X-pand into the Future

e u r e x *circular 076/01*

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Recipients: All Eurex members and vendors
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High Priority

Clarification of the Technical Implementation Regulations related to Trading- and Clearing- on-behalf Transactions

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Content may be most important for:	**Attachments:**
➲ Front Office / Trading ➲ Middle + Back Office ➲ Auditing / Security Coordination	Modifications to the Technical Implementation Regulations (Sections 12.4, 12.5, 12.6)

Associated with the modifications to clarify part of the Technical Implementation Regulations which take effect from 30 July, 2001 (see sections 12.4 and 12.5 attached), we would like to remind Members of the procedures for trading and clearing 'On-behalf' transactions.

The procedure has been available as an additional service to Members since the beginning of trading at Eurex (and earlier at DTB). In cases of technical problems on the Member's side there is the possibility to communicate trading and clearing transactions by telephone to Eurex Market Supervision, who will then enter them into the Eurex system. All such transactions must then be confirmed immediately by the Member, by fax.

When using this procedure, Members must ensure that only authorized representatives with valid Eurex trader identities, and adequate Resource Access Levels, communicate such transactions.

The newly-inserted section 12.5 in the regulations makes clear that, from the Exchange's side, before the entry or deletion of orders, a check on the legitimacy of telephone instructions will be carried out against the identity of the active trader which has been communicated to it. Given the inherent time delay, further checks on the orders, particularly from the business viewpoint of the Member, are not practicable.

It is therefore important to note that any financial damages, occurring to one or more Members as a result of unauthorized use of a trader identity in the 'On-behalf' procedure, are the responsibility of the Member concerned.

Implementation Regulations of Eurex Deutschland and Eurex Zürich Concerning Technical Equipment

12 Technical Problems

12.4 Alternative Trading and Clearing Methods

In the event that the system of the Eurex Exchanges is non-functional for a long period of time, the Boards of Management of the Eurex Exchanges shall declare a technical emergency and shall determine, if necessary, alternative trading and clearing methods. Only in case of intentional misconduct or gross negligence shall the Eurex Exchanges or Eurex Clearing AG be liable for damages caused to an Exchange Participant upon using alternative trading and clearing methods, particularly for damages due to an erroneous entry and/or processing of data effected by the Eurex Exchanges or Eurex Clearing AG on behalf of Exchange Participants when using alternative trading and clearing methods, provided the damage results from a culpable infringement by the Eurex Exchanges or Eurex Clearing AG of fundamental duties incumbent upon them/it when applying alternative trading and clearing methods. In such case, the responsibility of the Eurex Exchanges or Eurex Clearing AG shall be limited, for ordinary negligence, to the amount of damages typically foreseeable when making available alternative trading and clearing methods.

12.5 Data Entry on Behalf of Trading Participants

In the event that the Participant Front End System or other EDP system of a Trading Participant is non-functional, the Eurex Exchanges may, upon request, enter data into the electronic trading system on behalf of such Trading Participant. In this case, the Eurex Exchanges will verify the legitimation for data entry on the basis of the active user ID notified to it. As to the liability, section 12.4 sentences 2 to 3, shall apply mutatis mutandis.

12.6 Right to Demand Information

The Eurex Exchanges may require the Exchanges Participants to provide information and submit documents if this is necessary in order to prevent or solve technical problems.