X-pand into the Future

eurex circular 054/08

Date: Frankfurt, March 12, 2008
Recipients: All Clearing Members of Eurex Clearing AG and Vendors
Authorized by: Thomas Lenz

CCP: Buy-in Procedure for the Irish Stock Exchange

Related Eurex Circulars: 230/05

Contact: CCP Functional Helpdesk, tel. +49-(0) 69-2 11-1 19 40

Content may be most important for:

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

Attachment:
Updated sections of the Clearing Conditions for Eurex Clearing AG

Summary:

Due to a modification to the Irish tax law in conjunction with stamp duty, Eurex Clearing AG's buy-in procedure for transactions at the Irish Stock Exchange will be changed effective **March 26, 2008**.

This circular contains a short description of the new procedure and the respective adjustments of the Clearing Conditions for Eurex Clearing AG.

Eurex Clearing AG
Neue Börsenstraße 1
60487 Frankfurt/Main
Mailing address:
60485 Frankfurt/Main
Germany

T +49-69-211-1 17 00
F +49-69-211-1 17 01
customer.support@
eurexchange.com
Internet:
www.eurexchange.com

Chairman of the Supervisory Board:
Prof. Dr. Peter Gomez

Executive Board:
Andreas Preuß (CEO),
Jürg Spillmann, Thomas Book,
Thomas Lenz, Michael Peters,
Peter Reitz

Aktiengesellschaft mit
Sitz in Frankfurt/Main
HRB Nr. 44828
Amtsgericht
Frankfurt/Main

CCP: Buy-in Procedure for the Irish Stock Exchange

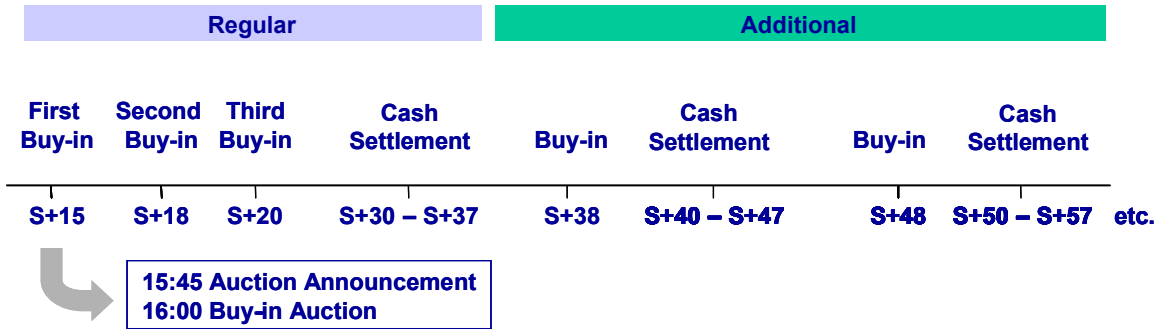
The current buy-in process for late trades at the Irish Stock Exchange (ISE) allows for three buy-in attempts on S+15, S+18 and S+20, and cash settlement on S+21.

Cash settlement on S+21 was introduced, since Irish stamp duty was charged for all pending trades on T+25, even if, for example, the trade would not have been subject to stamp duty taxation due to cash settlement. In order to improve the process in this respect, Eurex Clearing AG has finalized the buy-in process for trades at the Irish Stock Exchange before T+25.

Since Irish Stamp Duty Law was modified effective October 1, 2007, it is no longer necessary to finalize the buy-in process before T+25, so that the buy-in process can be adjusted. In the future, stamp duty will only be charged if the trade is regulated. This is true, no matter if regulation takes place on the contractual date or belatedly.

Effective March 26, 2008, the buy-in procedure of Eurex Clearing AG for late trades at the Irish Stock Exchange will be carried out as follows:

- The regular buy-in schedule will remain unchanged
- An additional buy-in schedule, identical with the current schedule for trades at the Frankfurt Stock Exchange (FSE), will be added.



- For cash settlement, the current FSE rule will apply, i.e., there will be cash settlement only if a buy trade is found that is at least 30 days late.
- If delivery of securities is still completely or partially open, Eurex Clearing AG will repeat its buy-in attempt every 10 days.

Frankfurt, March 12, 2008

[....]

Chapter VI
Transactions Concluded at the Irish Stock Exchange

[....]

Part 2
Clearing of transactions concluded at the Irish Stock Exchange (ISE)

2.1 Settlement of ISE transactions

[....]

2.1.5 Delay

(1) If the Clearing Member obligated to deliver is in default in assignment of the owed securities or part thereof ~~and does not deliver the shares owed as a result of an ISE-transaction pursuant to Chapter VI Number 1 owed on the delivery day in line with the instructions of Eurex Clearing AG,~~ Eurex Clearing AG shall have the rights ~~to adopt the following measures~~pursuant to Paragraph 1 to 7:

a) ~~If the securities resulting from an ISE transaction to be delivered by the Clearing Member obligated to deliver are not delivered to the securities account of Eurex Clearing AG at CREST on the fifteenth business day at the latest after the delivery date (the "unperformed ISE transaction"), Eurex Clearing AG shall replace the undelivered securities~~Eurex Clearing AG shall be authorized, for account of the Clearing Member, to carry out a replacement purchase with securities of the same class on the 15th, 18th, 20th and 38th business day after the default and in further periods of respectively ten business days.

~~b)~~ The replacement purchase shall be carried out by means of an auction whose place and implementation may be determined by Eurex Clearing AG under consideration of the interests of the Clearing Member ~~pursuant to Item c. If the requisite securities cannot be bought in such auction, or only in part, the Clearing Member in default shall receive a further 3 business days in which to deliver. If the securities to be delivered are not delivered to Eurex Clearing AG on the eighteenth business day at the latest after the delivery date, Eurex Clearing AG shall again attempt to replace the undelivered securities via an auction pursuant to Item c. If the securities may not or only in part be purchased by this auction, the defaulting Clearing Member is granted two more days for delivery. If the securities to be delivered are not delivered to Eurex Clearing AG on the twentieth business day following the delivery date at the latest, Eurex Clearing AG shall again try to replace the securities which have not been delivered by means of an auction pursuant to Item c.~~

~~c) The following shall apply to the replacement purchase by way of auction:~~

For each auction, Eurex Clearing AG shall publish a maximum price for each class of securities, which shall constitute the ceiling for bids. The maximum price for such auction shall be the settlement price determined by Eurex Clearing AG for the corresponding class of securities plus an additional charge of 100% of such settlement price.

Any company ("Vendor") who has concluded a contract with Eurex Clearing AG beforehand may take part in the auctions.

~~d~~b) ~~If the required securities cannot be purchased by auction in whole or only in part pursuant to Item b Clause 6, Eurex Clearing AG can, as regards the securities owed of the unperformed ISE transaction, determine a cash settlement on the 20th business day after the delivery date, so that the performance obligations of the defaulting Clearing Member vis-à-vis Eurex Clearing AG arising from this unperformed ISE transaction with discharging effect expire with effect as of the 21st business day after the delivery day. Instead, the Clearing Member in default shall be obliged to pay cash settlement to Eurex Clearing AG.~~

~~The same applies to securities of the same category from transactions of Eurex Clearing AG vis-à-vis the defaulting Clearing Member or several other Clearing Members; this applies to the extent corresponding to the number of securities owed from the unperformed ISE transaction which have not been delivered to Eurex Clearing AG by the defaulting Clearing Member. In this case, both the defaulting Clearing Member and the Clearing Member(s) named in Clause 3 are obligated to cancel the instructions underlying the respective delivery and subscription obligations in the system of CREST. Chapter VI Number 2.1.5 Paragraph 8 does not apply.~~

The level of the cash settlement ~~payable by the defaulting Clearing Member to Eurex Clearing AG~~ shall be determined by a comparison between the settlement price as defined by Eurex Clearing AG for the corresponding class of securities plus an additional charge of 100% and the highest selling price as well as the highest purchase price of the relevant ISE transactions. The highest price determined in this way shall be multiplied with the respective number of the owed securities ~~owed of the unperformed ISE transactions which have not been delivered in due time~~. The resultant sum shall be settled against the respective final amounts of the relevant ISE transactions ~~and shall result in the amount payable to Eurex Clearing AG by the defaulting Clearing Member through cash settlement~~. The determination of a cash settlement shall be carried out by declaration vis-à-vis the Clearing Member.

Eurex Clearing AG shall pay out this amount to one or the other Clearing Member(s) who have made ISE transactions with Eurex Clearing AG according to Clause 3.

~~e~~c) An implementation of a cash settlement pursuant to Item d requires that three repurchase attempts through one auction respectively have been made pursuant to Item c in the respective type of securities by Eurex Clearing AG.

If the auction does not result in a replacement of Eurex Clearing AG, the latter shall be authorized, between the 30th and the 37th, the 40th and the 47th and the 50th and the 57th business day after the default and in further respective periods, to determine that the obligation pursuant to Paragraph 1 Clause 1 shall – as novation – be replaced by an obligation to payment of a replacement claim to Eurex Clearing AG (cash settlement). Item b Clause 1 shall apply accordingly if Eurex Clearing AG abstains from a replacement purchase for due reason, in particular in case of a claim of the Clearing Member on assignment of securities of the same class.

d) All Clearing Members concerned by a cash settlement shall be obligated to delete the instructions corresponding to the respective assignment and receipt obligations in the electronic system of CREST. Chapter VI Number 2.1.5 Paragraph 8 does not apply.

e~~f~~) ~~In case of a corporate action of the issuer, Eurex Clearing AG reserves the right to bring forward the date of a replacement purchase attempt in a certain securities class.~~Eurex Clearing AG shall at any time be authorized to postpone an auction by one or more business days, in particular in case of a corporate action concerning the owed securities.

(2) If the Clearing Member obligated to deliver is in default and does not deliver in due time the rights (e.g. subscription rights) owed as a result of an ISE-transaction (e.g. subscription rights) pursuant to Chapter VI Number 1 owed on the delivery day in line with the instructions of Eurex Clearing AG (the "unperformed ISE transaction"), Eurex Clearing AG will carry out the follwing measures on the last day of the subscription period of the respective right in the system of CREST:

a) Determination of a cash settlement (Cash Settlement) regarding the rights which have not been delivered in due time by the defaulting Clearing Members with the legal result that the fulfilment obligation of the defaulting Clearing Member and Eurex Clearing AG from this transaction expires with discharging effect. Instead, the defaulting Clearing Member is obligated to pay a cash settlement determined by Eurex Clearing AG to Eurex Clearing AG.

The same applies with regard to similar rights owed by Eurex Clearing AG vis-à-vis the defaulting Clearing Member or vis-à-vis one or more other Clearing Members to the extent corresponding to the number of securities owed from the unperformed ISE transaction which have not been delivered to Eurex Clearing AG by the defaulting Clearing Member. In this case, both the defaulting Clearing Member and the Clearing Member(s) named in Clause 3 are obligated to cancel the instructions underlying the respective delivery and subscription obligations in the system of CREST. Chapter VI Number 2.1.5 Paragraph 8 does not apply.

b) The amount of the cash compensation to be paid by the defaulting Clearing Member to Eurex Clearing AG shall be determined by comparison between the calculational value of the right to be delivered at the point in time of the cash settlement plus an additional charge in the amount of 100 % and the highest sale price and purchase price in the relevant ISE transactions or deliveries.

The price calculated in in this way is multiplied with the respective lot size of the Rights which have not been delivered in due time to Eurex Clearing AG; the resulting sum adds up to the amount to be paid by the defaulting Clearing Member in the course of the cash compensation.

Upon receipt, Eurex Clearing AG will distribute this amount to one or the Clearing Member(s) who have entered into ISE transactions with Eurex Clearing AG pursuant to Item a Clause 3.

(3) Eurex Clearing AG may at the earliest on the first business day after the delivery day at its own dutiful discretion or pursuant to Paragraph 1 carry out a cash settlement for securities which have not been delivered in due time and, at its own dutiful discretion or pursuant to Paragraph 2, for rights which have not been delivered in due time, if, in its judgement, the securities deposited at Eurex Clearing AG by the Clearing Member obligated to deliver for its transactions do not suffice for the collateralisation of such transactions or if, due to other severe reasons, it regards necessary a replacement with the securities which have not been delivered respectively with the rights not having been delivered and being connected with or resulting from these or other securities.

(4) Measures set forth in Paragraph 1, 2 and 3 shall be binding on and accepted by the Clearing Member which did not receive delivery in a timely manner.

Where Eurex Clearing AG has commenced a replacement purchase of the owed securities pursuant to Paragraph 1 or 3 by means of an auction, the Clearing member obligated to deliver shall not be authorised to deliver the securities it owes to Eurex Clearing AG on the day of the auction. If the securities to be delivered have been replaced at an auction, the delivery obligations of the Clearing Member in default deriving from the original ISE-transaction shall expire with discharging effect.

To the extent Eurex Clearing AG has made a cash settlement of Rights which have not been delivered in due time by the defaulting Clearing Member pursuant to Paragraph 2 or (3), the Clearing Member obligated to deliver is not entitled to deliver the owed Rights to Eurex Clearing AG as of the day on which the cash settlement was carried out. In such case, the defaulting Clearing Member is also obligated to delete the delivery instructions underlying the unperformed ISE transaction in the electronic system of CREST.

(5) Eurex Clearing AG may deviate from the deadlines defined in Paragraph 1 and 2 if adherence to those deadlines would lead to the measures described in Paragraph 1 or 2 not replacing the securities or rights in question, or replacing them only with a disproportionate expense of time or money, or if other deadlines or obligations resulting from the securities or rights would justify such deviation.

(6) The defaulting Clearing Member shall bear the costs arising from measures within the meaning of Paragraph 1, 2 and 3. Eurex Clearing AG shall levy upon each defaulting Clearing Member a fee of EUR 250.00 for each auction held pursuant to Paragraph 1 in one security class.

(7) Furthermore, Chapter I Number 7.1 respectively 7.2 shall apply for delay or technical delay.

2.1.6 Corporate Actions

[....]