

**Eurex Clearing AG**  
**ECAG Rule Certification 109-21**  
**December 27, 2021**

1. The text of the proposed amendments to the Clearing Conditions (“Clearing Conditions”) of Eurex Clearing AG (“Eurex Clearing”) and the Price List (“Price List”) of Eurex Clearing is appended as Attachment A. Any additions are underlined and any deletions are struck through.
2. The date of intended implementation of the proposed amendments in No 1. below is January 31, 2022. The date of intended implementation of the proposed amendments in Nos. 2 and 3 below is February 1, 2022.
3. Attached please find a certification that: (1) these amendments comply with the Commodity Exchange Act (the “Act”), and the Commission’s regulations thereunder; and (2) concurrent with the filing of this submission, Eurex Clearing is posting a copy of this filing to its website at: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.
4. A concise explanation and analysis of the operation, purpose, and effect of the amended rules appears below.
5. There were no opposing views expressed regarding these amended rules.
6. Confidential treatment is not requested.

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CONCISE EXPLANATION AND ANALYSIS OF THE OPERATION, PURPOSE, AND EFFECT OF THE PROPOSED RULE AND ITS COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ACT, INCLUDING CORE PRINCIPLES AND THE COMMISSION’S REGULATIONS THEREUNDER

Eurex Clearing is proposing the following amendments to the Clearing Conditions and Price List:

**1. Introduction of the CSDR Settlement Discipline Regime (Penalty Regime)**

To reflect the regulatory changes with respect to the upcoming Central Securities Depositories Regulation (“CSDR”) Settlement Discipline Regime (“SDR”) outlined below, Eurex Clearing is proposing amendments to the Clearing Conditions.

The regulatory background for the introduction of the CSDR SDR is the Regulation (EU) No. 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and is complemented by various Implementing Technical Standards and Regulatory Technical Standards, in particular, the Commission Delegated Regulation (EU) No 2018/1229 supplementing Regulation (EU) No 909/2014 with regard to regulatory technical standards on settlement discipline (as amended from time to time).

With the upcoming EU-wide CSDR SDR launch on February 1, 2022, a Penalty Regime will come into force in a first step, and the mandatory Buy-in Regime is expected to be postponed, as announced by the European Commission in November 2021, to a later time after February 1, 2022. CSDR SDR affects both securities clearing systems of Eurex Clearing, the C7 Securities Clearing Service (“C7 SCS”) for transactions at the Frankfurt Stock Exchange, and transactions concluded

at Eurex Deutschland that result in physical securities transactions, as well as the Securities CCP system for Eurex Repo market and BrokerTec transactions.

With the introduction of the CSDR penalties, (I)CSDs calculate/provide penalties for settlement accounts of Eurex Clearing. Under the proposed amendments, Eurex Clearing would provide new CSDR-specific daily and monthly penalty reports on Clearing Member level. Monthly net penalty amounts would be calculated by Eurex Clearing on Clearing Member/CSD account/currency level. Penalty collection and distribution would be performed by Eurex Clearing on a monthly basis in sync with the CSD's OTC business.

## **2. Discontinuation of the Routing Service for C7 SCS**

On September 27, 2021, Eurex Clearing introduced the Routing Service to offer customers the possibility of partially releasing pending delivery instructions related to instruments in Non-Collective Safe Custody (NCSC) settled via Clearstream Banking Frankfurt International (CBF-i) 6-series accounts in Creation.

On November 22, 2021, Clearstream Banking Luxembourg ("CBL") introduced a new partial release functionality so that customers can partially release their delivery instruction directly in Creation via MT530 or in Xact Web Portal as communicated in Clearstream Announcement A21055. With this service offering by CBL, the Routing Service in C7 SCS has become redundant.

With the introduction of the CSDR Penalty Regime as of February 1, 2022, continuation of the Routing Service could lead to a double penalization for late deliveries. Due to the "cancel/re-instruct mechanism" applied by the Routing Service, a release, a hold, or a partial release of a late trade would lead to one or two re-instructed transactions with the same settlement date triggering a Late Matching Fail Penalty ("LMFP"). Such LMFP would be triggered in addition to the already charged Settlement Fail Penalty ("SEFP") for the cancelled late delivery instructions. To avoid such double penalization, Eurex Clearing is proposing amendments to the Clearing Conditions and the Price List to discontinue the Routing Service as of February 1, 2022.

Although Eurex Clearing is proposing to decommission the Routing Service as of February 1, 2022, the Routing Service functionality would, from a technical perspective, still be available as of February 1, 2022. Irrespective of the technical availability of the functionality, the Routing Service would be decommissioned as of February 1, 2022 and should not be used as of February 1, 2022. Any Clearing Member using the Routing Service functionality as of February 1, 2022 would remain fully responsible and fully liable for any continued use of the Routing Service (i.e. any LMFP).

## **3. Minor amendments to the Clearing Conditions due to harmonization of wording and referencing**

To further streamline the legal framework by harmonizing wording and referencing, Eurex Clearing is proposing minor amendments to the Clearing Conditions.

Further information regarding the operation, purpose and effect of the proposed amendments is discussed in the attached Eurex Clearing Circular 109-21, which is appended as Attachment A.

Eurex Clearing has identified the following DCO Core Principle as potentially being relevant to the above amendments:

1. DCO Core Principle E (Settlement Procedures): The proposed amendments will comply with DCO Core Principle E because they institute a settlement discipline regime in alignment with new EU regulation and discontinue a previously introduced Routing Service, and Eurex Clearing will continue to have settlement procedures for products cleared in its DCO capacity that comply with this Core Principle.

CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY EXCHANGE ACT, 7  
U.S.C. §7a-2 AND COMMODITY FUTURES TRADING COMMISSION RULE 40.6, 17 C.F.R. §40.6

I hereby certify that:

- (1) the amendments comply with the Commodity Exchange Act, and the Commission's regulations thereunder; and
- (2) concurrent with the filing of this submission, Eurex Clearing is posting a copy of this filing to its website at: <https://www.eurex.com/ec-en/rules-regs/regulations/cftc-dco-filings>.

/s/ Eric Seinsheimer

By: Eric Seinsheimer

Title: US CCO, Eurex Clearing AG

Dated: December 27, 2021