

Eurex Clearing Circular 045/19

Amendments to the Clearing Conditions: Refinement to the repayment of cash collateral provided in a non-clearing currency

Summary

This circular contains information about changes and amendments to the Clearing Conditions of Eurex Clearing AG with respect to the following topic:

- Refinement to the repayment of cash collateral provided in a non-clearing currency

The amendments will become effective on **3 June 2019**.

Attachments:

- Amended sections of the Clearing Conditions of Eurex Clearing AG

Date: 7 May 2019

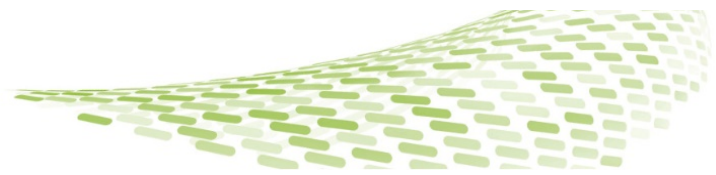
Recipients: All Clearing Members, Basic Clearing Members, Disclosed Direct Clients of Eurex Clearing AG and vendors

Authorized by:
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Target group:
All departments

Related circulars:
022/19

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Amendments to the Clearing Conditions: Refinement to the repayment of cash collateral provided in a non-clearing currency

With Eurex Clearing circular 022/19, Eurex Clearing introduced a possibility for Eurex Clearing to repay provided cash collateral to the Clearing Members, if the cash amount exceeds or will exceed a large exposure limit to which Eurex Clearing needs to adhere to. Based on feedback from its customers, Eurex Clearing with this circular provides more details on the prerequisites of the provision and clarifies the distribution allocation formula.

To reflect the changes and amendments, the following provisions of the Clearing Conditions shall be amended, as outlined in the attachment:

- Chapter I Part 1 Number 3.2.5
- Chapter VIII Part 3 Number 3.2.1

The amendments will become effective on 3 June 2019.

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

Resources > Rules and Regulations

The amendments to the legal framework of Eurex Clearing AG published by this circular at least fifteen (15) Business Days prior to the effective date indicated herein 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 of Eurex Clearing AG.

If you have any questions or require further information, please contact us via e-mail at client.services@eurexclearing.com.

7 May 2019

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 03.06.2019

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Part 1 General Clearing Provisions

[...]

3 General Provisions regarding Margin

[...]

3.2 Eligible Margin Assets and Valuation; Large Exposures

[...]

3.2.5 If, ~~in the opinion of~~

(1) Eurex Clearing AG is not able to invest all Eligible Margin Assets in the form of cash actually delivered to Eurex Clearing AG as Margin in a particular currency other than a Clearing Currency (the "Relevant Currency" and all such currencies together the "Relevant Currencies") pursuant to Number 3.4.2 (the uninvested amount the "Remaining Margin Amount"); and

(2) Eurex Clearing AG determines that, the sum of

(i) the any Remaining Margin Amounts in the Relevant Currencies, Eligible Margin Assets in the form of cash actually delivered to Eurex Clearing AG as Margin in a particular currency other than a Clearing Currency (the "Relevant Currency"); and

(ii) any Prefunding Amounts paid to Eurex Clearing AG in the Relevant Currencies in accordance with Chapter VIII

that is held with a particular commercial bank (or group of connected commercial banks) by Eurex Clearing AG exceeds or will exceed any large exposure limit with respect to the Relevant Currencies such commercial bank (or group of connected commercial banks) and to which Eurex Clearing AG is subject pursuant to Art. 395 CRR or any other comparable regulatory requirement (the amount of such excess in respect to one or more commercial banks (or group(s) of connected commercial banks) or prospective excess, as determined by Eurex Clearing AG, the "Relevant Currency Surplus"),

then Eurex Clearing AG shall be entitled to take the following measures to enable Eurex Clearing AG to comply with a view to complying with ~~with the relevant~~ such large exposure limit pursuant to Art 395 CRR or any other comparable regulatory requirement:

- (a) Eurex Clearing AG may, with respect to Clearing Members and Basic Clearing Members in respect of which an amount of Eligible Margin Assets in one or more of the Relevant Currencies ~~Currency~~ in excess of the applicable Margin Requirement, Default Margin Requirement or Default Basic Clearing Member Margin Requirement (as relevant) has been actually delivered to Eurex Clearing AG and has not been returned, repaid or applied (such excess in one or more of the Relevant Currencies ~~Currency~~, with respect to each such Margin Requirement, Default Margin Requirement or Default Basic Clearing Member Margin Requirement, a "**Currency Margin Excess**"), pay to each such Clearing Member and Basic Clearing Member (without prior notice) an amount in one or more of the Relevant Currencies ~~ies~~ up to the relevant Currency Margin Excess (with the aggregate of such payments to all relevant Clearing Members and Basic Clearing Members not exceeding the Relevant Currency Surplus). If one or more Currency Margin Excesses exist with respect to more than one Clearing Member or Basic Clearing Member, Eurex Clearing AG may distribute such payments (up to an aggregate of the Relevant Currency Surplus) across such Clearing Members and Basic Clearing Members in its reasonable discretion (*billiges Ermessen*). When exercising such discretion, Eurex Clearing AG ~~will~~ may take into account, *inter alia*, the amount of the relevant Currency Margin Excess of the relevant Clearing Members and Basic Clearing Members and the absolute amount of Eligible Margin Assets in the form of cash in the Relevant Currencies ~~ies~~ provided by each such Clearing Member and Basic Clearing Member. Any such payment shall discharge the corresponding Redelivery Claim of the receiving Clearing Member or Basic Clearing Member.
- (b) If Eurex Clearing AG concludes that the aggregate payments (if any) by Eurex Clearing AG pursuant to lit. (a) fall or will fall short of the Relevant Currency Surplus (the amount of such shortfall, the "**Residual Currency Surplus**"), Eurex Clearing AG may issue Margin Calls in accordance with Number 3.3 and the specific provisions of the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the ISA Provisions or the Basic Clearing Member Provisions, as applicable (in an aggregate equivalent value up to the Residual Currency Surplus), provided that (i) for the purposes of the determination whether the aggregate value of the Eligible Margin Assets actually delivered to Eurex Clearing AG in respect of the relevant Margin is insufficient to provide the cover required to comply with the applicable margin requirement, the Requested Substitution Amount shall be deemed to have a value of zero and (ii) only Eligible Margin Assets either in the form of cash in a Clearing Currency or in the form of Securities may be delivered in respect of such Margin Call. Following the actual delivery of the Eligible Margin Assets delivered in respect of such Margin Call(s), Eurex Clearing AG shall redeliver Eligible Margin Assets in the Relevant Currencies ~~ies~~ in an amount not exceeding the Requested Substitution Amount to the Clearing Member or Basic Clearing Member pursuant to the provisions on redelivery of Margin in the form of cash set out in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the ISA Provisions or the Basic Clearing Member Provisions, as applicable (the

“**Redelivery Provisions**”), provided that notwithstanding Number 1.2.1 Paragraph (2) and any contrary provisions in the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, the ISA Provisions or the Basic Clearing Member Provisions, as applicable, no such redelivery shall be contingent on the request by or the raising of a Redelivery Claim by a Clearing Member or Basic Clearing Member. For the avoidance of doubt, for the purposes of the determinations made pursuant to the Redelivery Provisions, the Requested Substitution Amount shall no longer be deemed to have a value of zero.

“**Requested Substitution Amount**” means the relevant amount(s) of Eligible Margin Assets in one or more of the Relevant Currencies provided by the relevant Clearing Member or Basic Clearing Member with respect to the relevant margin requirement, requested to be substituted by Eurex Clearing AG pursuant to this lit. (b). Eurex Clearing AG may distribute the requests for such substitutions across such Clearing Members and Basic Clearing Members in its reasonable discretion (*billiges Ermessen*). When exercising such discretion, Eurex Clearing AG may take into account, *inter alia*, the absolute amount of Eligible Margin Assets in the form of cash in one or more of the Relevant Currencies provided by each such Clearing Member and Basic Clearing Member.

- (c) If Eurex Clearing AG concludes that a Residual Currency Surplus cannot be or has not been eliminated in full by taking measures pursuant to lit. (b), Eurex Clearing AG may proceed in accordance with Chapter VIII Part 3 Number 3.2.1 Paragraph (2)(c) (in conjunction with Chapter VIII Part 4 Number 4.2.1 Paragraph (2), as applicable) with respect to Prefunding Amounts (as defined in Chapter VIII Part 3 Number 3.2.1 Paragraph (1)(d)) in one or more of the Relevant Currencies.

Eurex Clearing AG’s rights to conduct any further Margin Calls shall remain unaffected.

[...]

[...]

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

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

As of 03.06.2019

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Part 3 Clearing of OTC FX Transactions

[...]

3.2 Product-related terms for OTC FX Transactions

[...]

3.2.1 Payment obligations

[...]

(2) The following applies with respect to Prefunding Amounts:

[...]

- (c) If a Relevant Currency Surplus has occurred and Eurex Clearing AG concludes that a Residual Currency Surplus cannot be or has not been eliminated in full by taking measures pursuant to Chapter I Part 1 Number 3.2.5 (a) and/or (b), Eurex Clearing AG may, by notice (which may also be provided via email or telephone) to any Prefunding Amount Payer in respect of which any Prefunding Amount in one or more of the Relevant Currencies has been paid to Eurex Clearing AG and has not been applied or repaid, inform such Prefunding Amount Payer that Eurex Clearing AG intends pay to such Prefunding Amount Payer an aggregate amount in one or more of the Relevant Currencies up to the remaining Residual Currency Surplus and require such Prefunding Amount Payer to repay the identical amount in the Relevant Currencies to Eurex Clearing AG. Such notice may be revoked by Eurex Clearing AG at any time.

In such notice Eurex Clearing AG will inform the relevant Prefunding Amount Payer of the amount and time of the payment in one or more of the Relevant Currency that shall be made by Eurex Clearing AG and specify a reasonable time for such corresponding repayment of the identical amount in the Relevant Currency~~es~~ by the Prefunding Amount Payer to become due. The payment by Eurex Clearing AG will reduce the Prefunding Amount paid by the Prefunding Amount Payer accordingly. Eurex Clearing AG may directly debit the relevant Clearing Member Cash Account for the repayment. The amount so repaid to

Eurex Clearing shall constitute (or, as applicable, increase) a Prefunding Amount in the Relevant Currencies.

Eurex Clearing AG may distribute the payments and the demands for repayments across the relevant Prefunding Amount Payers in its reasonable discretion (*billiges Ermessen*), provided that the amount of ~~in the a~~ Relevant Currency to be so paid to and repaid by a Prefunding Amount Payer may not exceed the Prefunding Amount that has been paid to Eurex Clearing AG by such Prefunding Amount Payer in the respective Relevant Currency and has not been returned, repaid or applied. When exercising its discretion, Eurex Clearing AG may take into account, *inter alia*, the absolute amount of Prefunding Amounts in the Relevant Currency paid by each such Clearing Member and Basic Clearing Member.

For the avoidance of doubt, a payment by Eurex Clearing AG to a Prefunding Amount Payer pursuant to this Paragraph (2)(c) as such does not constitute a failure to pay the relevant Prefunding Amount pursuant to Number 3.3.1; however, a failure by the Clearing Member to make the repayment of the Prefunding Amount in accordance with this Paragraph (2)(c) constitutes a failure to pay pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (1).

[...]

[...]
