

Eurex Clearing AG
ECAG Rule Certification 091-20
November 5, 2020

1. The text of the proposed amendments to the Clearing Conditions (“**Clearing Conditions**”) of Eurex Clearing AG (“**Eurex Clearing**”), FCM Regulations (“**FCM Regulations**”) of Eurex Clearing, and FCM Default Rules is appended as Attachment A. Any additions are underlined and any deletions are struck through.
2. The proposed amendments are subject to a consultation process, which will end on December 1, 2020 . The planned effective date of these amendments is December 30, 2020, depending on the outcome of the consultation and 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: <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 a mechanism to return to a matched book in the context of the termination of a clearing member, after every standard Eurex Clearing Default Management Process tool has failed, including hedging transactions, independent sale transactions, and one or more mandatory auction(s), along with the incentive mechanism already in place (juniorisation of Default Fund contribution and penalties).

Eurex Clearing has determined that the currently available option to cash-settle an entire Liquidation Group is too broad and should be complemented by a more granular tear-up mechanism. The proposed changes to the Clearing Conditions, FCM Regulations, and FCM Default Rules seek to provide for this possibility for both exchange-traded derivatives (“**ETDs**”) and over-the-counter (“**OTC**”) Transactions. This proposed change is to be considered in light of the upcoming EU Regulation on the recovery and resolution of central counterparties.

The measures Eurex Clearing intends to apply to restore a matched book differ between ETD and OTC Interest Rate Derivative Transactions and OTC Currency Transactions, due to the different structure of these products.

Both processes have been designed in close co-operation with the EMIR Risk Committee in a manner that respects the two following principles:

- The application of any measures will keep the change in the risk profile of the clearing members to a minimum, and
- None of the measures will force a clearing member into a Transaction Type with respect to which it does not have the required technology or expertise.

For OTC Transactions, the proposed amendments foresee a three-step approach to return Eurex Clearing to a matched book:

- i) establish additional OTC Hedging Transactions,
- ii) conduct one additional OTC Auction of the (additionally) hedged portfolio, and
- iii) if this auction fails again, as a matter of last resort, establish new transactions between Eurex Clearing and those clearing members, which had been invited to the OTC Auction.

Further information and detail on this OTC process as well as the process for ETD is contained in Eurex Clearing Circular 091-20, which is appended as Attachment A. For avoidance of doubt, Eurex Clearing clears ETD outside the scope of its DCO license, which applies only to swaps.

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): The proposed amendments will comply with DCO Core Principle G because, with the amendments, Eurex Clearing will continue to have rules and procedures designed to allow for the efficient, fair, and safe managements of events in a default situation. In addition, Eurex Clearing continues to have clearly stated default procedures, to have its default procedures publicly available, and to ensure that Eurex Clearing may take timely action to contain losses and liquidity pressures, and continue to meet each of its obligations in compliance with this Core Principle.

Additionally, the proposed rule amendments will comply with accompanying CFTC Regulation 39.16 for the following reasons:

- Under the OTC Auction contemplated in the second step above of the OTC process, clearing members continue to be able to outsource to a qualified third-party to act in the clearing member’s place in any auction or allocations, as required under CFTC Regulation 39.16(c)(2)(iii)(A) & (B).
- Under the OTC process described above, a clearing member is not required to bid for a portion of, or accept an allocation of, the 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 derivatives clearing organization, as required under CFTC Regulation 39.16(c)(2)(iii)(C). Specifically, under step (iii) above, the proposed amendments provide that Eurex Clearing will only allocate to non-defaulting clearing members a share of the

portfolio that is in proportion of the three-month average Initial Margin Requirement in the affected product and currency.

- Eurex Clearing continues to have rules providing that the funds and assets of a defaulting clearing member's customers will not be applied to cover losses with respect to a house default, as required by CFTC Regulation 39.16(c)(2)(v).
- Eurex Clearing continues to have rules providing that the excess house funds and assets of a defaulting clearing member will be applied to cover losses with respect to a customer default, if the relevant customer funds and assets are insufficient to cover the shortfall.

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: November 5, 2020