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VIA ELECTRONIC SUBMISSION

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

September 26, 2023

**Re: Notice of Proposed Rulemaking: Governance Requirements for
Derivatives Clearing Organizations (RIN 3038-AF15)**

Dear Mr. Kirkpatrick,

Eurex Clearing AG (“Eurex Clearing”) appreciates the opportunity to provide comments to the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) regarding the Commission’s Notice of Proposed Rulemaking: Derivatives Clearing Organizations Recovery and Orderly Wind-Down Plans; Information for Resolution Planning published on July 28, 2023 (“Proposal”).¹ Eurex Clearing has been a fully registered derivatives clearing organization for swaps with the CFTC since 2016 and also qualifies as a central counterparty (“QCCP”) pursuant to Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties, and trade repositories (“EMIR”). Eurex Clearing is one of the leading CCPs globally, clearing the broadest scope of products under a single framework in Europe and accepting the world’s widest spectrum of eligible collateral.

Preliminarily, Eurex Clearing notes that it limits its comments to Sections III and IV of the Proposal, as Eurex Clearing is not a systemically important DCO (“SIDCO”) or Subpart C DCO under CFTC regulations. Regarding Section III of the Proposal, Eurex Clearing welcomes and supports this Section, which would require DCOs that are neither SIDCOs nor Subpart C DCOs to maintain and

¹ Notice of Proposed Rulemaking: Derivatives Clearing Organizations Recovery and Orderly Wind-Down Plans; Information for Resolution Planning, 88 Fed. Reg. 48968 (July 28, 2023).

submit to the Commission plans for orderly wind-down, with requirements that are substantially similar to the proposed requirements for the orderly wind-down plans to be submitted by SIDCOs and Subpart C DCOs. Eurex Clearing applauds the Commission for harmonizing the proposed requirements of Section III with both the “Principles for financial market infrastructures” published by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions (“PFMIs”) and the Regulation (EU) 2021/23 on a framework for the recovery and resolution of central counterparties (“CCP RRR”). The Proposal represents a further significant milestone by the Commission in harmonizing CFTC regulations with EU regulations, and Eurex Clearing commends the Commission for its continuous work towards such harmonization whenever possible.

As Eurex Clearing has been a QCCP compliant with the PFMIs since receiving its registration under EMIR in 2014, Eurex Clearing is already fully compliant with the PFMIs, including all Principles that relate to its wind-down plans. Eurex Clearing regularly assesses its compliance with the PFMIs and publishes on its website annual self-assessments, which also consider the additional guidelines published by CPMI-IOSCO.² In addition, Eurex Clearing is already fully compliant with CCP RRR, which entered into force on February 11, 2021, with most of its provisions applying from August 12, 2022. Eurex Clearing has closely assessed Section III of the Proposal and can formally acknowledge its compliance with substantially all of this Section. As stated, this compliance extends to both the requirements outlined in the PFMIs and CCP RRR.

With respect to Section IV of the Proposal, Eurex Clearing respectfully believes that requiring annual submission of wind-down plans would be unnecessary when there is no substantial or material change to the wind-down plan. Proposed CFTC Regulation 39.19(c)(4)(xxiv) would require that a DCO “shall, upon revising its recovery plan or orderly wind-down plan, but in any event no less frequently than annually, submit the current plan(s) and supporting information to the Commission.” Eurex Clearing believes requiring submission only when material changes occur would lessen the burden on DCOs while providing the Commission with current plans whenever materially changed.

In conclusion, Eurex Clearing reiterates its appreciation for the opportunity to provide information and comments on the Proposal and looks forward to working with the Commission on other proposals and initiatives in the future.

² See Eurex Clearing, Regulatory Standards and Disclosures, *available at*: <https://www.eurex.com/ec-en/find/about-us/regulatory-standards>.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'E. Seinsheimer', with a stylized flourish at the end.

Eric Seinsheimer
Director, Legal (Americas), Eurex &
US CCO, Eurex Clearing AG