

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

As of 19.10.2016

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 1

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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## Chapter I General Provisions

[...]

### Part 1 General Clearing Provisions

[...]

#### 16 Publications and Notices

16.1 If provided for in these Clearing Conditions, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published (i) via electronic circular to the Clearing Members (which term shall, in this Number 16, include Clearing Members in their capacity as Clearing Agents), Non-Clearing Members, Registered Customers, FCM Clients and Basic Clearing Members or (ii) on the Eurex Clearing AG website ([www.eurexclearing.com](http://www.eurexclearing.com)) for at least three (3) Business Days. Such notices will become effective immediately upon publication, provided that changes and amendments to the Clearing Conditions will become effective in accordance with Number 17.2 and Number 17.3. Unless otherwise provided for in these Clearing Conditions, such publication will be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice, except that in case of changes or amendments (x) of the Special Provisions (as defined in Number 17.3.1), such publication will be made at least three months prior to the effective date fixed in the relevant notice and (y) in the cases set forth in the first paragraph of Number 17.3.1 Paragraph (2), such publication will be made at least ten (10) Business Days prior to the effective date fixed in the relevant notice.

~~However, where changes or amendments to the Special Provisions are proposed, such publication need only be made at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice where Eurex Clearing AG announces in the invitation to the Consultation pursuant to Number 17.3.1 Paragraph (1) the application of a shortened publication time period of fifteen (15) Business Days prior to the effective date fixed in the relevant notice and in total no more than two affected Clearing Members, affected Non-Clearing Members, affected Registered Customers affected FCM Clients and/or affected Basic Clearing Members object to the application of such shortened time period within the Consultation as provided for in Number 17.3. If Eurex Clearing AG receives such objections from more than two affected Clearing Members, affected Non-Clearing Members, affected Registered Customers affected FCM Clients and/or affected Basic Clearing Members during the Consultation, Eurex Clearing AG shall notify all Clearing~~

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 2

~~Members, Non-Clearing-Members, Registered Customers FCM Clients and/or Basic Clearing Members promptly on receipt of such objections in a further electronic circular.~~

~~16.2 Unless Number 16.1 is specified in these Clearing Conditions to apply, all notices from Eurex Clearing AG regarding these Clearing Conditions will be published on the Eurex Clearing AG website under [www.eurexclearing.com](http://www.eurexclearing.com) for at least three (3) Business Days. Such notices will become effective immediately upon publication.~~

16.32 All notices to be given between Eurex Clearing AG and a Clearing Member or a Non-Clearing Member, Registered Customer, FCM Client or Basic Clearing Member shall be given in such form and at such address as agreed and/or notified from time to time by the relevant party. Notices may be given in the German or in the English language. Upon written request by a Clearing Member, Non-Clearing Member, Registered Customer, FCM Client or Basic Clearing Member all notices from Eurex Clearing AG (except for automated reports) to such requesting party shall be given in the German and in the English language or one of these languages. Unless otherwise specified in these Clearing Conditions notices by Clearing Members, Non-Clearing Members, Registered Customers, FCM Clients or Basic Clearing Members may be made by telefax or e-mail. Forms published by Eurex Clearing AG must be used.

16.43 Each Clearing Member, Non-Clearing Member, Registered Customer, FCM Client and Basic Clearing Member acknowledges that Eurex Clearing AG will send to Clearing Members, Non-Clearing Members, Registered Customers, FCM Clients and Basic 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**”). Eurex Clearing AG is not entitled to access or change the Access Area of a Clearing Member, Non-Clearing Member, Registered Customer, FCM Client or Basic 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.

16.54 Each Clearing Member, Non-Clearing Member, Registered Customer, FCM Client and Basic Clearing Member acknowledges that the notices and reports which are made accessible in the individual Access Area may also contain declarations (*Willenserklärungen*), in particular acceptances (*Annahmen*) of Transactions and other declarations of particular importance.

## 17 Miscellaneous

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### 17.2 Changes and Amendments to the Clearing Conditions

17.2.1 Eurex Clearing AG reserves the right to change or amend the Clearing Conditions and the Procedures Manual at any time; any changes and amendments of these Clearing Conditions shall be published in accordance with Number 16.1 (i) and (ii).

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 3

17.2.2 Unless otherwise provided for in these Clearing Conditions, such publication will be made to all affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients and/or affected Basic Clearing Members ("**Affected Customers**") at least fifteen (15) Business Days prior to the effective date fixed in the relevant notice ("**Regular Notification Period**").

17.2.3 If Special Conditions (as defined below) are to be changed or amended, Eurex Clearing AG will carry out a Consultation prior to the publication of the changes or amendments subject to and in accordance with Number 17.3. If in the Consultation more than two Affected Customers request the application of a Prolonged Notification Period, the publication of changes and amendments will be made three (3) months prior to the effective date fixed in the relevant notice ("**Prolonged Notification Period**").

17.2.24 "**Special Provisions**" are

- Numbers 1.5, 6, 7, 9, 16.1, 17.2 and 17.3,
- Subpart C Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions,
- Chapter III Part 2 Number 2.4 Paragraph (1),
- Chapter IV Part 2 Number 2.6 Paragraph (1) (b),
- Chapter V Part 2 Number 2.2.1 Paragraph (4),
- Chapter VIII Part 2 Number 2.2.5 Paragraph (7),
- Chapter IX Part 2 Number 2.6.4 Paragraph (4),
- Chapter IX Part 2 Number 2.7.2 Paragraph (2),
- each of the Appendices to the Clearing Conditions to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests,
- the Procedures Manual to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing AG, the Clearing Members, Non-Clearing-Members, Registered Customers, FCM Clients and Basic Clearing Members,
- the DMC Rules and the DM Auction Rules and
- any newly added provisions relating to the subject matter of these provisions.

Rules or Agreements (except for those set forth in the preceding sentence), which are referred to in these provisions, do not qualify as Special Provisions. In case of changes or amendments of Special Provisions (as defined in Number 17.3.1) the procedures set forth in Number 17.3 shall apply. In case of all other changes and amendments of the Clearing Conditions (except for changes or amendments pursuant to Number 17.3.1 Paragraph (2))

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 4

17.2.5 ~~Notwithstanding a prior Consultation (if any), Affected Customers may submit in writing to Eurex Clearing AG comments to any changes or amendments of the Clearing Conditions within the first 10 Business Days of the Regular Notification Period or the Prolonged Notification Period, as applicable. Eurex Clearing AG shall assess, whether the comments received from affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients or affected Basic Clearing Members within ten (10) Business Days in writing of the publication of the change or amendment, taking into account the interests of Eurex Clearing AG, all Clearing Members, Non-Clearing-Members, Registered Customers, FCM Clients and Basic Clearing Members whether these comments prevents the published change or amendment from becoming effective taking into account the interests of Eurex Clearing AG, all Clearing Members, Non-Clearing-Members, Registered Customers, FCM Clients and Basic Clearing Members.~~ If necessary, Eurex Clearing AG will consult the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to implement comments of ~~affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients or affected Basic Clearing Members~~ Affected Customers the relevant changes and amendments will be published again ~~pursuant to Number 16,~~ in accordance with the initial notification period (i.e. either a Regular Notification Period or a Prolonged Notification Period, as the case may be); there will, however, be no new assessment of the comments of the ~~Clearing Members, Non-Clearing-Members, Registered Customers, FCM Clients and Basic Clearing Members~~ Affected Customers pursuant to this Number 17.2.25.

17.2.36 ~~Each Clearing Member, Non-Clearing Member, Registered Customer, FCM Client and Basic Clearing Member~~ Affected Customer accepts each change and amendment of the Clearing Conditions, unless it objects by written notice to Eurex Clearing AG ~~before the end of the Business Day prior to the actual effective date of such change and amendment of the Clearing Conditions~~ within the Regular Notification Period or the Prolonged Notification Period, as applicable. Eurex Clearing AG will inform the ~~Clearing Members, Non-Clearing Members, Registered Customers, FCM Clients and Basic Clearing Members~~ Affected Customers of the effects of such approval in the relevant publication of the changes and amendments of these Clearing Conditions. The right to terminate the Clearing Agreement pursuant to Number 7.2.1 Paragraph (4) shall remain unaffected.

## 17.3 Consultation in case of changes and amendments of the Clearing Conditions

### 17.3.1 Scope of Application and Definitions

- (1) Prior to the publication of changes or amendments of ~~the any~~ Special Provisions ~~(as defined below)~~, Eurex Clearing AG will, by notice published in accordance with Number 16.1 (i), invite all ~~affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients and affected Basic Clearing Members~~ Affected Customers to submit comments to the proposed changes and amendments and/or to express their desire for the application of a Prolonged

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 5

Notification Period within one month after the publication of the relevant invitation (“**Consultation**”).

~~“**Special Provisions**” are Numbers 1.5, 6, 7, 9, 16.1, 17.2 and 17.3, Subpart C Number 2.1.2 and 3.3 of the Individual Clearing Model Provisions, Chapter III Part 2 Number 2.4 Paragraph (1), Chapter IV Part 2 Number 2.6 Paragraph (1) (b), Chapter V Part 2 Number 2.2.1 Paragraph (4), Chapter VIII Part 2 Number 2.2.5 Paragraph (7), Chapter IX Part 2 Number 2.6.4 Paragraph (4), Chapter IX Part 2 Number 2.7.2 Paragraph (2), Appendices 1, 2, 3, 4, 5, 6, 7 and 11 (to the extent that clauses in such Appendices relate to the granting of powers of attorney, the granting of margin or the creation of security interests) as well as the Procedures Manual (to the extent the issues contained therein may have an impact on the risk management of Eurex Clearing AG, the Clearing Members, Non-Clearing Members, Registered Customers, FCM Clients and Basic Clearing Members), the DMC Rules and the DM Auction Rules and any newly added provisions relating to the subject matter of these provisions. Rules or Agreements (except for those set forth in the preceding sentence), which are referred to in these provisions, do not qualify as Special Provisions.~~

- (2) A Consultation pursuant to Paragraph (1) does not take place with regard to (i) editorial changes or amendments, (ii) changes or amendments necessary to comply with statutory or regulatory requirements, as well as (iii) changes or amendments (except for changes or amendments to Numbers 6, 7, 9, 17.2 or 17.3) due to Extraordinary Market Conditions (as defined below); accordingly, the Regular Notification Period applies.

“**Extraordinary Market Conditions**” are, as determined by Eurex Clearing AG,

- (a) events or circumstances which affect or may affect the orderly Clearing, the orderly settlement and liquidation of Transactions or the existence or orderly functioning of the Clearing Process.
- (b) other market disruptions which render impossible or impracticable the orderly determination of closing prices (*Schlusskursen*) or settlement prices; or
- (c) events or circumstances which establish non tolerable insecurity, volatility or risks with regard to Transactions or the Clearing which may negatively impact on the financial or commodities markets relevant for the Clearing, which, in each case, render it impractical for Eurex Clearing AG to continue to operate the Clearing in accordance with the Clearing Conditions while sufficiently managing its risks.

Extraordinary Market Conditions may also occur if only a single Clearing Member, a single Basic Clearing Member (e.g. in case of a default) or a group of Clearing Members or Basic Clearing Members is/are affected, provided that any of the events or circumstances described in (a) to (c) exist. The default of a Clearing Member or a Basic Clearing Member does not per se constitute Extraordinary Market Conditions.

	Eurex04e
Clearing Conditions of Eurex Clearing AG	As of 19.10.2016
	Page 6

17.3.2 During a Consultation, Eurex Clearing AG will, taking into account the interests of Eurex Clearing AG and all Clearing Members, Non-Clearing-Members, Registered Customers, FCM Clients and Basic Clearing Members, assess the comments received by the ~~affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients and affected Basic Clearing Members~~ Affected Customers in the Consultation and, if necessary, consult the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, seek advice from other sources. There is no obligation of Eurex Clearing AG to implement a comment. To the extent Eurex Clearing AG decides to accept proposed changes or amendments by ~~affected Clearing Members, affected Non-Clearing-Members, affected Registered Customers, affected FCM Clients or affected Basic Clearing Members~~ Affected Customers, an amended version of the relevant changes or amendments taking into account the proposed changes or amendments will be published following the Consultation pursuant to Number ~~167.2~~; there shall be no new Consultation pursuant to Number 17.3.

17.3.3 If in a Consultation more than two Affected Customers request the application of the Prolonged Notification Period, Eurex Clearing AG shall notify all Affected Customers promptly, by notice in accordance with Number 16.1 (i), and confirm that the Prolonged Notification Period applies instead of the Regular Notification Period.

17.3.~~43~~ Eurex Clearing AG will in connection with regular meetings of the EMIR Risk Committee within the scope of competence of the EMIR Risk Committee or, where required, otherwise deliver a summary report of the comments received during the Consultation as well as on the position taken by Eurex Clearing AG.

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