



Eurex Clearing Resources Circulars

Release date: 22 May 2019 | Eurex Clearing

No. 051/2019

## Update: Amendments to the Clearing Conditions, the FCM Regulations and the Price List of Eurex Clearing AG

Eurex Clearing Circular 051/2019

Update concerning Circular 51/2019: Please note that the effective date of the amendments was changed from 17 June 2019 to **19 June 2019**.

Furthermore, the attachment to Circular 51/2019 which referred to Chapter I of the Clearing Conditions has been replaced with a new attachment concerning amendments to Chapter VIII of the Clearing Conditions.

This circular contains information about changes and amendments to the Clearing Conditions, the FCM Regulations and the Price List of Eurex Clearing AG with respect to the following topics

- Inclusion of Transactions under the 2017 ISDA/FIA Cleared Derivatives Execution Agreement into Clearing
- Inclusion of Backloading functionality for OTC FX transactions

The amended sections of the Clearing Conditions, the FCM Regulations and the Price List, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

The amendments to the Clearing Conditions, the FCM Regulations and the Price List regarding items 1 and 2 will become effective on **19 June 2019**.

### 1. Inclusion of Transactions under the 2017 ISDA/FIA Cleared Derivatives Execution Agreement into Clearing

Currently, Eurex Clearing is supporting the following master agreements as the contractual basis of an Original OTC Transaction, Original OTC XCCY Transaction and Original Swap Transaction:

- the 1992 ISDA Master Agreement and the 2002 ISDA Master Agreement,
- the German Master Agreement for Financial Derivatives Transactions (*Rahmenvertrag für Finanztermingeschäfte*) and
- the AFB/BBF Master Agreement.

In line with market practice, Eurex Clearing plans to support the 2017 ISDA/FIA Cleared Derivatives Execution Agreement ("2017 ISDA/FIA CDEA") as a new master agreement for Original OTC Transactions, Original OTC XCCY Transactions and Original Swap Transactions. To allow inclusion of transactions entered into under this agreement into clearing, Eurex Clearing will include the 2017 ISDA/FIA CDEA as a permitted master agreement in the Clearing Conditions and FCM Regulations. Upon novation of any such transaction, Eurex Clearing will then apply Eurex Clearing's general terms for ISDA transactions to the transaction and, to the extent referenced by them, the 2006 ISDA Definitions.

The 2017 ISDA/FIA CDEA is a template for use by Market Participants in negotiating execution-related agreements with counterparties to swaps that are intended to be cleared. The agreement intends to facilitate the entry of derivatives transactions into and the clearing of such transactions with one or more CCPs located outside of the US and can be used in conjunction with the ISDA/FIA Client Clearing Addendum.

To reflect the changes and amendments, the following provisions of the Clearing Conditions and FCM Regulations shall be amended as outlined in attachment 1 and 2:

- Chapter VIII Part 2 Number 2.1.5.2 of the Clearing Conditions
- Chapter VIII Part 4 Number 4.1.5.2 of the Clearing Conditions
- Chapter II Part 2 Number 2.1.5.2 of the FCM Regulations

The amendments above will become effective on 19 June 2019.

## 2. Backloading for OTC FX transactions

With the EurexOTC Clear Release 9.2, a backloading functionality is implemented for OTC FX Transactions. For OTC Interest Rate Derivatives Transactions and OTC XCCY Transactions this functionality is already in place today.

To reflect the changes and amendments, the following provisions of the Clearing Conditions and the Price List shall be amended as outlined in attachment 3 and 4:

- Chapter VIII Part 2 Number 2.1.5.3 of the Clearing Conditions
- Chapter VIII Part 3 Number 3.1.5.3 of the Clearing Conditions
- Chapter VIII Part 4 Number 4.1.5.3 of the Clearing Conditions
- Number 10.2.1.3, 10.3.3, 11.2.3 and 11.3.3 of the Price List

The amendments above will become effective on 19 June 2019.

As of the effective date, the full version of the amended documents 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.

### Attachments:

Updated sections of the Clearing Conditions, FCM Regulations and Price List of Eurex Clearing AG (Attach 1-4)

Recipients: All Clearing Members, Basic Clearing Members, Disclosed Direct Clients of Eurex Clearing AG, vendors, all FCM Clearing Members and other affected counterparties

Target groups: All departments

Contact: [client.services@eurexclearing.com](mailto:client.services@eurexclearing.com)

Authorized by: Heike Eckert

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## Further information

[Attach 1](#)

[Attach 2](#)

[Attach 3](#)

[Attach 4](#)

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

## FCM Regulations of Eurex Clearing AG

As of 19.06.2019

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THE FCM REGULATIONS WILL BE AMENDED.

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

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[...]

## Part 2 Clearing of Interest Rate Derivative Transactions

### 2.1 General Provisions

[...]

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

[...]

#### 2.1.5.2 Documentation of Original Swap Transactions

- (1) In the Trade Record, one of the following master agreements may be specified as the contractual basis of an Original Swap Transaction:

(a) the 1992 ISDA Master Agreement or the 2002 ISDA Master Agreement,

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

~~(b)(iii)~~— the German Master Agreement for Financial Derivatives Transactions (*Rahmenvertrag für Finanztermingeschäfte*, the “**DRV**”), or

(iv) the AFB/BBF Master Agreement.

- (2) Irrespective of the documentation of the Original Swap Transaction, 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 the 1992 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**”). The “**Terms for DRV Interest Rate Derivative Transactions**” set out in Number 2.4

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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 (the **“DRV Interest Rate Derivative Transactions”**).

[...]

[...]

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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 19.06.2019

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

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[...]

## Part 2 Clearing of OTC Interest Rate Derivative Transactions

### 2.1 General Provisions

[...]

#### 2.1.5.2 Documentation of Original OTC Transactions

- (1) In the Trade Record, one of the following master agreements may be specified as the contractual basis of an Original OTC Transaction:

(i) the 1992 ISDA Master Agreement or the 2002 ISDA Master Agreement,

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

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

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

- (2) Irrespective of the documentation of the Original OTC Transaction, 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 the 1992 ISDA Master Agreement, the 2002 ISDA Master Agreement, the 2017 ISDA/FIA Cleared Derivatives Execution Agreement or the AFB/FBF Master Agreement. 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.



[...]

[...]

## **Part 4 Clearing of OTC XCCY Transactions**

### **4.1 General Provisions**

[...]

#### **4.1.5.2 Documentation of Original OTC Transactions**

(1) In the trade record submitted via the ATS in respect of OTC XCCY Transactions, one of the following master agreements may be specified as the contractual basis of an Original OTC Transaction:

\_\_\_\_(i) the 1992 ISDA Master Agreement or the 2002 ISDA Master Agreement,

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

\_\_\_\_(iii) the German Master Agreement for Financial Derivatives Transactions  
(*Rahmenvertrag für Finanztermingeschäfte*) or

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

[...]

[...]

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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 19.06.2019

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AMENDMENTS ARE MARKED AS FOLLOWS:  
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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**

[...]

##### **2.1.5.3 Bulk Backloading of Original OTC Transactions**

[...]

- (5) At 3:00 p.m. and 5:00 p.m. (each Frankfurt am Main time) on each Business Day Eurex Clearing AG will make available to the Clearing Member and the DC With System Access and the Basic DC (depending on the categorisation of such Basic DC in the systems of Eurex Clearing AG) or the Basic Clearing Member (or Clearing Agent acting on behalf of the Basic Clearing Member) a preliminary report indicating the Bulk Backloading of Original OTC Transactions which have been received for Clearing and which fulfil the novation criteria pursuant to Number 2.1.5.1 and

the Margin Requirement as well as any shortage in actually delivered Eligible Margin Assets.

- (6) ~~A~~ Bulk Backloaded Original OTC Transactions which, on the day of submission, fulfils all novation criteria shall be novated on that Business Day. The novation will become effective when the respective OTC Trade Novation Report will be made available intraday at around 5:30 p.m. (Frankfurt am Main time) and at the end of a Business Day at or around 11:00 p.m. (Frankfurt am Main time).

[...]

- (8) A Clearing Member, a DC With System Access (acting on behalf of the Clearing Member) or a Basic Clearing Member (or a Clearing Agent acting on behalf of the Basic Clearing Member) may subsequently cancel the submission with respect to any Bulk Backloaded ~~ing~~ Original OTC Transaction submitted to Eurex Clearing AG via an ATS and intended to be novated by the latest by 5:00 p.m. (Frankfurt am Main time) on a Business Day, provided that

[...]

## **Part 3 Clearing of OTC FX Transactions**

### **3.1 General Provisions**

[...]

### **3.1.5 Novation Criteria and Process Regarding OTC FX Transactions**

[...]

#### **3.1.5.1 Transaction Type Specific Novation Criteria**

[...]

#### **3.1.5.3 Bulk Backloading of Original OTC FX Transactions**

- (1) An Original OTC Transaction that has a Trade Date which falls more than three Business Days prior to the date of submission to Eurex Clearing AG and in respect of which the initial exchange of payments has already been settled bilaterally will be considered as a backloaded trade (“**Bulk Backloaded Original OTC FX Transaction**”).
- (2) The novation and clearing process for Bulk Backloaded Original OTC FX Transactions which have been submitted to Eurex Clearing AG via an ATS will be carried out on each Business Day. The novation process will be performed pursuant to the following paragraphs.
- (3) Bulk Backloaded Original OTC FX Transactions that are to be included in the Clearing by way of novation may be submitted to Eurex Clearing AG at any point in time. Bulk Backloaded Original OTC FX Transactions which are submitted prior to 3:00 p.m. (Frankfurt am Main time) on a Business Day and which fulfil all applicable novation criteria will be included in the novation process on such Business Day.
- (4) The novation process for OTC Bulk Backloaded Original Transactions which are submitted after 3:00 p.m. (Frankfurt am Main time) on a Business Day will be carried out on the next Business Day.
- (5) At 3:00 p.m. (Frankfurt am Main time) and 5:00 p.m. (Frankfurt am Main time) on each Business Day Eurex Clearing AG will make available to the Clearing Member a preliminary report indicating the Bulk Backloaded Original OTC FX Transactions which have been received for Clearing and which fulfil the novation criteria pursuant to Number 3.1.5.1 and the Margin Requirement as well as any shortage in actually delivered Eligible Margin Assets.
- (6) Bulk Backloaded Original OTC FX Transactions which, on the day of submission, fulfil all novation criteria shall be novated on that Business Day. The novation will become effective when the respective OTC Trade Novation Report will be made available intraday at around 5:30 p.m. (Frankfurt am Main time) and at the end of a Business Day at or around 11:00 p.m. (Frankfurt am Main time).

- (7) For Bulk Backloaded Original OTC FX Transactions which, on the day of submission, fulfil all novation criteria except for the provision of the Eligible Margin Assets necessary to cover the margin requirement Eurex Clearing AG will debit the shortfall amount set forth in the OTC Margin Call Report produced and made available at 10:30 p.m. (Frankfurt am Main time) in the agreed Clearing Currency from the relevant Clearing Member Cash Account of the Clearing Member in accordance with the daily cash clearing procedure pursuant to Chapter I Part 1 Number 1.4.1. Such payment made by direct debit shall constitute cover in respect of the Margin to which the margin requirement referred to in the foregoing sentence relates and accordingly will constitute Elementary Proprietary Margin delivered by the Clearing Member pursuant to the Elementary Clearing Model Provisions. Eurex Clearing AG will make available an OTC Trade Novation Report on the Business Day following the day of submission at or around 9:30 a.m. (Frankfurt am Main time) to the Clearing Member.
- (8) A Clearing Member may subsequently cancel the submission with respect to any Bulk Backloaded Original OTC FX Transaction submitted to Eurex Clearing AG via an ATS and intended to be novated by the latest by 5:00 p.m. (Frankfurt am Main time) on a Business Day, provided that
- (i) the cancellation request is entered by the Clearing Member into the system of, and received by, Eurex Clearing AG, and
  - (ii) the other Clearing Member that is a party to the relevant Transaction has given its prior consent in the system of Eurex Clearing AG.

[...]

## **Part 4 Clearing of OTC XCCY Transactions**

### **4.1 General Provisions**

[...]

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

[...]

#### **4.1.5.3 Bulk Backloading of Original OTC XCCY Transactions**

[...]

(5) At 3:00 p.m. (Frankfurt am Main time) and 5:00 p.m. (Frankfurt am Main time) on each Business Day Eurex Clearing AG will make available to the Clearing Member a preliminary report indicating the Bulk Backloaded Original OTC XCCY Transactions which have been received for Clearing and which fulfil the novation criteria pursuant to Number 4.1.5.1 and the Margin Requirement as well as any shortage in actually delivered Eligible Margin Assets.

[...]

(8) A Clearing Member may subsequently cancel the submission with respect to any Bulk Backloaded Original OTC XCCY Transaction submitted to Eurex Clearing AG via an ATS and intended to be novated by the latest by 5:00 p.m. (Frankfurt am Main time) on a Business Day, provided that

- (i) the cancellation request is entered by the Clearing Member into the system of, and received by, Eurex Clearing AG, and
- (ii) the other Clearing Member that is a party to the relevant Transaction has given its prior consent in the system of Eurex Clearing AG.

[...]

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

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[...]

**10. Transaction Fees for OTC Interest Rate Derivative Transactions**

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[...]

**10.2.1.3 Booking Fee per OTC Interest Rate Derivative Transaction for Backloading**

For the novation of ~~each~~the Bulk Backloaded Original OTC Transactions pursuant to Chapter VIII Part 2 Number 2.1.5.3 of the Clearing Conditions or pursuant to Chapter II Part 2 Number 2.1.5.3 of the FCM Regulations, Eurex Clearing ~~AG~~shall will charge the respective Clearing Member ~~30 per cent~~a percentage of the ~~originally calculated~~OTC Interest Rate Derivative Booking Fee that would have applied for the relevant OTC Interest Rate Derivative Transaction. ~~Such percentage is currently equal to 30 per cent.~~

[...]

**10.3.3 Booking Fee for Backloading**

For the novation of ~~each~~the Bulk Backloaded Original OTC Transactions pursuant to Chapter VIII Part 2 Number 2.1.5.3 of the Clearing Conditions, Eurex Clearing ~~will~~shall charge the respective Clearing Member ~~30 per cent~~a percentage of the ~~originally calculated~~OTC Interest Rate Derivative Booking Fee that would have applied for the relevant OTC Interest Rate Derivative Transaction. ~~Such percentage is currently equal to 30 per cent.~~

[...]



**11 Clearing and Settlement Fees for OTC FX Transactions and OTC XCCY Transactions**

[...]

[...]

**11.2.3 Booking Fee per OTC FX Transaction for Bulk Backloading**

For the novation of each Bulk Backloaded Original OTC FX Transaction pursuant to Chapter VIII Part 3 Number 3.1.5.3 of the Clearing Conditions, Eurex Clearing AG will charge the respective Clearing Member 30 per cent of the OTC FX Booking Fee that would have applied for a relevant OTC FX Transaction.

[...]

**11.3.3 Booking Fee per OTC XCCY Transaction for Bulk Backloading**

For the novation of each Bulk Backloaded Original OTC XCCY Transaction pursuant to Chapter VIII Part 4 Number 4.1.5.3 of the Clearing Conditions, Eurex Clearing AG will charge the respective Clearing Member 30 per cent of the OTC XCCY Booking Fee that would have applied for a relevant OTC XCCY Transaction.

[...]

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