

clear to trade



eurex clearing

circular 111/17

Date: 6 November 2017
Recipients: All Clearing Members, Non-Clearing Members, Basic Clearing Members,
FCM Clients and Registered Customers of Eurex Clearing AG
Authorized by: Heike Eckert

**Amendments to the Clearing Conditions and other related documents
of Eurex Clearing AG and consultation on changes or amendments of Special
Provisions in the Clearing Conditions of Eurex Clearing AG**

Contact: Your Key Account Manager Clearing, clearing-services.admission@eurexclearing.com

**Content may be most
important for:**

➔ All departments

Attachments:

1. Updated sections of the Clearing Conditions of Eurex Clearing AG (attachments 1-21)
2. Changes or amendments of Special Provisions (attachments 22-23)
3. Form for appointment of individuals entitled to submit comments

Summary:

This circular contains information with respect to the service offering of Eurex Clearing AG (Eurex Clearing) and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other related documents regarding the following topics:

1. Introduction of the framework for indirect clearing and Gross Omnibus Segregated Accounts (GOSA) for Direct Clients;
2. Introduction of an appropriation right with respect to pledged margin securities of defaulted Clearing Members (CM) and mobilisation regarding Default Fund Contributions in the form of securities;
3. Amendments to the Pledge Agreement with regard to items 1. and 2.

The amendments regarding item 1. will become effective on **4 December 2017**. Please note, that the Delegated Regulations on indirect clearing arrangements under EMIR and MiFIR have not yet been finally published in the Official Journal of the European Union. Likewise, no official guidance on the interpretation of the Delegated Regulations has been published yet hence subsequent adaptations cannot entirely be excluded.

The planned amendments related to items 2. and 3. fall within the scope of Special Provisions of the Clearing Conditions and hence are subject to a consultation process (Consultation).

The Consultation will start on **7 November 2017** and shall end on **7 December 2017** at midnight (Consultation Period).

The amended sections of the Clearing Conditions, as decided by the Executive Board of Eurex Clearing, are attached to this circular.



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Matthias Graulich,
Thomas Laux,
Manfred Matusza

Aktiengesellschaft mit
Sitz in Frankfurt/Main
HRB Nr. 44828
UST-IdNr. DE194821553
Amtsgericht
Frankfurt/Main

**Amendments to the Clearing Conditions and other related documents
of Eurex Clearing AG and consultation on changes or amendments of Special
Provisions in the Clearing Conditions of Eurex Clearing AG**

This circular contains information with respect to Eurex Clearing's service offering and corresponding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) regarding the following topics:

1. Introduction of the framework for indirect clearing and Gross Omnibus Segregated Accounts (GOSA) for Direct Clients
2. Introduction of appropriation right with respect to pledged margin securities of defaulted Clearing Members (CM) and mobilisation of Default Fund Contributions in the form of securities;
3. Amendments to the Pledge Agreement with regard to items 1. and 2.

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The planned amendments related to items 2. and 3. fall within the scope of Special Provisions of the Clearing Conditions and hence are subject to a consultation process (Consultation). Such Consultation will commence on 7 November 2017 and shall end on 7 December 2017 at midnight (Consultation Period).

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed changes or amendments of Special Provisions (see amended sections in Attachments 22 and 23 of this circular) within the Consultation Period.

Such Consultation Period will be immediately followed by a Regular Notification Period of 15 business days, after which the proposed changes will come into effect on **10 January 2018**, provided that in total no more than two Affected Customers request a Prolonged Notification Period (three months).

If Eurex Clearing receives such request for a Prolonged Notification Period from more than two Affected Customers during the Consultation, Eurex Clearing will notify all affected parties promptly upon the receipt of such requests in an additional electronic circular.

Terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions.

1. Introduction of the framework for indirect clearing and Gross Omnibus Segregated Accounts (GOSA) for Direct Clients

Eurex Clearing is introducing a new account structure to accommodate indirect clearing and GOSA for Direct Clients. This implementation is driven by regulatory requirements with regard to the introduction of indirect clearing which are detailed in draft regulatory technical standards developed by the European Securities and Markets Authority (ESMA). Clearing Members will be able to use separate client accounts (A-accounts) for Direct and Indirect Clients and offer indirect clearing arrangements under each of Eurex Clearing's segregation models (Elementary Clearing Model (ECM) and Individual Clearing Model (ICM)) to segregate collateral for Direct and Indirect Clients. In implementing these changes, Eurex Clearing has also consolidated the Net Omnibus Clearing Model under the ECM with the name "ECM – CASS Transactions". Therefore, Chapter I Part 4 has been consolidated with Chapter I Part 2 of the Clearing Conditions and Appendix 5 to the Clearing Conditions with Appendix 2 to the Clearing Conditions. Clearing Members can set up a minimum of one A-

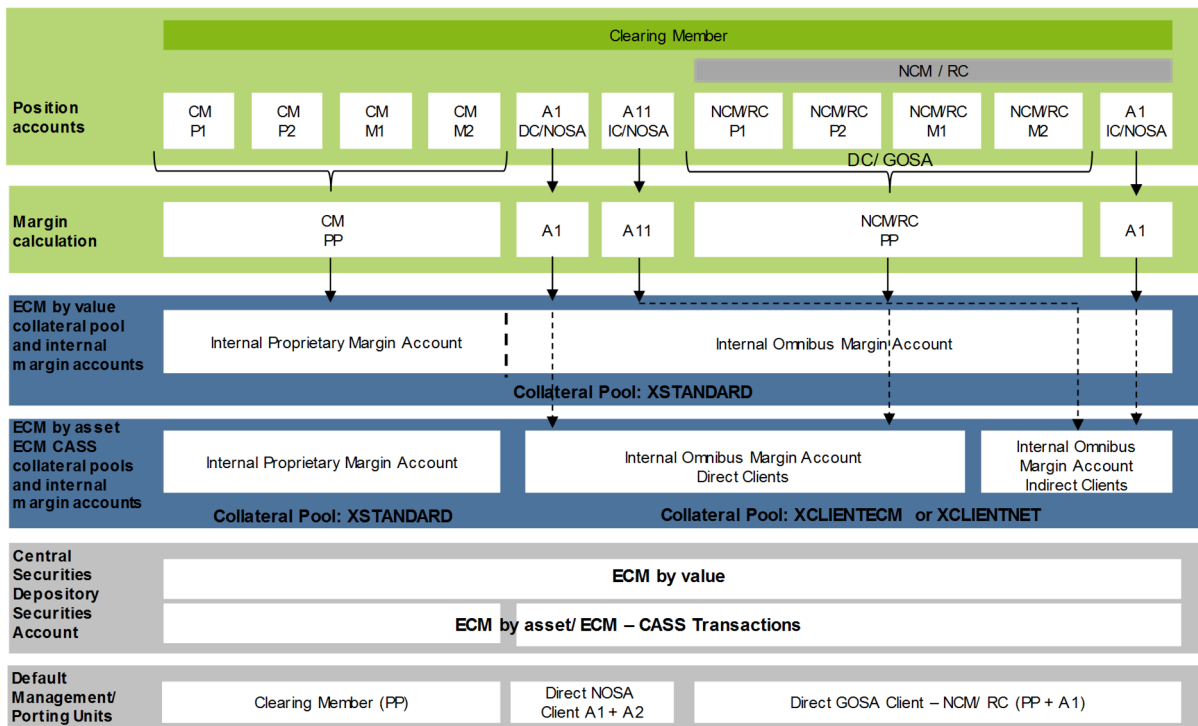
account for multiple Indirect Clients (NOSA Indirect Client Account(s)). For gross omnibus segregation, a Clearing Member must open a separate A-account for each Indirect Client (GOSA Indirect Client Account(s)).

In the event of Direct Client default, the existing process remains essentially unchanged, thus the Clearing Member handles the default. In the event of a Clearing Member default, Eurex Clearing will commence the porting process for the Direct Client(s) that will be able to port or be closed out together with the positions of its clients (Indirect Clients).

In order to provide a consistent offering for position and asset segregation on the level of the CCP for all clients of the Clearing Member and to improve the likelihood of porting for Direct Clients in the case of a Clearing Member default, Eurex Clearing AG will additionally extend the current omnibus segregation model to enable transaction/position keeping and margin calculation on a per client level without the client being recognised by the CCP as a Non-Clearing Member (NCM)/Registered Customer (RC) (Gross Omnibus Segregation Account – GOSA). Such client, who is set up with its own A-account, is called a “Specified Client”. Specified Clients, Non-Clearing Members (NCMs) and Registered Customers (RCs) will all be Direct GOSA Clients, i.e. GOSA will be applied automatically to NCMs/RCs.

The current approach to enable porting of transactions/positions and collateral as well as calculating the Difference Claim in a post-Clearing Member default scenario per Standard Agreement has been revised. The new approach will allow porting and Difference Claim calculation on a porting unit (Transaction Accounts Group) basis, independent of the other accounts/porting units assigned to the same collateral pool.

The diagram below provides simple examples of the setup of position accounts and allocation of collateral for Direct Clients (DC) and Indirect Clients (IC) segregated in NOSA and GOSA in the Elementary Clearing Model:



Further details regarding the setup for indirect clearing are available in the document “Indirect Clearing Member Guide” which can be downloaded from the Eurex Clearing Website www.eurexclearing.com under the link:

Risk Management > Client Asset Protection

In connection with the introduction of indirect clearing, Eurex Clearing will provide its Clearing Members and ICM Clients with a new report “CD044 – Daily Client Collateral Alloc”. This end-of-day report shows the allocation of collateral between Direct Clients and Indirect Clients for each collateral pool of a Clearing Member. It lists the margin requirement of the Direct Clients separately from the margin requirement of the Indirect Clients. Additionally, it shows any surplus in collateral available for the collateral pool.

Further details are available in the “XML Reports Reference Manual – Modification Notes” or “XML Report Reference Manual” which are available on the Eurex Clearing website under the link:

Technology > Eurex Clearing’s C7 > System documentation > Release 4.0

In the context of the introduction of GOSA for Direct Clients, Eurex Clearing will amend its collateral allocation algorithm to assign specific Eligible Margin Assets between the Internal Proprietary Margin Account and the Internal Omnibus Margin Account for the ECM Value Based Allocation Method. Additionally the collateral allocation algorithm will further allocate specific Eligible Margin Assets to Client Transaction Accounts in order to assign collateral from a single collateral pool to the individual porting units of the clients of the Clearing Member. Further details will be available in due time in the Member Section of the Eurex Clearing website under the link:

Member Section > Risk & Collateral Management > Client Asset Protection > Manuals

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachments 1-21:

- Chapter I Part 1, in particular Numbers 1.1, 1.2, 1.7, 4.2 and 15.1;
- Chapter I Part 2;
- Chapter I Part 3 Subpart A Number 2.1, 4.1 and 5.2;
- Chapter I Part 4 (Net Omnibus Clearing Model Provision) will be deleted; the numbering of the subsequent sections will be amended accordingly;
- Chapter I Parts 4 (U.S. Clearing Model Provisions) and 5 (Basic Clearing Member Provision);
- Chapter II – IX;
- Appendix 1-6 and 8-11 to the Clearing Conditions.

The full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website as of 4 December 2017 under the following link:

Resources > Rules and Regulations

Pursuant to Chapter I Part 1 Number 17.2.2 and Number 17.2.6 of the Clearing Conditions, the amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Basic Clearing Member, FCM Clearing Member, Non-Clearing Member and each Registered Customer and FCM Client affected by such amendment unless they object in writing to Eurex Clearing prior to the actual effective date of such amendment of the Clearing Conditions.

2. Introduction of appropriation right with respect to pledged securities of defaulted Clearing Members and mobilisation of Default Fund contributions in the form of securities

Eurex Clearing applies very high risk-management standards and permanently works on further improving these. Therefore, Eurex Clearing wants to extend its access rights with respect to securities collateral in case of a Member default in terms of managing liquidity and accessing specific securities provided as margin collateral to fulfil delivery obligations of the defaulted Clearing Member.

Regarding Eligible Margin Assets in the form of securities pledged in favour of Eurex Clearing, Eurex Clearing is currently only entitled to access such securities after the Difference Claim is determined. Prior to this, it is not possible to transfer, lend nor liquidate such securities.

Eurex Clearing has still, in certain cases, the interest to access the proprietary margin collateral before the Difference Claim is calculated, in particular to manage liquidity needs during a Default Management Process and to conclude replacement transactions with respect to repo transactions in case of the default of a Cash Provider.

Therefore, the existing pledge shall be equipped with a right of appropriation ("*Aneignungsrecht*") that will allow Eurex Clearing to access the margin collateral at any time between (i) the occurrence of an Insolvency Termination Event or the actual Termination by Eurex Clearing with respect to a Clearing Member and (ii) prior to the date on which the Difference Claim becomes due.

With respect to Default Fund Contributions in form of securities, which are provided to Eurex Clearing on a full title transfer-basis, the amendments clarify the right for Eurex Clearing to dispose of the securities for liquidity management purposes.

To reflect the adjustments described above, the following provisions shall be amended as outlined in Attachment 22:

- Appropriation right with respect to Eligible Margin Assets pledged in favour of Eurex Clearing:
 - Chapter I Part 2 Subpart A Number 4 of the Clearing Conditions,
 - Appendix 12 to the Clearing Conditions
(Information Statement in accordance with Article 15 of the Securities Financing Transactions Regulation)
- Re-use of Default Fund Contributions
 - Chapter I Part 1 Number 6 of the Clearing Conditions

3. Amendments to the Pledge Agreement with regard to items 1. and 2. of this circular

With regard to item 1., terminology due to the amendments of the Clearing Conditions will be reflected in the Pledge Agreement. With regard to item 2., Number 2 of the Pledge Agreement will be amended. Due to the fact that amendments to Appendices to the Clearing Conditions, which include the granting of powers of attorney, the granting of margin or the creation of security interests, are Special Provisions, these changes are also included in the Consultation.

To reflect these changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 23:

- Appendix 7 to the Clearing Conditions

Please note that all Clearing Members who are required to file or register a security interest with any relevant competent authority or register for the validity of such security interest by their applicable national laws, are kindly asked to prepare the relevant filing or registration of a newly executed version of the amended Pledge Agreement within the applicable notice periods. This applies in

particular to Clearing Members established under Irish, English, Scottish, Welsh or Singapore law. Eurex Clearing will contact the relevant Clearing Members separately.

With respect to items 2. and 3. of this circular, comments on proposed changes or amendments shall be submitted during the Consultation Period through a web-based commenting service provided by Eurex Clearing, only. Any Affected Customer intending to submit comments shall appoint one or more individuals for the Consultation who may submit comments on behalf of the respective Affected Customer using the form in Attachment 3 to this circular.

The form has to be duly signed and returned to Eurex Clearing via e-mail to **SpecialProvisions@eurexclearing.com** in order to obtain a User ID and Password together with a Link for accessing the web-based commenting service.

To the extent Eurex Clearing decides to implement any comments of Affected Customers, the so-amended version will be published again applying the initial notification period, i.e. either the Regular Notification or the Prolonged Notification Period, as applicable.

When the amended Clearing Conditions come into effect, they will be available for download on the Eurex Clearing website under the following link:

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

6 November 2017