



Eurex Clearing Circular 054/18

Amendments to the Clearing Conditions: Consultation on amendments to Special Provisions

Summary

This circular contains information with respect to Eurex Clearing's service offering and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) regarding the following topic:

- Changes relating to the Clearing Conditions to remove redundancies in respect to the EMIR Risk Committee

The planned amendment falls within the scope of Special Provisions of the Clearing Conditions and hence is subject to a Consultation process (Consultation).

Such Consultation will commence on **4 June 2018** and shall end on **3 July 2018** at midnight (Consultation Period).

This circular contains the updated sections of the Clearing Conditions, as decided by the Executive Board of Eurex Clearing.

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions.

Attachments:

- Updated sections of the Clearing Conditions
- Form for appointment of individuals entitled to submit comments

Date: 1 June 2018

Recipients: All Clearing Members, Non-Clearing Members, Basic Clearing Members, FCM Clients and Registered Customers of Eurex Clearing AG

Authorized by:
Thomas Laux

Target group:
• All departments

Contact:
Your Group Client Key Account Manager Clearing, clearing.services-admission@eurexclearing.com



Amendments to the Clearing Conditions: Consultation on amendments to Special Provisions

Currently, the EMIR Risk Committee Statutes are partially repeated in the Clearing Conditions. As the Statutes for the EMIR Risk Committee represent an integral part of the Clearing Conditions, hence such repetition is redundant. To streamline the Clearing Conditions, the removal of such redundancies is therefore proposed.

To implement the changes, the following provisions will be amended as outlined in the attachment:

- Chapter I Part 1 Numbers 1.5.2 and 1.5.3 of the Clearing Conditions

The planned amendments fall within the Special Provisions in the Clearing Conditions, which are subject to a consultation process (Consultation), pursuant to Chapter I Part 1 Number 17.3 of the Clearing Conditions.

Such Consultation will commence on 4 June 2018 and shall end on 3 July 2018 at midnight (Consultation Period).

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed amendments of Special Provisions (see amended sections in attachment 1 to this circular) within the Consultation Period.

The Consultation Period will be followed by a Regular Notification Period of 15 business days, after which the proposed changes will come into effect on **8 October 2018**, provided that in total no more than two Affected Customers request a Prolonged Notification Period (three months).

If Eurex Clearing receives a request for a Prolonged Notification Period from more than two Affected Customers during the Consultation, Eurex Clearing will notify all affected parties promptly upon the receipt of such requests in an additional electronic circular.

During the Consultation Period, comments on proposed changes or amendments shall be submitted through a web-based commenting service provided by Eurex Clearing, only. Any Affected Customer intending to submit comments shall appoint one or more individuals for the Consultation who may submit comments on behalf of the respective Affected Customer using the form in attachment 2 to this circular.

The form has to be duly signed and returned to Eurex Clearing via e-mail to SpecialProvisions@eurexclearing.com in order to obtain a User ID and Password together with a Link for accessing the web-based commenting service.

To the extent Eurex Clearing decides to implement any comments of Affected Customers, the so-amended version will be published again applying the initial notification period, i.e. either the Regular Notification or the Prolonged Notification Period, as applicable.

When the amended Clearing Conditions come into effect, the full version of the amended provisions will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

[Resources > Rules and Regulations > Clearing Conditions](#)

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions.

If you have any questions or need further information please your Group Client Key Account Manager Clearing, clearing.services-admission@eurexclearing.com.

1 June 2018

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 08.10.2018

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

Part 1 General Clearing Provisions

1 General Rules

[...]

1.5 EMIR Risk Committee

1.5.1 Eurex Clearing AG will establish pursuant to Art. 28 Regulation (EU) 648/2012 ("**EMIR**") a risk committee as a comprehensive committee (*Gesamtausschuss*) (the "**EMIR Risk Committee**") in order to advise the supervisory board of Eurex Clearing AG (the "**Supervisory Board**") with respect to EMIR Matters (as defined in Number 1.5.2 below) and the Executive Board of Eurex Clearing AG (the "**Executive Board**") with respect to Relevant Matters (as defined in Number 1.5.3 below) and the Additional Matters (as defined in Number 1.5.4 below) to the extent this would not constitute a breach of law, a breach of an order of a court of competent jurisdiction or applicable governmental, quasi-governmental, or regulatory body.

~~1.5.2 "**EMIR Matters**" shall be the following risk related matters beyond daily operations if and to the extent they may have an impact on the risk management of Eurex Clearing AG:~~

- ~~(1) significant changes of the risk model of Eurex Clearing AG;~~
- ~~(2) changes to the default procedures including the process description relating thereto as published by Eurex Clearing AG on its website www.eurexclearing.com (the "**Procedures Manual**");~~
- ~~(3) changes to the categories of admissible clearing members (as defined in EMIR) and the admission criteria for clearing members (as defined in EMIR);~~
- ~~(4) the Clearing of new classes of instruments;~~
- ~~(5) outsourcing of functions by Eurex Clearing AG; and~~

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- ~~(6) all other matters beyond daily operations which may have an impact on the risk management of Eurex Clearing AG including, but not limited to, material changes to the Clearing Conditions, such as (without limitation)~~
- ~~(i) to the provisions regarding the Default Fund (as in particular defined in Number 6);~~
 - ~~(ii) to the method to determine Eligible Margin Assets (as defined in Number 3.2.1) or the methods to determine haircuts; and~~
 - ~~(iii) to the Interim Participation Conditions (as defined in Part 3 Subpart A Number 11.3.2) or the Immediate Re-Establishment Conditions (as defined in Part 3 Subpart A Number 11.4.2).~~

~~— EMIR Matters are also~~

- ~~(7) the internal policy framework defining types of extreme but plausible market conditions Eurex Clearing AG could be exposed to;~~
- ~~(8) the liquidity plan; and~~
- ~~(9) a policy for the use of derivative contracts as highly liquid financial instruments for the purpose of Art 47 (1) EMIR.~~

~~1.5.3 The Executive Board shall seek advice from the EMIR Risk Committee with respect to the following “**Consultation Matters**” (and together with the EMIR Matters the “**Relevant Matters**”):~~

- ~~(1) review and material revisions and adjustments to the models, their methodologies and the liquidity risk management framework used to quantify, aggregate, and manage the risks of Eurex Clearing AG;~~
- ~~(2) material revisions and adjustments to Eurex Clearing AG’s policies used to test its margins, Default Fund and other financial resources methodologies and framework for calculating liquid financial resources;~~
- ~~(3) the systems and valuation models used for validating Eurex Clearing AG’s models where pricing data is not readily available;~~
- ~~(4) review of Eurex Clearing AG’s margin model;~~
- ~~(5) review of the reverse stress tests developed by Eurex Clearing AG, and~~
- ~~(6) the formation of new, and changes to existing, Liquidation Groups (as defined in Number 7.5.1) (except when an existing Liquidation Group is separated into parts in accordance with Number 7.5.3 Paragraph (1) (b) and Paragraph (3)).~~

~~1.5.4 The Executive Board may seek advice from the EMIR Risk Committee with respect to EMIR Matters and all other matters which, in the view of the Executive Board, may have an impact on the risk management of Clearing Members and/or of Non-Clearing Members, Registered Customers or their clients (the “**Additional Matters**”).~~

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~~4.5.5~~1.5.2 The statutes for the EMIR Risk Committee as published by Eurex Clearing AG on its website www.eurexclearing.com represent an integral part of the Clearing Conditions.

~~4.5.6~~1.5.3 The Executive Board will promptly inform the BaFin (as defined in Number 2.1.2) of any decision of the Supervisory Board or the Executive Board in which the Supervisory Board or the Executive Board decided not to follow advice given by the EMIR Risk Committee with respect to any Relevant Matter.

[...]

Kapitel I der Clearing-Bedingungen der Eurex Clearing AG

Allgemeine Bedingungen

Stand 08.10.2018

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ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:

ERGÄNZUNGEN SIND UNTERSTRICHEN,

LÖSCHUNGEN SIND DURCHGESTRICHEN.

[...]

Abschnitt 1 Allgemeine Clearing-Bestimmungen

1 Allgemeine Vorschriften

[...]

1.5 EMIR Risk Committee

1.5.1 Die Eurex Clearing AG richtet gemäß Artikel 28 der Verordnung (EU) 648/2012 („**EMIR**“) ein Risk Committee als Gesamtausschuss (das „**EMIR Risk Committee**“) ein, das den Aufsichtsrat der Eurex Clearing AG (der „**Aufsichtsrat**“) zu den unter Ziffer 1.5.2 definierten EMIR-Angelegenheiten und den Vorstand zu den in Ziffer 1.5.3 definierten Relevanten Angelegenheiten und den in Ziffer 1.5.4 definierten Weiteren Angelegenheiten beraten soll, sofern dies nicht zur Verletzung eines Gesetzes, einer Anordnung eines zuständigen Gerichts oder einer zuständigen staatlichen, quasi-staatlichen oder Aufsichtsbehörde führt.

~~1.5.2 „**EMIR-Angelegenheiten**“ sind die folgenden Risiko-bezogenen Angelegenheiten, die über die normale Geschäftstätigkeit hinausgehen, wenn und soweit sich diese auf das Risikomanagement der Eurex Clearing AG auswirken können:~~

- ~~(1) wesentliche Änderungen des Risikomodells der Eurex Clearing AG;~~
- ~~(2) Änderungen der Verfahren bei Ausfall eines Clearing-Mitglieds einschließlich des dazu auf der Web-Seite www.eurexclearing.com durch die Eurex Clearing AG veröffentlichten Procedures Manual (das „**Procedures Manual**“);~~
- ~~(3) Änderungen der Kategorien zulassungsfähiger Clearing-Mitglieder (wie in EMIR definiert) und der Kriterien für die Zulassung für Clearing-Mitglieder (wie in EMIR definiert);~~
- ~~(4) das Clearing neuer Kategorien von Instrumenten;~~
- ~~(5) die Auslagerung von Funktionen durch die Eurex Clearing AG; und~~

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- ~~(6) alle anderen über die normale Geschäftstätigkeit hinausgehenden Angelegenheiten, die sich auf das Risikomanagement der Eurex Clearing AG auswirken können, einschließlich (aber ohne Beschränkung hierauf) wesentlicher Änderungen der Clearing-Bedingungen, insbesondere (ohne Einschränkung)~~
- ~~(i) der Regelungen zum Ausfallfonds (wie in Ziffer 6 definiert);~~
 - ~~(ii) der Methode zur Festlegung der Eligiblen Margin-Vermögenswerte (wie in Ziffer 3.2.1 definiert) oder der Methoden zur Festlegung von Abschlägen; und~~
 - ~~(iii) der Bedingungen der Interim-Teilnahme (wie in Abschnitt 3 Unterabschnitt A Ziffer 11.3.2 definiert) oder der Bedingungen der Unmittelbaren Wiederbegründung (wie in Abschnitt 3 Unterabschnitt A Ziffer 11.4.2 definiert).~~

Zu den EMIR-Angelegenheiten gehören auch:

- ~~(7) die internen Grundsätze zur Feststellung außerordentlicher aber plausibler Marktkonditionen, denen die Eurex Clearing AG ausgesetzt sein könnte;~~
- ~~(8) der Liquiditätsplan; und~~
- ~~(9) die Grundsätze zur Nutzung von Derivaten als hochliquide Finanzinstrumente für Zwecke des Art. 47 (1) EMIR.~~

1.5.3 ~~Der Vorstand ist verpflichtet, sich vom EMIR Risk Committee zu den folgenden „Konsultations-Angelegenheiten“ (gemeinsam mit den EMIR-Angelegenheiten die „Relevanten Angelegenheiten“) beraten zu lassen:~~

- ~~(1) Durchsicht und wesentliche Änderungen und Anpassungen der zur Quantifizierung, Zusammenfassung und Handhabung der Risiken der Eurex Clearing AG verwendeten Modelle, ihrer Methodik und der Grundsätze des Liquiditätsmanagements;~~
- ~~(2) Wesentliche Änderungen und Anpassungen der Grundsätze der Eurex Clearing AG zur Prüfung der Methodiken ihrer Margin, Default Fund und anderer finanzieller Mittel und der Rahmenbedingungen zur Berechnung ihrer liquiden Mittel;~~
- ~~(3) Die zur Validierung der Modelle der Eurex Clearing AG verwendeten Systeme und Bewertungsmodelle, wenn Preisangaben nicht ohne weiteres verfügbar sind;~~
- ~~(4) Durchsicht des Margin-Modells der Eurex Clearing AG; (5) Durchsicht der von der Eurex Clearing AG entwickelten Reverse-Stresstests; und~~
- ~~(6) Der Schaffung neuer oder Änderung bestehender Liquidationsgruppen (wie in Ziffer 7.5.1 definiert) (mit Ausnahme einer Teilung einer bestehenden Liquidationsgruppe gemäß Ziffer 7.5.3 Abs. (1) (b) und Abs. (3)).~~

1.5.4 ~~Der Vorstand ist berechtigt, sich vom EMIR Risk Committee zu EMIR-Angelegenheiten und allen anderen Angelegenheiten, die sich nach Ansicht des Vorstandes auf das Risikomanagement der Clearing-Mitglieder und/oder Nicht-Clearing-Mitglieder,~~

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~~Registrierten Kunden oder ihrer Kunden auswirken können beraten zu lassen (die „Weiteren Angelegenheiten“).~~

~~4.5.51.5.2~~ Die durch die Eurex Clearing AG auf ihrer Web-Seite www.eurexclearing.com veröffentlichten Statuten für das EMIR Risk Committee stellen einen integralen Bestandteil der Clearing-Bedingungen dar.

~~4.5.61.5.3~~ Der Vorstand informiert die BaFin (wie in Ziffer 2.1.2 definiert) umgehend über eine Entscheidung des Vorstands oder Aufsichtsrats, bei der der Vorstand oder Aufsichtsrat nicht dem Rat des EMIR Risk Committee im Hinblick auf eine Relevante Angelegenheit gefolgt ist.

[...]
