

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 03.01.2022

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

Part 1 General Clearing Provisions

[...]

2 Clearing Members

[...]

2.1.2 General Prerequisites for Clearing Licenses

[...]

(2) Personal prerequisites

(a) Subject to Number 2.1.3 below, a Clearing License may only be granted to:

(aa) an EU credit institution or investment firm: a credit institution within the meaning of point (1) of Art 4 (1) of Regulation (EU) No 575/2013 ("CRR") or an investment firm within the meaning of point (1) of Article 4 (1) of Directive 2014/65/EU ~~an EU or Swiss institution: an institution domiciled in a member state of the European Union ("EU");~~

(bb) a Swiss institution: - or in Switzerland which is (i) if domiciled in the EU, a credit institution or an investment firm pursuant to Art. 2 (b) of Directive 98/26/EC or to a subsequent legal act or, if domiciled in Switzerland, an undertaking domiciled in Switzerland ~~institution~~

(i) whose functions correspond to those of a credit institution or an investment firm as defined under Paragraph (aa) above ~~credit institution or an investment firm in the aforementioned sense, and~~

(ii) which is supervised ~~(ii) supervised by the competent authorities according to the applicable regulatory standards of the EU or, if domiciled in Switzerland, by the Swiss Financial Market Supervisory Authority (Eidgenössische Finanzmarktaufsicht – "FINMA");~~

(cc) an EU branch: a branch domiciled in a member state of the EU

- (i) qualifying as a branch of a credit institution pursuant to point (17) of Art 4 (1) of the CRR or as a branch of an investment firm pursuant point (30) of Article 4 (1) of Directive 2014/65/EU and the credit institution or investment firm is domiciled in a member state of the EU (“**Host Member State**”); German branch office or branch of an institution: a branch office or branch of an institution within the meaning of Sections 53, 53 b or 53 c of the German Banking Act (*Gesetz über das Kreditwesen*, the “**KWG**”) provided that
- (ii) a notification procedure has been completed in the Host Member State, and
- (iii) the branch and the credit institution or investment firm comply with the conditions set forth in Paragraph (aa) above and Paragraph (2) (b) below; such branch or branch office and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (b) below;
- (~~eed~~) a Swiss branch of an institution: a branch within the meaning of Art. 2 Paragraph 1 of the Swiss Federal Banking and Savings-Bank Act (*Schweizer Bundesgesetz über die Banken und Sparkassen*) in connection with Section 1 et seq. of the Regulation of the Swiss Financial Market Supervisory Authority concerning Foreign Banks in Switzerland (*Verordnung der Eidgenössischen Finanzmarktaufsicht über die ausländischen Banken in der Schweiz*), provided that such branch complies with the conditions set forth in Paragraph (2) (b) below;
- (~~dd~~) an EU branch of an institution: a branch of a credit institution or investment firm domiciled in a member state of the EU (“**host member state**”) provided that (i) the main office of such credit institution or investment firm is domiciled in another member state of the EU (“**home member state**”); (ii) a notification procedure has been completed in the host member state, and that (iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (a) (aa) above and Paragraph (2) (b) below;
- (ee) a third country institution: an institution/undertaking domiciled outside the EU or Switzerland
- (i) whose functions correspond to those of a credit institution or an investment firm as defined under Paragraph (aa) above ~~credit institution or an investment firm pursuant to Art. 2 (b) of Directive 98/26/EC or to a subsequent legal act and~~
- (ii) which is supervised in its country of domicile according to standards equivalent – as determined by Eurex Clearing AG - to the applicable regulatory standards of the EU applicable to credit institutions or investment firms, ~~as determined by Eurex Clearing AG~~, provided that and

[...]

- (ff) ~~a third country branch of an institution: a branch of an institution not falling within one of the categories pursuant to Paragraphs (2) (a) (bb) or (cc) or (dd) above, provided that~~
- (i) ~~if either the branch and or the main office of the institution is are~~ domiciled outside the EU or Switzerland, such branch ~~or and~~ main office ~~comply ies~~ with the conditions set forth in Paragraph (2) (a) (ee) above ~~and~~ Paragraph (2) (b) below,
 - (ii) the branch is domiciled outside the EU or Switzerland and the main office is domiciled in the EU or Switzerland, such branch complies with the conditions set forth in Paragraph (2) (a) (ee), the main office complies with the conditions set forth in Paragraph (2) (a) (aa) or (bb), and the branch and the institution comply with the conditions set forth in Paragraph (2) (b) below, or
 - (iii) the branch is domiciled in the EU or Switzerland and the main office is domiciled outside the EU or Switzerland, such branch complies with the conditions set forth in Paragraph (2) (a) (aa) or (bb), the main office complies with the conditions set forth in Paragraph (2) (a) (ee), and the branch and the institution comply with the conditions set forth in Paragraph (2) (b) below; if either the branch or the main office of the institution is domiciled in a member state of the EU or Switzerland, such branch or main office complies with the conditions set forth in Paragraph (2) (a) (aa) above, and that(iii) the branch and the institution comply with the conditions set forth in Paragraph (2) (b) below;
- (gg) certain other regulated entities: with respect to a Direct Clearing License for the Clearing of Own Transactions only, an applicant that

[...]

- (ii) is domiciled in a country outside of the EU or Switzerland and whose functions correspond to those described ~~in it~~ under paragraph ~~-(i)~~ above and which is supervised in its country of domicile according to standards equivalent to the applicable regulatory standards of the EU as determined by Eurex Clearing AG; or

[...]

- (b) Applicants pursuant to Paragraphs (2) (a) ~~(bb)~~, (cc), (dd) and (ff) above must provide a written guarantee on first demand issued vis-à-vis Eurex Clearing AG by the institution to which the applicant belongs, to the effect that such institution will guarantee all obligations of its branch office, offices or branches arising out of, and in connection with, the Clearing of Transactions by these branches, offices and branch offices. In order to verify the legal validity and enforceability of this guarantee, Eurex Clearing AG may demand from the

relevant institution, at the institution's expense, all necessary information and evidence, including the opinion of a legal expert designated by Eurex Clearing AG.

[...]

(3) The applicant for a Clearing License must

- (i) if the applicant is subject to the own fund requirements under the European Capital Requirements Directive 2013/36/EU (“CRD IV”) ~~CRD IV~~ and the CRR: have available own funds (*Eigenmittel*) pursuant to the CRD IV and the CRR ~~the European Capital Requirements Directive 2013/36/EU (“CRD IV”) and the European Capital Requirements Regulation (EU) No. 575/2013 (“CRR”)~~ in an amount determined by Eurex Clearing AG from time to time,
- (ii) if the applicant is subject to the own fund requirements under the Investment Firm Regulation (EU) 2019/2033 (“IFR”) and the Investment Firm Directive (EU) 2019/2034 (“IFD”): have available own funds (*Eigenmittel*) pursuant to the IFR and the IFD in an amount determined by Eurex Clearing AG from time to time,
- (iii) if the applicant is not subject to the own fund requirements under the CRD IV and CRR ~~or the IFR and the IFD~~: have available equivalent regulatory capital or

[...]

[...]

7 Termination Rules with respect to the Clearing Member

[...]

[...]

7.2 Termination Events

7.2.1 Subject to Number 7.2.2, if at any time any of the termination events set out in Paragraphs (1) (12) (each a “**Termination Event**”) has occurred and is continuing with respect to a Clearing Member (including, where applicable, in its capacity as a Clearing Agent), Eurex Clearing AG may either

[...]

The following events constitute Termination Events under the Clearing Conditions:

[...]

(7) Regulatory Actions

Any administrative order issued to a Clearing Member pursuant to Sections 45 to 46g KWG, Sections 49 to 52, 79 and 80 of the German Securities Institution Act (*Wertpapierinstitutsgesetz*) as well as any similar measures issued in relation to a Clearing Member under foreign law.

[...]

(8) ~~Opening of Reorganisation or Restructuring Proceedings on Similar Measures~~
Application or Commencement of Restructuring Measures

~~Any application for, commencement or order of reorganisation or restructuring proceedings (Sanierungs- oder Reorganisationsverfahren) according to the Act on the Restructuring of Credit Institutions (Gesetz zur Reorganisation von Kreditinstituten), as well as any similar measure under foreign law, in respect of the Clearing Member. Any application for or the commencement of restructuring proceedings and the use of any instruments under the stabilization and restructuring framework (Stabilisierungs- und Restrukturierungsrahmen) according to the German Act on the Stabilization and Restructuring Framework for Enterprises (Gesetz über den Stabilisierungs- und Restrukturierungsrahmen für Unternehmen) as well as any similar measure under foreign law, in respect of the Clearing Member.~~

[...]

[...]
