



Eurex Clearing Resources Circulars & Mailings

Release date: 17 Jan 2020 | Eurex Clearing

No. 008/2020

# OTC Derivatives: Amendments to the Clearing Conditions and to the FCM Regulations

Eurex Clearing Circular 008/20

## 1. Introduction

As announced in Eurex Clearing circular 123/19, Eurex Clearing AG (Eurex Clearing) will implement technical and legal changes to the novation criteria for original OTC Interest Rate Derivative Transactions, original XCCY Transactions and original Swap Transactions. In order to facilitate a smooth production phase, Eurex Clearing has decided to advance the effective date for the respective changes from 17 February 2020 to **10 February 2020**.

This circular contains information on the detailed validation and handling of the relevant OTC Transactions as well as the amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and the FCM Regulations of Eurex Clearing AG (FCM Regulations).

## 2. Required action

Clearing Members, Basic Clearing Members, Disclosed Direct Clients, FCM Clearing Members, vendors and other affected contractual parties should take the amendments to the Clearing Conditions and FCM Clearing Conditions into consideration.

## 3. Details

### A. Changes to the novation criteria for documentation of original OTC Interest Rate Derivative Transactions, original XCCY Transactions and original Swap Transactions

Eurex Clearing is planning to support all master agreement types (i.e. ISDA, DRV, AFB/FBF, EMA, "Österreichischer Rahmenvertrag für Finanztermingeschäfte", etc.) for original OTC Interest Rate Derivative Transactions, original XCCY Transactions and original Swap Transactions in order to allow novation of such transactions. Instead, Eurex Clearing will validate if the field on the source of specifications (i.e. the field "Contractual Definitions") applicable to the submitted transaction in the trade record submitted by the respective ATS specifies any of the following as the source of specifications applicable to the original transaction:

- The contractual definitions issued by ISDA (in particular, the 2000 ISDA Definitions and the 2006 ISDA Definitions),
- The German Master Agreement for Financial Derivatives Transactions ("Rahmenvertrag für Finanztermingeschäfte", the "DRV")  
or
- The AFB/FBF Master Agreement.

If the field containing the source of specifications applicable to the original transaction is left blank, Eurex Clearing will accept original transactions that are submitted as based on any of the following master agreements: an ISDA Master Agreement, the 2017 ISDA/FIA Clearing Derivatives Execution Agreement, the 2006 Definitions, the DRV or the AFB/FBF Master Agreement.

### B. Treatment of Master Agreements and Contractual Definitions for novated OTC IRD and XCCY Transactions

The "Master Agreement" field on novated OTC IRD and XCCY Transactions is filled with the generic term "ECAG\_CC". Once bilateral trades are novated, the cleared trade is always populated with the term "ECAG\_CC" to reflect the validity of the Clearing Conditions, regardless of the value in field "Master Agreement" of the bilateral (prenovated) trade.

The filling of field "Contractual Definition" is for novated IRD and XCCY Transactions in accordance with the following rules:

- If the novated trade contains the value "ISDA2000", "ISDA2006", "AFB/FBF", "ISDA2006Inflation" or "ISDA2008Inflation" in the field "Contractual Definition", and a value other than "DRV" and "DERV" in the field "Master Agreement", the field "Contractual Definition" of the cleared trade is populated with the value "ISDA2006-based".
- If the novated trade contains the value "DRV" or "DERV" in the field "Contractual Definition", then, irrespective of the indicated Master Agreement, the field "Contractual Definition" of the cleared trade is populated with the value "DRV-based".
- If the novated trade contains the value "ISDA2000" or "ISDA2006" in the field "Contractual Definition" and the value "DRV" or "DERV" in the field "Master Agreement", the field "Contractual Definition" of the cleared trade is populated with the value "DRV-based".
- If the novated trade contains a blank field "Contractual Definition" and the value "ISDA", "ISDAFIA-CDEA", "AFB/FBF", "1992 ISDA" or "2002 ISDA" in the field "Master Agreement", the field "Contractual Definition" of the cleared trade is populated with the value "ISDA2006-based".
- If the novated trade contains a blank field "Contractual Definition" and a value "DRV" or "DERV" in the field "Master Agreement", the field "Contractual Definition" of the cleared trade is populated with the value "DRV-based".

Please refer to Attachment 1 for the summary table containing the above-mentioned information.

The populated values will be shown in all reports and messages where the trade details are available in FpML format.

The legal and technical implementation will become effective on 10 February 2020.

Member documentation will be updated with OTC Release 10.1, which is planned for June 2020.

### C. Correction of certain terms used in Chapter II of the FCM Regulations

In Chapter II of the FCM Regulations, the term "OTC Interest Rate Derivative Transaction" is replaced by the correct term "Swap Transaction", as used throughout the chapter.

To reflect the changes and amendments, the following provisions of the Clearing Conditions and FCM Regulations will be amended as outlined in Attachments 2 and 3:

- Chapter VIII Part 2 Number 2.1.5.2 (1) and (2) of the Clearing Conditions
- Chapter VIII Part 4 Number 4.1.5.2 (1) of the Clearing Conditions
- Chapter II Part 1 Number 1.8.2 of the FCM Regulations
- Chapter II Part 2 Number 2.1.5.2 (1) and (2) of the FCM Regulations

Attachments 2 and 3 are replacements for Attachments 6 and 7 of Eurex Clearing circular 123/19.

As of the effective date, the full version of the amended Clearing Conditions and FCM Regulations will be available for download on the Eurex Clearing website [www.eurexclearing.com](http://www.eurexclearing.com) under the following link:

[Resources > Rules and Regulations](#)

The changes and amendments to the legal framework of Eurex Clearing AG published by this circular are deemed accepted by each affected contractual party of Eurex Clearing AG, unless the respective contractual party objects by written notice to Eurex Clearing AG within the first ten (10) Business Days after publication. Any ordinary right of Eurex Clearing AG to terminate the respective contract (including a Clearing Agreement, if applicable) shall remain unaffected.

Unless the context requires otherwise, terms used and not otherwise defined in this circular shall have the meaning ascribed to them in the Clearing Conditions or FCM Clearing Conditions of Eurex Clearing AG, as applicable.

#### Attachments:

- Table: Treatment of Master Agreements and Contractual Definitions for novated OTC IRD and XCCY Transactions
- Amended sections of Chapter VIII Part 2 Number 2.1.5.2 (1) and (2) of the Clearing Conditions, Amended sections of Chapter VIII Part 4 Number 4.1.5.2 (1) of the Clearing Conditions
- Amended sections of Chapter II Part 1 Number 1.8.2 of the FCM Regulations, Amended sections of Chapter II Part 2 Number 2.1.5.2 (1) and (2) of the FCM Regulations

Recipients: All Clearing Members, Basic Clearing Members, Disclosed Direct Clients, FCM Clearing Members, vendors and other affected contractual parties

Target groups: Front Office/Trading, Middle + Backoffice, IT/System Administration, Auditing/Security Coordination

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Related circular: [Eurex Clearing circular 123/19](#)

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## Further information

[Attachment 1 to Eurex Clearing circular 008/20](#)

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[Attachment 2 to Eurex Clearing circular 008/20](#)

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[Attachment 3 to Eurex Clearing circular 008/20](#)

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Attachment 1 to Eurex Clearing Circular 008/20

Contractual Definition of prenovated trade	Master Agreement of prenovated trade	Contractual Definition of novated trade	Master Agreement of novated trade
DRV or DERV	any	DRV-based	ECAG_CC
ISDA2000 or ISDA2006	DRV or DERV	DRV-based	
ISDA2000, ISDA2006, AFB/BBF, ISDA2006Inflation or ISDA2008Inflation	any value other than DRV and DERV	ISDA2006-based	
blank	ISDA, ISDAFIA-CDEA, AFB/BBF, 1992 ISDA or 2002 ISDA	ISDA2006-based	
blank	DRV or DERV	DRV-based	

Chapter VIII of the Clearing Conditions of Eurex Clearing AG

## Clearing of OTC Interest Rate Derivative Transactions, OTC FX Transactions and OTC XCCY Transactions

As of 10.02.2020

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

Please note: This markup version replaces the markup version provided as Annex 6 to Eurex Clearing Circular 123/19.

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## **Part 2 Clearing of OTC Interest Rate Derivative Transactions**

### **2.1 General Provisions**

#### **2.1.5 Novation Criteria and Process Regarding OTC Interest Rate Derivative Transactions**

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##### **2.1.5.2 Documentation of Original OTC Transactions**

(1) In the Trade Record submitted via the ATS in respect of an Original OTC Interest Rate Derivative Transaction, one of the following ~~master agreements~~ may frameworks has to be specified as the ~~contractual basis of an source of~~ specifications (in particular the financial and/or pricing terms) applicable to the Original OTC Transaction:

(i) the ~~1992~~ contractual definitions issued by ISDA Master Agreement or (in particular, the 2002-2000 ISDA Master Agreement,

~~(ii) Definitions and the 2017~~ 2006 ISDA/FIA Cleared Derivatives Execution Agreement, Definitions),

~~(ii)~~ (iii) the German Master Agreement for Financial Derivatives Transactions (*Rahmenvertrag für Finanztermingeschäfte*, the **DRV** [ or

~~(iii)~~ (iv) the AFB/FBF Master Agreement.

For an Original OTC Transaction, which has been submitted to Eurex Clearing as being based on one of the following master agreements without explicit selection of the source of specifications, Eurex Clearing will apply the following:

- (i) for an Original OTC Transaction submitted as based on an ISDA Master Agreement or the 2017 ISDA/FIA Cleared Derivatives Execution Agreement, the 2006 ISDA Definitions will be considered as the source of specifications,
- (ii) for an Original OTC Transaction submitted as based on the DRV, the DRV will be considered as the source of specifications,
- (iii) for an Original OTC Transaction submitted as based on the AFB/FBF Master Agreement, the AFB/FBF Master Agreement will be considered as the source of specifications.

(2) Irrespective of the documentation of the Original OTC Transaction,

(i) the **Terms for ISDA Interest Rate Derivative Transactions** set out in Number 2.3 below shall apply to all CCP Transactions and CM-ICM Client Transactions ~~(the **ISDA Interest Rate Derivative Transactions** [ that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the ATS as having been entered into under based on the 1992 contractual definitions issued by ISDA Master Agreement, the 2002 ISDA Master Agreement, the 2017 ISDA/FIA Cleared Derivatives Execution Agreement or the AFB/FBF Master Agreement. The~~ **ISDA Interest Rate Derivative Transactions** ] and

(ii) the **Terms for DRV Interest Rate Derivative Transactions** set out in Number 2.4 below shall apply to all CCP Transactions and CM-ICM Client Transactions ~~(the **DRV Interest Rate Derivative Transactions** [ that are OTC Interest Rate Derivative Transactions which are based on Original OTC Transactions submitted via the ATS as having been entered into under the DRV and which, accordingly, are designated as **DRV-based** in the applicable OTC Trade Novation Report based on the DRV, either by selecting DRV as the source of specifications of the Original OTC Transaction (irrespective of the indicated master agreement) or by selecting DRV as the master agreement of the Original OTC Transaction (to the extent DRV or the contractual definitions issued by ISDA are specified as contractual definitions applicable to the Original OTC Transaction) (the **DRV Interest Rate Derivative Transactions** [.~~

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## Part 4 Clearing of OTC XCCY Transactions

### 4.1 General Provisions

#### 4.1.5 Novation Criteria and Process Regarding OTC XCCY Transactions

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##### 4.1.5.2 Documentation of Original OTC XCCY Transactions

(1) In the trade record submitted via the ATS in respect of an Original OTC XCCY Transactions, one of the following ~~master agreements~~ frameworks has to ~~may~~ be specified as the source of specifications (in particular the financial and/or pricing terms) applicable to the contractual basis of an Original OTC Transaction:

(i) ~~the 1992 ISDA Master Agreement or the 2002 ISDA Master Agreement~~ contractual definitions issued by ISDA (in particular, the 2000 ISDA Definitions and the 2006 ISDA Definitions),

~~(ii) the 2017 ISDA/FIA Cleared Derivatives Execution Agreement,~~

~~(iii) the German Master Agreement for Financial Derivatives Transactions (Rahmenvertrag für Finanztermingeschäfte) or~~

~~(iiiiv) the AFB/FBF Master Agreement.~~

Eurex Clearing will also accept an Original OTC Transaction, which has been submitted to Eurex Clearing as being based on one of the following master agreements without explicit selection of the source of specifications:

(i) the ISDA Master Agreement or the 2017 ISDA/FIA Cleared Derivatives Execution Agreement,

(ii) the DRV,

(iii) the AFB/FBF Master Agreement.

(2) Irrespective of the documentation of the Original OTC Transaction, the specific product-related terms for OTC XCCY Transactions set out in Number 4.3 below shall apply to all OTC XCCY Transactions.

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

## FCM Regulations of Eurex Clearing AG

As of 10.02.2020

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## Part 1 General Provisions

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### 1.8 Index-related Provisions

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#### 1.8.2 Permanent Index Cessation

(4) If no Successor Index can be determined in accordance with Paragraph (3), Eurex Clearing AG shall perform a cash settlement of any affected ~~OTC Interest Rate Derivative Swap~~ Transaction based on the last available level of the ceased index on or before the Index Cessation Date.

(5) If under an ~~OTC Interest Rate Derivative Swap~~ Transaction that qualifies as a FRA a payment is required just after the fixing of an index in advance of the fixing period as specified in the trade confirmation, but the final relevant rate of the Successor Index is only available at or after the end of the fixing period, the relevant transaction will be amended so that the respective payments in respect of both legs of the transaction are to be made two Business Days after the final relevant rates of the Successor Index are available to Eurex Clearing AG.

If a payment under an ~~OTC Interest Rate Derivative Swap~~ Transaction is deferred in accordance with this Paragraph (5), the payment shall be calculated as if a payment at the end of the respective fixing period has been specified (i.e. without applying the original discount factor which has been introduced to account for a payment just after the fixing of an index).

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(7) If with respect to an index a Permanent Index Cessation Event has occurred and a Successor Index may be determined in accordance with Paragraph (3) which will replace the index as of the Index Cessation Date, and the Successor Index consists of a fallback index plus or minus a certain fixed spread, Eurex Clearing AG may amend the affected ~~OTC Interest Rate Derivative Swap~~ Transaction so that either

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## Part 2 Clearing of Interest Rate Derivative Transactions

### 2.1 General Provisions

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### 2.1.5 Novation Criteria and Process Regarding Interest Rate Derivative Transactions

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#### 2.1.5.2 Documentation of Original Swap Transactions

(1) In the Trade Record submitted via the ATS in respect of an Original Swap Transaction, one of the following ~~master agreements may~~frameworks has to be specified as the contractual basis of an source of specifications (in particular the financial and/or pricing terms) applicable to the Original Swap Transaction:

(i) ~~the 1992 contractual definitions issued by ISDA Master Agreement or (in particular, the 2002-2000 ISDA Master Agreement,~~

~~(ii) Definitions and the 2017/2006 ISDA/FIA Cleared Derivatives Execution Agreement, Definitions),~~

~~(iii) the German Master Agreement for Financial Derivatives Transactions (Rahmenvertrag für Finanztermingeschäfte, the **DRV** a or~~

~~(iv) the AFB/FBF Master Agreement.~~

For an Original Swap Transaction, which has been submitted to Eurex Clearing as being based on one of the following master agreements without explicit selection of the source of specifications, Eurex Clearing will apply the following:

(i) for an Original Swap Transaction submitted as based on an ISDA Master Agreement or the 2017 ISDA/FIA Cleared Derivatives Execution Agreement, the 2006 ISDA Definitions will be considered as the source of specifications,

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(ii) for an Original Swap Transaction submitted as based on the DRV, the DRV will be considered as the source of specifications,

(iii) for an Original Swap Transaction submitted as based on the AFB/BBF Master Agreement, the AFB/BBF Master Agreement will be considered as the source of specifications.

(2) Irrespective of the documentation of the Original Swap Transaction,

(i) the **Terms for ISDA Interest Rate Derivative Transactions** set out in Number 2.3 below shall apply to all Swap Transactions that are Interest Rate Derivative Transactions (which are based on Original Swap Transactions submitted via the ATS as having been entered into ~~under based on the 1992 contractual definitions issued by ISDA Master Agreement, the 2002 ISDA Master Agreement, the 2017 ISDA/FIA Cleared Derivatives Execution Agreement or the AFB/BBF Master Agreement~~ -] **ISDA Interest Rate Derivative Transactions** - a The and

(ii) the **Terms for DRV Interest Rate Derivative Transactions** set out in Number 2.4 below shall apply to all Swap Transactions that are Interest Rate Derivative Transactions which are based on Original Swap Transactions submitted via the ATS as having been entered into ~~under the DRV and which, accordingly, are designated as **DRV-based** in the applicable Swap Trade Novation Report~~ based on the DRV, either by selecting DRV as the source of specifications of the Original OTC Transaction (irrespective of the indicated master agreement) or by selecting DRV as the master agreement of the Original OTC Transaction (to the extent DRV or the contractual definitions issued by ISDA are specified as contractual definitions applicable to the Original OTC Transaction) (the **DRV Interest Rate Derivative Transactions** a