



Statutes for the Senior Client Clearing Advisory Committee

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STATUTES FOR THE SENIOR CLIENT CLEARING ADVISORY COMMITTEE

§ 1 Scope of Application and Definitions

- (1) The following statutes (the “**Statutes**”) shall apply to the procedures of the Senior Client Clearing Advisory Committee (the “**Committee**”).
- (2) The Committee shall be established for the purpose of consulting with and making recommendations to the executive boards of Eurex Clearing AG, Eurex Frankfurt AG and Eurex Repo GmbH (“**Eurex Group**”) with respect to the SCCAC Matters (as defined in § 2 below), provided that this would not constitute a breach of law, a breach of an order of a court of a competent jurisdiction or of an applicable governmental, quasi-governmental or regulatory body.
- (3) The members of the Committee (the “**Committee Members**”) shall be appointed in accordance with the procedure set out in § 3 below.
- (4) Notwithstanding anything to the contrary in these Statutes, Eurex Group shall not have any obligation to accept any proposal made by, or take any action proposed by, the Committee, and any deliberation and/or decision of Eurex Group with respect to any such proposal shall be made at the sole discretion of Eurex Group, with no obligation whatsoever to the Committee in respect of such deliberation or decision or the reasoning thereof.
- (5) Terms used and not otherwise defined in these Statutes shall have the meanings ascribed to them in the Clearing Conditions.
- (6) For the purpose of these Statutes, any reference to a “Clearing Member” shall refer to a General Clearing Member.

§ 2 SCCAC Matters

The “**SCCAC Matters**” with respect to the Committee shall be the following:

- (1) The overall client clearing service offering across all product types cleared by Eurex Clearing AG;
- (2) Any relevant product and service expansions with client clearing relevance (as determined by Eurex Clearing AG);
- (3) Aggregated updates of developments in client clearing volumes by key asset classes and anonymized league tables; and

- (4) Input regarding all matters that could materially affect the risk profile of Eurex Clearing AG.

§ 3 Committee Members

- (1) The Committee consists of representatives of at least 12 (twelve) Clearing Members to be appointed in accordance with this § 3 (each a “**Committee Member**”).
- (2) Eurex Clearing AG in its free discretion prepares with respect to each Committee Term a ranking of its Clearing Members (in the case of Clearing Members belonging to a group in the meaning of Section 290 of the German Commercial Act (Handelsgesetzbuch) on the basis of all Clearing Members belonging to the group), inter alia on the basis of the following parameters (the “**Ranking**”):
- a) customer related clearing volumes across the most relevant product types cleared by Eurex Clearing AG; and
 - b) customer related Margin Requirements across the most relevant product types cleared by Eurex Clearing AG.

For the matter of this Ranking, Eurex Clearing AG will consider aggregated data spanning a period of 12 (twelve) months.

Due to their increased strategic importance, Eurex Clearing AG in its free discretion reserves the right to assign increased weightings to the customer related clearing volumes and Margin Requirements relating to certain growth products (as determined by Eurex Clearing AG).

- (3) Prior to the expiry of each Committee Term, the Executive Board of Eurex Clearing AG invites the 12 (twelve) Clearing Members with the highest ranks in the Ranking (together with any further Clearing Members which have been selected pursuant to § 3 (5), to nominate for the relevant Committee Term a Committee Member and a deputy for such Committee Member.

Such nominations of a Committee Member and a deputy for the Committee Member shall be submitted to Eurex Clearing AG as soon as reasonably possible, but in any case within 1 (one) month of receipt of the invitation.

- (4) Upon request by Eurex Clearing AG, Clearing Members must be prepared to verify with respect to their nominations pursuant to Paragraph (3), that their nominated individuals have appropriate expertise in and responsibility for client clearing related matters across multiple product types offered by Eurex Clearing AG.

Eurex Clearing AG reserves the right to reject any nominated Committee Member and/ or their nominated deputy Nominee if, in the Executive Board's reasonable determination, the nominated person does not satisfy the criteria set forth above or if other material reasons existed, which would hinder an appointment as Committee Member.

- (5) In addition to the twelve Clearing Members selected in accordance with § 3 (3) above, Eurex Clearing AG may in its sole discretion invite up to 3 (three) additional Clearing Members to participate in the Committee, if such Clearing Members are of particular strategic importance for the success of Eurex Clearing's business model and to ensure input from a diverse cross-section of Eurex Clearing AG's Clearing Members.

§ 4 Committee Term

Each Committee Member and their deputy shall be appointed to serve for a two-year term (each a "Committee Term") starting on 1 January of a given calendar year and ending on 31 December of the subsequent calendar year.

§ 5 Termination of Membership

If a Committee Member or their deputy, during a Committee Term,

- (a) retires or resigns;
- (b) does no longer fulfil the qualifications to be fulfilled by a Committee Member (as set out in § 3 (4) above); or
- (c) is otherwise incapable of fulfilling its role on the Committee,

the Clearing Member who had nominated the respective individual is entitled to nominate a successor in accordance with § 3 (4) above.

§ 6 Chairperson and Committee Secretary

- (1) At the first meeting of the Committee in a Committee Term (each meeting of the Committee a "**Meeting**"), the Committee shall appoint a Committee Member by majority vote to serve as chairperson of the Committee (the "**Chairperson**") and another Committee Member to serve as deputy chairperson of the Committee (the "**Deputy Chairperson**"). Such appointment shall be for a period ending on the last day of the relevant Committee Term.

- (2) Eurex Clearing AG shall serve as the secretary of the Committee (the “**Committee Secretary**”) and shall perform administrative duties.

§ 7 **Committee Schedule**

- (1) The Committee shall have (at least) 2 (two) Meetings in each calendar year. The dates for each Meeting shall be communicated by Eurex Clearing AG at least 3 months prior to the respective Meeting taking place.
- (2) Notwithstanding § 7 (1), additional Meetings of the Committee can be arranged for by the Committee Secretary
- (a) at the request of the Chairperson, the Deputy Chairperson or any two Committee Members (provided such request is accompanied by a draft Agenda for such Meeting); and
- (b) at its own discretion.
- (3) Meetings shall be held at a location as determined by the Committee Secretary.

Committee Members are generally expected to attend all Meetings and are encouraged to attend at least one Meeting in each calendar year in person.

Committee Members who do not attend in person may participate by video conference.

§ 8 **Committee Procedure; Voting**

- (1) In general, all decisions and recommendations made by the Committee shall be made at a Meeting by majority vote of the present Committee Members.
- (2) At the request of the Committee Secretary, resolutions of the Committee may also be passed outside of Meetings by votes submitted or cast by telephone, by video conference, or by other means of electronic communication(s) (including email), including by circular procedure (*Umlaufverfahren oder Rundruf*), or by a combination of the aforementioned forms of communications.
- (3) For the purpose of all voting procedures hereunder each Committee Member shall have one single vote.

In the event that any vote is tied, the Chairperson shall have the casting vote.

§ 9 Minutes of Meetings and Voting

- (1) Minutes shall be taken of each Meeting by the Committee Secretary (the “**Minutes**”). The Minutes shall include the place and date of the Meeting, the participating Committee Members, the matters on the agenda, the substance of the deliberations and the votes taken by the Committee.

The Committee Secretary shall record in the Minutes the identity of each participating Committee Member and how the Committee Member voted with respect to any matter raised at the Meeting.

- (2) The Committee may appoint one or more Committee Members to prepare, on behalf of the Committee, any proposal, response, statement or other document setting out the views of the Committee with respect to any SCCAC Matter (a “**Statement**”). The Chairperson may refer the Statement to a Meeting for approval or may, if the Chairperson is satisfied that the Statement represents the views of the majority of Committee Members after circulating such Statement to the Committee Members, deliver such Statement to the concerned entity of Eurex Group, whereupon such Statement shall be incorporated into the Minutes and shall be taken to set out the view of the Committee.

§ 10 Decision of the Executive Boards of Eurex Group

In the event that the Committee has been consulted on any SCCAC Matter of reference and disagrees with the proposed measure in any material respect, the respective executive boards of the entities belonging to Eurex Group will take or implement such measure only after a decision has been made by the executive board of the respective entity of Eurex Group.

§ 11 Fees; Compensation

Each Clearing Member nominating a Committee Member shall be responsible for the costs associated with its Committee Member’s participation in the Committee and shall not be entitled to demand or receive any fee or compensation from Eurex Group for such participation.

§ 12 Confidentiality

- (1) Except as expressly contemplated otherwise in these Statutes or as required by applicable law or regulation or court order or as required or requested by a regulatory, self-regulatory or supervisory authority having appropriate jurisdiction,

each Clearing Member (and their respective Committee Members, deputies for Committee Members or proxies) attending a Meeting agree during the relevant Committee Term and for two years thereafter (i) not to disclose any Confidential Information (as defined below) to third persons and (ii) not to use any Confidential Information for its own benefit, the benefit of any of its affiliates or a third person.

Nothing in this § 12 shall prevent a Committee Member nominated by a Clearing Member or such Clearing Member from sharing Confidential Information with personnel of such Clearing Member, its affiliates as well as its professional advisors (together with the Committee Members, the “**Authorised Persons**”) solely for the purpose of preparing for the SCCAC Matters which are to be discussed in the Committee or for evaluating the business relationship of such Clearing Member with Eurex Group.

The Clearing Member shall procure that such Authorised Persons are bound by confidentiality obligations to the Clearing Member comparable to the confidentiality obligation assumed by the Clearing Member to Eurex Group. Upon reasonable request by Eurex Group (in particular, for legal or regulatory purposes), the identities of the Authorised Persons shall be disclosed to Eurex Group.

Confidential Information shall, in particular, not be used (a) to facilitate the implementation or development of services competing with those of Eurex Group or (b) in connection with any breach of law. In case of any breach of this confidentiality obligation by the Clearing Member or an Authorised Person (to whom, in the case of an Authorised Person other than a Committee Member, a Clearing Member has disclosed Confidential Information as permitted by these Statutes) (other than in case of a breach of a professional duty of confidentiality to which an Authorised Person is subject to, e. g. as a legal adviser), such Clearing Member shall be liable for any foreseeable damages of Eurex Group caused by that breach.

“**Confidential Information**” means (i) all information relating to the Committee, including, but not limited to, any discussions, deliberations, proceedings or results of any vote, and (ii) any and all secrets of entities of Deutsche Börse Group, obtained from the Committee or in connection therewith, except for information which

- (a) is or becomes public information other than as a direct or indirect result of a breach (of which the Clearing Member or the Committee Member is aware) of this confidentiality obligation; or
- (b) is identified in writing at the time of delivery as non-confidential by Eurex Group or any of its advisers; or
- (c) is known by the Clearing Member or the Committee Member before the date the information is disclosed to it in accordance with Paragraphs (a) or (b) above or is lawfully obtained by the Clearing Member or the Committee Member after that date, from a source which is, as far as that Clearing Member or the

Committee Member is aware, unconnected with Eurex Group and which, in either case, as far as that Clearing Member or the Committee Member is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

§ 13 Competition Law Compliance

To comply with the competition laws, in particular Article 101 of the Treaty on the Functioning of the European Union, Committee Members, their deputies, Clearing Members and any other Committee participants according to these Statutes must refrain from sharing any commercially sensitive information, i.e. information which could potentially reduce strategic uncertainty in the market. Commercially sensitive information includes, but is not limited to:

- a) prices and price components, price changes and any elements which might affect prices;
- b) profit margins;
- c) costs and cost strategies;
- d) fees charged from customers and discounts/rebates granted to customers;
- e) clients or groups of clients with whom the participants have, or do not have, business relations;
- f) plans in relation to geographic or product markets;
- g) plans concerning the design, production, distribution or marketing of particular products; and
- h) corporate strategy and investment plans.

The Committee Members shall adhere closely to the agenda and avoid discussions about other topics which may result in an exchange of commercially sensitive information between competitors.

The Committee Members and Clearing Members shall refrain from discussing topics which might be critical from a competition law perspective. In particular, they must not reach any sort of unlawful (horizontal or vertical) agreement or understanding, such as price fixing or the division or allocation of markets.

The Committee Secretary will prepare Minutes for each Meeting in accordance with § 9 and circulate these to the participants of Meetings for their approval. Any objections regarding the content of the Minutes should be raised without undue delay.

Failure to comply with these principles may have serious consequences for the legal entities and natural persons involved, including invalidity of contracts, fines, payment of damages to third parties who suffered harm as a result of anti-competitive behaviour, and reputational risk and damage.

§ 14 Fiduciary Duties; Limitation of Liability

- (1) No Committee Member or deputy of a Committee Member (each, a “**Protected Person**”) shall, to the extent legally possible, owe any fiduciary duties (*Treuepflichten*) or other duties to protect (*Schutzpflichten*) Eurex Group, the shareholders of the entities belonging to Eurex Group, any directors, managers or officers of the entities belonging to Eurex Group or its shareholders, the Clearing Members, Disclosed Direct Clients, FCM Clients, other customers of the Clearing Members or any other person by reason of such service on the Committee or the appointment of a Committee Member.
- (2) In exercising its rights or performing its duties under these Statutes, Eurex Group shall only be liable vis-à-vis any Clearing Member or any Protected Person in case of wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*) and where the damage results from a negligent violation by Eurex Group of its essential obligations (*Kardinalspflichten*). In case of simple negligence (*einfache Fahrlässigkeit*), however, the liability of Eurex Group is restricted to damages typically foreseeable.
- (3) Nothing in this § 14, however, shall exclude or restrict any statutory liability for damages incurred as a result of injury to life, body or health or the liability pursuant to the German Product Liability Act.

§ 15 Governing Law; Place of Jurisdiction

- (1) Unless provided otherwise, the rights and obligations arising out of, and in connection with, these Statutes shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of the Federal Republic of Germany.
- (2) Any non-contractual rights and obligations arising out of, and in connection with, these Statutes shall be governed by the substantive laws (*Sachrecht*), excluding German private international law, of the Federal Republic of Germany.

- (3) Exclusive place of jurisdiction for all disputes arising out of, or in connection with, these Statutes is Frankfurt am Main.

§ 16 Amendments

Eurex Group reserves the right to amend these Statutes from time to time if deemed necessary. Any material amendments to these Statutes shall be brought to the Committee's attention prior to being decided upon by the executive board of Eurex Clearing AG and shall be published in accordance with Chapter I Part 1 Number 16.1 of the Clearing Conditions on the Eurex Website.

§ 17 Publication

These Statutes will be published on the Eurex Website.