be, by Clearstream Banking AG or SIX SIS Ltd. directly to a designated cash account of the Clearing Member, Eurex Clearing AG's obligation to pay ~~such equivalent cash amount~~the relevant Equivalent Notional Cash Income to the Clearing Member shall be fulfilled. Number 7.1 applies upon receipt by the Clearing Member of ~~such equivalent cash amount~~the relevant Equivalent Notional Cash Income.

[…]

12.4 No Obligation in relation to Corporate Actions

12.4.1 Where any voting rights or elections in relation to corporate actions (e.g. the exercise of subscription rights) have to be exercised in relation to any Securities provided as Segregated Margin, neither Eurex Clearing AG nor the Clearing Member shall have any obligation in respect of the exercise of such voting rights or the exercise of such elections in relation to corporate actions to be made in accordance with the instructions of the Clearing Member and the Non-Clearing Member, respectively.

12.4.2 In relation to Securities credited to the Securities Margin Account, Eurex Clearing AG (i) shall not exercise any voting or other rights resulting from~~, nor dispose of the Securities held in the Securities Margin Account~~ such Securities; and it shall (ii), at all times - until the Termination Time on the Termination Date has occurred keep such Securities or Equivalent Securities in the Securities Margin Account. The term "**Equivalent Securities**" in this context means Securities with commercially the same features *(gleicher Art und Güte)* (which is usually reflected by the same securities identification number) and in the identical amount or number, as the case may be. If the Non-Clearing Member wishes any voting rights to be exercised or to be exercised in a particular manner or any election with respect to a specific corporate action (e.g. the exercise of subscription rights) to be made or to be made in a particular manner, it must make use of the substitution right pursuant to Number 12.5. The Non-Clearing Member is solely responsible for monitoring the rights and obligations arising out of or accruing in connection with the Securities provided as Segregated Margin as well as for providing any (timely) request to substitute those Securities in order to be able to exercise such rights in person.

1.4.1 […]