

Chapter I: Clearing Model Related Provisions

# FCM Regulations of Eurex Clearing AG

As of 01.08.2019

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THE FCM REGULATIONS WILL BE AMENDED.  
AMENDMENTS ARE MARKED AS FOLLOWS:  
INSERTIONS ARE UNDERLINED,  
DELETIONS ARE CROSSED OUT.

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[...]

## 1.2 Definitions and Interpretation

1.2.1 Unless the context requires otherwise, the following terms and expressions in the FCM Regulations shall have the following meanings:

[...]

“**Cash Trust Account**” has the meaning assigned to it in Number 3.2.2.

[...]

“**Securities Trust Account**” has the meaning assigned to it in Number 3.1.3.

[...]

[...]

## 3 Margin

### 3.1 General Provisions

[...]

#### 3.1.2 Eligible Margin Assets and Valuation; Large Exposure

[...]

(5) If, in the opinion of Eurex Clearing AG, the sum of Eligible Margin Assets in the form of cash actually delivered to Eurex Clearing AG with respect to a Margin Requirement in a particular currency other than a Clearing Currency (the “**Relevant Currency**”) that is held by Eurex Clearing AG exceeds or will exceed any large exposure limit with respect to the Relevant Currency to which Eurex Clearing AG is subject pursuant to Art. 395 of the European Capital Requirements Regulation (EU) No. 575/2013 (“**CRR**”) or any other comparable regulatory requirement (the amount of such excess or prospective excess, as determined by Eurex Clearing AG, the “**Relevant Currency Surplus**”), then Eurex Clearing AG shall be entitled to take the following measures with a view to complying with such large exposure limit:

(a) Eurex Clearing AG may, with respect to FCM Clearing Members in respect of which an amount of Eligible Margin Assets in the Relevant Currency has been actually delivered to Eurex Clearing AG in excess of the applicable Margin Requirement and has not been returned, repaid or applied (“**Currency Margin Excess**”), pay to each such FCM Clearing Member (without prior notice) an amount in the Relevant Currency up to the relevant Currency Margin Excess.

The aggregate of any such payments to all relevant FCM Clearing Members and all payments to all relevant Non-FCM Clearing Members in accordance with the Clearing Conditions shall not exceed the Relevant Currency Surplus.

If one or more Currency Margin Excesses exist with respect to more than one FCM Clearing Member or Non-FCM Clearing Member, Eurex Clearing AG may distribute such payments (up to an aggregate of the Relevant Currency Surplus) across such FCM Clearing Members and Non-FCM Clearing Members in its reasonable discretion.

When exercising such discretion, Eurex Clearing AG may take into account, *inter alia*, the amount of the relevant Currency Margin Excess of the relevant FCM Clearing Members and Non-FCM Clearing Members and the absolute amount of Eligible Margin Assets in the form of cash in the Relevant Currency provided by each such FCM Clearing Member and Non-FCM Clearing Member.

Any such payment shall discharge the corresponding Redelivery Claim of the receiving Clearing Member or Basic Clearing Member.

(b) If Eurex Clearing AG concludes that the aggregate payments by Eurex Clearing AG pursuant to (a) above fall or will fall short of the Relevant Currency Surplus (the amount of such shortfall, the “**Residual Currency Surplus**”), Eurex Clearing AG may issue Margin Calls in accordance with Number 3.2 and Number 6.4.3 or Number 6.5.4 (in an aggregate equivalent value up to the Residual Currency Surplus), *provided that*

(i) for the purposes of the determination whether the aggregate value of the Eligible Margin Assets actually delivered to Eurex Clearing AG is insufficient to provide the cover required to comply with the applicable Margin Requirement, the Requested Substitution Amount shall be deemed to have a value of zero, and

(ii) only Eligible Margin Assets either in the form of cash in a Clearing Currency or in the form of Securities may be delivered in respect of such Margin Call.

Following the actual delivery of the Eligible Margin Assets delivered in respect of such Margin Call(s), Eurex Clearing AG shall redeliver Eligible Margin Assets in the Relevant Currency in an amount not exceeding the Requested Substitution Amount to the FCM Clearing Member. For the avoidance of doubt, for the purposes of the determinations which amount shall be redelivered to the

FCM Clearing Member, the Requested Substitution Amount shall no longer be deemed to have a value of zero.

“Requested Substitution Amount” means the relevant amount(s) of Eligible Margin Assets in the Relevant Currency provided by the relevant FCM Clearing Member with respect to the relevant Margin Requirement, requested to be substituted by Eurex Clearing AG pursuant to this lit. (b).

Eurex Clearing AG may distribute the requests for such substitutions in its reasonable discretion across all FCM Clearing Members and Non-FCM Clearing Members which have actually delivered Eligible Margin Assets in the Relevant Currency to Eurex Clearing AG. When exercising such discretion, Eurex Clearing AG may take into account, *inter alia*, the absolute amount of Eligible Margin Assets in the form of cash in the Relevant Currency provided by each FCM Clearing Member and Non-FCM Clearing Member.

Eurex Clearing AG's rights to conduct any further Margin Calls shall remain unaffected.

### 3.1.3 Currency Conversion, Use of Eligible Margin Assets in the form of cash and Income on Margin Assets

[...]

- (2) Eurex Clearing AG reserves the right to make use of Eligible Margin Assets in the form of cash that is Actually Delivered by an FCM Clearing Member to Eurex Clearing AG as cover in respect of Initial Margin or Supplementary Margin for all Own Transactions in its sole discretion in order to ensure its capacity to operate as a derivatives clearing organization as well as for investment purposes. Eurex Clearing AG shall also be entitled to use securities purchased in such investment transactions for purposes of liquidity management and liquidity generation in relation to its clearing activities in form of repo transactions.

Eurex Clearing AG reserves the right, in its sole discretion, to make use of Eligible Margin Assets in the form of cash that is Actually Delivered by an FCM Clearing Member to Eurex Clearing AG as cover in respect of Initial Margin or Supplementary Margin for FCM Client Transactions for investment purposes.

(a) Eurex Clearing AG shall be entitled to enter into repo transactions with commercial counterparties.

(b) In order to ensure insolvency protection of the Eligible Margin Assets in form of cash used for investment purposes, Eurex Clearing AG and the FCM Clearing Member are subject to specific German law governed provisions on the establishment of Cash Trust Accounts as set out in Clause 6 of the FCM Clearing Agreement in the form attached to these FCM Regulations as Appendix 1 (each such account qualifies as Cash Trust Account). The FCM Clearing Member agrees to hold its rights in respect of any such Cash Trust Account on trust for its FCM Clients from time to time.

	Eurex05e
FCM Regulations of Eurex Clearing AG	As of 01.08.2019
	Page 5

(c) In order to ensure insolvency protection of the securities Eurex Clearing AG received as deal securities under repo transactions ("**Deal Securities**"), Eurex Clearing AG and the FCM Clearing Member are subject to specific German law governed provisions on the establishment of securities trust accounts as set out in Clause 7 of the FCM Clearing Agreement in the form attached to these FCM Regulations as Appendix 1 (each such account, a "**Securities Trust Account**"). The FCM Clearing Member agrees to hold its rights in respect of any such Securities Trust Account on trust for its FCM Clients from time to time.

(d) Any proceeds Eurex Clearing AG generates from the investment in repo transactions shall economically belong to the FCM Clearing Members and shall be transferred to the relevant Cash Trust Account immediately upon receipt of such proceeds by Eurex Clearing AG.

[...]

[...]

### **3.1.5 Provisions regarding holding of Eligible Margin Assets by Eurex Clearing AG**

- (1) Any cash held at any time in any Cash Trust Account or Eurex Clearing AG FCM Client RTGS Account and any securities held at any time in any FCM Client Pledged Securities Account established by an FCM Clearing Member for the benefit of Eurex Clearing AG are part of the cleared swaps account class as defined in, and for purposes of, the CFTC Part 190 Regulations.

[...]

[...]

### **3.2.2 Delivery of Eligible Margin Assets in the form of cash**

[...]

- (3) In order to ensure insolvency protection in relation to Eligible Margin Assets in the form of cash delivered to Eurex Clearing AG by the FCM Clearing Member in respect of the FCM Client Margin Account, Eurex Clearing AG and the FCM Clearing Member are subject to specific German law governed provisions on the establishment of cash trust accounts as set out in Clause 6 of the FCM Clearing Agreement in the form attached to these FCM Regulations as Appendix 1 (each such account, a "**Cash Trust Account**"). The FCM Clearing Member agrees to hold its rights in respect of any such Cash Trust Account on trust for its FCM Clients from time to time.

[...]

### **9.5.5 Realization of Margin**

- (1) In case Eurex Clearing AG is, with respect to an FCM Clearing Member Netting Set or an FCM Client Netting Set, the creditor of the Difference Claim against the

Affected FCM Clearing Member, Eurex Clearing AG shall, in the case of Eligible Margin Assets in the form of cash, use such cash (where applicable, in accordance with the provisions relating to Cash Trust Accounts set out in the FCM Clearing Agreement) and, in the case of Eligible Margin Assets in the form of securities, be entitled to realize its security interest granted by the Affected FCM Clearing Member in accordance with the Pledge Agreement.

[...]

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