

03 Mar 2022
Eurex Clearing

EurexOTC Clear Release 12.1 and adoption of 2021 ISDA Interest Derivatives Definitions version 3 and version 4: Amendments to the Clearing Conditions and FCM Regulations of Eurex Clearing AG

Eurex Clearing Circular 012/22 EurexOTC Clear Release 12.1 and adoption of 2021 ISDA Interest Derivatives Definitions version 3 and version 4: Amendments to the Clearing Conditions and FCM Regulations of Eurex Clearing AG

1. Introduction

This circular contains information with respect to amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and the FCM Regulations of Eurex Clearing AG (FCM Regulations) regarding the following topics:

- A. EurexOTC Clear Release 12.1
- B. Adoption of 2021 ISDA Interest Derivatives Definitions version 3 and version 4
- C. Further minor amendments

The amendments to the Clearing Conditions and FCM Regulations will come into effect as of **28 March 2022**.

Learn now more about the EurexOTC Clear Release 12.1 on our dedicated initiative page under the following link: Support > Initiatives & Releases > EurexOTC Clear Releases > **EurexOTC Clear Release 12.1**. System documentation, circulars, timeline and much more information is available there for you.

2. Required action

Clearing Members, Basic Clearing Members, Disclosed Direct Clients, FCM Clearing Members, vendors and other affected contractual parties should take the amendments to the Clearing Conditions and FCM Regulations into consideration.

3. Details

A. EurexOTC Clear Release 12.1

Eurex Clearing will enhance its portfolio transfer functionality for cleared OTC NDF Transactions. The post trade event functionality provides members the possibility to transfer large numbers of cleared transactions as a portfolio and calculates the risk on a portfolio level, i.e. margin checks are carried out on a net basis across the portfolio of transactions that are to be transferred, as opposed to a check on transaction level as for the normal trade transfer. The functionality was introduced for OTC IRD, FX and XCCY Transactions with OTC Release 11.0.

Details of the portfolio transfer functionality are described in the "EurexOTC Clear Procedures Manual".

To reflect the changes, the following provisions will be amended as outlined in Attachments 1 and 2:

- ◆ Chapter VIII Part 2 Number 2.1.5.1 of the Clearing Conditions
- ◆ Chapter II Part 2 Number 2.1.5.1 of the FCM Regulations

B. Adoption of 2021 ISDA Interest Derivatives Definitions version 3 and version 4

Eurex Clearing started to offer clearing of bilateral OTC transactions that are based on the ISDA Interest Rate Definitions (2021 ISDA Definitions) on 4 October 2021.

ISDA has recently published two updates to the 2021 ISDA Definitions (version 3 and version 4). To the extent the updates are relevant for Eurex Clearing, they are non-material and rather require the update of some references to the 2021 ISDA Definitions.

To implement the changes, the following provisions will be amended as outlined in Attachment 1 and 2:

- ◆ Chapter VIII Part 1 Number 1.7, 1.8 of the Clearing Conditions
- ◆ Chapter II Part 1 Number 1.7, 1.8 of the FCM Regulations

C. Further minor amendments

Eurex Clearing applies further minor amendments to the Clearing Conditions and FCM Regulations to provide further clarification:

To implement the changes, the following provisions will be amended as outlined in Attachment 1 and 2:

- ◆ Chapter VIII Part 2 Number 2.7 (8), Part 3 Number 3.8 (8), Part 4 Number 4.9 (8) of the Clearing Conditions
- ◆ Chapter II Part 2 Number 2.7 (5) of the FCM Regulations

Publication of amendments to the Clearing Conditions and the FCM Regulations

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.eurex.com/ec-en/ under the following link:

Rules & Regs > Eurex Clearing 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:

1. Amended sections of Chapter VIII of the Clearing Conditions
2. Amended sections of Chapter II of the FCM Regulations

Further information

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

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

Contact: client.services@eurex.com

Related
circulars: Eurex Clearing circulars **076/20, 074/21, 081/21, 112/21**

Web: Support > Initiatives & Releases > EurexOTC Clear Releases >
EurexOTC Clear Release 12.1

Authorized
by: Dmitrij Senko

Further information

[↓ Attachment 1 to Eurex Clearing circular 012/22](#)

[↓ Attachment 2 to Eurex Clearing circular 012/22](#)

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Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions, OTC XCCY Transactions and OTC NDF Transactions

As of 28.03.2022

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Part 1 General Provisions

[...]

[...]

1.7 Certain Definitions

[...]

(10) **“Business Day”** means

[...]

- (ii) a day specified for that purpose in the OTC Trade Novation Report, which may be by reference to a TARGET Settlement Day, to any of the defined terms set out in Section 2.1.6-2.1.8 of the 2021 ISDA Definitions (**“New York Fed Business Days”**, **“NYSE Business Day”**, **“U.S. Government Securities Business Day”**) or otherwise; and

[...]

[...]

1.8 Index-related Provisions

[...]

[...]

1.8.2 Permanent Index Cessation

[...]

- (9) **Specific provisions relating to calculation periods to which ‘Linear Interpolation’ is specified to be applicable**

In respect of any calculation period (i) to which 'Linear Interpolation' is specified to be applicable to determine the relevant rate for the floating rate and (ii) with regard to which the relevant rate is determined by reference to a LIBOR index, EURIBOR, a BBSW index or a CDOR index, Section 9.6278.1 of the 2021 ISDA Definitions (or, if different, the section of the 2021 ISDA Definitions titled 'Specified IBOR Floating Rate Options – Linear Interpolation following Permanent Discontinuation of a Relevant Tenor') shall apply *mutatis mutandis*, provided that Eurex Clearing states in accordance with Chapter I Part 1 Number 16.1 that it is operationally and legally capable to use this fallback. In this or a further statement, Eurex Clearing may also issue accompanying provisions to clarify the fallback regime and its relation to the provisions of the Clearing Conditions.

[...]

[...]

Part 2 Clearing of OTC Interest Rate Derivative Transactions

[...]

2.7 Transfer of OTC Interest Rate Derivative Transactions, Account Transfer and Trade Amendment

[...]

- (8) Eurex Clearing AG may, subject to further restrictions set out in the systems of Eurex Clearing AG, offer a bulk transfer of two or more OTC Interest Rate Derivative Transactions (portfolio transfer) ~~where so that~~ the check in accordance with Part 1 Number 1.2.3 (1) Clause 8 whether the Clearing Member or Basic Clearing Member has delivered sufficient Eligible Margin Assets is performed on a net basis across all such OTC Interest Rate Derivative Transactions.

[...]

Part 3 Clearing of OTC FX Transactions

[...]

3.8 Transfer of OTC FX Transactions, Account Transfer and Trade Amendment

[...]

- (8) Eurex Clearing AG may, subject to further restrictions set out in the systems of Eurex Clearing AG, offer a bulk transfer of two or more OTC FX Transactions (portfolio transfer) ~~where so that~~ the check in accordance with Part 1 Number 1.2.3 (1) Clause 8 whether the Clearing Member has delivered sufficient Eligible Margin Assets is performed on a net basis across all such OTC FX Transactions.

[...]

[...]

Part 4 Clearing of OTC XCCY Transactions

[...]

4.9 Transfer of OTC XCCY Transactions, Account Transfer and Trade Amendment

[...]

- (8) Eurex Clearing AG may, subject to further restrictions set out in the systems of Eurex Clearing AG, offer a bulk transfer of two or more OTC XCCY Transactions (portfolio transfer) where-so that the check in accordance with Part 1 Number 1.2.3 (1) Clause 8 whether the Clearing Member has delivered sufficient Eligible Margin Assets is performed on a net basis across all such OTC XCCY Transactions.

[...]

[...]

Part 5 Clearing of OTC NDF Transactions

[...]

5.4 Transfer of OTC NDF Transactions, Account Transfer and Trade Amendment

[...]

- (7) For the avoidance of doubt, Eurex Clearing AG is not obliged to verify whether the transfer or account transfer instructions were given by the relevant Direct Client to the Clearing Member.
- (8) Eurex Clearing AG may, subject to further restrictions set out in the systems of Eurex Clearing AG, offer a bulk transfer of two or more OTC NDF Transactions (portfolio transfer) so that the check in accordance with Part 1 Number 1.2.3 (1) Clause 8 whether the Clearing Member or Basic Clearing Member has delivered sufficient Eligible Margin Assets is performed on a net basis across all such OTC NDF Transactions.

[...]

Chapter II: Special Provisions for Clearing of Interest Rate Derivative Transactions

FCM Regulations of Eurex Clearing AG

As of 28.03.2021

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

[...]

Part 1 General Provisions

[...]

1.7 Certain Definitions

[...]

(7) **“Business Day”** means

[...]

(ii) a day specified for that purpose in the Swap Trade Novation Report, which may be by reference to a TARGET Settlement Day, to any of the defined terms set out in Section 2.1.6-2.1.8 of the 2021 ISDA Definitions (**“New York Fed Business Day”**, **“NYSE Business Days”**, **“U.S. Government Securities Business Day”**) or otherwise; and

[...]

1.8 Index-related Provisions

[...]

1.8.2 Permanent Index Cessation

[...]

(9) **Specific provisions relating to calculation periods to which ‘Linear Interpolation’ is specified to be applicable**

In respect of any calculation period (i) to which ‘Linear Interpolation’ is specified to be applicable to determine the relevant rate for the floating rate and (ii) with regard to which the relevant rate is determined by reference to a LIBOR index, EURIBOR, a BBSW index or a CDOR index, Section 9.6278.1 of the 2021 ISDA (or, if different, the section of the 2021 ISDA Definitions titled ‘Specified IBOR Floating Rate Options – Linear Interpolation following Permanent Discontinuation of a Relevant Tenor’) Definitions shall apply *mutatis mutandis*, provided that Eurex Clearing AG states in

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accordance with Chapter I Number 15.1 that it is operationally and legally capable to use this fallback. In this or a further statement, Eurex Clearing AG may also issue accompanying provisions to clarify the fallback regime and its relation to the provisions of the FCM Clearing Conditions.

[...]

Part 2 Clearing of Interest Rate Derivative Transactions

[...]

2.7 Transfer of Swap Transactions, Account Transfer and Trade Amendment

[...]

- (5) Eurex Clearing AG may, subject to further restrictions set out in the systems of Eurex Clearing AG, offer a bulk transfer of two or more Swap Transactions (portfolio transfer) so that ~~where~~ the check in accordance with Part 1 Number 1.2.3 (1) (f) whether the FCM Clearing Member and, if applicable, the Non-FCM Clearing Member clearing the other side has delivered sufficient Eligible Margin Assets is performed on a net basis across all such Swap Transactions.

[...]
