

**Eurex Clearing AG**  
**ECAG Rule Certification 052-20**  
**June 16, 2020**

1. The text of the proposed amendments to the Clearing Conditions (“**Clearing Conditions**”) of Eurex Clearing AG (“**Eurex Clearing**”) and FCM Regulations (“**FCM Regulations**”) of Eurex Clearing is appended as Attachment A. Any additions are underlined and any deletions are struck through.
2. For Amendments Nos. 1-5 below, the date of intended implementation is September 1, 2020. The amendments under No. 1 below with regards to Chapter I Part 1 Number 7.2 of the Clearing Conditions and the amendments under No. 3 below are subject to a Consultation. The Consultation will end on July 24, 2020. The planned effective date of these amendments is September 1, 2020, depending on the outcome of the Consultation which will be communicated in a separate Eurex Clearing circular.
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 the following amendments:

1. Eurex Clearing is proposing amending the Clearing Conditions and FCM Regulations pursuant to the requirement in the CFTC’s DCO General Provisions and Core Principles Final Rule that requires DCOs to have rules to provide public notice of a declaration of default on its website.
2. Eurex Clearing is proposing amending certain provisions in the FCM Regulations as follows:
  - Certain legal consequences of the Termination of an FCM Clearing Member will be effective as of the “FCM Clearing Member Termination Time,” instead of the issuance of the Declaration of Termination;
  - Eurex Clearing can determine whether the “FCM Clearing Member Replacement Requirements” are fulfilled at its own discretion;

- Eurex Clearing is now entitled to waive certain “FCM Clearing Member Replacement Requirements” to facilitate the porting process; and
  - Some clarifications regarding the scope of the participation in the non-default losses.
3. Eurex Clearing is currently processing buy-ins on request of the lender as part of its late delivery management actions for securities lending transactions. With the introduction of settlement discipline measures under the Central Securities Depository Regulation (“CSDR”) in 2021, counterparties will be required to process buy-ins on a mandatory basis.

Although CCP buy-in procedures have been proven as effective, late deliveries are often part of a broader fails chain. To avoid having multiple and sometimes even unnecessary buy-ins in the bilateral market, buy-ins are typically processed only at the end of the fails chain and resulting costs are passed on towards the ultimate party causing the settlement fail. However, under the CSDR framework, it is not possible to process buy-ins against a CCP.

To increase settlement efficiency and streamline procedures of the bilateral and cleared market, Eurex Clearing will introduce a buy-in cost reclaim process. This will allow the lender to pass on costs from buy-ins through the CCP vis-à-vis the borrower. It is noted that the buy-in process will not replace the buy-in process of the Lending CCP, but provides an additional option for the lender to use the buy-in cost reclaim instead of such buy-in process of the Lending CCP.

For avoidance of doubt, Eurex Clearing clears securities lending transactions outside the scope of its DCO license, which only applies to swaps.

4. In its capacity as an RCH in Singapore, Eurex Clearing may only provide clearing services to participants that are not retail investors incorporated in Singapore. The Clearing Conditions as well as the FCM Regulations will therefore be amended accordingly by adding a provision stating that any Clearing Member or FCM Clearing Member that:
- (i) is a bank or financial institution domiciled and/or incorporated in Singapore pursuant to the Singapore Companies Act Chapter 50 or
  - (ii) is or acts through a Singapore-registered branch of a foreign bank or financial institution holding the requisite capital markets services license issued by the Monetary Authority of Singapore under the Securities and Futures Act

represents and warrants to Eurex Clearing that any Direct Clients and Indirect Clients of the Clearing Member or FCM Clearing Member, respectively, that are domiciled and/or incorporated in Singapore, are accredited investors, institutional investors and/or expert investors for the purposes of the Singapore Securities and Futures Act.

5. Eurex Clearing will offer clearing services for exchange-traded derivatives (“ETD”) and over-the-counter (“OTC”) products to Clearing Members and FCM Clearing Members not located in the PRC for Disclosed Direct Clients located in the PRC. The Clearing Conditions as well as FCM Regulations will be amended accordingly by adding a provision whereby for OTC products, Clearing Members and FCM Clearing Members represent to Eurex Clearing that any entities domiciled in the PRC that they onboard as Disclosed Direct Clients and/or FCM Clients qualify as eligible investors under the relevant PRC laws.

Additionally, the affected Clearing Members or FCM Clearing Members must ensure by obtaining representation from the respective Disclosed Direct Client and/or FCM Client that the original bilateral transaction was not concluded OTC or off-book between two entities located in the PRC. These requirements will be reflected in representations in the Clearing Conditions.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in Eurex Clearing Circular 052-20, which is appended as Attachment A.

Eurex Clearing has identified the following derivatives clearing organization (“**DCO**”) Core Principles 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 clarify the obligations for clearing members with clients based in Singapore and PRC, and Eurex Clearing will continue to comply with this Core Principle.
2. DCO Core Principle G (Default Rules and Procedures): The proposed amendments will comply with DCO Core Principle G because the amendments provide for public website notice of clearing member termination events and clarify other default rules, and Eurex Clearing will continue to have rules and procedures that provide for the efficient, fair, and safe management of default events in compliance 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 CCO, Eurex Clearing AG

Dated: June 26, 2020