clear to trade

eurex clearing *circular 054/09*

Date: Frankfurt, October 12, 2009
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
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New Emission Futures Contracts: Incorporation into Clearing Conditions for Eurex Clearing AG

Related Eurex Circulars: 175/09

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Content may be most important for:	**Attachment:**
Ü Middle + Backoffice Ü IT/System Administration Ü Auditing/Security Coordination	Updated sections of Clearing Conditions for Eurex Clearing AG

As already announced in Eurex circular 175/09, EEX plans to introduce new contracts with new maturity date and different delivery process as of **October 27, 2009** in addition to the existing emission certificates contracts (EUA and CER) to harmonize the European emission market.

In comparison to the existing contracts, the new contracts differ in delivery day and delivery process. Clearing Conditions for Eurex Clearing AG will be amended effective October 27, 2009 to incorporate the aforementioned new products.

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

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CHANGES ARE MARKED AS FOLLOWS:

AMENDMENTS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[…]

Chapter VII
Transactions Concluded on the European Energy Exchange (EEX)

[…]

Part 1
General Provisions

[…]

Part 2
Clearing of Futures Contracts

The following Subparts shall rule the clearing of transactions in futures contracts which are listed in the Contract Specifications of the European Energy Exchange and have been included in the Clearing by Eurex Clearing AG.

[…]

2.2 Subpart
Clearing of European Carbon Futures Early Dec Contracts

The following provisions shall rule the clearing of transactions in European Carbon Futures Early Dec Contracts with physical delivery of EU emission allowances whose contract specifications are determined by EEX.

2.2.1 Financial Settlement upon Delivery

(1) The number of the EU emission allowances to be delivered multiplied by the final settlement price plus any value-added tax required by law shall form the basis of the settlement of transactions.

(2) Financial settlement shall be effected by means of netting out the accounts receivable and the liabilities of all positions the clearing of which is effected by Eurex Clearing AG subject to the provisions contained in these Clearing Conditions into one account receivable or liability.

(3) Financial settlement is effected on the first business day after the last trading day.

(4) All payments including the VAT required by law shall be effected directly between the Clearing Members and Eurex Clearing AG and, as the case may be, between Eurex Clearing AG and ECC, via the respective RTGSAccounts on the business day pursuant to Paragraph 3.

2.2.2 Treatment with regard to VAT upon delivery

(1) The EU emission allowances which are introduced into delivery subject to the provisions contained in the trading conditions of EEX multiplied by the final settlement price shall form the basis for the calculation of the VAT. On this basis and under consideration of the in-formation provided by the Exchange participants regarding the taxation treatment ECC shall calculate the VAT incurred with regard to the transactions separately.

(2) The EU emission allowances to be delivered multiplied by the final settlement price in-creased by the delivery fees charged in case of a sale or reduced by the delivery fees charged in case of a sale shall form the assessment basis for the VAT.

(3) The amount of the VAT determined in this way shall be invoiced separately or credited separately for each EEX trading participant.

(4) Financial settlement shall be effected subject to the provisions contained in Number 2.2.1 netted out into one account receivable liability by means of the respective Clearing Members in charge as the paying agent.

2.2.3 Delivery and acceptance of EU Emission Allowances

(1) The business day following the last trading day shall be the delivery day (“delivery day”).

(2) Settlement of the futures regarding EU emission allowances shall be effected directly by the EEX trading participant towards ECC subject to the provisions contained in these Clearing Conditions. On the delivery day, the EEX trading participants shall ensure their capacity to de-liver by means of corresponding stocks in the account kept in trust for all EEX trading partici-pants by ECC at the national register authority (DEHSt account).

(3) ECC shall keep internal position accounts regarding the EU emission allowances which are booked on the DEHSt account of ECC for each EEX trading participant. The disposals and additions regarding EU emission allowances shall be booked on said internal inventory accounts by means of sales and purchases or by means of the surrender and return of such.

The delivery of EU emission allowances shall be effected by means of recording on these internal accounts directly by the trading participants towards ECC and shall effect a corre-sponding change in the number of shares which the trading participant holds in the total stock kept in trust in the discretionary DEHSt account of ECC at the same time.

(4) All deliveries of EU emission allowances shall be effected step by step directly between the EEX trading participants and ECC.

(5) Settlement with regard to the EU emission allowances to be delivered shall be considered effected as of the time at which the following prerequisites are fulfilled:

- all entries in the accounts from the position account of ECC to the internal position accounts of the EEX trading participants to be supplied have been made and
- corresponding cash settlement (Number 2.2.1.) has been carried out

(6) In case an EEX trading participant defaults with regard to its delivery obligations, the consequences of such default are specified in Number 2.1.3.

~~2.2.4 Timely Availability of the Register Account~~

~~(1) At the time of launch of the European-Carbon Futures Contracts at EEX with due date December 2008, the timely availability of the register accounts for booking and assignment of EU emission rights is not guaranteed, since it is not clarified from a factual and legal point of view, when and how the inclusion of these registers in the central register of the United Nations, the International Transaction Log (ITL) and the European Central Register CITL (Community Independent Transaction Log) takes place.~~

~~(2) If, due to the reasons stated in Paragraph 1, the legally binding booking or transfer of EU emission rights is not guaranteed in time before due date of European-Carbon Futures Contracts with due date December 2008, the fulfilment of the European-Carbon Futures Contracts due in December 2008 shall be carried out with physical delivery of EU emission righs in deviation of Number 2.2.3 as follows:~~

- ~~For EEX trading participants and, as the case may be, their Clearing Members and the Link Clearing House which are owners of a long position at the end of the last trading day of the European-Carbon Futures contracts on EU emission rights in December 2008, a respective long position in the European-Carbon Futures contract at the settlement price with due date December 2009 will be opened in the daily end settlement of the last trading day.~~
- ~~For EEX trading participants and, as the case may be, their Clearing Members and the Link Clearing House which are owners of a short position at the end of the last trading day of the European-Carbon Futures contracts on EU emission rights in December 2008, a respective short position in the European-Carbon Futures contract at the settlement price with due date December 2009 will be opened in the daily end settlement of the last trading day.~~

~~(3) ECC may, in consultation with the Exchange Management Board of EEX, order the procedure pursuant to Paragraph 2, if it regards the timely technical or legal availability of the register for purposes of settlement of European-Carbon Futures with physical delivery of EU emission rights and due date December 2008 as not given.~~

2.3 Subpart
Clearing of Futures Contracts on Certified Emission Reductions
(CER Futures Early Dec Contracts)

The following provisions shall rule the clearing of transactions in Futures Contracts on certified emission reductions (Certified Emission Reductions /(CER), hereinafter referred to as "CER Futures Early Dec Contracts") with physical delivery whose contract specifications are determined by EEX.

2.3.1 Financial Settlement upon Delivery

(1) The number of Certified Emission Reductions to be delivered multiplied by the final settlement price plus VAT required by law shall form the basis of the settlement of transactions.

(2) Financial settlement shall be effected by means of netting out the accounts receivable and the liabilities of all open positions the clearing of which is effected by Eurex Clearing AG subject to the provisions contained in these Clearing Conditions into one account receivable or liability.

(3) Financial settlement is effected on the first business day after the last trading day.

(4) All payments including VAT required by law shall be effected directly between the Clearing Members and Eurex Clearing AG and, as the case may be, between Eurex Clearing AG and ECC, via the German Federal Bank accounts on the business day pursuant to Paragraph 3.

2.3.2 Treatment with regard to VAT upon delivery

(1) The Certified Emission Reductions which are introduced into delivery subject to the provisions contained in the trading conditions of EEX multiplied by the final settlement price shall form the basis for calculation of the VAT. On this basis and under consideration of the information provided by the EEX trading participants regarding the taxation treatment, ECC shall calculate the VAT incurred with regard to the transactions separately.

(2) The Certified Emission Reductions to be delivered multiplied by the final settlement price, increased by the delivery fees charged in case of a purchase or reduced by the delivery fees charged in case of a sale, shall form the assessment basis for the VAT .

(3) The amount of the VAT determined in this way shall be invoiced or credited separately for each EEX trading participant.

(4) Financial settlement shall be effected subject to the provisions contained in Number 2.3.1 netted out into one account receivable or liability by means of the respective Clearing Members in charge as the paying agent.

2.3.3 Delivery and acceptance of Certified Emission Reductions

(1) The business day following the last trading day shall be the delivery day ("delivery day").

(2) Settlement of the futures on Certified Emission Reductions (CER Futures Early Dec Contracts) shall be effected directly by the EEX trading participant towards ECC subject to the provisions contained in these Clearing Conditions. On the delivery day, the EEX trading participants shall ensure their capacity to deliver by means of corresponding stocks in the account kept in trust for all EEX trading participants by ECC at the national register authority (DEHSt account).

(3) ECC shall keep internal position accounts regarding the Certified Emission Reductions which are booked on the DEHSt account of ECC for each EEX trading participant. The disposals and additions regarding EU emission allowances shall be booked on said internal inventory accounts by means of sales and purchases or by means of the surrender and return of such.

The delivery of Certified Emission Reductions shall be effected by means of recording on these internal accounts directly by the trading participants towards ECC and shall effect a corresponding change in the number of shares which the trading participant holds in the total stock kept in trust in the DEHSt account of ECC at the same time.

(4) All deliveries of Certified Emission Reductions shall be made step by step directly between the selling EEX trading participants and ECC and accordingly between the ECC and the EEX trading participants to be delivered.

(5) Settlement with regard to the Certified Emission Reductions to be delivered shall be considered effected as of the time at which the following prerequisites are fulfilled:

- all entries in the accounts from the position account of ECC to the internal position accounts of the EEX trading participants to be supplied have been made and
- corresponding cash settlement (Number 2.2.1.) has been carried out.

(6) In case an EEX trading participant defaults with regard to its delivery obligations, the consequences of such default are specified in Number 2.1.3.

~~2.3.4 Timely Availability of the Register Account~~

~~(1)At the time of introduction of Futures Contracts on Certified Emission Reductions at EEX with maturity December 2008, the timely availability of the register accounts for recording and transfer of Certified Emission Reductions is not ensured. The question when and how the inclusion of these registers in the central register of the United Nations, the International Transaction Lob (ITL) and the European Central Register CITL (Community Independent Transaction Log) is carried out is – legally and factually – unanswered.~~

~~(2) If – due to the reasons named in Paragraph 1 –the legally binding recording or transfer of Certified Emission Reductions is not guaranteed in due time before maturity of Futures Contracts on Certified Emission Reductions with maturity December 2008, the Futures Contracts on Certified Emission Reductions shall, in deviation to Number 2.3.3, be fulfilled in according applicability pursuant to Chapter VII Number 2.2.4 Paragraph 2 and 3as follows.:~~

2.4 Subpart Clearing of European-Carbon-Futures-Mid Dec Contracts

The following provisions shall rule the clearing of transactions in European-Carbon-Futures-Mid Dec Contracts with physical delivery of EU emission allowances whose contract specifications are determined by EEX.

2.4.1 Financial Settlement upon Delivery

(1) The number of EU emission allowances to be delivered multiplied by the final settlement price plus VAT required by law shall form the basis of the settlement of transactions.

(2) Financial settlement shall be effected by means of netting out the accounts receivable and the liabilities of all open positions the clearing of which is effected by Eurex Clearing AG subject to the provisions contained in these Clearing Conditions into one account receivable or liability.

(3) Financial settlement is effected on the first business day after the last trading day.

(4) All payments including VAT required by law shall be effected directly between the Clearing Members and Eurex Clearing AG and, as the case may be, between Eurex Clearing AG and ECC, via the RTGS accounts on the business day pursuant to Paragraph 3.

2.4.2 Treatment with regard to VAT upon delivery

(1) The EU emission allowances which are introduced into delivery subject to the provisions contained in the trading conditions of EEX multiplied by the final settlement price shall form the basis for calculation of the VAT. On this basis and under consideration of the information provided by the Exchange participants regarding the taxation treatment, ECC shall calculate the VAT incurred with regard to the transactions separately.

(2) The EU emission allowances to be delivered multiplied by the final settlement price, increased by the delivery fees charged in case of a purchase or reduced by the delivery fees charged in case of a sale, shall form the assessment basis for the VAT .

(3) The amount of the VAT determined in this way shall be invoiced or credited separately for each EEX trading participant.

(4) Financial settlement shall be effected subject to the provisions contained in Number 2.4.1 netted out into one account receivable or liability by means of the respective Clearing Members in charge as the paying agent.

2.4.3 Delivery and acceptance of EU Emission Allowances

(1) The second business day following the last trading day shall be the delivery day ("delivery day").

(2) Settlement of the futures on EU emission allowances shall be effected directly by the EEX trading participant towards ECC subject to the provisions contained in these Clearing Conditions. On the delivery day, the EEX trading participants shall ensure their capacity to deliver by means of corresponding stocks in the account ("DEHSt account") kept in trust for all EEX trading participants by ECC at the national register authority ("DEHSt").

(3) ECC shall keep internal position accounts regarding the EU emission allowances which are booked on the DEHSt account of ECC for each EEX trading participant. The disposals and additions of EU emission allowances as a result of fulfilment of EEX transactions or in case of surrender and return of such shall be booked on said internal inventory accounts.

The delivery of EU emission allowances shall be effected by means of recording on these internal accounts directly by the trading participants towards ECC and shall effect a corresponding change in the number of shares which the trading participant holds in the total stock kept in trust in the DEHSt account of ECC at the same time.

(4) All deliveries of EU emission allowances shall be made step by step directly between the selling EEX trading participants and ECC and accordingly between the ECC and the EEX trading participants to be delivered.

(5) Settlement with regard to the EU emission allowances to be delivered shall be considered effected as of the time at which the following prerequisites are fulfilled:

- all entries in the accounts from the position account of ECC to the internal position accounts of the EEX trading participants to be supplied have been made and
- corresponding cash settlement (Number 2.4.1.) has been carried out.

(6) In case an EEX trading participant defaults with regard to its delivery obligations, the consequences of such default are specified in Number 2.1.3.

2.5 Subpart Clearing of Futures Contracts on Certified Emission Reductions (CER Futures Mid Dec Contracts)

The following provisions shall rule the clearing of transactions in Futures contracts on Certified Emission Reductions (Certified Emission Reductions/CER; hereinafter referred to as "CER Futures Mid Dec Contracts") with physical delivery of EU emission rights whose contract specifications are determined by EEX.

2.5.1 Financial Settlement upon Delivery

(1) The number of Certified Emission Reductions to be delivered multiplied by the final settlement price plus VAT required by law shall form the basis of the settlement of transactions.

(2) Financial settlement shall be effected by means of netting out the accounts receivable and the liabilities of all open positions the clearing of which is effected by Eurex Clearing AG subject to the provisions contained in these Clearing Conditions into one account receivable or liability.

(3) Financial settlement is effected on the second business day after the last trading day.

(4) All payments including VAT required by law shall be effected directly between the Clearing Members and Eurex Clearing AG and, as the case may be, between Eurex Clearing AG and ECC, via their accounts with a branch of the German Federal Bank on the business day pursuant to Paragraph 3.

2.5.2 Treatment with regard to VAT upon delivery

(1) The Certified Emission Reductions which are introduced into delivery subject to the provisions contained in the trading conditions of EEX multiplied by the final settlement price shall form the basis for calculation of the VAT. On this basis and under consideration of the information provided by the EEX trading participants regarding the taxation treatment, ECC shall calculate the VAT incurred with regard to the transactions separately.

(2) The Certified Emission Reductions to be delivered multiplied by the final settlement price, increased by the delivery fees charged in case of a purchase or reduced by the delivery fees charged in case of a sale, shall form the assessment basis for the VAT .

(3) The amount of the VAT determined in this way shall be invoiced or credited separately for each EEX trading participant.

(4) Financial settlement shall be effected subject to the provisions contained in Number 2.5.1 netted out into one account receivable or liability by means of the respective Clearing Members in charge as the paying agent.

2.5.3 Delivery and acceptance of Certified Emission Reductions

(1) The second business day following the last trading day shall be the delivery day ("delivery day").

(2) Settlement of the futures on Certified Emission Reductions shall be effected directly by the EEX trading participant towards ECC subject to the provisions contained in these Clearing Conditions. On the delivery day, the EEX trading participants shall ensure their capacity to deliver by means of corresponding stocks in the account ("DEHSt account") kept in trust for all EEX trading participants by ECC at the national register authority ("DEHSt").

(3) ECC shall keep internal position accounts regarding the Certified Emission Reductions which are booked on the DEHSt account of ECC for each EEX trading participant. The disposals and additions of EU emission allowances as a result of fulfilment of EEX transactions or in case of surrender and return of such shall be booked on said internal inventory accounts.

The delivery of Certified Emission Reductions shall be effected by means of recording on these internal accounts directly by the trading participants towards ECC and shall effect a corresponding change in the number of shares which the trading participant holds in the total stock kept in trust in the DEHSt account of ECC at the same time.

(4) All deliveries of Certified Emission Reductions shall be made step by step directly between the selling EEX trading participants and ECC and accordingly between the ECC and the EEX trading participants to be delivered.

(5) Settlement with regard to the Certified Emission Reductions to be delivered shall be considered effected as of the time at which the following prerequisites are fulfilled:

- all entries in the accounts from the position account of ECC to the internal position accounts of the EEX trading participants to be supplied have been made and
- corresponding cash settlement (Number 2.5.1.) has been carried out.

(6) In case an EEX trading participant defaults with regard to its delivery obligations, the consequences of such default are specified in Number 2.1.3.

Part 3
Clearing of Options Contracts

The following subparts shall rule the clearing of transactions in Options Contracts listed in the contract specifications of the European Energy Exchange and included in the clearing by Eurex Clearing AG.

3.1 Subpart
General Provisions

The “General Provisions“ pursuant to Chapter VII Number 3.1 shall apply to all options contracts, provided no specific or other regulations deviating in comparison to the “General Provisions” are set forth.

3.1.1 General Obligations

(1) Various options contracts on emission rights rights are traded on EEX, the settlement of which shall be effected in accordance with the provisions made in these Clearing Conditions regardless of the maturity of the contract.

(2) In case of execution and allocation of positions for whose clearing they are responsible, Clearing Members shall effect payment respectively delivery or payment pursuant to the instructions of Eurex Clearing AG.

(3) Eurex Clearing AG shall notify each Clearing Member of the options contracts assigned to him during the morning of the exchange day after exercise.

3.2 Subpart
Clearing of Options Contracts on European Carbon Futures Early Dec Contracts

The following subparts shall rule the clearing of transactions in Options Contracts on European Carbon Futures Early Dec Contracts with physical delivery of emission rights whose contract specifications are determined by the EEX.

3.2.1 General Provision

According to the following provisions, the clearing of Options contracts shall be subject to the provisions for the clearing of options contracts until the assignment of the exercised options, and subject to the provisions for the clearing of futures contracts upon opening of the futures position.

3.2.2 Options Premium

(1) The options premium to be paid by the purchaser of an options contract on European Carbon Futures Early Dec Contracts shall be paid until the point determined by Eurex Clearing AG on the business day after conclusion of the transaction, but in any case before beginning of the trading at EEX on the following business day. The seller of an options contract on European Carbon Futures Early Dec Contracts shall be credited for the premium on the same day.

(2) A daily reporting of the performance of options contracts on European Carbon Futures Early Dec Contracts shall not take place.

(3) Eurex Clearing AG shall settle the options premium with the Clearing Members, and the Clearing Members shall settle the premium with their affiliated Non-Clearing Members.

3.2.3 Procedure upon Exercise of Option

(1) In case of exercise of an options contract on European Carbon Futures Early Dec Contracts, the following paragraphs shall – for the purchaser and the seller – rule the opening of positions of the European Carbon Futures Early Dec Contracts underlying the option (underlyings) with the same maturity.

(2) In case of exercise of an options contract on European Carbon Futures Early Dec Contracts (option writer), the assignment of the seller shall be carried out on the exercise day by means of a procedure guaranteeing the neutrality of the assignment process. Partial assignments are admitted.

(3) For the EEX trading participant who exercises a buy option, an according long position in the underlying futures contract shall be opened with the agreed exercise price in the batch processing of the exercise day.

(4) For the EEX trading participant who is assigned exercise of a buy option, an according short position in the underlying futures contract shall be opened with the agreed exercise price in the batch processing of the exercise day.

(5) For the EEX trading participant who exercises a sell option, an according short position in the underlying futures contract shall be opened with the agreed exercise price in the batch processing of the exercise day.

(6) For the EEX trading participant who is assigned exercise of a sell option, an according long position in the underlying futures contract shall be opened with the agreed exercise price in the batch processing of the exercise day.

(7) If the EEX trading participant is no Clearing Member, Chapter I Number 1.2.1 Pargraph 2 to 4 shall apply accordingly in case of exercise and assignment of an option contract on European Carbon Futures Early Dec Contracts with regard to the opened futures position.

3.2.4 Futures Position

For the futures positions opened according to Number 3.2.3, the respective regulations in Chapter VII Number 2.2 shall apply.

Chapter VIII
Clearing of OTC Derivatives Transactions

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