



eurex clearing circular 092/16

Date: 11 July 2016
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
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Optimisation of Eurex Clearing's Cash Management Infrastructure

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Content may be most important for:

☞ All departments

Attachments:

1. Amended sections of the Clearing Conditions of Eurex Clearing AG
2. Amended sections of the Price List of Eurex Clearing AG

Summary:

This circular contains information with respect to Eurex Clearing's cash infrastructure to facilitate clearing related payments and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and the Price List of Eurex Clearing AG (Price List) regarding the following topics:

1. Change of the general prerequisites for the granting of a Clearing License concerning cash accounts and the introduction of British pound as clearing currency.
2. Reactivation of the Permanent Cash Balance function for British pound.
3. Introduction of a Settlement Bank Fee for clearing related cash payments in clearing currencies.

The amended sections of the Clearing Conditions and the Price List as decided by the Executive Board of Eurex Clearing AG are attached to this circular.

All amendments will come into effect on **2 August 2016**.

Optimisation of Eurex Clearing's Cash Management Infrastructure

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1. Change of general prerequisites for the granting of a Clearing License concerning cash accounts and introduction of British pound as clearing currency

Currently, Eurex Clearing requires that each Clearing Member has access to a central bank account for the settlement of clearing related cash payments: For cash payments in euro, access to a TARGET2 account with any central bank of the Euro system which participates in TARGET2 is required; for cash payments in Swiss franc access to a SIX Interbank Clearing AG (SIC) account with Swiss National Bank is required.

This prerequisite will be amended as Eurex Clearing alternatively permits the use of cash accounts held with commercial banks to satisfy cash obligations in euro and Swiss franc. The applicant may either provide an own account with a euro/Swiss franc commercial bank recognised by Eurex Clearing or may use an account with a euro/Swiss franc commercial bank recognised by Eurex Clearing maintained in the name of a third party bank.

Please note that a commercial bank infrastructure for clearing related payments is currently only available for Swiss franc (see Eurex Clearing circular 056/15). An equivalent commercial bank infrastructure for euro will be available in November 2016 and will be announced in a separate circular.

Furthermore, Eurex Clearing has now an account with Bank of England and will therefore be able to offer British pound as clearing currency in addition to euro and Swiss franc for all markets except EurexOTC Clear. Clearing Members will be allowed to use an own cash account held with a British pound commercial bank recognised by Eurex Clearing or an account with a British pound commercial bank recognised by Eurex Clearing maintained in the name of a third party bank. British pound as clearing currency for EurexOTC Clear will be available in November 2016 and will be announced in a separate circular.

Cash accounts directly held with the Bank of England are not being offered to facilitate clearing related British pound payments.

Eurex Clearing ensures that euro, Swiss franc and British pound funds provided through commercial banks are safely placed with the relevant central bank money account of Eurex Clearing.

In case a Clearing Member decides to provide euro or Swiss franc funds through commercial bank accounts or chooses British pound as clearing currency, the applicant accepts that

- any payment obligation of the Clearing Member towards Eurex Clearing is only deemed to be discharged with the actual credit of the relevant cash amount to the relevant central bank account of Eurex Clearing,

- any payment obligation of Eurex Clearing towards the Clearing Member is deemed to be already discharged with the actual credit of the relevant cash amount to Eurex Clearing's account with its commercial bank, and
- any losses resulting from the default or insolvency of the commercial bank are borne by the Clearing Member.

Clearing Members willing to opt for British pound as clearing currency or for the commercial bank solution for euro and Swiss franc may contact their key account manager to obtain information on the procedure to be followed.

Furthermore, the changes addressed in this circular have no impact on cash accounts required for the Clearing Members' securities settlement activity performed by means of Delivery versus Payment instructions for which Clearing Conditions and corresponding requirements remain unchanged.

The following provisions in the Clearing Conditions will be amended:

- Chapter I Part 1 Number 1.2.4
- Chapter I Part 1 Number 1.4.1
- Chapter I Part 1 Number 2.1.2
- Chapter I Part 1 Number 14.2.2
- Chapter VI Part 1 Number 1.1.6

The amended sections of the Clearing Conditions as decided by the Executive Board of Eurex Clearing AG on 15 June 2016 are attached to this circular.

2. Reactivation of the Permanent Cash Balance function for British pound

Currently, Clearing Members have the possibility to hold a Permanent Cash Balance (PCB) with Eurex Clearing in euro and Swiss franc.

The PCB functionality will be reactivated for British pound providing Clearing Members with the possibility to maintain a permanent balance for cash margin collateral in British pound. Clearing Members will have the option to set the British pound PCB using Eurex Clearing GUI as currently possible for euro and Swiss franc.

3. Introduction of a Settlement Bank Fee

Eurex Clearing introduces a Settlement Bank Fee for clearing related cash payments in clearing currencies which will be charged to Clearing Members making use of a commercial bank for payments in euro, Swiss franc or British pound.

The volume based fee will be calculated in the chosen clearing currency and foresees 0.1 basis points on all debits and credits settled through the commercial bank with a monthly minimum fee of EUR 3,000.

The volume based fee shall not be charged by Eurex Clearing until the end of 2017.

The amended sections of the Price List, as decided by the Executive Board of Eurex Clearing AG on 6 July 2016, are attached to this circular.

All amendments stated in this circular will come into effect on 2 August 2016. As of this date, the amended Clearing Conditions will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

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

Pursuant to Chapter I Part 1 Number 17.2.3 of the Clearing Conditions, the changes and amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless it objects in writing to Eurex Clearing AG before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions. The right to terminate the Clearing Agreement or the Clearing License according to Chapter I Part 1 Number 2.1.4 Paragraph 2 Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions remains unaffected.

As of the effective date 2 August 2016, the updated Price List will be published on the Eurex Clearing website www.eurexclearing.com under the following link:

Resources > Rules and Regulations > Price List

Pursuant to Number 14 Paragraph 3 of the Price List, the amendments and additions to the Price List as communicated with this circular shall be deemed to have been accepted by the respective Clearing Member unless such Clearing Member's written objection is submitted to Eurex Clearing AG within ten (10) business days after publication.

If you have any questions or require further information, please contact Group Client Services & Administration at tel. +49-69-211-1 17 00 or send an e-mail to: memberservices@eurexclearing.com.

11 July 2016

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

Chapter I General Provisions

[...]

Part 1 General Clearing Provisions

[...]

1.2 Clearing Procedures

[...]

[...]

1.2.4 Certain Definitions and Interpretation

[...]

(2) 'Clearing Currency' means either Euro ("EUR"), ~~or~~ Swiss Francs ("CHF") or British Pounds ("GBP") as agreed in writing between Eurex Clearing and the Clearing Member in respect of each Standard Agreement.

[...]

[...]

1.4 Settlement of Transactions

[...]

[...]

1.4.1 Cash Clearing

(1) In order to make cash payments in ~~Euro~~ EUR, the Clearing Member is obliged to instruct the bank of its RTGS Account or ~~SIC~~ euroSIC Account (each as defined in Number 2.1.2 Paragraph (4) (b) (aa) ~~and (bb)~~) to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG.

(2) In order to make cash payments in ~~Swiss Francs~~ CHF, the Clearing Member is obliged to instruct the Swiss National Bank ("**SNB**") to honour the transfer

~~instructions received from Eurex Clearing AG with respect to its SNB Account (as defined in Number 2.1.2 Paragraph (4) (b) (bb)). Clearing Members which are allowed to maintain the cash account at a correspondent bank recognised by Eurex Clearing AG pursuant to Chapter I Part 1 Number 2.1.2 (4) (b) (bb) are obliged to instruct their correspondent bank accordingly.~~

- ~~(3) If Eurex Clearing AG has allowed the use of the cash accounts of a correspondent bank in accordance with Number 2.1.2 Paragraph (4) (b), the Clearing Member shall procure that the transfer instructions received from Eurex Clearing AG with respect to such accounts are honoured.~~
- ~~(4) In order to make cash payments in currencies other than Euro and Swiss Francs, the Clearing Member shall instruct its bank for the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account, its SIC Account (as defined in Number 2.1.2 Paragraph (4) (b) (bb)).~~
- (3) If the Clearing Member uses the cash account of a Correspondent Bank in accordance with Number 2.1.2 Paragraph (4) (b) (ee), the Clearing Member shall procure that the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account are honoured by the Correspondent Bank. If the Clearing Member uses the cash account maintained with a Settlement Bank in accordance with Number 2.1.2 Paragraph (4) (b) (ff), the Clearing Member shall procure that the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account are honoured by the Settlement Bank. If the Clearing Member uses a cash account maintained with a Settlement Bank in the name of a bank in accordance with Number 2.1.2 Paragraph (4) (b) (gg), the Clearing Member shall procure that the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account are honoured by the Settlement Bank.
- (4) In order to make cash payments in currencies other than EUR and CHF, the Clearing Member shall instruct its Settlement Bank with respect to the relevant currency account to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such cash account.
- (5) In order to make cash payments in respect of Margin in currencies other than a Clearing Currency Euro and Swiss Francs accepted by Eurex Clearing AG, the Clearing Member shall transfer the relevant cash amounts to the account of Eurex Clearing AG as notified to the Clearing Member from time to time by the date specified by Eurex Clearing AG with respect to the relevant currency. The Clearing Member may instruct its bank Settlement Bank for with respect to the relevant currency account, to honour the transfer instructions (*Lastschriften*) received from Eurex Clearing AG with respect to such account.

[...]

[...]

2 Clearing Members

2.1 Clearing License

[...]

[...]

2.1.2 General Prerequisites for Clearing Licenses

[...]

(4) The applicant shall have available the following accounts:

[...]

[...]

(b) Cash Accounts:

(aa) for cash payments in Euro:EUR: (i) an account within the payment module at a central bank of the Euro system which participates in ~~Target2~~TARGET2 with its ~~Target2~~TARGET2 component system or an account at another central bank which is not a central bank of the Euro system and, due to a special agreement, connected to ~~Target2~~ (hereinafter referred to as "**RTGS Account**"); TARGET2 ("**RTGS Account**"), (ii) an account with SECB Swiss Euro Clearing Bank GmbH ("**SECB Account**") and an euroSIC account with SIX Interbank Clearing AG (both accounts jointly the "**euroSIC Account**"), (iii) an account with a Correspondent Bank in accordance with (ee), (iv) an account with a Settlement Bank in accordance with (ff), or (v) an account with a bank which maintains an account with a Settlement Bank in accordance with (gg);

(bb) for cash payments in CHF: (i) an account with the Swiss National Bank SNB (the "**SNB Account**") and an account with SIX Interbank Clearing AG (both accounts in the following jointly the "**SIC Account**") ~~Clearing Members located outside of Switzerland~~; and without a branch in Switzerland which have not chosen CHF as a Clearing Currency are allowed to substitute the SIC Account with jointly the "**Central Bank Accounts**"), (ii) an account with a ~~correspondent~~ Correspondent Bank in accordance with (ee), (iii) an account with a Settlement Bank in accordance with (ff), or (iv) an account with a bank recognised by Eurex Clearing AG; which maintains an account with a Settlement Bank in accordance with (gg);

(cc) for cash payments in GBP: (i) an account with a Settlement Bank in accordance with (ff), or (ii) an account with a bank which maintains an account with a Settlement Bank in accordance with (gg)

(any RTGS Account and SIC Account each being referred to as a “**Central Bank Account**”); and

(ddee) if the Clearing Member wishes to pay Eurex-Fees (as defined in Number 5.1) according to Number 1.4.1 Paragraph (6), an account with a bank for the respective currency-

(all such accounts together with any other cash accounts provided for in the Special Clearing Provisions, the “**Clearing Member Cash Accounts**”).

(ee) — Eurex Clearing AG — The applicant may, upon written request, allow choose for EUR and CHF to use a Central Bank Account maintained in the username of cash accounts required pursuant to this Paragraph (4) (b) with a correspondent bank recognised (“**Correspondent Bank**”).

(ff) The applicant may choose to use an account with a commercial bank recognized by Eurex Clearing- AG (“**Settlement Bank**”). For cash payments in EUR, CHF and GBP the following provisions apply:

(i) The Settlement Bank shall not be an affiliate of the applicant. The scope of the term affiliate shall be determined by Eurex Clearing AG.

(ii) Any payment obligation of the applicant towards Eurex Clearing AG which may arise under the relevant Clearing Agreement, Standard Agreement or Transaction shall only be deemed discharged with the actual credit of the relevant cash amount to the designated TARGET2 account of Eurex Clearing AG, account of Eurex Clearing AG with the SNB or Bank of England (each an “**ECAG Central Bank Account**”) or an account of Eurex Clearing AG with the SIX Interbank Clearing AG or Swiss Euro Clearing Bank GmbH (each an “**ECAG euroSIC Account**”), respectively. Eurex Clearing AG ensures that it will instruct its Settlement Bank immediately after any cash amount has been credited to its account with the Settlement Bank to transfer such amounts to the relevant ECAG Central Bank Account or ECAG euroSIC Account.

(iii) Any payment obligation of Eurex Clearing AG towards the applicant which may arise under the relevant Clearing Agreement, Standard Agreement or Transaction shall already be deemed discharged with the actual credit of the relevant cash amount to Eurex Clearing AG’s account maintained with the Settlement Bank. Eurex Clearing AG ensures that it will instruct its Settlement Bank immediately after any cash amount has been credited to its account with the Settlement

Bank to transfer such amounts to the applicant's account with the Settlement Bank.

(iv) At the time the applicant enters into a Clearing Agreement with Eurex Clearing AG, the applicant further represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that it will indemnify Eurex Clearing AG against any and all damages and losses which may arise from (a) a non-transfer of the relevant cash amounts from the account of Eurex Clearing AG with the Settlement Bank to the relevant ECAG Central Bank Account of Eurex Clearing AG or (b) a non-transfer of the relevant cash amounts from the account of Eurex Clearing AG with the Settlement Bank to the applicant's account with the Settlement Bank, unless such non-transfer has been caused by an wilful action or omission by Eurex Clearing AG. Eurex Clearing AG will assign any claim it may have against the Settlement Bank with respect to such non-transferred cash amount to the applicant.

(gg) The applicant may choose to use an account with a Settlement Bank maintained in the name of another bank. The provisions under (ff) shall apply accordingly.

[...]

[...]

[...]

14 Liabilities, Emergency Actions, Contractual Penalties (*Vertragsstrafen*), Delegation

[...]

14.2 Disciplinary Procedures; Contractual Penalties (*Vertragsstrafen*)

[...]

14.2.2 If a Termination Event pursuant to Number 7.2.1 Paragraph (1) occurs or in the event of a failure to deliver Securities or other assets or a failure to provide any cash amount where a Physical Settlement shall occur in accordance with the Special Clearing Provisions – irrespective of whether Eurex Clearing AG has suffered any damage – unless such failure to deliver Securities or other assets or such failure to provide a cash amount results from force majeure (höhere Gewalt) and/or a general market or system disruption that is outside the control of the Clearing Member, the Clearing Member shall pay, in accordance with the instructions received from Eurex Clearing AG, a contractual penalty in the amount of 0.025 per cent of the relevant unpaid due amount, but no less than EUR 2,500 – or the corresponding equivalent in ~~CHF~~any other Clearing Currency as determined by Eurex Clearing AG – per calendar day, however, no

more than EUR 25,000 or the corresponding equivalent in ~~CHF~~any other Clearing Currency as determined by Eurex Clearing AG. If the amount calculated from the above percentage exceeds EUR 25,000, the amount of the contractual penalty shall – notwithstanding the provisions in Sentence 1 – be calculated according to a percentage of the relevant unpaid due amount, such percentage having been fixed and notified in advance by Eurex Clearing AG. Such percentage shall be based on the effective overnight interest rate applicable to the relevant Clearing Currency.

[...]

[...]

Chapter VI Transactions Concluded at the Irish Stock Exchange (ISE Dublin)

[...]

Part 1 General Provisions

[...]

1.1.6 Liability

Eurex Clearing AG is liable pursuant to the provisions of Chapter I Part 1 Number 14.1.2. Furthermore, the Clearing Member has to release and indemnify Eurex Clearing AG from all requirements and claims of third parties – in particular of ISE, EUI or the ~~Settlement Bank~~settlement bank – to the extent such requirements and claims are directly or indirectly opposed to Eurex Clearing AG in its capacity as CREST Central Sponsor or as CCP Participant and to the extent they affect an obligation of the Clearing Member having been culpably violated by it and if no Eurex Clearing AG has not acted in an culpable way. Eurex Clearing AG shall immediately notify the Clearing Member of such imminent requirement respectively such claim and will provide the Clearing Member with all information it needs in order to take over the legal defense, if it intends to do so. A dispute of the settlement, provided it is not based on a judgment, needs consent of Eurex Clearing AG.

[...]

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[...]

9. Service Fees for Collaterals, Clearing Fund Contributions and Funds provided for the Fulfilment of Own Funds or equivalent Regulatory Capital Requirements

9.1 Service Fees for Eligible Margin Assets in the Form of Cash

[...]

The fee for Eligible Margin Assets in the form of cash delivered as cover is determined according to the currency in which the delivery of Eligible Margin Assets in form of cash by the Clearing Member occurs. The respective fee therefore amounts to in case of cash in:

CHF: 0.20% p.a.

EUR: 0.20% p.a.

GBP: 0.50% p.a.

USD: 0.50% p.a.

The calculation of the fee will be performed act / 365 based on the value of the Eligible Margin Assets in the form of cash delivered and recorded in the Internal Margin Account (Chapter 4~~1~~ Part 2 Number 4.2 of the Clearing Conditions of Eurex Clearing AG), the Segregated Internal Margin Account (Chapter ~~14~~ Part 3 Subpart A Number 4.1.2 of the Clearing Conditions of Eurex Clearing AG) and the Internal Net Omnibus Margin Account (Chapter 4~~1~~ Part 4 Number 4.2 of the Clearing Conditions of Eurex Clearing AG) of the Clearing Member.

ECAG principally reserves the right to charge a lower fee.

If the Clearing Member has chosen to use a Settlement Bank for payments in EUR, CHF or GBP pursuant to Chapter I Part 1 Number 2.1.2 (4) (b) (ff) of the Clearing Conditions of Eurex Clearing AG, a fee shall be charged per Clearing Member as specified below.

The settlement bank fee of 0.001% will be charged on a monthly basis on the full amounts settled through the Settlement Bank to cover cash obligations according to Chapter I Part 1 Number 1.4.1 of the Clearing Conditions of Eurex Clearing AG and is determined according to the currency in which these cash payments are made ("Settlement Bank Fee"). A monthly minimum Settlement Bank Fee (Floor) of EUR 3,000 shall apply.

[...]
