

**Eurex Clearing AG**  
**ECAG Rule Certification 032-24, 033-24**  
**May 8, 2024**

1. The text of the proposed amendments to the Clearing Conditions (“Clearing Conditions”) of Eurex Clearing AG (“Eurex Clearing”) and the Statutes for the EMIR Risk Committee (“Statutes for the EMIR Risk Committee”) of Eurex Clearing is appended as Attachment A. Any additions are underlined and any deletions are struck through.
2. The date of intended implementation for Amendment No. 1 is June 3, 2024. The date of intended implementation for Amendment No. 2 is July 1, 2024.
3. Attached please find a certification that: (1) these amendments comply with the Commodity Exchange Act (the “Act”), and the Commission’s regulations thereunder; and (2) concurrent with the filing of this submission, Eurex Clearing is posting a copy of this filing to its website at: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.
4. A concise explanation and analysis of the operation, purpose, and effect of the amended rule appears below.
5. There were no opposing views expressed regarding these amended rules.
6. Confidential treatment is not requested.

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CONCISE EXPLANATION AND ANALYSIS OF THE OPERATION, PURPOSE, AND EFFECT OF THE PROPOSED RULE AND ITS COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ACT, INCLUDING CORE PRINCIPLES AND THE COMMISSION’S REGULATIONS THEREUNDER

Eurex Clearing is proposing the below amendments.

1. Currently, in case of a non-delivery of debt securities during the settlement of Fixed Income Futures, Eurex Clearing charges a contractual penalty (“Penalty Amount”) and an Interest Payment (“Interest of Delay”) towards the failing Clearing Member. With the proposed amendments, Eurex Clearing intends to waive the charging of the “Penalty Amount” if the failure to deliver the debt securities is not caused by the Clearing Member but by any technical issues in the relevant systems involved in the settlement process.

For avoidance of doubt, these amendments relate only to Eurex Exchange-listed Fixed Income Futures, which Eurex Clearing clears outside the scope of its DCO license, which applies only to swaps.

2. On July 13, 2023, the CFTC published new governance rules applicable to registered derivatives clearing organizations (“DCOs”) with a compliance date of July 12, 2024. One rule requires that

DCOs maintain written policies and procedures to make certain that membership of the Risk Committee is rotated on a regular basis. The proposed amendments to the Statutes for the EMIR Risk Committee provide that the Executive Board of Eurex Clearing will consider whether there has been sufficient EMIR Risk Committee Member rotation prior to the start of each term and implement a process whereby the Executive Board will receive information regarding Member rotation in the accompanying presentation.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in Eurex Clearing Circulars 032/24 and 033/24, which are appended as Attachment A.

Eurex Clearing has identified the following derivatives clearing organization (“DCO”) Core Principle as potentially being relevant to the above amendments:

1. DCO Core Principle E (Settlement procedures): The proposed amendments will comply with DCO Core Principle E because the amendments provide for an exemption for the “Penalty Amount” in case of non-deliveries for Fixed Income Futures, which are cleared outside the scope of Eurex Clearing’s DCO license, and all products cleared by Eurex Clearing under its DCO license will continue to be subject to appropriate standards in compliance with this Core Principle.
2. DCO Core Principle O (Governance Fitness Standards) and CFTC Regulation 39.24: The proposed amendments will comply with DCO Core Principle O and CFTC Regulation 39.24 because they provide that the Executive Board of Eurex Clearing will consider whether there has been sufficient EMIR Risk Committee Member rotation prior to the start of each term in compliance with the Commission’s finalized amendments to CFTC Regulation 39.24 in 2023.

CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY EXCHANGE ACT, 7  
U.S.C. §7a-2 AND COMMODITY FUTURES TRADING COMMISSION RULE 40.6, 17 C.F.R. §40.6

I hereby certify that:

- (1) the amendments comply with the Commodity Exchange Act, and the Commission's regulations thereunder; and
- (2) concurrent with the filing of this submission, Eurex Clearing is posting a copy of this filing to its website at: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.

/s/ Eric Seinsheimer

By: Eric Seinsheimer

Title: US CCO, Eurex Clearing AG

Dated: May 8, 2024

02 May 2024

Eurex Clearing

# Changes to the Clearing Conditions of Eurex Clearing AG: Exemption for “Penalty Amount” in case of non-deliveries under Fixed Income Futures caused by technical issues during settlement

**Eurex Clearing Circular 032/24 Changes to the Clearing Conditions of Eurex Clearing AG: Exemption for “Penalty Amount” in case of non-deliveries under Fixed Income Futures caused by technical issues during settlement**

## 1. Introduction

In case of failure to deliver debt securities for the settlement of Fixed Income Future Deliveries, caused by technical issues in the relevant systems involved in the settlement process, Clearing Members should not be obliged to pay a Contractual Penalty (“Penalty Amount”).

To implement this change, the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) will be amended as outlined in the Attachment.

There is no action required.

### 3. Details of the initiative

Currently, in case of a non-delivery of debt securities during the settlement of Fixed Income Futures, Eurex Clearing charges a contractual penalty („Penalty Amount“) and an Interest Payment („Interest of Delay“) towards the failing Clearing Member.

With the contemplated amendments, Eurex Clearing intends to waive the charging of the “Penalty Amount” if the failure to deliver the debt securities is not caused by the Clearing Member but by any technical issues in the relevant systems involved in the settlement process.

In this context, the following provision in the Clearing Conditions will be amended as outlined in the Attachment:

- ◆ Chapter II Part 2 Number 2.3.5 (4)

The described amendments will become effective as of **3 June 2024**.

As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website [www.eurex.com/ec-en/](http://www.eurex.com/ec-en/) under the following link:

#### **Rules and Regs > Eurex Clearing Rules & Regulations > 1. Clearing Conditions**

The amendments to the legal framework of Eurex Clearing AG published by this circular shall be deemed accepted by each affected contractual party of Eurex Clearing AG, unless the respective contractual party objects in writing to Eurex Clearing AG prior to the relevant effective date(s) as stipulated in this circular. In case of an objection by the respective contractual party pursuant the preceding sentence, Eurex Clearing AG is entitled to terminate the respective contract (including a Clearing Agreement, if applicable). Instead of submitting an objection, the respective contractual party may submit in writing to Eurex Clearing AG comments to any amendments of the legal framework of Eurex Clearing AG within the first 10 Business Days after the publication of the amendments. Eurex Clearing AG shall assess whether these comments prevent the published amendments from becoming effective taking into account the interests of Eurex Clearing AG and all contractual parties.

Unless the context requires otherwise, terms used and not otherwise defined in this circular shall have the meaning ascribed to them in the Clearing Conditions or FCM Clearing Conditions of Eurex Clearing AG, as applicable.

## Further information

Recipients: All Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients of Eurex Clearing AG and vendors

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Target groups: Front Office/Trading, Middle + Backoffice, IT/System Administration, Auditing/Security Coordination

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Contact: [client.services@eurex.com](mailto:client.services@eurex.com)

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Web: [www.eurex.com/ec-en/](http://www.eurex.com/ec-en/)

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Authorized by: Jens Janka

## Further information

[!\[\]\(73002692dd5e7a64e60946be3158e719\_img.jpg\) Attachment to Eurex Clearing Circular 032/24](#)

A member of

Chapter II of the Clearing Conditions of Eurex Clearing AG

# Transactions Concluded at Eurex Deutschland

(Eurex Exchange)

As of 03.06.2024

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED;

DELETIONS ARE CROSED OUT

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[...]

## **Part 2 Clearing of Futures Contracts**

[...]

### **2.3 Clearing of Fixed Income Futures Contracts**

[...]

#### **2.3.5 Failure to Deliver**

[...]

(4) In case of a failure to deliver debt securities, the Clearing Member which did not deliver the debt securities in time shall pay a contractual penalty in accordance with the following provisions:

(b) [...]

Such percentage shall be determined by Eurex Clearing AG in advance and shall be based on (i) the effective rate for the marginal lending facility of the European Central Bank (as published or referred to on its website) plus 100 basis points, or (ii), with respect to CONF Futures Contracts, the effective rate for the liquidity-shortage financing facility of the Swiss National Bank (as published or referred to on its website) plus 100 basis points.

The Clearing Member shall not be obliged to pay the Penalty Amount to Eurex Clearing AG, when the Clearing Member, which failed to deliver the debt securities, can prove to Eurex Clearing AG that the non-delivery of the debt securities was caused by Eurex Clearing AG or the relevant Settlement Location.

[...]

[...]

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06 May 2024  
Eurex Clearing

# Amendments to the legal framework of Eurex Clearing AG

## Eurex Clearing Circular 033/24 Amendments to the legal framework of Eurex Clearing AG

### 1. Introduction

This circular contains information with respect to amendments to the Statutes for the EMIR Risk Committee (Statutes) regarding the following topic:

- ◆ Amendments to the Statutes of the EMIR Risk Committee (ERC) to provide that the Executive Board will consider whether there has been sufficient EMIR Risk Committee Member rotation prior to the start of each term and implement a process whereby the Executive Board will receive information regarding Member rotation in presentation.

The amendments will become effective as of **1 July 2024**.

### 2. Required action

There is no required action.

### 3. Details of the initiative

#### Amendments to the Statutes of the EMIR Risk Committee to provide for Member rotation

2024. Namely, DCOS must maintain written policies and procedures to make certain that membership of the Risk Committee is rotated on a regular basis. Therefore, the Statutes of the EMIR Risk Committee will be amended to provide that the Executive Board will consider whether there has been sufficient EMIR Risk Committee Member rotation prior to the start of each term.

*“Prior to the start of a new EMIR Risk Committee Term, the Executive Board will assess the composition of the EMIR Risk Committee to ascertain whether there has been sufficient regular rotation to promote the ability of Clearing Members and Clients from a broad array of market segments to provide their expertise, and to ensure that the EMIR Risk Committee provides Eurex Clearing AG with varied perspectives on risk management matters.”*

*“The Supervisory Board shall in its discretion, taking into account, sufficient regular rotation to have a broad array of market segments provide expertise and promote varied perspectives on risk management matters, and to ensure adequate representation of the Clearing Member Types, select for the relevant EMIR Risk Committee Term, the relevant number of EMIR Risk Committee Members and their respective deputies and shall notify such selection to the Executive Board without undue delay; an EMIR Risk Committee Member and its deputy must have been nominated by the same Authorised Clearing Member.”*

To reflect these amendments, the following provisions of the Statutes of the EMIR Risk Committee will be amended as outlined in Attachment:

- ◆ § 4 Paragraph (3), (4) and (8)

## **Publication of amendments of the legal framework of Eurex Clearing**

As of the effective date, the full versions of the amended legal framework of Eurex Clearing will be available for download on the Eurex Clearing website [www.eurex.com/ec-en/](http://www.eurex.com/ec-en/) under the following link:

### **Rules and Regulations > Eurex Clearing Rules and Regulations**

The changes and amendments to the legal framework of Eurex Clearing published by this circular are deemed accepted by each affected contractual party of Eurex Clearing, unless the respective contractual party objects by written notice to Eurex Clearing within the first ten (10) Business Days after the publication. Any ordinary right of Eurex Clearing to terminate the

Unless the context requires otherwise, terms used and not otherwise defined in this circular shall have the meaning ascribed to them in the Clearing Conditions or FCM Clearing Conditions of Eurex Clearing, as applicable.

## Attachment:

Updated sections of the following rules and regulations:

- ◆ Amended sections of § 4 Paragraph (3), (4) and (8) of the Statues of the EMIR Risk Committee

## Further information

Recipients: All Clearing Members, FCM Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients, FCM Clients of Eurex Clearing AG, vendors and other affected contractual parties

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Target groups: Front Office/Trading, Middle + Backoffice, IT/System Administration, Auditing/Security Coordination

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Authorized by: Dmitrij Senko

## Further information

[!\[\]\(b792654f2cef9719eabeb6c5be00811e\_img.jpg\) Attachment to Eurex Clearing Circular 033/24](#)

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**EUREX CLEARING AG  
STATUTES FOR THE EMIR RISK COMMITTEE**

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED;

DELETIONS ARE CROSED OUT

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[...]

**§ 4 EMIR Risk Committee Members, Chairman and Deputy Chairman**

[...]

(3) [...]

Prior to the expiry of each EMIR Risk Committee Term, the Executive Board invites Clearing Members with the highest CM Risk Ranking (together with any further Clearing Members which have been selected pursuant to § 4 (6) the “**Authorised Clearing Members**” and each an “**Authorised Clearing Member**”), to nominate for the relevant EMIR Risk Committee Term an EMIR Risk Committee Member and a deputy for such EMIR Risk Committee Member. The number of Clearing Members so invited by the Executive Board shall equal the number of EMIR Risk Committee Members to be nominated by Clearing Members for the relevant EMIR Risk Committee Term, plus at least 2 (two) additional Clearing Members. The nominations of the EMIR Risk Committee Member and its deputy shall be made in accordance with § 4 (10) and shall be submitted to the Executive Board within 10 (ten) Business Days of receipt of the invitation. Prior to the start of a new EMIR Risk Committee Term, the Executive Board will assess the composition of the EMIR Risk Committee to ascertain whether there has been sufficient regular rotation. The goal of such rotation shall be to promote the ability of Clearing Members and Clients from a broad array of market segments to provide their expertise and ensure that the EMIR Risk Committee provides Eurex Clearing AG with varied perspectives on risk management matters. No minimum frequency for rotation shall be required. The Executive Board of Eurex Clearing AG may recognize that there are risk management benefits associated with retaining EMIR Risk Committee Members who have specialized knowledge of Eurex Clearing AG’s operations, risk practices, and/or particular products, and that it maybe be difficult to replace those members. In certain circumstances, it may be appropriate to rotate a specific EMIR Risk Committee Member, but not the firm they represent.

[...]

The Supervisory Board shall in its discretion, taking into account diversity, sufficient regular rotation to have a broad array of market segments provide expertise and promote varied perspectives on risk management matters, and to ensure adequate representation of the Clearing Member Types, select for the relevant EMIR Risk Committee Term, the relevant number of EMIR Risk Committee Members and their respective deputies and shall notify such selection to the Executive Board without undue delay; an EMIR Risk Committee Member and its deputy must have been nominated by the same Authorised Clearing Member.

(4) [...]

The Executive Board assesses the nominations pursuant to § 4 (10) and forwards the nominations which comply with § 4 (10) to the Supervisory Board. If the nomination of the EMIR Risk Committee Member or of its deputy does not comply with the requirements set forth in § 4 (10), the Executive Board shall reject the entire nomination.

The Supervisory Board shall in its discretion taking into account diversity, sufficient regular rotation to have a broad array of market segments provide expertise and promote varied perspectives on risk management matters, and to ensure adequate representation of the Clients select for the relevant EMIR Risk Committee Term the relevant number of EMIR Risk Committee Members and their respective deputies and shall notify such selection to the Executive Board without undue delay; an EMIR Risk Committee Member and its deputy must have been nominated by the same Authorised Client.

[...]

(8) Subject to an EMIR Risk Committee Increase, half of the EMIR Risk Committee Members are to be appointed in each year. Each EMIR Risk Committee Member nominated by a Committee Authorised Person and selected by the Supervisory Board shall be appointed by the Executive Board to serve for a period commencing on the date of such appointment and ending on 31 December of the calendar year following the year in which such appointment was made (the "**EMIR Risk Committee Term**"). This term shall ensure that the composition and structure of the membership of the EMIR Risk Committee is reviewed on a regular basis in light of the considerations described in §4 (3) in particular with regards sufficient rotation and retaining expert risk management knowledge. Any EMIR Risk Committee Members additionally selected due to an EMIR Risk Committee Increase pursuant to § 4 (2) shall be appointed by the Executive Board for a period ending either on 31 December of the calendar year of the appointment or on 31 December of the calendar year following the year of the appointment.

[...]

[...]

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