# **e u r e x** *circular 60/99*

To: All Eurex members and vendors

Date: Frankfurt, 8th July 1999

**Business Continuity Planning - Eurex**

Dear Sir or Madam,

Attached you will find the first document related to Business Continuity Planning (BCP) at Eurex. The document has been produced as a result of a review of failure scenarios which could cause disruption to orderly trading on Eurex and related systems.

The main potential failures have been identified in the attached document, and an explanation of the extended emergency procedures and regulations available to Eurex to cope with them, is included.

We ask that you forward this document to the relevant person in each of the legal, trading, compliance, and technical departments within your firm. In the weeks to come, you will receive further information as to the specifications, organisation and requirements of the emergency plan.

If you have any questions, please do not hesitate to contact Andreas Prochazka on
Tel. +49 (0)69-2101-6359.

Yours sincerely,

Jörg Franke Karsten Sommer

Attachment

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# Eurex - Business Continuity Planning - 1

**08.07.1999**

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# 1 Introduction

The various business processes of Eurex have recently been examined with regard to possible system failure. Within this framework, the current standard emergency procedures of Eurex are being updated. The revisions to the various emergency measures are taking place as a result of regular review and approval by the established exchange committee of experts.

The emergency procedures should help to ensure that despite a potential failure of the risk management of Eurex Clearing for a specific time period, business can be restored.

This first Business Continuity Planning (BCP) document contains a summary of those emergencies which could cause a disruption to the course of normal business. Through this, members and customers of Eurex can see which emergency scenarios affect them either individually, and/or which affect all members equally.

With reference to the increase in traded volume on Eurex, it has been planned that the existing HAS-Procedure will be replaced by an electronically supported emergency plan (independent from the Eurex System).

The following procedures which predominantly have an effect on the entire market will be described:

1) Failure of the Eurex Systems

2) Failure of Xetra and failure of the Floor Systems Boss/Boega

3) Failure of Sega, DBC, LZB or SNB

The following emergency measures which predominantly have an effect on individual market participants will be described:

1.) Procedures for a delayed opening for market participants

2.) Procedures for a total failure for market participants

We ask that you forward these documents on to the relevant contact person in each of the legal, trading, compliance, technical and Y2K departments within your firm. In the weeks to come, you will receive further information as to the specifications, organisation and requirements of the emergency plan.

If you have any questions, please do not hesitate to contact Mr. Prochazka at ++49 (0) 69 2101 8359.

## 2 Eurex® - Emergency Position Management

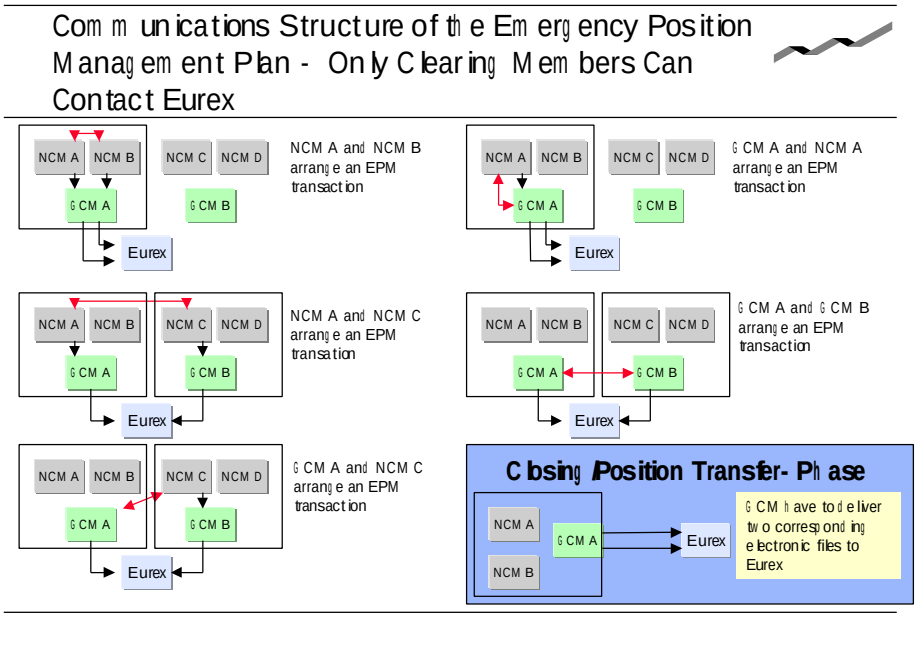
Technical disruptions to the Eurex® Systems and events which occur outside of the influence of Eurex AG could lead to situations in which the Eurex® Trading and Clearing Systems are not available for a specific period of time.

In such an emergency situation, Eurex plans to offer its market participants an electronically supported emergency plan, in which market participants are given the opportunity to balance their positions to reduce their exposure to risk. This plan is called the Emergency Position Management (EPM) and will replace the current HAS-Procedure. The Emergency Position Management does not describe trading, it should only be used for “OTC-Position Management”.

The basis for a declaration of these procedures is described in section 12.4 of the “Implementation Regulations Concerning Technical Equipment”. In the event of a long-term failure of the Eurex® trading systems, the management of Eurex can declare a technical “state of emergency”, and can subsequently determine alternative means of trading and clearing.

Information regarding a long-term failure of Eurex® trading system (longer than one day) will be made available to market participants online over Reuters (EUREX01-EUREX17).

Non-Clearing Members have to specify such bilateral arrangements with their clearing members, and should inform them of the relevant EPM- transactions. The possible means of communication are presented in Figure 1.




Subject to agreement, the Emergency Position Management plan stands as follows:

The clearing members forward their own intended EPM-transactions and those of their non-clearing members immediately through an electronic medium to Eurex®.

For this, the clearing members will have available an emergency application (independent from the Eurex® System) with Internet access as the technical communications medium for the transmission of data to Eurex.

The EPM- transaction data sent to Eurex will be compared regularly (several times a day) in the Eurex system, and corresponding EPM-transactions will be matched together. The Clearing Members will immediately receive a confirmation of the entry of transaction data and the successful comparison.

Members should maintain separate documentation of the EPM-transactions taking place to verify positions in their books.

At the end of the day, clearing members of Eurex will be given information regarding their end-of-day positions resulting from EPM transactions accepted by Eurex and posted to the accounts of the corresponding Eurex members.

On the day of a suspension of trading on Eurex, EPM transactions agreed upon by members through the EPM procedure are legally considered OTC transactions as soon as they have been accepted by Eurex and booked into the position accounts. The Eurex Members directly involved in these OTC transactions are obliged to settle these open transactions.

Eurex Clearing AG reserves the right not to accept EPM-transactions on the following grounds:

a) transmitted data is incomplete or incorrect,

b) the trader exceeds their maximum order size or enters a transaction for a product for which they are not authorised

c) the matching process is unsuccessful.

If faulty EPM-transactions of the above kind are observed by Eurex, members will be notified by Eurex immediately.

If communication over the Internet is not possible for a substantial number of clearing members, the EUREX board of management can determine that a distribution of instructions to all members will be made available exclusively by fax. It should be noted that to employ such measures implies increased expenditure and a clear reduction in capacity during the course of the procedure.

In the event of an emergency, if the majority of the clearing members have no possible means of transmission through facsimile machines, management of Eurex would make it possible for clearing members to carry out the EPM at Königsberger Straße 29, 60487 Frankfurt am Main, Germany. The members will be provided with the necessary infrastructure (at this time, computers with an Intranet connection have been planned) for the execution of the EPM.

The procedures for both back-up solutions, (FAX, Intranet) correspond to the procedures for the Internet solution.

The clearing measures during the EPM will be reduced exclusively to those required for the purposes of covering counterparty risk.

The intraday-margining (calculation of the margin requirements and the cash flows) will take place on the basis of the settlement prices determined at the end of the day by market supervision.

The following functions cannot be supported:

- Transaction and position transfers to other members
- Capital adjustments
- Collateral releases
- Administrative tasks such as set up of new traders, etc.
- Price publication
- After the failure has been corrected, management will make the decision to resume trading on Eurex. No general order deletion will take place at Eurex®-System; expired orders will automatically be deleted during the batch. Pre-trading will be extended at the resumption of trading to provide members with enough time for order maintenance and order management.

## 3 Failure of Xetra® and Boss/Boega and/or DB Clearing Systems

If it is not possible to continue trading via Xetra®, Boss-Cube and Boega, the Cash Market (Xetra®/Floor), the participants will be offered an alternative for „cash-trading“. A failure of the Deutsche Börse Clearing AG system would lead to an uncontrollable market situation and counterparty risk. For this reason, trading in the cash market system would not continue in these situations.

For the described emergency situations, the opportunity exists for Xetra® and floor members to trade on several Eurex connections or through third party “Low Exercise Price Options” (LEPOs) (American style) on the Eurex® system. These products differentiate themselves by way of their form as a substitute to the cash market products. LEPOs “American style“ can be exercised immediately, and have an exercise price of 1 euro.

Subject to the agreement of the relevant committees of Eurex Deutschland and Eurex Zürich, LEPOs “American style” on the 30 DAX stocks will be added to Eurex® for trading, and will take effect beginning October 18th 1999.

According to current plans, these LEPOs should encompass the following specifications:

An option gives the buyer of a call the right to buy 10, 50 or 100 stocks from the seller of the call according to the corresponding underlying. A trader can exercise the options on any business day.

Trade on Eurex® will take place as follows:

- The form of the LEPOs is analogous to the existing Eurex LEPOs on Swiss stocks
- The trading regulations and the trading parameters for Eurex® will apply
- The generated transactions are entered as Eurex® LEPO transactions in the trade statistics
- The process of exercising the options is carried out by the clearing system Deutsche Börse Clearing. In the event this process fails, (failure of DBC) the data will be buffered in the Eurex® system and exercised later.
- The distribution of all data is carried out over the Eurex® connected systems/institutions.
- No index on LEPOs will be calculated.

Information regarding a long-term failure of the cash trading system and the Deutsche Börse Clearing system (longer than one day) will be broadcast online to members over Reuters (XETRA01 to XETRA04, EUREX01 to EUREX17). A notice will also be distributed by fax to Xetra® members. Additionally, a list with the Eurex® members will be distributed with the notice, in order to simplify the means of contact to Eurex® for the cash market participants who have no connection to Eurex®.

Because of the heightened potential for problems, management of the Frankfurt Stock Exchange will make the decision to resume trading. Pre-trading will be extended at the resumption of trading on Xetra® and on the floor in order to provide members enough time for order maintenance and order management.

**Product Description – Low Exercise Price Option:**

Contract size: Underlying has a nominal value of DEM 5, or no-par value - 100 stocks
Underlying has a nominal value of DEM 50 – 10 stocks
Münchener Rückversicherung and Allianzversicherung – 50 stocks

Tick Size: Underlying has a nominal value of DEM 5 or no-par value – 0,01 euro
Underlying has a nominal value of DEM 50 – 0,1 euro

Delivery: Physical delivery of 10, 50 or 100 stocks, dependent on the nominal value of the underlying

Delivery Day: 2 days after exercise

Last trading day: The third Friday of the expiration month, given that Friday is a business day. In the event it is not a business day, the last trading day will fall on the previous business day.

Daily settlement price: If no current trade is available (older than 15 minutes) because the cash market system has failed, the settlement price which will be established by Eurex is the last paid price.

Exercise period: Exercising options is possible on each trading day until the end of the post trading period (American style), with the exception of a day in which a dividend announcement occurs.

Expiration months: the next two months of the delivery cycle March, June, September and D e-cember.

Exercise price. All LEPOs have an exercise price of 1 euro.

Trading times: 9.00 until 17.30 MEZ

Option premium: Payment on the business day following the day of purchase (in full)

# 4 Failure of LZB, SNB, SEGA, DBC

## 4.1 Failure of LZB /SNB

In the event that access to one of the two central banks (LZB/SNB) for cash settlement was no longer available, settlement in the corresponding currency would not be carried out, and would be delayed at that point until account balancing/billing through that particular central bank was made available again.

In order to insure against exposure to counterparty risk, exchange members must fulfil certain monetary requirements stemming from the invoicing procedures such as cash calls and margin calls. The first step would be to use “free” collateral. Further requirements can be met in the form of:

- Deposits for further collateral

- Acquisition of collateral in another currency

## 4.2 Failure of SEGA/ DBC

If the Swiss system (Sega) or the German clearing system (DBC) were to experience system failure, the delivery process for Swiss, Finnish and German products would be delayed until a further date. The delivery instructions created by the Eurex® system would be collected and forwarded at the point of resumption of the delivery system.

**Info:** On the basis of possible exercise and potential delivery which could not take place, individual market participants could experience increased margin requirements.

The possibility of rebooking collateral (booking and withdrawal) is independent of the emergency plan of the Central Security Depository.

# 5 Emergency Procedures and the Effects on Individual Exchange Members

The occurrence of hardware and software problems can cause situations in which market participants either experience disruptions to trading on Eurex® or market participants are completely excluded from trading due to the inability to meet certain financial requirements. For these reasons, the following legal principles and consequences are outlined for trading and clearing. These procedures are valid as general rules for emergency scenarios.

## 5.1 Procedures for a Delay in the Commencement of Trading for Exchange Members

In the case of a delay in the commencement of trading for market participants, according to section 12.1 Implementation Regulations Concerning Technical Equipment for Eurex, the management of Eurex can make the decision to interrupt trading either for all trading on Eurex, or for specific product segments (e.g. fixed-income, German Stocks/Index products, Swiss Stocks/Index products), in the event that fair and orderly trading cannot be guaranteed.

The following rule pertains to Eurex®:

> Fair and orderly trade in a particular segment can no longer be guaranteed if, in one of the aforementioned trading segments of Eurex®, the market participants responsible for a total of more than 50% of traded volume in the past are in a situation in which they are no longer able to participate in trading.

## 5.2 Trade Suspension of a Eurex® Member

### 5.2.1 Suspension of an NCM

The regulations regarding a trade suspension due to a disruption in the confidence of the trading systems or a daily settlement process is described primarily in subsection 3.12.4.2 of the Eurex Exchange Rules, and subsection 1.8.2 paragraph 3 and 4 of the Eurex Clearing Conditions.

If a Non-Clearing Member fails to provide the margin fixed by its General Clearing Member or fails to effect any daily settlement payment in a timely manner, the Non-Clearing Member may, by a decision of the Boards of Management of the Eurex Exchanges, be excluded from trading at the Eurex Exchanges for the duration of such failure.

General Clearing Members may not, on their own, exercise or close positions opened by their Non-Clearing Members.

If a Non-Clearing Member has been excluded from trading, the General Clearing Member may request that the Eurex Exchanges close all positions of such Non-Clearing Member.

### 5.2.2 Suspension of a GCM/DCM

#### 5.2.2.1 Cancellation, Withdrawal, Revocation and Suspension of the Admission

The legal situation for a suspension of trading due to a delay or cancellation of authorisation is primarily clarified in subsection 3.12.4.1 of the Eurex Exchange Rules and subsections 1.1.5, 1.7, 1.8.2. paragraph (5), and 1.8.4 of the Eurex Clearing Conditions.

Eurex Clearing AG shall withdraw a Clearing License in the event that the prerequisites for granting the Clearing License were not met when the license was granted.

Eurex Clearing AG shall revoke a Clearing License if:

a. the party concerned ceases to meet the prerequisites for granting the Clearing License;

b. a Clearing Member has repeatedly violated these provisions despite receiving notice of the violation;

c. measures are taken against the Clearing Member, including to the extent that the application of such measures is based on §53b or § 53c of the KWG, pursuant to §§ 45 et seq. of the KWG or a composition or bankruptcy proceeding is commenced, or if equivalent measures are taken under Swiss law, in particular bankruptcy or probate proceedings within the meaning of Article 36 et seq. of the BankG. The same shall apply if a Clearing Member requests an extension of the period for payment pursuant to Article 29 et seq. of the BankG.

Eurex Clearing AG shall notify the party concerned in writing of the withdrawal or revocation of its Clearing License, including the reasons therefor.

If there is a reasonable suspicion that the provisions for a withdrawal pursuant to Section 1.1.5, Paragraph (2) of the Clearing Conditions, or a revocation pursuant to paragraph (3), have been met, Eurex Clearing AG may order the suspension of a Clearing License for a period not in excess of six months. Eurex Clearing AG may demand such information and evidence as may be necessary for purposes of an appropriate investigation. Subsection 1.1.3 sentences 2 and 3 shall apply mutatis mutandis. The suspension of the Clearing License may also be ordered for the duration of any default under subsection 1.7.1 et seq.

In the event that measures have been taken pursuant to paragraphs (2), (3) or (5), of section 1.1.5 of the Eurex Clearing Conditions, Exchange Participants are not permitted to open new positions through the Clearing Member concerned; all existing positions of such Clearing Member must be closed or transferred to another Clearing Member. A General Clearing Member or Direct Clearing Member shall promptly notify all Non-Clearing Members for whom it is acting to allow them to transfer their positions to another General Clearing Member or another affiliated Direct Clearing Member. Eurex Clearing AG shall supervise the closing or transfer of such open positions.

If such positions are not closed or transferred within a period set by Eurex Clearing AG on a case-by-case basis for this purpose, Eurex Clearing AG may close the positions.

Withdrawals, revocations or suspensions of Clearing Licenses shall not release the Clearing Member concerned from its rights and obligations under any existing contracts for which it has Clearing responsibility.

#### 5.2.2.2 Events of Default

A Clearing Member will, upon notice provided in writing or by telephone, be considered to be in default if:

a. the Clearing Member fails to provide the margin demanded by Eurex Clearing AG for any Exchange day or fails to pay when due a daily settlement payment, or any net premiums or other fees owed, in a timely manner (pursuant to the Eurex Clearing Conditions subsection 1.3.1 paragraph (2), subsection 1.3.3 and with respect to each single contract according to the particular default provision specified in Part 2), or

b. such Clearing Member after notice has failed to fulfil any other obligation to Eurex Clearing AG arising under these Conditions.

Clearing Members must notify Eurex Clearing AG immediately if they are unable to fulfil any obligation arising out of transactions on the Eurex Exchanges, including, in particular, the provision of margin or any daily settlement payment.

The Boards of Management of the Eurex Exchanges may exclude any Clearing Member from trading on the Exchange pursuant to subsection 3.12.4.1 of the Exchange Rules of the Eurex Exchanges in the event that the Clearing Member fails or is unable to provide the margin required of it or a daily settlement payment owed by it in a timely manner. Subsection 1.8.2 paragraph (5) of the Eurex Clearing Conditions shall remain unaffected.

If a General Clearing Member fails to make any payments or deliveries due to Eurex Clearing AG, the Eurex Exchanges may exclude such General Clearing Member, as well as the Non-Clearing Members represented by it, from trading for the duration of such failure; the Eurex Exchanges may also close positions in all accounts for the Clearing of which the General Clearing Member is responsible. Eurex Clearing AG shall not be liable for any losses suffered by a Non-Clearing Member due to the exclusion of its General Clearing Member from trading.

#### 5.2.2.3 Clearing Services by Direct Clearing Members for Affiliated Companies

Subsections 1.8.2 and 1.8.3 shall apply to the legal relationship between affiliated Non-Clearing Members and Direct Clearing Members mutatis mutandis. If technical problems occur, the management of Eurex Deutschland and Eurex Zürich according to Section 12.1. of the Eurex Implementation Regulations Concerning Technical Equipment, can provide Exchange members with the opportunity to utilise “Trading on Behalf”(TOB).