

Eurex Clearing Circular 038/19

Amendments to the FCM Regulations: introduction of bunched order clearing and further minor changes

Summary

As announced in Eurex Clearing circular 013/19, Eurex Clearing AG (Eurex Clearing) recently introduced a new functionality, facilitating the clearing of bunched orders with respect to OTC IRD transactions, which led to amendments in the Price List.

With this circular, Eurex Clearing announces the introduction of the same service for FCM Clearing Members under the FCM Regulations of Eurex Clearing (FCM Regulations). Given the different nature of the U.S. access framework for swap clearing, Eurex Clearing is introducing a more specific regulation regarding the LSOC models.

Furthermore, this circular also announces various additional changes to the FCM Regulations for clarification purposes in the context of the first weeks of the LSOC offering and due to changes to the Clearing Conditions, which need to be aligned with the FCM Regulations.

The amended sections of the FCM Regulations, as decided by the Executive Board of Eurex Clearing, are attached to this circular and will come into effect on **2 May 2019**.

Terms used and not defined in this circular shall have the meanings given to them in the Clearing Conditions or FCM Regulations.

Attachment:

Amended sections of Chapter I and Chapter II of the FCM Regulations and Appendix 2 to the FCM Regulations (Pledge Agreement)

Date: 5 April 2019

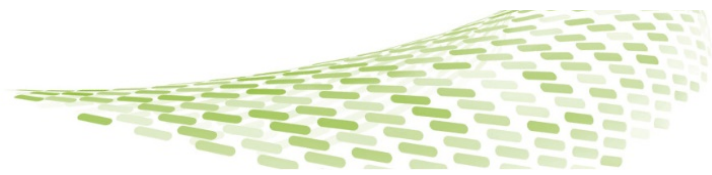
Recipients: FCM Clearing Members of Eurex Clearing AG and Vendors

Authorized by: Heike Eckert

Target group:
All departments

Related circular:
013/19

Contact:
Your Key Account Manager Clearing,
[clearing.services-
admission@eurexclearing.com](mailto:clearing.services-admission@eurexclearing.com)



Amendments to the FCM Regulations: introduction of bunched order clearing and further minor changes

1. Introduction of bunched order clearing for the LSOC model

Functionally and operationally, the offering will mirror the already existing offering under the EMIR framework, i.e. a dedicated suspense account with respective transaction pricing will be used per Pre-Allocation Executing Party. All existing bunched order allocation methods will be allowed, i.e. allocation via a third party as well as allocation via post-trade events. Please see Eurex Clearing circular 013/19 for further information.

In terms of collateralisation, the FCM Buffer will be used intraday to cover received bunched orders. If, at the end of the day, the bunched order or a certain part of it remains on the suspense account, the Legally Segregated Value (LSV) requirement will be calculated for the relevant suspense account leading to regular client account treatment. In such a case, the suspense account needs to be indicated in a Collateral Value Report (CVR) in the context of LSOC with Excess.

To reflect the changes, the following provisions of the FCM Regulations will be amended (as outlined in Attachment 1):

- Chapter I Numbers 1.1.9, 1.2.1, 1.3.3, 4.2.1, 6.4.3, 6.5.1, 6.5.4, 9.1, 11.1.1,
- Chapter II Part 1 Number 1.2.3, Part 2 Number 2.7

2. Additional amendments to FCM Regulations

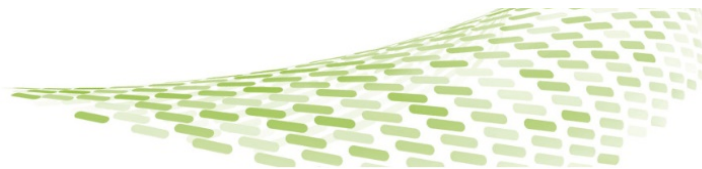
In addition, various provisions of the FCM Regulations (including Appendix 2 of the FCM Regulations (Pledge Agreement)) are being amended for clarification purposes in the context of the first weeks of the LSOC models and due to changes to the Clearing Conditions that need to be aligned:

- Granting of access to reports for FCM Clients: apart from to the Disclosed Client offering under the EMIR framework, FCM Clearing Members get the right to grant access to certain client reports to their FCM Clients. This is clarified in the FCM Regulations.
- Clarifications with regard to the validation of the Collateral Value Report (CVR): the FCM Regulations are being amended to give Eurex Clearing more flexibility when accepting CVRs. It does not affect the key principles which are stated in the FCM Regulations and which need to be fulfilled when accepting a CVR.
- Clarifications with regard to the process aspects of intraday margin calls: the provisions on the issuance of intraday margin calls are being amended in order to better reflect the processes in place.
- Amendments with regard to Eurex Clearings' appropriation right: the provisions on Eurex Clearing's appropriation right have been amended in the Clearing Conditions. This is aligned in the FCM Regulations.
- Amendments to the calculation of a Difference Claim: In case a FCM Clearing Membership is terminated, Eurex Clearing calculates a separate Difference Claim with respect to each Netting Set considering all Unpaid Amounts.
- Changes to the liability clause: Eurex Clearing includes clarifying amendments to the liability clause with regard to the indemnification against a breach of the FCM Clearing Conditions.

To reflect the changes, the following provision of the FCM Regulations will be amended as outlined in Attachment 2:

- Chapter I Numbers 1.2.1, 3.2.3, 6.4.2, 6.4.3, 6.5.1, 6.5.2, 6.5.3, 6.5.4, 9.5.2, 13.1.3, 15.3
- Appendix 2 (Pledge Agreement) Number 2.2.3

The amendments described above will become effective on **2 May 2019**.



As of the effective date, the full version of the amended FCM Regulations will be available for download on the Eurex Clearing AG website www.eurexclearing.com under the following link:

Resources > Rules and Regulations > FCM Regulations

Pursuant to Chapter I Number 16.2.4 of the FCM Regulations, each change and amendment of the FCM Regulations published by this circular to FCM Clearing Members affected by such change or amendment (Affected Customers) at least fifteen (15) Business Days prior to the effective date indicated herein, is deemed accepted by each Affected Customer, unless it objects by written notice to Eurex Clearing AG within such period. The right of Eurex Clearing AG to terminate the Clearing Agreement pursuant to Chapter I Number 9.2.1 Paragraph (1)(d) of the FCM Regulations shall remain unaffected.

Terms used and not defined in this circular shall have the meanings given to them in the Clearing Conditions or FCM Regulations.

If you have any questions or need further information please contact your Key Account Manager Clearing, clearing.services-admission@eurexclearing.com.

5 April 2019

Chapter I: Clearing Model Related Provisions

FCM Regulations of Eurex Clearing AG

As of 02.05.2019

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THE FCM REGULATIONS WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

Chapter I Clearing Model Related Provisions

1 General Provisions

1.1 Scope of Application

[...]

1.1.9 [...]

- (2) An FCM Client must be a direct client of an FCM Clearing Member, (except when the FCM Clearing Member is acting as a Pre-Allocation FCM Clearing Member, with respect to the portion of the relevant Unallocated FCM Client Transaction that is to be transferred to a Post-Allocation Clearing Member in accordance with Number 1.3.3 Paragraph (4)). For the avoidance of doubt, the FCM Clearing Member is not allowed to clear Swap Transactions through Eurex Clearing AG for indirect clients.

[...]

1.2 Definitions and Interpretation

- 1.2.1 Unless the context requires otherwise, the following terms and expressions in the FCM Regulations shall have the following meanings:

[...]

“**Excess Margin**” means, in relation to an FCM Client Margin Sub-Account ~~of a specific FCM Client~~ the amount (if any) by which the FCM Client Margin Sub-Account Balance of the relevant FCM Client Margin Sub-Account exceeds the Margin Requirement determined by Eurex Clearing AG with respect to the relevant FCM Client Margin Sub-Account of such FCM Client.

[...]

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“FCM Client Margin Sub-Account Balance” means, at any particular time, the legally segregated value of the Eligible Margin Assets allocated to an FCM Client Margin Sub-Account (and to the FCM Client Assumed Allocation Sub-Account treated as part of the FCM Client Margin Sub-Account, under the LSOC With Excess Model) as determined by Eurex Clearing AG in accordance with the FCM Regulations. The FCM Client Margin Sub-Account Balance does not reflect the value of any FCM Client Buffer or FCM Client Unallocated Excess.

“FCM Client Margin Suspension Sub-Account” has the meaning assigned to it in Number 4.3.1. An FCM Client Margin Suspension Sub-Account is treated as a type of FCM Client Margin Sub-Account, and references in the FCM Clearing Conditions to an FCM Client Margin Sub-Account include, as applicable under the circumstances, an FCM Client Margin Suspension Sub-Account.

[...]

“FCM Client Transaction Account” has the meaning assigned to it Number 4.2.1.

“FCM Client Transaction Suspension Account” has the meaning assigned to it in Number 4.2.1. An FCM Client Transaction Suspension Account is treated as a type of FCM Client Transaction Account, and references in the FCM Clearing Conditions to an FCM Client Transaction Account include, as applicable under the circumstances, an FCM Client Transaction Suspension Account.

[...]

“Own Transaction” has the meaning assigned to it in Number 1.3.2.

“Post-Allocation Clearing Member” means a Post-Allocation FCM Clearing Member or a Post-Allocation Non-FCM Clearing Member.

“Post-Allocation FCM Clearing Member” has the meaning assigned to it in Number 1.3.3.

“Post-Allocation Non-FCM Clearing Member” has the meaning assigned to it in Number 1.3.3.

“Pre-Allocation Executing Party” has the meaning assigned to it in Number 1.3.3.

“Pre-Allocation FCM Clearing Member” has the meaning assigned to it in Number 1.3.3.

[...]

“Trust Account” has the meaning assigned to it in Number 3.2.2.

“Unallocated FCM Client Transaction” has the meaning assigned to it in Number 4.3.1.

“U.S.” and **“United States”** means the United States of America, any state thereof and its territories and possessions.

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[...]

[...]

1.3 FCM Clearing Procedures

[...]

1.3.3 Conclusion and Transfer of Swap Transactions

[...]

(3) Transfer of Swap Transactions

~~Subject to the terms and conditions set out in the Special Conditions, Eurex Clearing AG will, at the request of an FCM Client made through its FCM Clearing Member, transfer all or a portion of the FCM Client Transactions booked to its FCM Client Transaction Account to an appropriate transaction account at another Clearing Member.~~

Subject to the terms and conditions set out in the Special Clearing Provisions, an FCM Clearing Member may with the consent of Eurex Clearing AG transfer a Swap Transaction (including Own Transactions established between such FCM Clearing Member and Eurex Clearing AG and FCM Client Transactions established through such FCM Clearing Member with Eurex Clearing AG)

(i) from or to any of its transaction accounts of such FCM Clearing Member, or

(ii) upon a prior agreement with another Clearing Member holding the applicable Clearing License for such Swap Transaction, to a transaction account at another Clearing Member.

(4) Post-Trade Allocation and Transfer of FCM Client Transactions

Subject to the terms and conditions set out in the Special Conditions, a Pre-Allocation Executing Party may submit an FCM Client Transaction to be booked in an FCM Client Transaction Suspension Account (an “**Unallocated FCM Client Transaction**”) to an FCM Clearing Member (the “**Pre-Allocation FCM Clearing Member**”), for subsequent allocation and transfer to one or more (i) FCM Client Transaction Accounts of the FCM Clearing Member, (ii) FCM Client Transaction Accounts of another FCM Clearing Member (a “**Post-Allocation FCM Clearing Member**”) or (iii) relevant transaction accounts of a Non-FCM Clearing Member (a “**Post-Allocation Non-FCM Clearing Member**”). The Pre-Allocation FCM Clearing Member must be acting on behalf of a person that is authorized to execute Original Swap Transactions to be cleared initially as Unallocated FCM Client Transactions, where such person is acting [on its own behalf or] on behalf of one or more other persons (the “**Pre-Allocation Executing Party**”).

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(45) **Swap Transactions Binding**

[...]

[...]

4 Internal Accounts

[...]

4.2 Internal Transaction Accounts

4.2.1 Eurex Clearing AG opens and maintains with respect to each FCM Clearing Member the following transaction accounts in which the Swap Transactions of the FCM Clearing Member to be cleared will be booked:

[...]

(3) when an FCM Clearing Member is acting as a Pre-Allocation FCM Clearing Member for one or more Pre-Allocation Executing Parties, a separate account for each Pre-Allocation Executing Party (each, an “FCM Client Transaction Suspension Account”) in which Swap Transactions that are cleared initially as Unallocated FCM Client Transactions in accordance with Number 1.3.3 Paragraph (4) and the Special Provisions will be booked.

[...]

6 Clearing of FCM Client Transactions

[...]

6.4 LSOC Without Excess Model

[...]

6.4.3 Margin Calls; Application of FCM Client Buffer

(1) Eurex Clearing AG calculates a separate FCM Client Margin Requirement for each FCM Client Transaction Account- (including any FCM Client Transaction Suspension Account). [...]

[...]

6.5 LSOC With Excess Model

[...]

6.5.1 Collateral Value Reports

(1) The FCM Clearing Member must provide to Eurex Clearing AG, at least once each Business Day, a collateral value report (a “**Collateral Value Report**” or “**CVR**”) for each FCM Client Margin Account that is established and maintained in accordance

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with the LSOC With Excess Model, that instructs Eurex Clearing AG as to the appropriate allocation of the FCM Client Margin Account Collateral Balance attributable to each FCM Client Margin Sub-Account (including any FCM Client Margin Suspension Sub-Account) and the FCM Client Buffer Sub-Account within such FCM Client Margin Account.

[...]

6.5.4 **Margin Calls; Application of FCM Client Buffer**

- (1) Eurex Clearing AG calculates a separate FCM Client Margin Requirement for each FCM Client Transaction Account- (including any FCM Client Transaction Suspension Account). Eurex Clearing AG will notify an FCM Clearing Member of the FCM Client Margin Requirement for each FCM Client Transaction Account. [...]

[...]

9 Termination Rules with respect to the FCM Clearing Member

[...]

9.1 Application and Netting Sets

[...]

- (2) all FCM Client Transactions in the relevant FCM Client Transaction Account, (including, as applicable, any FCM Client Transaction Suspension Account), each of which constitutes a separate netting set (each ~~aan~~ **“FCM Client Netting Set”**).

[...]

11 Termination Rules with respect to Eurex Clearing AG

11.1 Claim for Non-Performance and Single Difference Claim

- 11.1.1 If at any time a Failure to Pay Event or an Insolvency Event has occurred with respect to Eurex Clearing AG, all primary obligations (including payment and delivery obligations but excluding Termination Unpaid Amounts) arising from all Swap Transactions in all FCM Clearing Member Own Transaction Accounts and all FCM Client Transaction Accounts (including FCM Client Transaction Suspension Accounts) shall expire and may no longer be performed by the relevant obligor. [...]

[...]

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 THE FCM CLEARING CONDITIONS WILL BE AMENDED.
 AMENDMENTS ARE MARKED AS FOLLOWS:
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[...]

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~~ ~~s~~Shortfall (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.

[...]

[...]

Chapter II: Special Provisions for Clearing of Interest Rate Derivative Transactions

FCM Regulations of Eurex Clearing AG

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THE FCM REGULATIONS WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

Part 1 General Provisions

[...]

1.2 Conclusion of Transactions

[...]

1.2.3 Novation Criteria for the Novation of Original Swap Transactions

(1) [...]

(a) [...]

(bb) if either party is an FCM Client, (or a Pre-Allocation Executing Party on whose behalf an FCM Clearing Member will initially clear the Original Swap Transaction as an Unallocated FCM Client Transaction), accepted by the relevant FCM Clearing Member (or FCM Clearing Members, if applicable) as provided for in Number 1.2.1 Paragraph (2) (a) (ii), or

[...]

[...]

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Part 2 Clearing of Interest Rate Derivative Transactions

[...]

2.7 Transfer of Swap Transactions, Account Transfer and Trade Amendment

- (1) A Swap Transaction, including an Unallocated FCM Client Transaction, may be
 - (i) transferred in accordance with Paragraphs (2) to (4) and Numbers 2.7.1, 2.7.2 and 2.7.23 below or
 - (ii) amended in accordance with Number 2.7.4.
- (2) The transfer of a Swap Transaction, including an Unallocated FCM Client Transaction, except in the case of the transfer of an Unallocated FCM Client Transaction pursuant to Number 2.7.3 Paragraph (2)(b), will be performed against payment of a cash settlement amount calculated by Eurex Clearing AG on the basis of the daily evaluation price (as set out in Number 2.1.6). Furthermore, the relevant FCM Clearing Member(s) or Non-FCM Clearing Member may specify in the system of Eurex Clearing AG an additional amount payable by the transferring FCM Clearing Member or Non-FCM Clearing Member in connection with the transfer. All amounts payable under this Paragraph (2) will be settled via Eurex Clearing AG.
- ~~(3) Any novation through which a transfer pursuant to Number 2.7.1 is to be made~~⁽³⁾ Every Swap Transaction, including an Unallocated FCM Client Transaction, except in the case of the transfer of an Unallocated FCM Client Transaction pursuant to Number 2.7.3 Paragraph (2)(b), being transferred pursuant to Number 2.7.1 and 2.7.2, will be transferred by way of assumption of contract, without close out and rebooking of the transaction. Any transfer shall take effect when a respective Swap Trade Daily Summary Report is made available to the relevant FCM Clearing Member(s) or Non-FCM Clearing Member electronically via Eurex Clearing AG's system.

[...]

2.7.1 Transfer of a Swap Transaction to another FCM Clearing Member or Non-FCM Clearing Member (Trade Transfer)

- (1) Upon request of an FCM Clearing Member ~~or Non-FCM Clearing Member~~, including when acting as agent on behalf of the relevant FCM Client ~~of an FCM Clearing Member~~, entered into the system of Eurex Clearing AG, a Swap Transaction may be transferred from an FCM Clearing Member ~~or Non-FCM Clearing Member~~ to another FCM Clearing Member or Non-FCM Clearing Member holding the required Interest Rate Derivatives Clearing License.
- (2) Any trade transfer or partial trade transfer of an Own Transaction may be effected pursuant to Chapter I Number 1.3.3 Paragraph (3)(ii) and this Number 2.7.1. Any trade

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transfer or partial trade transfer of an FCM Client Transaction may be effected pursuant to Chapter I Number 1.3.3. Paragraph (3)(ii) and this Number 2.7.1 and is subject to Chapter II Part 2 Number 2.7.3.

2.7.2 Account Management or Account Transfers

- (1) An FCM Clearing Member, including when acting as agent on behalf of a relevant FCM Client, may book Swap Transactions to or from any of its transaction accounts in accordance with this Number 2.7.2. ~~Any such~~ Any transfer or partial transfer of an Own Transaction may be effected pursuant to Chapter I Number 1.3.3 Paragraph (3)(i) and this Number 2.7.2. Any transfer relating to FCM Client Transactions may be effected pursuant to Chapter I Number 1.3.3 Paragraph (3)(i), this Number 2.7.2 and is subject to Number 2.7.3.

[...]

- (3) Upon request of an FCM Clearing Member, including when acting as agent on behalf of the relevant FCM Client, Eurex Clearing AG may book

[...]

- (b) an FCM Client Transaction from an FCM Client Transaction Account to any of its FCM Clearing Member Own Transaction Account, or

[...]

2.7.3 Specific Provisions for Transfer of an FCM Client Transaction, including an Unallocated FCM Client Transaction

- (1) Transfer of FCM Client Transactions under Chapter I Number 1.3.3 Paragraph (3)

Eurex Clearing AG will transfer an FCM Client Transaction under Chapter I Number 1.3.3 Paragraph (3) at the request of an FCM Clearing Member made on behalf of the FCM Clearing Member's FCM Client, subject to the following:

- (4)a) By submitting the request, the transferring FCM Clearing Member is deemed to represent to Eurex Clearing AG that it is acting at the request of the FCM Client for the relevant FCM Client Transaction Account out of which the FCM Client Transaction will be transferred.

- (2)b) By submitting the request, the transferring FCM Clearing Member is deemed to represent to Eurex Clearing AG that the FCM Client on whose behalf it is acting is not in default to the FCM Clearing Member, and that it will hold appropriate margin in its internal account for the FCM Client to cover any positions remaining in such account following the transfer.

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~~(3)c)~~ The Clearing Member that will receive the FCM Client Transactions that is the subject of the transfer has consented to the transfer.

(2) Transfer of Unallocated FCM Client Transactions under Chapter I Number 1.3.3 Paragraph (4) — By consenting to the

A transfer of an Unallocated FCM Client Transaction under Chapter I Number 1.3.3 Paragraph (4) can either be initiated by (i) the Pre-Allocation FCM Clearing Member made on behalf of the receiving Pre-Allocation Executing Party pursuant to Number 2.7.3 Paragraph (2) (a) or (ii) by the Pre-Allocation Executing Party pursuant to Number 2.7.3 Paragraph (2) (b).

(a) Eurex Clearing AG will transfer an Unallocated FCM Client Transaction at the request of a Pre-Allocation FCM Clearing Member made on behalf of the Pre-Allocation Executing Party pursuant to this Number 2.7.3 Paragraph (2) (a). Numbers 2.7.1 or 2.7.2 and subject to the conditions set out in Number 2.7.3 Paragraphs (1) (a) and (c) and Number 2.7.3 (2) (c).

(b) Eurex Clearing AG will transfer an Unallocated FCM Client Transaction at the request of the relevant Pre-Allocation Executing Party in accordance with the following provisions:

(i) The Pre-Allocating Execution Party will submit a Trade Record of an Original Allocation Swap Transaction to Eurex Clearing AG via an Approved Trade Source System.

"Original Allocation Swap Transaction" means a Swap Transaction with terms identical to the relevant Unallocated FCM Client Transaction except that the notional amount of the Original Allocation Swap Transactions can be smaller than the notional amount of the relevant Unallocated FCM Client Transaction.

(ii) If the requirements for the conclusion of Swap Transactions under Chapter I Number 1.3.3 (1) and Chapter II Part 1 Number 1.2 are fulfilled, the Original Allocation Swap Transaction shall be extinguished and replaced by the following two Swap Transactions:

(a) a Swap Transaction with terms identical but opposite to the relevant Original Allocation Swap Transaction between Eurex Clearing AG and the Pre-Allocation FCM Clearing Member (acting on behalf of the Pre-Allocation Executing Party), which shall be booked on the FCM Client Transaction Suspension Account of the relevant Pre-Allocation Executing Party, and

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- (b) a Swap Transaction with terms identical to the relevant Original Allocation Swap Transaction between Eurex Clearing AG and the relevant Post-allocation FCM Clearing Member (acting on behalf of a FCM Client), which shall be booked on the relevant FCM Client Transaction Account or, if applicable, a transaction with terms identical to the relevant Original Allocation Swap Transaction between Eurex Clearing AG and the relevant Post-Allocation Non-FCM Clearing Member subject to the Clearing Conditions.
- (iii) Each transfer pursuant to this Number 2.7.3 Paragraph (2) (b) is subject to the conditions set out in Number 2.7.3 Paragraphs (1) (c) and Number 2.7.3 (2) (c).
- (c) Each transfer of an Unallocated FCM Client Transaction Under Chapter I Number 1.3.3 Paragraph (4) is subject to the following conditions:
- (i) Before acting as a Pre-Allocation FCM Clearing Member on behalf of a particular Pre-Allocation Executing Party, the FCM Clearing Member must establish an FCM Client Transaction Suspension Account that is specific to such Pre-Allocation Executing Party, and an FCM Client Margin Suspension Sub-Account must exist to which the FCM Client Transaction Sub-Account is linked. Further, the Pre-Allocation FCM Clearing Member (acting on behalf of the Pre-Allocation Executing Party) and Eurex Clearing AG must agree upon trade netting and accumulation pursuant to Number 2.6 with respect to the relevant FCM Client Transaction Suspension Account.
- (ii) Each Pre-Allocation FCM Clearing Member and each Post-Allocation FCM Clearing Member must comply with the provisions of CFTC Regulations 1.35 and 1.73, to the extent applicable, and to any other Applicable Law.
- (iii) When the Original Swap Transaction resulting in the Unallocated FCM Client Transaction is executed by the Pre-Allocation Executing Party on behalf of another person or is the result of a block transaction of bunched orders that includes the order of another person (or persons), the Pre-Allocation Executing Party must be eligible under CFTC Regulations and other Applicable Law to engage in such execution and subsequent post-trade allocation of the resulting Unallocated FCM Client Transaction, and the Pre-Allocation FCM Clearing Member is deemed to represent to Eurex Clearing AG that it will hold appropriate margin in its relevant internal account to cover the positions being transferred to it AG that the Pre-Allocation Executing Party is so eligible.
- ~~(5) If an FCM Client Transaction is subject to a partial transfer, Eurex Clearing AG will first split the transaction into two FCM Client Transactions, one in the amount that is subject to the partial transfer and the other in the amount of the portion that is not being transferred.~~

~~Subject to the foregoing conditions, the FCM Client Transaction being transferred will be transferred by way of assumption of contract, without close out and rebooking of the transaction.~~

[...]

Appendix 2 to the FCM Regulations of Eurex Clearing AG:

Pledge Agreement

relating to pledges of Eligible Margin Assets in the form of Securities

As of 02.05.2019

THE FCM REGULATIONS WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

[...]

2.2 Pledges of Securities in German Securities Accounts

[...]

2.2.3 Appropriation right with respect to securities pledged pursuant to Clause 2.2.1

The FCM Clearing Member and Eurex Clearing AG agree that each pledge granted by the FCM Clearing Member to Eurex Clearing AG in accordance with Clause 2.2.1 shall include a right of Eurex Clearing AG to appropriate (and to make use of) one or more of the securities which, at the time of the exercise of such appropriation right, are credited to the relevant Own Pledged Securities Account (the "Relevant Pledged Securities"). Such right of Eurex Clearing AG to appropriate (and to make use of) the Relevant Pledged Securities shall be conditional upon the occurrence of a Termination Event or an Insolvency Termination Event and a Termination Date with respect to such FCM Clearing Member.

Accordingly, the FCM Clearing Member hereby irrevocably offers to transfer the Relevant Pledged Securities to Eurex Clearing AG and Eurex Clearing AG accepts this offer by exercise of its appropriation right which shall be made by written notice to the FCM Clearing Member.

~~Eurex Clearing AG undertakes to only exercise any such appropriation right pursuant to the following requirements: upon the occurrence of a Termination Event or an Insolvency Termination Event and a Termination Date with respect to such FCM Clearing Member but prior to the determination of the Difference Claim vis-à-vis such FCM Clearing Member.~~

[...]

[...]
