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eurex clearing *circular 110/14*

Date: 15 August 2014
Recipients: All Clearing Members, Non Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
Authorized by: Heike Eckert

Consultation on proposed changes or amendments of Special Provisions: Set-off limitations

Contact: Member Services & Admission, T +49-69-211-1 17 00, memberservices@eurexclearing.com

Content may be most important for:

➲ All departments

Attachments:

1. Proposed changes or amendments of Special Provisions
2. Form for appointment of individuals entitled to submit comments

Summary:

This circular contains information in respect to amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) for the following topic:

- Set–off of claims within the Individual Clearing Model (ICM) under Client Clearing Documentation ("ICM-CCD")

The planned offering falls within the scope of special provisions and hence is subject to a consultation process.

The consultation will start on 18 August 2014 and end on 18 September 2014.

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Chairman of the Supervisory Board: Hugo Bänziger

Executive Board: Thomas Book (CEO), Heike Eckert, Matthias Graulich, Thomas Laux, Erik Tim Müller

Aktiengesellschaft mit Sitz in Frankfurt/Main
HRB Nr. 44828
USt-IdNr. DE194821553
Amtsgericht Frankfurt/Main

Consultation on proposed changes or amendments of Special Provisions: Set-off limitations

This circular contains information in respect of amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) for the following topic:

- Set–off of claims within the Individual Clearing Model (ICM) under Client Clearing Documentation ("ICM-CCD")

The planned offering falls within the scope of special provisions and hence is subject to a consultation process.

The consultation will start on 18 August 2014 and end on 18 September 2014.

Eurex Clearing intends pursuant to Chapter I Part 1 Number 17.3 of the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) to amend the Special Provisions. Eurex Clearing invites all Clearing Members, Non-Clearing Members and Registered Customers with this circular to submit comments on the proposed changes of Special Provisions (see amended sections in attachment 1) within one month (Consultation).

Set-off of claims within the Individual Clearing Model (ICM) under Client Clearing Documentation ("ICM-CCD")

Under the Individual Clearing Model provisions only claims in respect of Covered Transactions and corresponding margin may be set-off between CM and ICM client. Any other set-off of claims is currently prohibited.

To allow for more flexibility in defining set-off clusters between CMs and ICM Clients, Eurex Clearing will abolish the current set-off prohibition. The amendments will not change the risk profile of the Individual Clearing Model.

To reflect the adjustments described above it is planned to amend the Clearing Conditions including the following provisions:

- Chapter I Part 3 Subpart D Number 2.1.2 (7)

The Consultation on proposed changes or amendments of Special Provisions will start on 18 August 2014 and shall end on 18 September 2014.

During the consultation period, comments on proposed changes can be submitted through a web-based commenting service provided by Eurex Clearing. Any Clearing Member, Non-Clearing Member and Registered Customer intending to submit comments is kindly requested to appoint one or more individuals for the Consultation who will submit comments on their behalf via the form in attachment 2 to this circular. The form has to be signed and returned to Eurex Clearing via e-mail (SpecialProvisions@eurexclearing.com) or via fax (+49-69-211-1 84 40) in order to obtain a User ID and password together with a link for accessing the web-based commenting service.

Eurex Clearing cannot guarantee consideration of comments if they are submitted in another way than through the web-based service provided by Eurex Clearing.

Following the assessment of the comments that were received during the consultation period, Eurex Clearing will decide about the changes to the Special Provisions. The changes will be announced at least three months prior to the effective date via electronic Eurex Clearing circular and on the Eurex Clearing website (www.eurexclearing.com). There will be no further consultation on the published changes.

Attached to this circular are the proposed changes of the Special Provisions as adopted by the Executive Board of Eurex Clearing AG.

15 August 2014

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CHAPTER I IS BEING ADJUSTED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED.

DELETIONS ARE CROSSED OUT.

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Chapter I General Provisions

[…]

Part 3 Subpart D: Provisions regarding transactions between Clearing Member and ICM Client under a Client Clearing Agreement for ICM-CCD

[…]

2 Conditions for Participation

2.1 Client Clearing Agreement

[…]

2.1.2 A Client Clearing Agreement is an "**Eligible Client Clearing Agreement**" if it meets the following requirements:

[…]

~~(7) **Set-Off**: Only claims under Client Clearing Transactions or for the delivery or redelivery of Credit Support Margin and Credit Support Variation Margin arising under the Client Clearing Agreement in respect of Client Clearing Transactions may be set-off with each other by the parties to the Client Clearing Agreement. Any set-off with other claims between the parties to the Client Clearing Agreement must be prohibited, in particular, but not limited to, (i) a set-off with claims arising from, or relating to, non-cleared transactions, (ii) a set-off with claims arising from, or relating to, cleared Transactions with other central counterparties or (iii) a set-off with fees, damage claims, regress claims or indemnities of any kind. None of the foregoing shall prevent the parties to the Client Clearing Agreement (i) to agree on a set-off or netting of claims between such parties following a default by the ICM Client under the Client Clearing Agreement (however described in the Client Clearing Agreement)~~

~~or (ii) to agree on a set-off with claims which are undisputed or have been determined as legally binding.~~

(7~~8~~) **Close-out Netting**: […]

(8~~9~~) **No Security Interests over, no Assignment and set-off of Client Clearing Termination Claim**: […]

[…]

* * *

[Clearing Member,
Non-Clearing Member
or Registered Customer]
[*Address*]

Eurex Clearing AG
Mergenthalerallee 61
65760 Eschborn, Germany

SpecialProvisions@eurexclearing.com

Date: _____ 20[●]

Entitlement to the submission of comments for the purposes of a Consultation of Eurex Clearing AG on the proposed changes of its Special Provisions

Eurex Clearing AG intends to amend the "Special Provisions" within the meaning of Chapter I Part 1 Number 17.3.1 (1) of the Clearing Conditions of Eurex Clearing AG ("Clearing Conditions"). The proposed changes were published via electronic circular *[No.]* of *[dd.mm.yyyy]*.

For the purposes of the Consultation pursuant to Chapter I Part 1 Number 17.3 of the Clearing Conditions, the individuals listed in the Annex of this document ("Entitled Individuals") are hereby entitled to submit comments on behalf of the signing Clearing Member, the Non-Clearing Member or the Registered Customer (one "customer" each).

The comments are submitted through a web-based service operated by Gruppe Deutsche Börse, which requires a registration for activation of the Entitled Individuals by Eurex Clearing AG. The registration is voluntary and enables the Entitled Individuals in principle to submit comments within the scope of Consultations of Eurex Clearing AG on the proposed changes of its Special Provisions. To register the Entitled Individuals have to enter the following personal data: Name, position in the company and E-mail address in the list below. These data together with the comments submitted by the Entitled Individuals are stored digitally within Gruppe Deutsche Börse for the purpose of recording comments only. To use this web-based service, a link, username and password will be forwarded by Eurex Clearing AG to the E-mail addresses specified in the Annex. This web-based service shall be used in the course of usual business operations and only via customer's business infrastructure.

With your signature, you are giving your consent to the storage of name, e-mail address, company, position in the company and comments of the Entitled Individuals in digital form. Furthermore you are giving your consent to the personal data remaining stored digitally, such that the Entitled Individuals may submit comments on the proposed changes of Special Provisions of Eurex Clearing AG within the scope of future Consultations. The activation is then made by Eurex Clearing AG after an informal request of the Entitled Individual to the following E-mail address: SpecialProvisions@eurexclearing.com

An Entitled Individual may at any time revoke her or his consent to the storage of her or his data for future reference. The revocation must be sent to Eurex Clearing AG to the above noted address in written form. Upon revocation it will only be possible to use the web-based service for submission of comments after a re-registration. Already submitted comments of an Entitled Individual are digitally stored under her or his name within Gruppe Deutsche Börse in order to be able to evaluate and document the previously finalized Consultations.

Eurex Clearing AG reserves the right to publish the received comments in anonymised form within the scope of a summary report pursuant to Chapter I Part 1 Number 17.3.3 of the Clearing Conditions at any time and without prior notice.

The authorization to submit comments on behalf of the customer by Entitled Individuals exists exclusively within the scope of the Consultation on the proposed changes of the Special Provisions and expires at the end of the Consultation. The right to submit comments upon expiry of the respective Consultation does not persist.

Any changes of the entitlement to the submission of comments of the Entitled Individuals or changes to personal data of an Entitled Individual during an ongoing Consultation or upon expiry of a Consultation must be communicated to Eurex Clearing AG.

The submitted comments as well as the personal data provided in the Annex can be put at the disposal of other individuals and committees within Gruppe Deutsche Börse by Eurex Clearing AG only for the purposes of the Consultation process.

Eurex Clearing AG ensures that individuals and committees within Gruppe Deutsche Börse, who receive these data, are obliged to maintain confidentiality, and that these data are not forwarded to any other person outside of the Consultation process.

With your signature you confirm that you have read the information above and that you agree to the storage of your data and your comments.

Date	***Place***	***Company stamp and authorized signature of the [Clearing Member, Non-Clearing Member or Registered Customer]*** ***(name in capital letters)***

Annex – List of the Entitled Individuals

Name	Position	E-Mail Address
>> Enter Name <<	>> Enter Position <<	>> Enter E-Mail Address <<