

Chapter I of the Clearing Conditions of Eurex Clearing AG

## General Provisions

As of 01.08.2019

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AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED,

DELETIONS ARE CROSSED OUT.

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[...]

## Part 1 General Clearing Provisions

### 1 General Rules

[...]

#### 1.8 No Clearing of OTC Interest Rate Derivative Transactions for U.S. Persons

1.8.1 In relation to OTC Interest Rate Derivative Transactions, the Clearing Member (other than any OTC IRS U.S. Clearing Member) represents and warrants by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieverprechen*) to Eurex Clearing AG that, at the time it enters into a Clearing Agreement and each time when entering into an OTC Interest Rate Derivative Transaction, it (i) reasonably believes that it does not fall within any of the U.S. Person Categories and believes in good faith that it would not otherwise be deemed to be a **“U.S. person”** under the Interpretive Guidance (the **“CM-OTC U.S. Person Representation”**) and (ii) will not submit any Client-Related Transaction for Clearing to Eurex Clearing AG, unless the Clearing Member (a) has either obtained a representation from the relevant Direct Client (other than an ICM Client) that such Direct Client reasonably believes that it does not fall within any of the U.S. Person Categories and/or believes in good faith that it would not otherwise be deemed to be a **“U.S. person”** under the Interpretive Guidance, or (b) in case the Clearing Member has not obtained a representation as described under (a) above, reasonably believes that the relevant Direct Client (other than an ICM Client) does not fall within any of the U.S. Person Categories and believes in good faith that the relevant Direct Client would not otherwise be deemed to be a **“U.S. person”** under the Interpretive Guidance (the **“CM-Customer OTC U.S. Person Representation”**). Number 7.2.1 (2) shall apply accordingly.

This Number 1.8.1 (ii) shall not apply, if the Clearing Member submits Client-Related Transactions for Clearing to Eurex Clearing AG with respect to Direct Clients (other than an ICM Client) that fall within any of the U.S. Person Categories provided that the Direct Client (i) is an affiliate of the relevant Clearing Member and (ii) is considered as proprietary account of the relevant Clearing Member under CFTC Rule 1.3. Under this Number 1.8.1, “affiliate” means any entity that controls, directly or indirectly, the Clearing Member, any entity that the Clearing Member controls, directly or indirectly, and any

entity in respect of which the Clearing Member and the entity are both under common control, directly or indirectly, of another entity.

[...]

## **2 Clearing Members**

[...]

### **2.5 Specific provisions and additional continuing obligations for U.S. Clearing Members**

[...]

#### **2.5.1 Special prerequisites and provisions for U.S. Clearing Members**

[...]

- (2) The applicant must either qualify as a futures commission merchant (as defined in the CEA) registered with the CFTC ("**FCM**") or as a Proprietary Trading Firm.

[...]

"**Affiliate**" means with respect to a Proprietary Trading Firm, any entity that controls, directly or indirectly, the Proprietary Trading Firm, any entity controlled, directly or indirectly, by the Proprietary Trading Firm or any entity directly or indirectly under common control with such Proprietary Trading Firm. For this purpose, "control" of an entity or of a Proprietary Trading Firm means ownership of a majority of the voting power of the entity or the Proprietary Trading Firm. The term Affiliate also covers any legal entity, corporation, partnership, association, trust, sovereign state, or agency whose account, when carried by the Proprietary Trading Firm, would be considered a proprietary account pursuant to CFTC Regulation Rule 1.3 (y) (or any successor or replacement regulation thereto).

[...]

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