

Special Conditions for Forex and Precious Metals Transactions

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The FXdirekt Bank AG (inc.) („Bank“) offers the customer the possibility to conclude transactions through the purchase and sale of foreign currency and precious metals by means of financial commission transactions, alternatively, by means of proprietary trading (“foreign currency-/ precious metals transactions). Prior to this, the Bank requires payment of securities. The following regulations apply for every transaction, which the Bank concludes with the customer.

1. Requirement for a sufficient credit balance

1.1. Deposit by the customer (“margin”)

1.1.1 The customer is required to effect a deposit (“margin”) for the orders he will be placing. At the beginning of the business relationship, the customer transfers the first deposit into an account of the Bank, as per the current Correspondence Bank List in the Schedule of Prices and Services. The deposit can be effected in one or more of the “permitted currencies”, as per the Schedule of Prices and Services; other currencies are converted into EUR or, at the request of the customer, converted into another currency, less a handling fee and less foreign costs. The size of the deposit effected by the customer determines the trade limit, based on the margin ratio regulation in the Schedule of Prices and Services (“minimum margin”). Should the risk situation change, especially as a result of political circumstances, or in as far as other banks change their margin requirements, the Bank is entitled to demand a higher margin. The adjustment and the taking effect of a new margin are electronically communicated to the customer.

1.1.2 In its books, the Bank will manage deposit accounts, made out in the name of the customer, in the account currency (every one is a “margin account”). Every margin account is managed under a separate master account number. The deposit effected by the customer is displayed in the account as a credit balance in this currency (“margin credit balance”). As per number 5 or 6 (“individual transactions”) the margin credit balance is increased, alternatively decreased in line with realised profits or losses from foreign currency and precious metals transactions.

1.2. Net margin position

The Bank continuously ascertains the client’s net margin position. The net margin position is determined from the difference between (a) the sum from (i) the current margin credit balance under this master account number and (ii) the sum from the realised but not yet transferred to the margin account at the current spot rate (see Schedule of Prices and Services) profits

from closed individual transactions converted into the account currency and managed under a master account number and (iii) the sum from the ascertained hypothetical profits from individual transactions not yet closed through offset transactions and converted into account currency on the basis of the current spot rate, less (b) the sum from (i) the losses realised from closed individual transactions managed under a master account number but not yet transferred to the margin account at the current spot rate (see Schedule of Prices and Services), converted into account currency and (ii) the hypothetical losses from closed individual transactions not yet closed through offset transactions converted into account currency on the basis of the current spot rate (“net margin position”). At all times, The Bank will notify the customer via the trading platform whether, and in which range, the net margin position available under a master account number allows further individual transactions, alternatively is negative.

1.3. A sufficient margin credit balance

The Bank will only accept an order commission, alternatively an offer to close an individual transaction under a master account number, if the customer’s net margin position under this master account number is positive. The customer does not have a claim to a partial execution. The Bank will immediately inform the customer regarding the non-acceptance of the order, alternatively, the offer for lack of coverage.

2. The Bank’s lien

The customer’s claims against the Bank, underlying the Bank’s lien as per number 17 of the Bank’s General Terms and Conditions (General Terms and Conditions – Lien) also secure, unreservedly, all existing and future – as well as conditional and temporary claims of the Bank against the customer, arising from foreign currency and precious metals transactions. If securities have been separately agreed upon, the Bank’s claims are hereby also guaranteed, as far as the declaration regarding the security purpose also encompasses precious metals and currency transactions.

3. Naming a reference account

Within the framework of his application to open a margin account, the customer is committed to name an own account, which he keeps with a third credit institute ("reference account"). The Bank will make all possible payments, as per number 10, exclusively to the customer's reference account.

4. Processing of transactions

4.1. Advice excluded ("Execution only")

The Bank does not advise the customer. As far as the customer is provided with, e.g. market commentaries, charts or analyses, these do not represent an investment advice; they merely serve the purpose of facilitating the customer's independent investment decision. The Bank assumes that the customer has been sufficiently informed - in line with his state of experience and knowledge - by his conveying sales partner, or has sufficiently informed himself regarding the services (especially price conditions), as well as the foreign currency or precious metals to be acquired. As a matter of principle, the Bank makes no further information available. If the customer is, by way of an exception, provided with information, this is of an abstract, general nature and the customer should, if necessary, access further information, alternatively consult his financial advisor, prior to making an investment decision.

4.2. Applicability of statutory provisions, usages and business specifications

The customer's foreign currency or precious metals transactions with the Bank underlie the statutory provisions and specifications ("usages") of the place of execution. For commission transactions, the general terms and conditions of the respective contractual partner of the Bank apply.

5. Commission transactions

5.1. Execution and posting of transactions

As an isolated case, the Bank executes, as commissioner, its customer's orders with a transaction volume of more than EUR 100.000.000 respectively (or an equivalent amount in another currency) for the acquisition and realisation of foreign currency or precious metals nationally and internationally, only when a deviating agreement is lacking. For smaller amounts, an execution as commission transaction is only carried out based on a separate agreement. For the execu-

tion of a commission transaction, the Bank concludes an acquisition or a realisation transaction with other market participants, for the account of the customer ("execution transaction") or the bank instructs another commissioner (intermediary commission agent) to conclude an execution transaction. The customer assigns every order to a specific master account number. An effective delivery of the acquired foreign currency or precious metals is not possible. The Bank will, as far as the customer does not carry out an offsetting trade automatically prolong the transaction and will continue to do so until the customer carries out the offsetting trade (see number 8 below). For the purposes of the previous sentence, the customer exempts the Bank from the restrictions of § 181 BGB (German Civil Code). When offsetting the acquisition and realisation order by a counter trade executed by the customer, the profit or loss, resulting from the transaction after expiry of the prevailing market execution time limit, beginning with the fixing which immediately follows the offsetting as per number 9.2.2, ("conversion day"), is posted in the account management currency to the margin account with the relevant master account number. The conversion into the margin account's account currency is effected on the value date at the rate determined for the respective currency during the fixing immediately following on to the offsetting as per number 9.2.2.

5.2. Fixing of price limits

With the placing of orders, the customer can issue the Bank with a price limit for the transactions to be executed.

5.3. Acceptance of the customer order / counter offer

The Bank accepts the order when the Bank conveys an order by phone, confirmation electronically, or in an exceptional case, to the customer. The Special Conditions for Distance Communication with the Bank and the Terms of use for notification service are expressly referred to. The Bank reserves the right to, e.g. at night or in the case of trade in illiquid currencies, or due to high volatility or other extreme market conditions, refuse the customer's order, partially execute an order or to submit the customer with a counter offer of the executing location.

5.4. Settlement

The Bank settles vis-à-vis the customer, the price of the execution transaction. The Bank is entitled to charge its fees and its expenses, including foreign costs, to the customer. The Bank will charge the margin account with fees, expenses and foreign costs.

5.5. Validity of unlimited orders

An order issued without explicitly stating the period of validity for the conclusion of individual transactions, with the exception of orders as per number 7, is valid for the day the order is placed.

6. Foreign currency or precious metals transactions with the Bank as market maker

6.1. Scope of application

As far as the requirements of number 5.1, sentence 1 or 2, are not on hand, the Bank executes all transactions exclusively as market maker.

6.2. Demand to submit offers

The Bank will make buying and selling rates available on the trading platform for the currency pairs listed in the schedule of prices and services. This notification is to be seen as an invitation to the Bank's customers to make binding offers for the purchase and sale of foreign currency or precious metals for a master account number to be determined by the customer.

6.3. Acceptance of the customer offer / counter offer

The contract is completed when the Bank conveys a declaration of acceptance electronically or, in exceptional cases, by phone, to the customer. The Special Conditions for Distance Communication with the Bank and the Terms of use for notification service are expressly referred to. If the Bank accepts the customer's offer, it will display the customer's open positions in the respective currency. The Bank reserves the right to, e.g. at night or, in the case of trade in illiquid currencies, refuse the customer's order or make the customer a counter offer, e.g. for part of the volume requested by him or, to submit another rate to the customer.

6.4. Exclusion of effective delivery / the Bank's right to prolongation

An effective delivery of the acquired foreign currency or precious metals is not permitted; the Bank will, as far as the customer does not carry out an offsetting trade, automatically prolong the transaction and will continue to do so until the customer carries out the offsetting trade (see number 8 below). For the purposes of this number 6.4, the customer exempts the Bank from the restrictions of § 181 BGB (German Civil Code). Number 5.1, sentences 6 & 7 are valid respectively.

7. Automated order execution

7.1. Stop loss order

The customer can instruct the Bank to sell foreign currency or precious metals when the rate of the foreign currency or precious metals falls below a certain mark set by the customer. This instruction can be especially employed to secure a currency position, held by the customer, against major rate losses ("stop loss order"), without guarantee.

7.2. Stop buy order

The customer can instruct the Bank to buy foreign currency or precious metals when the rate of the foreign currency or precious metals exceeds a certain mark set by the customer. This instruction can be especially employed to enter a timely position in an ascending currency ("stop buy order"), without guarantee.

7.3. Trailing stop order

The customer can instruct the Bank to buy or sell foreign currency or precious metals when the rate of this currency falls under or exceeds a certain dynamic mark set by the customer. This mark can, in keeping the required distance to the current rate set by the customer, change when following the current rate. This instruction can be especially employed to secure profits already attained from a foreign currency or precious metals position held by the customer against rate losses, without guarantee.

7.4. Limit order

The customer can instruct the Bank to sell foreign currency or precious metals when the rate of this precious metal or currency exceeds a certain mark set by the customer or to buy when the rate falls under a certain mark set by the customer. This instruction can be employed to await a more favourable rate level for the transaction, without guarantee.

7.5. Obligation of the Bank

The Bank will, when a mark set for a stop loss order or a stop buy order by the customer is reached, immediately generate an automatic sell or buy order and, as per the requirements, execute the order either as commissioner or as market maker. The order is thereby executed at the next possible rate, which in the case of a stop loss order can lie under, and in the case of

a stop buy can lie over the mark set by the customer. In order for the rate limit to take effect with a stop loss order or a stop buy order, the difference between the mark set by the customer and the current rate of the currency must be at least 10 points at the time of acceptance of the order.

8. Transfer of positions at close of business

8.1. Right of the Bank to conduct a counter trade

If, on a trading day at the close of business the client has not conducted a counter trade for a foreign currency or precious metals transaction ("output transaction"), the Bank will do so as market maker. For the purposes of this number 8.1, the customer exempts the Bank from the restrictions of § 181 BGB (German Civil Code). The counter trade is effected at the rollover of the respective currency pair which is fixed by the Bank at its own discretion (§ 315 BGB (German Civil Code)) ("rollover rate"). At the same time, the Bank opens a new position for the customer for the following trading day, equivalent to the output transaction, at a rollover rate which is reduced for this new position by the swap rate applicable to the currency pair at the close of business of the previous trading day, if the swap rate for the output transaction is negative or is increased, when the swap rate for the output transaction is positive. The closing of the output transaction and the opening of the new individual transaction is, as a rule, effected at the rates presiding during the morning of the following trading day. As far as seldom-traded or exotic currencies are concerned, time delays can occur.

8.2. Trading days, close of business and swap rates

Trading days, the respective close of business and the determination of swap rates can be found in the Bank's current Schedule of Prices and Services.

9. Margin and foreign currency or precious metal stock

9.1. Overview for information purposes

A non-binding overview of the current margin stock and open individual transactions are, at all times, at the customer's disposal on the trading platform. The individual transactions of a master account number are exclusively and for this purpose, converted calculatively at the point in time of compilation of the overview at the valid spot rate or, where possible, at the calculative cross rate of the respective master account number and presented in the account currency. Fur-

thermore, the customer receives an itemised (according to master account numbers) list of his individual transactions.

9.2. Fixing

9.2.1 The customer receives a binding overview of his stocks if the relevant conversion rate (fixing rate) of non-account currencies has been determined and the respective volume has been posted in the account currency.

9.2.2 The determination of the conversion rates (fixing) is effected at 13:00 on every posting day (see Schedule of Prices and Services). The rate determination is effected according to the Bank's Schedule of Prices and Services requirement.

10. Conditional payment claim of the client

10.1. Payment claim of the client

With regard to the payout of a credit balance in a margin account, a claim by the customer against the Bank exists only in so far as the credit balance, displayed in the respective sub-accounts with the master account number of the respective margin account, converted at the current fixing rate (see number 9.2.1) and balanced individual transactions, exceeds a possible claim by the Bank. The payout instruction must be in writing and is effected exclusively to the reference account.

10.2. Payment as a result of the customer's passivity

If, in the course of a calendar month, the customer has not logged into the Bank computer via the trading platform, does not have any open individual transactions and did not communicate with the Bank in any other way, the Bank will request the customer to inform the Bank whether he requires the credit balances in his margin accounts in order to secure future individual transactions. If, within two weeks, the customer does not notify the Bank regarding one or more margin accounts, the Bank will transfer the credit balances on the margin accounts, for which no notification was received, to the customer's reference account.

10.3. Payment as a result of excess security

Number 10.2 applies for that part of a credit balance in a margin account, for which the credit balance over a period of more than four weeks, exceeds the margin required to secure an open position by more than 150 %.

10.4. Payment instructions in the case of a system failure

In case of a failure of the trading platform for which the Bank accepts responsibility, the Bank, as an exception, accepts a customer's payment instructions by phone under the number +49 (0) 208/8 27 82-0. In case of notification by letter or by fax +49 (0) 208/8 27 82-290, the Bank is entitled to carry out payment instructions exclusively on the basis of comparing the specimen signature of the customer with the signature on the fax, alternatively, the signature on the letter.

The Bank is not liable for damages, if payment instructions are improperly (e.g. as a result of a forged signature) issued by fax or by letter during a failure of the trading platform, other than if the Bank acts intentionally or with gross negligence.

11. Premature termination and offsetting of individual transactions by the Bank

11.1. Offsetting of individual transactions by the Bank

If, as per number 1.2, sentence 2 (a), the sum is less than the current minimum margin for this master account number, the Bank can offset the open individual transactions under this master account number via counter trades. For this, the Bank is exempted from the restrictions of § 181 BGB (German Civil Code). The same applies in case of insolvency, that is, if an insolvency proceeding or a similar proceeding regarding the assets of the customer has been applied for, and the client has either made the application himself or is insolvent or is otherwise in a condition, which justifies the opening of such a proceeding.

11.2. Balancing by the Bank

If the prerequisites of the previous paragraph exist for a master account number, the Bank can balance all profits and losses from the offsetting of individual transactions under this master account number and, on the basis of the next fixing rate as per number 9.2.1 determine a uniform amount in the account currency. If this amount is negative for the customer, the Bank will offset this amount against the margin credit balance of the margin account. If a negative balance (for the account of the customer) remains due to the offsetting, the client will pay the deficit without delay.

The enforceability of further damages remains under reservation. If a positive balance (for the account of the customer) remains from the offsetting, the customer can, on the basis of this credit balance, offer the Bank the conclusion of further individual transactions as per number 1.2.

11.3. Warning

Number 11 provides no guarantee for the customer in the sense of a stop loss execution.