



Eurex Clearing Resources Circulars & Mailings

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No. 015/2020

Amendments to the Clearing Conditions, to the Clearing Agreement and to the FCM Regulations of Eurex Clearing AG

Eurex Clearing Circular 015/20

1. Introduction

This circular contains information with respect to the ongoing licensing process of Eurex Clearing AG, in order to obtain an OTC IRD clearing license in Japan. In order to set the legal basis, the Clearing Conditions and Appendix 1 to the Clearing Conditions (Clearing Agreement) as well as the FCM Regulations of Eurex Clearing AG will be amended, as set out in the attachments.

The amended Clearing Conditions (including Appendix 1) and the FCM Regulations will come into effect on **2 March 2020**.

2. Required action

There are no required actions for the Participants.

3. Details

The Clearing Conditions and the Appendix 1 to the Clearing Conditions as well as the FCM Regulations of Eurex Clearing AG will be amended as follows:

- Inclusion of provisions stating that Japanese Clearing Members may only clear OTC IRD transactions that are own transactions denominated in currencies other than JPY,
- Inclusion of a restriction for the clearing of OTC IRD transactions for Japanese clients; to be restricted to OTC IRD transactions of Disclosed Direct Clients (no indirect clearing, no undisclosed clients), which are denominated in currencies other than JPY,
- Inclusion of a provision in the FCM Regulations stating that clearing for Japanese FCM Clients is limited to OTC IRD transactions denominated in currencies other than JPY.

As of the effective date, the full version of the amended Clearing Conditions and FCM Regulations will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

[Resources > Rules and Regulations](#)

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

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.

Attachments:

- Amended sections of Chapter I of the Clearing Conditions of Eurex Clearing AG
- Amended sections of Appendix 1 of the Clearing Conditions of Eurex Clearing AG
- Amended sections of Chapter I of the FCM Regulations of Eurex Clearing AG

Further information

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

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

Contact: client.services@eurexclearing.com

Web: www.eurexclearing.com

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Further information

[Attachment 1 to Eurex Clearing circular 015/20](#)

[Attachment 2 to Eurex Clearing circular 015/20](#)

[Attachment 3 to Eurex Clearing circular 015/20](#)

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Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 02.03.2020

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Part 1 General Clearing Provisions

1 General Rules

[...]

1.11 Limitations regarding Clearing of OTC Interest Rate Derivative Transactions for Japanese clients

Regarding the Clearing of OTC Interest Rate Derivative Transactions for Japanese clients, the Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that

- (1) it will not clear OTC Interest Rate Derivative Transactions for Indirect Clients or Undisclosed Direct Clients that qualify as Japanese persons under the Japanese Financial Instruments and Exchange Act; and that
- (2) it will limit the Clearing of OTC Interest Rate Derivative Transactions for Japanese Disclosed Direct Clients to the Clearing of OTC Interest Rate Derivative Transactions with currencies other than JPY.

1.12 Limitations regarding Clearing of Transactions by Japanese Clearing Members

A Clearing Member that qualifies as a Japanese person under the Japanese Financial Instruments and Exchange Act represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it will limit its Clearing activities to Transactions

- (1) that are OTC Interest Rate Derivative Transactions.
- (2) with currencies other than JPY, and
- (3) that are Own Transactions.

[...]

1.130 FIC Board Advisory Committee

1.130.1 Eurex Clearing AG will establish a FIC board advisory committee (the "**FIC Board Advisory Committee**") for the purpose of consulting with and making recommendations to the executive boards of Eurex Clearing AG, Eurex Frankfurt AG and Eurex Repo GmbH (together the "**Eurex Group**") with respect to the FIC Matters (as defined in Number 1.103.2), provided that this would not constitute a breach of law, a breach of an order of a court of a competent jurisdiction or of an applicable governmental, quasi-governmental or regulatory body.

1.130.2 "**FIC Matters**" with respect to the FIC Board Advisory Committee shall be exclusively the following:

[...]

1.130.3 The FIC Board Advisory Committee consists of up to 10 (ten) committee members ("**FIC Committee Members**"). The FIC Committee Members shall be appointed in accordance with the procedure set out in in the statutes for the FIC Board Advisory Committee.

[...]

[...]



Appendix 1 to the Clearing Conditions of Eurex Clearing AG:

Clearing Agreement

between Eurex Clearing AG and a Clearing Member

As of 02.03.2020

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[...]

6. The Clearing Member makes to Eurex Clearing AG amongst others the representations and warranties, and provides the undertakings, set out in the following provisions of the Clearing Conditions:

[...]

(3) Chapter I Part 1 Numbers 1.11 and 1.12 (Japan-related Clearing limitations); and

~~(43)~~ Chapter VIII Part 3 Number 3.1.3 Paragraph (5) (OTC Currency Products Clearing License).

[...]

[...]

Chapter I: Clearing Model Related Provisions

FCM Regulations of Eurex Clearing AG

As of 02.03.2020

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[...]

Chapter I Clearing Model Related Provisions

[...]

1.7 Representations and Undertakings with Respect to the FCM Clearing Agreement

[...]

1.7.2 Additional representations and undertakings by FCM Clearing Members

[...]

(3) The FCM Clearing Member further represents and warrants to Eurex Clearing AG that it will not clear FCM Client Transactions that are nominated in JPY for FCM Clients that qualify as Japanese persons under the Japanese Financial Instruments and Exchange Act.

[...]
