

**EUREX**



**SINGAPORE ADDENDUM**

**Risk Disclosures by Recognised Clearing House in  
Singapore**

**8 June 2020**

**Disclosure pursuant to conditions of recognition by the Monetary Authority of Singapore ("MAS")**

The Risk Disclosures contained in this Addendum are provided only to Participants<sup>1</sup> of Eurex Clearing AG ("Eurex Clearing") and only for the purposes of compliance with of the Recognition Conditions issued by MAS on 14 September 2018 in Annex A of the letter of even date from MAS addressed to Eurex Clearing. For completeness, this Addendum should be read in conjunction with the following disclosures (hereafter collectively the "Disclosure Documents"):

- (a) Paragraph 2 of the Disclosure pursuant to Article 39(7) of Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ("EMIR") (as amended, restated or supplemented from time to time), which is accessible at the following weblink:

<https://www.eurex.com/ec-en/services/risk-management/client-asset-protection-emir>

and

- (b) Paragraph 2 of the Disclosure pursuant to Article 39(7) of EMIR with respect to the FCM Clearing Conditions of Eurex Clearing AG for the LSOC clearing models (as amended, restated or supplemented from time to time) (the "FCM Disclosure"), which is accessible at the following weblink:

<https://www.eurex.com/ec-en/join/lsoc/lsoc-model>

Unless otherwise indicated or expressly defined in this Addendum, capitalised terms used in this Addendum which are also used in the relevant Disclosure Document shall have the meanings ascribed to them in the Disclosure Documents or in the Clearing Conditions for Eurex Clearing (the "Clearing Conditions") (as the case may be). The information in the Disclosure Documents is subject to change and the version published on the relevant weblinks listed above shall be deemed to be the authoritative version of the relevant Disclosure Document(s) and is qualified in its entirety by the Clearing Conditions.

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<sup>1</sup> "Participant" means:

- (a) a corporation incorporated in Singapore or which has a place of business in Singapore (note: for foreign-incorporated corporations operating in Singapore through a branch, this refers only to the part of the business that is operated through the branch in Singapore.);
- (b) an individual who is a Singapore citizen or resident in Singapore; and
- (c) any other person in Singapore,

for whom Eurex Clearing (whether directly or indirectly) carries on clearing or settlement of transactions.

For Participants not incorporated in Singapore but operate in Singapore through a branch, this refers only to the part of the business that is operated through the branch in Singapore.

This Addendum, its contents and any other documents referred to or incorporated by reference into this Addendum (including the Disclosure Documents) **DO NOT** (and **are NOT INTENDED** in any way to) create any contractual relationships or legal obligations between Eurex Clearing and any Participant (or any other person), nor do this Addendum, its contents or any other documents referred to or incorporated by reference into this Addendum (including the Disclosure Documents) constitute any form of advice (legal or otherwise) from or by Eurex Clearing to any Participant (or any other person).

**All Participants should separately seek and rely on independent legal, tax and financial advice before and during their participation on Eurex Clearing or the utilisation of any clearing services offered by Eurex Clearing.**

## 1. **Regulatory Status**

Eurex Clearing is a recognised clearing house under Section 51(2) of the Singapore Securities and Futures Act (Cap. 289) ("**SFA**"). Eurex Clearing is authorised by MAS to operate a clearing facility for the clearing and settlement of specified instruments that are derivatives contracts<sup>2</sup>, and the clearing only of specified instruments that are securities<sup>2</sup>. A recognised clearing house may only provide clearing services to participants that are not retail investors in Singapore.<sup>3</sup>

Eurex Clearing is subject to regulatory supervision by the German Federal Financial Supervisory Authority ("**BaFin**") and the German Central Bank (Deutsche Bundesbank), and authorised as a central counterparty under EMIR. Eurex Clearing is primarily authorised by BaFin to offer its services and conduct its activities in the European Union. It is primarily subject to and governed by the laws of Germany and the European Union. For more information on Eurex Clearing's regulatory status, please refer to publicly available information at the following weblinks:

<https://www.eurex.com/clearing-en/about-us/company-profile>

<http://www.eurex.com/clearing-en/about-us/regulatory-standards>

## 2. **Rights and Remedies**

The rights and remedies available to Participants accessing Eurex Clearing, as stated in the rules, procedures and policies of Eurex Clearing, will be governed by the laws of Germany and the European Union, and these may differ from the rights and remedies available to Participants accessing approved clearing houses in Singapore which are primarily regulated by MAS and governed by Singapore laws.

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<sup>2</sup> "Derivatives contracts" and "securities" have the respective meanings ascribed to them in the SFA.

<sup>3</sup> For the purposes hereof the term retail investor shall comprise any investor domiciled in Singapore other than an institutional investor, accredited investor or expert investor within the meaning of the SFA.

### **3. Segregation Models of Eurex Clearing and Costs**

Paragraph 2 of each Disclosure Document provides a general overview of each of the clearing models currently offered by Eurex Clearing (the "**Clearing Models**") that provide for different levels of client segregation and protection, including information on the main legal implications of the respective levels of segregation and applicable insolvency law, which may differ from those of Singapore insolvency law. The Disclosure Documents do not provide any guidance on any restrictions or limitations which may arise from the applicable laws of the jurisdictions in which the Participants are incorporated or registered as Participants are expected to seek their own separate legal advice on this. In addition, please note that the LSOC Models described in the FCM Disclosure can only be used by FCM Clearing Members which are registered as Future Commission Merchants (FCM) with the U.S. Commodity Futures Trading Commission (CFTC) and their clients.

Eurex Clearing does not charge separate fees for the use of a specific Clearing Model. Costs related to clearing are set out in the price list of Eurex Clearing, which is accessible at <https://www.eurex.com/ec-en/rules-regs/rules-and-regulations>.

### **4. Risks arising from Eurex Clearing's Insolvency, and Differences in Taxation Laws, Foreign Exchange Rates and Time Zones between Germany and Singapore**

- As a German clearing house, Eurex Clearing is subject to the insolvency laws of Germany and not Singapore. Hence, the effects of an insolvency of a German clearing house may differ from those of a Singapore clearing house. Paragraph 2 of each Disclosure Document highlights how some of the arrangements under the Clearing Models are subject to insolvency laws applicable to Eurex Clearing.
- Due to its statutory seat in Frankfurt am Main, Eurex Clearing is subject to applicable domestic and European taxation laws and regulations pursuant to Section 1 Paragraph 1 Number 1 of the German Income Tax Act (*Körperschaftsteuergesetz*) which may lead to a different tax processing or treatment of transactions/payments in respect of clearing performed by Eurex Clearing when compared to those where clearing is performed through a Singapore clearing house.
- Given that the trades and products cleared at Eurex Clearing are denominated in currencies other than Singapore Dollars and require collateral in the form of cash or securities denominated in currencies other than Singapore Dollars to be posted as margin, Participants are subject to foreign exchange movements and may incur foreign exchange translation losses.
- Given that trades cleared at Eurex Clearing are subject to business hours and settlement timelines that may differ from such business hours of Participants operating in Singapore,

the time zone differences may pose risk since Singapore business hours are at least 6 to 7 hours ahead of Germany.

The above disclosures do not and would not provide an exhaustive list of all the possible risks to Participants in relation to their participation on Eurex Clearing. Participants must therefore consult their own legal, tax and financial advisers in order to make their own informed assessment of risks arising from or relating to their participation on Eurex Clearing.

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