

Brexit FAQ

Applying to become a new GCM

Q: What is the timeline for opening a new GCM, from initial contact to opening active positions accounts?

A: As a guideline, we assume a timeline of at least 6 months to on-board a new GCM.

Q: If an existing member applies for one of its affiliates to become a new GCM, what are your requirements and timelines relating to that application?

A: The same application requirements apply as for a new GCM that is not known at all to ECC. Timeline of at approx. 6 months. The whole admission package needs to be provided and all pre-conditions need to be fulfilled.

If the GCMs decide to transfer their GCM business to an EU-based entity the new entity needs to apply for a GCM membership.

The following GCM application documents are required by ECC:

- CM Questionnaire
- TP07 VAT
- CM01 Application Form (original required)
- CM02 Clearing Agreement (original required in duplicate)
- CM04 Contact Form
- T01 Technical Access
- T06 CRE Access
- T10 Individual User
- CM07 PoA
- CM12 Target 2 account
- CM13 authorization of Clearstream account (in case GCM wants to use a third party account)
- Target2 Bundesbank 2002 form
- Proof of bank license
- Commercial Register Extract
- Audited Financial Statements
- ID/ Passport copies or official signature schedule / specimen of the authorized signatories

In addition, the respective exchanges require additional documents as well in case the GCM also wants to be active as a trading participant. If applicable, the following documents are to be provided to EEX:

- A01 - Application for Admission at EEX (original required)
- T01 - Order of Technical Access
- T07 - Authorisation of Order Routing System
- E01 - Personal Reliability Management
- E02 - Declaration of Professional Qualification
- CV by minimum 1 director, board member
- A03 - Application for Trader Setup (original required)
- E03 - User setup (not traders but Back-office users)
- E04 - Personal Reliability of Traders
- Proof of Trading Exam for all traders
- E07 - Mail Authority
- T08 - STP Confirmation
- Passport Copies
- Due Diligence Questionnaire
- MifiD Data Service Agreement
- Third Country MiFID Exception
- Eligibility Form

In case of a universal succession to be applicable, an official letter by the GCM is required, plus commercial register of the succeeding entity, VAT no and LEI. But this needs to be discussed and treated individual per GCM.

Q: Are you currently contingency planning on the assumption that you will be able to have UK executing brokers and UK clearing members post-Brexit?

A: If the post-Brexit regulatory and insolvency law framework in the UK allows we wish to maintain the option to allow UK clearing members at ECC. However, as a result of the current uncertainty we advise our clearing members to repaper to a EU27 entity.

Q: If you won't accept UK clearing members, will you accept EU27 branches of UK firms as clearing members (e.g. the local branch of a bank established in London)?

A: See above.

Q: Are you prepared to grant exchange and clearing house memberships to U.S. GCMs or NCMs? If so, through what system would US GCMs settle EUR-denominated margin calls? What would US NCMs NOT be able to do that an EU NCM WOULD be able to do, if anything?

A: As per the current status, NCM membership can already be granted to US based / registered companies. No restrictions to U.S. based NCMs compared to EU based NCMs. US based GCMs cannot be approved under the current clearing conditions. The clearing conditions and operational framework need to be amended accordingly. The clearing conditions and the operational framework are currently revised and it is likely that they will potentially be extended such to accept also GCMs registered in the U.S. going forward. Process ongoing however.

Q: Are detailed runbooks/checkpoints available to members to ensure the request and opening is as smooth as possible?

A: There is no general rulebook available because the GCMs approaching the Brexit matter very differently. An individual strategy is to be created once the GCM have a fixed plan.

Q: What is your capacity for dealing with multiple new GCM requests at the same time? Are procedures being put in place to allow the streamlining of these requests?

A: There will be additional manpower dealing with new GCM requests at the same time. No real streamlining in place as each GCM application/ setup needs to be considered separately due to different final setup.

Q: Will new GCM memberships be required to show full statements of accounts and/or trading records for a period of time? Given that some GCMs will be brand new entities, can GCMs be grandfathered in by existing affiliated GCM members?

A: It is certainly possible to enable a kind of grandfathering as long as ECC understands what the organizational structure is like. As long as it is proven that the new entity belongs to the same ultimate parent ECC would only check the minimum requirements (bank license and equity of 3 million) first hand and the extensive rating process can then be made up for.

Existing NCMs and GCMs

Q: What timeline do you anticipate to upgrade a NCM to a GCM? Is this considered a decommissioning of NCM and opening of a new GCM?

A: An upgrade of a NCM into GCM isn't possible from the technical point of view. Therefore a complete new setup will be necessary.

Q: If an NCM will execute and a GCM will clear, what options are available to "auto-give all transactions" to a designated member?

A: This is not offered as a type of feature or service.

Q: Will you restrict the sponsorship of NCMs to European based GCMs or will the country of origin of the NCM be the main factor in the clearing relationship?

A: The admission is depending on a couple of criteria: 1. The NCM's country of registration needs to be acceptable according to ECC's clearing conditions. 2. NCM needs to have a GCM that is accepted as such by ECC according to the clearing condition, i.e. GCM needs to be registered either in EU, Switzerland or Norway.

Q: Will UK NCMs and GCMs have to reapply as members of your trading venue/CCP in light of the UK's exit from the EU, or will their memberships be grandfathered?

A: The membership criteria as defined in the exchange rules or the clearing rules does not distinguish between EU and non-EU participants but only determines a number of additional requirements for any foreign company. However, the future laws of the UK or European law may impose specific requirements on UK members depending on the scope of activities undertaken by the member.

Q: What additional documentation and requirements (if any) are required by you for current UK members that wish to maintain their membership post Brexit?

A: It is currently still unclear, if a current GCM membership of a UK based GCM can be maintained post Brexit. This goes hand in hand with an uncertainty in respect of possible additional documentation and requirements to be fulfilled by GCMs if it should be possible for GCMs to continue from the UK post Brexit.

Q: If there are new requirements, documentation or rules are these available yet? If not, when will they be available?

A: They will be available as soon as we can get a clear picture on the regulatory and insolvency regime in the UK post Brexit.

Q: Will there be any impact to existing signed agreements (e.g. clearing membership agreement, pledge agreements, CM/NCM documentation etc.)?

A: If it should not be possible for ECC to continue its operations with GCMs from the UK after Brexit due to regulatory or insolvency law changes the existing agreements will have to be terminated and ideally replaced with new agreements with a respective EU27 entity.

Settlement / collateral

Q: Will you permit UK firms to act as settlement agents of EU27 clearing brokers following the UK's departure from the EU, e.g. with respect to a physically settled equity option, could a client of an EU27 clearing member deliver cash equities to a UK-based firm that is acting as agent of the EU27 clearing member?

A: n/a

Q: Is it possible for a clearing member not domiciled in the EEA to offer client clearing services for your CCP, provided that it meets your other requirements?

A: ECC has set out in its clearing conditions for Clearing Members located outside the European Union. Please specifically refer to section 2.1.2 para 1 lit. e which is nearly identical to the Eurex wording and states the following:

General Preconditions to be fulfilled by a System Clearing Member

1. Only institutions fulfilling the following preconditions can be granted a clearing license as a System Clearing Member in the form of a general clearing license or a direct clearing license:

“[...]”

(e) Institutions based outside the European Union, Switzerland or Norway provided

- (i) the applying institution has been licensed by its national supervisory authority and the license comprises banking transactions or financial services required for participation in clearing,
- (ii) in its country of domicile it is supervised according to standards equivalent to the applicable regulatory standards of the EU as determined by ECC and provided that
- (iii) the national supervisory authority is a signatory to Appendix A of the IOSCO Multilateral Memorandum of Understanding or has signed an applicable bilateral memorandum of understanding with the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht –“BaFin”).”

ECC may require the applicant to provide, at its own expense, a legal opinion from leading counsel approved by ECC that verifies the legal validity and enforceability of the Clearing Conditions in the respective jurisdiction according to standards provided by ECC from time to time.

If the requirements laid down in 2.1.2 para 1 lit. e of the Clearing Conditions are met, a clearing member domiciled outside the EEA can become a clearing member of ECC. However, as a result of the current uncertainty around Brexit it is not possible at the moment to receive a legal opinion which verifies the legal validity and enforceability of the Clearing Conditions in the respective jurisdiction according to standards provided by ECC.

Q: In relation to euro bank accounts, must a non-EEA clearing member have an account with a central bank that is connected to TARGET2 or will other settlement options available?

A: At present this TARGET2 account access is essential but new solutions are being developed to solve for which would remove this impediment.

Q: Will it be possible to transfer cash/non cash collateral at the CCP level to cover the margin requirement of positions being transferred to the new affiliate clearing member?

A: Technically this is possible.

Q: Will the new affiliate GCM have to provide their own default fund contribution or can this move within the CCP (assuming all positions have been transferred from the existing Clearing Member affiliate)?

A: It would be possible to simply move within the CCP but that assumes “all else remains equal”. For example, the entire original setup must be closed and moved. If there are “two” versions then that causes problems.

Testing

Q: What testing plans or times have been set-aside for the new flows, either to a GCM or between NCMs and GCMs?

A: There is no testing pre-conditions from ECC side. Once a new GCM intend to have access to the test environment we need information what they intend to test and what they are expect by the test. In this matter all CMs work very individual and have different requirements currently.

Q: What are the requirements for testing cash flows for new GCMs?

A: The cash flow for Target2 account as well Clearstream Account will be done in production but before go-live according internal check list. There will no test in simulation available.

Q: Will margin simulations be required or available?

A: Not required from ECC point of view, however Margin simulations are available and may or may not be required by the GCM (usually they are required).

Trading/clearing GUIs

Q: Has the exchange determined an automated way to transfer trading terminals (i) from one GCM to another or (ii) from a GCM to a NCM?

A: No, this is not possible. It is a very complicated and labour intensive process.

Q: Can exchanges move/copy the existing pre-trade control limits set up on the exchanges to new affiliates?

A: No, this is a manual process.

Legal

Q: Will changes be permitted to existing legal documents such as give-up agreements or will all legal documents need to be created from scratch and signed by new authorised signatories?

A: As far as possible we will use existing documents and only adopt them where unavoidable.

Q: What additional diligence will you conduct with respect to UK members in connection with Brexit (e.g. examination of the enforceability of settlement finality, determination that the UK has the appropriate licences under UK/national/European law, etc.)?

A: The diligence areas we have in mind are threefold:

- a. Ensure enforceability of clearing rules under the future UK insolvency law (also taking into account settlement finality issues, questions of netting and utilization of collateral).
- b. Ensuring regulatory compliance of the Clearinghouse and the regulated market in the UK.
- c. Ensuring regulatory compliance of participants according to EU rules (check if licenses for third country trading venues or banks are required).

Member transfers

Q: How and how quickly can you process the transfer of positions and assets from a UK affiliate that is a clearing member of yours to an EU27 affiliate of the same entity that is a clearing member of your CCP?

A: Technically this is a process which takes place over two days.

Q: What capacity do you have for multiple member transfers over a period of a few weeks? Current technology has been shown to be limited during MIFID II indirect clearing transfers.

A: In case of a CM change for NCMs (with new setup of a CM and associated transfer from one ID to the other) we should make a maximum of 3 changes á max. 10 members per week. So depending on how many NCMs a CM has, 1 - 2 weeks must be scheduled for the transfer.

Fees

Q: Please would the exchange and clearing house each publish fee schedules for the changes and testing that will be necessary for Brexit planning purposes.

A: There are no specific fees planned for Brexit for the time being.

Q: Please would the exchange and clearing house confirm what fees will be charged with respect to (i) new memberships, (ii) transfer fees, (iii) auto give-up fees, (iv) legal document amendments and (v) any other proposed fees that are pertinent to the execution of Brexit contingency plans by the exchange/CCP/NCM/GCM/Client.

A: **Clearing:**

New memberships: none

Transfer fees: none

Auto-give up fees: none

Legal document amendment fees: none that I am aware of. Would be done adhoc.

Any other fees: there are currently no “extraordinary fees” planned to be charged in relation to Brexit.

Price list for reference is here: <https://www.ecc.de/ecc-en/about-ecc/rules/price-list>