

Chapter I: Clearing Model Related Provisions

FCM Regulations of Eurex Clearing AG

As of 02.05.2019

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

[...]

Chapter I Clearing Model Related Provisions

1 General Provisions

[...]

1.2 Definitions and Interpretation

1.2.1 [...]

“FCM Client RTGS Account” has the meaning assigned to it in Number 2.2.10.

“FCM Client Margin Short Fall” has the meaning assigned to it in Number 6.4.2 Paragraph (1) (under the LSOC Without Excess Model) or Number 6.5.2 Paragraph (1) (under the LSOC With Excess Model).

[...]

3.2.3 Delivery of Eligible Margin Assets in the form of securities

[...]

(5) [...]

- (a) The right for Eurex Clearing to make use of the Relevant Pledged Securities pursuant to this provision is conditional upon the issuance of a Declaration of Termination with respect to the FCM Clearing Member by Eurex Clearing AG.
- (b) Eurex Clearing AG shall only be entitled to exercise such appropriation right and right of use to contain losses and liquidity pressures from the default of the relevant FCM Clearing Member. for the purpose of liquidity management in relation to its business activities as central counterparty, in particular for obtaining refinancing from the Eurosystem or entering into repo transactions with commercial counterparties.
- (cb) If Eurex Clearing AG exercises such appropriation right in respect of any Relevant Pledged Securities, the FCM Clearing Member shall have a claim

against Eurex Clearing AG for redelivery of securities that are equivalent to such Relevant Pledged Securities; such redelivery claim shall become due at the same time the Difference Claim with respect to all FCM Clearing Member Own Transaction Accounts becomes due in accordance with Number 9.5.4, provided that, Eurex Clearing AG may, in its discretion, either (A) discharge such redelivery claim by transferring to the FCM Clearing Member securities equivalent to such Relevant Pledged Securities before the Difference Claim with respect to all FCM Clearing Member Own Transaction Accounts becomes due, (B) set off the value of such Relevant Pledged Securities against the amount of such Difference Claim or (C) include the value of the Relevant Pledged Securities in the determination of such Difference Claim (as a position in favour of the FCM Clearing Member).

(ed) If Eurex Clearing AG receives, in relation to the Relevant Pledged Securities with respect to which Eurex Clearing AG exercised its appropriation right, a payment of interest, dividends, or other distributions in the form of securities ("**Securities Income**"), or any payment of interest, dividends or other distribution in cash ("**Cash Income**"), Eurex Clearing AG shall transfer to the FCM Clearing Member securities equivalent to and in the same value as the relevant Securities Income and pay to the FCM Clearing Member a cash amount equivalent to and in the same currency as the relevant Cash Income, respectively.

[...]

(ed) The information statement set out in Appendix 3 of the FCM Regulations in accordance with Article 15 of the Regulation on transparency of securities financing transactions and of reuse (Regulation (EU) 2015/2365) applies.

[...]

6.4.2 FCM Client Buffer

- (1) If the applicable Margin Requirement with respect to an FCM Client Transaction Account exceeds the FCM Client Margin Sub-Account Balance for such FCM Client Transaction Account ("**FCM Client Margin Shortfall**"), Eurex Clearing AG is permitted to apply any portion of the FCM Client Buffer carried in the FCM Client Buffer Sub-Account in the same FCM Client Margin Account as the FCM Client Margin Sub-Account to satisfy the FCM Client Margin **Sub-Account Balance sShortfall** (the "**Encumbered FCM Client Buffer**").
- (2) Eurex Clearing AG may not at any time apply any portion of the FCM Client Buffer with respect to an FCM Client Margin Sub-Account in an amount that would cause the sum of the applicable FCM Client Margin Sub-Account Balance and the Encumbered FCM Client Buffer applicable to such FCM Client Margin Sub-Account at such time (if any) to exceed the amount of the applicable **FCM Client Margin Requirement** ~~determined for such FCM Client Margin Sub-Account~~. In the event that

any such excess exists (e.g., due to a decrease in the margin required, crediting additional Eligible Margin Assets attributable to such FCM Client, or otherwise) with respect to an FCM Client Margin Sub-Account, Eurex Clearing AG shall reduce the amount of Encumbered FCM Client Buffer applicable to such FCM Client in an amount sufficient to remove any such excess; thereupon the reduced portion of Encumbered FCM Client Buffer again constitutes unencumbered FCM Client Buffer.

- (3) Eurex Clearing AG will calculate the Margin Requirement for each FCM Client Transaction Account for the end-of-day settlement cycle and issue a Margin Call for the corresponding FCM Client Margin Sub-Account without regard to any Encumbered FCM Client Buffer applied to such FCM Client Margin Sub-Account on the Business Day to which the end-of-day Margin Call applies. The FCM Clearing Member may (with the consent of Eurex Clearing AG) elect to use the ~~Encumbered~~ FCM Client Buffer to meet (in whole or in part) the Margin Call, in which case the ~~Encumbered~~ FCM Client Buffer becomes part of the FCM Client Sub-Account Balance and no longer constitutes Encumbered FCM Client Buffer or FCM Client Buffer.

6.4.3 Margin Calls; Application of FCM Client Buffer

[...]

- (2) Eurex Clearing AG will issue a Margin Call with respect to an FCM Client Transaction Account at any time prior to the end of a Business Day provided that if the following requirements are met:
- (a) Eurex Clearing AG has determined there is an FCM Client Margin Shortfall with respect to the relevant FCM Client Transaction Account FCM Client Margin Requirement for such account exceeds the FCM Client Margin Sub-Account Balance for the corresponding FCM Client Margin Sub-Account, and
- (b) the FCM Client Margin Shortfall with respect to the relevant FCM Client Transaction Account cannot be fully met by unencumbered FCM Client Buffer provided with respect to the relevant FCM Client Margin Account to which the FCM Client Transaction Account is linked.

~~except that it will issue an intra-day Margin Call with respect to an FCM Client Margin Sub-Account only if and to the extent that the FCM Client Margin Requirement exceeds the sum of the FCM Client Margin Sub-Account Balance and any Encumbered FCM Client Buffer allocated to such FCM Client Margin Sub-Account.~~

If such requirements are met, Eurex Clearing AG will exercise the Margin Call without regard to any FCM Client Buffer.

[...]

6.5 LSOC With Excess Model

[...]

6.5.1 Collateral Value Reports

[...]

- (4) Eurex Clearing AG is entitled to reject a CVR submitted with respect to an FCM Client Margin Account in the following cases:

[...]

- (b) the CVR reallocates the value of Eligible Margin Assets to satisfy a Margin Call in whole or in part; ~~or~~
- (c) if Eurex Clearing AG determines in its discretion that allocating the value of Eligible Margin Assets in the manner provided in the CVR could cause Eurex Clearing AG to violate any Applicable Law, or -

(d) if Eurex Clearing AG determines that any information provided in the CVR does not correspond with the setup of the FCM Clearing Member within the systems of Eurex Clearing AG.

The FCM Clearing Member and Eurex Clearing may (i) agree on additional checks by Eurex Clearing pursuant to which Eurex Clearing AG will reject a CVR or (ii) agree in a specific situation to deviate from the requirements under (a) to (d) or from any additional checks imposed under clause (i).

[...]

6.5.2 Assumed Allocation due to a Margin Call before the submission of a CVR

- (1) When an FCM Clearing Member furnishes Eligible Margin Assets to Eurex Clearing AG with respect to an FCM Client Margin Account to satisfy a Margin Call, Eurex Clearing AG shall automatically allocate such Eligible Margin Assets among each of the FCM Client Margin Sub-Accounts within the FCM Client Margin Account with respect to which Eurex Clearing AG determined an FCM Client Margin Shortfall ~~Amount~~ pro rata based on the amount of shortfall in each such FCM Client Margin Sub-Account (the “**Assumed Allocation**”).

[...]

- (5) Upon the occurrence of a Termination Event or an Insolvency Termination Event with respect to the FCM Clearing Member, Eurex Clearing AG shall treat the ~~Encumbered~~ Assumed Allocation as part of the FCM Client Margin Sub-Account Balance of the relevant FCM Client. The Assumed Allocation can be used in case a porting occurs with respect to the relevant FCM Client Transactions and can also be

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used by Eurex Clearing AG in case no porting occurs with respect to the relevant FCM Client Transactions.

6.5.3 FCM Client Buffer

- (1) ~~If the applicable Margin Requirement with respect to an FCM Client Transaction Account exceeds the FCM Client Margin Sub-Account Balance (which with respect to this Number 6.5 includes the related FCM Client Assumed Allocation Sub-Account Balance as a component) for such FCM Client Transaction Account ("FCM Client Margin Shortfall")~~~~If the applicable Margin Requirement with respect to an FCM Client Transaction Account exceeds the FCM Client Margin Sub-Account Balance for such FCM Client Transaction Account,~~ Eurex Clearing AG is permitted to apply any portion of the FCM Client Buffer carried in the FCM Client Buffer Sub-Account in the same FCM Client Margin Account as the FCM Client Margin Sub-Account to satisfy the FCM Client Margin ~~Sub-Account Balance~~s Shortfall (the "**Encumbered FCM Client Buffer**").
- (2) Eurex Clearing AG will calculate the Margin Requirement for each FCM Client Transaction Account for the end-of-day settlement cycle and issue a Margin Call for the corresponding FCM Client Margin Sub-Account without regard to any Encumbered FCM Client Buffer applied to such FCM Client Margin Sub-Account on the Business Day to which the end-of-day Margin Call applies. The FCM Clearing Member may (with the consent of Eurex Clearing AG) elect to use the ~~Encumbered~~ FCM Client Buffer to meet (in whole or in part) the Margin Call, in which case the ~~Encumbered~~ FCM Client Buffer becomes part of the FCM Client Assumed Allocation Sub-Account ~~the FCM Client Sub-Account Balance~~ and no longer constitutes Encumbered FCM Client Buffer or FCM Client Buffer.

6.5.4 Margin Calls; Application of FCM Client Buffer

[...]

- (2) Eurex Clearing AG will issue a Margin Call with respect to an FCM Client Transaction Account at any time prior to the end of a Business Day provided that if the following requirements are met:
 - (i) Eurex Clearing AG has determined there is an FCM Client Margin Shortfall with respect to the relevant FCM Client Transaction Account, and
 - (ii) the FCM Client Margin Shortfall with respect to the relevant FCM Client Transaction Account cannot be fully met by unencumbered FCM Client Buffer provided with respect to the relevant FCM Client Margin Account to which the FCM Client Account is linked.

~~FCM Client Margin Requirement for such account exceeds the FCM Client Margin Sub-Account Balance for the corresponding FCM Client Margin Sub-Account, except that it will issue an intra-day Margin Call with respect to an FCM Client Margin Sub-~~

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~~Account only if and to the extent that the FCM Client Margin Requirement exceeds the sum of the FCM Client Margin Sub-Account Balance (which for avoidance of doubt includes the related FCM Client Assumed Allocation Sub-Account Balance as a component) and any Encumbered FCM Client Buffer allocated to such FCM Client Margin Sub-Account.~~

If such requirements are met, Eurex Clearing AG will exercise the Margin Call without regard to any FCM Client Buffer.

[...]

9.5 Consequences of a Termination

[...]

[...]

9.5.2 Difference Claim

[...]

(2) [...]

When making such calculation, (i) any amount due to be paid as a primary obligation under the relevant Swap Transaction, but unpaid at the relevant DMP Valuation Date, and (ii) the value of any assets due to be delivered as a primary obligation under the relevant Swap Transaction, but not delivered at the relevant DMP Valuation Date (each an "**Unpaid Amount**"), shall be taken into account.

[...]

[...]

13.1 Liability, Indemnification, Emergency Actions

[...]

13.1.3 Each FCM Clearing Member shall indemnify Eurex Clearing AG and its officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses suffered or incurred by such person arising out of or in connection with the FCM Clearing Member's ~~conduct in performing its obligations under, or its~~ breach of, the FCM Clearing Conditions, except to the extent that the losses, liabilities, damages, claims, costs or expenses arise as a result of the bad faith, fraud, wilful default or gross negligence of the person indemnified.

[...]

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15.3 Access Area for Eurex Clearing AG Notices

Each FCM Clearing Member acknowledges that Eurex Clearing AG will send to FCM Clearing Members notices and reports in the systems of Eurex Clearing AG in an area which is only individually accessible to it (the “**Access Area**”). Each FCM Clearing Member acknowledges that Eurex Clearing AG is entitled to provide each FCM Client with reports in the Access Area of such FCM Client with respect to the FCM Client Transactions relating to such FCM Client. Eurex Clearing AG is not entitled to access or change the Access Area of an FCM Clearing Member without its consent. Reports and notifications stored in an Access Area will regularly be exchanged against new notices or reports within ten (10) Business Days of their storage in the Access Area.

[...]

[...]
