

Eurex Clearing AG
ECAG Rule Certification 093-21
November 1, 2021

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

2. The proposed amendments in No. 1 below are subject to a consultation process (“Consultation”); the Consultation will end upon expiry of November 26, 2021. The planned effective date of these amendments is January 3, 2022 depending on the outcome of the Consultation which will be communicated in a separate Eurex Clearing circular.

The date of intended implementation of the proposed amendments in Nos. 2-4 below is December 1, 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 to its Clearing Conditions and FCM Default Rules:

1. Amendments to the Clearing Conditions for the inclusion of requirements for proof of own fund requirements for entities subject to Directive (EU) 2019/2034 (IFD) and the Regulation (EU) 2019/2033 (IFR)

The European Commission developed IFD and IFR to differentiate between the business model and respective risk profile of investment firms in contrast to credit institutions. The proposed amendments provide that entities subject to IFD and IFR shall provide Eurex Clearing with proof of own fund requirements subject to IFD and IFR.

2. Amendments to the Clearing Conditions in the context of re-design of the Eurex Clearing website

Following the re-design of the Eurex Clearing website, the proposed amendments update some references in the legal framework of Eurex Clearing to its website.

3. Amendments to Chapter IV (Clearing of Repo Transactions) of the Clearing Conditions in the context of the migration of the collateral management system for GC Pooling Repo Transactions from Xemac to CmaX

Eurex Clearing is proposing to amend its Clearing Conditions in the context of the migration of the collateral management system for GC Pooling Repo Transactions from Xemac (current system of Clearstream Banking AG, Frankfurt (CBF)) to CmaX (current system of Clearstream Banking S.A., Luxemburg, (CBL)). For avoidance of doubt, Eurex Clearing clears Repo transactions outside the scope of its DCO license, which applies only to swaps.

Amendments to Chapter IV Part 1, Part 2 and Part 3 of the Clearing Conditions cover GC Pooling migration aspects, and the addition of a new section Number 1.5 (Changes to Settlement and Collateral Management Infrastructure) to Chapter IV Part 1 of Clearing Conditions covers in particular the following changes:

- a. The handling of Non-Compliant Clearing Members (i.e. which fail to deliver the requested new account set up and the required relevant legal documentation thereto in due time) by Eurex Clearing is described. Eurex Clearing is entitled to terminate and close (accelerate) the outstanding GC Pooling Repo Transactions with such Non-Compliant Clearing Members in case the orderly settlement cannot be guaranteed.
 - b. It is described that on Friday before the migration weekend, i.e. 21 October 2022, settlement of GC Pooling Repo Transactions with Eurex Clearing will not be available (settlement holiday).
- 4. Amendments to the FCM Default Rules regarding the deletion of the clause stipulating that the calculation methodology for Default Fund Contributions published on Eurex Clearing's website forms part of the FCM Default Rules of Eurex Clearing**

Effective August 3, 2020, the Clearing Conditions were amended to remove the clause stipulating that the calculation methodology for Contributions to the Default Fund published on the website forms part of the Clearing Conditions. The change was introduced to shorten the governance process for changes to the calculation methodology and allow more timely reaction to unforeseen market conditions such as the emergence of the Covid-19 pandemic. While the amendment has been implemented in Chapter I Part 1 Number 6.1.1 of the Clearing Conditions, the FCM Default Rules still contain a respective clause.

To align the legal framework for all jurisdictions, Eurex Clearing is proposing an amendment to its FCM Default Rules to remove the clause stipulating that the calculation methodology for Contributions to the Default Fund published on the website forms part of the FCM Default Rules.

Further information regarding the operation, purpose and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 093/21, which is appended as Attachment A.

Eurex Clearing has identified the following 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 amendments will require proof of own fund requirements from all entities subject to IFD and IFR, and Eurex Clearing will continue to have appropriate admission and eligibility standards in compliance with this Core Principle.

2. DCO Core Principle G (Default Rules and Procedures): The proposed amendments will comply with DCO Core Principle G because amendments align the FCM Default Rules and remove the clause stipulating that the calculation methodology for Contributions to the Default Fund published on the website forms part of the FCM Default Rules. Eurex Clearing will continue to have default rules and procedures 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: <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: November 1, 2021