

**Eurex Clearing AG**  
**ECAG Rule Certification 065-21**  
**July 21, 2021**

1. The text of the proposed amendments to the Clearing Conditions of Eurex Clearing AG (“Clearing Conditions”), FCM Regulations (“FCM Regulations”), and EMIR Risk Committee Statutes (“ERC Statutes”) is appended as Attachments A to E. Any additions are underlined and any deletions are struck through.
2. Amendments Nos. 1 and 3 below will become effective on September 1, 2021. Amendments under No. 2 below will become effective on September 20, 2021. To the extent that certain amendments under No. 2 below are subject to a Consultation (i.e., the proposed amendments to the Default Management Committee Rules regarding the re-design of the Eurex Clearing website), the Consultation will end upon expiry of August 19, 2021. The planned effective date of these amendments is September 20, 2021, 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 following amendments:

1. **Amendments to the Clearing Conditions in the context of porting restrictions in non-EU jurisdictions (Attachment B):** In some non-EU Clearing Member jurisdictions, local insolvency law is not fully compatible with the client asset protection rules set out by EMIR. Eurex Clearing detects such incompatibility in the context of its insolvency analyses. If detected, Eurex Clearing discloses on its website those jurisdictions in which it does not offer porting in accordance with the process described in the Clearing Conditions. In this context, Eurex Clearing is proposing to incorporate further clarifying rules into the Clearing Conditions: (a) A right for Eurex Clearing to deviate from the porting process in the Clearing Conditions to achieve porting by meeting local law requirements, and (b) Introduction of an additional termination right in case porting fails due to local law restrictions.

2. **Changes to the Clearing Conditions, FCM Regulations and other documents of the legal framework of Eurex Clearing regarding the re-design of the Eurex Clearing website (Attachment C):** As the Eurex Clearing website address was changed as part of its rebranding, references in the legal framework of Eurex Clearing to its website will be updated.

**Changes to the Default Management Committee Rules in relation to the re-design of the Eurex Clearing website (Attachment D):** As the Eurex Clearing website address was changed as part of its rebranding, references to the website in the Default Management Committee Rules will be updated. For the purposes of clarity, only this portion of the proposed amendments is subject to the Consultation.

3. **Amendments to the EMIR Risk Committee (ERC) Statutes to enable ERC to take decisions outside of meetings (Attachment E):** The proposed amendments provide the EMIR Risk Committee with the ability to take decisions additionally outside of a meeting, by circular resolution for example, so that it could take decisions in extraordinary cases more efficiently and faster.

Further information regarding the operation, purpose, and effect of the proposed amendments is discussed in Eurex Clearing Circular 065/21, which is appended as Attachment A.

Eurex Clearing has identified the following derivatives clearing organization (“DCO”) Core Principles as potentially being relevant to the above amendments:

1. DCO Core Principle D (Risk Management): The proposed amendments will comply with DCO Core Principle D because they provide greater ability for the EMIR Risk Committee to take decisions in extraordinary circumstances, and Eurex Clearing will control to possess the ability to manage risks through the use of appropriate tools and procedures.
2. DCO Core Principle G (Default Rules and Procedures) and CFTC Regulation 39.16: The proposed amendments will comply with DCO Core Principle G and CFTC Regulation 39.16. DCO Core Principle G requires that a DCO have rules and procedures to allow for the efficient, fair, and safe management of events during a clearing member default and that a DCO’s default procedures are clearly stated, publicly available, and ensure that the DCO may take timely action to contain losses and liquidity pressures and continue meeting each obligation of the DCO. CFTC Regulation 39.16(c)(2)(ii) provides that a DCO shall have rules that set forth its default procedures, including “[t]he actions the derivatives clearing organization may take upon a default, which shall include . . . the prompt transfer, liquidation, or hedging of the customer or house positions of the defaulting clearing member, as applicable, and which may include, in the discretion of the [DCO], the auctioning or allocation of such positions to other clearing members.” The proposed amendments proposed by this rule certification comply with these provisions because they clarify that client porting in non-EU jurisdictions will be carried out in accordance with prevailing local law and regulations.

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: July 21, 2021