X-pand into the Future

eurex circular 185/09

Date: Frankfurt, October 2, 2009
Recipients: All Trading Members of Eurex Deutschland and Eurex Zürich and Vendors
Authorized by: Thomas Lenz

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

Modifications to the General Terms and Conditions of the legal documents "Connection Agreement" and "Operator Connection Agreement"

Related Eurex Circulars: 048/09

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Content may be most important for:	**Attachments:**
➲ All departments	Revised sections of: 1. General Terms and Conditions of the Agreement on the Technical Connection and the Utilization of the Trading System of Eurex Deutschland and Eurex Zürich ("Connection Agreement") 2. General Terms and Conditions to the Agreement on Technical Connection of a Multi-Member Frontend System Operator to the Trading EDP Eurex® ("Operator Connection Agreement")

With the launch of the Eurex Release 12.0 scheduled to take place on **November 16, 2009** the legal documents listed below will be adapted according to the wording of the enclosed revised sections:

- General Terms and Conditions of the Agreement on the Technical Connection and the Utilization of the Trading System of Eurex Deutschland and Eurex Zürich (Connection Agreement)
- General Terms and Conditions to the Agreement on Technical Connection of a Multi-Member Frontend System Operator to the Trading EDP Eurex® (Operator Connection Agreement)

We kindly ask you to take note of the adaptations to the above-mentioned documents, which will become effective with the launch of Eurex Release 12.0. The complete documents will be published in due time on our website under the path:

www.eurexchange.com > Documents > Forms > Trading Derivatives

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Attachment 1 to Eurex circular 185/09

ANNEX 1 (ENGLISH VERSION)

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MODIFICATIONS ARE MARKED AS FOLLOWS:

AMENDMENTS ARE UNDERLINED

DELETIONS ARE STRIKED THROUGH

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General Terms and Conditions of the Agreement on the Technical Connection and the Utilization of the Trading System of Eurex Deutschland and Eurex Zürich (Connection Agreement)

[...]

§ 2 Utilization of the Trading System

(1) Only the trading participants who have been admitted to the Eurex Exchanges by the management boards of the Eurex Exchanges are entitled to the utilization of the Trading System of Eurex. ~~Section 17 paragraph 1 German Stock Exchange Act *(Börsengesetz, BörsG)* shall remain unaffected.~~ The right to use the Trading System is a condition subsequent to the termination, revocation, cancellation or suspension of the admission to the Eurex Exchanges. ~~or, for trading participants of another stock exchange within the meaning of Section 17 paragraph 1 BörsG, to this stock exchange.~~

(2) The trading participant shall be entitled to use the Trading System subject to the regulations of the Eurex Exchanges and the present General Terms and Conditions. The utilization requires the trading participant having been assigned a participant number and code by the Eurex Exchanges for identification in the Trading System.

(3) Eurex Frankfurt AG (hereinafter referred to as "EFAG") shall be obliged for the duration of the Connection Agreement and subject to the technical possibility and economical reasonableness, to take appropriate measures to enable the contractual utilization of the Trading System subject to the regulations of the Eurex Exchanges. In case of an interruption of the availability of the Trading System, EFAG shall be obliged, subject to the technical possibility and economical reasonableness, to take immediate measures to restore the contractual utilization of the Trading System. EFAG exercises the care of a prudent merchant. Notwithstanding the foregoing, EFAG shall be entitled to charge third parties to carry out all tasks necessary to perform the Connection Agreement. In such cases, EFAG shall be obliged to exercise prudence in its choice and induction of third parties.

(4) EFAG shall provide to the Trading Participants through the Eurex System trading information in the form of final data as well as preliminary data. It is obligated to make all technically possible and economically reasonable efforts to guarantee the correctness and completeness of these data. Preliminary data made available which relate to the status of the execution of certain orders or quotes may, in few cases, deviate from the respective final data. EFAG is not obligated to transfer completely correct data with regard to the transferred preliminary data.

[...]

§ 6 Duration of the Agreement and Termination

(1) The Connection Agreement is concluded for an unlimited duration. The parties shall be entitled to terminate the Connection Agreement with a one month' notice to the end of a month. The Agreement shall terminate automatically at termination of admission to the Eurex Exchanges or~~, for trading participants to another stock exchange pursuant to Section 17 paragraph 1 BörsG, at termination of admission to such exchange~~.

[...]

Attachment 2 to Eurex circular 185/09

ANNEX 2

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MODIFICATIONS ARE MARKED AS FOLLOWS:

AMENDMENTS ARE UNDERLINED

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Allgemeine Geschäftsbedingungen zum Vertrag über die technische Anbindung eines Multi-Member-Frontend-System Betreibers an die Handels-EDV Eurex® (Betreiber-Anschlussvertrag)

General Terms and Conditions to the Agreement on Technical Connection of a Multi-Member Frontend System Operator to the Trading EDP Eurex® (Operator Connection Agreement)

[...]

§ 3 Technische Anbindung an die Handels-EDV Eurex

(1) Die EFAG stellt dem Vertragspartner die technische Anbindung über mindestens zwei Standleitungen bereit. Diese Anbindung dient der Nutzung der Handels-EDV Eurex durch die in der Anlage zu diesen Allgemeinen Geschäftsbedingungen genannten Unternehmen sowie der Erbringung von weiteren Dienstleistungen des Vertragspartners für diese Unternehmen.

(2) Die EFAG ist zur Abwendung von Schäden für das Netzwerk sowie die Handels-EDV Eurex berechtigt, die technische Anbindung unter angemessener Berücksichtigung der Interessen des Vertragspartners zu unterbrechen. Die EFAG ist bemüht, den Vertragspartner über eine beabsichtigte Unterbrechung vorab zu benachrichtigen. Ist dies nicht möglich, ist die EFAG verpflichtet, die Benachrichtigung unverzüglich nachzuholen.

Die EFAG richtet für den Vertragspartner die Verbindung zwischen dem Multi-Member-Frontend-System des Ver-

§ 3 Technical Connection to Trading EDP Eurex

(1) EFAG shall make available to the Contractual Party the technical connection via at minimum two leased lines. This connection shall serve the utilization of the Trading EDP Eurex by the Companies named in the Annex to these General Terms and Conditions as well as the provision of other services of the Contractual Partner for these Companies.

(2) In order to avoid damages for the network and the Trading EDP Eurex, EFAG shall be authorized to disconnect the technical connection under due consideration of the interests of the contractual parties. EFAG shall undertake to inform the Contractual Party about an intended disconnection beforehand. If this is not possible, EFAG is obligated to immediately remit such information.

EFAG shall establish for the Contractual Party the connection between the Multi-Member-Frontend system of the

tragspartners und der Handels-EDV Eurex ein. Die Einrichtung und fortlaufende Bereitstellung der technischen Anbindung ist für das Unternehmen gegenüber der EFAG entgeltfrei, für den Vertragspartner entgeltpflichtig.

Die EFAG ist verpflichtet, während der Dauer des Betreiber-Anschlussvertrages die erforderlichen Maßnahmen zu treffen, um die vertragsgemäße Nutzung der Handels-EDV Eurex im Rahmen des technisch Möglichen und wirtschaftlich Zumutbaren zu ermöglichen. Im Fall einer Unterbrechung der Verfügbarkeit der Handels-EDV Eurex ist die EFAG verpflichtet, im Rahmen des technisch Möglichen und wirtschaftlich Zumutbaren, unverzüglich die erforderlichen Maßnahmen zur Wiederherstellung der vertragsgemäßen Nutzung der Handels-EDV Eurex zu ergreifen. Die EFAG handelt mit der Sorgfalt eines ordentlichen Kaufmanns. Abweichend davon ist die EFAG berechtigt, bei allen mit der Erfüllung des Anschlussvertrags erforderlichen Aufgaben Dritte zu beauftragen. Die EFAG ist in diesen Fällen zur sorgfältigen Auswahl und Unterweisung des Dritten verpflichtet.

(3) Die EFAG stellt über die Handels-EDV Eurex Handelsinformationen in Form endgültiger Daten sowie in Form vorläufiger Daten zur Verfügung. Sie ist verpflichtet, alles technisch Mögliche und wirtschaftlich Zumutbare zu tun, um die Richtigkeit und Vollständigkeit dieser Daten sicherzustellen. Zur Verfügung gestellte vorläufige Daten, die sich auf den Status der Ausführung bestimmter Orders oder Quotes beziehen, können in seltenen Fällen von den entsprechenden endgültigen Daten abweichen. Eine Pflicht der EFAG zur Übermittlung vollständig fehlerfreier Daten besteht hinsichtlich der übermittelten vorläufigen Daten nicht.

[...]

Contractual Party and the Trading EDP Eurex. The establishment and permanent provision of the technical connection is free of charge for the Company vis-à-vis EFAG but subject to payment for the Contractual Party.

During the term of the Provider Connection Agreement, EFAG is obligated to take the necessary actions in order to guarantee the contractual utilization of the trading EDP within the technical possibilities and economic reasonableness. In the event of an interruption of the availability of the trading EDP Eurex, EFAG is obligated – within the possibilities and economic reasonableness – to immediately take the actions necessary to reestablish the contractual utilization of the trading EDP Eurex. EFAG shall act with the due diligence of an orderly businessman. In deviation thereto, EFAG is authorized to commission third parties with all duties arising within the fulfilment of the Connection Agreement. In these cases, EFAG shall choose and instruct the third parties in an orderly manner.

(3) EFAG shall provide through the Trading EDP Eurex trading information in the form of final data as well as preliminary data. It is obligated to make all technically possible and economically reasonable efforts to guarantee the correctness and completeness of these data. Preliminary data made available which relate to the status of the execution of certain orders or quotes may, in few cases, deviate from the respective final data. EFAG is not obligated to transfer completely correct data with regard to the transferred preliminary data.