

clear to trade



## Assessment of Eurex Clearing AG Compliance against the CPSS – IOSCO (International Organization of Securities Commissions) Recommendations for Central Counterparties

Assessment was performed by Internal Auditing

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## 1 Introduction

### 1.1 Assessor and objective

Internal Auditing performed an assessment of Eurex Clearing AG in its compliance with the Committee on Payment and Settlement Systems (CPSS) and IOSCO (International Organization of Securities Commissions) Recommendations for Central Counterparties (CCP).

### 1.2 Scope of assessment

The assessment is focused on Eurex Clearing AG only. Where relevant, this assessment takes into account the fact that Eurex Clearing AG is a wholly owned subsidiary of Eurex Frankfurt AG which is jointly operated by Deutsche Boerse AG and SWX Swiss Exchange.

### 1.3 Scope and coverage of the CCP

Eurex Clearing AG acts as the central counterparty for the markets

- Eurex Exchanges
- Eurex Bonds
- Eurex Repo
- European Energy Exchange (EEX)
- FWB® Frankfurter Wertpapierbörse (the Frankfurt Stock Exchange) - both Xetra® and floor
- Irish Stock Exchange

Eurex Clearing AG offers fully automated and straight-through post trade services for derivatives, equities, fixed income, repo, and energy transactions. It operates in a number of currencies including Euro, Swiss Francs, US Dollars and Pounds Sterling. Further details on the markets and products served can be found on Eurex Clearing AG's website<sup>1</sup>.

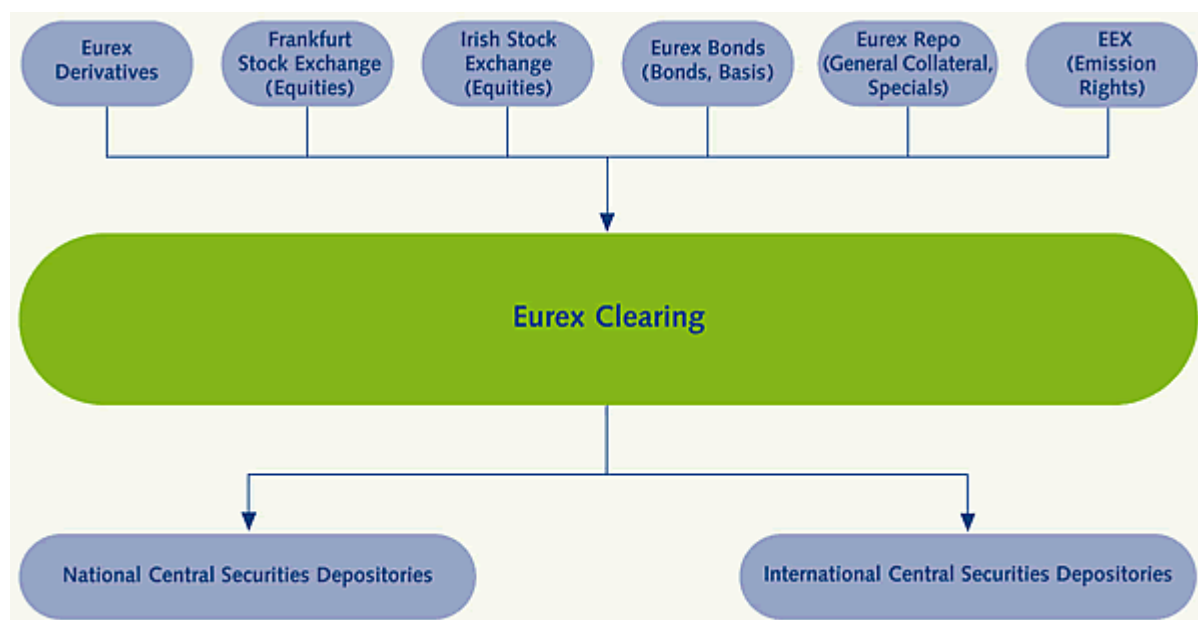
### 1.4 Institutional and market structure

- Cash equity trading is undertaken via the FWB® Frankfurter Wertpapierbörse (the Frankfurt Stock Exchange) - both Xetra® and floor and the Irish Stock Exchange, cleared by Eurex Clearing AG as CCP and settled in Clearstream Banking Frankfurt and Euroclear UK & Ireland.
- Bond trading is undertaken via Eurex Bonds, cleared by Eurex Clearing AG as CCP and settled in Clearstream Banking Frankfurt, Clearstream Banking Luxemburg and Euroclear Bank.

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<sup>1</sup> [www.eurexclearing.com](http://www.eurexclearing.com)

- Repo trading is undertaken via Eurex Repo, cleared by Eurex Clearing AG as CCP and settled in Clearstream Banking Frankfurt, Clearstream Banking Luxemburg and Euroclear Bank.
- Financial derivatives are traded at Eurex Exchanges and are cleared via Eurex Clearing AG as CCP. The physical delivery takes place in Clearstream Banking Frankfurt and SegalInterSettle.
- Cash transactions are settled in Euro and Swiss Francs via Central Banks and in US Dollars and Pounds Sterling via commercial banks.



Eurex Clearing AG serves more than 114 clearing members located in 10 European countries and manages a collateral pool of approximately EUR 45 billion in 2007. In 2007, Eurex Clearing AG processed more than 2,033 million transactions.

Further details on the markets structure can be found on Eurex Clearing AG's website<sup>2</sup>.

## 1.5 Regulatory Status

Eurex Clearing AG is a company incorporated in Germany and licensed as a credit institution under supervision of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) pursuant to the Banking Act (Gesetz für das Kreditwesen). The Financial Services Authority (FSA) has granted

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<sup>2</sup> [www.eurexclearing.com](http://www.eurexclearing.com)

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Eurex Clearing AG status as a Recognised (Overseas) Clearing House (ROCH) in the United Kingdom.

#### 1.6 Information and methodology used for the assessment

The assessment uses the recommendations and the methodology developed jointly by the CPSS and IOSCO as set out in their report entitled 'Recommendations for Central Counterparties' published in November 2004.

Assessors gathered sufficient information to formulate draft answers to the key questions, which were then discussed with Eurex Clearing AG and updated as appropriate. The main sources of information used in making the assessment were Eurex Clearing AG's own documentation and their answers to supplementary questions.

## 2 Assessment of observance

### 2.1 Executive summary

This is the third review of the Committee on Payment and Settlement Systems (CPSS) and IOSCO (International Organization of Securities Commissions) Recommendations for Central Counterparties that Internal Auditing performed concerning the Eurex Clearing AG. The reviews were performed in 2004 and 2005 respectively.

The audit assesses the IOSCO Recommendations for Central Counterparties (recommendations 1 through 15) against the Eurex Clearing AG business.

It is Internal Auditing's opinion that the Eurex Clearing AG fully complies with the IOSCO Recommendations:

Assessment category	Recommendation
Observed	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15
Broadly observed	
Partly observed	
Non-observed	
Not applicable	

Table 1: Collation of assessment results by assessment category

## 2.2 Recommendation by recommendation assessment of observance

### 2.2.1 Recommendation 1 – Legal Risk

A CCP should have a well founded, transparent and enforceable legal framework for each aspect of its activities in all relevant jurisdictions.

#### Clarity, Coherence and Availability of Laws and Regulations

Eurex Clearing AG is subject to German Law.

Eurex Clearing AG members are subject to the rules established by Eurex Clearing AG in the conduct of their business. Due to the “Clearing Conditions for Eurex Clearing AG”, only institutions domiciled in a country of the European Union or in Switzerland are eligible as an Eurex Clearing AG member, provided that such institutions have been licensed by the responsible authorities of their country of origin, their license covers the conduct of safe custody business, lending operations, and the receipt of collateral in the form of cash or securities, and said institutions are under supervision of the responsible authorities according to the regulatory standards of the European Union or, if domiciled in Switzerland, by the Swiss Banking Commission (Eidgenössische Bankenkommision). For those involved in clearing links please see recommendation 11.

Transparency of all rules and regulations is provided by publishing them via the Eurex Clearing AG website.

There is no indication that rules and regulations are not internally coherent.

#### Effectiveness of Laws and Regulations

Eurex Clearing AG operations are governed by a Clearing Agreement (Form/Standard Agreement) it has with its members.

The “Clearing Conditions for Eurex Clearing AG” regulate all significant features of its operations and are enforceable against members by virtue of the contractual relationship.

#### Enforceability of Rules, Procedures, and Contracts on Member Default

Enforceability is ensured as the rules and regulations are part of the contract that is signed by the participant.

The handling of default or insolvency of participants of Eurex Clearing AG, including the closing out of the participant’s positions, is regulated in the “Clearing Conditions for the Eurex Clearing AG”.

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Eurex Clearing AG and its members, which have to be domiciled in a country of the European Union or Switzerland, are subject to the German Insolvency (Default) Law in case of an insolvency case.

Conflict of Laws

Conflicts of laws are highly unlikely. Regarding the clearing services used, all Eurex Clearing AG members have to submit to German law once they sign the Eurex Clearing AG's Clearing Agreement. Thus, in case of any law suits between Eurex Clearing AG and its members regarding the fulfilment, non-fulfilment, non-performance, etc. of obligations in the context of the clearing services to be provided by Eurex Clearing AG or arising out of the transactions cleared by Eurex Clearing AG, German law, which contains conflict of law rules, will primarily apply.

Additionally with respect to the insolvency of an Eurex Clearing AG member, foreign (members based in the European Union) or domestic, or of Eurex Clearing AG itself, the German Insolvency Code should be upheld. Regarding the insolvency of an Eurex Clearing AG member this is due to the EU Settlement Finality Directive which has been transferred into German law, respectively into the German Insolvency Code. With respect to the insolvency of Eurex Clearing AG itself, this is stipulated due to an EU directive within the German Banking Act.

Assessment: Observed

### 2.2.2 Recommendation 2 – Participation Requirement

A CCP should require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the CCP. A CCP should have procedures in place to monitor that participation requirements are met on an ongoing basis. A CCP's participation requirements should be objective, publicly disclosed, and permit fair and open access.

#### Financial and Operational Requirements

Financial and operational requirements are regulated and stated in the "Clearing Conditions for the Eurex Clearing AG". These requirements are agreed to by participants and reviewed by Eurex Clearing AG before acceptance. For example, minimum capital standards have been defined and depend on the type of clearing membership the new member chooses; credit ratings are not required, but an external credit rating (Standards and Poors, etc.) is reviewed before approval; total assets are not considered within the approval process, however, the clearing member must commit to supplying additional margin when Eurex Clearing AG asks it to (Clearing Conditions for the Eurex Clearing AG, Part 3 Sec.3,1(3)); and all members must be regulated institutions.

#### Monitoring of Requirements

Eurex Clearing AG has official/regular monitoring procedures for the compliance of the participation requirements which are performed on an ongoing basis. Clearing members are tracked on a quarterly basis to provide evidence that their liable equity capital still meets the admission requirements of Eurex Clearing AG. Furthermore, the members have to agree to supply Eurex Clearing AG if there are any changes to their participation requirements, a review of the clearing fund is performed weekly and every time collateral is withdrawn, and there is a review of participant requirements during special occurrences or events.

#### Objectivity and Disclosure of Participation Requirements

Eurex Clearing AG reserves the right to not allow a participant to become a member after a judgement is made concerning the participation requirements.

The "Clearing Conditions for the Eurex Clearing AG" gives Eurex Clearing AG the right to suspend and/or terminate a license and its business relationship with that member.

Participant requirements are clearly stated in the "Clearing Conditions for the Eurex Clearing AG". This and other rules and regulations are available via the Eurex Clearing AG website.<sup>3</sup>

Assessment: Observed

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<sup>3</sup> <http://www.eurexclearing.com/index.html>

### 2.2.3 Recommendation 3 – Measurement and Management of Credit Exposures

A CCP should measure its credit exposures to its participants at least once a day. Through margin requirements, other risk control mechanisms or a combination of both, a CCP should limit its exposures to potential losses from defaults by its participants in normal market conditions so that the operations of the CCP would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.

#### Measurement of Exposures

Eurex Clearing AG measures the exposures of its participants daily via Risk Based Margining. This ensures a 99% confidence interval per product for one day to cover its market price risks. Stress testing is done for portfolios and worst case scenario tests are performed as well.

Eurex Clearing AG further performs intra-day margining (intra-day margin call) to safeguard and strengthen the Lines of Defense of the Clearing House ensuring its continuous integrity for the markets cleared by Eurex Clearing AG. This controls the counterparty credit risk of the CCP by supplying permanent risk assessments to clients and their exposure based on current market conditions during the trading day. This is performed every 10 minutes.

The prices and positions that are used for the above mentioned calculations are used/made available in real time.

#### Limitations of Exposures

Eurex Clearing AG limits its exposures to potential losses from defaulting participants on the basis of its membership requirements, margining, and risk control mechanisms. This is based on the risk based margining methodology, intra-day margining, monitoring of position limits, daily stress testing, and respective reporting.

Eurex Clearing AG can also demand additional financial resources/margin from the participant in situations when unusual trading activity is detected.

Assessment: Observed

#### 2.2.4 Recommendation 4 – Margin Requirements

If a CCP relies on margin requirements to limit its credit exposures to participants, those requirements should be sufficient to cover potential exposures in normal market conditions. The models and parameters used in setting margin requirements should be risk-based and reviewed regularly.

##### Sufficiency of Margin Cover

Eurex Clearing AG provides coverage for potential losses due to price variations. The amount of collateral which must be deposited is calculated on the basis of the total risk exposure of the clearing member. The total risk exposure is determined from the price risk of the derivatives and cash market positions held by the clearing member. The risks reducing effect of combinations of positions is taken into consideration in this calculation, in that equal but opposite risks within the account are offset against each other. As a result, an optimal degree of security is achieved.

The margin parameters are reviewed regularly to assess the reliability of the methodology in achieving the desired coverage. The parameters are monitored in real time.

The monitoring of the risk model (Risk Based Margining model) which is used to determine if the margin levels are consistent with the intended coverage is performed on a regular basis.

##### Ability to Make Intraday Margin Calls

Due to the contractual obligation with participants Eurex Clearing AG has the authority to demand desired coverage. This is clearly stated in the “Clearing Conditions for the Eurex Clearing AG”.

Eurex Clearing AG reserves the right to demand at any time from the Clearing Member a higher, or additional, amount of either cash collateral or those securities or rights to securities that are accepted by Eurex Clearing AG. Additional collateral must be deposited within 30 minutes in the appropriate currency in the appropriate/respective account.

Intra-day margin calculation and margin calls, if required, are done every 10 minutes of a trading day.

##### Collateral Acceptability and Haircuts

Eurex Clearing AG determines on a per case basis which securities and book-entry securities it accepts in satisfaction of the collateral requirements as well as the pledge value of such securities. This is clarified in the “Clearing Conditions for the Eurex Clearing AG”. The final approval is done by the executive board of the Eurex Clearing AG.

Haircuts are established and currency risk is considered.

Assessment: Observed

#### 2.2.5 Recommendation 5 – Financial Resources

A CCP should maintain sufficient financial resources to withstand, at a minimum, a default by the participant to which it has the largest exposure in extreme but plausible market conditions.

##### Financial Resources in the Event of a Default

In case Eurex Clearing AG has to cover losses from a participant's default it is assumed that there are adequate resources available to cover it. Default procedures are in place (see "Clearing Conditions for the Eurex Clearing AG").

Eurex Clearing AG line of defense consists of 1) the offsetting positions (hedging), 2) the margin collaterals (which could be liquidated immediately), 3) the Clearing Fund deposits of the default members, 4) the Eurex Clearing AG reserves, 5) the remaining default member funds, 6) Eurex Clearing AG equity capital, and 7) the Letter of Comfort (Patronage Guarantee; issued by Deutsche Börse AG and Swiss Exchange AG).

Eurex Clearing AG currently has €105 million in equity capital, €700 million from the Patronage Guarantee (issued by Deutsche Börse AG and Swiss Exchange AG), and the Clearing Fund currently totals approximately €1 billion.

Also, to help detect these incidents, haircuts and caps are used to consider possible difficulties in liquidating collateral.

##### Stress Testing Scenarios and Default Procedures

Stress testing procedures exist and are implemented. The tests entail different scenarios (e.g. some historical scenarios, extreme market conditions etc.). Normal conditions are covered by the collateral requirements.

Stress testing reporting is supplied to the executive board of the Eurex Clearing AG quarterly and immediately in emergency situations (e.g. variances).

The "Clearing Conditions for the Eurex Clearing AG" exclusively focuses on the correctness of the Clearing Fund and the default procedures, which is made available to all participants and is also part of their contractual agreement. Insurances are not used to cover defaults.

##### Any Financial Resources Not Immediately Available

All financial resources that the CCP rely on to cover losses from defaults are available immediately. Credit lines are set-up and can be used when needed.

Assessment: Observed

#### 2.2.6 Recommendation 6 – Default Procedures

A CCP's default procedures should be clearly stated, and they should ensure that the CCP can take timely action to contain losses and liquidity pressures and to continue meeting its obligations. Key aspects of the default procedures should be publicly available.

##### Default Procedures

Default procedures that clearly explain the business and handling are implemented and are agreed upon by the member.

The handling of default or insolvency of participants, including the authority of closing out a participant's positions, is regulated in the "Clearing Conditions for the Eurex Clearing AG".

Eurex Clearing AG and its members are subject to the German Insolvency (Default) Law in case of an insolvency case.

##### Enforceability of Default Procedures

The German legal framework, applicable in the event of the insolvency of a participant, provides a high degree of assurance. In addition the relevant provisions of the German Insolvency Code stipulates a statutory close-out of all open contracts or positions not yet performed in the moment the opening of an insolvency proceeding regarding an Eurex Clearing AG member has been decided by a court or, in case of a remote member defaulting, similar measures are taken by its home regulator/court. That rule – by principles of international German Insolvency Law – is also applicable in the event of the insolvency of a foreign member and should be upheld by foreign courts due to the implementation of the settlement finality directive in the European Union and Switzerland.

National insolvency law does not permit a separate treatment of contracts or positions held by a member of the Eurex Clearing AG in the event of such member's insolvency. A member always acts as principal vis-a-vis the Clearing House regardless of the fact that the contract or position has been entered into for the account of a third person.

##### Internal Plans for Default Management

Internal plans are implemented. The internal document "Defaulting Member Process – Overview" describes default trigger, management and department/section roles and responsibilities. More detailed descriptions for default related processes (e.g. cash settlement, trading, collateral liquidation, CCP process, close derivatives position etc.) do exist in Market Supervision. Trader and back office tasks will be taken over by Market Supervision staff. This is done on behalf of the Eurex Clearing AG Executive Management.

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Default Procedures Publicly Available

Default procedures are made public via the Eurex Clearing AG website.<sup>4</sup>

Assessment: Observed

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<sup>4</sup> <http://www.eurexclearing.com/index.html>

### 2.2.7 Recommendation 7 – Custody and Investment Risks

A CCP should hold assets in a manner whereby risk of loss or of delay in its access to them is minimised. Assets invested by a CCP should be held in instruments with minimal credit, market and liquidity risks.

#### Custody Risk

Eurex Clearing AG investment rules are regulated in the Eurex Clearing AG Treasury & Credit Policy.

Eurex Clearing AG holds cash collateral at several banks and non-cash collateral is held by Central Security Depositories (CSD). Collaterals from participants are pledged with Clearstream Banking AG (CBF) and/or SegalInterSettle AG (SIS). Eurex Clearing AG verifies the assurance that these custodians perform the requirements for recommendation 7 as it is stated (e.g. valid accounting practices and safekeeping/internal control procedures, regulatory regulated, and strong financial position).

Treasury performs the cash management and investing for the Eurex Clearing AG.

Eurex Clearing AG is aware of the total amount of resources available to it at all times and can realise this value promptly.

#### Investment Security

For Eurex Clearing AG secured financial investments (repurchase agreements) are used/preferred. Only when secured financial investments are not available, unsecured financial investments are allowed to be used. The securities that are eligible as collateral for secured placements are government bonds, mortgage bonds (Pfandbriefe), and bank bonds (Bankanleihen). Investments are always short term (overnight) with minimum credit, market, and liquidity risks.

#### Overall Exposures to Obligators

In making its investment decisions, Eurex Clearing AG takes into account its overall credit risk exposure to the individual obligators and ensures that its overall credit risk exposure to the individual obligator remains within acceptable concentration limits.

Assessment: Observed

### 2.2.8 Recommendation 8 – Operational Risk

A CCP should identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures. Systems should be reliable and secure, and have adequate, scalable capacity. Business continuity plans should allow for timely recovery of operations and fulfilment of a CCP's obligations.

#### Identification and Minimization of Operational Risk

The Operational Risk Identification – as documented in the Group Risk Management Policy – involves the identification of all threats to Eurex Clearing AG, as well as causes of loss and potential disruptions. Risks may arise as a result of internal activities or external factors and the risk examination must be performed with regard to existing or new processes, when concluding new business or entering new service areas.

Management controls are in place and seem sufficient. The management of CCP processes and their controls are described in the rules and regulations of Eurex Clearing AG. These are monitored by several parties (e.g. management, internal and external auditors).

#### Performance of Key Systems

There is no evidence that key systems are not reliable, not secure, and are not able to handle volume under stress conditions.

Systems are tested regularly to ensure stress conditions can be handled.

#### Business Continuity Plans

Eurex Clearing AG has implemented an incident/crisis management process to facilitate the co-ordinated and rapid reaction to an incident or crisis in a controlled and effective manner in order to minimise business and market impact and return to normal activity as quickly as possible.

Eurex Clearing AG has defined a Recovery Time Objective (RTO) which represents the maximum elapsed time that services, processes or resources may be unavailable following a disaster before Eurex Clearing AG is impacted beyond tolerable limits.

Assessment: Observed

### 2.2.9 Recommendation 9 – Money Settlements

A CCP should employ money settlement arrangements that eliminate or strictly limit its settlement bank risks, that is, its credit and liquidity risks from the use of banks to effect money settlements with its participants. Funds transfers to a CCP should be final when affected.

#### Settlement Bank Model

Eurex Clearing AG uses both the central bank model and the private settlement bank model. The central bank model is used for cash payments for euros (EUR) and Swiss francs (CHF). For cash payments of pounds sterling (GBP) and US dollars (USD), private settlement banks are used.

#### Finality of Payments

Legal agreements with settlement banks concerning transfers and finality is stated in their contractual agreements.

Laws of the relevant jurisdictions support the provisions of transfers and finality (German Insolvency Law would apply (InsO §116)).

Confirmations are administered when requested.

#### Monitoring of Settlement Banks

The criterion in place to monitor the financial strength and credit worthiness of “external” settlement banks are credit ratings from respectable credit rating organizations (e.g. Standard and Poors and Fitch). These rating organizations review the desired criteria set by recommendation 9 (e.g. review of creditworthiness, liquidity, and operational reliability).

#### Exposure to Settlement Bank Failure

Eurex Clearing AG reviews the ratings of the settlement banks based on external credit rating organizations on an ongoing basis.

Assessment: Observed

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#### 2.2.10 Recommendation 10 – Physical Deliveries

A CCP should clearly state its obligations with respect to physical deliveries. The risks from these obligations should be identified and managed.

##### Clarity of Obligations on Physical Deliveries

Eurex Clearing AG states its obligations in respect to physical deliveries in all relevant markets. All pertaining procedures are laid out in the “Clearing Conditions for the Eurex Clearing AG”.

##### Principle Risk Management

In so far as that Eurex Clearing AG is obligated to take and receive deliveries of physical instruments, principle risk is eliminated due to the use of Delivery versus Payment for the clearing of all products.

##### Liquidity, Storage and Delivery Risk Management

Liquidity risk management is in place and is done via Treasury (for details please see recommendation 5).

Storage risks do not occur as all securities are usually held in collective safe custody.

Risks concerning deliveries are assessed by Risk Management periodically.

Assessment: Observed

### 2.2.11 Recommendation 11 – Risks in Links Between CCP's

CCPs that establish links either cross-border or domestically to clear trades should evaluate the potential sources of risks that can arise, and ensure that the risks are managed prudently on an ongoing basis. There should be a framework for cooperation and coordination between the relevant regulators and overseers.

#### Links in Operation

Eurex Clearing AG currently has two existing links. One with The Clearing Corporation (CCorp) and one with the European Commodity Clearing AG (ECC).

Each CCP/Clearing House becomes a special clearing member/participant of the other CCP Clearing House. This is specifically addressed within the "Clearing Conditions for the Eurex Clearing AG". This is done to minimise the risk that all obligations cannot be performed timely or not at all.

Before entering into a link, risks are evaluated (including due diligence or other analysis/measures as seen fit). Once a link is implemented and is operational the risks are evaluated daily.

The risks coming from defaulting members of one of the CCPs, or one of the CCPs itself are contemplated in the Clearing Link Agreements respectively.

#### Rules Governing Links

The Clearing Link Agreement is regarded as adequate protection to both CCPs and their participants. All obligations and rights of the linked CCPs are defined in the Clearing Link Agreement. During the agreement of the contract the law to be obliged is set (generally German law).

Contractual rules governing the linked systems, and governing the link itself, are submitted to the regulatory authorities for review.

#### Operational, Credit and Liquidity Risks

Due to Eurex Clearing AG structure there are operational, credit, and liquidity risks that arise. One example of operational risk that could occur is due to the time zone difference (e.g. being able to get securities for collateral on a certain time). If for some reason a credit risk develops, it is covered by Eurex Clearing AG's line of defense.

Mechanisms are in place to monitor and manage risks that are identified between linked CCPs. The links to CCorp and ECC are reviewed on a regular basis.

For default risks please see recommendation 6.

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Regulation and Oversight of Links

Eurex Clearing AG is supervised by the German Federal Financial Supervisory Authority (BaFin). The European Commodity Clearing AG (ECC) is also supervised by the BaFin and is a designated Payment System according to Article 10 of the Settlement Finality Directive 98/26/EC. The Clearing Corporation (CCorp) is registered as a Derivatives Clearing Organization (DCO) which is regulated by the Commodity Futures Trading Commission (CFTC).

Assessment: Observed

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#### 2.2.12 Recommendation 12 – Efficiency

While maintaining safe and secure operations, CCPs should be cost-effective in meeting the requirements of participants.

##### Review of Costs and Pricing

Eurex Clearing AG has in place procedures to control its operational costs. All budgets are reviewed and approved by management.

##### Review of Service Levels and Operational Reliability

The review of service levels, operational reliability as well as the capacity levels is seen as vital for the daily business of Eurex Clearing AG. These are performed on a regular basis. An ongoing profit and loss analysis is conducted and the outcome is relayed to the executive board of Eurex Clearing AG regularly.

Assessment: Observed

### 2.2.13 Recommendation 13 – Governance Arrangements

Governance arrangements for a CCP should be clear and transparent to fulfil public interest requirements and to support the objectives of owners and participants. In particular, they should promote the effectiveness of a CCP's risk management procedures.

#### Clarity and Transparency of Governance Arrangements

Eurex Clearing AG is a wholly owned subsidiary of Eurex Frankfurt AG and is jointly operated by Deutsche Börse AG and SWX Swiss Exchange.

Eurex Clearing AG fulfils Pillar 3 of Basel II (enhanced disclosure of transparency) and reports according to the German Banking Act its equity (§10), liquidity (§11), and credits given to large customers (13) consistently.

Governance arrangements are reported to the Bundesanzeiger annually and are made publicly available via the Eurex Clearing AG website and in the Deutsche Börse Group Annual Report.<sup>5</sup>

#### Separation of Reporting Lines for Risk Management

The organizational structure is set up so that the segregation of duties between departments offers sufficient independence.

Eurex Clearing AG risk management department is outsourced to the Group Risk Management of the Deutsche Börse AG. Risk reporting is performed directly to the Eurex Clearing AG executive management on a monthly basis and on an ad-hoc basis if and when deemed necessary.

#### Skills, Incentives and Accountability of Management and Board

The German Banking Act (KWG) stipulates basic requirements for the executive management board. BaFin regulation of Eurex Clearing AG is applicable.

Executive and Supervisory Board members of Eurex Clearing AG are partly members of Deutsche Börse AGs Executive Committee.

All senior managers are appointed by the Executive Board.

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<sup>5</sup> <http://deutsche-boerse.com>

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Disclosures of Objectives, Responsibilities and Delivery

Eurex Clearing AG clearly states and makes publicly available its ownership structure and its composition and role of the executive board. It also publishes milestones and objectives which can be viewed on its website.<sup>6</sup>

Assessment: Observed

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<sup>6</sup> <http://www.eurexclearing.com/index.html>

#### 2.2.14 Recommendation 14 – Transparency

A CCP should provide market participants with sufficient information for them to identify and evaluate accurately the risks and costs associated with using its services.

##### Disclosure of Risks

A CCP should disclose to market participants its rules and regulations, relevant laws, governance procedures, risks, steps taken to mitigate risks, the rights and obligations of participants, and the costs of using its services. This and all other relevant information is made available via the internet on the Eurex Clearing AG website.<sup>7</sup>

Part of the member's obligation is to abide to the Eurex Clearing AG Code of Conduct. This was established and implemented in 2006/2007.

Eurex Clearing AG discloses the risk methodology (i.e. Risk Based Margining, scenario based matrix approach), risk parameters, and other calculations (e.g. detailed risk scenario calculations) to its members. Information on stress tests are also provided. A complete overview of what can be received is shown online<sup>8</sup>.

Disclosure of quantitative information on its clearing, netting, and settling activities is ensured within the Deutsche Börse Group's annual report, re-evaluated statistics, and the performance ("running") of the settlement activities.

Assessment of risks and costs are distributed publicly periodically (parameters; margin, haircuts, etc.).

##### Accessibility of Information

As mentioned above, all relevant information is made public via the Eurex Clearing AG website.

##### Review of Information

This is the third review of the Eurex Clearing AG CCP by Internal Auditing. The last reviews were performed in 2004 and 2005.

The answers of the past two assessments were not disclosed to the public. It is planned to have this assessment made publicly available.

Assessment: Observed

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<sup>7</sup> <http://www.eurexclearing.com/index.html>

<sup>8</sup> [http://www.eurexclearing.com/risk\\_de.html](http://www.eurexclearing.com/risk_de.html)

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#### 2.2.15 Recommendation 15 – Regulation and Oversight

A CCP should be subject to transparent and effective regulation and oversight. In both a domestic and an international context, central banks and securities regulators should cooperate with each other and with other relevant authorities.

Eurex Clearing AG is a company incorporated in Germany and licensed as a credit institution under supervision of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) pursuant to the Banking Act (Gesetz für das Kreditwesen). The Financial Services Authority (FSA) has granted Eurex Clearing AG status as a Recognised Overseas Clearing House (ROCH) in the United Kingdom.

Assessment: Observed