

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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## Part 54 U.S. Clearing Model Provisions

### 1 Application of the U.S. Clearing Model Provisions; General Provisions

1.1 The provisions set forth in this Part 5-4 apply to Clearing services provided by Eurex Clearing AG with respect to OTC IRS FCM Clearing Members that clear OTC Interest Rate Derivative Transactions for the account of OTC IRS FCM Clients (as defined below).

1.2 An OTC IRS FCM Clearing Member may clear OTC Interest Rate Derivative Transactions for the account of a customer in accordance with this Part 5-4 (each such customer, an “**OTC IRS FCM Client**”) and only if Eurex Clearing AG, the ~~OTC IRS FCM~~ Clearing Member and the relevant OTC IRS FCM Client have entered into a Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~40-9~~ and provided that the OTC IRS FCM Client meets the following requirements:

[...]

1.3 The OTC IRS FCM Client Standard Agreement and any OTC IRS FCM Client Transaction will be directly established between Eurex Clearing AG and the OTC IRS FCM Client as further set out in this Part 54.

[...]

1.5 The OTC IRS FCM Clearing Member may, subject to the provisions of this Part 5-4 and the Special Clearing Conditions, provide clearing services to an OTC IRS FCM Client on terms and conditions mutually agreed between the OTC IRS FCM Clearing Member and the OTC IRS FCM Client (the “**OTC IRS FCM Client Clearing Agreement**”).

### 1.6 Agency Relationship between OTC IRS FCM Clearing Member and OTC IRS FCM Client; OTC IRS FCM Clearing Member Guarantee

1.6.1 In relation to OTC IRS FCM Client Transactions, the OTC IRS FCM Clearing Member acts as agent (for purposes of CFTC Regulation 39.12 (b) (6)) on behalf and for the

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account of the OTC IRS FCM Client and the entire clearing relationship shall be administered and settled through the OTC IRS FCM Clearing Member (or any Replacement OTC IRS FCM Clearing Member) as further set out in this Part [54](#).

- 1.6.2 Unless otherwise provided in these Clearing Conditions and subject to this Part [54](#), the OTC IRS FCM Clearing Member will, in respect of any OTC IRS FCM Client Transaction, act on behalf and for the account of the OTC IRS FCM Client.

[...]

- 1.6.5 For as long as the OTC IRS FCM Clearing Member acts as agent for the OTC IRS FCM Client in accordance with this Part [54](#), the OTC IRS FCM Client and Eurex Clearing AG shall discharge all present and future delivery and payment obligations which may arise under the relevant OTC IRS FCM Client Standard Agreement or the OTC IRS FCM Client Transactions to each other by payment and delivery, respectively, only through the OTC IRS FCM Clearing Member.

[...]

- 1.6.9 Any recourse, reimbursement or other claims of the OTC IRS FCM Clearing Member against the OTC IRS FCM Client resulting from the performance by the OTC IRS FCM Clearing Member of any claims arising under the relevant Clearing Agreement (including under the OTC IRS FCM Clearing Member Guarantee) or of any obligations of the OTC IRS FCM Client are solely a matter of, and subject to, the OTC IRS FCM Client Clearing Agreement, unless otherwise set out in this Part [54](#).

[...]

## 2 Content of Clearing Agreement and OTC IRS FCM Client Standard Agreement

### 2.1 Construction

- 2.1.1 If a Clearing Agreement in the form appended to the Clearing Conditions as Appendix [409](#) is entered into by Eurex Clearing AG, an OTC IRS FCM Clearing Member and an OTC IRS FCM Client, such Clearing Agreement will provide for terms and conditions applying (i) between Eurex Clearing AG, the OTC IRS FCM Clearing Member and the OTC IRS FCM Client and (ii) between Eurex Clearing AG and the OTC IRS FCM Client with respect to the OTC IRS FCM Client Standard Agreement and the OTC IRS FCM Client Transactions of such OTC IRS FCM Client.

- 2.1.2 All rights and obligations between Eurex Clearing AG and the OTC IRS FCM Client with respect to OTC IRS FCM Client Transactions under the Clearing Agreement pursuant to Number 2.1.1 shall constitute a separate arrangement (each such arrangement a “**OTC IRS FCM Client Standard Agreement**”). All OTC IRS FCM Client Transactions and all Redelivery Claims between Eurex Clearing AG and the relevant OTC IRS FCM Client arising pursuant to the U.S. Clearing Model Provisions under the relevant OTC IRS FCM Client Standard Agreement form a single agreement between the parties and such agreement constitutes a separate master agreement (*Rahmenvertrag*) between such

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parties which (subject to provisions in this Chapter I on the termination of individual OTC IRS FCM Client Transactions and subject to the provisions of this Part 5-4 stipulating specific requirements for terminations) can be terminated only in its entirety.

[...]

FCM Client Transactions, FCM Client Margin, FCM Client Variation Margin, Redelivery Claims and any other rights and obligations under each FCM Client Standard Agreement relating to the relevant FCM Client will be separate from:

[...]

- (b) all Own Transactions, Margin, Variation Margin, any Redelivery Claims and any other rights and obligations under the ~~Elementary~~-Proprietary Standard Agreement of the OTC IRS FCM Clearing Member with Eurex Clearing AG, and
- (c) all other Standard Agreements, Transactions, Margin, Variation Margin, Redelivery Claims and any other rights and obligations under the Elementary Clearing Model Provisions, the Individual Clearing Model Provisions, ~~the Net Omnibus Clearing Model Provisions~~ and the Basic Clearing Member Provisions.

2.1.3 The OTC IRS FCM Clearing Member and the OTC IRS FCM Client may, in their OTC IRS FCM Client Clearing Agreement, agree on additional terms to the Clearing Agreement in the form appended to the Clearing Conditions as Appendix 10-9 to the extent those additional terms do not conflict with such Clearing Agreement.

[...]

### **3 Internal Accounts; Books and Records**

In addition to the internal accounts set out in Number 4.2 of the General Clearing Provisions, Eurex Clearing AG shall establish and maintain with respect to each OTC IRS FCM Clearing Member (acting in its capacity as agent for one or more OTC IRS FCM Clients pursuant to this Part 54) the following internal accounts:

[...]

### **4 Set-off**

4.1 Unless otherwise provided in the relevant Special Clearing Provisions, Eurex Clearing AG is at any time entitled to set off (i) its claims vis-à-vis an OTC IRS FCM Clearing Member (except for any claims under or in relation to the ~~Elementary~~-Proprietary Standard Agreement) against claims of such OTC IRS FCM Clearing Member (except for any claims under or in relation to the ~~Elementary~~-Proprietary Standard Agreement) vis-à-vis Eurex Clearing AG or (ii) Eurex Clearing AG's claims vis-à-vis an OTC IRS FCM Client against claims of such OTC IRS FCM Client vis-à-vis Eurex Clearing AG, in each case subject to and in accordance with the rules set forth below. For the avoidance of doubt, Eurex Clearing AG is not entitled to set off its claims vis-à-vis the OTC IRS FCM Clearing

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Member against claims of an OTC IRS FCM Client or to set off Eurex Clearing AG's claims vis-à-vis one OTC IRS FCM Client against claims of another OTC IRS FCM Client.

[...]

## 5 OTC IRS FCM Client Margin

[...]

### 5.3 Margin Call

#### 5.3.1 Margin Calls and direct debit prior to the end of a Business Day

[...]

- (3) If an OTC IRS FCM Clearing Member elects to deliver, for the account of such OTC IRS FCM Client, (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to OTC IRS FCM Client Margin under a specific OTC IRS FCM Client Standard Agreement, then:

[...]

- (ii) Eurex Clearing AG shall make the relevant debit entry in the Internal ~~Elementary~~ Proprietary Margin Account of such OTC IRS FCM Clearing Member and the respective credit entry in the Internal OTC IRS FCM Client Margin Account with such cash credit being allocated to the OTC IRS FCM Client Standard Agreement and being recorded as having been provided by the OTC IRS FCM Clearing Member from its own assets; and
- (iii) the related Redelivery Claim under the ~~Elementary~~ Proprietary Standard Agreement between Eurex Clearing AG and such OTC IRS FCM Clearing Member shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal OTC IRS FCM Client Margin Account and an equivalent Redelivery Claim arises under the OTC IRS FCM Client Standard Agreement.

[...]

## 8 Consequences of the occurrence of a Termination Event or Insolvency Termination Event with respect to an OTC IRS FCM Clearing Member

[...]

### 8.4.4 [...]

If, at or prior to the end of the Replacement Period, Eurex Clearing AG determines that all OTC IRS FCM Clearing Member Replacement Requirements in respect of an OTC IRS FCM Client Standard Agreement are fulfilled, all rights and obligations of the Affected

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OTC IRS FCM Clearing Member arising from the relevant Clearing Agreement appended in the form of Appendix ~~10-9~~ entered into between Eurex Clearing AG, the Affected -OTC IRS FCM Clearing Member and the relevant OTC IRS FCM Client in respect of all existing OTC IRS FCM Client Transactions under the relevant OTC IRS FCM Client Standard Agreement (including, without limitation, any obligations under the OTC IRS FCM Clearing Member Guarantee) shall be transferred, by way of an assumption of contract (*Vertragsübernahme*), (a “**Transfer**”) to the new -OTC IRS FCM Clearing Member (the “**Replacement OTC IRS FCM Clearing Member**”), and the Affected -OTC IRS FCM Clearing Member hereby expressly and irrevocably consents to such Transfer with respect to it in such event.

[...]

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

[...]

- (iii) the Replacement FCM Clearing Member and the relevant FCM Client have undertaken to Eurex Clearing AG in form and substance satisfactory to Eurex Clearing AG that they will, no later than five (5) Business Days after the end of the Replacement Period, enter into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix ~~10-9~~ unless such Clearing Agreement has already been entered into;

[...]

8.4.7 Eurex Clearing AG and the OTC IRS FCM Clearing Member agree that, following the transfer of all Eligible Margin Assets in the form of Securities to the Replacement OTC IRS FCM Clearing Member in accordance with Number 8.4.6 above, the security purpose of the security interests held by Eurex Clearing AG in such Securities shall also extend to all present and future claims of Eurex Clearing AG against the Replacement OTC IRS FCM Clearing Member under the relevant Clearing Agreement (in the form appended to the Clearing Conditions as Appendix ~~10-9~~) with such Replacement OTC IRS FCM Clearing Member.

[...]

## 9 Insolvency or Default with respect to an OTC IRS FCM Client

[...]

9.6.5 Establishment of Own Transactions with the OTC IRS FCM Clearing Member

- (1) By signing the Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~10-9~~, the - OTC IRS FCM Clearing Member agrees that, with effect as of the OTC IRS FCM Client Termination Time and without any further action being required, Own Transactions will be established directly between Eurex Clearing AG and the OTC IRS FCM Clearing Member in lieu of the terminated OTC IRS FCM

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Client Transactions. Each such Own Transaction shall have the same terms and conditions as the corresponding terminated OTC IRS FCM Client Transaction as of the OTC IRS FCM Client Termination Time as if no OTC IRS FCM Client Termination Date had occurred (except that the -OTC IRS FCM Clearing Member and not the OTC IRS FCM Client will be the contractual counterparty to Eurex Clearing AG). Each Own Transaction so established will form part of the **Elementary** Proprietary Standard Agreement of the OTC IRS FCM Clearing Member and Eurex Clearing AG and be subject to the Elementary Clearing Model Provisions.

[...]

#### **11 Replacement of OTC IRS FCM Clearing Member**

Without prejudice to a replacement of an Affected OTC IRS FCM Clearing Member in accordance with Number 8, prior to the occurrence of an Insolvency Termination Event or Termination Event with respect to its OTC IRS FCM Clearing Member, the OTC IRS FCM Client may effect a replacement of its OTC IRS FCM Clearing Member in accordance with this Number 11 with respect to all or some of its OTC IRS FCM Client Transactions under the relevant OTC IRS FCM Client Standard Agreement only with the prior written consent of Eurex Clearing AG, the OTC IRS FCM Clearing Member and a replacement OTC IRS FCM Clearing Member and subject to the prior conclusion of a Clearing Agreement in the form appended to the Clearing Conditions as Appendix **40-9** between Eurex Clearing AG, the OTC IRS FCM Client and the replacement OTC IRS FCM Clearing Member. Eurex Clearing AG's consent will not be unreasonably withheld.

[...]

- (ii) a Clearing Agreement in the form appended to the Clearing Conditions as Appendix **40-9** between Eurex Clearing AG, the OTC IRS FCM Client and the replacement OTC IRS FCM Clearing Member; and

[...]

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## Part ~~6~~5 Basic Clearing Member Provisions

### 1 Application of the Basic Clearing Member Provisions

- 1.1 The provisions set forth in this Part ~~6~~5 (the “**Basic Clearing Member Provisions**”) apply to entities other than a Clearing Member that participate in the Clearing of certain Transactions as a Basic Clearing Member (as defined in Part 1 Number 1.1.4) through a clearing agent (“**Clearing Agent**”) by entering into a Clearing Agreement with Eurex Clearing AG in the form appended to the Clearing Conditions as Appendix ~~14~~10 (each a “**Basic Clearing Member Clearing Agreement**”).

[...]

### 3 Role of Clearing Agent

- 3.1 The Clearing Agent acts on behalf and for the account of the Basic Clearing Member with respect to the rights and obligations of the Basic Clearing Member towards Eurex Clearing AG under the Basic Clearing Member Clearing Agreement and any Basic Clearing Member Transaction as further set out in this Part ~~6~~5. Subject to Number 3.7, the entire clearing relationship between the Basic Clearing Member and Eurex Clearing AG shall accordingly be administered and settled through the Clearing Agent as further set out in these Basic Clearing Member Provisions.

[...]

- 3.7 The Basic Clearing Member may, subject to the Clearing Agent’s prior written consent, upon at least five (5) Business Days’ prior written notice to Eurex Clearing AG and the Clearing Agent, limit the role, tasks, functions and authorities of the Clearing Agent to only some of the tasks, functions and authorities of the Clearing Agent set out or referred to in this Part ~~6~~5 (the “**Clearing Agent Limitation Notice**”), except that a Clearing Agent Limitation Notice may not limit any of the Clearing Agent’s tasks, functions and authorities set out or referred to in Number 3.6 or Number 9.

[...]

### 4 Content of Basic Clearing Member Clearing Agreement and the Basic Clearing Member Standard Agreement

[...]

- 4.1.3 Basic Clearing Member Transactions and all corresponding rights and obligations under the Basic Clearing Member Standard Agreement relating to the relevant Basic Clearing Member will be separate from:

[...]

- (b) all Own Transactions and all corresponding rights and obligations under the ~~Elementary~~ Proprietary Standard Agreement between the Clearing Agent (acting in its capacity as Clearing Member) and Eurex Clearing AG, and



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- (c) any other rights and obligations under any other Standard Agreement established under any other Clearing Agreement between the Clearing Agent (acting in its capacity as Clearing Member) and Eurex Clearing AG pursuant to the Elementary Clearing Model Provisions ~~or Net Omnibus Clearing Model Provisions~~ or the Individual Clearing Model Provisions.

[...]

## 7 Basic Clearing Member Margin

### 7.3.1 Margin Calls and direct debit prior to the end of a Business Day

[...]

- (3) If a Clearing Agent elects to deliver, for the account of such Basic Clearing Member, (additional) Eligible Margin Assets in the form of cash pursuant to Number 3.3.2 of the General Clearing Provisions with respect to a Margin Call relating to Basic Clearing Member Margin under a specific Basic Clearing Member Standard Agreement, then:

[...]

- (ii) Eurex Clearing AG shall make the relevant debit entry in the Internal ~~Elementary~~ Proprietary Margin Account of such Clearing Agent and the respective credit entry in the Internal Basic Clearing Member Margin Account with such cash credit being allocated to the Basic Clearing Member Standard Agreement, provided that the aggregate value of the remaining Eligible Margin Assets in respect of the ~~Elementary~~ Proprietary Margin would not be less than the applicable Margin Requirement; and
- (iii) the related Redelivery Claim under the ~~Elementary~~ Proprietary Standard Agreement between Eurex Clearing AG and such Clearing Agent shall be reduced accordingly upon Eurex Clearing AG having made those record entries (which Eurex Clearing AG shall do without undue delay) in the Internal Basic Clearing Member Margin Account and an equivalent Redelivery Claim arises under the Basic Clearing Member Standard Agreement.

[...]

## 10 Basic Clearing Member Termination Event

[...]

- 10.2 If a Basic Clearing Member Termination Event (other than a Basic Clearing Member Insolvency Termination Event) or any of the following events occurs with respect to a Basic Clearing Member:

[...]

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- (iii) the commencement of Disciplinary Procedures pursuant to ~~Part 4~~ Number 14.2.1 of the General Clearing ~~Conditions Provisions~~ against a Basic Clearing Member; or

[...]

10.3.1 **“Basic Clearing Member Termination Event”** means

[...]

- (c) the appointment of the Clearing Agent pursuant to the Basic Clearing Member Clearing Agreement or the granting of any authorisation by the Basic Clearing Member to the Clearing Agent pursuant to this Part ~~6-5~~ is or becomes invalid in whole or in part;

**11 Consequences of a Termination Event with respect to a Clearing Agent**

[...]

**11.2 Replacement of Affected Clearing Agent**

11.2.3 Replacement Election

[...]

- (a) **“Clearing Agent Replacement Requirements”** means all of the following requirements:

[...]

- (ii) the Replacement Clearing Agent and the Basic Clearing Member have entered into a Basic Clearing Member Clearing Agreement with Eurex Clearing AG or have agreed in form and substance satisfactory to Eurex Clearing AG to already be bound by the provisions set out in the form of the Basic Clearing Member Clearing Agreement appended to the Clearing Conditions of Eurex Clearing AG as Appendix ~~4-10~~ and to execute a Basic Clearing Member Clearing Agreement no later than five (5) Business Days after the end of the Replacement Period;

[...]

11.2.4 DCM Election

If the Basic Clearing Member of the Affected Clearing Agent has made a DCM Election and Eurex Clearing AG determines, at or prior to the end of the Replacement Period, that all DCM Requirements are fulfilled, the Affected Clearing Agent ceases to be the Clearing Agent and the Basic Clearing Member shall assume the role of a Direct Clearing Member. The Basic Clearing Member Transactions shall be included in the **Elementary** Proprietary Standard Agreement of such new Direct Clearing Member, and the Clearing

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Conditions applicable to Direct Clearing Members shall apply with respect to such new Direct Clearing Member (the “**Replacement**”).

(a) “**DCM Requirements**” means all of the following requirements:

- (i) the Basic Clearing Member meets the admission criteria for Direct Clearing Members pursuant to Number 2 of the General Clearing Provisions and has provided evidence thereof to the satisfaction of Eurex Clearing AG;

[...]

(b) Subject to the DCM Requirements under Number 11.2.4 (b) (ii), Eurex Clearing AG hereby irrevocably offers to the Basic Clearing Member to transfer by way of novation (*Novation*) all Basic Clearing Member Transactions covered by the Replacement from the relevant Basic Clearing Standard Agreement established between Eurex Clearing AG and the Basic Clearing Member to the Elementary Proprietary Standard Agreement established between Eurex Clearing AG and the new Direct Clearing Member. The Basic Clearing Member hereby accepts this transfer. The novation shall become effective as of the end of the Replacement Period or at such earlier time at which Eurex Clearing AG determines that the Clearing Agent Replacement Requirements are satisfied.

[...]

(d) When the DCM Requirements are satisfied by the end of the Replacement Period, or at such earlier time at which Eurex Clearing AG determines that the DCM Requirements are satisfied, the following shall apply:

- (i) All Basic Clearing Member Transactions under the relevant Basic Clearing Member Standard Agreement shall without any further action not form part of the Basic Clearing Member Standard Agreement anymore and shall be included in the Elementary-Proprietary Standard Agreement established between Eurex Clearing AG and the new Direct Clearing Member. The Basic Clearing Member Transactions shall be booked on an Own Account of the new Direct Clearing Member and shall constitute Own Transactions.
- (ii) All Redelivery Claims relating to Eligible Margin Assets in the form of cash actually paid to Eurex Clearing AG in respect of Basic Clearing Member Margin and Basic Clearing Member Variation Margin under the relevant Basic Clearing Member Standard Agreement shall without any further action not form part of the Basic Clearing Member Standard Agreement anymore and shall be included in the Elementary-Proprietary Standard Agreement between Eurex Clearing AG and the new Direct Clearing Member.

[...]

11.2.7 In respect of each Basic Clearing Member Standard Agreement to which the Replacement relates, Eurex Clearing AG shall:

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[...]

- (ii) if the Basic Clearing Member becomes a Direct Clearing Member, book the Basic Clearing Member Transactions, the Basic Clearing Member Margin and the Basic Clearing Member Variation Margin to the Own Account and the Internal ~~Elementary~~ Proprietary Margin Account of the new Direct Clearing Member, as applicable.

The corresponding assets shall constitute Basic Clearing Member Margin and Basic Clearing Member Variation Margin of the relevant Basic Clearing Member or ~~Elementary~~ Proprietary Margin and ~~Elementary~~ Proprietary Variation Margin of the new Direct Clearing Member, as applicable.

[...]

## **12 Replacement of Clearing Agent that is not an Affected Clearing Agent**

- 12.1 Without prejudice to a replacement of an Affected Clearing Agent in accordance with Number 11.2, prior to the occurrence of an Insolvency Termination Event or Termination Event with respect to its Clearing Agent, the Basic Clearing Member may effect a replacement of its Clearing Agent in accordance with this Number 12 with respect to all or some of its Basic Clearing Member Transactions under the relevant Basic Clearing Member Standard Agreement only with the prior written consent of Eurex Clearing AG, the Clearing Agent and a replacement Clearing Agent and subject to the prior conclusion of a Basic Clearing Member Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~44-10~~ between Eurex Clearing AG, the Basic Clearing Member and the replacement Clearing Agent. Eurex Clearing AG's consent will not be unreasonably withheld.

[...]

Original copies of the following documents shall be provided to Eurex Clearing AG:

- (i) a Basic Clearing Member Clearing Agreement in the form appended to the Clearing Conditions as Appendix ~~44-10~~ between Eurex Clearing AG, the Basic Clearing Member and the replacement Clearing Agent; and

[...]

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