

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 03.05.2021

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

Clearing Conditions of Eurex Clearing AG

Preamble

As provided for in these clearing conditions of Eurex Clearing AG (“**Eurex Clearing**”) (hereinafter referred to as “**Clearing Conditions**”). Eurex Clearing AG, having its registered office in Frankfurt am Main, acts as central counterparty for (a) (i) transactions in securities and *Wertrechte*, including German book-entry securities (*Gutschriften in Wertpapierrechnung*) and Swiss intermediated securities (*Schweizer Bucheffekten*) (hereinafter together the “**Securities**”) and (ii) futures, options and other derivative transactions, which, in each case, result from either matching orders and quotes of trading participants (the “**Matching**”) on the markets Eurex Deutschland, Eurex Repo or another multilateral trading facility for Repo Transactions and Frankfurter Wertpapierbörse (hereinafter collectively referred to as “**Markets**” and each a “**Market**”, each transaction resulting from Matching a “**Market Transaction**”~~), or~~) or (b) novations of transactions executed over-the-counter (each transaction resulting from an over-the-counter transaction an “**OTC Transaction**”) ~~or (c) novations of executed over-the-counter securities or cash lending transactions or securities lending transactions executed on Eurex Repo (each transaction resulting from a novation of any such securities (or cash) lending transaction a “**Securities Lending Transaction**”, and each Market Transaction and, OTC Transaction and Securities Lending Transaction, a “**Transaction**”).~~

Hereinafter (i) the conclusion of Transactions of one or more Transaction Types (as defined in Number 1.1.2), (ii) the processing by Eurex Clearing AG of Transactions, and (iii) the related services rendered by Eurex Clearing AG, in each case as set out in Chapters I–~~IX~~VIII of the Clearing Conditions, shall together be referred to as “**Clearing**”.

[...]

Part 1 General Clearing Provisions

1 General Rules

1.1 Scope of Application

1.1.1 [...]

~~(3) a clearing agreement between Eurex Clearing AG and a holder of a Specific Lender License with respect to their Securities Lending Transactions pursuant to Chapter IX in the form appended hereto as Appendix 6; and/or~~

(43) a clearing agreement between Eurex Clearing AG, the relevant Clearing Agent and a Basic Clearing Member with respect to their respective Basic Clearing Member Transactions under the Basic Clearing Member Provisions pursuant to Part 6 in the form appended hereto as Appendix 10,

[...]

1.1.2

[...]

(4) the novation (i) of over-the-counter transactions in interest rate derivatives pursuant to Chapter VIII Part 2 (the resulting Transactions being referred to as “**OTC Interest Rate Derivative Transactions**”), (ii) over-the-counter FX spot transactions, over-the-counter FX forward transactions and over-the-counter FX swap transactions pursuant to Chapter VIII Part 3 (the resulting Transactions being referred to together as “**OTC FX Transactions**”) and (iii) over-the-counter cross currency swap transactions pursuant to Chapter VIII Part 4 (the resulting Transactions being referred to as “**OTC XCCY Transactions**”);

~~(5) the novation of securities lending transactions pursuant to Chapter IX (the resulting Transactions being “**Securities Lending Transactions**”).~~

[...]

1.2 Clearing Procedures

1.2.1 General

(1) [...]

(c) the provisions applicable to the relevant Transaction Type set out in Chapters ~~II-IX~~ VIII (together with all contract specifications, rules and regulations incorporated by reference or specified therein, as applicable, the “**Special Clearing Provisions**”) which *inter alia* comprise provisions relating to the settlement of the relevant Transaction Type by payment of a cash amount determined by reference to a Security or asset (“**Cash Settlement**”) or by physical delivery of the relevant Security or asset against payment or free of payment as set out in the Special Clearing Provisions (“**Physical Delivery**”).

[...]

1.2.2 Conclusion of Transactions and Transfer of Transactions

[...]

~~(3) Securities Lending Transactions~~

~~Securities Lending Transactions will be concluded by way of novation in accordance with Chapter IX.~~

(34) Transactions pursuant to the Default Management Process; Settlement failures

[...]

[...]

1.2.4 Certain Definitions and Interpretation

In these Clearing Conditions:

(1) “**Business Days**” means

[...]

(d) for the Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions and OTC XCCY Transactions (Chapter VIII): the days determined by the Executive Board of Eurex Clearing AG; and

~~(e) for the Clearing of Securities Lending Transactions (Chapter IX): the days determined by the Executive Board of Eurex Clearing AG; and~~

(fe) in any other case, a day (other than Saturday or Sunday) on which commercial banks in Frankfurt am Main, Germany, are open for general business.

[...]

1.7 Representations and Undertakings with respect to Clearing Agreements

1.7.1 At the time it enters into a Clearing Agreement, each Clearing Member, Clearing Agent and Basic Clearing Member and, each holder of a Specific Repo License ~~and each holder of a Specific Lender License~~, severally but not jointly, represents and warrants with respect to itself by way of an independent guarantee and irrespective of fault (*selbstständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that:

[...]

1.7.2 At the time it enters into the Clearing Agreement, each Clearing Member, Clearing Agent and Basic Clearing Member (as relevant) further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it is entitled to pledge, or, as relevant, transfer full legal and beneficial ownership of, all assets (including, without limitation, all Eligible Margin Assets, ~~or Securities~~ ~~or Leaned Securities~~) to be so pledged or so transferred by it pursuant to the Clearing Agreement, free from any liens, encumbrances, charges or other rights or claims and upon any such transfer, the transferee will receive all right, title and interest in the relevant assets free and clear of any such liens, encumbrances, charges or other rights and claims, arising, including pursuant to applicable regulation or under any statutory or other trust (save, with respect to ECM CASS Transactions (as defined in Part 2 Subpart D Number 2) or ISA CASS Transactions (as defined in Part 4 Number 14), for any statutory trust under the Client Assets Sourcebook).

[...]

1.7.6 Eurex Clearing AG shall promptly inform the Clearing Member or the Clearing Agent and the Basic Clearing Member if Eurex Clearing AG becomes aware that any representation or warranty in Number 1.7.5 ceases to be true. Each Clearing Member, Clearing Agent, Basic Clearing Member ~~and~~ holder of a Specific Repo License ~~and holder of a Specific Lender License~~ shall promptly inform Eurex Clearing AG if it becomes aware that any of its representations or warranties in this Number 1.7 ceases to be true.

[...]

[...]

2 Clearing Members

2.1 Clearing License

[...]

2.1.2 General Prerequisites for Clearing Licenses

(1) A Clearing License for a Transaction Type may only be granted to an applicant if such applicant meets the general prerequisites pursuant to Paragraphs (2) to (6) below and the special prerequisites set forth in Chapters II–~~IX~~–VIII for the relevant Transaction Type. This Number 2.1.2 shall, unless otherwise provided in Part 6 Number 2, not apply to applicants for a Basic Clearing Member Clearing License.

[...]

[...]

6 Default Fund

Eurex Clearing AG maintains the Default Fund regulated by this Number 6 which relates to (i) Transactions pursuant to Chapters II through VIII ~~and, unless otherwise specified in Chapter IX, Chapter IX~~ and (ii) FCM Clearing Member Transactions pursuant to the Chapter II of the FCM Regulations (each as defined below) (the “**Default Fund**”) to cover the Default Fund Secured Claims (as defined in Number 6.2). The Default Fund is not a legal person.

[...]

[...]

17 Miscellaneous

[...]

17.2 Changes and Amendments to the Clearing Conditions

[...]

17.2.4 “Special Provisions” are

- [...]
- Chapter VIII Part 4 Number 4.4 to 4.7 and 4.12,
- ~~Chapter IX Part 2 Number 2.6.4 Paragraph (4),~~
- ~~Chapter IX Part 2 Number 2.7.2 Paragraph (2),~~
- [...]

[...]
