

11 Feb 2021
Eurex Clearing

Amendments to the Clearing Conditions of Eurex Clearing AG: Introduction of Clearstream Banking S.A. as additional settlement location for settlement of Repo transactions, further amendments to settlement-related provisions

Eurex Clearing Circular 010/21 Amendments to the Clearing Conditions of Eurex Clearing AG: Introduction of Clearstream Banking S.A. as additional settlement location for settlement of Repo transactions, further amendments to settlement-related provisions

1. Introduction

This circular contains information about the required amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) due to the introduction of Clearstream Banking S.A., Luxembourg, (CBL) as an additional settlement location for Eurex Clearing for the settlement of Repo transactions.

The respective changes will become effective as of **8 March 2021**.

2. Required action

There is no action required.

3. Details

As announced in Eurex Clearing Circular 115/20, Eurex Clearing will set up a new settlement account at CBL for the settlement of Repo transactions (Repo specials) with CCP Release 18.5 (production start: 15 March 2021). The new account will replace today's CCP CBF(i) account 67525 for the Repo Special settlements. As a consequence, amendments to the Clearing Conditions are required to add CBL as an additional settlement location for the settlement of Repo transactions.

In this context, in particular the settlement-related provisions (including the provisions regarding Eurex Clearing's authorisation to pledge securities to a settlement location in the context of the settlement) will be extended to cover all kinds of securities. Further, it is clarified that the current provisions in Chapter IV of the Clearing Conditions regarding physical deliveries only apply to German-law governed securities held in collective safe custody ("Girosammelverwahrung").

The following provisions will be amended as outlined in the Attachments:

- ◆ Chapter I, Preamble and Chapter I Part 1 Numbers 1.4.2, 1.4.3 of the Clearing Conditions
- ◆ Chapter IV Part 2 Number 2.2 of the Clearing Conditions

As of the effective date, the full version of the amended documents will be available for download on the Eurex Clearing website under the following link:

[Clear > Rules & Regs > Rules and Regulations > Clearing Conditions](#)

The 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 15 Business Days (or, in respect of amendments to the Price List, within the first 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:

- ◆ 1 – Amended sections of Chapter I of the Clearing Conditions of Eurex Clearing AG
- ◆ 2 – Amended sections of Chapter IV of the Clearing Conditions of Eurex Clearing AG

Further information

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

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

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Related topics

→ [Attachment 1 to Eurex Clearing circular 010/21](#)

→ [Attachment 2 to Eurex Clearing circular 010/21](#)

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Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 08.03.2021

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 (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 but not limited to German book-entry securities (*Gutschriften in Wertpapierrechnung*) and Swiss intermediated securities (*Schweizer Bucheffekten*) (hereinafter ~~together~~ these securities 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**”), (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, OTC Transaction and Securities Lending Transaction, a “**Transaction**”).

[...]

Part 1 General Clearing Provisions

1 General Rules

[...]

1.4 Settlement of Transactions

[...]

[...]

1.4.2 Settlement of Transactions in Securities

[...]

- (5) The fulfilment of delivery and payment obligations arising from Transactions with regard to ~~German book-entry securities held in the giro trust system (*Treuhandgiroverkehr*)~~ is subject to Paragraphs (6), (7) and (9) (unless otherwise provided in the relevant Special Clearing Provisions).
- (6) ~~All assignments-deliveries of book-entry securities German book-entry securities (*Gutschriften in Wertpapierrechnung*)~~ shall be carried out versus payment between the Clearing Members or the Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) and Eurex Clearing AG and, accordingly, between Eurex Clearing AG and the Clearing Members or Basic Clearing Members (or the Clearing Agents acting on behalf of the relevant Basic Clearing Members) to whom delivery is to be made at the points in time specified in the relevant Special Clearing Provisions or on the agreed delivery days, respectively. The respective book-entries shall be granted by the Settlement Location, and the payment shall be effected via the respective account determined by the Settlement Location. ~~With regard to the legal position underlying the German book-entry securities transferred to Eurex Clearing AG in accordance with Sentence 1, Eurex Clearing AG shall for a limited period of time act as fiduciary owner in favour of the acquiring Clearing Members or Basic Clearing Members in order to effect the delivery of such German book-entry securities transfer the legal position underlying the German book-entry securities to the Clearing Members or the Basic Clearing Members to whom delivery is to be made by granting the respective book-entries (*Gutschriften*) under designation of the country of custody (*Lagerland*) them. The respective book-entries (*Gutschriften*) shall thereby be granted by the Settlement Location, and the payment shall be effected via the respective account determined by the Settlement Location.~~

[...]

1.4.3 RRights of appropriation and authorisation to pledge securities of Eurex Clearing AG

[...]

[...]

- (2) Authorisation to pledge Right of appropriation with regard to German book-entry securities with a Custodian outside of Germany securities to a Settlement Location
- ~~(a) Each~~ The Clearing Member or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) authorises Eurex Clearing AG to ~~partially or fully~~ pledge to a Settlement Location for security purposes the German book-entry securities Securities with a custodian abroad and delivered by the Clearing Member or the Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) by way of book-entry credit in an account of Eurex Clearing AG

~~with a Settlement Location in order to fulfil its obligations arising from securities Transactions concurrently (*Zug um Zug*) versus payment of the purchase price by Eurex Clearing AG. German book entry securities are pledged pursuant to Sentence 1 to a Settlement Location only. Sentence 1 shall apply *mutatis mutandis* for the Clearing Member or Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) to whom delivery is to be made.~~

~~(b) The pledge granted by Eurex Clearing AG in favour of the respective Settlement Location pursuant to Paragraph (2) (a) above expires either in case Eurex Clearing AG delivers the pledged German book entry securities with a custodian abroad to the receiving Clearing Member or Basic Clearing Member (or the Clearing Agent acting on behalf of the Basic Clearing Member) by book-entry credit or in case the pledge is exercised by the respective Settlement Location by means of appropriation in an event of default.~~

[...]

[...]

Chapter IV of the Clearing Conditions of Eurex Clearing AG

Clearing of Repo Transactions

As of 08.03.2021

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

[...]

Part 2 Clearing of Repo Transactions

[...]

2.2 General Provisions

[...]

- (2) With respect to the procedure for delivery and payment resulting from Repo Transactions, the following provisions shall apply in addition to Chapter I Part 1 Number 1.2.5 and 1.4:

[...]

- (c) Physical Deliveries:

Eurex Clearing AG shall, with respect to Securities held in collective safe custody (*Girosammelverwahrung*) ~~the possession of the securities~~ delivered to it pursuant to Paragraph (2) (a) and (b), act as an intermediary of the Clearing Members or Basic Clearing Members which are obliged to deliver in order to subsequently deliver such securities to the Clearing Members or Basic Clearing Members which are to receive delivery. With respect to the settlement of transactions concluded by Clearing Members or Basic Clearing Members, the transfer of ownership in respect of the Securities held in collective safe custody (*Girosammelverwahrung*) ~~securities~~ to be delivered will thus be performed directly between the involved Clearing Members or Basic Clearing Members ~~involved~~.

[...]

[...]
