

26 Jul 2024

Eurex Clearing

Amendments to the Clearing Conditions, the FCM Default Rules and the Default Management Committee Rules of Eurex Clearing AG – Consultation

Eurex Clearing Circular 051/24 Amendments to the Clearing Conditions, the FCM Default Rules and the Default Management Committee Rules of Eurex Clearing AG – Consultation

1. Introduction

This circular contains information with respect to the service offering of Eurex Clearing AG (Eurex Clearing) and introduces amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions), the FCM Default Rules of Eurex Clearing AG (FCM Default Rules) and the Default Management Committee Rules of Eurex Clearing AG (Default Management Committee Rules) regarding the following topics:

A. Entitlement to appoint employees of third-party entities as DMP-Coordinators and DMP-Deputies

subject to a consultation process (Consultation). The Consultation will end with the expiry of **26 August 2024** (Consultation Period). The planned effective date of these amendments is **1 October 2024**, depending on the outcome of the Consultation which will be communicated in a separate Eurex Clearing Circular.

The planned effective date of the amendment to the FCM Default Rules is **1 October 2024**.

2. Required action

Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients, FCM Clearing Members, vendors and other affected contractual parties should take the amendments to the Clearing Conditions, the FCM Default Rules and the Default Management Committee Rules into consideration.

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed changes and amendments within the Consultation Period.

3. Details

A. Entitlement to appoint employees of third-party entities as DMP-Coordinators and DMP-Deputies

The current wording of the Clearing Conditions and FCM Default Rules requires that DMP-coordinators and DMP-deputies, who are appointed as central contacts for Eurex Clearing for all general matters relating to the Default Management Process (DMP), are employees of the respective Clearing Member or FCM Clearing Member. However, DMP-coordinator and DMP-deputy roles and functions tend to be cross-legal entities and reflect asset class specific expertise.

The proposed amendments will allow for the appointment of employees of third-party entities as DMP-coordinators and DMP-deputies.

B. Addition of Paris as an optional location to hold Default Management Committee meetings

The Default Management Committee Rules currently state that DMC Meetings shall take place at premises in London and Frankfurt am Main (or Eschborn).

The proposed amendments will allow for Paris as an optional location for DMC meetings to align DMC venues with the current Member setup with respect to physical presence of qualified staff.

Default Management Committee Rules regarding topics A. and B. are subject to a Consultation which will end with the expiry of **26 August 2024**.

Eurex Clearing herewith invites all Affected Customers to submit comments on the proposed changes and amendments within the Consultation Period.

During the Consultation Period, comments on proposed changes or amendments shall be only submitted through a web-based commenting service for which a registration form is available on the Eurex Clearing website under the following link:

[Find > Forms: Consultation Form](#)

The form has to be duly signed and returned to Eurex Clearing via e-mail to SpecialProvisions@eurex.com, in order to obtain a User ID and Password together with a link for accessing the web-based commenting service.

To the extent that Eurex Clearing decides to implement any comments received during the Consultation, the so-amended version of the Clearing Conditions will be published after the Consultation.

The currently envisaged effective date of the changes is 1 October 2024. However, after the Consultation Period, Eurex Clearing will issue a separate circular to announce the concrete date on which the proposed changes (as the case may be, implementing comments received during the Consultation) will come into effect.

This announcement will be made with at least 15 Business Days' notice (Regular Notification Period). However, if Eurex Clearing AG should receive a request for a Prolonged Notification Period from more than two Affected Customers during the Consultation Period, a Prolonged Notification Period as set out in the Clearing Conditions will be applied and Eurex Clearing will notify all affected parties accordingly.

Publication of amendments as outlined under items A. and B.

As of the effective date, the full versions of the amended Clearing Conditions, FCM Default Rules and Default Management Committee Rules will be available for download on the Eurex Clearing website www.eurex.com/ec-en/ under the following link:

[Rules & Regs > Eurex Clearing Rules and Regulations](#)

circular. In case of an objection by the respective contractual party pursuant to the preceding sentence, Eurex Clearing AG is entitled to terminate the respective contract (including a Clearing Agreement, if applicable). Instead of submitting an objection, the respective contractual party may submit in writing to Eurex Clearing AG comments to any amendments of the legal framework of Eurex Clearing AG within the first 10 Business Days after the publication of the amendments. Eurex Clearing AG shall assess whether these comments prevent the published amendments from becoming effective taking into account the interests of Eurex Clearing AG and all contractual parties.

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:

- ◆ 1 – Amended sections of the Clearing Conditions of Eurex Clearing AG, effective 1 October 2024 (subject to the Consultation)
- ◆ 2 – Amended sections of the FCM Default Rules of Eurex Clearing AG, effective 1 October 2024
- ◆ 3 – Amended sections of the Default Management Committee Rules of Eurex Clearing AG, effective 1 October 2024 (subject to the Consultation)

Further information

Recipients: All Clearing Members, ISA Direct Clearing Members, Disclosed Direct Clients and FCM Clearing Members of Eurex Clearing AG, vendors and other affected contractual parties

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

Contact: client.services@eurex.com

Web: www.eurex.com/ec-en/

Authorized by: Dmitrij Senko



[↓ Attachment 1 to Eurex Clearing Circular 051/24](#)

[↓ Attachment 2 to Eurex Clearing Circular 051/24](#)

[↓ Attachment 3 to Eurex Clearing Circular 051/24](#)

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Chapter I of the Clearing Conditions of Eurex Clearing AG

General Provisions

As of 01.10.2024

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED;

DELETIONS ARE CROSSED OUT

[...]

Part 1 General Clearing Provisions

[...]

7 Termination Rules with respect to the Clearing Member

[...]

7.5 Default Management Process

[...]

- (4) Each Clearing Member shall appoint one or more of its employees natural persons as its coordinator for the default management process (each a “DMP C-coordinator”) and one or more natural persons another of its employees as a deputy of its DMP -eCoordinator(s) (each a “DMP D-deputy”). Each The DMP C-coordinator and DMP D-deputy shall act as a central contact for Eurex Clearing AG for all general matters relating to the default management process, and register these vis-à-vis Eurex Clearing AG. Each DMP Coordinator and DMP Deputy shall be an employee of the Clearing Member or of a third-party entity and shall be appointed by the Clearing Member in the systems of Eurex Clearing AG. All declarations or statements by an appointed DMP Coordinator or DMP Deputy and all declarations and statements received by each appointed DMP Coordinator and DMP Deputy from Eurex Clearing AG shall be legally binding for and against the Clearing Member. Eurex Clearing AG is not obliged to assess whether the relevant DMP Coordinator or DMP Deputy is entitled to make or receive declarations or statements by the Clearing Member.

[...]

FCM Default Rules of Eurex Clearing AG

As of 01.10.2024

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[...]

4 Default Management Process

- (1) Eurex Clearing AG maintains a default management process (“**DMP**”) to reduce the risks following a default of an FCM Clearing Member as described in the FCM Regulations and these FCM Default Rules or following a default of a Clearing Member or an ISA Direct Clearing Member as described in the Clearing Conditions.
- (2) Eurex Clearing AG establishes default management committees (each a “**DMC**”) for the purpose of advising and assisting the executive board (*Vorstand*) of Eurex Clearing AG with respect to the consequences of a termination of an FCM Clearing Member, a Clearing Member or an ISA Direct Clearing Member and all other matters specified in the FCM Clearing Conditions and in the Clearing Conditions.
- (3) Where, in this Number 0, reference is made to
 - (i) “**Terminated Clearing Member Transactions**”, such reference shall refer to all terminated Clearing Member Transactions of the CM Affected Clearing Member or the ISA Direct Affected Clearing Member entered into in accordance with the Clearing Conditions and
 - (ii) “**Terminated FCM Clearing Member Transactions**”, such reference shall refer to all FCM Clearing Member Transactions that are treated as if they are terminated in accordance with Chapter I Number 9.2.3 of the FCM Regulations.
- (4) Each FCM Clearing Member shall appoint one or more natural persons of its employees as its DMP-coordinator for the default management process (each a “**DMP Coordinator**”) and one or more natural persons as deputy of its DMP Coordinator(s) (each a “**DMP Deputy**”). Each DMP Coordinator and DMP Deputy shall act as DMP-deputy, respectively, as a central contact for Eurex Clearing AG for all general matters relating to the default management process. Each DMP Coordinator and DMP Deputy shall be an employee of the FCM Clearing Member or of a third-party entity and shall be appointed by the FCM Clearing Member in the systems of Eurex Clearing AG. All declarations or statements by an appointed DMP Coordinator or DMP Deputy and all declarations and statements received by each appointed DMP Coordinator and DMP Deputy from Eurex Clearing AG shall be legally binding for and against the FCM Clearing Member. Eurex Clearing AG is not obliged to assess whether the relevant DMP Coordinator or DMP Deputy is entitled

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to make or receive declarations or statements by the FCM Clearing Member, and register these vis-à-vis Eurex Clearing AG.

[...]

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[...]

2 Composition of Default Management Committees

[...]

2.4 Guidelines for the Selection of Participating DMC Member Institutions

[...]

2.4.4 Further Selection Process

- (1) If a sufficient number of Participating DMC Member Institutions cannot be selected by Eurex Clearing AG in accordance with Numbers 2.4.2 and 2.4.3 above, Eurex Clearing AG will inform the DMP-e_Coordinators (Chapter I Part 1 Number 7.5 of the Clearing Conditions) of all Eligible Clearing Members and the DMP-e_Coordinators (Number 4 of the FCM Default Rules) of all Eligible FCM Clearing Members which have not already been selected as Participating DMC Member Institutions pursuant to Number 2.4.2 or 2.4.3 at the latest six weeks after the submission of the Assignment Phase Notice, and will ask all such Eligible Clearing Members and Eligible FCM Clearing Members again whether they want to volunteer as Participating DMC Member Institutions of the relevant DMC.

[...]

3 Procedures of DMCs

[...]

3.2 Meeting, Participation, Participation Duties

3.2.1 Meeting

DMC Meetings shall take place at the business premises of Eurex Clearing AG in London, Paris and Frankfurt am Main (or Eschborn). ~~The premises~~If the DMC Meetings take place at more than one location, the locations shall be linked to each other by video conference. To the extent technically practicable, video conferences shall likewise be established where DMC Members attend a DMC Meeting through means of remote access where remote access has been permitted by the DMC Secretary.

[...]

6 **Communications**

Unless otherwise provided for in these DMC Rules, any communication hereunder shall be made via e-mail to and from (as applicable) the relevant DMP-eCoordinator appointed by each Clearing Member or each FCM Clearing Member and the relevant Eurex Clearing AG representatives, provided that any invitations to actual DMC Meetings will be addressed directly to the DMC Members or DMC Deputies.

[...]
