

Chapter I: Clearing Model Related Provisions

FCM Regulations of Eurex Clearing AG

As of 12.08.2022

	Eurex05e
FCM Regulations of Eurex Clearing AG	As of 12.08.2022
	Page 2
Chapter I Clearing Model Related Provisions	

AMENDMENTS ARE MARKED AS FOLLOWS:
 INSERTIONS ARE UNDERLINED,
 DELETIONS ARE CROSSED OUT.

[...]

Chapter I Clearing Model Related Provisions

[...]

16 Miscellaneous

[...]

16.6 General Clearing Provisions in accordance with the CCP Recovery and Resolution Regulation

16.6.1 Deviating Decisions (Article 9 (6) of the CCP Recovery and Resolution Regulation

[...]

(3) [...]

(iii) closely monitor the relevant situation and notify BaFin about any new developments in this regard.

16.6.2 Resolution Measures to be taken by the Resolution Authority

(1) General Requirements for Resolution Measures

If BaFin, acting in its capacity as Eurex Clearing AG's resolution authority within the meaning of the CCP Recovery and Resolution Regulation ("**Resolution Authority**"), determines that all conditions for resolution pursuant to Article 22 (1) of the CCP Recovery and Resolution Regulation are met, the Resolution Authority is entitled to take one of the following resolution measures pursuant to Paragraph (2) to (5) with respect to the FCM Clearing Member.

(2) Termination and Cash Settlement

(a) The Resolution Authority shall be entitled to exercise the termination right under Number 9 above provided that the applicable requirements are met.

	Eurex05e
FCM Regulations of Eurex Clearing AG	As of 12.08.2022
	Page 3
Chapter I Clearing Model Related Provisions	

- (b) The Resolution Authority shall further be entitled to exercise the following rights with respect to a Clearing Member or Basic Clearing Member:
- (i) to terminate and settle in cash DMP Cash Settlement Transactions pursuant to Number 9.6.1 above;
 - (ii) to establish DM Swap Hedging Transactions, to conduct one or more additional DM Swap Auctions and to establish Additional Swap Transactions pursuant to Number 9.6.2 above; or
 - (iii) to terminate and settle in cash all Liquidation Group Transactions under a specific Liquidation Group pursuant to Number 9.6.3 above.
- (c) Prior to exercising any rights under Paragraphs (a) and (b) above, the Resolution Authority shall inform the relevant FCM Clearing Member about (i) the date on which such right will be exercised and (ii) any net amount being payable by or to the relevant FCM Clearing Member.
- (d) Any net amount being payable by the FCM Clearing Member pursuant to Paragraph (a) or (b) shall be provided in accordance with the daily cash processing pursuant to Number 1.4.1 above.
- (e) For the avoidance of doubt, if the FCM Clearing Member is not able to pay the relevant net amount determined pursuant to Paragraphs (a) or (b), such non-payment will constitute a Termination Event pursuant to Number 9.2.1 (1) (a) above.
- (f) If the Resolution Authority exercised its rights under Paragraph (a) or (b), the Resolution Authority is entitled to suspend or limit the clearing of Swap Transactions with respect of which it has exercised its rights.

(3) Daily Profits Reduction

The Resolution Authority shall be entitled to exercise Daily Profit Reductions in accordance with this Paragraph (3) to cover any outstanding Default Loss or Non-Default Loss.

- (a) This Paragraph (3) applies to Default Losses and Non-Default Losses.

“Default Loss” means any loss incurred by Eurex Clearing AG caused by the occurrence of a termination with respect to a FCM Clearing Member, a Clearing Member Termination or a Basic Clearing Member Termination pursuant to the Clearing Conditions.

“Non-Default Loss” means any loss incurred by Eurex Clearing AG, which does not qualify as a Default Loss.

- (b) If

	Eurex05e
FCM Regulations of Eurex Clearing AG	As of 12.08.2022
	Page 4
Chapter I Clearing Model Related Provisions	

(i) after the occurrence of the FCM Clearing Member Termination Time, the Clearing Member Termination Time or the Basic Clearing Member Termination Time, or

(ii) in case of the occurrence of a Non-Default Loss

Eurex Clearing AG is obliged to pay a Variation Settlement Amount to a (non-defaulting) FCM Clearing Member with respect to any Swap Transaction pursuant to Chapter II Part 2 Number 2.2.1 (5) of the FCM Regulations, the Resolution Authority is entitled to partly or fully reduce any IRS STM Amount and any IRS PAA arising from any Swap Transaction, ("**Daily Profit Reduction**").

(c) The total Daily Profit Reduction, which is needed to cover any outstanding Default Loss incurred by Eurex Clearing AG, shall be shared on a pro-rata basis between all Clearing Members, Basic Clearing Members and FCM Clearing Members and shall be proportional to the open amounts Eurex Clearing AG owes to the relevant Clearing Member, Basic Clearing Member or FCM Clearing Member.

(d) If the Daily Profit Reductions is used by the Resolution Authority to cover any outstanding Non-Default Loss, it shall only be applied up to a cumulative amount equal to the FCM Contribution Requirement to the Default Fund of the relevant FCM Clearing Member.

The total Daily Profit Reduction, which is needed to cover all outstanding Non-Default Loss incurred by Eurex Clearing AG, shall be shared on a pro-rata basis between all FCM Clearing Members, Clearing Members and BCM Clearing Members and shall be proportional to the FCM Contribution Requirement, CM Contribution Requirement or BCM Contribution Requirement of the relevant FCM Clearing Member, Clearing Member or Basic Clearing Member.

(e) The Resolution Authority shall inform each affected FCM Clearing Member about the exercise of any Daily Profit Reduction without undue delay. If the Daily Profit Reduction relates to a FCM Client Transaction, the relevant FCM Clearing Member shall inform any affected FCM Client about the exercise of the Daily Profit Reduction by the Resolution Authority and the effects of the exercise for such FCM Clients.

(f) If, after the exercise of the Daily Profits Reduction, the Resolution Authority determines that the total amount gained through the Daily Profit Reductions exceeds the amounts needed to cover all Default Losses or Non-Default Losses, all FCM Clearing Members, Clearing Members and Basic Clearing Members, which were subject to the Daily Profits Reductions, will be reimbursed accordingly on a pro-rata basis.

	Eurex05e
FCM Regulations of Eurex Clearing AG	As of 12.08.2022
	Page 5
Chapter I Clearing Model Related Provisions	

(g) All claims for damages or any other restitution or compensation claim against Eurex Clearing AG which may arise in connection with a Daily Profit Reduction shall be excluded.

(4) Resolution Cash Calls

(a) The Resolution Authority shall be entitled to require from (non-defaulting) FCM Clearing Members and Clearing Members (pursuant to the Clearing Conditions) to provide further contributions to the Default Fund in the form of cash (“**Resolution Cash Calls**”) to cover any outstanding Default Loss or Non-Default Loss.

(b) The Resolution Cash Calls may amount up to twice the applicable FCM Contribution Requirement of the relevant FCM Clearing Member.

(c) The total amount of Resolution Cash Calls, which is needed to cover all outstanding Default Losses or Non-Default Losses, shall be shared on a pro-rata basis between all FCM Clearing Members and Clearing Members and shall be proportional to the FCM Contribution Requirement or the CM Contribution Requirement of the relevant FCM Clearing Member or Clearing Member.

(d) Notwithstanding Paragraph (1) above, the Resolution Authority is entitled to exercise Resolution Cash Calls regardless of whether Eurex Clearing AG has or has not fully exhausted any calls for FCM Further Contribution pursuant to Number 3.3 of the FCM Default Rules.

(e) Any amount being payable under a Resolution Cash Call by the FCM Clearing Member shall be provided in accordance with the daily cash processing pursuant to Number 1.4.1 above.

(f) For the avoidance of doubt, if the FCM Clearing Member is not able to pay amount due under a Resolution Cash Call, such non-payment will constitute a Termination Event pursuant to Number Number 9.2.1 (1) (a) above.

(g) If, after the exercise of the Resolution Cash Call, the Resolution Authority determines that the total amount obtained through the Resolution Cash Calls exceeds the amounts needed to cover all Default Losses or Non-Default Losses, all FCM Clearing Members and Clearing Members, which were subject to the Resolution Cash Calls, will be reimbursed accordingly on a pro-rata basis.

(5) Enforcement of Outstanding Obligations

If the Resolution Authority makes use of resolution measures pursuant to Paragraph (2) to (5) with respect to a FCM Clearing Member and the Resolution Authority prior to such resolution measures refrained partially or fully from enforcing the following rights with respect to a FCM Clearing Member to

- (i) call for FCM Further Contribution pursuant to Number 3.3 of the FCM Default Rules,
- (ii) terminate and settle in cash DMP Cash Settlement Transactions pursuant to Number 9.6.1 above,
- (iii) establish DM Swap Hedging Transactions, conduct additional DM Swap Auctions, or establish Additional Swap Transactions pursuant to Number 9.6.2 above, or
- (iv) terminate and settle in cash all Transactions of a Relevant Liquidation Group pursuant to Number 9.6.3 (each a "**Refrained Right**"),

the Resolution Authority shall be entitled to enforce any Refrained Right within 18 months after the CCP is considered to be failing or likely to fail in accordance with Article 22 of the CCP Recovery and Resolution Regulation, provided that the reasons for refraining from enforcing the relevant Refrained Right no longer exist. The Resolution Authority shall notify the FCM Clearing Member three months before enforcing the relevant Refrained Right. The proceeds from the enforced Refrained Right shall be used to recover the use of public funds.

16.6.3 Recognition of Resolution Measures

- (1) The FCM Clearing Member agrees to be bound by any Resolution Measure taken by the Resolution Authority in respect of the FCM Clearing Member's assets, rights, obligations and liabilities under the FCM Clearing Agreement and the FCM Regulations, including the application of Article 28 (position and loss allocation tools), Article 32 (write down and conversion tool), Article 55 (power to suspend certain obligations), Article 56 (power to restrict the enforcement of security interests) and Article 57 (power to temporarily suspend termination rights) of the CCP Recovery and Resolution Regulation.

"**Resolution Measure**" means the application of any resolution tool taken by the Resolution Authority as set out in Article 27 (1) or the exercise of a resolution power as set out in Articles 48 to 58 of the CCP Recovery and Resolution Regulation.

- (2) The FCM Clearing Member further acknowledges that, pursuant to Article 54 of the CCP Recovery and Resolution Regulation, any Resolution Measure taken by the Resolution Authority with respect to Eurex Clearing AG does not constitute a Failure to Pay Event or an Insolvency Event with respect to Eurex Clearing AG pursuant to Number 11.3 above.
