

Eurex Clearing AG
ECAG Rule Certification 021-18
February 27, 2018

1. The text of the proposed amendments to the Clearing Conditions of Eurex Clearing AG (“Clearing Conditions”) is appended as Attachment A. Any additions are underlined and any deletions are struck through.
2. The date of intended implementation is April 3, 2018.
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: <http://www.eurexclearing.com/clearing-en/resources/cftc-dco-filing>.
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.

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 further amendments to the Clearing Conditions to account for transactions that fall under U.S. Internal Revenue Code (“IRC”) Section 871(m) (“Section 871(m) transactions”). By way of background, Section 871(m) of the IRC and accompanying regulations impose a tax on “dividend equivalent amounts” (“DEAs”) paid or deemed paid pursuant to a derivative contract such as a notional principal contract or other equity-linked instrument that references U.S. equity securit(ies). The U.S. Internal Revenue Service and U.S. Treasury Department have issued Notice 2017-42 providing further relief from certain requirements of Section 871(m), specifically postponing the phase-in period of non-delta one instruments if issued before January 1, 2019. Eurex Clearing has issued previous circulars discussing these transactions.

Eurex Clearing is proposing amendments to provide that Clearing Members that may clear Section 871(m) transactions must provide Eurex Clearing with (i) a duly executed Form W-8IMY (Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting) or Form W-9 (Request for Taxpayer Identification Number and Certification), and (ii) by the 10th business day of each month all information as laid out on the Eurex Clearing webpage.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 021/18, which is 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 C (Participant and Product Eligibility): The proposed amendments will comply with DCO Core Principle C because the amendments implement amendments for compliance with a U.S. tax law for certain, applicable transactions, and all products cleared by Eurex Clearing will continue to comply with this Core Principle.

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: <http://www.eurexclearing.com/clearing-en/resources/cftc-dco-filing>.

 /s/Eric Seinsheimer

By: Eric Seinsheimer

Title: US Compliance Officer, Eurex Clearing AG

Dated: February 27, 2018