

Chapter I: Clearing Model Related Provisions

FCM Regulations of Eurex Clearing AG

As of 01.09.2020

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

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[...]

3 General Provisions regarding Margin and Variation Settlement

3.1 General Provisions

[...]

3.1.6 Participation of FCM Clearing Members in non-default losses

- (1) If an FCM Clearing Member pays Eligible Margin Assets in the form of cash, denominated in a Commercial Bank Currency, to Eurex Clearing AG:
- (a) to meet an FCM Clearing Member Proprietary Margin Requirement or an FCM Client Margin Requirement,
 - (b) ~~and~~ Eurex Clearing AG either (X) holds such cash amounts in an account maintained with a commercial bank (“**Deposit**”) or (Y) invests such cash amounts, partly or in whole, for purposes of liquidity management and liquidity generation (“**Investment**”); ~~and or~~
 - ~~(b) to meet an FCM Client Margin Requirement, and Eurex Clearing AG holds such cash amounts on an account maintained with a commercial bank (also a “Deposit”),~~
 - (c) ~~and~~ Eurex Clearing AG suffers a Loss with respect thereto,

Eurex Clearing AG is entitled to claim compensation for the Loss in accordance with the provisions of this Number 3.1.6.

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[...]

9 Termination Rules with respect to the FCM Clearing Member

[...]

9.2 Termination Events, Insolvency Termination Event, Suspension of Clearing, and Declaration of Termination

[...]

9.2.3 Declaration of Termination

(1) Submission of Declaration of Termination

If

[...]

- (b) a Termination Event has occurred and is continuing with respect to the FCM Clearing Member and Eurex Clearing AG determines in its discretion that it would be unreasonable to set a Grace Period or if the relevant Termination Event cannot be remedied,

Eurex Clearing AG shall be entitled to issue a declaration of termination (the “Declaration of Termination”) with respect to the FCM Clearing Member (the “Affected FCM Clearing Member”) ~~(the “Declaration of Termination”)~~ specifying the termination date and time (“**FCM Clearing Member Termination Time**”) with respect to the FCM Clearing Member ~~shall occur~~.

In case of the occurrence of an Insolvency Termination Event with respect to the FCM Clearing Member, Eurex Clearing AG shall issue a Declaration of Termination immediately after acquiring knowledge of the occurrence of the Insolvency Termination Event with respect to the FCM Clearing Member and specifying the **FCM Clearing Member Termination Time with respect to the FCM Clearing Member**. ~~The FCM Clearing Member Termination Time shall be effective immediately upon issuance of the Declaration of Termination relating to the Insolvency Termination Event.~~

As soon as reasonably practicable, Eurex Clearing AG will publish that it has submitted a Declaration of Termination with respect to the FCM Clearing Member on its website (www.eurexclearing.com).

(2) Consequences for Own Transactions of the FCM Clearing Member

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~~Upon the Declaration of a Termination with respect to an FCM Clearing Member (the “Affected FCM Clearing Member”)~~ As of the FCM Clearing Member Termination Time, the following consequences apply to the Affected FCM Clearing Member with respect to its Own Transactions:

[...]

(3) Consequences for FCM Client Transactions

(a) ~~If Eurex Clearing AG issues a Declaration of Termination against an FCM Clearing Member~~ As of the FCM Clearing Member Termination Time, the following consequences apply to the Affected FCM Clearing Member with respect to the FCM Client Transactions:

[...]

(b) ~~Upon issuance of a Declaration of Termination against an FCM Clearing Member~~ As of the FCM Client Termination Time, Eurex Clearing AG may separately for each FCM Client Netting Set exercise one of the following rights:

[...]

[...]

9.4 Porting of FCM Client Transactions

[...]

9.4.3 Transfer of FCM Client Transactions

(1) If a potential FCM Clearing Member is willing to accept the transfer of FCM Client Transactions in one or more FCM Client Transaction Accounts, and Eurex Clearing AG determines that all FCM Clearing Member Replacement Requirements in respect of the relevant FCM Client Transactions are fulfilled by the end of the Replacement Cut-Off Time, the FCM Client Transactions, and all rights and obligations of the Affected FCM Clearing Member arising from such FCM Client Transactions, shall be transferred (a “**Transfer**”) to the new FCM Clearing Member (the “**Replacement FCM Clearing Member**”).

[...]

(2) “**FCM Clearing Member Replacement Requirements**” means all of the following requirements:

[...]

(d) the Replacement FCM Clearing Member has (a) provided Eurex Clearing AG with sufficient Eligible Margin Assets to cover any shortfall in Eligible Margin Assets or in any Variation Settlement Amount in respect of all FCM Client

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Transactions to which the Transfer relates or (b) committed itself to Eurex Clearing AG to provide the relevant amount of Eligible Margin Assets or Variation Settlement Amounts without undue delay following the Transfer; and

- (e) if the Affected FCM Clearing Member is the subject of an Insolvency Termination Event, the CFTC or bankruptcy trustee (or comparable party administering the proceeding) has consented (or not disapproved) the Transfer.

Eurex Clearing AG may, in its free discretion, waive any of the FCM Clearing Member Replacement Requirements in whole or in part to the extend alternative arrangements have been agreed on with the relevant Replacement FCM Clearing Member with respect to the relevant FCM Client Transactions to be transferred.

[...]

[...]
