

Eurex Clearing AG
ECAG Rule Certification 050-22
July 14, 2022

1. The text of the proposed amendments to the Clearing Conditions (“Clearing Conditions”) of Eurex Clearing AG (“Eurex Clearing”), Default Management Auction Rules (“DM Auction Rules”) of 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. The date of intended implementation of the proposed amendments is August 12, 2022.
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/ecen/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 to the DM Auction Rules, Clearing Conditions, and FCM Regulations with respect to the European Regulation on a framework for the recovery and resolution of CCPs (Regulation (EU) 2021/23) (the “Regulation”), which requires Eurex Clearing to implement various provisions into its legal framework to comply with regulatory requirements. The below amendments intend to implement these requirements as discussed:

1. Client Participation in Auctions (Article 18 (1) of the Regulation)

Eurex Clearing is proposing amendments to reflect Article 18 (1) of the Regulation’s provision that BaFin, acting in its capacity as Eurex Clearing’s resolution authority, may require Eurex Clearing to instruct Clearing Members to invite their clients to participate directly in default management auctions organized by the CCP when the nature of the auction justifies this exceptional participation. In addition, upon request of Eurex Clearing, Clearing Members shall inform their clients about the option to participate in a Default Management Auction (DM Auction, DM Bonds Auction, or Hedging Auction) following the instructions received from the CCP. Alternatively, Eurex Clearing may directly inform any Disclosed Direct Client or FCM Client, if deems the participation as appropriate.

2. Enforcement of Outstanding Obligations (Article 27 (5) of the Regulation)

Eurex Clearing is proposing amendments to reflect Article 27 (5) of the Regulation’s provision that if BaFin, acting in its capacity as Eurex Clearing’s resolution authority, makes use of one or more

resolution measures and if BaFin prior to such resolution measures refrained partially or fully from enforcing certain rights under the Clearing Conditions or FCM Regulations (i.e. to call for further contributions, further BCM contributions, or further FCM Clearing Member contributions, to exercise its cash settlement rights (partial tear-up)), BaFin shall be entitled to enforce any of such refrained rights within 18 months after the CCP is considered to be failing or likely to fail.

3. Termination Right for Resolution Authorities of Eurex Clearing (Article 29 of the Regulation)

Eurex Clearing is proposing amendments in accordance with Article 29 of the Regulation's requirement that a CCP implement provisions in its rulebooks that entitle BaFin, acting in its capacity as Eurex Clearing's resolution authority, to terminate some or all of the following contracts in resolution: (i) contracts with the clearing member in default ; (ii) contracts of the affected clearing service or asset class; (iii) the other contracts of the CCP in resolution.

4. Resolution "Variation Margin Gains Haircutting" ("VMGH") (Article 30 of the Regulation)

Eurex Clearing is proposing amendments pursuant to Article 30 of the Regulation, which provides that Eurex Clearing is required to implement provision in its rulebooks, which entitle BaFin, acting in its capacity as Eurex Clearing's resolution authority, to reduce the daily profits non-defaulting Clearing Members and FCM Clearing Members will receive from cleared Transactions which foresee daily Variation Margin or Settled-to-Market ("STM") Amount payments after the occurrence of a Termination with respect to a Clearing Member or FCM Clearing Member (Variation Margin Gains Haircutting – VMGH).

5. Resolution Cash Calls (Article 31 of the Regulation)

Eurex Clearing is proposing amendments pursuant to Article 31 of the Regulation, which provides that Eurex Clearing is required to implement provision in its rulebooks, which entitle BaFin, acting in its capacity as Eurex Clearing's resolution authority, to require the non-defaulting Clearing Members and FCM Clearing Members to provide further contributions to the Default Fund in the form of cash (Resolution Cash Calls) to cover any outstanding default loss or non-default loss.

6. Recognition of Resolution Measures (Article 53 (2) of the Regulation)

Eurex Clearing is proposing amendments pursuant to Article 53 (2) of the Regulation, which provides that Eurex Clearing is required to implement provision in its rulebook pursuant to which the Clearing Members and FCM Clearing Members agree to be bound by any resolution tool taken by BaFin, acting in its capacity as Eurex Clearing's resolution authority, with respect to the Clearing Member's, Basic Clearing Member's, or FCM Clearing Member's assets, rights, obligations, and liabilities under the Clearing Conditions or FCM Regulations, including the application of Article 28 (position and loss allocation tools), Article 32 (write down and conversion tool), Article 55 (power to suspend certain obligations), Article 56 (power to restrict the enforcement of security interests), and Article 57 (power to temporarily suspend termination rights) of the Regulation.

Further information regarding the operation, purpose and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 050-22, which is appended as Attachment A.

Eurex Clearing has identified the following DCO Core Principle as potentially being relevant to the above amendments:

1. DCO Core Principle G (Default Rules and Procedures): The proposed amendments comply with DCO Core Principle G, as the proposed amendments will implement the regulatory requirements set out in the Regulation, and Eurex Clearing's default rules and procedures will continue to allow for the efficient, fair, and safe management of insolvency or default events. In addition, the proposed amendments comply with CFTC Regulation 39.16(c)(2)(iii), as Eurex Clearing's DM Auction Rules continue to set forth the obligations Eurex Clearing imposes on its Clearing Members with respect to participation in auctions and comply with the delineated requirements.

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: July 14, 2022