

Eurex Clearing AG
ECAG Rule Certification 051-21
June 23, 2021

1. The text of the proposed amendments to the Clearing Conditions of Eurex Clearing AG (“Clearing Conditions”), Default Management Auction Rules (“DM Auction Rules”), and FCM Default Rules of Eurex Clearing (“FCM Default Rules”) is appended as Attachment A. Any additions are underlined and any deletions are struck through.

2. The proposed amendments to the Clearing Conditions and DM Auction Rules in this rule certification are subject to a consultation process (“Consultation”); the Consultation will end upon expiry of July 22, 2021. The planned effective date of these amendments is August 17, 2021, depending on the outcome of the Consultation which will be communicated in a separate Eurex Clearing circular.

The amendments to the FCM Default Rules will become effective on August 17, 2021.

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: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.

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 the following amendments:

1. The proposed amendments introduce hedging auctions as a tool to improve the hedging process during a Default Management Process (“DMP”) of Eurex Clearing. In the event of a Termination with respect to a Clearing Member or FCM Clearing Member, Eurex Clearing would initiate its DMP. A DMP is generally composed of several steps: the preliminary measures, hedging, independent sales, mandatory (liquidation) auctions and post-liquidation processes. According to the current process, the hedging phase relies on standard trading practices, and voluntary counterparties are selected by Eurex Clearing on a discretionary basis, based on recommendations of the relevant Default Management Committee. The proposed amendments seek to achieve a more balanced DMP with a more transparent and efficient hedging phase by introducing Hedging Auctions. Such Hedging Auctions would establish hedging transactions between Eurex Clearing and the winner of the Hedging Auction to enable Eurex Clearing to hedge the effects of the portfolio of the terminated Clearing Member or FCM Clearing Member. Such Hedging Auctions will

conducted on Liquidation Group basis and will comprise of one or several (identical) Hedging Auction Unit(s), and each (invited) Hedging Auction Participant will be obliged to provide a bid and an ask price for a minimum number of auction units.

In addition, Eurex Clearing Circular 051/21, which is appended as Attachment A, provides further detail on the methodology for selecting Hedging Auction Participants, which will generally be foreseen to be on a voluntary basis due to the strong incentives participant offers. Circular 051/21 also provides further detail on the incentive system for providing a winning bid in a Hedging Auction. Specifically, the amendments introduce a new realization level in the Default Fund waterfall and provide that the Contributions of a (non-defaulting) Clearing Member or (non-defaulting) FCM Clearing Member can be assigned to one of three realization levels: (i) “juniorized” contributions if a Hedging Auction participant submits an invalid bid or does not submit a bid at all; (ii) “standard” contributions if a Hedging Auction Participant provides valid bids but did not win any Hedging Auction; and (iii) “seniorized” contributions if a Hedging Auction Participant did provide a winning bid. Lastly, Circular 051/21 provides further detail on a pre-defined formula for evaluating price validity in the context of Hedging Auctions.

2. Due to the amendments set forth in No. 1 above, the proposed amendments introduce a “seniorized” Default Fund Contribution segment to the Default Fund waterfall. For clarity, Circular 051/21 provides a full summary of the full, new Default Fund waterfall of Eurex Clearing.
3. Eurex Clearing is proposing other minor, editorial amendments with respect to references to the website of Eurex Clearing.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in the attached 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 G (Default Rules and Procedures) and CFTC Regulation 39.16: The proposed amendments will comply with DCO Core Principle G and CFTC Regulation 39.16. DCO Core Principle G requires that a DCO have rules and procedures to allow for the efficient, fair, and safe management of events during a clearing member default and that a DCO’s default procedures are clearly stated, publicly available, and ensure that the DCO may take timely action to contain losses and liquidity pressures and continue meeting each obligation of the DCO. The amendments proposed by this rule certification comply with DCO Core Principle G because the new, foreseen Hedging Auctions achieve a further balanced DMP with a more transparent and efficient hedging phase.

The proposed amendments also comply with CFTC Regulation 39.16. Specifically, 39.16(c)(2) provides, in relevant part:

(2) a derivatives clearing organization shall have rules that set forth its default procedures, including:

....

(ii) The actions the derivatives clearing organization may take upon a default, which shall include . . . the prompt transfer, liquidation, or hedging of the customer or house positions of the defaulting clearing member, as applicable, and which may include, in the discretion of the [DCO], the auctioning or allocation of such positions to other clearing members;

(iii) Any obligations that the derivatives clearing organization imposes on its clearing members to participate in auctions, or to accept allocations, of the customer or house positions of the defaulting clearing member

39.16(c)(2)(iii) also requires that a DCO permit a clearing member to outsource to a qualified third party authority to act in an auction or allocation, subject to appropriate safeguards by the DCO, and requires that a DCO must not require a clearing member to bid for a position or accept an allocation of a defaulting clearing member's positions that is not proportional to the size of the bidding or accepting clearing member's positions in the same product class at the DCO.

The proposed amendments comply with all of these applicable rules by setting forth the manner in which Hedging Auctions will function in a DMP as well as the methodology by which participants may either voluntarily participate in a Hedging Auction or be selected. Clearing Members and FCM Clearing Members retain the ability to outsource auction participation to a third party and would only participate in a Hedging Auction for products in a Liquidation Group where the Clearing Member already has proportional positions.

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: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.

/s/ Eric Seinsheimer

By: Eric Seinsheimer

Title: US CCO, Eurex Clearing AG

Dated: June 23, 2021