

17 May 2023  
Eurex Clearing

# Repo Transactions: Admission of U.S. Broker-Dealers as Direct Clearing Members for the clearing of Repo Transactions

## Eurex Clearing Circular 029/23 Repo Transactions: Admission of U.S. Broker-Dealers as Direct Clearing Members for the clearing of Repo Transactions

### 1. Introduction

This circular contains information with respect to the service offering of Eurex Clearing AG (Eurex Clearing) and introduces amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and the Price List of Eurex Clearing AG (Price List) regarding the admission of U.S. Broker-Dealers as Direct Clearing Members for the clearing of Repo Transactions.

The amendments shall become effective on **13 June 2023**.

In addition, Eurex Clearing introduces a fee waiver with respect to the Clearing License fees for U.S. Broker-Dealers **from 13 June 2023 until 13 June 2024**.

### 2. Required action

Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients, FCM Clearing Members, vendors and other affected contractual parties should take the amendments to the Clearing Conditions into consideration.

### 3. Details of the initiative

Eurex Clearing will extend the clearing offering with respect to Eurex Repo Transactions to U.S.-based entities, which are registered with the U.S. Securities and Exchange Commission (SEC) as broker-dealers in accordance with Section 15 (b) of the U.S. Securities Exchange Act.

The clearing offering for U.S. Broker-Dealers is limited to clearing of proprietary transactions. Further, U.S. Broker-Dealers shall not be allowed to clear Repo Transactions relating to an underlying security, which the SEC considers to be a "U.S. security" for purposes of Section 17A of the U.S. Securities Exchange Act.

With respect to entering into Eurex Repo Transactions via Eurex Repo GmbH by U.S. Broker-Dealers, such Eurex Repo Transactions can only be executed via the so-called "pre-arranged functionality" or the "request-for-quote" functionality with "view-only access" to Eurex Repo GmbH's Central Limit Orderbook (CLOB). A direct market access for U.S. Broker-Dealers to Eurex Repo GmbH's CLOB cannot be offered.

Initial Margin as well as the Default Fund Contribution can only be provided in the form of cash.

To promote the admission of U.S. Broker-Dealers for Repo Transactions, Eurex Clearing will offer a temporary fee waiver with respect to the Clearing Licenses fees. The temporary fee waiver will be effective from 13 June 2023 until 13 June 2024. In addition, Eurex Clearing waives the Settlement Bank Fee with respect to U.S. Broker-Dealers.

To reflect the changes, the following provisions will be amended as outlined in the Attachments 1 and 2:

- ◆ Chapter I Part 1 Numbers 1.16, 2.5 and 2.6 of the Clearing Conditions;
- ◆ Number 9.1 (6) of the Price List.

As of the effective date, the full version of the amended legal framework of Eurex Clearing will be available for download on the Eurex Clearing website [www.eurex.com/ec-en](http://www.eurex.com/ec-en) under the following link:

### **Rules and Regulations > Eurex Clearing Rules and Regulations**

The amendments to the legal framework of Eurex Clearing AG published by this circular are deemed accepted by each affected contractual party of Eurex Clearing AG, unless the respective contractual party objects by written notice to Eurex Clearing AG prior to the relevant effective date(s) as stipulated in this circular. In case of an objection by the respective contractual party pursuant the preceding sentence, Eurex Clearing AG is entitled to terminate the respective contract (including a Clearing Agreement, if applicable). Instead of submitting an objection, the respective contractual party may submit in writing to Eurex Clearing AG comments to any amendments of the legal framework of Eurex Clearing AG within the first 10 Business Days after the publication of the amendments. Eurex Clearing AG shall assess whether these comments prevent the published amendments from becoming effective taking into account the interests of Eurex Clearing AG and all contractual parties.

Unless the context requires otherwise, terms used and not otherwise defined in this circular shall have the meaning ascribed to them in the Clearing Conditions or FCM Clearing Conditions of Eurex Clearing AG, as applicable.

### Attachments:

- ◆ 1 – Chapter I Part 1 Numbers 1.16, 2.5 and 2.6 of the Clearing Conditions of Eurex Clearing AG
- ◆ 2 – Number 9.1 (6) of the Price List of Eurex Clearing AG

### Further information

Recipients: All Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients of Eurex Clearing AG, FCM Clearing Members and other affected contractual parties of Eurex Clearing AG and vendors

---

Target groups: Front Office/Trading, Middle + Back Office

---

Contact: [client.services@eurex.com](mailto:client.services@eurex.com)

---

Web: [www.eurex.com/ec-en/](http://www.eurex.com/ec-en/)

---

Authorized by: Matthias Graulich

### Further information

[!\[\]\(0d5ec72f61334709c3fc9450209b754f\_img.jpg\) Attachment 1 to Eurex Clearing Circular 029/23](#)

[!\[\]\(b792654f2cef9719eabeb6c5be00811e\_img.jpg\) Attachment 2 to Eurex Clearing Circular 029/23](#)

## A member of

[Eurex](#)   [Eurex Clearing](#)   [Eurex Repo](#)   [EEX](#)   [360T](#)   [Xetra](#)   [Börse Frankfurt](#)  
[Clearstream](#)   [Qontigo](#)

[Disclaimer](#)   [Privacy notice](#)   [Imprint](#)   [Eurex Clearing Rules & Regulations](#)   [Sitemap](#)  
[Cookie Settings](#)

Chapter I of the Clearing Conditions of Eurex Clearing AG

# General Provisions

As of 13.06.2023

\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

\*\*\*\*\*

[...]

## Part 1 General Clearing Provisions

### 1 General Rules

[...]

#### 1.16 Limitations regarding the Clearing of Repo Transactions by U.S. Clearing Members

In relation to Repo Transactions, the U.S. Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that it will not clear Repo Transactions relating to a underlying security which the U.S. Securities and Exchange Commission (“**SEC**”) considers to be a “U.S. security” for purposes of Section 17A of the U.S. Securities Exchange Act of 1934 in accordance with any applicable U.S. law or decisions, orders or publications by the SEC.

#### **1.17~~6~~** FIC Board Advisory Committee

1.17~~6~~.1 Eurex Clearing AG will establish a FIC board advisory committee (the “**FIC Board Advisory Committee**”) for the purpose of consulting with and making recommendations to the executive boards of Eurex Clearing AG, Eurex Frankfurt AG and Eurex Repo GmbH (together the “**Eurex Group**”) with respect to the FIC Matters (as defined in Number 1.15~~6~~.2), provided that this would not constitute a breach of law, a breach of an order of a court of a competent jurisdiction or of an applicable governmental, quasi-governmental or regulatory body.

1.17~~6~~.2 [...]

1.17~~6~~.3 [...]

## 2 Clearing Members

[...]

### 2.5 **Specific provisions and additional continuing obligations for U.S. Clearing Members with respect to Eurex Transactions**

An applicant legally organised and with its principal place of business in the United States of America (or any state thereof) intending to clear Eurex Transactions needs to comply with the following additional requirements: For applicants legally organised and with their principal place of business in the United States of America (or any state thereof), the general prerequisites for Clearing Licenses set out in Number 2.1.2 Paragraphs (2) to (8) shall apply accordingly if not stated otherwise below. In addition, the following provisions set out in this Number 2.5 shall also apply with respect to such applicants.

For the avoidance of doubt, this Number 2.5 does not apply to OTC IRS U.S. Clearing Members.

#### 2.5.1 **Special prerequisites and provisions for U.S. Clearing Members with respect to Eurex Transactions**

- (1) An applicant legally organised and with its principal place of business in the United States of America (or any state thereof) ~~can only applying~~ for a Clearing Licence for Eurex Transactions as determined from time to time by Eurex Clearing AG. ~~can only clear those Futures Contracts and Options Contracts as specified by Eurex Clearing AG.~~ ~~Eurex Clearing AG will publish a list of all futures contract transactions and options contract transactions~~ Futures Contracts and Options Contracts which can be cleared through Eurex Clearing AG by U.S. Clearing Members on the Eurex Clearing Website.

[...]

#### 2.5.2 **Additional continuing obligations for U.S. Clearing Members with respect to Eurex Transactions**

[...]

### 2.6 **Specific provisions and additional continuing obligations for U.S. Clearing Members with respect to Repo Transactions**

An applicant legally organised and with its principal place of business in the United States of America (or any state thereof) intending to clear Repo Transactions needs to comply with the following additional requirements:

- (i) An U.S. Clearing Member admitted for trading at Eurex Repo shall provide Eurex Clearing AG – without any further request by Eurex Clearing AG - with a copy of

Form 1042-S, which the U.S. Clearing Member submits to the U.S. Internal Revenue Service, by no later than 15 March of each calendar year.

(ii) U.S. Clearing Members are only entitled to clear Repo Transactions as Own Transactions.

(iii) An U.S. Clearing Member shall be a broker-dealer registered with the U.S. Securities and Exchange Commission under Section 15 (b) of the U.S. Securities Exchange Act.

[...]

\*\*\*\*\*



\*\*\*\*\*

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED;

DELETIONS ARE CROSSED OUT

\*\*\*\*\*

[...]

**9 Service Fees for Eligible Margin Assets, Default Fund Contributions and Funds provided for the Fulfilment of Own Funds or equivalent Regulatory Capital Requirements**

[...]

**9.1 Service Fees for Eligible Margin Assets in the Form of cash**

[...]

- (6) If the Clearing Member has chosen to use a Settlement Bank for payments in EUR or CHF pursuant to Chapter I Part 1 Number 2.1.2 (4) (b) (ff) of the Clearing Conditions, an additional settlement bank fee of 0.001 % will be charged on a monthly basis per Clearing Member on the amounts settled through the Settlement Bank to cover cash obligations according to Chapter I Part 1 Number 1.4.1 of the Clearing Conditions ("**Settlement Bank Fee**"). The Settlement Bank Fee is determined according to the applicable Clearing Currency. A monthly minimum Settlement Bank Fee (Floor) of EUR 3,000 or CHF 3,300, depending on the applicable Clearing Currency, shall apply per Clearing Member and shall be charged if a Settlement Bank is used for one or more currencies at least for one day of the respective calendar month.

The Settlement Bank Fee shall not be charged to FCM Clearing Members.

The Settlement Bank Fee shall not be charged to U.S. Clearing Members clearing Repo Transaktionen.

[...]

\*\*\*\*\*