

Chapter V of the Clearing Conditions of Eurex Clearing AG

# Transactions Concluded at the Frankfurter Wertpapierbörse

As of 01.10.2020

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[...]

## Part 2 Clearing of Transactions concluded at the Frankfurter Wertpapierbörse (FWB)

[...]

### 2.2 Failure to Deliver

#### 2.2.1 Failure to Deliver Securities

[...]

##### (1) General Provisions

###### (a) Failure to Deliver Shares

If the Shares to be delivered by the Clearing Member having the delivery obligation have not been delivered to the Settlement Location on the 4<sup>th</sup> Business Day following the delivery date at the latest until the respective End-of-Settlement time (as published by Eurex Clearing AG on its website ([www.eurexclearing.com](http://www.eurexclearing.com))) ("**Settlement Cut-Off Time**"), Eurex Clearing AG will initiate a buy-in process within the meaning of Chapter I Part 1 Number 1.4.4 (1), whereby Eurex Clearing AG attempts to acquire the relevant Securities from a third party, replace the non-delivered Shares pursuant to Paragraphs (2) (a) unless the Clearing Member having the delivery obligation holds an identical claim against Eurex Clearing AG which may be set off against the claim Eurex Clearing AG holds against such Clearing Member. Where Eurex Clearing AG initiates a buy-in process, Eurex Clearing AG may (i) directly purchase the Securities from a third party, (ii) appoint a third party buy-in agent to acquire the Securities for Eurex Clearing AG and/or (iii) conduct an auction in accordance with the Auction Terms. If Eurex Clearing AG conducts an auction in accordance with the Auction Terms, to acquire the non-delivered Shares, Paragraph (2) (a) shall apply.

###### (b) Failure to deliver Other Securities

If the Clearing Member does not deliver the Other Securities owed under a FWB Transaction on the delivery date, Eurex Clearing AG is entitled to initiate a

~~buy-in process within the meaning of Chapter I Part 1 Number 1.4.4 (1). Where Eurex Clearing AG initiates a buy-in process, Eurex Clearing AG may (i) directly purchase the Other Securities from a third party, (ii) appoint a third party buy-in agent to acquire the Other Securities for Eurex Clearing AG and/or (iii) conduct an auction in accordance with the Auction Terms. If Eurex Clearing AG conducts an auction in accordance with the Auction Terms, to acquire ~~to make a replacement purchase with respect to~~ the non-delivered Other Securities pursuant to Number 2.2.1 Paragraph (2) (a) shall apply and. ~~If the Securities consist of subscription rights that are certificated or held in collective safe custody, then the procedure pursuant to Number 2.2.2 applies.~~~~

~~The replacement purchase~~ the buy-in can be made on the 5<sup>th</sup>, 10<sup>th</sup> and 27<sup>th</sup> Business Day following the delivery date until the respective Settlement Cut-Off Time, provided that (i) the Clearing Member having the delivery obligation does not hold an identical claim against Eurex Clearing AG which may be set off against the claim Eurex Clearing AG holds against such Clearing Member and that (ii) the owed Other Securities have not been completely delivered. If a buy-in attempt fails, the defaulting Clearing Member must be given time for delivery until the next replacement purchase or the cash settlement.

If the required Other Securities cannot be acquired wholly or partially by way of ~~replacement purchases~~ a buy-in, Eurex Clearing AG is entitled to perform a cash settlement pursuant to Number 2.2.1 Paragraph (3).

~~If the relevant replacement purchase fails, the defaulting Clearing Member must be given time for delivery until the next replacement purchase or the cash settlement.~~

If the Securities consist of subscription rights that are certificated or held in collective safe custody, then the procedure pursuant to Number 2.2.2 applies.

[...]

(2) Buy-in by auction, costs of buy-in ~~Replacement by Auction~~

(a) Buy-in according to Auction Terms ~~General Provisions~~

If Eurex Clearing AG conducts an auction in accordance with the Auction Terms, to acquire the non-delivered Other Securities, ~~t~~ The replacement of the Securities will be performed by means of an auction. Eurex Clearing AG will publish for each class of Securities a maximum price for the respective auction up to which Eurex Clearing AG is ready to accept bids. The maximum price for this auction results from the settlement price determined by Eurex Clearing AG for the class of Securities in question plus a premium as determined in Number 5 of the Auction Terms of Eurex Clearing AG. Any company other than the defaulting Clearing Member ("**Seller**") which previously concluded a

corresponding contract with Eurex Clearing AG may participate in such auctions.

[...]

(b) Costs of the Auction

Eurex Clearing AG charges the defaulting Clearing Member with a fee for each ~~auction~~ buy-in carried out for the replacement in relation to a class of Securities in an amount of (i) 0.1 per cent of the value of the fixed income Securities to be delivered under the relevant FWB Transaction, or (ii) in the case of Securities other than fixed income Securities, 10 per cent of the value of the Securities to be delivered under the relevant FWB Transaction, however at least EUR 250 and (subject to the below) at maximum EUR 5,000. When converting fees into the invoice currency, Eurex Clearing AG will use a commercially reasonable exchange rate applicable at the relevant point in time. Where Eurex Clearing AG appoints a third party buy-in agent to acquire the Securities for Eurex Clearing AG, the Clearing Member having failed to deliver the relevant Securities to Eurex Clearing AG on the applicable delivery date, shall reimburse Eurex Clearing AG for the costs charged by the buy-in agent in relation to the buy-in process. Such obligation is in addition to the charges by Eurex Clearing AG as specified above, provided that in this case, these charges shall be subject to a maximum amount of EUR 3,000, (or in case charges are calculated in CHF, USD or GBP, an amount of CHF 4,200, USD 4,200 or GBP 2,700, respectively).

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