

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

As of 30.12.2020

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

[...]

## **Part 1 General Clearing Provisions**

[...]

### **7 Termination Rules with respect to the Clearing Member**

[...]

[...]

#### **7.5 Default Management Process**

[...]

##### **7.5.3 Establishment of Transactions by way of independent trades or by conducting DM Auctions**

(1) At any time after the Termination Time, the Basic Clearing Member Termination Time or the FCM Clearing Member Termination Time, Eurex Clearing AG may in its discretion, take the following measures:

(i) Enter into independent trades to

(ai) \_establish new Transactions or new FCM Clearing Member Transactions equivalent (except, as relevant, for the governing law) to Terminated Transactions or Terminated FCM Clearing Member Transactions and/or new Transactions or new FCM Clearing Member Transactions reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions, and

~~(iib)~~ buy or sell Securities underlying the Terminated Transactions or Terminated FCM Clearing Member Transactions and which are required to enter into new Transactions or FCM Clearing Member Transactions, as deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s)

(i) and (ii) collectively the “Independent Trade Transactions” and each an “Independent Trade Transaction”.

- (ii) If it is deemed appropriate by Eurex Clearing AG in consultation with the relevant DMC(s), Eurex Clearing AG may conduct one or more auctions with respect to one or several Liquidation Groups (in whole or in part the “**DM Auctions**” or each a “**DM Auction**”) to establish
- (i) new Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent to Terminated Transactions or equivalent (except for the governing law) to Terminated FCM Clearing Member Transactions and/or reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions or
- (ii) new FCM Clearing Member Transactions specified by Eurex Clearing AG which are – taken as a whole – equivalent (except for the governing law) to Terminated Transactions or equivalent to Terminated FCM Clearing Member Transactions and/or reciprocal (except, as relevant, for the governing law) to DM Hedging Transactions
- ((i) and (ii) collectively the “**DM Auction Transactions**” and each a “**DM Auction Transaction**”).

[...]

[...]

#### **7.5.4 Cash Settlement of DMP Cash Settlement Transactions; Establishment of DM OTC Hedging Transactions and Additional OTC Transactions; Cash Settlement of a Liquidation Group Transactions**

##### **7.5.4.1 Cash settlement with respect to DMP Cash Settlement Transactions**

(1) In case of any Remaining Transactions, Eurex Clearing AG shall be entitled to terminate and settle in cash DMP Cash Settlement Transactions (in whole or in part) established between Eurex Clearing AG and a Clearing Member or Basic Clearing Member pursuant to the requirements set out below and up to a number and size which is sufficient to cover all Remaining Transactions.

“Remaining Transactions” means any Terminated Transaction, Terminated FCM Clearing Member Transaction and DM Hedging Transaction, which could not be covered by an Independent Trade Transaction or DM Auction Transaction pursuant to the procedures under Number 7.5.3 above.

**“DMP Cash Settlement Transactions”** means the following Transactions:

- (i) a Transaction with terms identical to a Terminated Transaction or a Terminated FCM Clearing Member Transaction except that the relevant Clearing Member or Basic Clearing Member has the opposite position than the Affected Clearing Member, the Affected Basic Clearing Member or Affected FCM Clearing Member had under the Terminated Transaction or Terminated FCM Clearing Member Transaction, or
- (ii) a Transaction with terms identical to a DM Hedging Transaction.

Eurex Clearing AG shall inform the Clearing Member or Basic Clearing Member about the cash settlement without undue delay by submitting a written notice (“Cash Settlement Notice”) specifying (i) each DMP Cash Settlement Transaction which shall be terminated and cash settled, (ii) the date and time as of which the termination and cash settlement shall become effective (such date being the “Cash Settlement Date” and such time being the “Cash Settlement Time”) and (iii) the Cash Settlement Price for each Opposite Cash Settlement Transaction.

- (2) The required number and size of DMP Cash Settlement Transactions to be terminated shall be shared on a pro-rata basis between all Clearing Members, Basic Clearing Members and FCM Clearing Members (in accordance with the FCM Regulations).

The pro-rata share shall be based on the open interest of the Clearing Member or Basic Clearing Member in the Transaction corresponding to the relevant DMP Cash Settlement Transaction (irrespective of whether the relevant Transaction is entered into as Own Transaction or Client-Related Transaction).

The pro-rata share of DMP Cash Settlement Transactions determined for the relevant Clearing Member or Basic Clearing Member shall be allocated to the relevant Clearing Member Own Account, Basic Clearing Member Own Account or Client Transaction Account on which the relevant DMP Cash Settlement Transaction(s) is booked. For the avoidance of doubt, such allocation to the relevant Transaction Account shall also occur on a pro-rata basis based on the open interest of relevant Clearing Member or Basic Clearing Member in the Transaction corresponding the relevant DMP Cash Settlement Transactions booked on such Transaction Account.

Eurex Clearing AG shall use best efforts to find a fair and proportionate (*verhältnismäßig*) distribution of the pro-rata share between the relevant Clearing Members, Basic Clearing Members and FCM Clearing Members.

- (3) As of the Cash Settlement Time, Eurex Clearing AG and the relevant Clearing Member or Basic Clearing Member shall be released from their obligations to each other under the relevant DMP Cash Settlement Transaction (provided that any outstanding obligations relating to payments and deliveries that have become due, but have not been paid or delivered on or before the Cash Settlement Time shall continue to exist).

(4) Eurex Clearing AG shall determine a cash settlement price in the relevant product currency with respect to each DMP Cash Settlement Transaction terminated pursuant to Paragraph (1) (“Cash Settlement Price”) which shall become due and payable by Eurex Clearing AG or the Clearing Member or Basic Clearing Member as of the end of the Cash Settlement Date.

The Cash Settlement Price shall be determined on the basis of one of the following prices in the following order:

- (i) in case a DM Auction was partially successfully with respect to a Terminated Transaction, Terminated FCM Clearing Member Transaction or DM Hedging Transaction relating to the relevant DMP Cash Settlement Transaction, the best price Eurex Clearing AG accepted in the relevant DM Auction for such Transaction,
- (ii) the last available settlement price for the relevant DMP Cash Settlement Transaction as determined by Eurex Clearing AG in accordance with the applicable provisions under the Special Conditions,
- (iii) the last available market or exchange price for the relevant DMP Cash Settlement Transaction, or
- (iv) the price determined by Eurex Clearing AG based on a model for the valuation of the market or exchange value of the relevant DMP Cash Settlement Transaction (which considers market risks and market prospects, *inter alia*, considering asset classes, volatility and liquidity).

#### **7.5.4.2 Special provisions for Remaining OTC Transactions**

In case of Remaining OTC Transactions, Eurex Clearing AG shall be entitled to either apply the measures under Number 7.5.4.1 or (i) establish DM OTC Hedging Transactions pursuant to Paragraph (1), (ii) conduct additional DM OTC Auctions with respect to the Remaining OTC Transactions and the DM OTC Hedging Transactions pursuant to Paragraph (2), or (iii) establish Additional OTC Transactions pursuant to Paragraph (3).

“Remaining OTC Transactions” means any Terminated Transaction, Terminated FCM Clearing Member Transaction and DM Hedging Transaction, which qualifies as OTC Interest Rate Derivative Transaction, OTC FX Transaction or OTC XCCY Transaction and which could not be fully covered by an Independent Trade Transaction or DM Auction Transaction pursuant to the procedures under Number 7.5.3 above.

Eurex Clearing AG shall in its own discretion determine to apply either one or more of the measures described under Paragraphs (1), (2) and (3) and shall use best efforts to apply such measure(s) with the least impact for all Clearing Members, Basic Clearing Members and FCM Clearing Members.

##### **(1) Establishment of DM OTC Hedging Transactions**

Eurex Clearing AG shall be entitled (i) to establish OTC DM Hedging Transactions between Eurex Clearing AG and the Clearing Member or Basic Clearing Member having open Transactions in the last three months prior to the Termination of the

Affected Clearing Member, Affected Basic Clearing Member or Affected FCM Clearing Member, which correspond to the relevant Remaining OTC Transactions which shall be hedged by the OTC DM Hedging Transaction, (ii) to determine the commercial terms of the OTC DM Hedging Transaction in its own discretion and the Clearing Member or Basic Clearing Member hereby accepts such OTC DM Hedging Transaction as legally binding, and (iii) to book the OTC DM Hedging Transactions into the relevant Clearing Member Own Account, Basic Clearing Member Own Account or Client Transaction Account of the Clearing Member or Basic Clearing Member at the Hedging Price.

**(a) Definitions**

“DM OTC Hedging Transactions” means any OTC Interest Rate Derivative Transaction, OTC FX Transaction or OTC XCCY Transaction, which Eurex Clearing AG deems in its own discretion necessary to hedge the effects of the Remaining OTC Transactions.

“Hedging Price” means one of the following prices in the following order:

- (i) the last available settlement price for the relevant DM OTC Hedging Transaction as determined by Eurex Clearing AG in accordance with the applicable provisions under the Special Conditions,
- (ii) the last available market or exchange price for the relevant DM OTC Hedging Transaction, or
- (iii) the price determined by Eurex Clearing AG based on a model for the valuation of the market or exchange value of the relevant DM OTC Hedging Transaction (which considers market risks and market prospects, *inter alia*, considering asset classes, volatility and liquidity).

**(b) Pro-Rata Share**

The DM OTC Hedging Transactions shall be shared on a pro-rata basis between all Clearing Members, Basic Clearing Members and FCM Clearing Members (in accordance with the FCM Regulations).

The pro-rata share shall generally be determined on basis of the average Margin Requirement (excluding any Supplementary Margin) of the Clearing Members or Basic Clearing Members in the last three months prior to the Termination of the Affected Clearing Member, Affected Basic Clearing Member or Affected FCM Clearing Member with respect to (i) the relevant Product Type in case the relevant Remaining OTC Transaction qualifies as OTC Interest Rate Derivative Transaction or (ii) the relevant Currency Pair in case the relevant Remaining OTC Transaction qualifies as OTC FX Transactions or OTC XCCY Transactions (irrespective of whether the relevant Transaction is entered into as Own Transaction or Client-Related Transaction). Eurex Clearing AG may in its own discretion consider further criteria to determine the pro-rata share (i.e. the terms of the relevant Transactions), if Eurex Clearing AG deems such criteria necessary.

Eurex Clearing AG shall use best efforts to find a fair and proportionate (*verhältnismäßig*) distribution of the DM OTC Hedging Transactions between the relevant Clearing Members, Basic Clearing Members and FCM Clearing Members.

**(c) Booking of DM OTC Hedging Transactions**

The pro-rata share of DM OTC Hedging Transactions determined for the Clearing Member or Basic Clearing Member shall be allocated to and booked into the relevant Clearing Member Own Account, Basic Clearing Member Own Account or Client Transaction Account from which the Margin Requirement arises.

**(d) Hedging Price**

Eurex Clearing AG shall determine a Hedging Price for each DM OTC Hedging Transaction which shall become due and payable by Eurex Clearing AG or the Clearing Member or Basic Clearing Member as of the end of the day of the receipt of the DM OTC Hedging Transaction Notice.

**(e) DM OTC Hedging Transaction Notice**

Eurex Clearing AG shall inform the Clearing Member or Basic Clearing Member without undue delay about the establishment of DM OTC Hedging Transactions by submitting a written notice ("**DM OTC Hedging Transaction Notice**") specifying (i) each DM OTC Hedging Transaction, (ii) the relevant Transaction Account into which each DM OTC Hedging Transaction shall be booked, and (iii) the Hedging Price for each DM OTC Hedging Transaction.

**(2) DM OTC Auctions**

Eurex Clearing AG may conduct one or more additional DM Auctions ("**DM OTC Auctions**") to establish new Transactions which are - taken as a whole - (i) equivalent to the Terminated Transaction or a Terminated FCM Clearing Member Transaction or (ii) opposite to the DM Hedging Transactions or DM OTC Hedging Transactions (if any).

Such additional DM OTC Auctions shall be conducted in accordance with the provisions under Number 7.5.3 Paragraphs (3) and (4) and the DM Auction Rules.

**(3) Establishment of Additional OTC Transactions**

If not all Remaining OTC Transactions and DM OTC Hedging Transactions could be fully covered by the DM OTC Auctions, Eurex Clearing AG shall be entitled (i) to establish Additional OTC Transactions between Eurex Clearing AG and a Mandatory Participant, which was invited to the DM OTC Auction, (ii) to determine the commercial terms of the Additional OTC Transaction in its own discretion and the Mandatory Participant accepts such Additional OTC Transaction as legally binding, and (iii) to book the Additional OTC Transactions into the relevant Clearing Member Own Account of the Mandatory Participant at the OTC Settlement Price.

**(a) Definitions**

**“Additional OTC Transactions” means:**

- (i) an OTC Interest Rate Derivative Transaction, OTC FX Transaction or OTC XCCY Transaction with terms identical to a Terminated Transaction or Terminated FCM Clearing Member Transaction which could not be covered by an DM OTC Auction, and
- (ii) an OTC Interest Rate Derivative Transaction, OTC FX Transaction or OTC XCCY Transaction with terms identical to a DM Hedging Transaction or DM OTC Hedging Transaction except that the relevant Clearing Member or Basic Clearing Member has the opposite position than the relevant Clearing Member, Basic Clearing Member or FCM Clearing Member has under the DM Hedging Transaction or DM OTC Hedging Transaction and which could also not be covered by an DM OTC Auction.

**“OTC Settlement Price” means one of the following prices in the following order:**

- (i) the last available settlement price for the relevant Additional OTC Transaction as determined by Eurex Clearing AG in accordance with the applicable provisions under the Special Conditions,
- (ii) the last available market or exchange price for the relevant Additional OTC Transaction, or
- (iii) the price determined by Eurex Clearing AG based on a model for the valuation of the market or exchange value of the relevant Additional OTC Transaction (which considers market risks and market prospects, *inter alia*, considering asset classes, volatility and liquidity).

**(b) Pro-Rata Share**

The Additional OTC Transactions shall be shared on a pro-rata basis between all Clearing Members and FCM Clearing Members, which qualify as Mandatory Participant or FCM Mandatory Participant (in accordance with the FCM Regulations), which were invited to the DM OTC Auction.

The pro-rata share shall generally be determined on basis of the average Margin Requirement (excluding any Supplementary Margin) of the Mandatory Participant in the last three month prior to the Termination of the Affected Clearing Member, Affected Basic Clearing Member or Affected FCM Clearing Member with respect to (i) the relevant Product Type in case the relevant Remaining OTC Transaction qualifies as OTC Interest Rate Derivative Transaction or (ii) the relevant Currency Pair in case the relevant Remaining OTC Transaction qualifies as OTC FX Transactions or OTC XCCY Transactions (irrespective of whether the relevant Transaction is entered into as Own Transaction or Client-Related Transaction). Eurex Clearing AG may in its own discretion consider further criteria to determine the pro-rata share (i.e. the terms of the relevant Transactions), if Eurex Clearing AG deems such criteria necessary.



Eurex Clearing AG shall use best efforts to find a fair and proportionate (*verhältnismäßig*) distribution of the Additional OTC Transactions between the relevant Mandatory Participants and FCM Mandatory Participants.

**(c) Booking of Additional OTC Transactions**

The pro-rata share of the relevant Additional OTC Transaction determined for the Mandatory Participant shall be allocated to and booked into the relevant Clearing Member Own Account.

**(d) Determination of OTC Settlement Price**

Eurex Clearing AG shall determine an OTC Settlement Price for each Additional OTC Transaction which shall become due and payable by Eurex Clearing AG or the Mandatory Participant as of the end of the day of the receipt of the Additional OTC Transaction Notice.

**(e) Additional OTC Transaction Notice**

Eurex Clearing AG shall inform the relevant Mandatory Participant without undue delay about the establishment of Additional OTC Transactions by submitting a written notice ("**Additional OTC Transaction Notice**") specifying (i) each Additional OTC Transaction, (ii) the relevant Own Account into which the Additional OTC Transactions shall be booked, and (iii) the OTC Settlement Price for each Additional OTC Transaction.

**7.5.4.3 Cash Settlement with respect to a Liquidation Group**

**(1) Cash Settlement of Liquidation Group Transactions**

[...]

[...]

\*\*\*\*\*