

Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 03.04.2018

AMENDMENTS ARE MARKED AS FOLLOWS:
INSERTIONS ARE UNDERLINED,
DELETIONS ARE CROSSED OUT.

[...]

Part 1 General Clearing Provisions

[...]

15.2 Fulfilment and partial outsourcing of Clearing-related functions

15.2.1 Subject to Numbers 15.2.2 to 15.2.12, each Clearing Member and Non-Clearing Member, subject to the U.S. Clearing Model Provisions, each FCM-Client and, subject to the Basic Clearing Member Provisions, each Clearing Agent and each Basic Clearing Member has to perform itself and on its own responsibility all functions incumbent on it in the context of the Clearing. References in Numbers 15.2.2 to 15.2.12 to a Clearing Member shall include, where applicable, a Clearing Member in its capacity as a Clearing Agent.

15.2.2 A Clearing Member ~~or~~ a Non-Clearing Member or a Basic Clearing Member ("Outsourcer") may outsource the Clearing, risk management or back-office functions ("**Outsourced Functions**") to be performed by it in whole or in part to another entity Clearing Member, Non-Clearing Member or third party (each an "Insourcer" and each outsourcing Clearing Member or Non-Clearing Member an "Outsourcer") by way of an outsourcing arrangement between the Outsourcer and the Insourcer ("**Outsourcing**"). The Insourcer Outsourcing may outsource the Outsourced Functions which are outsourced to him ("**Sub-Outsourcing**") to another Insourcer also comprise the further Outsourcing of Outsourced Functions by the Insourcer ("**Sub-Outsourcer**") to another Insourcer ("**Sub-Outsourcing**") with the prior approval of the relevant Outsourcer. The following requirements for to Outsourcing shall apply accordingly to any Sub-Outsourcing.

15.2.3 The Outsourcer remains fully responsible towards Eurex Clearing AG for the orderly conduct of the Outsourced Functions.

15.2.~~43~~ Any Outsourcing shall fulfil the following requirements:

- (1) ~~¶~~The Outsourcing is in compliance with the laws and regulations applicable to the Outsourcer as well as to the Insourcer and the relevant Clearing Agreement ~~;~~
- (2) The Outsourcer ensures the performance of the Outsourced Functions by the Insourcer and that the fulfillment of its obligations arising from the Clearing Conditions is not affected by the Outsourcing.

(3) As a result of the Outsourcing, Eurex Clearing AG will not be required to obtain any additional license or authorisation unless Eurex Clearing AG in its free discretion decides to apply for such license or authorisation.;

~~(3) the orderly conduct of the Outsourced Functions is ensured; in this respect, the Outsourcer is required to:~~

~~(a) contractually oblige the Insourcer to (i) appoint a qualified employee in the back office pursuant to Number 2.1.2 Paragraph (5) (c), applied *mutatis mutandis* (this shall only apply if the Outsourcer itself is required to comply with such requirement and shall not apply if the Insourcer is a Clearing Member or a Basic Clearing Member which is already required to comply with such requirement vis-à-vis Eurex Clearing AG directly or if the Outsourcer has a qualified clearing staff member), (ii) keep customer-related data (i.e. data relating to the Outsourcer's customers) confidential and to implement adequate technical and organisational measures to adequately protect such customer-related data, and to (iii) only use such customer-related data for the purposes of fulfilling the Outsourced Functions;~~

~~(b) establish and maintain throughout the term of the Outsourcing appropriate procedures documented in writing for supervising the performance of the Outsourced Functions by the Insourcer; in this respect, the Outsourcer is required to (i) ensure access at any time to the Outsourced Functions (except in the case of an Outsourcing by a Non-Clearing Member to its Clearing Member and an Outsourcing by a Basic Clearing Member to its Clearing Agent), (ii) monitor the Insourcer's capability to perform the Outsourced Functions on an ongoing basis, (iii) establish guidelines for each Outsourced Function that the Insourcer must follow in performing such Outsourced Function, and (iv) conduct audits at the Insourcer on a regular basis either by (a) checking, or by authorising an independent auditor to check, the documents and processes related to the Outsourced Functions in the business premises of the Insourcer, or by (b) obliging the Insourcer to certify and document the orderly performance of the Outsourced Functions in accordance with the guidelines for each Outsourced Function and the principles for Outsourcing set out in this Number 15.2.3;~~

~~(c) ensure that the limitations on self-contracting pursuant to Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch* – "**BGB**") or similar provisions in other applicable laws are complied with in respect of the Outsourced Functions, in particular with respect to the establishment of Transactions;~~

~~(d) in the case of a direct technical connection of the Insourcer to the systems of Eurex Clearing AG, procure that all consents and authorisations that are necessary for the transfer of personal data from Eurex Clearing AG to the Insourcer and for any other processing or use of personal data, in connection with the Outsourced Functions are in place; and~~

(4) In case of an Outsourcing by a Non-Clearing Member to an entity other than its Clearing Member, the Clearing Member has consented to the Outsourcing. In case

of an Outsourcing by a Basic Clearing Member to an entity other than its Clearing Agent, the Clearing Agent has consented to the Outsourcing.

(5) The Outsourcer has to fulfil any further prerequisites as may be determined by Eurex Clearing AG in its reasonable discretion and published in accordance with Number 16.1.

(e6) The Outsourcer submits to Eurex Clearing AG prior to the commencement of the Outsourcing ~~to provide to Eurex Clearing AG~~ the following information in a format ~~determined provided~~ by Eurex Clearing AG which can be downloaded from the website of Eurex Clearing AG ("Outsourcing Notice"):

(i) a list of the Outsourced Functions,

(ii) the name and registered office of the Insourcer,

(iii) ~~a confirmation that the Insourcer has adequate resources and expertise for the performance of the Outsourced Functions,~~ (iv) ~~the date on which the Outsourcing shall begin ("Outsourcing Begin") and~~ the envisaged term of the Outsourcing,

(viii) ~~at the~~ contact persons at the ~~Outsourcer and the~~ Insourcer in relation to the Outsourced Functions ~~, including in each case at least one contact person to~~ escalate any issues in respect of the Outsourced Functions who shall be available ~~without interruptions~~ during regular business hours ~~and has sufficient German or English language skills,~~ and (vi) ~~any other information as may reasonably be requested by Eurex Clearing AG for the purposes of assessing the envisaged Outsourcing;~~

~~(4) in the case of an Outsourcing (i) by a Non-Clearing Member to an entity other than its Clearing Member, the Clearing Member and (ii) by a Basic Clearing Member to an entity other than its Clearing Agent, the Clearing Agent has consented to the Outsourcing; and~~

~~(5) such further prerequisites as may be determined by Eurex Clearing AG in its reasonable discretion and published in accordance with Number 16.1.~~

(7) The Outsourcer has to provide to Eurex Clearing AG any other information as may reasonably be requested by Eurex Clearing AG for the purposes of assessing the envisaged Outsourcing.

(8) The Outsourcer contractually oblige the Insourcer to appoint a qualified employee in the back office pursuant to Number 2.1.2 Paragraph (5) (c), applied *mutatis mutandis* (this shall only apply if the Outsourcer itself is required to comply with such requirement and shall not apply if the Insourcer is a Clearing Member or a Basic Clearing Member which is already required to comply with such requirement vis-à-vis Eurex Clearing AG directly or if the Outsourcer has a qualified clearing staff member).

(9) The Outsourcer ensures that all requirements under this Number 15.2.4 are fulfilled during the complete term of the Outsourcing and shall inform Eurex Clearing AG in written form about any changes in this regard.

15.2.54 An Outsourcing may only be commenced ~~upon fulfilment of the following requirements if (i) :~~

~~(1) the Outsourcer has provided submitted the Outsourcing Notice to Eurex Clearing AG and (ii) the information pursuant to Number 15.2.3 Paragraph (3) (e) and confirmed to Eurex Clearing AG that the further requirements pursuant to Number 15.2.3 are fulfilled;~~

~~(2) Eurex Clearing AG has confirmed the receipt of the Outsourcing Notice information pursuant to Paragraph (1) in writing and specified the date by which the Outsourcing may be commenced (the "Outsourcing Date").~~

~~The confirmation pursuant to Paragraph (2) does not constitute a confirmation by Eurex Clearing AG that the requirements pursuant to Number 15.2.3 are fulfilled. Eurex Clearing AG may rely on the respective information provided by the Outsourcer and will not conduct own investigations in this regard.~~

~~15.2.5 In the case Eurex Clearing AG becomes aware or if a probable cause exists that the prerequisites for the Outsourcing set out in Number 15.2.3 are not fulfilled, the Outsourcer is obliged to ensure immediate compliance with the prerequisites for the Outsourcing or to terminate the Outsourcing upon notification by Eurex Clearing AG.~~

~~15.2.6 Eurex Clearing AG may at any time request from the Outsourcer further information and evidence concerning the orderly conduct of Outsourced Functions, in particular (i) any Outsourcing agreements, (ii) a confirmation that the Outsourcing is in compliance with applicable laws and regulations and the Clearing Conditions, or (iii) a confirmation of the competent regulatory authorities that the Outsourcing is in compliance with applicable laws and regulations and/or will not require Eurex Clearing AG to obtain any additional licenses or authorisations.~~

15.2.67 Eurex Clearing AG may at any time and at its own expense check, or authorise an independent auditor to check, documents and processes related to the Clearing Procedures in the business premises of the Outsourcer and the Insourcer (~~each of such measures a~~ "Compliance Audit"). The Outsourcer shall contractually ensure that Eurex Clearing AG is entitled to equally execute these rights vis-à-vis the Insourcer.

Any Compliance Audit is solely carried out in the interest of Eurex Clearing AG, ~~and not in the interest or for the benefit of the Outsourcer or any other person. In particular, a Compliance Audit (i) does not constitute advice to the Outsourcer or any other person as to any legal, tax, accounting, regulatory or other matters and (ii) does not relieve the Outsourcer from its duty to ensure the orderly conduct of the Outsourced Functions pursuant to Number 15.2.3, in particular from conducting its own audits of the Insourcer and its performance of the Outsourced Functions.~~ Eurex Clearing AG is not obliged to reassess the results of any audit or any information provided by the Outsourcer.

15.2.78 Eurex Clearing AG may at any time exercise a veto right in respect of the Outsourcing if it becomes aware of ~~one of the following events or if a probable cause exists of a-a:~~

~~(1) violation of applicable provisions of law or the relevant Clearing Agreement by the Outsourcing;~~

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~~(12) non-compliance by the Outsourcer with the requirements for Outsourcing stipulated under Number 15.2.4;~~

~~non-compliance by the Outsourcer or the Insourcer with the requirements set out in Number 15.2.3 as regards the orderly provision of the Outsourced Functions (e.g. by showing apparent absence of resources in terms of skills, response times and technical compatibility);~~

~~(3) violation of security standards by the Insourcer within three (3) years prior to the Outsourcing Date or during the term of the Outsourcing which may have an impact on the orderly provision of the Outsourced Functions;~~

~~(24) risk of reputational damages for Eurex Clearing AG caused by the Outsourcing (e.g. by the relevant Insourcer disclosing confidential information to third parties); or~~

~~(53) concentration risk due to the appointment of the same Insourcer by several Outsourcers;~~

~~15.2.9 — Eurex Clearing AG may exercise its veto right with immediate effect (i) prior to the Outsourcing Date or (ii) following the Outsourcing Date and if, in Eurex Clearing AG's determination, this e incident pursuant to Number 15.2.8 may have a material adverse effect on the Clearing Procedures. Upon exercise of the veto right by Eurex Clearing AG, the Outsourcer is obliged to terminate the Outsourcing with immediate effect or at a time specified by Eurex Clearing AG and to perform the Outsourced Functions by itself.~~

~~In all other cases, Eurex Clearing AG shall, Before exercising its veto right, Eurex Clearing AG may grant the Outsourcer an adequate grace period to remedy the relevant issues. During such period, Eurex Clearing AG may partially restrict the Outsourcing and/or restrict the access of the Insourcer to its systems ~~in order to ensure the orderly functioning of the Clearing Procedures, in particular with respect to the Outsourced Functions.~~~~

~~15.2.10 — Upon exercise of the veto right by Eurex Clearing AG, the Outsourcer is obliged to terminate the Outsourcing and to re-assume the Outsourced Functions with immediate effect or at a time specified by Eurex Clearing AG. Non-compliance with this obligation shall constitute a Termination Event pursuant to Number 7.2.1 Paragraph (11). Eurex Clearing AG may instead terminate one or more Clearing Licenses (or, in the case of a Basic Clearing Member, one or more Basic Clearing Member Clearing Licenses) of the Outsourcer. If the Outsourcer is a Non-Clearing Member, Eurex Clearing AG may terminate the Clearing Agreement with the outsourcing Non-Clearing Member in accordance with Number 12.1 or Number 12.6.~~

~~15.2.811~~ Eurex Clearing AG's liability for any damages, losses and expenses caused by an inadequate or wrongful exercise of (i) the veto right pursuant to Number 15.2.9 or (ii) the right to conduct Compliance Audits pursuant to Number 15.2.7 shall be restricted to wilful misconduct (Vorsatz) or gross negligence (grobe Fahrlässigkeit), except for any damages incurred as a result of injury to life, body or health caused negligently or intentionally.

~~15.2.912~~ Eurex Clearing AG shall be entitled to transfer to the Insourcer any information and customer-related data obtained by Eurex Clearing AG in connection with the Clearing Procedures to the extent that such transfer of data is necessary for the orderly conduct of

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the Outsourced Functions. The Outsourcer shall indemnify Eurex Clearing AG for any damages claimed by third parties alleging the violation of applicable data protection law or any contractual provisions by such transfer. This obligation shall remain in force for a period of three (3) years after expiry or termination of the Clearing Agreement between the Outsourcer and Eurex Clearing AG.

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