



## EEX Exchange Rules

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*The English version is for informal use only. Only the German version is legally binding.*

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## **2. Organisation and Exchange Bodies**

### **§ 1 Line of Business**

- (1) These Exchange Rules govern the organisation of the Spot and Commodity Derivatives Exchange, the European Energy Exchange (EEX) with the following lines of business:
  - (a) Sub-market EEX Power Derivatives Market for derivatives trading in Power and Guarantees of Origin,
  - (b) Sub-market EEX Emission Market for spot and derivatives trading in emission rights<sup>1</sup>,
  - (c) Sub-market EEX Coal Market for derivatives trading in Coal,
  - (d) Sub-market EEX Oil Market for derivatives trading in Crude Oil and Refined Products,
  - (e) Sub-market EEX Freight Market for derivatives trading in Freight,
  - (f) Sub-market Metal Market for derivatives trading in Iron Ore,
  - (g) Sub-market Agricultural Market for derivatives trading in agricultural products.
- (2) EEX has different electronic trading systems. The conclusion of trades and, in particular, of standardised contracts, such as Spot Market contracts, futures and options (Products) is ensured using the respective trading systems according to the conditions for trading on EEX (Trading Conditions) and the rules for the registration of trades (Trade Registration Rules).
- (3) The Management Board of EEX can permit the use of exchange facilities for lines of business other than those stipulated in paragraph 1, as far as this is not prohibited by the rules of law. Where such use is permitted, the Exchange Participants are to be informed by suitable means.

### **§ 2 Operating Companies**

- (1) European Energy Exchange AG (EEX AG) is operating the exchange.
- (2) EEX AG as operating company is obligated to, at the request of the Management Board of the Exchange, make available necessary staff, financial resources, facilities and premises for the adequate operation of EEX and further development of the exchange.

### **§ 3 Exchange Supervisory Authority**

The supreme state authority of the Free State of Saxony is responsible for the supervision of the operations of EEX and of the bodies of the exchange. The Saxon State Ministry for Economic Affairs, Labour and Traffic (Sächsisches Staatsministerium für Wirtschaft, Arbeit und Verkehr), Wilhelm-Buck-Straße 2 in 01097 Dresden is the Exchange Supervisory Authority.

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<sup>1</sup> The sub-market EEX Emission Market for spot and derivatives trading in emission rights includes the primary auctioning of allowances in accordance with Commission Regulation (EU) No 1031/2010 (Auctioning Regulation)

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## **§ 4 Exchange Bodies**

- (1) The following are the exchange bodies:
  - (a) the Exchange Council,
  - (b) the Management Board of the Exchange,
  - (c) the Market Surveillance Department, and
  - (d) the Sanctions Committee.
- (2) With exception of the Management Board of the Exchange and the Head of Market Surveillance, the members of the Exchange Bodies exercise their occupation on an honorary basis.

## **§ 5 Rules and Regulations of the Exchange**

- (1) The Exchange Council establishes the rules and regulations for the exchange. The rules and regulations are binding for the bodies of the exchange and for the companies and Traders licensed to trade on the exchange as well as other persons who are permitted to use the exchange's facilities. The rules and regulations of EEX consist in particular of the following parts:
  - (a) the Exchange Rules,
  - (b) Trading Conditions with the Contract Specifications,
  - (c) the Trade Registration Rules,
  - (d) the Code of Conduct, and
  - (e) the Admission Rules.
- (2) Provided this is laid down in the rules and regulations of the exchange, the Management Board of the Exchange can adopt implementation regulations. The implementation regulations are binding for the companies and traders admitted to trading on the exchange and for other persons who are permitted to use the exchange's facilities.
- (3) Exchange Participants and other persons who are permitted to use the exchange's facilities are obliged to use the facilities of EEX in accordance with the provisions under exchange law and the further national and European rules, in order to ensure the proper execution of trading and of the settlement of exchange transactions. The provisions under exchange law comprise the Exchange Act<sup>2</sup> (BörsG) as amended from time to time and the statutory instruments and decrees rendered on the basis of the Exchange Act, as well as the rules and regulations of EEX and the orders passed on the basis of these.

## **§ 6 Duties and Powers of the Exchange Council**

- (1) The Exchange Council has the duties and powers assigned to it by the Exchange Act. It shall be responsible in particular for:
  - (a) the issuance of the Exchange Rules, the Trading Conditions, and the Admission Rules,

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<sup>2</sup> Exchange Act of 16<sup>th</sup> July 2007 (Federal Law Gazette, vol. I, p. 1330)

- (b) the appointment, re-appointment and dismissal of the Managing Directors of the Exchange in consultation with the Exchange Supervisory Authority,
  - (c) the supervision of the Management Board of the Exchange,
  - (d) the issuance of the rules of internal procedures for the Exchange Council and the Management Board of the Exchange,
  - (e) the appointment, reappointment and dismissal of the head of Market Surveillance upon the nomination of the Management Board of the Exchange in consultation with the Exchange Supervisory Authority,
  - (f) the appointment, reappointment and dismissal of the appointment of the members of the Sanctions Committee in agreement with the Exchange Supervisory Council.
- (2) The Management Board of the Exchange must obtain the prior consent of the Exchange Council regarding other matters of fundamental importance.

## **§ 7 Election of the Exchange Council**

The composition, the election and the term of office of the Exchange Council is regulated by the Saxon Exchange Act Execution Ordinance<sup>3</sup> (SächsBörsDVO) as amended from time to time.

## **§ 8 Chairperson of the Exchange Council; Deputy Chairperson**

- (1) In its first meeting following an election, the Exchange Council shall elect, by means of a secret ballot, a Chairperson and up to three deputies from among its members.
- (2) The Chairperson or if he is unable to do so, one of the deputies shall preside over the meetings of the Exchange Council (Chairperson of the Meeting). In case the Chairperson and all the deputies are prevented from attending a meeting, the member of the Exchange Council eldest in age shall serve as Chairperson of the Meeting.

## **§ 9 Quorum and Resolutions of the Exchange Council**

- (1) The Exchange Council shall have a quorum when more than one half of its members take part either in person, by way of written vote, or represented by another member as the result of the properly issued invitation to the meeting. The invitation to the meeting is considered to have been properly issued if there is a period of, at least, 10 Exchange Days between posting the invitation and the documents for the meeting and the day of the meeting. The invitation and the documents for the meeting may be sent to the members of the Exchange Council via e-mail.
- (2) Resolutions shall be passed by a simple majority of the votes cast. In the case of a tie vote, the Chairperson of the Meeting shall cast the deciding vote. If the Chairperson of the meeting abstains from voting, the motion shall be deemed rejected.

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<sup>3</sup> Ordinance by the Saxon State Ministry of Economic Affairs, Labour and Transport regarding the Execution of Exchange Law of 9<sup>th</sup> February 2012.

- (3) If unable to attend, a member of the Exchange Council may take part in voting by submitting a written vote.
- (4) Resolutions can also be passed in writing, by telex, by telephone, or by fax. A motion shall be deemed to have been passed if more than one half of the members of the Exchange Council have responded within a stipulated period and if the majority of the Exchange Council has agreed to the motion. Each member of the Exchange Council shall be able to demand that the decision be taken by vote after oral debate. The chairperson shall comply with such a request, for which a detailed reason must be given, by calling a meeting without undue delay.
- (5) Votes shall be taken by secret ballot at the request of one quarter of the members.
- (6) The content and outcome of the meetings and of the decision making process shall be recorded in writing and signed by the chairperson of the meeting. With regard to votes cast in writing, by telex, by fax, or by telephone as stipulated in paragraph 4, the minutes and the outcome of the decision making process can also be signed by a managing director of the Exchange. The Regulations of the Exchange Council shall specify details with respect to the preparation of minutes and the adoption of resolutions.

## **§ 10 Exchange Council Committees**

The Exchange Council is allowed to establish committees in order to prepare its resolutions.

## **§ 11 Management Board of the Exchange; Representation**

- (1) The Management Board of the Exchange is responsible for all duties that are not allocated to other governing bodies of the Exchange.
- (2) In the case of more than one managing director being appointed, the EEX shall be represented in and out of court by one managing director. The Management Board of the Exchange may also name other persons as representatives.
- (3) The Management Board of the Exchange and the representatives authorized by it may take all necessary actions for the proper implementation of trading on the EEX and the settlement of the Exchange transactions.
- (4) Companies and persons who contravene existing rules, or do not observe instructions within the meaning of paragraph 3, can be temporarily suspended from access to the exchange entirely or in part, if and for as long as, the orderly trading procedure is disturbed by the company or person, respectively. The same applies accordingly to persons who are not permitted to participate in trading.

## **§ 12 Market Surveillance Department**

- (1) Subject to directives issued by the Exchange Supervisory Authority, the EEX shall establish and operate a Market Surveillance Department as a governing Exchange Body.



- (2) The Head of the Market Surveillance Department shall be appointed and dismissed by the Exchange Council upon the nomination of the Management Board of the Exchange and in agreement with the Supervisory Authority. The re-appointment is permissible.
- (3) The Market Surveillance Department monitors trading and the orderly execution of trading and settlement of transactions on EEX in accordance with Art. 7 BörsG as well as the applicable national and European provisions. In particular, the Market Surveillance Department assumes the tasks according to Art. 16 Market Abuse Regulation<sup>4</sup>.
- (4) In accordance with Art. 7 BörsG, the Market Surveillance Department can forward data regarding the conclusion of trades to the management board and the market surveillance department of another exchange or to an office in charge of monitoring trading on another organised foreign market or of another corresponding market registered outside the European Union or a contracting state of the Agreement on the European Economic Area in as far as such data is required for fulfilling the tasks of these offices. The Market Surveillance Department can also receive data from these offices provided such is required for the proper execution of trading and the settlement of exchange transactions on EEX.
- (5) If the Market Surveillance Department identifies facts justifying the assumption that provisions or orders under exchange law are violated or that there are other grievances which might impair the proper execution of trading on EEX or the settlement of exchange transactions, it shall inform the exchange supervisory authority or the Management Board of the Exchange thereof. Sentence 1 shall apply accordingly with regard to information on Exchange Participants and traders which is relevant for the assessments in the framework of the admission procedure. If the Market Surveillance Department has the justified suspicion that an order or transaction including any cancellation or modification thereof violates the provisions of Articles 3 or 5 REMIT<sup>5</sup> or of Articles 14 or 15 Market Abuse Regulation (ban on engaging in or attempting to engage in insider dealing or market manipulation), it shall inform the Market Surveillance Department or the German Federal Financial Supervisory Authority thereof.

## **§ 13 Sanctions Committee**

- (1) At the EEX, a Sanctions Committee may be established by statutory decree as organ of the exchange. The Sanctions Committee's duties comprise the tasks defined by Sect. 22 Exchange Act.
- (2) The details about the establishment, composition, procedure and the costs as well as the involvement of the Exchange Supervisory Authority are defined by Sect. 22 Exchange Act and the rules regarding the Sanctions Committee in the Saxon Exchange Act Execution Ordinance.

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<sup>4</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC

<sup>5</sup> Regulation (EU) No. 1227/2011 of the European Parliament and of the Council of 25th October 2011 on wholesale energy market integrity and transparency (Official gazette L 326 of 8th December 2011, p.1)



### **3. Admission**

#### **3.1. Admission of Exchange Participants and Exchange Traders**

##### **§ 14 Exchange Trading**

- (1) Exchange trading comprises the conclusion of Spot and Derivatives Market transactions (exchange transactions) in the EEX trading systems either through order book trading or the registration of trades.
- (2) Trading on EEX shall only be carried out or brokered by an approved Exchange Participant or by an Auctioneer admitted for primary auctioning of allowances in accordance with Commission Regulation (EU) No 1031/2010 (Auctioning Regulation).

##### **§ 15 Application for Admission**

- (1) Application for admission may be filed
  - (a) for spot trading only<sup>6</sup>,
  - (b) for derivatives trading only,
  - (c) for one or more products as well as
  - (d) for spot and derivatives trading altogether.

The application for admission to exchange trading can be restricted to the use of the Trade Registration Functionality of the EEX trading systems.

- (2) An application for admission as an Exchange Participant can also be filed for one branch office or several branch offices of one company.
- (3) Even if they are not Exchange Participants on EEX, companies can be recognised as Trading Agent for trading on the Spot Market by the Management Board of the Exchange upon a written application by the company concerned. Approved Trading Agents are entitled to effect the conclusion of transactions on EEX on behalf and for the account of other Exchange Participants licensed on EEX through the Exchange Traders admitted to EEX for them. Trading Agents are acting with its own user identification. Every entry by the Exchange Traders of the Trading Agent into the system has to be made individually allocable. The Management Board issues the admission as Trading Agents in writing; it can refuse or revoke said admission at any time in writing if there are relevant reasons for such a refusal or such a revocation. Details with regard to this shall be specified by the Management Board of the Exchange. The provisions contained in the rules and regulations of the exchange in connection with the participation in trading, including the rules regarding the technical facilities shall apply accordingly to the Trading Agents - even if the Trading Agents is not mentioned specifically.

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<sup>6</sup> Including admission for auction-only which allows only for the participation in the primary auctioning of allowances in accordance with Commission Regulation (EU) No 1031/2010

- (4) In accordance with Sect. 31 of these rules, companies, which have been admitted, can file an application for the admission as a Market Maker.
- (5) Each application for admission has to be directed to EEX, using the required form.

## **§ 16 Admission Procedure**

- (1) Decisions regarding the admission
  - (a) of companies to participate in Exchange trading (Exchange Participant) and
  - (b) of persons who shall be entitled to trade on the EEX Spot and/or Derivatives Market (Exchange Trader)

are made by the Management Board of the Exchange upon written application pursuant to Sect. 19 Exchange Act (Börsengesetz, BörsG). The decision is made by the Management Board of the Exchange in written form. It is permitted to refuse an incomplete application. The existing Exchange Participants may be informed of the admission of a new Exchange Participant conveniently.
- (2) Evidence of fulfilment of the conditions for admission of Exchange Participants and Traders must be furnished by the respective participant. The applicant must obtain all state approvals, permissions, licenses and admissions or similar agreements that are required for trading on the EEX and the analogous handling of the concluded business. The Management Board may request from the applicant additional documents or information at any time and within a certain time limit. In this respect it may, after a due assessment of the circumstances, either itself or through an agent, conduct an examination of the applicant at the applicant's expense and require the applicant to submit such statements and documents as it may deem appropriate. In addition, it may request information from third parties- the applicant must be given prior notice of such request.
- (3) Before its admission as an Exchange Participant on the sub-markets of the EEX, a foreign company shall appoint an authorized agent with a registered office within the Federal Republic of Germany. An effective revocation of such authorization can only be undertaken if – at the same time – another authorized agent with registered offices in the Federal Republic of Germany is appointed.
- (4) Foreign companies can only be admitted to trade at EEX if the Exchange is permitted to admit these companies based on the law of the respective country. Applications for the admission of foreign companies are suspended as long as no evidence of the lawfulness of the admission and the trading participation, in accordance with the law of the respective country, is furnished by the applicant or should EEX gain knowledge by other means to the effect that the admission of the foreign Exchange Participant and its trade participation is permissible.
- (5) After the granting of admission to trading, the Exchange Participant shall still be required to notify the Management Board without delay of any changes of a factual or legal nature which could lead to the conditions for admission no longer being met; in particular, the admitted participant shall be required to inform the Management Board without delay if it becomes aware that criminal proceedings are being launched against it on suspicion of

property or tax violations. Moreover, it shall be obliged to inform the Management Board if it becomes aware that such proceedings have been instituted – or are pending – against a person either acting on its behalf who, according to statute, the Articles of Association or a Shareholders' Agreement is entrusted with the management of the business of the Exchange Participant or admitted as an Exchange Trader for it. In order to ensure this, the Management Board of the Exchange may demand additional information and documents under analogous application of paragraph 2 sentences 3 and 4.

## **§ 17 General Admission Requirements for Exchange Participants**

- (1) Entitled to file an application for admission to participate in Spot and Derivatives trading (Exchange trading) are only those companies that are, with respect to the products that may be traded, commercially engaged in the business of
  - (a) purchasing and selling for their own account (own transactions),
  - (b) purchasing and selling in their own name for the account of a third party (customer transactions), or
  - (c) acting as intermediaries for contracts to buy and sell (brokerage operations).
- (2) Companies which have their registered office within or outside the Federal Republic of Germany are entitled to apply for admission, provided that the superior Exchange Supervisory Authorities in Germany and abroad are able to exchange information in order to supervise the Exchange Participants.
- (3) According to the requirements stipulated in Sect. 19 paragraph 4 Exchange Act, Exchange Participants shall meet the general admission requirements:
  - (a) Companies that are organized in the legal form of a sole proprietorship, the proprietor, or in the case of other Exchange Participants, the individuals who are by law, articles of association or shareholders' agreement entrusted with the management and the representation of the applicant's business (managing directors) are reliable and if at least one of such persons has the necessary professional qualification for engaging in Exchange transactions. These representatives shall be appointed by the applicant in the application for admission.
  - (b) The orderly settlement of such transactions must be assured.
  - (c) The Exchange Participant provides evidence of liable equity amounting to at least € 50,000 unless it is
    - a financial institution,
    - a financial services institution or
    - an Exchange Participant within the meaning of Sect. 53 paragraph 1, sentence 1 or Sect. 53 b paragraph 1, sentence 1 of the KWG<sup>7</sup>

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<sup>7</sup> German Law on Banking (German Banking Act) of 9<sup>th</sup> September 1998 (German Federal Gazette I p. 2776)

and is authorized to engage in financial commission business within the meaning of Sect. 1 paragraph 1, sentence 2 no. 4, or to provide a financial service within the meaning of Sect. 1 paragraph 1a, sentence 2 nos. 1 – 4 of the Banking Act; the paid-in capital and reserves after deduction of any withdrawals by the proprietor or the personally liable shareholder and any loans extended to such persons and of any excess of indebtedness with respect to the free assets of the proprietor shall be considered as liable equity.

- (d) With respect to applicants that are obliged to provide evidence of liable equity according to a), there shall be no facts justifying the assumption that the applicant, taking into account the liable equity capital, does not have the necessary economic capacity to participate in Exchange trading in an orderly manner.
  - (e) In case a proof for the liable equity cannot be rendered, the proof can be substituted by means of a bank guarantee or by a deposit in monetary form. The bank guarantee has to be declared by a domestic credit institute according to Sect. 1 paragraph 1 of the KWG or a comparable foreign institute in favour of the EEX. The guarantee has to contain the unconditional and irrevocable obligation to transfer the guaranteed amount to an EEX bank account upon first request of EEX. The content, form and type of the bank guarantee shall be determined by the EEX.
  - (f) The evidence of liable equity is not necessary if the Exchange Participant only applies for participation in primary auctions of allowances and the performance of its liabilities arising out of its trading activities is guaranteed by a Clearing Member of the European Commodity Clearing AG (ECC AG).
- (4) The admission of an Exchange Participant shall authorize the Exchange Participant to participate in Exchange trading, if the Exchange Participant is equipped with the necessary technical connection and if any other requirements for the connection to the respective trading systems of EEX are fulfilled.
- (5) In the case of companies that only want to be admitted for using the Trade Registration Functionality of the EEX trading systems, the preconditions contained in paragraph 3 lit. (a) – (d) as well as paragraph 4 must be fulfilled. In this case, participation in order book trading is excluded.

## **§ 18 Requirements for the Settlement of Exchange Transactions**

- (1) The orderly settlement of Exchange transactions as stipulated in Sect. 19 paragraph 4 no. 2 of the Exchange Act is deemed to be secured when the following requirements are fulfilled:
- (a) The Exchange Participant has to take part in clearing on ECC AG in accordance with the respectively valid Clearing Conditions of ECC AG.
  - (b) An Exchange Participant must have sufficient technical facilities at its disposal which guarantee correct trading and settlement via the EEX trading systems or via phone. When using an EDP system, it must be ensured that these technical facilities do not impair the Exchange Trading and settlement of transactions. The Man-

agement Board can recommend hardware and software, which meet the criteria of sentences 1 and 2. When using other hardware and software, the applicant is obliged to furnish evidence that the requirements of sentences 1 and 2 are met. Details are regulated by the regulations pertaining to technical facilities.

- (c) The technical facilities shall be kept in good condition by the Exchange Participant and the Exchange Participant is to ensure that their continuous readiness for operation is guaranteed.
  - (d) The Exchange Participant shall provide the personnel who are required for trading and settlement, and take satisfactory organizational precautions.
- (2) The participation in the Clearing of the ECC AG pursuant to paragraph 1, lit. a is deemed to be secured when the ECC AG confirms to the EEX in a binding form that the Exchange Participant:
  - (a) has concluded a Clearing Agreement with the ECC AG for the market applied for, or provided that the Exchange Participant intends to become a Non-Clearing Member for transactions for the respective market in terms of the Clearing Conditions of ECC AG (Non-Clearing Member), the Exchange Participant has concluded a respective agreement with a Clearing Member and the ECC AG (NCM Agreement) and
  - (b) is recognised by the ECC AG as a trading participant for each product to be traded. The admission as a trading participant requires, in particular, the necessary declarations and/or verifications for the completion of trades in a product.

## **§ 19 Requirements of Technical Facilities**

- (1) The technical requirements of the connection to the EEX trading systems are met if the Exchange Participant is equipped with EDP facilities, which comply with the requirements in accordance with the Implementation Regulations of EEX concerning technical equipment.<sup>8</sup> The Management Board of the Exchange is authorised to check on the compliance with these regulations on-site.
- (2) Upon application of an Exchange Participant or by an applicant for Exchange admission, the Management Board of the Exchange may permit the installation of front-end systems in the offices of the Exchange Participant outside the country in which the Exchange Participant for admission to trade has its registered office, provided that the application of and compliance with the Exchange rules of the EEX and any supplemental provisions thereto are also ensured in the country in which the additional offices is situated.
- (3) If the Management Board of the Exchange permits an Exchange Participant to use order routing systems, in accordance with the Implementation Regulations of the EEX concerning Technical Equipment, such Exchange Participant shall be responsible for ensuring that the order routing facility is used properly, for the designated purpose, and in accord-

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<sup>8</sup> This shall not apply if the Exchange Participant participates in primary auctions of allowances via trading on behalf.

ance with the legal provisions applicable on exchanges. This also applies to any orders, which are entered into the EEX trading systems via order routing by third parties who are not admitted to the Exchange. Should the Exchange Participant fail to comply with these requirements, the Management Board of the Exchange will restrict or revoke the permission to use an order routing system.

- (4) The use of systems for trading, in which a computer algorithm determines single order parameters automatically (algorithmic trading), has to be notified to the Management Board of the Exchange prior to their launch. The Management Board of the Exchange may permanently or temporarily, completely or partially forbid using a system as described in phrase 1, if a disturbance of the proper exchange trading or the proper execution of exchange trades is impending. Further details are stipulated in the Technical Implementation Regulations of EEX.

## **§ 20 Admission of Exchange Traders**

Persons entitled to trade on the EEX Spot and/or Derivatives Market (Exchange Trader) shall be admitted by EEX if they are reliable and have the necessary professional qualifications in accordance with the provisions in the Admission Rules. They can only be admitted for one Exchange Participant at any given time.

## **§ 21 Admission of Trader Assistant**

- (1) Persons who shall be entitled to trade on the EEX Spot and/or Derivatives Market on behalf of an admitted Exchange Participant without having proofed the personal qualification (Trader Assistant) can be admitted by EEX one time for the maximum duration of 6 month as Trader Assistant, if they are reliable, participate in trading at the EEX markets only under control and instruction of one specific Exchange Trader (Responsible Exchange Trader), and only insofar as the admission of the Responsible Exchange Trader extends to.
- (2) Trader Assistants can on be assigned to one specific Responsible Exchange Trader. A maximum of three Trader Assistants can be assigned to each responsible Exchange Trader. The Responsible Exchange Trader is responsible for all submissions into the systems of his admitted Trader Assistance; towards the exchange all such submissions into the systems are deemed to be entered in the name of the Exchange Trader.
- (3) The rules regarding the termination and suspension in Section 3.2 apply mutatis mutandis with respect to Trader Assistants. Furthermore, an admission as Trader Assistant expires if the admission of his Responsible Exchange Trader ceases to exist or if the period mentioned in subsection 1 expires.

## **3.2. Termination and Suspension of Exchange Admission**

### **§ 22 Resignation from Exchange Admission, Withdrawal and Revocation of Exchange Admission**

- (1) An Exchange Participant or Exchange Trader can resign from admission upon written notice to EEX. The resignation can be limited to individual products.



- (2) The Management Board of the Exchange is entitled to withdraw the admission of an Exchange Participant or Exchange Trader in full, or partially should one of the admission requirements not exist upon the granting of the admission.
- (3) The Management Board of the Exchange is entitled to revoke the admission of an Exchange Participant in full or partially if one of these requirements ceases to be satisfied at a later date, or if the Exchange Participant fails to lodge the securities determined for such Exchange Participation or fails to make the daily clearing payments or other deliveries or payments and settle other charges in good times as stipulated in the Conditions for Trading on EEX (Trading Conditions) or the respective Clearing Conditions within the prescribed period. The same applies for serious repeated breaches of the Rules and Regulations of EEX. The Management Board of the Exchange may also revoke the admission if the Exchange Participant does not comply with the Order-Transaction-Ratio according to Sect. 26a of the German Exchange Act in conjunction with Sect. 39.
- (4) ECC AG or a Clearing Member of ECC AG may also submit an application for an instruction for the revocation of admission.
- (5) The deletion of the admission of an Exchange Participant to EEX results in the deletion of the admission of the Exchange Trader who is acting on behalf of this Exchange Participant.

## **§ 23 Consequences of Resignation, Withdrawal and Revocation**

If an Exchange Participant resigns its admission to trading in full or partially or such admission is withdrawn or revoked by the Management Board of the Exchange in full or partially, the Exchange Participant shall be obliged to close or transfer the positions affected by this measure them to other Exchange Participants within a period prescribed by the Management Board of the Exchange; furthermore, the Exchange Participant must cancel all orders and quotes in the trading system concerned and may not open any new positions. The Exchange Participant shall ensure that its customers can transfer their positions to another Exchange Participant. If the Exchange Participant fails to meet these requirements within the prescribed period, the Management Board of the Exchange has the right to cancel the orders and quotes and to close the positions. The admission to trade shall terminate only after the fulfilment of the requirements provided for in this paragraph and of all obligations owed to ECC AG and/or the relevant Clearing Member.

## **§ 24 Suspension of Exchange Admission**

- (1) On the strong suspicion that one of the conditions for admission has not been fulfilled, or has subsequently ceased to be fulfilled, the Management Board of the Exchange may order the suspension of the Exchange Participant or Exchange Trader partially or in full for a maximum period of six months. The suspension of the admission of an Exchange Participant may also be ordered so long as the Exchange Participant is in default with the payment of due fees.
- (2) The Management Board of the Exchange may also suspend the admission of an Exchange Participant or of an Exchange Trader operating for it in case of non-payments for the time being in default, in all other cases for a maximum period of six months, should



the Exchange Participant or an Exchange Trader operating for it contravene provisions of the German Exchange Act or the EEX Rules or fail to lodge the margins or make the daily clearing payments or effect other deliveries or payments and settle other charges in good time as stipulated according to the Trading Conditions or the current Clearing Conditions. The same applies if the Exchange Participant does not comply with the Order Transaction Ratio according to Sect. 26a of the German Exchange Act in conjunction with Sect. 39.

- (3) ECC AG or a Clearing Member of ECC AG can also submit an application regarding the order for a suspension of admission.
- (4) During the period of the suspension of the admission of an Exchange Participant, the right to take part in trading on the EEX shall also be suspended for its Exchange Traders admitted to trading under § 20. The Exchange Trader concerned must cancel all orders and quotes and is not permitted to open any new positions and, under the supervision of the EEX, shall close or transfer all of his/her existing positions.
- (5) Upon application of the Exchange Participant the Management Board of the Exchange may order the suspension of the exchange admission at its own discretion. The duration of the suspension shall not exceed a period of 1 year. During the suspension period no annual fees will be charged; technical fees only, if relevant connections are maintained. Sect. 24 paragraph 4 applies accordingly. The Management Board of the Exchange will revoke the suspension upon request of the Exchange Participant before expiry of the period ordered pursuant to sentence 1 if the Exchange Participant continues to comply with the admission requirements.

## **§ 25 Emergency Member Stop**

- (1) A Clearing Member of ECC AG can file an application for the temporary exclusion (generally only for a period of five days) from trading on all Sub-markets of EEX of an Exchange Participant for which it provides services by means of a corresponding entry into the trading system of EEX (Emergency Member Stop), provided such Clearing Member has made an agreement regarding the permissibility and toleration of this measure with this Exchange Participant. At the same time, the Clearing Member states that it is not prepared to clear further transactions by this Exchange Participant on the Sub-markets of EEX.
- (2) The Clearing Member which has used the function of the Emergency Member Stop is obliged to make all the required declarations to permit trading of the Exchange Participant concerned on the Sub-markets of EEX, by means of an immediate corresponding entry into the trading system of EEX (deactivation of the Emergency Member Stop) once the preconditions for the use of the Emergency Member Stop have ceased to exist.
- (3) In each individual case, the Clearing Member which has activated the Emergency Member Stop is obliged to immediately communicate a written explanation for the activation of the Emergency Member Stop to the Management Board of the Exchange on the same exchange trading day. This documentation should contain information regarding the facts of the matter, the reasons and the probable time of the deactivation of the Emergency Member Stop.

- (4) Upon the activation of the Emergency Member Stop, the Management Board of the Exchange will order the suspension of the admission of the respective Exchange Participant to trade on the exchange for the period of time until the Clearing Member communicates to the Management Board of the Exchange that it is ready to re-commence clearing of transactions of the Exchange Participant concerned by deactivating the Emergency Member Stop.
- (5) For the duration of the suspension of the admission to trade on the exchange according to paragraph 1 the trading system T7 prevents further orders by the Exchange Participant concerned from being entered into the trading system. Moreover, orders which have already been entered into the system are deleted. Other trading systems do not have this functionality. Regardless of this, the Exchange Participant concerned is no longer entitled to enter orders or conclude transactions on EEX or to make entries for the purpose of position administration according to Sect. 35 of the Trading Conditions as of the order regarding the suspension of the admission to trade on the exchange.

## **§ 26 Exclusion from Trading**

- (1) If an Exchange Participant admitted to trading on the EEX as a Clearing Member of ECC AG fails to provide the margin or daily settlement amount required or fails to make any other payment or delivery when due, on request of ECC AG the Exchange Participant, as well as all affiliated Non-Clearing Members, may be excluded from trading on the EEX for the duration of such failure by decision of the Management Board of the Exchange.
- (2) If an Exchange Participant admitted to trading on the EEX as a Non-Clearing Member of the ECC AG fails to provide the margin or daily settlement amount required or fails to make any other payment or delivery when due, paragraph 1 shall apply accordingly. If such a Non-Clearing Member fails to make any deliveries or payments or fails to pay any premiums or fees to its Clearing Member when due as set out in the Trading Conditions of EEX or in the Clearing Conditions of ECC AG, the Management Board of the Exchange may, at the request of ECC AG or its Clearing Member, exclude such a Non-Clearing Member from trading on EEX for the duration of such failure.
- (3) If the other requirements for the admission as an Exchange Participant are no longer fulfilled, the Management Board of the Exchange can exclude the Exchange Participants from trading in full or partially for individual products or markets

## **§ 27 Consequences of Exclusion from Trading**

- (1) If a Non-Clearing Member is excluded from trading, the Clearing Member which provides services for such Non-Clearing Member, or ECC AG may request the Management Board of the Exchange to close the positions of that Non-Clearing Member. If a Clearing Member that is Exchange Participant at the same time, is excluded from trading, ECC AG may request the Management Board of the Exchange to close the positions of that Non-Clearing Member. If a Clearing Member of ECC is excluded from trading under the provisions of this paragraph, Non-Clearing Members affiliated with it may only be excluded from trading until they are able to engage in trading on EEX through another Clearing Member. The right to revoke their admission remains unaffected.

- (2) If an Exchange Participant is excluded from trading in single or all products, the Exchange Participant must cancel all its bids, orders and quotes within the respective products and must not enter new bids, orders or quotes within the trading systems of EEX.

### **3.3. Liquidity Provision by Market Makers and Liquidity Providers**

#### **§ 28 Prerequisites and Definitions**

- (1) The Management Board of the Exchange may determine for single products or sub-markets that and in what manner liquidity shall be provided for trading in the respective product(s) by Market Makers or Liquidity Providers.
- (2) The provision of liquidity for EEX by Market Making means the holding out of an Exchange Participant on EEX on a continuous basis as being willing to deal on own account by buying and selling of products against that Exchange Participant's proprietary capital at quotations defined by that Exchange Participant (Market Maker). Market-Makers will be admitted or committed as Market Makers, respectively, by the management board of the exchange by means of administrative act.
- (3) The provision of liquidity which is not conducted within the framework of an admission or commitment as Market Maker, respectively, is the willingness of an undertaking on EEX on a continuous basis to deal on own account by buying and/or selling of products against that undertaking's proprietary capital at prices defined by that undertaking (Liquidity Provider). Liquidity Provider will be appointed by means of private-law agreements.

#### **§ 29 Obligations of Market Makers and Liquidity Providers**

- (1) A Market Maker is obligated to simultaneously enter limited bid and ask orders (particularly by quotes) into the EEX trading system to the extent determined by the Management Board of the Exchange and to conclude trades on the basis of such quotes. The Market Maker must be contactable at all times during trading times.
- (2) In the interest of ensuing orderly trading conditions, the Management Board of the Exchange may impose additional duties on Market Makers. In particular, the Management Board of the Exchange may establish a maximum or minimum spread between the bid and the ask prices, minimum contract sizes for both the bid and the ask side, a minimum holding period for quotes, and a minimum period for maintaining quotes in the EEX trading system.
- (3) Type and scope of the obligations of Liquidity Providers will be determined by the exchange operator by means of general terms and conditions,

#### **§ 30 Commitment as Market Maker or Liquidity Provider by EEX**

- (1) The Management Board of the Exchange may commit suitable Exchange Participants to provide EEX continuously and foreseeable with liquidity in single products or sub-markets as Market Maker or Liquidity Provider. Without limitation, an Exchange Participant may be considered as being suitable if it possesses the necessary organizational and financial means to comply with its obligations as Market Maker or Liquidity Provider and it has an

appropriate number of Exchange Traders as well as the necessary technical requirements at its disposal. Further, it may be assumed due to the previous trading behavior or other comparable criteria, that it entertains a substantial interest to further the development of the liquidity in the products or sub-markets of EEX concerned, respectively.

- (2) The commitment as Market Maker or Liquidity Provider, respectively, has to be subject to appropriate commercial conditions. The commitment as Market Maker is furthermore dependent on the admission as an Exchange Participant.
- (3) The Management Board of the Exchange revokes the commitment as Market Maker or Liquidity Provider, respectively, if Market Making or Liquidity Provision is sufficiently conducted by other Exchange Participants according to the following provisions.

### **§ 31 Admission as Market Maker**

- (1) Notwithstanding Sect. 30, an Exchange Participant may also apply for admission as a Market Maker for one or several products if the Management Board of the Exchange has decided to conduct market making with respect to the trading of such product or products. Each product, to which an applicant seeks admission as a Market Maker, must be specified in the application.
- (2) The Management Board of the Exchange will grant a Market Maker admission provided the Exchange Traders named in the application for such type of trading have the requisite trading knowledge to act as Market Makers. The applicant must furnish evidence of the requisite professional knowledge.
- (3) The admission as Market Maker is dependent on the admission as an Exchange Participant.
- (4) A Market Maker admitted in accordance with paragraphs (1) through (3) may at any time resign from its Market Maker Admission upon written notice to EEX for all or for individual products. From the fifth trading day after receipt of the notice on, the Market Maker is neither authorized nor obliged to enter quotes for the products concerned.
- (5) In the case of a reapplication for admission as a Market Maker concerning products where the admission has been resigned from before, EEX may prescribe a waiting period of at least 10 trading days.
- (6) The Management Board of the Exchange may revoke the admission of a Market Maker if the Market Maker does not fulfil its obligations specified in Sect. 29 upon prior notice.

## **3.4. Admission of Institutions with public mandate**

### **§ 32 Admission as Auctioneer**

- (1) Legal bodies organized under private law or legal bodies organized under public law may be admitted as an Auctioneer by the exchange for the purpose of representing the appointing State in the primary auctioning of allowances in accordance with the Auctioning Regulation ("Auctioneer"). The Auctioneers shall only be admitted in their capacity as rep-

representative of the appointing Member States without being admitted as an Exchange Participant.

- (2) The primary auction is conducted for the Member States that have concluded a contract or any other contractual arrangements with EEX<sup>9</sup> for appointing it as auction platform pursuant to Articles 26(1) or 30(1) of the Auctioning Regulation or making use of it pursuant to Article 30(7) of the same Regulation (the "Service Contract").
- (3) The admission as Auctioneer is subject to the following requirements:
  - (a) The public or private entity has been appointed as an Auctioneer by one or more States pursuant to Article 22 (1) of the Auctioning Regulation and has a mandate to auction allowances and receive the auction proceeds on behalf of the Member State, pursuant to Article 23 (a) and (b) of the Auctioning Regulation;
  - (b) The public or private entity must be recognised as Auctioneer by European Commodity Clearing AG (ECC) in accordance with the ECC Clearing Conditions.
- (4) Application for admission as Auctioneer shall be filed to EEX in writing, using the relevant form sheet provided by EEX. The Management Board of EEX will decide on the admission in writing.
- (5) The Auctioneer must inform EEX immediately of any changes to any information provided during the admission process or any other circumstances potentially affecting the Auctioneer's admission to EEX.
- (6) Under the admission as Auctioneer the Auctioneer will only act as seller of allowances representing the appointing Member State in primary auctions (single sided auction). Any other participation of the Auctioneer in trading at EEX is prohibited.
- (7) Application for admission as an Auctioneer shall entail acceptance of all auction calendars determined and published by EEX in accordance with Chapter III <sup>10</sup>of the Auctioning Regulation and the respective Service Contract, following the notification of the Commission's opinion pursuant to Articles 11(1), 13(1), 14(2) and 32(4) of the Auctioning Regulation. Such acceptance shall cover all adjustments made to an established auction calendar, which are allowed pursuant to an authority granted in the Auctioning Regulation without the need for EEX to seek any further approval or opinion from the Commission.
- (8) The Auctioneer shall not be entitled to enter sell orders into the trading system. By virtue of the acceptance of the auction calendar referred to in the previous paragraph, the auction calendar established in accordance with Chapter III of the Auctioning Regulation as adjusted from time to time, pursuant to Article 14 of the Auctioning Regulation shall constitute the order by the Auctioneer to EEX to auction allowances for the Member State appointing the Auctioneer. The Auctioneer authorises EEX to enter sell orders on behalf of the Auctioneer representing the appointing Member State in the auction system at the

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<sup>9</sup> ECC AG acting as the clearing system for the auctioning of allowances may also be a party of the contract

<sup>10</sup> Chapter VIII as regards an opt-out platform

start of the bidding window, in accordance with the most recent validly established auction calendar.

### **§ 32a Withdrawal, revocation and suspension of admission**

- (1) An Auctioneer can resign from admission upon written notice to EEX.
- (2) The Management Board of the Exchange is entitled to withdraw the admission of an Auctioneer, should one or more of the above conditions cease to exist upon the granting of the admission.
- (3) The Management Board of the Exchange is entitled to revoke the admission of an Auctioneer if one or more of the above conditions cease to be fulfilled.
- (4) Upon the strong suspicion that one or more of the above conditions were not fulfilled at the time of granting the admission, or has/have subsequently ceased to be fulfilled, the Management Board of the Exchange may suspend the admission of an Auctioneer.

### **§ 32b Inapplicability of general rules**

For the avoidance of doubts, the provisions of sections 3.1, 3.2 and 3.3 of these Exchange Rules do not apply to the admission as Auctioneers for primary auctions.

## **3.5. Recognition of Non-Trading Brokers and Third-Party Trading Venues**

### **§ 33 Recognition as a Non-Trading Broker**

- (1) Undertakings may also be recognised by the Management Board of the Exchange exclusively for using the Trade Registration Functionality by entering trades on behalf and in the name (authorised declaring agent or declaring intermediary) of Exchange Participants in accordance with the Trade Registration Rules (Non-Trading Broker). Non-Trading Brokers are not Exchange Participants within the meaning of Sect. 16 paragraph 1 and they do not take the place of the clients upon the registration of the trades at EEX and they cannot open any own positions.
- (2) Recognition as Non-Trading Broker within the meaning of this provision shall only be possible for those undertakings:
  - (a) which are
    - a credit institution,
    - a financial services institution, or
    - an undertaking operating within the meaning of Sect. 53 paragraph 1 sentence 1 or Sect. 53b paragraph 1 sentence 1 KWG

that are authorised to conduct principle broking business within the meaning of Sect. 1 paragraph 1 sentence 2 no. 4 KWG or to provide a financial service within the meaning of Section 1 paragraph 1a sentence 2 no. 1 to 4 KWG. If according to the law of the country of origin of the undertaking that conducts the principle broking business or provides financial services, respectively, an authorization to do so is not



necessary, the undertaking has to prove an equity base that is at least comparable to that of the undertakings mentioned in sentence 1. EEX may at any time demand proof of a higher equity base or the posting of collateral if it is deemed necessary by EEX after having conducted a proper risk analysis;

- (b) in as far as they are organised in the legal form of a sole proprietorship, whose proprietors are personally reliable and professionally qualified for this position and in the case of other companies, in which the managing directors are personally reliable and professionally qualified for this position; those persons holding power of representation shall be specified by the applicant in the application for recognition;
  - (c) which have successfully completed a KYC process at EEX;
  - (d) which have the required technical access to the EEX Trade Registration Functionality;
  - (e) which must have appointed persons who are to be entitled to use the Trade Registration functionality with these persons having to be personally reliable and professionally qualified;
  - (f) which guarantee
    - (i) that through their internal organisation they ensure that transactions are only registered in the name of such Exchange Participants with whom they have concluded a respective agreement
    - (ii) that by this agreement the liability risk for erroneous registrations caused by the Non Trading Broker is allotted thoroughly to the Non Trading Broker as well as
    - (iii) that they provide EEX with a list amended from time to time and in a format determined by EEX containing EEX Exchange Participants with whom the Non Trading Broker has concluded a respective agreement; and
    - (iv) that the process for matching of orders within their internal trading system cannot be manipulated;
- (3) Non-Trading Brokers, who are not also admitted as Exchange Participants on EEX at the same time are only authorised to enter trades; however, they are not authorised to confirm such. Any participation in exchange trading and holding of own positions via the Trade Registration functionality are excluded.
- (4) The Management Board of the Exchange can restrict the recognition of Non-Trading Brokers to certain market segments and products.
- (5) The Management Board of the Exchange can revoke the recognition as a Non-Trading Broker at any time and with immediate effect in the event that individual preconditions for recognition as a Non-Trading Broker cease to apply or in the event that the Management Board of the Exchange learns of facts which indicate unreliability on the part of the Non-Trading Broker. Such facts include, in particular, entering of transaction which the Non-Trading Broker was not entitled to conclude. The revocation of a company's recognition as a Non-Trading Broker has to be communicated to the Exchange Participants of EEX.



## **§ 34 Recognition as a Third Party Trading Venue**

- (1) Enterprises that operate and/or manage the business of a regulated market may be recognised by the Management Board of the Exchange exclusively for using the Trade Registration Functionality by entering trades on behalf and in the name (authorised declaring agent or declaring intermediary) of Exchange Participants or Trade Registration Participants in accordance with the Trade Registration Rules (Third Party Trading Venue). A regulated market according to sentence 1 is a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in commodities or future or forward transactions in commodities, freight rates, emission rights, climatic or other physical variables – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the commodities, freight rates, emission rights, climatic or other physical variables admitted to trading under its rules.
- (2) Recognition as Third Party Trading Venue within the meaning of this provision shall only be possible for those undertakings:
  - (a) which have obtained a permission by the respective competent national supervisory authority to operate a regulated market and which are supervised in doing so by that authority;
  - (b) which have concluded a cooperation agreement regarding the registration of trades with EEX AG or a group company of EEX Group.
  - (c) which have the required technical access to the EEX Trade Registration Functionality;
  - (d) which guarantee
    - (i) that through their internal organisation they ensure that transactions are only registered in the name of such Exchange Participants with whom they have concluded a respective agreement
    - (ii) that they provide EEX with a list amended from time to time containing their trading participants for whom the Trade Registration Functionality will be used; as well as
    - (iii) that they are thoroughly liable risk for erroneous registrations caused by the them.
- (3) There shall be no right to be recognized as Third Party Trading Venue, particularly, such right shall not be the consequence of the recognition of another enterprise.
- (4) The Management Board of the Exchange can revoke the recognition as a Third Trading Party Venue at any time and with immediate effect in the event that individual preconditions for recognition as a Third Trading Party Venue cease to apply or in the event that the Management Board of the Exchange learns of facts which indicate unreliability on the part of the Third Trading Party Venue. Such facts include, in particular, entering of transaction which the Third Trading Party Venue was not entitled to conclude. The revocation of

a company's recognition as a Third Trading Party Venue has to be communicated to the Exchange Participants of EEX.

### **3.6. Admission, Withdrawal and Suspension of Products**

#### **§ 35 Admission of Products**

- (1) The Management Board of the Exchange shall decide which product shall be admitted to Spot and Derivatives Trading on the EEX and determines – subject where necessary to the required approval of the Exchange Supervisory Authority – on which trading system a product will be launched. Condition for the admission of a product is that the maintenance of orderly Spot and Derivatives trading can be expected. Details are regulated in the EEX Conditions for Trading.
- (2) Products are, in each case, Spot Market trades, and Options or Derivatives contracts on a specific underlying instrument that are authorized to trading on the Exchange. The underlying instrument is the reference object of the product.
- (3) A decision of the Management Board of the Exchange concerning the admission of products for trading on the EEX must be made public.
- (4) The Management Board of the Exchange shall decide on the admission of products for use of the Trade Registration Functionality. In the case of products which are exclusively launched for the registration of trades, it shall determine the contract specifications. More detailed provisions regarding this are made in the Trade Registration Rules.

#### **§ 36 Withdrawal and Suspension of a Product Admission**

- (1) If orderly Exchange trading or the orderly settlement of Exchange transactions is at risk or protection of the public requires such actions, the Management Board of the Exchange may withdraw the admission of products for Spot Market or Derivatives trading in these products on the EEX, or it may suspend trading on the Spot or Derivatives Markets of the EEX altogether. This holds in particular for trading on the Derivatives Market of the EEX if the quotation of an underlying is suspended or if for other reasons, the EEX is not authorized to reference this underlying anymore.
- (2) Furthermore, the Management Board of the Exchange may interrupt the entire Exchange trading or trading in individual products if technical reasons or the prevention of threats to the functionality of Exchange trading require such an action.
- (3) In case the orderly trading or settlement of a contract is not secured, the Management Board of the Exchange may determine cash settlement instead of physical fulfillment for contracts which have to be fulfilled physically.<sup>11</sup>
- (4) The Exchange Participants need to be immediately informed about withdrawals of the admission of products or the suspension of trading on the Spot or Derivatives Markets of the EEX and the determination of a cash settlement for physical products.

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<sup>11</sup> As regards primary auctioning of allowances, Article 48 of the Auctioning Regulation shall remain unaffected.

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When trading on the Spot or Derivatives Markets of the EEX is entirely or partly suspended for certain products, it is not possible to enter orders or quotes for the concerned products and for the duration of the suspension. Neither is it possible to close open positions resulting from derivatives trading for the concerned products and for the duration of the suspension. All the existing orders and quotes will be deleted. Reopening of trading in the suspended products begins – if applicable - with a pre trading period or an opening phase. In the case of a suspension that constitutes a particular situation, the Management Board of the Exchange may give instructions that deviate from the rules specified above.

## **4. Exchange Trading**

### **4.1. General Terms for Exchange Trading**

#### **§ 37 Electronic Exchange**

- (1) The EEX is a fully electronic exchange. It has electronic trading platforms for the conclusion of Spot transactions and for the conclusion of Derivatives transactions.
- (2) Orders are purchase or sale orders made by Exchange Participants on the Spot Market of the EEX in the trading type of Continuous Trading with auction trading as well as on the Derivatives Market. In auctions orders can also be referred to as bids. Quotes are limited purchase and sale orders entered simultaneously which are valid for only one day. Further details are stipulated in the EEX Conditions for Trading.
- (3) Exchange Participants transfer orders and quotes from their respective workstations to the EEX trading systems by means of electronic transmission. The Management Board is entitled to permit the usage of other methods of transfer; it will inform the Exchange Participants of this method by the most suitable means.
- (4) The Management Board is entitled to temporarily interrupt the access to the EEX trading systems for single or all products for one or all of the Exchange Participants should this be necessary for technical reasons. The Management Board makes the decision as to the revocation of the interruption. The Exchange Participants concerned must be informed of the interruption of the access to the EEX trading systems and the revocation of the same by suitable means.

#### **§ 38 Exchange Price and Price Determination**

- (1) Exchange prices are determined by execution of orders at the exchange. Exchange prices are determined transparently and non-discriminatorily by the trading systems of EEX according to the more detailed provisions of the following paragraphs.
- (2) Exchange prices must be determined properly and correspond with the actual market situation of the exchange trading. The exchange has to make appropriate arrangements to secure the proper determination of the exchange prices in the event of extensive price fluctuations. Appropriate arrangements are in particular short-term changes in the market model, like the discontinuation of continuous trading with a subsequent restart by an opening auction or through the short-term interception of the volatility considering static or dynamic price corridors. Details may be stipulated in the Trading Conditions. The Management Board of the Exchange may rapidly determine further appropriate measures, if there is a risk that the exchange prices are not determined properly or do not correspond with the actual market situation.
- (3) In primary auctions of allowances at the spot market in accordance with the Auctioning Regulation as well as at the derivatives market pricing is carried out as uniform pricing in the auction by means that all successful bidders will pay the same auction clearing price after the end of the call phase.

The limit price of the order at which the sum of the volumes bid matches or exceeds the volume of allowances auctioned shall be the auction clearing price: The orders are sorted according to the height of the price limit and the quantities specified are added up. Where the price limit of several orders is the same, these orders will be sorted through a random selection according to an algorithm determined by EEX before the auction.

If the amount of bidding orders does not meet the offer of allowances a price determination does not take place during the respective auction. The same applies if the estimated auction price does not reflect the orderly secondary market value (in accordance with Article 7 (6) of the Auctioning Regulation) and the other cases as foreseen in Art. 9 of the Auctioning Regulation. Further details are stipulated in Sect. 33 of the Trading Conditions of EEX.

- (4) Within the trading system T7 the opening price is determined during the opening auction, as of a time to be determined by the Management Board of EEX, on the basis of both limited orders and market orders contained in the trading system and shall be the price at which the largest possible number of contracts of such orders and quotes may be executed (Principle of Maximizing Executions – Meistausführungsprinzip).

During continuous trading the exchange price is determined on the basis of the respective highest sell limit or lowest buy limit in the same order book or another order book (synthetic path) at which the orders are executed automatically by the trading system (price-time priority). Further details are stipulated in Sect. 25 of the Trading Conditions of EEX.

- (5) The exchange prices and the volume and time at which the trades were closed out shall be published within the respective trading system or by means of electronic media, respectively, immediately in real time and not later than three minutes after occurrence, unless a delayed publication seems necessary in order to avoid an inadequate disadvantage of the parties of the transaction. Type and extent of the publication shall be determined by the Management Board of the Exchange in accordance with the requirements provided by law. The Management Board shall accordingly be authorized to publication serving the purpose of an adequate notification of the public of the market development.

## **§ 39 Order-Transaction-Ratio**

- (1) The Exchange Participants shall be obliged to safeguard an adequate ratio between their entries of orders, changes and cancellations thereof and the actually executed transactions (Order-Transaction-Ratio), to avoid any risk for proper exchange trading. Thereby, the Order-Transaction-Ratio is to be determined for each financial instrument by means of the numerical volume of the respective orders and trades within one calendar month. An adequate Order-Transaction-Ratio is particularly existent, if it is economically comprehensible due to liquidity of the product concerned, the actual market situation or the function of the acting Exchange Participant.
- (2) The Management Board of the Exchange shall be entitled to define criteria to determine the adequate Order-Transaction-Ratio for the respective financial instrument or certain classes of financial instruments, whereat the Management Board of the Exchange considers the liquidity and volatility within the respective market including specific order book situations, the way entries to the order book are made (manually or electronically). Enter-

prises, whose entries to the order book serve to fulfill their quotation obligation, may be exempted from the obligation stipulated in paragraph 1.

## **§ 40 Minimum Price Change**

- (1) The minimum price change for each product is stipulated in the Contract Specifications.
- (2) The Management Board of the Exchange may temporarily determine the minimum price change exceeding the provisions in the Contract Specifications, if this determination is appropriate to reduce negative impacts to the market integrity and liquidity.

## **§ 41 Technical Malfunctions**

- (1) Malfunctions which occur on the technical equipment that is required for participation in trading have to be reported to EEX without delay during the business hours by the affected Exchange Participants.
- (2) In the case of technical malfunctions, EEX shall be authorized to take any suitable and appropriate measures which are required to safeguard or resume proper trading or the proper settlement of exchange trades. For example, EEX can exclude individual Exchange Participants or all Exchange Participants from trading temporarily; they can suspend trading or delete orders by individual or all Exchange Participants. The measures taken by EEX shall be binding for all Exchange Participants. Further rules are contained in the Technical Implementation Regulations of EEX.
- (3) EEX provides unrestricted technical support only during business hours. Outside business hours the support only comprises measures for remedying technical malfunctions and for damage control. These measures concern in particular remedying of a technical malfunction, the deletion of orders by individual or all Exchange Participants, the cancellation of transactions, or the complete or partial suspension of trading.
- (4) EEX shall be authorized to commission third parties not belonging to the EEX group to support the Exchange Participants outside the business hours or for measures according to paragraph 2. However, the third parties commissioned to that end shall not be granted access to the trading data of the Exchange Participants or a right of inspection of such.
- (5) EEX, its operating company and companies of the EEX group assume no liability for damage resulting from a disruption of the operation as a result of force majeure, rebellion, acts of war, natural phenomena, or other events for which it is not responsible (e.g. strikes, lock-outs).
- (6) EEX, its operating company and companies of the EEX group only accept liability for damages resulting from the use of the EEX trading systems if and in as far as this results from gross negligence or actions of intent committed by its organs or vicarious agent. Over and above this, the EEX shall only be liable for the careful selection of the EDP systems used for trading.

## **§ 42 Central Counterparty**

- (1) To safeguard the proper execution of trades concluded or registered at EEX, the clearing of these trades is carried out through European Commodity Clearing AG as central coun-

terparty (ECC or clearing house). The collateralization, financial and physical settlement of all trades concluded or registered at EEX (Clearing), will be carried out exclusively according to the ECC Clearing Conditions in their respective valid version and the conditions they refer to.

- (2) The Management Board of the Exchange may admit ECC AG to trading on EEX as an Exchange Participant in connection with its activity as a central counterparty. ECC AG is limited to trading on its own behalf or on behalf of the Clearing Members and Non-Clearing Members connected to it in the framework of the default management process of ECC AG. Proof of the authorisation required to this end constitutes the precondition for trading on behalf of the Clearing Members or Non-Clearing Members. Admission has to be applied for in writing.
- (3) The Management Board of the Exchange may regardless of the provision of Sect. 27 enter orders either for own behalf and own account of ECC or on behalf of and on account of the clearing members or non-clearing members of ECC or register trades to safeguard the proper execution of exchange trades.

## **4.2. Exchange Trading on the Spot Markets of EEX**

### **§ 43 Exchange Hours and Trading Periods**

- (1) The Exchange hours for the commencement and the end of the individual phases for all products shall be determined by the Management Board of the Exchange. The Management Board of the Exchange may extend or reduce the Exchange hours as well as the commencement of any of the individual phases on any given Exchange day to the extent necessary to maintain orderly trading conditions or for reasons relating to the trading systems of the EEX.
- (2) The Exchange hours for Spot transactions, which can be concluded in the trading type of closed or open auctions, comprises the following consecutive phases:
  - (a) Call Phase and
  - (b) Execution Phase

The trading period for Spot transactions in the trading type of continuous trading comprises only the Execution Phase.

- (3) Orders can be entered, changed or deleted from the EEX trading systems during the Call-Phase; the Order Book remains closed.
- (4) The Call-Phase is followed by the Execution Phase during which transactions in the individual products can be concluded in a closed or open auction in accordance with the Trading Conditions. The execution of the auctions for individual products, shall be determined by the Management Board of the Exchange unless more detailed provisions regarding this are established in the Exchange Rules or the Trading Conditions.

### **§ 44 Trading types**

- (1) Products of the EEX Spot Markets will be traded in continuous trading or in auctions.



- (2) Unless deviating provisions are made in an individual case, the price at which the highest order volume can be executed with the minimum surplus is determined from the limited and unlimited orders which are received in the EEX system until a certain time in the Open or Closed Auction; in as far as unlimited orders are permissible, these shall be given priority. An Open Auction is generally divided into the call phase and the price determination. During the call phase, Exchange Participants may enter, change or delete orders. If there are orders that could be executed against one another, in auctions with a closed Order Book, a potential execution price is displayed during the Call phase. If this is not the case, the best buy and/or sell limit is displayed. In auctions with an open Order Book, the cumulated order volumes of each of the buy and/or sell limits are also displayed. Neither a potential execution price nor order volumes are displayed in a closed auction.
- (3) Continuous Trading commences without an opening auction, closing auction, or intraday auctions. Prices are determined by matching orders at the best possible bid and ask limits indicated in the Order Book; in the event that prices are identical, orders and quotes are matched in the order in which they were entered into the EEX system (price-time priority); unlimited orders are executed first. All available orders shall be displayed cumulatively at the respective limits (Open Order book).
- (3) Details are stipulated in the Trading Conditions.

## **4.3. Exchange Trading on the Derivatives Markets of EEX**

### **§ 45 Exchange Hours and Trading Periods**

- (1) The Exchange hours for derivatives transactions on the Derivatives Markets of EEX consist in accordance with the more detailed provisions in the Trading Conditions of at least the:
  - (a) Trading Period;Furthermore, it can establish the following phases:
  - (a) Pre-Trading Period and
  - (b) Post-Trading Period.
- (2) The Exchange hours for the commencement and end of the individual periods for each approved product for the Derivatives market shall be determined by the Management Board of the Exchange. The Management Board of the Exchange may extend or reduce the Exchange hours, as well as the commencement of any of the individual periods on any given Exchange day to the extent necessary to maintain orderly trading conditions, or for reasons relating to the EEX trading systems.
- (3) In accordance with the Trading Conditions and the Trade Registration Rules, the execution of trades on the Exchange is only possible during the Trading Period.

## **§ 46 Type of Trading**

Products of EEX will be traded on the Derivatives Markets in continuous trading with or without open auctions. In accordance with the Trading Conditions the products may also be traded in closed or open auctions.

### **4.4. Special Provisions for the Primary Auction of Allowances**

#### **§ 47 Primary Auction**

- (1) The provisions of this section 4.4 provide for special provisions for primary auctions of allowances in accordance with the Auctioning Regulation. Insofar, if there is any conflict between the provisions of this section 4.4 and any other provisions of the Exchange Rules, the provisions of this section 4.4 shall prevail.
- (2) Primary auction of allowances is effected as an element of exchange trading on the spot market of EEX in accordance with the Auctioning Regulation as further specified in the rules and regulations of EEX.<sup>12</sup>
- (3) In addition to the rules and regulations of EEX, the respectively valid statutory bases are applicable to the respective auctions.
- (4) EEX is the regulated market carrying out the primary auction of allowances as auction platform in accordance with Article 35(1) of the Auctioning Regulation. ECC is the clearing system connected to the auction platform in accordance with Article 27(2) of the Auctioning Regulation.
- (5) Primary auction is conducted for the Member States which have appointed or selected EEX as the respective auction platform for the primary auctioning of allowances. The Member States or a third party commissioned by it (Auctioneer) shall provide the allowances to be auctioned off.
- (6) Participation in primary auctions shall only be carried out by Exchange Participants which are admitted to bid in the auctions in accordance with Chapter IV of the Auctioning Regulation and persons admitted as Auctioneers auctioning allowances on behalf of the appointing Member States in accordance with Chapter V of the Auctioning Regulation as further specified in section 3.4 of these Exchange Rules. Only Auctioneers representing the appointing Member States are entitled to conclude sales transactions in the framework of the primary auction.

#### **§ 48 Execution of the Primary Auction**

- (1) The primary auction of allowances is effected by means of a closed auction on the EEX Spot Market.

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<sup>12</sup> Any other information pertaining to the auctions is available at the dedicated auctioning web-site referred to in Article 60 of the Auctioning Regulation: <https://www.eex.com/en/products/environmental-markets/emissions-auctions>

- (2) The exchange publishes an auction calendar which specifies inter alia the dates for the auction (day and time) as well as the respective quantity of allowances to be auctioned off during a given auction. The primary auction of allowances comprises both general allowances and aviation allowances as defined in Articles 3(7) and (8) of the Commission Regulation (EU) No 389/2013 of 2 May 2013.
- (3) More detailed provisions regarding the execution of the auctions are established in the Trading Conditions and Contract Specifications.

## **§ 49 Cooperation with Supervisory Authorities, Forwarding of Information**

- (1) EEX is entitled and obliged to exchange information with the respective contracting entity, the authorities in charge of monitoring of the auctions in accordance with the more detailed provisions of the provisions which are applicable to the respective primary auction and with the implementation regulations and agreements which are based on these, to the extent that the knowledge of such information is necessary for these bodies to fulfil their tasks.
- (2) Further, EEX is in accordance with the provisions of the Auctioning Regulation in its respectively valid version, entitled and obliged to forward data and information to third parties that are commissioned to execute the auction as the successors of EEX, that apply for such succession or that, as authorities, collect data and information in order to forward such to the persons specified in the framework of the valid provisions. Details are laid down, in particular, in Art. 35 paragraph 3 lit h of the Auctioning Regulation and the specific rules governing the use of such data and information which are based on these.
- (3) EEX is entitled to take measures to ensure proper pricing in the primary auction which is also in line with the market with regard to secondary trading in accordance with the more detailed statutory provisions which are valid for the respective primary auction and the more detailed specifications which are based on these.

## **5. Margin Requirements; Position Limits**

### **§ 50 Margin Requirements**

- (1) Each Exchange Participant shall deposit the required margin as well as the daily settlement payments on the Derivatives Markets at any given time. The method for the calculation of the margin established by ECC AG and the Clearing Members shall be disclosed to the Non-Clearing Members on request.
- (2) Exchange Participants that are also Clearing Members at ECC AG shall immediately inform the managing board of the exchange if one of its Non-Clearing Members does not provide the margins which have been established.
- (3) The adherence to provision regarding margin requirements (i.e. the respective valid clearing conditions) and making of arrangements of suitable measures to ensure that the obligations of Exchange transactions are met shall be monitored in compliance with Sect. 20 of the Exchange Act.

### **§ 51 Determination of the Position Limits for Derivatives Trading**

- (1) The Management Board of the Exchange may set position limits for Derivatives trading in order to ensure that Derivatives Trading proceeds in an orderly fashion. A position limit is a maximum number of Derivatives contracts that may be held by one Exchange Participant or one customer for its own account.
- (2) Positions held in arrangements with third parties for a common purpose shall also be included in such position limits.
- (3) In Derivatives trading, the position limits for each product shall be defined as the maximum total number of contracts purchased and sold.
- (4) An Exchange Participant may not, for its own account or for the account of any customer, engage in any transactions on the EEX if there are any indications that the Exchange Participant or customer, as a consequence of such transaction, whether alone or jointly with others, would hold or control a total position in excess of the position limits set by the Management Board of the Exchange.

### **§ 52 Modifications of Position Limits**

The Management Board of the Exchange may modify position limits in order to maintain orderly trading. Changes to position limits shall become effective no earlier than on the sixth exchange day following the date of their announcement to the Exchange Participants.

### **§ 53 Monitoring of Compliance with Position Limits**

The Market Surveillance Department monitors all positions of an Exchange Participant, including customer positions, to verify compliance with position limits.

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## **§ 54 Reporting Obligation**

In the case that trading commences prior to the point of time at which the margin requirements or the daily settlement payment are to be provided, an Exchange Participant must not start trading if the fulfilment of the margin requirements or daily settlement payments applying for this Exchange Participant within the agreed time limit is at risk. The Management Board of the Exchange shall be notified by the Exchange Participant hereof without delay.

## **6. Final Provisions**

### **§ 55 Usage of Data**

- (1) Data and information received from the EEX trading system shall only be used by Exchange Participants for their own purposes with respect to trading and settlement. Transmitting such data to third parties or processing the data received, including all types of commercial uses of these data shall, to the extent not required for EEX trading or for clearing purposes, not be permitted without the prior consent of the Management Board of the Exchange.
- (2) Without prejudice to legal and regulatory obligations, the Management Board of the Exchange and the Operating Company are entitled to share information and data related to the exchange membership within EEX group, the scope of cooperations, outsourcings and the assignment of external service providers. A transfer of information and data outside of EEX group may only take place if this is necessary for the fulfilment of the tasks performed by the third party and if the third party has committed itself to strict confidentiality. The disclosure of personal data is only permitted in the framework of the respectively valid statutory provisions.

### **§ 56 Recording of Telephone Calls**

- (1) In order to safeguard the correctness of exchange trading and of the settlement of exchange trades, telephone calls with the EEX Market Supervision may be recorded and saved electronically by EEX. An indication of the right to refuse the recording will be provided to the caller before the recording. Without prejudice to already granted approvals, the caller may refuse the recording of his call. In this case, the call is terminated by EEX Market Supervision, so that trading on behalf is not possible.
- (2) These recordings are regularly deleted upon the end of a period of one year after the month during which the recording was made provided knowledge of the data recorded is no longer necessary for EEX to be able to fulfil its tasks.
- (3) Data recorded in accordance with section 1 shall exclusively be used for the purpose specified in section 1 and it shall only be used if the matters concerned cannot be clarified or reasonably clarified with the help of other evidence and proof.

### **§ 57 Publication of Prices and Transaction Volumes**

The Management Board of the Exchange shall publish Exchange prices, daily settlement prices, final settlement prices and underlying transaction volumes in the electronic media. The manner and scope of the publication of prices shall be determined by the Management Board of the Exchange. The Management Board of the Exchange is also authorized to publish information serving to adequately inform the public of matters related to market activities.

## **§ 58 Announcements**

Unless provided otherwise, announcements by any of the Exchange bodies of EEX shall appear in the electronic media. The Management Board of the Exchange shall determine the electronic medium.

## **§ 59 Date of Effectiveness**

The Exchange Rules as well as any amendments hereto shall take effect on the day after their publication.

## **§ 60 Changes of Rules and Regulations**

The Management Board of the Exchange is authorized, upon approval by the chairman of the Exchange Council or his deputy, to bring about changes to the Rules and Regulations which do not alter the content.