

## Eurex Clearing Circular 025/19

# Amendments to the Clearing Conditions and other documents of Eurex Clearing AG – Consultation

### Summary

This circular contains information regarding amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other documents of Eurex Clearing regarding the following topics:

1. Amendments to Chapter I of the Clearing Conditions with regards to Tax Withholding on Difference Claim payments to Disclosed Direct Clients/ICM Clients
2. Amendments to Chapters II, V and IX of the Clearing Conditions with regards to changes in T2S Holiday Regulation
3. Amendments to Chapter VIII with regards to the correction of the role of „Settlement Compensation Margin“ in cost compensation (OTC FX)
4. Amendments to Chapter I of the Clearing Conditions and Introduction of Appendix 14 to the Clearing Conditions with regards to third party security collateral provision via title transfer

The amendments regarding items 1 to 3 and some of the amendments related to item 4 will become effective on **1 April 2019**.

Some of the planned amendments related to item 4 fall within the scope of Special Provisions of the Clearing Conditions and are hence subject to a consultation process (Consultation). The Consultation will start on **8 March 2019** and will end on **8 April 2019** at midnight (end of day) (Consultation Period).

### Attachments:

1. Amendments to Chapter I of the Clearing Conditions with regards to Tax Withholding on Difference Claim payments to Disclosed Direct Clients/ICM Clients
2. Amendments to Chapters II, V and IX of the Clearing Conditions with regards to changes in T2S Holiday Regulation
3. Amendments to Chapter VIII of the Clearing Conditions with regards to the correction of the role of „Settlement Compensation Margin“ in cost compensation (OTC FX)
4. Amendments to Chapter I of the Clearing Conditions and Introduction of Appendix 14 to the Clearing Conditions with regards to third party security collateral provision via title transfer

**Date:** 8 March 2019

#### Recipients:

All Clearing Members, Basic Clearing Members, Disclosed Direct Clients of Eurex Clearing AG and vendors

#### Authorized by:

Thomas Laux

#### Target group:

- All departments

#### Contact:

Your Key Account Manager Clearing,  
[clearing.services-admission@eurexclearing.com](mailto:clearing.services-admission@eurexclearing.com)



## **Amendments to the Clearing Conditions and other documents of Eurex Clearing AG – Consultation**

### **1. Tax Withholding on Difference Claim Payments to Disclosed Direct Clients and ICM Clients**

Difference Claims payable to Disclosed Direct Clients and ICM Clients may be subject to taxes or other public charges. In such cases, Eurex Clearing shall be entitled to withhold and/or deduct such taxes or charges from such amount and the payment obligations of Eurex Clearing shall be reduced accordingly.

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 1:

- Chapter I Part 2 Subpart C Number 9.7
- Chapter I Part 3 Subpart A Number 7.3.3
- Chapter I Part 4 Number 13.4

These amendments will become effective on 1 April 2019. As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**[Resources > Rules and Regulations > Clearing Conditions](#)**

### **2. Changes in T2S Holiday Regulation**

As of 2019 the TARGET2-Securities system is closed on Good Friday and Easter Monday, as was the case already before with regard to the TARGET2 calendar. This further harmonisation of the calendars of TARGET2 and TARGET2-Securities entails that the special regulations for Good Friday and Easter Monday in the Clearing Conditions are no longer necessary.

To reflect this, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 2:

- Chapter II Part 2 Numbers 2.3.1, 2.3.5, 2.5.1, 2.7.1
- Chapter V Part 2 Numbers 2.1, 2.2.1, 2.3
- Chapter IX Part 2 Number 2.2.2

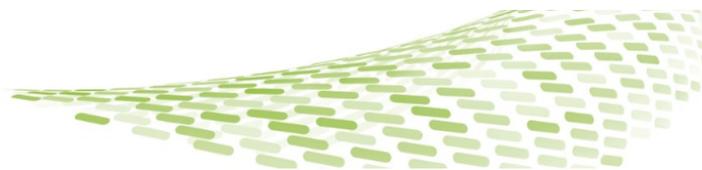
These amendments will become effective on 1 April 2019. As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**[Resources > Rules and Regulations > Clearing Conditions](#)**

### **3. OTC FX – Correction of the role of the “Settlement Compensation Margin”**

Currently, for purposes of OTC FX and XCCY Clearing, Settlement Compensation Margin (SCM) is described as compensation for losses Eurex Clearing might incur in connection with the Step-In Process or Roll-Over in case of a Liquidity Management event.

With the envisaged changes in the Clearing Conditions, the definition and thus the role of SCM will be changed to clarify that SCM actually serves the purpose of compensating Eurex Clearing AG for costs that it may incur in case of a default scenario. More specifically, SCM relates to costs that may result from hedging any cash flows of the upcoming 15 business days stemming from the portfolio of the Defaulting Clearing Member. Such hedging is conducted basically as a service to the Clearing Members participating in an auction, in order to flatten the portfolio



as much as possible with respect to cash flows, such that the Clearing Member who received the auctioned portfolio is given enough lead time to prepare for the next payments.

To reflect the change, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 3:

- Chapter VIII Part 3 Number 3.1.7
- Chapter VIII Part 4 Numbers 4.1.7

These amendments will become effective on 1 April 2019. As of the effective date, the full version of the amended Clearing Conditions will be available for download on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**[Resources > Rules and Regulations > Clearing Conditions](#)**

**4. Introduction of third party account holders for CBF accounts for securities which are provided to Eurex Clearing by way of title transfer – Consultation**

To support Brexit migration plans, Eurex Clearing proposes amendments to allow its Clearing Members to provide Margin assets, Default Fund Contributions and/ or company capital (to cover a shortfall in own funds/equivalent regulatory capital/assets under management) in the form of securities by way of title transfer using an account of a third party account holder with Clearstream Banking AG. Due to differing insolvency regimes of the jurisdictions, any use of a third party account holder will be subject to a case-by-case analysis of Eurex Clearing.

To reflect the changes, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 4:

- Chapter I Part 1 Number 6.1.2

In addition, the following provisions of the Clearing Conditions will be amended as outlined in Attachment 4:

- Chapter I Part 1 Numbers 2.1 and 3.6
- Chapter I Part 3 Subpart A Numbers 5.1.3 and 5.1.4
- Chapter I Part 4 Number 6.3.2.3
- Appendix 14 (new)

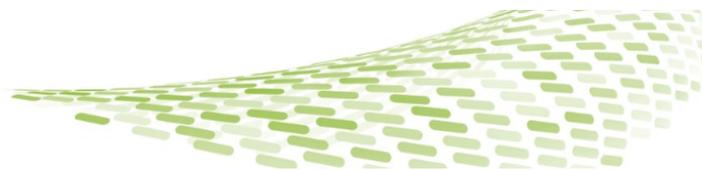
Pursuant to Chapter I Part 1 Number 17 of the Clearing Conditions, the proposed amendments to Chapter I Part 1 Number 6.1.2 are subject to a consultation process (“**Consultation**”). Such Consultation will commence on **8 March 2019** and will end on **8 April 2019** (end of day) (“**Consultation Period**”).

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed changes or amendments within the Consultation Period.

Such Consultation Period will be immediately followed by a Regular Notification Period of fifteen (15) business days, after which the proposed changes will come into effect on **7 May 2019**, provided that in total no more than two Affected Customers request a Prolonged Notification Period.

If Eurex Clearing receives such 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 available on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

**[Resources > Forms > Consultation Form](#)**

The form has to be duly signed and returned to Eurex Clearing via e-mail to [SpecialProvisions@eurexclearing.com](mailto: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 under the following link:

**[Resources > Rules and Regulations](#)**

The amendments outlined in Attachments 1, 2, 3, and 4 (except Chapter I Part 1 Number 6.1.2 of the Clearing Conditions) will become effective on 1 April 2019. As of the effective date, the full versions of the amended rules and regulations will be available for download on the Eurex Clearing website under the following link:

**[Resources > Rules and Regulations](#)**

The amendments to the Clearing Conditions published in Attachments 1, 2, 3 and 4 (except Chapter I Part 1 Number 6.1.2 of the Clearing Conditions) of this circular are deemed accepted by each affected contractual party of Eurex Clearing, unless the respective contractual party objects by written notice to Eurex Clearing within the first ten (10) Business Days of such period. Any ordinary right of Eurex Clearing to terminate the respective contract (including a Clearing Agreement, if applicable) shall remain unaffected.

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.

If you have any questions or need further information, please contact your Key Account Manager Clearing via e-mail to: [clearing.services-admission@eurexclearing.com](mailto:clearing.services-admission@eurexclearing.com).

8 March 2019