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e u r e x c l e a r i n g *circular 059/13*

Date: 22 May 2013
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
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CCP Release 8.2: CCP service for Securities Lending: Introduction of processing solution for voluntary corporate actions; introduction of ESES markets as settlement locations

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Content may be most important for:

Ü All departments

Attachments:

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

Summary:

This circular describes the changes to Chapter IX of the Clearing Conditions for Eurex Clearing AG relating to the CCP service for Securities Lending that were decided by the Executive Board of Eurex Clearing on 22 May 2013 and will become effective on **7 June 2013**.

The changes will introduce a processing solution for voluntary corporate actions that occur in respect of Loaned Securities during the term of the relevant Securities Lending Transaction. In addition and effective the same date, the ESES markets (France, Belgium and Netherlands) will be introduced as settlement locations for eligible loan securities.

CCP Release 8.2: CCP service for Securities Lending: Introduction of processing solution for voluntary corporate actions; introduction of ESES markets as settlement locations

This circular includes the changes to Chapter IX of the Clearing Conditions for Eurex Clearing AG (Clearing Conditions) relating to the CCP service for Securities Lending that were decided by the Executive Board of Eurex Clearing on 22 May 2013 and will become effective on 7 June 2013.

The changes will introduce a processing solution for voluntary corporate actions that occur in respect of Loaned Securities during the term of the relevant Securities Lending Transaction. In addition, the ESES markets (France, Belgium and Netherlands) will be introduced as settlement locations for eligible loan securities.

Introduction of processing solution for voluntary corporate actions

The provisions in Chapter IX of the Clearing Conditions relating to "Voluntary Reorganisations" in respect of Loaned Securities under Securities Lending Transactions will be amended to provide for the following processing solution:

- Lenders and Borrowers may arrange bilaterally for all types of voluntary corporate actions, including the sale or execution of rights, while keeping the loan within the CCP.
- The redelivery obligations will be amended accordingly without closing the loan, thus remaining secured by the CCP.
- Any cash compensation payments are to be agreed and executed on a bilateral basis between the Lender and the Borrower.

Introduction of ESES markets as settlement locations

Eurex Clearing extends its CCP service for Securities Lending to include loans on blue chip equities in French, Dutch and Belgian markets. Settlement of these loan securities will take place in one of the following Central Securities Depositories (CSD) as home market:

- Euroclear France
- Euroclear Nederland
- Euroclear Belgium

Please find attached the updated sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing. The complete Clearing Conditions with the changes communicated in the present circular will be available as of the effective date on the Eurex Clearing website www.eurexclearing.com under the link:

Resources > Rules and Regulations > Clearing Conditions

According to Chapter I, Part 1, Number 17.2.2 of the Clearing Conditions, the amendments to the Clearing Conditions communicated in the present circular are deemed to have been approved by each Clearing Member, Non-Clearing Member and Registered Customer unless they object in writing to Eurex Clearing AG before the end of the business day prior to the actual effective date of such amendments. The right to terminate the Clearing Agreement and the Clearing License in accordance with Chapter I Part 1 Number 2.1.4 Paragraph 1 of the Clearing Conditions remains unaffected thereof.

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

22 May 2013

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[…]

Chapter IX
Clearing of Securities Lending Transactions

[...]

Part 2
Terms and Conditions of Securities Lending Transactions

[...]

2.2 Delivery and Return of Loaned Securities

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2.2.2 Return of Equivalent Loaned Securities

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(8) The "**Maturity Date**" of the relevant Securities Lending Transaction (i), in the case of an Open Term Loan, is the earlier of (a) the date specified in a Return or Recall request (if any, and which has not been withdrawn or cancelled) by the Lender or Borrower whichever date first becomes effective (or, if a Return or Recall request specify the same date, such date), or (b) the date fixed as final maturity of the Securities Lending Transaction in the Loan Information or (ii), in the case of a Fixed Term Loan, the date specified in the Loan Information, subject to an amendment of such date in accordance with Number 1.2.2 Paragraph (3), if any.

In the case of a Return request by the Borrower Clearing Member to Eurex Clearing AG, the date specified as "Maturity Date" may not be a date which falls after the second anniversary of the date on which the Return request has been received by Eurex Clearing AG or after the date pursuant to item (i)(b) of the definition of Maturity Date. Moreover, the Maturity Day shall not fall prior to the last day of the standard settlement period of the relevant cash market for the settlement of the Equivalent Loaned Securities applicable to the date of receipt of such Return request, as determined by Eurex Clearing AG, unless the Return request has been mutually agreed by the Borrower and the Lender.

In the case of a Recall request by the Lender Clearing Member to Eurex Clearing AG, the date specified as "Maturity Date" shall be a date which falls (i) not prior to the last

day of the standard settlement period of the relevant cash markets for the settlement of the Equivalent Loaned Securities applicable to the date of receipt of such Recall request, as determined by Eurex Clearing AG, and (ii) not after the ~~15th~~ 31st Business Day after the date on which the Recall has been received by Eurex Clearing AG or after the date pursuant to item (i)(b) of the definition of Maturity Date. Moreover, the Maturity Day shall not fall prior to the last day of the standard settlement period of the relevant cash market for the settlement of the Equivalent Loaned Securities applicable to the date of receipt of such Recall request, as determined by Eurex Clearing AG, unless the Recall request has been mutually agreed by the Borrower and the Lender.

In the case of Securities Lending Transactions in which fixed income securities are to be delivered as Equivalent Loaned Securities, the day determined as the Maturity Date must be no later than the twelfth Business Day ~~preceding~~preceding the maturity of the fixed income securities.

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2.4 Corporate Actions

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2.4.1 Distributions

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(2) Distribution in the form of Securities

A Distribution in the form of Securities ("Securities Distribution") shall be delivered as follows:

[…]

(d) Specific provisions in case of a Securities Distribution in the form of subscription rights

The following additional provisions apply to new Securities Lending Transactions established in the case of a Securities Distribution in the form of subscription rights pursuant to Paragraph (b) above:

Notwithstanding the rights of the Borrower or the Lender to issue a Recall or Return request, as the case may be, in accordance with Number 2.2.2 the Securities Lending Transaction regarding the Securities Distribution in form of subscription rights shall be redeemed by way of cash settlement on the Business Day following the end of the subscription period applicable to the

subscription rights and the Borrower shall be obliged to pay a respective cash amount.

The amount of such cash payment by the Borrower shall be determined by Eurex Clearing AG in the currency of the Underlying Securities on the basis of the last settlement price of the subscription rights prior to the final Maturity Date (the "**Rights Cash Settlement Price**") or, if no such Rights Cash Settlement Price is available, such other amount as determined by Eurex Clearing AG in its reasonable discretion and notified by Eurex Clearing AG to the Clearing Members.

Eurex Clearing AG is neither obliged to support the sale nor the execution of any subscription rights underlying the new Securities Lending Transaction. Any rights deriving from such subscription rights are to be exercised in accordance with Number 2.4.2 Paragraph (2).

2.4.2 Other Corporate Actions

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(1) Mandatory Reorganisations

[...]

(2) Voluntary Reorganisations

"**Voluntary Reorganisations**" are certain corporate actions that are in respect of the concerned owner of the relevant Underlying Securities not mandatory but require a decision/election of the owner of the Underlying Securities to participate in the corporate action (including exchange offers, repurchase offers, optional parts of rights, tender, acquisition, takeover or purchase offers and the execution of subscription rights pursuant to Number 2.4.1 Paragraph (2)(d)).

~~Voluntary Reorganisations will not be processed by Eurex Clearing AG and Eurex Clearing AG shall not be obliged to forward information on any voluntary reorganisations to the Clearing Members.~~

If the Lender Clearing Member wishes ~~the execution of~~ to ~~and to~~ receive ~~any rights or other~~ Ddistributions or to execute any other rights with regard to Voluntary Reorganisations, it may proceed in accordance with the following provisions if provided for by the rules of the relevant Third-Party Flow Provider:

(a) The Lender Clearing Member may ~~either (i) may~~ recall the Equivalent Loaned Securities in accordance with Number 2.2.2 Paragraph (3) et seq. and/or ~~, or (ii) may~~ enter into a bilateral agreement with the Borrower Clearing Member

which provides for the rights and obligations in connection with the bilateral processing of Voluntary Reorganisations between the Lender Clearing Member and the Borrower Clearing Member.

(b) In the case of a Voluntary Reorganisation offering an exchange of the Underlying Securities against other securities, the Lender Clearing Member may agree with the Borrower Clearing Member to amend the terms of the related Securities Lending Transaction as follows:

(i) The Lender Clearing Member may instruct the Borrower Clearing Member (and shall give notice of such instruction to Eurex Clearing AG) to transmit a new securities lending transaction in respect of the securities resulting from the exercise of the right under the Voluntary Reorganisation as a Settled Original Securities Lending Transaction for novation to Eurex Clearing AG in accordance with Number 1.2.1 Paragraphs (2) and (3). In the case of a right which may be exercised in more than one manner, the Lender Clearing Member shall specify in the instruction how the right shall be exercised. The instruction must be made (and notice thereof must be received by Eurex Clearing AG) at the latest by the Buyer Protection Deadline (as defined below). Eurex Clearing AG may reject the Settled Original Securities Lending Transaction for inclusion in the Clearing due to the non-eligibility of the respective Underlying Securities for Clearing.

"**Buyer Protection Deadline**" means the latest point in time by which a buyer protection instruction can be given and shall be defined as the Guaranteed Participation Date (as defined below) plus the standard settlement period of the relevant cash market for the settlement of the Underlying Securities.

"**Guaranteed Participation Date**" means the last Business Day on which the Underlying Securities with the right attached to participate in the Voluntary Reorganisation can be acquired.

(ii) Upon novation of the Settled Original Securities Lending Transaction and receipt of the required Principal Collateral from the Borrower Clearing Member by Eurex Clearing AG in accordance with Number 1.2.1 Paragraph (2) and Number 2.3.4, the Lender Clearing Member is required to issue a Recall in respect of the related Securities Lending Transaction. Eurex Clearing AG will process such Recall in accordance with Number 2.2.2 Paragraph (3) et seq. (except Paragraphs (6), (7) and (8) sub-paragraphs 3 and 4), provided that no redelivery of the Equivalent Loaned Securities shall take place.

(iii) The Borrower Clearing Member is obliged to comply with the instructions of the Lender Clearing Member pursuant to this

Paragraph (b). Any compensation of financial resources that are required to exercise the right in connection with the Voluntary Reorganisation (if any) shall be agreed and executed on a bilateral basis between the Lender Clearing Member and the Borrower Clearing Member according to information provided by the issuer.

(c) In the case of a Voluntary Reorganisation offering an exchange of the Underlying Securities against cash, the Lender Clearing Member may instruct the Borrower Clearing Member (and shall give notice of such instruction to Eurex Clearing AG) to agree on a Recall in respect of the related Securities Lending Transaction without redelivery of the Equivalent Loaned Securities against payment of a cash compensation. Any such cash compensation payment shall be agreed and executed on a bilateral basis between the Lender Clearing Member and the Borrower Clearing Member. The instruction must be made (and notice thereof must be received by Eurex Clearing AG) at the latest by the Buyer Protection Deadline. Any such instruction shall be binding on the Borrower Clearing Member.

(d) Paragraphs (b) and (c) shall apply *mutatis mutandis* to a Voluntary Reorganisation that provides for the right to exchange the Underlying Securities against a combination of other securities, cash or other assets (and vice versa).

Eurex Clearing AG shall not be obliged to forward information on any Voluntary Reorganisations to the Clearing Members and assumes no responsibility to execute any decisions or elections with regard to Voluntary Reorganisations.

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2.6 Failure to Deliver

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2.6.4 Failure to Deliver by the Borrower on the Maturity Date

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(8) In the event a Buy-In pursuant to Paragraph (6) is not successful or only partially successful on the Buy-In Date or the Purchase Securities have not been delivered to Eurex Clearing AG by 10:00 a.m. (Frankfurt am Main time) on the Business Day after the Buy-In Date, a cash settlement shall take place on the Business Day following the Buy-In Date with respect to the Non-Performed Transaction.

Eurex Clearing AG will inform the involved Clearing Members about the cash settlement pursuant to this Paragraph (8).

The cash amount to be paid by the Borrower vis-à-vis the Lender shall be denominated in the currency of the Underlying Security and be determined by Eurex Clearing AG as follows:

§ in case ~~of~~ the Underlying Securities are equity securities, ~~T~~the Settlement Price of the Underlying Securities determined by Eurex Clearing AG multiplied by 2 and multiplied by the number of Equivalent Loaned Securities~~.~~; and

~~in case of the~~ in case ~~of~~ the Underlying Securities are fixed income securities, the Settlement Price of the Underlying Securities as determined by Eurex Clearing AG, plus 300 bp and with such sum to be multiplied by the number of Loaned Securities.

Number 2.2.2 Paragraph (1) and Number 2.3.3 Paragraph (1) apply *mutatis mutandis*.

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Chapter IX
Clearing of Securities Lending Transactions

Part 1
General Provisions

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1.1 Clearing License

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1.1.2 Prerequisites of Clearing Licenses

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(2) The applicant shall provide evidence for the compliance with the following requirements (as applicable to the respective content of the Clearing License):

(a) settlement accounts for equities and Exchange Traded Funds with

- Clearstream Banking AG ("**CBF**"), including a CBF(I) account, and/or
- SIX SIS Ltd., Zürich ("**SIX SIS**") and/or
- Euroclear France SA, (Euroclear France) and/or
- Caisse Interprofessionnelle de Dépôts et de Virements de Titres SA / Interprofessionnelle Effectendepositen Girokas NV (C.I.K.) (Euroclear Belgium) and/or
- Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V. (NECIGEF) (Euroclear Nederland);

and/or settlement accounts for fixed income securities with

- CBF as a CBF(I) account, or
- Clearstream Banking S.A., or
- Euroclear Bank SA/NV;

[...]

[...]