clear to trade

eurex clearing *circular 059/11*

Date: July 26, 2011

Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG, all Trading Members of Eurex Deutschland and Eurex Zürich and Vendors

Authorized by: Thomas Book

⚠ **High Priority**

Client Asset Protection: Introduction of Individual Clearing Model (ICM)

Related Eurex Clearing Circulars: 006/11, 030/11, 038/11

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Content may be most important for:

- Ü Front Office/Trading
- Ü Middle + Backoffice
- Ü Auditing/Security
- Coordination

Attachments:

1. Additional Agent (A) Accounts (A2 - A9) for Eurex Derivatives: Information Memorandum and form *
2. New version of Chapter I of the Clearing Conditions for Eurex Clearing AG
3. Amendments of Chapter II to VIII of the Clearing Conditions for Eurex Clearing AG and appendices 1 to 3 (Clearing Agreements)
4. New attachment 4 to the Clearing Conditions for Eurex Clearing AG
5. New attachment 5 to the Clearing Conditions for Eurex Clearing AG
6. Amendment of the Price List for Eurex Clearing AG
7. Change of Conditions for Utilization of the OTC Trade Entry Facilities (General Conditions for Participation)
8. Change of the Statutes for the CDS Market Committee of Eurex Clearing AG
9. Change of the Statutes for the CDS Default Management Committee of Eurex Clearing AG
10. Setup for Individual Segregation: Information Memorandum and form *
11. Interim Participation: Information Memorandum and form *

* (only on the Eurex Clearing website):

Summary:

As already announced, Eurex Clearing AG (Eurex Clearing) will offer new, optional services for segregation of customer collateral (Client Asset Protection Service) in the markets cleared by Eurex Clearing. As a first step of the Client Asset Protection solution, Eurex Clearing will introduce the “Individual Clearing Model” (ICM).

With this circular you will receive the amendments to the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) decided by the Executive Board of Eurex Clearing AG on July 25, 2011. These are the Clearing Agreements concluded with Clearing Members, Non-Clearing Members and Registered Customers, pursuant to attachment 1 to 3 of the Clearing Conditions, as well as further documents which will become effective on **August 10, 2011**.

Upon usage of the Individual Clearing Model, Non-Clearing Members (NCMs) may obtain maximum protection of their assets (positions and margin collateral) on the level of the Central Counterparty (CCP). Also, in case of a Clearing Member default, pledged collateral and positions can beneficially be transferred immediately and without consent of an insolvency administrator.

Through the Individual Clearing Model, Eurex Clearing offers already today a service which fulfils the planned regulatory requirements, as specified in the published draft versions of the European Markets Infrastructure Regulation (EMIR).

For any questions you may have or any further information you may require, please contact the Member Services & Admission team at tel. +49-69-211-1 17 00.

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Client Asset Protection: Introduction of Individual Clearing Model (ICM)

As already announced in Eurex Clearing Circular 006/11 of February 2, 2011, Eurex Clearing will offer new, optional services for segregation of customer collateral (Client Asset Protection Service) in the markets cleared by Eurex Clearing. As a first step of the Client Asset Protection solution, Eurex Clearing will introduce the so-called "Individual Clearing Model" (ICM), a service for individual segregation, with effect from August 10, 2011.

Upon usage of the Individual Clearing Model, Non-Clearing Members (NCMs) may obtain maximum protection of their assets (positions and margin collateral) on the level of the Central Counterparty (CCP). Also, in case of a Clearing Member default, pledged collateral and positions can be transferred immediately and without consent of an insolvency administrator, whereby customers are enabled to continue their trading activities.

Thus, Eurex Clearing addresses the various needs and requirements of both customers and Clearing Members. Introduction of the Individual Clearing Model for NCMs will be followed by the introduction of an Individual Clearing Model for so-called "Registered Customers" (Clients without admission to trading) and an omnibus solution for customer positions in A accounts. Through these initiatives, Eurex Clearing makes its contribution to safety and stability of financial markets.

The Individual Clearing Model is based on the German Regulation and uses the mechanisms of close-out netting, which allow quick re-opening of positions and margin collateral without possibility of the insolvency administrator to intervene. These mechanisms also conform to English law and the relevant regulators were informed. Moreover, this model ensures further capital efficiencies within the framework of the forthcoming regulations.

Through the Individual Clearing Model, Eurex Clearing offers already today a service which fulfils the planned regulatory requirements as specified in the published draft versions of the European Markets Infrastructure Regulation (EMIR).[1]

Amendment of Clearing Conditions, Clearing Agreements and further Documents

Attached you will find the amendments to the Clearing Conditions which have been decided by the Executive Board of Eurex Clearing AG on July 25, 2011, the amendments to the Clearing Agreement decided with the Clearing Members, Non-Clearing Members and Registered Customers pursuant to attachments 1 to 3 of the Clearing Conditions, as well as adjustments of other documents, which will come into effect on August 10, 2011.

Attachment 2 to this circular is the new version of Chapter I of the Clearing Conditions. Amendments with regard to content result from the introduction of the Individual Clearing Model as well as of extended and consolidated close-out regulations.

In attachment 4 and 5, we also provide the following documents:

- **Clearing Agreement for the Individual Clearing Model**

  A Trading Member, who does not hold a clearing license, must enter into a clearing agreement with a General Clearing Member or with an affiliated Direct Clearing Member. Non-segregated NCMs must submit the Clearing Agreement for the Basic Clearing Model. NCMs who wish to be segregated must submit the NCM-Clearing Agreement for the Individual Clearing Model.

[1] Cp. Article 37 and 45 Proposal for a regulation of the European Parliament and the Council on OTC derivatives, central counterparties and transaction register (KOM(2010)0484 – C7-0265/2010 – 2010/0250(COD)) of July 5, 2011, and article 37 and 45 of EMIR in the concept of the Polish Council presidency (13917/10 EF 117 ECOFIN 543 CODEC 879) of July 18, 2011.

- **Transfer Agreement for an Interim Participant to a Clearing Member**

  If, in case of a close-out, the individually segregated NCM applies for re-opening of its positions, the NCM becomes an "Interim Participant" for a defined transition period. An Interim Participant who establishes a clearing relationship with a Clearing Member must enter into a Transfer Agreement.

Due to the new version of Chapter I of the Clearing Conditions, there are further changes in Chapters II to VIII of the Clearing Conditions, as well as in attachments 1 to 3 to the Clearing Conditions. The same applies to the Clearing Agreements concluded with the Clearing Members, Non-Clearing Members and Registered Customers pursuant to attachments 1 to 3 of the Clearing Conditions, the Price List for Eurex Clearing AG, the Conditions for Utilization of the OTC Trade Entry Facilities (General Conditions for Participation), the Statutes for the CDS Market Committee of Eurex Clearing AG and the Statutes for the CDS Default Management Committee of Eurex Clearing AG. Necessary subsequent changes mainly refer to changed wordings and references in Chapter I of the Clearing Conditions. Amendments in these documents are shown in attachment 6 and attachments 6 to 9.

According to Chapter I, number 1.10 of the Clearing Conditions, the amendments and extensions to the Clearing Conditions and to the Clearing Agreements entered into according to attachments 1 to 3, to the Price List, the Conditions for Utilization of the OTC Trade Entry Facilities (General Conditions for Participation), the Statutes for the CDS Market Committee of Eurex Clearing AG and the Statutes for the CDS Default Management Committee of Eurex Clearing AG communicated with the present circular will be deemed to be approved, unless Clearing Members, Non-Clearing Members or Registered Customers file objections in writing to Eurex Clearing AG before the end of the business day prior to the amendments' or extensions' effective date.

The right for termination of Clearing Licence pursuant to Chapter I number 2.4 (2) b) and the right to rule suspension of the Clearing Licence of Eurex Clearing AG pursuant to Chapter I, number 2.4 (3) and (4) of the Clearing Conditions will remain unchanged.

To download the Clearing Conditions including attachments from the Eurex Clearing website, please follow the path:

www.eurexclearing.com > Documents > Rules & Regulations > Clearing Conditions

For direct access to the documents click on the following link:

http://www.eurexclearing.com/documents/regulations/clearing_conditions_en.html

Application Forms and Information Memoranda for the Individual Clearing Model

In connection with the introduction of the Individual Clearing Model, the following application forms and explanatory information memoranda have been created and published for download on the Eurex Clearing website under the path:

www.eurexclearing.com > Member Section> Clearing Services > Client Asset Protection > Manuals > Forms

For direct access to the document click on the following link:

https://www.eurexchange.com/members/clearing_services/cap/manuals/forms_en.html

- **Information Memorandum "Client Asset Protection - Setup for Individual Segregation"**

  This information memorandum provides a general overview of the Client Asset Protection set-up and regulations that have to be considered. It also describes the set-up options for individually segregated NCMs, which have to be agreed between the Clearing Member and the segregated NCM and which

are documented in the Clearing Agreement. Finally, it describes the pledging and release of collateral for transactions in response to margin requirements for the transactions of an individually segregated NCM.

- **Form "Client Asset Protection – Application for Setup/Deletion/Change of Collateral Accounts for segregated NCMs"**

  By means of this form, the NCM, together with his Clearing Member, applies for individual segregation. Also the collateral accounts to be used are specified in this form.

- **Information Memorandum "Client Asset Protection – Interim Participation"**

  If an individually segregated NCM applies for re-opening of its positions in case of default of its Clearing Member, this NCM becomes a so-called "Interim Participant" for a specified interim participation period. This information memorandum describes the necessary requirements to establish an Interim Participant, the obligations of the NCM/Interim Participant arising from this and the modalities of re-opening of the positions of the Interim Participant at its new Clearing Member.

- **Form "Interim Participation: Confirmation of Conditions for Interim Participation"**

  As part of its application for re-opening of his positions, the NCM/Interim Participant must confirm vis-à-vis Eurex Clearing that all requirements for becoming an Interim Participant are fulfilled.

- **Form "Interim Participation - Application for Setup/Deletion/Change of Cash Accounts and Collateral Accounts"**

  By means of this form the NCM specifies the cash and securities accounts to be used for its role as Interim Participant.

Application Form and Information Memorandum for additional A-Accounts (A2-A9) for Eurex Derivatives

In connection with the introduction of additional agent (A) accounts the application form has been adjusted and an explanatory information memorandum has been created and published for download on the Eurex Clearing website under the path:

www.eurexclearing.com > Documents > Forms > Eurex Derivatives

For direct access to the documents click on the following link:

http://www.eurexclearing.com/documents/forms/clearing_derivatives/single/application_en.html

- **Information Memorandum "Additional A Accounts (A2-A9) for Eurex Derivatives"**

  This information memorandum provides useful details about the usage of A-accounts.

- **Form "Request for additional A-accounts (A2-A9)"**

  By means of this form the Clearing Member or NCM applies for activation of additional A accounts.

For any questions you may have or any further information you require regarding the Client Asset Protection Service, please contact the Member Services & Admission team at tel. +49-69-211-1 17 00 or fax +49-69-211-1 17 01, or visit our Eurex Clearing website under the path:

www.eurexclearing.com > Risk Management > Client Asset Protection

For direct access to the Client Asset Protection website click on the following link:
http://www.eurexclearing.com/risk/cap_en.html

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