

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

# Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions and OTC XCCY Transactions

As of 01.04.2019

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

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[...]

## Part 3 Clearing of OTC FX Transactions

[...]

### 3.1.5.1 Transaction Type Specific Novation Criteria

The following Transaction Type specific novation criteria must be fulfilled for OTC FX Transactions (based on the trade record transmitted to Eurex Clearing AG via the relevant ATS):

[...]

#### (7) Business Days

Subject to Paragraph (4) and (5) above, For purposes of defining the applicable Business Day, ~~details of~~ the relevant financial/business centre(s) or terms, ~~which must be TARGET (EUTA), New York (USNY) and London (GBLO),~~ must be provided those permitted by the relevant ATS.

[...]

### 3.2.1 Payment obligations

(1) The relevant Clearing Member and Eurex Clearing AG shall pay the amounts payable under and in accordance with the terms of the relevant CCP Transaction as specified in the relevant OTC Trade Novation Report on the basis of the trade record submitted via the relevant ATS and which are as follows:

[...]

(d) if

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(x) the Clearing Member USD OTC Currency Transactions Payment Obligations are in excess of the applicable USD Maximum Amount with respect to the Clearing Member and a Settlement Date (such excess amount, which is denominated in USD, the “**USD Prefunding Amount**”), or

(y) the Clearing Member GBP OTC Currency Transactions Payment Obligations are in excess of the applicable GBP Maximum Amount with respect to the Clearing Member and a Settlement Date (such excess amount, which is denominated in GBP, the “**GBP Prefunding Amount**” and each the GBP Prefunding Amount and the USD Prefunding Amount, a “**Prefunding Amount**”),

[...]

“**USD Maximum Amount**” means an amount denominated in USD as determined by Eurex Clearing AG in its discretion with respect to each individual Clearing Member and as notified by Eurex Clearing AG to each of the Clearing Members. Each USD Maximum Amount can be amended by Eurex Clearing AG in its discretion at any time by either increasing or reducing it. If an amendment results in a reduction of the relevant USD Maximum Amount, then Eurex Clearing AG is required to give at least 3 (three) months' prior notice to the relevant Clearing Member unless there are exceptional circumstances which require a shorter notice period in order to effectively manage the risks of Eurex Clearing AG in its capacity as central counterparty, in particular taking into account the notional exposures of the Clearing Member's relevant OTC Currency Transactions and the resulting amount of Variation Margin to be settled through the CLS CCP Service, in which case the notice period can be less than three months. When determining and amending the GBP-USD Maximum Amount, Eurex Clearing AG also takes into account its exposures vis-à-vis the CLS Nostro Banks in order to effectively manage the risks of Eurex Clearing AG in its capacity as central counterparty.

[...]

(2) The following applies with respect to Prefunding Amounts:

[...]

(c) If a Relevant Currency Surplus has occurred and Eurex Clearing AG concludes that a Residual Currency Surplus cannot be or has not been eliminated in full by taking measures pursuant to Chapter I Part 1 Number 3.2.5 (a) and/or (b), Eurex Clearing AG may, by notice (which may also be provided via email or telephone) to any Prefunding Amount Payer in respect of which any Prefunding Amount in the Relevant Currency has been paid to Eurex Clearing AG and has not been applied or repaid, inform such Prefunding Amount Payer that Eurex Clearing AG intends pay to such Prefunding Amount Payer an aggregate

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amount in the Relevant Currency up to the remaining Residual Currency Surplus and require such Prefunding Amount Payer to repay the identical amount in the Relevant Currency to Eurex Clearing AG. Such notice may be revoked by Eurex Clearing AG at any time.

In such notice Eurex Clearing AG will inform the relevant Prefunding Amount Payer of the amount and time of the payment in the Relevant Currency that shall be made by Eurex Clearing AG and specify a reasonable time for such corresponding repayment of the identical amount in the Relevant Currency by the Prefunding Amount Payer to become due. The payment by Eurex Clearing AG will reduce the Prefunding Amount paid by the Prefunding Amount Payer accordingly. Eurex Clearing AG may directly debit the relevant Clearing Member Cash Account for the repayment. The amount so repaid to Eurex Clearing shall constitute (or, as applicable, increase) a Prefunding Amount in the Relevant Currency.

Eurex Clearing AG may distribute the payments and the demands for repayments across the relevant Prefunding Amount Payers in its reasonable discretion (*billiges Ermessen*), provided that the amount of the Relevant Currency to be so paid to and repaid by a Prefunding Amount Payer may not exceed the Prefunding Amount that has been paid to Eurex Clearing AG by such Prefunding Amount Payer in the Relevant Currency and has not been returned, repaid or applied. When exercising its discretion, Eurex Clearing AG may take into account, *inter alia*, the absolute amount of Prefunding Amounts in the Relevant Currency paid by each such Clearing Member and Basic Clearing Member.

For the avoidance of doubt, a payment by Eurex Clearing AG to a Prefunding Amount Payer pursuant to this Paragraph (2)(c) as such does not constitute a failure to pay the relevant Prefunding Amount pursuant to Number 3.3.1; however, a failure by the Clearing Member to make the repayment of the Prefunding Amount in accordance with this Paragraph (2)(c) constitutes a failure to pay pursuant to Chapter I Part 1 Number 7.2.1 Paragraph (1).

[...]

### 3.3 Failure to Pay with respect to an OTC Currency Transaction

#### 3.3.1 Failure to Pay Relevant Prefunding Amount

- (1) If a Clearing Member fails to pay the relevant Prefunding Amount to Eurex Clearing AG in full in accordance with Number 3.2.1 by the Prefunding Cut-Off Time, the provisions of Chapter I Part 1 Number 7 shall apply.

**“Prefunding Cut-Off Time”** means 1:00 p.m. (Frankfurt am Main time).

- (2) In addition thereto, the Clearing Member is obliged to pay ~~the~~ a contractual penalty to Eurex Clearing AG (the “Prefunding Amount Contractual Penalty”). The

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amount of the Prefunding Amount Contractual Penalty – as determined by Eurex Clearing AG – is the equivalent in the relevant Clearing Currency of 40 basis points of the relevant Prefunding Amount, with a minimum of EUR 2,500.00, CHF 3,000.00 or GBP 2,000.00, as applicable, and a maximum of EUR 10,000,000.00, CHF 12,000,000.00 or GBP 8,000,000.00, as applicable. The Prefunding Amount Contractual Penalty applies regardless of any actual damages incurred by Eurex Clearing AG and is immediately due and payable by the Prefunding Cut-Off Time on the relevant Payment Date. The Prefunding Amount Contractual Penalty shall be a “Secured Claim” for the purpose of Chapter I Part 2 Subpart A Number 4.4.3. The right of Eurex Clearing AG to claim further damages shall remain unaffected.

[...]

[...]

## Part 4 Clearing of OTC XCCY Transactions

[...]

### 4.1.5.1 Transaction Type Specific Novation Criteria

The following Transaction Type specific novation criteria must be fulfilled for OTC XCCY Transactions (based on the trade record transmitted to Eurex Clearing AG via the ATS):

[...]

(12) Business Days

For purposes of defining the applicable Business Day, details of the relevant financial/business centre(s) or terms must be provided, which (i) for the Currency Pair EUR/USD, must be TARGET (EUTA) and, New York (USNY) or London (GBLO) and, (ii) for the Currency Pair GBP/USD, must be London (GBLO) and New York (USNY) must be provided.

[...]

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