

Chapter II of the Clearing Conditions of Eurex Clearing AG

# Transactions Concluded at Eurex Deutschland and Eurex Zürich

(Eurex Exchanges)

As of 03.04.2018

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

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## Part 1 General Provisions

[...]

[...]

### 1.7 Obligations with regard to the Tax Legislation of the United States of America

(1) Clearing Members and Non-Clearing Members admitted to trading at Eurex Deutschland agree to provide, upon request by Eurex Deutschland or Eurex Clearing AG, the U.S. Internal Revenue Service (the “**Service**”) or any grand jury properly convened within the United States with any data, books or papers related to transactions which are concluded at Eurex Deutschland. Such requests will be made by Eurex Deutschland or Eurex Clearing AG whenever it receives a written request, summons or subpoena to produce such information from the Service or from any grand jury.

(2) Clearing Members and Non-Clearing Members admitted to trading at Eurex Deutschland agree to comply, with the reporting requirements under Section 6045 of the United States Internal Revenue Code of 1986 (the “**Code**”) and the regulations thereunder if such requirements are applicable to such Clearing Members and Non-Clearing Members.

Clearing Members admitted to trading at Eurex Deutschland and participating in the clearing of any transaction being subject to Section 871(m) of the Code (“potential 871m Transaction”) that references interest in at least one security that could give rise to a U.S. source dividend (as defined in Treasury Regulations Section 1.871-15(a)(12) or any successor thereto) shall provide Eurex Clearing AG (i) with a duly executed Form W-8IMY (Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting) or Form W-9 (Request for Taxpayer Identification Number and Certification) and (ii) by the 10<sup>th</sup> day of each month with all information in form and substance, each as laid out on Eurex Clearing’s webpage ([www.eurexclearing.com](http://www.eurexclearing.com)).

(3) Clearing Members and Non-Clearing Members admitted to trading at Eurex Deutschland consent to Eurex Deutschland, ~~or~~ Eurex Frankfurt AG – which is the

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exchange operating company – or Eurex Clearing AG submitting any information described in Sentence 1 of Paragraph (1) to the Service upon its request or to another authority within the United States as specified in such request. Clearing Members and Non-Clearing Members submitting personal data within the meaning of the German Federal Data Protection Act (*Bundesdatenschutzgesetz der Bundesrepublik Deutschland*) to Eurex Deutschland, ~~or~~ Eurex Frankfurt AG, or Eurex Clearing AG shall ensure, that Eurex Deutschland, ~~and~~ Eurex Frankfurt AG or Eurex Clearing AG, respectively, are authorised to submit such data to comply with Eurex Deutschland's obligations as a "**qualified board or exchange**" or Eurex Clearing AG's obligations as a "qualified intermediary") to authorities in the United States.

- (4) As soon as Eurex Deutschland, Eurex Frankfurt AG or the Service notify Eurex Clearing AG of a Clearing Member or a Non-Clearing Member not complying with its obligations under Paragraphs (1) and (2), Eurex Clearing AG shall immediately notify the respective Clearing Member or the respective Non-Clearing Member and its Clearing Member of such fact. Upon receipt of such notification of Eurex Clearing AG according to Sentence 1, (i) in case of a non-compliant Clearing Member, the right of this Clearing Member to participate in the clearing of Eurex Transactions and Eurex Off-Book Trades and (ii) in case of a non-compliant Non-Clearing Member, the right of this Non-Clearing Member and the respective Clearing Member (with respect to such Non-Clearing Member) to participate in the clearing of Eurex Transactions and Eurex Off-Book Trades shall immediately be suspended.

As soon as Eurex Clearing AG itself becomes aware that a Clearing Member is not complying with its obligations under Paragraphs (1), (2), (5) or (6), without having obtained prior notice thereof pursuant to Sentence 1, Eurex Clearing AG shall immediately notify the Executive Board of Eurex Deutschland and the respective Clearing Member, and the right of this Clearing Member to participate in the clearing of Eurex Transactions and Eurex Off-Book Trades may immediately be suspended by way of a respective notification by Eurex Clearing AG vis-à-vis the respective Clearing Member.

Such~~A~~ suspension includes the conclusion of any new Eurex Transactions from the point in time of receipt of such notification (other than transactions undertaken to close, transfer or exercise any position or Transaction of such Clearing Member or Non-Clearing Member that exists at the time of such notification). Eurex Clearing AG shall notify the Executive Board of Eurex Deutschland of such suspension. The suspension shall be revoked by way of notification by Eurex Clearing AG vis-à-vis the respective Clearing Member or the respective Non-Clearing Member and its Clearing Member as soon as the respective party provides proof to Eurex Clearing AG that the obligations according to Paragraphs (1), ~~and~~ (2), (5) or (6), respectively, have been fulfilled. Any obligations of the involved parties arising from the clearing relationship shall continue to exist even during the period of suspension.

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(5) Clearing Members participating in the clearing of potential 871m Transaction(s) that have provided Eurex Clearing AG, in accordance with Paragraph (2) above, with a W-8IMY Form (not a W-9 Form) represent and warrant by way of an independent guarantee irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that each time when entering into potential 871m Transaction, the following requirements are true and valid:

The Clearing Member has before entered into a qualified intermediary agreement (U.S. Revenue Procedure 2017-15) with the Service, maintains the acquired status and,

- a. if acting as an intermediary – including transactions entered into on behalf of its customers – it has assumed primary responsibility for reporting, collecting and remitting withholding taxes imposed pursuant to Subtitle A Chapters 3 and 4 and Chapter 61 and Section 3406 of the Code, and it withholds with respect to potential 871(m) Transaction(s) any payment of a dividend equivalent on the dividend payment date for the applicable dividend (as determined in Treasury Regulations Section 1.1441-2(e)(4) or any successor thereto); or
- b. if acting for its own account, it has selected the qualified derivatives dealer status for principal transactions (as defined in U.S. Revenue Procedure 2017-15, Section 2.63).

(6) Any Clearing Member participating in the clearing of potential 871(m) Transactions shall immediately notify Eurex Clearing AG in writing if it undergoes a change in circumstances (including a termination of its status as a qualified intermediary or qualified derivatives dealer), or otherwise knows or has reason to know that it is not, or will not be, in compliance with this section. Such written notice must be delivered to Eurex Clearing AG no later than within two days of the Clearing Member's knowledge thereof together with a correspondingly amended Form W-9 or W-8IMY, if applicable.

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