

**Eurex Clearing AG**  
**ECAG Rule Certification 058-23**  
**September 15, 2023**

1. The text of the proposed amendments to the Clearing Conditions (“Clearing Conditions”) of Eurex Clearing AG (“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 1 and 2 below is November 20, 2023.

Amendments 3 and 4 below are subject to a consultation process (“Consultation”). The Consultation will end with the expiry of October 13, 2023 (“Consultation Period”). The planned effective date of Amendments 3 and 4 is November 20, 2023, 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, which relate only to Transactions concluded at the Frankfurter Wertpapierbörse (“FWB”), Eurex Exchange Transactions, and Repo Transactions. For the avoidance of doubt, Eurex Clearing clears these contracts outside the scope of its DCO license, which applies only to swaps.

**1. Preponement of disclosure in case of Failure to Deliver Rights**

The proposed amendments provide adjustments to the timing for disclosure of belated subscription rights transactions as part of Eurex Clearing’s C7 SCS Release 3.0. The disclosure will be brought forward to the business day before the last day of the subscription period in case there are at least three business days between the trading date and the last date of the subscription period.

## **2. Adjustment of thresholds for contractual penalties in respect to a Failure to Deliver Securities**

The proposed amendments provide adjustments to the minimum threshold in several foreign currencies for contractual penalties in respect to a Failure to Deliver Securities on dividend record dates so that the threshold matches an approximate equivalent of EUR 5,000 considering latest exchange rates.

## **3. Clarifications on Failure to Deliver Securities and harmonization of wording and referencing**

The proposed amendments provide several amendments to the Clearing Conditions to streamline Eurex Clearing's legal framework in respect to the measures prescribed in case of a Failure to Deliver Securities. The amendments will harmonize wording and structure of the Clearing Conditions and implement some clarifications on the applied procedure in relation to a Failure to Deliver Securities. The regime in respect to buy-in, cash settlement and disclosure and the related procedures has not been changed by these amendments.

## **4. Invoicing of Buy-In Fees and Cash Settlement Fees in currency EUR**

The proposed amendments provide for a harmonization of the invoicing of Buy-In Fees and Cash Settlement Fees related to an FWB Transaction, Eurex Exchange Transaction, or Repo Transaction, and Eurex Clearing charges such fees always in currency EUR – independent of the settlement currency of the related securities transaction. When converting fees into the invoice currency, Eurex Clearing will use a commercially reasonable exchange rate applicable at the relevant point in time. For avoidance of doubt: Costs for Buy-Ins resulting from offsetting price differences and cash settlement amounts continue to be charged in the settlement currency of the respective securities transaction.

Further information regarding the operation, purpose and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 058-23, which is appended as Attachment A.

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 provide for adjustments to the disclosure of belated subscription rights transactions and the invoicing of Buy-In Fees and Cash Settlement Fees in EUR, 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.
2. DCO Core Principle E (Settlement Procedures): The proposed amendments will comply with DCO Core Principle E because the amendments provide for adjustments to thresholds for contractual penalties in respect to a Failure to Deliver Securities and clarifications and harmonization of wording and referencing of Failure to Deliver Securities in the Clearing Conditions, 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.

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: September 15, 2023