

**Eurex Clearing AG**  
**ECAG Rule Certification 007-24**  
**February 09, 2024**

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

2. The date of intended implementation for Amendments 2, 3, 4 and 5 below is March 1, 2024.

Amendment 1 below is subject to a consultation process (“Consultation”). The Consultation will end with the expiry of March 6, 2024 (“Consultation Period”). The planned effective date of Amendment 1 is April 1, 2024, depending on the outcome of the Consultation, which 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.

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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 below amendments to the Clearing Conditions and FCM Regulations.

**1. Amendments to the (non-automatic) Termination Events**

The proposed amendments introduce minor amendments to the Termination Events Section in the Clearing Conditions and the FCM Regulations, with the main objective to remove outdated and unprecise terminology to further improve the clarity of the respective provisions. The amended Termination Events are outlined in detail in Eurex Clearing Circular 007-24, which is appended as Attachment A.

**2. Alignment of disclosure rights in case of a Clearing Suspension**

Eurex Clearing is currently not entitled to inform its Markets and CSDs about the issuance of a Clearing Suspension due to reasons which do not qualify as Termination Events. The proposed amendments include such disclosure rights for all Clearing Models under the Clearing Conditions and FCM Regulations.

### **3. Amendments to the exemptions provisions regarding Public Entities**

The Clearing Conditions provide Eurex Clearing with the right to exempt Public Entities from certain obligations under the Clearing Conditions. The proposed amendments align the wording of the Clearing Conditions with the corresponding provisions under Article 1 paras. (4) and (5) of EMIR (European Market Infrastructure Regulation).

### **4. Amendments to the creditworthiness requirement regarding Public Entities**

The Clearing Conditions define a specific creditworthiness requirement for the granting of exemptions for Public Entities. Currently, the creditworthiness of the relevant Public Entity is determined based on Eurex Clearing's internal credit assessment, which needs to correspond to a rating of A by Standard & Poor's Financial Services LLC (S&P). However, such minimum rating deviates from the minimum requirements stipulated by the Capital Requirements Regulation (CRR), which provides for a zero-risk weighting for Public Entities with a credit rating of at least AA-. Eurex Clearing intends to amend the minimum internal credit rating equivalent to AA- by S&P.

### **5. Alignment of the applicable transfer regime under German law with respect to WR Credits (*Gutschriften in Wertpapierrechnung*) under the ISA Provisions**

In 2021, Eurex Clearing amended the legal basis for the transfer of title in WR Credits (*Gutschriften in Wertpapierrechnung*) in the relevant parts of the Clearing Conditions. Instead of the transfer of a claim for surrender against the relevant CSD, Eurex Clearing followed the dominant view in German legal literature according to which the transfer of WR Credits is achieved by debit and credit entries in the relevant securities accounts. Eurex Clearing missed changing the transfer provisions regarding WR Credits under the ISA Provisions in the Clearing Conditions. The proposed amendments align the transfer provisions within the entire Clearing Conditions.

For avoidance of doubt, Eurex Clearing clears the ISA clearing model outside the scope of its DCO license.

Further information regarding the operation, purpose and effect of the proposed amendments is discussed in Attachment A.

Eurex Clearing has identified the following DCO Core Principles as potentially being relevant to the above amendments:

DCO Core Principle C (Participant and Product Eligibility): The proposed amendments will comply with DCO Core Principle C because the amendments provide for exemptions provisions regarding Public Entities and amend the specific creditworthiness requirement for the granting of exemptions for Public Entities, and the participation and membership requirements of Eurex Clearing will continue to comply with this Core Principle.

DCO Core Principle E (Settlement Procedures): The proposed amendments will comply with DCO Core Principle E because the amendments provide for alignment of the applicable transfer regime under German law with respect to WR Credits under the ISA Provisions, which are provisions for

a clearing model cleared outside of Eurex Clearing's DCO license, and all products cleared by Eurex Clearing under its DCO license will continue to be subject to appropriate standards in compliance with this Core Principle.

DCO Core Principle G (Default Rules and Procedures): The proposed amendments will comply with DCO Core Principle G because the amendments clarify certain language in the Termination Events Sections of the rulebooks and include disclosure rights in case of a suspension, and Eurex Clearing will continue to have rules and procedures to allow for the efficient, fair, and safe management of insolvency events 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: February 09, 2024