

Eurex Clearing Circular 102/18

Consultation on amendments to the Clearing Conditions and related documents; further amendments to other documents of Eurex Clearing AG

Summary

This circular contains information on proposed amendments and on amendments to the legal framework of Eurex Clearing AG ("Eurex Clearing"). Eurex Clearing proposes a revision of its rulebook and related documents to further reduce the complexity of the legal framework and to serve Clearing Members and their clients with an increased flexibility in functional set-ups accompanied with a facilitated onboarding process.

Consultation

Some of the planned amendments fall within the scope of Special Provisions of the Clearing Conditions of Eurex Clearing ("Clearing Conditions"), and are subject to a consultation process ("Consultation"). All amendments combined in Attachment 1 will be part of the Consultation.

In particular, Eurex Clearing proposes the introduction of Chapter I Part 1 Number 18 of the Clearing Conditions, by which Eurex Clearing will terminate all tri-partite Clearing Agreements entered into with Clearing Members and current Non-Clearing Members and Registered Customers under the Elementary Clearing Model Provisions with effect as of 31 December 2019.

The Consultation will commence on 1 December 2018 and shall end on 2 January 2019 at midnight (Consultation Period). Subject to consultation, the planned changes shall become effective by **28 January 2019**.

Further amendments

Subsequent amendments to other parts of Eurex Clearing's legal framework as combined in Attachment 2 will become effective as of **28 January 2019**. Please refer to Attachment 2 and the summary below.

Attachments:

- Attachment 1: Chapters I, II, IV, V, VI, VIII and IX of the Clearing Conditions, Appendices 1, 2, 3, 4, 6, 7, 9, 10, 11, 12 and 13 to the Clearing Conditions; the Default Management Committee Rules and the Default Management Auction Rules
- Attachment 2: Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG for a Provider of the Multi-Member-Frontend System; the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP; The Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG; the Statutes for the EMIR Risk Committee; the Statutes of the FIC Board Advisory Committee; the Auction Terms of Eurex Clearing AG; the Disciplinary Procedures Rules; the Dispute Resolution Rules; the Price List of Eurex Clearing AG
- Attachment 3: Form for appointment of individuals entitled to submit comments

Date: 30 November 2018

Recipients: All Clearing Members, FCM Clearing Members, Basic Clearing Members, OTC IRS FCM Clients, Non-Clearing Members and Registered Customers of Eurex Clearing AG

Authorized by:
Heike Eckert

Target group:
• All departments

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



Consultation on amendments to the Clearing Conditions and related documents; further amendments to other documents of Eurex Clearing AG

This circular contains information on proposed amendments to the legal framework of Eurex Clearing.

Eurex Clearing proposes a revision of its rulebook and related documents to further decrease complexity of the legal framework and serve Clearing Members and their clients with an increased flexibility in functional set-ups accompanied with a facilitated on-boarding process.

The following additions and amendments are proposed to be implemented with effectiveness as of 28 January 2019.

1. New categorisation of Direct Clients and facilitated on-boarding processes

The Clearing Conditions will continue to differentiate between clients of the Clearing Member (“**Direct Clients**”) and clients of such Direct Clients (“**Indirect Clients**”). Direct Clients are further divided 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. A more detailed compliance check during on-boarding will only be required for Disclosed Direct Clients having access to the systems of Eurex Clearing conducting post-trade management activities with respect to transactions relating to them.

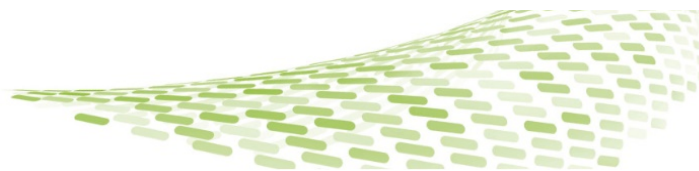
The contemplated amendments foresee the following categories of Disclosed Direct Clients (DC):

- “**DC Market Participants**” (former “Non-Clearing Members”), i.e. 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**” (broadly former “Registered Customers”), i.e. 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**” (former “Specified Clients” and “Registered Customers” without system access), i.e. Disclosed Direct Clients who do not conduct post-trade management with respect to transactions relating to them. From a functional point of view, Basic DCs can be set up in the systems of Eurex Clearing, on request of the Clearing Member, either with a Member ID or in an A-account of the Clearing Member.

The Clearing Member may grant the relevant Disclosed Direct Clients access to reports which Eurex Clearing specifically provides with respect to each Disclosed Direct Clients. Depending on the technical set-up, Basic DCs may only have access to a subset of such reports.

Clients can begin the on-boarding process immediately under the amended Eurex Clearing legal framework and test in the simulation environment, if required for the go-live date as of 28 January 2019.

The respective amendments can be found under Chapter I Part 1 Numbers 1.1.4 to 1.1.12 and subsequent changes in Chapter II, Chapter IV, Chapter V, Chapter VI, Chapter VIII of the Clearing Conditions and other related documents.



2. Optional classification for a client type: the Indirect Client Market Participant

Currently, clients who are trading participants on one or more Markets for which Eurex Clearing offers clearing services have been classified as Non-Clearing Members (now "DC Market Participants"). Such clients are generally characterised as Disclosed Direct Client (DC Market Participants).

Eurex Clearing offers the optionality that the Clearing Member may alternatively classify DC Market Participants as indirect clients under the Elementary Clearing Model Provisions. Upon acceptance by Eurex Clearing of such indirect client on the basis of its compliance checks, such clients will then become "**Indirect Client Market Participants**". From a functional perspective, such Indirect Client Market Participants shall have the same rights as DC Market Participants although they are indirect clients.

The direct client via which an Indirect Client Market Participant participates in the Clearing may be

- (i) a Disclosed Direct Client; or
- (ii) another client of the Clearing Member which is not set up as a Direct Client in the systems of Eurex Clearing.

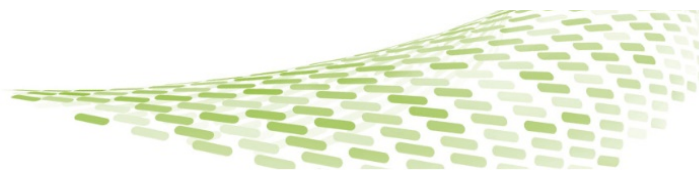
A disclosure of the direct client will facilitate porting and a direct payment of a potential Difference Claim to such relevant direct client. In case the direct client is not disclosed, porting will most likely not happen as no porting election notice can be provided by the relevant direct client within the porting period as Eurex Clearing cannot contact the direct client. Further, any Difference Claim will be returned to the defaulting Clearing Member for the account of the relevant direct client.

The respective amendments can be found in Chapter I Part 1 Number 1.1.13, Chapter I Part 2 Subpart A Number 9 and Chapter II of the Clearing Conditions.

3. The current Individual Segregation Model for Specified Clients becomes the new "ISA" model

Contrary to the Individual Clearing Model (Chapter I Part 3), the current Individual Segregation Model for Specified Clients (Chapter I Part 4) does not include the structural features or restrictions of the Individual Clearing Model (Chapter I Part 3) and therefore provides for more flexibility for the bilateral relationships between the Clearing Members and their clients with the same level of segregation protection:

- no tri-partite Clearing Agreement;
- no requirement to get access to Eurex Clearing's reporting engine;
- a significantly reduced KYC-process during on-boarding for client;
- no detailed requirements for the client clearing documentation between Clearing Member and client apply (Eurex Clearing-specific annexes to Market Standard Documentation not required anymore);
- no additional requirements with respect to the client clearing documentation stipulating that the client-clearing arrangement shall terminate at the same time as the ISA Standard and that the net claim resulting from such termination shall reflect the Difference Claim arising under the ISA Standard Agreement (between Clearing Member and Eurex Clearing);
- a simplified porting process;
- no security interest over the Clearing Member's client-related Difference Claim; and
- no registration requirement with respect to such security interest for by UK Clearing Members is necessary.



The current "Individual Clearing Model for Specified Clients" will be renamed in accordance with market terminology to "Individual Segregated Account" model or "ISA" model and shall become Eurex Clearing's standard individual account segregation model for all Disclosed Direct Clients:

- i. DC Market Participants;
- ii. DCs With System Access; and
- iii. Basic DCs.

Furthermore, the ISA provisions will allow Clearing Members to elect whether to provide margin in the form of securities to Eurex Clearing by way of title transfer or by way of granting pledges over such securities.

In case of a porting, the Disclosed Direct Client may elect under which clearing model the Replacement Clearing Member shall clear the transactions relating to such Disclosed Direct Client (ISA or Elementary Clearing Model).

All such amendments are made in Chapter I Part 4 of the Clearing Conditions, in the Pledge Agreement (Appendix 7) and in other related documents.

4. Individual Clearing Model (Chapter I Part 3) shall be discontinued as of 31 December 2019

Eurex Clearing intends to end the offering of the Individual Clearing Model pursuant to Chapter I Part 3 of the Clearing Conditions. In the future, Eurex Clearing intends to offer individual segregation only under the ISA Provisions pursuant to Chapter I Part 4 of the Clearing Conditions.

The Individual Clearing Model was developed before the German statutory provisions on the implementation of EMIR were enacted and thus provides for certain legal concepts and restrictions which are now no longer required.

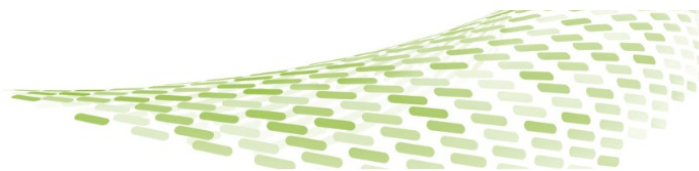
As of 29 January 2019, new clients requesting to clear under individual segregation shall generally be on-boarded under the ISA model. An on-boarding under the Individual Clearing Model shall only be possible in exceptional cases.

By 31 December 2019, all ICM Clients under the Individual Clearing Model (Chapter I Part 3 of the Clearing Conditions) shall be transferred to the ISA model. This transfer will be effected under clearer model change agreements between Eurex Clearing, the respective Clearing Member, and the respective ICM Client.

5. Tri-partite Clearing Agreements no longer required under Elementary Clearing Model Provisions

Eurex Clearing will no longer require entering into tri-partite Clearing Agreements under Elementary Clearing Model Provisions. As a consequence, the Clearing Conditions will no longer govern the legal relationship between the Clearing Member and its Disclosed Direct Clients and there will not be any contractual relationship between Disclosed Direct Clients and Eurex Clearing. Appendix 2 to the Clearing Conditions will be deleted.

As regards transitional provisions for existing tri-partite agreements under the Elementary Clearing Model Provisions, please refer to the following item.



6. Termination of tri-partite Clearing Agreements under the Elementary Clearing Model Provisions and Transitional Provisions

Pursuant to the newly introduced provisions under Chapter I Part 1 Number 18 of the Clearing Conditions, Eurex Clearing will terminate all tri-partite Clearing Agreements entered into with Clearing Members and current Non-Clearing Members and Registered Customers under the Elementary Clearing Model Provisions with effect as of 31 December 2019.

The rights and obligations between Eurex Clearing and a Clearing Member under such Clearing Agreements will not lapse as a result of such termination, but shall forthwith be captured by, and be subject to, the Clearing Agreement between Eurex Clearing and such Clearing Member pursuant to Appendix 1 to the Clearing Conditions. Eurex Clearing will continue to clear all client-related transactions of Clearing Members under the Elementary Clearing Model Provisions under such Appendix 1 Clearing Agreement. The segregation of transactions will not change as a result of the termination of the tri-partite Clearing Agreements.

Further, the termination should not affect the vast majority of the clients. Most of the relevant provisions under the Elementary Clearing Model Provisions, in particular the provisions on

- the establishment of transactions between the Clearing Member and the clients; and
- the (fall-back) close-out provision in the Elementary Clearing Model Provisions

shall only apply between the Clearing Member and its client, if such parties did not agree on similar provisions in their client clearing documentation.

Thus, only those few (former) Non-Clearing Members need to reconsider their client clearing documentations which did not expressly regulate such issues and which actually relied on the provisions in the Clearing Conditions.

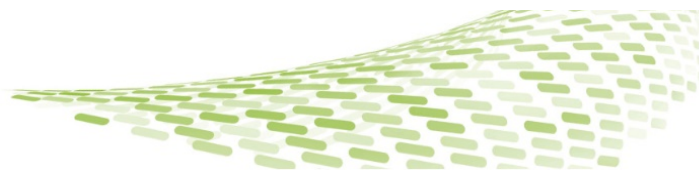
In order to give such Clearing Members and their (former) Non-Clearing Members and Registered Customers sufficient time to agree on a client clearing documentation, which regulates the afore-mentioned issues, Eurex Clearing foresees a transition period until 31 December 2019. Until then, the relevant provisions of the Clearing Conditions that provide for rights and obligations of such (former) Non-Clearing Member or Registered Customer will remain in force.

7. The Value Based Allocation Method within the Elementary Clearing Model (Chapter I Part 2) shall be discontinued as of 31 December 2019

Eurex Clearing intends to end the offering of the Value Based Allocation Method under the Elementary Clearing Model.

Clearing Members who will be admitted after 28 January 2019 are required to on-board under the Asset Based Allocation Method. As a consequence, such Clearing Members are required to establish different pledge securities accounts for the delivery of margin in the form of securities with respect to their omnibus transactions and their Own Transactions.

Clearing Members who have been admitted before 28 January 2019 are also requested to open a separate pledge securities account for the delivery of margin in the form of securities with respect to omnibus transactions and initiate the transfer of those securities which shall constitute Omnibus Margin before 31 December 2019.



8. Changes to Eurex Clearing's Appropriation Right relating to Securities pledged as Margin for Own Transactions of the Clearing Member

Further, the provisions with respect to appropriation rights of Eurex Clearing in relation to securities pledged to Eurex Clearing as margin for Own Transactions of the Clearing Member will be amended. The entering into force of the appropriation right shall be conditional upon the occurrence of a Termination Time with respect to the Clearing Member.

Such amendments can be found in Chapter I Part 2 Subpart A Number 4.3.2.4 of the Clearing Conditions and Number 2.2.11 of the Pledge Agreement (Appendix 7).

9. Clarification regarding the disposal of Default Fund Contribution in the form of securities deposited with CBL for liquidity management purposes

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

Required amendments are reflected in Chapter 1, Part 1 Number 6.1.2 (4) of the Clearing Conditions.

10. Introduction of Third Party Account Holders for CBF accounts for securities which are provided to Eurex Clearing by way of pledge

To support Brexit migration plans, Eurex Clearing proposes amendments to allow its 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. Due to differing insolvency regimes of the jurisdictions, this possibility will be subject to a case-by-case analysis of Eurex Clearing.

11. Further minor changes

Eurex Clearing proposes further minor amendments to its Clearing Conditions to further streamline its legal framework. For the amendments in detail, please refer to the attachment.

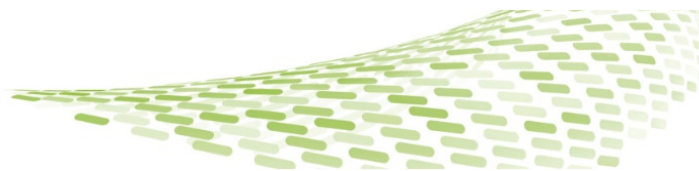
Consultation

Pursuant to Chapter I Part 1 Number 17 of the Clearing Conditions of Eurex Clearing AG, the following proposed amendments in Chapters I, II, IV, V, VI, VIII and IX of the Clearing Conditions, Appendices 1, 2, 3, 4, 6, 7, 9, 10, 11, 12 and 13 to the Clearing Conditions, the Default Management Committee Rules and the Default Management Auction Rules (see **Attachment 1**) are subject to a consultation process (Consultation). Such Consultation will commence on 1 December 2018 and shall end on 2 January 2019 at midnight (Consultation Period).

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed amendments 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 28 January 2019, provided that in total no more than two Affected Customers request a Prolonged Notification Period (three months).

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



During the Consultation period, comments on proposed changes or amendments shall be only submitted through a web-based commenting service provided by Eurex Clearing. 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 that 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 Period or the Prolonged Notification Period, as applicable. When the amendments come into effect, they will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

Resources > Rules and Regulations

Further amendments to Eurex Clearing's rules and regulations

Eurex Clearing will introduce further amendments to its rules and regulations to reflect the abovementioned changes to its Clearing Conditions. Other minor amendments are included as well. The following rules and regulations (see **Attachment 2**) will be affected:

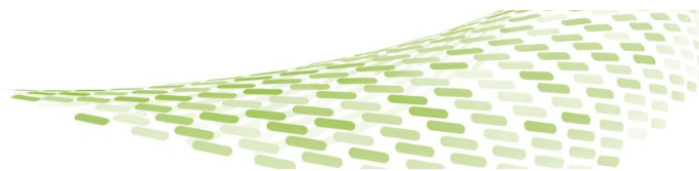
- Agreement on the Technical Connection to the Clearing EDP of Eurex Clearing AG for a Provider of the Multi-Member-Frontend System ("Provider Connection Agreement")
- General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP ("GTC to the Connection Agreement")
- Price List to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG ("Price List to the Connection Agreement")
- Statutes for the EMIR Risk Committee
- Statutes of the FIC Board Advisory Committee
- Auction Terms of Eurex Clearing AG
- Disciplinary Procedures Rules
- Dispute Resolution Rules
- Price List of Eurex Clearing AG

The amendments above will become effective as of 28 January 2019. As of the effective date, the full version of the amended documents will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link (or, as the case may be, under a sublink of the following link):

Resources > Rules and Regulations

Pursuant to § 3 of the Provider Connection Agreement, the amendments to the Provider Connection Agreement published by this circular at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each affected Contractual Party, unless the respective Contractual Party objects by written notice to Eurex Clearing AG within such period.

Pursuant to § 15 of the GTC to the Connection Agreement, the amendments to the GTC to the Connection Agreement published by this circular at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each affected Contractual Party, unless the respective Contractual Party objects by written notice to Eurex Clearing AG within such period.



Pursuant to § 8 of the GTC to the Connection Agreement, the amendments to the Price List to the Connection Agreement published by this circular at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each affected Contractual Party, unless the respective Contractual Party objects by written notice to Eurex Clearing AG within such period.

Pursuant to § 16 of the Statutes for the EMIR Risk Committee, each change and amendment of the Statutes for the EMIR Risk Committee published by this circular to Clearing Members, Non-Clearing Members, Registered Customers, OTC IRS FCM Clients and Basic Clearing Members affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions shall remain unaffected.

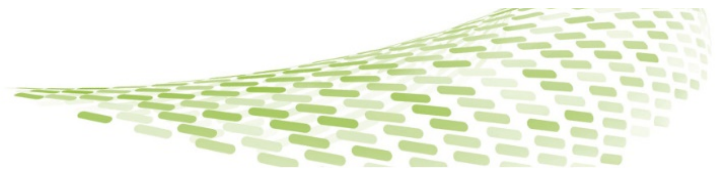
Pursuant to § 16 of the Statutes for the FIC Board Advisory Committee, each change and amendment of the Statutes for the FIC Board Advisory Committee published by this circular to Clearing Members, Non-Clearing Members, Registered Customers, OTC IRS FCM Clients and Basic Clearing Members affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions shall remain unaffected.

Pursuant to Number 10 of the Auction Terms of Eurex Clearing AG, the amendments to the Auction Terms of Eurex Clearing AG published by this circular are deemed accepted by the respective Participant, unless such Participant's written objection is submitted to Eurex Clearing AG within ten (10) business days after publication.

Pursuant to Number 5 of the Disciplinary Procedures Rules, each change and amendment of the Disciplinary Procedures Rules published by this circular to Clearing Members, FCM Clearing Members, Non-Clearing Members, Registered Customers, OTC IRS FCM Clients and Basic Clearing Members affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions or Chapter I Part 1 Number 9.2.1 Paragraph (1) (d) of the FCM Regulations, as applicable, shall remain unaffected.

Pursuant to Number 5 of the Dispute Resolution Rules, each change and amendment of the Dispute Resolution Rules published by this circular to any entities that are party to any Clearing Agreement and which are affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein are deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions shall remain unaffected.

Pursuant to Number 15 of the Price List of Eurex Clearing AG, the amendments and additions to the Price List of Eurex Clearing published by this circular are deemed accepted by the respective Clearing Member, FCM Clearing Member, Non-Clearing Member or Registered Customer, unless such Clearing Member's, Non-Clearing Member's or Registered Customer's written objection is submitted to Eurex Clearing AG within ten (10) business days after publication. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (4) of the Clearing Conditions or Chapter I Part 1 Number 9.2.1 Paragraph (1) (d) of the FCM Regulations, as applicable, shall remain unaffected.



Unless the context requires otherwise, terms used and not otherwise defined in this circular shall have the meanings ascribed to them in the Clearing Conditions.

If you have any questions or need further information please contact your Key Account Manager Clearing, clearing.services-admission@eurexclearing.com.

30 November 2018