

Chapter V of the Clearing Conditions of Eurex Clearing AG

Transactions Concluded at the Frankfurter Wertpapierbörse

As of 01.11.2022

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Part 2 Clearing of Transactions concluded at the Frankfurter Wertpapierbörse (FWB)

2.1 General Obligations

[...]

~~(7) If the Contractual Settlement Date is a Business Day following Labour Day (1 May) and if, with respect to the security to be delivered, a corporate action pursuant to Number 2.3 is to be carried out on one of these holidays, all physical deliveries and payments shall be performed on the next following Business Day.~~

2.2 Failure to Deliver

2.2.1 Failure to Deliver Securities

In case of a failure to deliver shares covered by Article 15 of Regulation (EU) No. 236/2012 ("**Shares**") or other securities ("**Other Securities**", and together with Shares "**Securities**")¹ owed under a FWB Transaction, the following provisions apply.

[...]

(2) Buy-in by auction, costs of buy-in

(a) Buy-in according to Auction Terms

If Eurex Clearing AG conducts an auction to acquire the Securities, such auction shall be conducted in accordance with the Auction Terms, ~~to acquire the non-~~

¹ For subscription rights securitised and held in collective safe custody, the procedure pursuant Paragraph 2 applies.

~~delivered Other Securities, the replacement of the Securities will be performed by means of an auction. Eurex Clearing AG will publish for each class of Securities a maximum price for the respective auction up to which Eurex Clearing AG is ready to accept bids. The maximum price for this auction results from the settlement price determined by Eurex Clearing AG for the class of Securities in question plus a premium as determined in Number 5 of the Auction Terms of Eurex Clearing AG. Any company other than the defaulting Clearing Member (“**Seller**”) which previously concluded a corresponding contract with Eurex Clearing AG may participate in such auctions.~~

[...]

(3) Cash Settlement

[...]

(b) Cash Settlement Amount

The cash settlement amount is determined as follows:

(aa) The highest of

- (i) the settlement price of the respective class of securities as determined by Eurex Clearing AG plus a premium of 100 per cent,
- (ii) the selling price and
- (iii) the purchase price of the relevant FWB Transaction ~~will be determined.~~

[...]

(6) Contractual Penalty

[...]

(b) Other penalties in respect of a non-delivery of Securities

[...]

(cc) The penalty is charged in the currency of the Securities.

[...]

~~The relevant contractual penalty may not be asserted if securities are not delivered on the first Business Day following Labour Day (1 May) and if, with respect to these securities, a corporate action pursuant to Number 2.3 Paragraph (2) (c) or (e) is to be carried out on one of these holidays.~~

If the relevant Settlement Location rewinds the Corporate Action being the basis for the relevant dividend or bonus payments, due to whatever reason, Eurex

Clearing AG will also rewind any contractual penalties processed in accordance with this Paragraph (b) as the legal basis for the contractual basis ceased to exist. Eurex Clearing AG will only process the rewinding of the contractual penalties until 280 calendar days after the actual payment date of the relevant Corporate Action. With respect of the part of the contractual penalty, which has been transferred by Eurex Clearing AG to the Clearing Member entitled to the delivery, Eurex Clearing AG shall only be obliged to re-transfer such part of the contractual penalty, if Eurex Clearing AG was able to retrieve such amount from the Clearing Member entitled to the delivery. If Eurex Clearing AG is not able to retrieve such amount from the Clearing Member entitled to the delivery, Eurex Clearing AG shall assign to the Clearing Member, to which the contractual penalty shall be retransferred, with discharging effect any claims Eurex Clearing AG may have against the Clearing Member entitled to the delivery.

[...]

2.2.3 Non-Delivery of Partial Rights

If the Clearing Member does not deliver partial rights or partial rights resulting from Securities to be delivered in time on the delivery day, Eurex Clearing will, following the respective Settlement Cut-Off Time on the last day of the subscription period, or, if this point in time occurs earlier, the 20th Business Day after the delivery day, determine a cash settlement in relation to the non-delivered partial rights.

The cash settlement amount is determined on the basis of the price set for the partial right by the Settlement Location on the day on which Eurex Clearing AG determines the cash settlement. Number 2.2.1 Paragraph (3) (b) ~~and (c) shall (bb) as well as~~ Number 2.2.1 Paragraph (3) (c) apply accordingly.

[...]

2.3 Corporate Actions

(1) [...]

~~Eurex Clearing AG will not and shall not be obliged to check whether the relevant Settlement Location processed the corporate action correctly.~~

(2) ~~Handling of Fractions~~ Cash Settlement of Fractions and Purchase Attempt

— If – in case of the occurrence of a Corporate Action with respect to securities under a pending FWB Transaction – it comes to a fractional processing of securities as the minimum settlement unit or settlement unit multiple are not met (“Fractions”), the processing of the Fractions shall be performed by the relevant Settlement Location in accordance with the applicable rules of the relevant Settlement Location (“Settlement Location Fractions Processing”).

As the result of Settlement Location Fractions Processing, the relevant Settlement Location may either

- (i) perform a cash compensation with respect to the Fractions and settle the relevant cash payments to the Clearing Member entitled to the delivery, or
- (ii) not perform a cash compensation with respect to the Fractions.

Eurex Clearing AG shall not be obliged to check whether the relevant Settlement Location Fraction Processing was performed correctly, but Eurex Clearing AG may apply the following provisions:

- (a) In addition to the Settlement Location Fraction Processing, Eurex Clearing AG shall not be obliged to perform with respect to Fractions any additional cash compensation.
- (b) If the relevant Settlement Location Fractions Processing results in a shortfall of one or more securities for Eurex Clearing AG, Eurex Clearing AG shall be entitled to attempt to purchase such securities from a third-party for a maximum purchase price that shall not exceed 120 per cent of the market value of the securities on the record date of the relevant Corporate Action as determined by Eurex Clearing AG in its reasonable discretion ("**Purchase Attempt**"). Eurex Clearing AG may deviate from this restriction when it deems the deviation in its reasonable discretion for necessary.

If a Purchase Attempt is successful, Eurex Clearing AG delivers the relevant securities to the Clearing Member entitled to the delivery.

If a Purchase Attempt is not successful, Eurex Clearing AG will initiate a cash settlement with respect to such securities. Eurex Clearing AG shall transfer a cash amount to the Clearing Member entitled to the delivery in the currency of the underlying FWB Transaction and equal to the market value of the securities on the record date of the relevant Corporate Action as determined by Eurex Clearing AG in its reasonable discretion. The delivery obligation of Eurex Clearing AG vis-à-vis the Clearing Member entitled to the delivery shall expire with debt discharging effect.

- (c) If the relevant Settlement Location Fractions Processing results in a surplus of one or more securities for Eurex Clearing AG, Eurex Clearing AG shall be entitled to sell such securities to a third-party ("**Sale**").

~~non-minimum/non-multiple unit conform quantities of securities or rights resulting from a corporate action processed by the relevant Settlement Location ("**Fractions**"), Eurex Clearing AG shall be entitled to settle a Fraction by payment of a cash amount ("**Cash Settlement**"). Eurex Clearing AG shall notify the affected Clearing Members about the Cash Settlement without undue delay.~~

~~Upon the occurrence of the Cash Settlement, the delivery obligations relating to the Fractions shall expire with debt discharging effect and the Clearing Member obliged to deliver shall in lieu pay to Eurex Clearing AG and Eurex Clearing AG shall~~

~~forward to the Clearing Member entitled to receive a cash amount in the currency of the underlying FWB Transaction and equal to the market value of the Fractions on the record date of the relevant corporate action event (“Record Date”) as determined by Eurex Clearing AG in its reasonable discretion and notified to the Clearing Members.~~

~~————— Eurex Clearing AG assesses if a cash settlement shall occur or whether a physical delivery with a minimum/multiple conform quantity of securities or rights in accordance with the original delivery obligation is nevertheless possible subject to a prior purchase. If this is the case, Eurex Clearing AG attempts to purchase the relevant securities or rights using the cash amount received from the Clearing Member obliged to deliver, on the day following the Record Date and if necessary on the day following that day for a purchase price that may not exceed 120 per cent of the market value on the Record Date (“Purchase Attempt”). If a Purchase Attempt is successful, Eurex Clearing AG delivers the relevant securities or rights to the Clearing Member entitled to receive, if a Purchase Attempt is not successful, a cash settlement with respect to the securities or rights occurs, in each case the delivery obligations vis-à-vis the Clearing Member entitled to receive expire with debt discharging effect.~~

~~————— If the Clearing Member obliged to deliver has delivered a minimum/multiple conform quantity of securities or rights to Eurex Clearing AG despite a cash settlement by Eurex Clearing AG relating to such securities or rights in favour of the Clearing Member entitled to receive, Eurex Clearing AG shall sell the relevant securities or rights and use the proceeds to compensate the cash settlement (“Sale”).~~

~~————— In the event of a non-delivery (as described in Number 2.2) and the occurrence of any Corporate Action, the Clearing Member obliged to deliver shall cover any losses incurred to Eurex Clearing AG as a result of a Purchase Attempt or Sale.~~

[...]

2.5 Transaction Netting

[...]

2.5.5 Optimised Transaction Netting

- (1) To allow Transaction Netting across several Transaction Accounts of two or more Direct Client Market Participants (“Optimised Transaction Netting”), the Clearing Member of such Direct Client Market Participants can submit a request to Eurex Clearing AG per Direct Client Market Participant, which shall participate in the Optimised Transaction Netting (“Optimised Transaction Netting Request”).

An Optimised Transaction Netting Request shall always relate to all Transaction Accounts relating to the relevant Direct Client Market Participant.

(2) Upon the acceptance of an Optimised Transaction Netting Request by Eurex Clearing AG with respect to the Transaction Accounts of a Direct Client Market Participant, the following provisions shall apply:

(a) Whenever an order or quote is entered into the trading systems of FWB by the relevant Direct Client Market Participant and such order or quote is matched with another order or quote, the relevant FWB Transaction concluded between Eurex Clearing AG and the relevant Clearing Member of such Direct Client Market Participant shall

(i) constitute an UDC-Related Transaction immediately upon the matching of the orders and quotes (each an “**Optimised Transaction Netting Transaction**”) and

(ii) each Optimised Transaction Netting Transaction shall directly be booked into the relevant NOSA UDC Account.

For the avoidance of doubt, the Optimised Transaction Netting Transactions shall not constitute UDC-Related Transactions and shall not be booked into the relevant DC Own Account, NOSA Indirect Client Account, GOSA Indirect Client Account or ISA Transaction Account.

(b) All Optimised Transaction Netting Transactions shall form part of the relevant Netting Units arising from such NOSA UDC Account.

(c) After the acceptance of an Optimised Transaction Netting Request by Eurex Clearing AG, Eurex Clearing AG will inform the relevant Direct Client Market Participant about the legal consequences of the application of Optimized Transaction Netting and the reduced level of protection in case of the occurrence of a Termination with respect to the Clearing Member of the Direct Client Market Participant.

(d) By submitting the Optimised Transaction Netting Request with respect to a specific Transaction Account relating to a Direct Client Market Participant, the Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that the Clearing Member has informed such Direct Client Market Participant about the legal consequences of the Optimised Transaction Netting, in particular about the reduced level of protection in case of the occurrence of a Termination with respect to the Clearing Member resulting in (*inter alia*):

(i) a reduced level of segregation, as the Optimised Transaction Netting Transactions do not form part of a DC Transaction Account Group or ISA Standard Agreement upon the application of Optimised Transaction Netting;

(ii) that Eurex Clearing AG will not calculate a separate Difference Claim in relation to the relevant Optimised Transaction Netting Transactions, which

rather form part of a combined Difference Claim for the entire NOSA UDC Account;

- (iii) that a potential Difference Claim in relation to the relevant Optimised Transaction Netting Transactions, which is owed by Eurex Clearing AG will not be directly returned to the relevant Direct Client Market Participant;
- (iv) that no Eligible Margin Assets actually delivered to Eurex Clearing AG with respect to any Optimised Transaction Netting Transaction, which is not realised as such by Eurex Clearing AG during the Default Management Process, will be directly returned to the Direct Client Market Participant; and
- (v) the application of a more complex porting process with respect to the Optimised Transaction Netting Transactions.
