



eurex clearing circular 023/15

Date: 5 March 2015
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
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Amendments to the Clearing Conditions

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Content may be most important for:

☞ All departments

Attachments:

1. and 2.: Amended sections of the Clearing Conditions for Eurex Clearing AG

Summary:

The circular contains information with respect to amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) regarding the following topics:

1. Collection of fees in commercial bank money
2. Clarification regarding the Clearing Member's right to set-off (IAS 32)
3. Transaction and position adjustments for Eurex transactions
4. Determination of the final settlement price for futures contracts

The amended sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing AG are attached to this circular.

All amendments will come into effect on **30 March 2015**.

Amendments to the Clearing Conditions

This circular contains information with respect to amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) regarding the following topics:

1. Collection of fees in commercial bank money
2. Clarification regarding the Clearing Member's right to set-off (IAS 32)
3. Transaction and position adjustments for Eurex transactions
4. Determination of the final settlement price for futures contracts

The amended sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing AG are attached to this circular.

All amendments will come into effect on 30 March 2015.

1. Collection of fees in commercial bank money

Currently, fees in euro and Swiss franc can only be paid to Eurex Clearing via central bank accounts (TARGET 2 or Swiss National Bank (SNB)), whereby exceptions can be granted upon request of the Member (see Chapter I Part 1 Number 2.1.2 Paragraph (4) (b) of the Clearing Conditions).

To improve the operational process for Clearing Members and Specific Repo License- or Specific Lending License Holders without a central bank account, Eurex Clearing will allow for a regular direct debit process using commercial bank accounts to pay fees.

The following provisions in the Clearing Conditions will be amended:

- Chapter I Part 1 Number 1.4.1 Paragraph (5)
- Chapter I Part 1 Number 2.1.2 Paragraph (4) (b) (cc)
- Chapter I Part 1 Number 5.1
- Appendix 1 to the Clearing Conditions: Clearing Agreement between Eurex Clearing AG and a Clearing Member, Part 2 Number 1.2
- Appendix 3 to the Clearing Conditions: Clearing Agreement with a Non-Clearing Member and/or Registered Customer for the Individual Clearing Model under Eurex Clearing AG Documentation, Part 1 Number 5.2.2
- Appendix 4 to the Clearing Conditions: Agreement for the Participation in the Individual Clearing Model under Client Clearing Documentation with a Non-Clearing Member and/or Registered Customer, Part 1 Number 5.2

2. Clarification regarding the Clearing Member's right to set-off (IAS 32)

The accounting standard IAS 32 requires that a Clearing Member has a legally enforceable right to set-off in order to be able to present its exposure (i.e. financial assets and financial liabilities) in relation to Eurex Clearing on a net basis.

For clarification purposes, Eurex Clearing will add a respective explicit provision to the Clearing Conditions.

The following provision in the Clearing Conditions will be amended:

- Chapter I Part 1 Number 1.3.1

3. Transaction and position adjustments for Eurex transactions

For clarification purposes, the possibility of position transfers from client accounts to Market Maker accounts for the same Member will be amended in the Clearing Conditions.

The following provision in the Clearing Conditions will be amended:

- Chapter II Part 1 Number 1.3.3 Paragraph (2)

4. Determination of the final settlement price for futures contracts

In case the official final price of the share on the cash market is determined in a currency other than the currency in which the futures contract is denominated (product currency), Eurex Clearing may convert such price into the product currency based on the reference price indicated in the Clearing Conditions (if any) or another reference price Eurex Clearing deems appropriate.

The following provision in the Clearing Conditions will be amended:

- Chapter II Part 1 Number 2.7.2 Paragraph (1)

As of 30 March 2015, the amended Clearing Conditions will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

[Resources > Rules and Regulations > Clearing Conditions](#)

Pursuant to Chapter I Part 1 Number 17.2.3 of the Clearing Conditions, the changes and amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless they object in writing to Eurex Clearing prior to the actual effective date of such change and amendment of the Clearing Conditions. The right to terminate the Clearing Agreement or the Clearing License according to Chapter I Part 1 Number 2.1.4 Paragraph 2 Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions remains unaffected.

If you have any questions or require further information, please contact Trading & Clearing Services at tel. +49-69-211-1 17 00 or send an e-mail to memberservices@eurexclearing.com.

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AMENDMENTS ARE MARKED AS FOLLOWS:

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Chapter I General Provisions

Part 1 General Clearing Provisions

1 General Rules

[...]

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, the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model 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.

Subject to the limitations under Article 39 Paragraph 9 b) Regulation (EU) 648/2012 (“EMIR”) Clearing Members are entitled to set off own claims with claims of Eurex Clearing AG that are uncontested or have been finally and non-appealably established.

[...]

1.4 Settlement of Transactions

1.4.1 Cash Clearing

- (1) In order to make cash payments in Euro, the Clearing Member is obliged to instruct the ~~account~~ bank of its RTGS Account or SIC Account (each as defined in Number 2.1.2 Paragraph (4) (b) (aa) and (bb)) to honour the transfer instructions (Lastschriften) received from Eurex Clearing AG. ~~with respect to such Clearing Member Cash Account (all as defined in Number 2.1.2 (4) (b)).~~

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- (2) In order to make cash payments in Swiss Francs, the Clearing Member is obliged to instruct the Swiss National Bank (“**SNB**”) to honour the transfer instructions received from Eurex Clearing AG with respect to its SNB Account (as defined in Number 2.1.2 Paragraph (4) (b) (bb)-such Clearing Member Cash Account.
- (3) In order to make cash payments in currencies other than Euro and Swiss Francs, the Clearing Member shall instruct its ~~account~~ bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.
- (4) In order to make cash payments in respect of Margin in currencies other than Euro and Swiss Francs accepted by Eurex Clearing AG, the Clearing Member shall transfer the relevant cash amounts to the account of Eurex Clearing AG as notified to the Clearing Member from time to time by the date specified by Eurex Clearing AG with respect to the relevant currency. The Clearing Member may instruct its ~~account~~ bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.
- (5) In order to make payments in respect of Eurex-Fees (as defined in Number 5.1), the Clearing Member may by way of derogation from Number 1.4.1 Paragraphs (1) and (2) also instruct its bank for the relevant currency to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG.

[...]

2 Clearing Members

2.1 Clearing License

[...]

2.1.2 General Prerequisites for Clearing Licenses

[...]

- (4) The applicant shall have available the following accounts:

[...]

(b) Cash Accounts:

- (aa) for cash payments in Euro: an account within the payment module at a central bank of the Euro system which participates in Target2 with its Target2 component system or an account at another central bank which is not a central bank of the Euro system and, due to a special agreement, connected to Target2 (hereinafter referred to as “**RTGS Account**”); and/or

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(bb) for cash payments in CHF: an account with the Swiss National Bank (the “**SNB Account**”) and an account with SIX Interbank Clearing AG (both accounts in the following jointly “**SIC Account**”), and

(cc) if the Clearing Member wishes to pay Eurex-Fees (as defined in Number 5.1) according to Number 1.4.1 Paragraph (5), an account with a bank for the respective currency.

(together with any other cash accounts provided for in the Special Clearing Provisions, the “**Clearing Member Cash Accounts**”).

Eurex Clearing AG may, upon written request, allow the use of the required cash accounts pursuant to this Paragraph (4) (b) of a correspondent bank recognised by Eurex Clearing AG.

[...]

3 General Provisions regarding Margin

[...]

3.2 Eligible Margin Assets and Valuation

3.2.2 For the purpose of assessing compliance with each of the Margin Requirements pursuant to the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, the following general provisions apply

[...]

- (2) If Eligible Margin Assets in the form of cash are provided in a currency other than the Clearing Currencies, the relevant cash amount shall – for the purpose of assessing compliance with the Margin Requirement – be deemed to have been actually delivered on the Business Day following confirmation by Eurex Clearing AG’s receiving ~~account~~ bank of the receipt of such cash amount vis-à-vis Eurex Clearing AG.

[...]

5 Fees

5.1 On the basis of its fee schedule (*Preisverzeichnis*) in effect (the “**Eurex Fee Schedule**”), which will be published in accordance with Number 16.1, Eurex Clearing AG will charge to its Clearing Members (i) a one-time fee upon conclusion of the first Clearing Agreement, (ii) an annual fee for the granting of a Clearing License, payable by the Clearing Member on January 31 of each year, and (iii) further fees for certain actions and Transactions, as specified in the Eurex Fee Schedule (together with fees payable to Eurex Frankfurt AG according to the Agreement on Technical Connection and Utilization of the Trading Systems of Eurex Deutschland and Eurex Zürich (Connection Agreement) “Eurex-Fees”). The Eurex Fee Schedule shall form part of the Clearing Conditions.

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[...]

Part 3 The Individual Clearing Model Provisions

[...]

Part 3 Subpart B: Tripartite-Provisions regarding the Individual Clearing Model for ICM-ECD and for ICM-CCD

[...]

11 Direct Segregated Margin Transfers and Direct Segregated Margin Retransfers

[...]

11.1 Direct Segregated Margin Transfers

[...]

11.1.3 A Direct Segregated Margin Transfer in the form of cash will be effected by Eurex Clearing AG, upon the request of the Clearing Member, directly debiting an account of the ICM Client designated by the Clearing Member on behalf of the ICM Client for such purpose. The ICM Client and the Clearing Member shall ensure that all required instructions and authorisations are issued to or, as relevant, granted by any ~~account~~ bank in order for such direct debit to become effective. Subpart A Number 5.4 shall not apply to such Direct Segregated Margin Transfer of cash.

[...]

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Chapter II Transactions Concluded at Eurex Deutschland and Eurex Zürich (Eurex Exchanges)

[...]

Part 1 General Provisions

[...]

1.3 Internal Accounts

[...]

1.3.3 Transaction transfers and Position transfers

[...]

- (2) Changes made to re-allocate Transactions from Customer Accounts to Own Accounts ~~or Market Maker Accounts~~ from Own Accounts or Market Maker Accounts to Customer Accounts, from Market Maker Accounts to Own Accounts or to re-allocate Transactions to a specific Customer Account (trade transfer), as well as the corresponding transfers of positions and transfers of positions from Customer Accounts to Market Maker Accounts (position transfer) by a Clearing Member or a Non-Clearing Member, are permitted only for the purpose of ensuring that Transactions are correctly recorded in the relevant account.

[...]

Appendix 1

Part 2 Specific Provisions for Transaction Types

[...]

1 Specific Provisions for the Clearing of Eurex Transactions pursuant to Chapter II of the Clearing Conditions

[...]

1.2 Cash Clearing

The Clearing Member undertakes to instruct the central bank of the Euro system, which participates in TARGET2 with its TARGET2 component system, another central bank, which is no central bank of the Euro system and is connected to TARGET2 due to a special agreement, the Swiss National Bank or another payment institution defined by Eurex Clearing AG to honor all claims against the Clearing Member as calculated by Eurex Clearing AG via debit instruction from the account of the Clearing Member from aforementioned payment institution. Eurex Clearing AG shall provide that any surplus cash balance that Clearing Member may have on its internal cash account with Eurex

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Clearing AG shall be credited to the respective Clearing Member's account at the respective payment institution. Chapter 1 Part 1 Numbers 1.4.1 Paragraph (5) and 2.1.2 Paragraph (4) (b) (cc) remain unaffected.

[...]

Appendix 3

Part 1 General Provisions

[...]

5 Margin Transfer

[...]

5.2 Direct Segregated Margin Transfers and Direct Segregated Margin Retransfers

5.2.2 For purposes of Direct Segregated Margin Transfers of cash in the form of direct debits by Eurex Clearing AG the ICM Client (i) hereby expressly and irrevocably authorises the Clearing Member to designate on behalf of the ICM Client one account of the ICM Client per currency from which such direct debits shall be made and to issue the relevant instructions to the respective ~~account~~-banks and (ii) shall issue all necessary instructions or authorisations to relevant ~~account~~-banks to ensure the validity of such direct debits and provide evidence of such instructions or authorisations to Eurex Clearing AG upon request.

[...]

Appendix 4

Part 1 General Provisions

[...]

5 Direct Segregated Margin Transfers and Direct Segregated Margin Retransfers

[...]

5.2 For purposes of Direct Segregated Margin Transfers of cash in the form of direct debits by Eurex Clearing AG the ICM Client (i) hereby expressly and irrevocably authorises the Clearing Member to designate on behalf of the ICM Client one account of the ICM Client per currency from which such direct debits shall be made and to issue the relevant instructions to the respective ~~account~~-banks and (ii) shall issue all necessary instructions or authorisations to relevant ~~account~~-banks to ensure the validity of such direct debits and

provide evidence of such instructions or authorisations to Eurex Clearing AG upon request.

[...]

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[...]

Chapter II Transactions Concluded at Eurex Deutschland and Eurex Zürich (Eurex Exchanges)

[...]

Part 2 Clearing of Futures Contracts

[...]

2.7 Clearing of Futures Contracts on Shares

[...]

2.7.2 Final Settlement Price

- (1) The final settlement price of the Futures contracts will be determined by Eurex Clearing AG (Number 1.6.4 of the Contract Specifications for Futures Contracts and Options Contracts at the Eurex Deutschland and Eurex Zürich) at the final settlement day of a contract. The official final settlement price of the share on the cash market determined in the following is relevant for determination of the final settlement price. If the official final settlement price of the share on the cash market is determined in a currency other than the currency in which the Futures contract is denominated (product currency), Eurex Clearing AG may convert such price into the product currency based on the reference price indicated in the following table (if any) or such other reference price Eurex Clearing AG deems appropriate (if any). Regarding Futures Contracts with assigned group ID BR01, CA01, CA02, US01 or US02 (Annex A of the Contract Specifications for Futures Contracts and Options Contracts at Eurex Deutschland and Eurex Zürich), the final settlement price is determined on the basis of the opening price of the relevant cash market.

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- (2) The reference for determination of the final settlement price is the closing price of the respective underlying security in the respective electronic trading system (Number 2.7.2 Paragraph (1)). If no closing price in the underlying security is effected, the volume-weighted average of the last three “paid” prices (Bezahl-Preise) of the respective underlying security effected in the electronic trading system of the respective Stock Exchange shall be authoritative.
- (3) If three prices in the underlying security are not effected in the electronic trading system of the respective reference market or if the price does not reflect the true market conditions, Eurex Clearing AG may determine the final settlement price at its equitable discretion.

Group ID of the Futures contract according to Annex A to the Eurex Contract Specifications	Relevant Cash Market	ID of the Cash Market
AT01	Electronic Trading System of the Wiener Börse	XVIE
BE01	Electronic Trading System of the NYSE Euronext Brussels	XBRU
BR01, CA01, US01	Floor Trading of the NYSE Euronext New York	XNYS
CA02	Floor Trading of the NYSE Euronext Amex	XASE
CH01	Electronic Trading System of SIX Swiss Exchange AG	XSWX, XVTX
DE01	Electronic Trading System of the Frankfurter Wertpapierbörse	XETR
ES01, ES02	Electronic Trading System of the Bolsa de Madrid	XMAD
FI01	Electronic Trading System of the OMX Helsinki Stock Exchange	XHEL
FR01	Electronic Trading System of the NYSE Euronext Paris	XPAR
GB01, RU01	Electronic Trading System of the London Stock Exchange	XLON

Group ID of the Futures contract according to Annex A to the Eurex Contract Specifications	Relevant Cash Market	ID of the Cash Market
GR01	Electronic Trading System of the Athens Stock Exchange	XATH
IE01	Electronic Trading System of the Irish Stock Exchange	XDUB
IT01	Electronic Trading System of the Borsa Italiana	XMIL
NL01	Electronic Trading System of the NYSE Euronext Amsterdam	XAMS
NO01	Electronic Trading System of the Oslo Stock Exchange ¹	XOSL
PL01	Electronic Trading System of the Warsaw Stock Exchange ²	XWAR
PT01	Electronic Trading System of the NYSE Euronext Lissabon	XLIS
SE01	Electronic Trading System of the OMX Stockholm Stock Exchange ³	XSSE
US02	Floor Trading of the NASDAQ	XNAS

[...]

¹ The prices determined in Norwegian kronas are converted into Euros on basis of the reference price determined by the European Central Bank on a daily basis.

² The prices determined in Polish Zloty are converted into Euros on basis of the reference price determined by the European Central Bank on a daily basis.

³ The prices determined in Swedish kronas are converted into Euros on basis of the reference price determined by the European Central Bank on a daily basis.