

Eurex Clearing AG
ECAG Rule Certification 102/18
December 4, 2018

1. The text of the proposed amendments to the Clearing Conditions of Eurex Clearing (“Clearing Conditions”) is appended as Attachment B. The text of the proposed amendments to other side documents is appended as Attachment C. Any additions are underlined and any deletions are struck through.
2. The dates of intended implementation are January 28, 2019 and December 31, 2019.
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: <http://www.eurexclearing.com/clearing-en/resources/cftc-dco-filing>.
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 amendments to the Clearing Conditions designed to further decrease complexity of the legal framework and serve clearing members and their clients with increased flexibility in their functional set-ups.

Specifically, Eurex Clearing is proposing the following amendments:

1. Eurex Clearing currently differentiates between clients of a clearing member (“Direct Clients”) and clients of such Direct Clients (“Indirect Clients”). The proposed amendments will further divide Direct Clients into Direct Clients that Eurex Clearing has accepted on the basis of its compliance and know-your-customer checks (“Disclosed Direct Clients”) and Direct Clients that are not known to Eurex Clearing (“Undisclosed Direct Clients”). Disclosed Direct Clients will be subject to a simplified on-boarding process, and a more detailed compliance check during on-boarding will only be required for access to Eurex Clearing systems to conduct post-trade management activities. The proposed amendments further categorize Disclosed Direct Clients into the following:
 - DC Market Participants (formerly, “Non-Clearing Members”): These will be Disclosed Direct Clients that are trading participants on one or more markets in relation to which Eurex Clearing offers its clearing services and which conduct post-trade management with respect to the transactions relating to them;

- DCs With System Access (formerly, “Registered Customers”): These will be Disclosed Direct Clients (other than DC Market Participants) that have access to the systems of Eurex Clearing and can conduct post-trade management with respect to the transactions relating to them; and
 - Basic DCs (formerly “Specified Clients” and “Registered Customers” without system access): These will be Disclosed Direct Clients who do not conduct post-trade management with respect to transactions relating to them.
2. The proposed amendments will offer the optionality that a clearing member may classify DC Market Participants as indirect clients under the Elementary Clearing Model provisions. Upon acceptance by Eurex Clearing, such clients will then be known as “Indirect Client Market Participants.” Functionally, Indirect Client Market Participants will have the same rights as DC Market Participants, though they are indirect clients.
 3. The proposed amendments will replace the Individual Clearing Model for Specified Clients provisions in Chapter I Part 4 of the Clearing Conditions with a newly called Individual Segregation Account (“ISA”) Model. This ISA Model will not include the structural features or restrictions of the Individual Clearing Model and will provide for more flexibility with the same level of segregation protection. Eurex Clearing Circular 102-18, which is appended as Attachment A, provides a bulleted list of the key changes.
 4. Eurex Clearing is proposing amendments to end the offering of the Individual Clearing Model set forth in Chapter I Part 3 of the Clearing Conditions. With the proposed amendments in No. 3 above, Eurex Clearing will offer individual segregation only under Chapter I Part 4 of the Clearing Conditions, as amended under No. 3 above.
 5. Eurex Clearing is stating that it will no longer require entering into tri-partite Clearing Agreements under the Elementary Clearing Model. Therefore, the Clearing Conditions will no longer govern the legal relationship between a clearing member and its Disclosed Direct Clients, and there will not be any contractual relationship between Disclosed Direct Clients and Eurex Clearing. Accordingly, Eurex Clearing proposes to delete Appendix 2 to the Clearing Conditions.
 6. Eurex Clearing is stating that, due to these proposed amendments, it will be terminating tri-partite Clearing Agreements under the Elementary Clearing Model. The rights and obligations between Eurex Clearing and clearing members will not lapse and will be captured by, and subject to, the Clearing Agreement between Eurex Clearing and such clearing member pursuant to Appendix 1 of the Clearing Conditions. Attachment A provides further detail, specifically that these terminations should not affect the vast majority of clients.
 7. Eurex Clearing is proposing amendments and stating that it will end the Value Based Allocation Method within the Elementary Clearing Model as of December 31, 2019. Clearing members admitted after January 28, 2019 will be required to onboard under the Asset Based Allocation Method.
 8. Eurex Clearing is proposing amendments to the provisions regarding Eurex Clearing’s appropriation right relating to securities pledged as margin for clearing members’ Own Transactions (i.e., proprietary). Specifically, the proposed amendments provide that the entering into force of the appropriation right will be conditional upon the occurrence of a Termination Time with respect to the clearing member.

9. Eurex Clearing is proposing amendments to clarify the right of Eurex Clearing to dispose of securities deposited as default fund contributions with Clearstream Banking Luxembourg.
10. Eurex Clearing is proposing amendments to allow clearing members to provide margin assets in the form of securities by way of pledge using an account of a third-party account holder with Clearstream Banking AG. These amendments are designed to support Brexit migration plans. Due to differing insolvency regimes in different jurisdictions, such allowance will be subject to a case-by-case analysis by Eurex Clearing.
11. Eurex Clearing is proposing other non-substantive amendments to further streamline its legal framework.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 102/18, which is appended as Attachment A.

Effective Dates

The proposed amendments contained in Attachment B fall within the scope of Special Provisions of the Clearing Conditions and are subject to a consultation process. This consultation will begin on December 1, 2018 and end on January 2, 2019. Subject to consultation, the planned changes will become effective on January 28, 2019.

The proposed introduction of Chapter I Part 1 Number 18—the termination of all tri-partite clearing agreements—will become effective on December 31, 2019.

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 the amendments propose new categorizations of Eurex Clearing clients, a revised individual segregation model, elimination of tri-partite agreements, and elimination of one allocation method, and all Eurex Clearing client types, segregation models, and allocation method will continue to be objective, publicly disclosed, and permit fair and open access in compliance with this Core Principle.
2. DCO Core Principle D (Risk Management): The proposed amendments will comply with DCO Core Principle D because the amendments clarify Eurex Clearing's appropriation right related to securities margin for clearing members' proprietary transactions and allow clearing members to use third-party accounts for providing securities as margin, and Eurex Clearing will continue to comply with this Core Principle.
3. DCO Core Principle G (Default Rules and Procedures): The proposed amendments will comply with DCO Core Principle G because the amendments clarify Eurex Clearing's right of disposal for securities deposited as default fund contributions, and Eurex Clearing will continue to comply 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: <http://www.eurexclearing.com/clearing-en/resources/cftc-dco-filing>.



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Dated: December 4, 2018