clear to trade

eurex clearing *circular 031/10*

Date: Frankfurt, May 26, 2010
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
Authorized by: Jürg Spillmann

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

1. Xetra International Market: Default in Acceptance
2. Xetra International Market Italy: Lump-Sum Compensation

Related Eurex Clearing Circular: 029/10

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

Summary:

With effect from **June 9, 2010** Eurex Clearing will regulate default in acceptance of buyers on Xetra International Market.

Equally with effect from **June 9, 2010** Eurex Clearing will introduce a lump-sum compensation for late receipt over dividend record day for Xetra International Market Italy.

Please find attached the updated sections of the Clearing Conditions for Eurex Clearing AG.

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Aktiengesellschaft mit Sitz in Frankfurt/Main
HRB Nr. 44828
Amtsgericht Frankfurt/Main

1. Xetra International Market: Default in Acceptance
2. Xetra International Market Italy: Lump-Sum Compensation

1. Default in Acceptance for Xetra International Market

With the effect from June 9, 2010 Eurex Clearing will regulate default in acceptance for transactions from Xetra International Market (XIM).

The buyer in XIM can actively refuse the acceptance of stocks by not matching the Eurex Clearing instructions. This can result in damage for Eurex Clearing.

Therefore, the updated Clearing Conditions determine that in the future the buyer shall be obliged to compensate for any damages occurred in this context.

Lump-Sum Compensation for Xetra International Market Italy

With effect from June 9, 2010 Eurex Clearing will introduce a lump-sum compensation for late receipts over dividend record day for Xetra International Market Italy if the buyer refuses the receipt of stocks. This can result in a damage of 30 percent of the gross dividend amount for Eurex Clearing.

The defaulting buyer will therefore be charged with 30 percent of the respective gross dividend amount if he defaults in acceptance of stocks on record day either by not matching instructions or by defaulting in cash payment.

Frankfurt, May 26, 2010

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CHANGES ARE MARKED AS FOLLOWS:

ADDITIONS ARE UNDERLINED

DELETIONS ARE STRUCK THROUGH

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[...]

3.2 Settlement of XIM Transactions

[...]

3.2.2 Default

(1) If the Clearing Member obligated to deliver is in default regarding delivery of securities owed from a XIM Transaction or regarding assignment of rights, the following provisions shall apply in deviation to Number 2.2.

(2) If the Clearing Member obligated to accept securities owed from a XIM Transaction or the assignment of rights is in default regarding such acceptance, Eurex Clearing AG is entitled to recourse damages suffered by it or other Clearing Members due to ~~a~~such default. Furthermore, the following provisions shall apply in deviation to Number 2.2.

(3) A Clearing Member shall – without notice – be deemed to be in default if delivery instructions are not given at the latest on the business day preceding the valid delivery date.

[...]

3.2.2.3 XIM Transactions with settlement in Italy

(1) If the Clearing Member obligated to deliver is in default of delivery of securities or the transfer of rights from a XIM Transaction with

settlement in Italy, Number 3.2.2.1 shall apply accordingly, unless provided otherwise in the following.

(2) In deviation to Number 3.2.2.1 Paragraph 3, Eurex Clearing AG shall repeat the auction within the meaning of this provision regarding the respective number of securities on the 9th and 10th business day after the delivery date if the necessary number of securities has not or has only been repurchased in part on the 8th business day after the delivery date.

(3) In deviation to Number 3.2.2.1 Paragraph 5, Eurex Clearing AG may determine the cash settlement within the meaning of this provision from beginning of the 11th business day after the delivery date.

(4) If the Clearing Member obligated to accept securities or rights owed from a XIM Transaction with settlement in Italy is in default regarding such acceptance and if dividends, bonus payments or other cash distributions occur while being in default, which are to be paid out by Eurex Clearing AG, such Clearing Member shall, regardless of a loss at Eurex Clearing AG, pay a lump-sum compensation of 30% of the gross dividend. The counterevidence shall not be excluded.

In case the Clearing Member who is in default may claim payment of an amount ~~of~~equal to the gross dividend, Eurex Clearing AG may set off its compensation claim with this payment claim.