

part of eex group



## Code of Conduct

The English version is for information purposes only. The German version is legally binding.

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## 1. Preamble

- (1) In the framework of its right to self-management EEX sets the following rules of conduct for itself through the exchange council in addition to the existing provisions.
- (2) This EEX Code of Conduct is based on the fundamental principle of the need for the joint responsibility of EEX and its trading participants for a fair and transparent trading at the markets of EEX.
- (3) These rules make an active contribution to the requirements of the further developing internationalisation of commodities trading [in economic goods](#) and aim at complying with the market's need for a uniform and internationally harmonised control system.
- (4) These rules are intended to strengthen the confidence which the market and the public have in the markets of EEX, its pricing mechanisms and the reference character of the exchange prices.

## 2. Scope of Application

### § 1 Scope of Application

- (1) The EEX Code of Conduct is applicable to the market places and EEX itself, all trading participants and members as well as their and exchange traders ~~admitted to trading on the markets of EEX as well as~~ and all other persons who are allowed to use the exchange and its facilities. This EEX Code of Conduct therefore applies particularly to Non-Trading Brokers and the persons entitled to use the Trade Registration functionality. Any obligations that is determined to apply to trading participants or exchange traders in the following, shall apply as well to other members, their traders, Non-Trading Brokers and the persons entitled to use the Trade Registration functionality.
- (2) Furthermore, ~~§ 38~~ para ~~32~~ shall be binding for those persons and companies involved in the determination of the settlement price.
- (3) The scope of this EEX Code of Conduct comprises all acts and conduct, including such acts and conducts that are carried out outside of the markets of EEX that could compromise the integrity of EEX, trading at EEX, and the market prices of EEX.

### § 2 Legal Classification

- (1) The EEX Code of Conduct is part of the rules and regulations of EEX and helps to ensure proper exchange trading.
- (2) ~~This~~ EEX Code of Conduct does not release the trading participants from ~~the obligation to complying~~ with further statutory and regulatory provisions ~~rules and further specific provisions applicable to them~~ on exchanges, such as ~~the exchange rules and the trading conditions of EEX~~:
  - the market conduct rules under REMIT<sup>1</sup> and MAR<sup>2</sup>, including the relevant delegated acts.
  - the rules of general conduct and organisational requirements under MiFID II<sup>3</sup>, as transposed into national law, including relevant delegated acts; or
  - the relevant bans and rules of criminal and tax laws.
- (3) In the application of this EEX Code of Conduct by the exchange and its bodies, inconsistencies with the rules referred to in paragraph 2 shall be avoided and the interpretation shall be harmonized insofar; in the event of an inconsistency, higher-ranking provisions shall prevail.

<sup>1</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 in its respective valid version.

<sup>2</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 in its respective valid version.

<sup>3</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU in its respective valid version.

### 3. Rules of Conduct for Exchange Trading

#### 3.1 Principle

#### § 3 Integrity of the Markets of EEX: Prohibition of Insider Trading, Market and Settlement Price Manipulation

(1) In order to safeguard the integrity of the markets of EEX, particularly to ensure a free, transparent and fair trading on the markets of EEX, the following principles apply to trading on EEX:

- Trading participants and exchange traders observe the applicable laws (in particular REMIT and MAR), the Exchange Rules, the customary trade practices and principles of professional exchange traders;
- Trading participants and traders behave honestly and fairly when trading on EEX; and
- When trading on EEX, trading participants and exchange traders shall take due account of the concerns and interests of EEX and other trading participants and exchange traders.

These principles must also be respected where they result in the loss of certain direct financial benefits. Trading participants and traders shall also refrain from assisting third parties in attempting to deviate from the aforementioned principles or to participate in actions that could endanger or impede the proper operation of the exchange on EEX.

(2) In particular, it is prohibited for trading participants and traders,

- to purchase or sell, directly or indirectly, a product traded on EEX, or to cancel existing orders, using confidential, price-sensitive information relating to the products traded on the markets of EEX for their own account or for the account of a third party, unless this information is the intention to enter or cancel an order in the trading system of EEX itself or insofar as the use of the information falls under one of the exceptions of Article 3 paragraph 3 or 4 of REMIT or Article 9 of MAR;
- to manipulate exchange trading on EEX, in particular all actions are prohibited which are likely to give false or misleading signals with regard to exchange prices, settlement prices or the used benchmarks or for which this is probable;
- to use EEX and its facilities for the purpose of committing further economic or tax crimes or offences, and notwithstanding the corresponding provisions of REMIT<sup>4</sup> und MAR<sup>5</sup>, any form of manipulation of exchange trading at EEX and the exchange prices and the

<sup>4</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 in its respective valid version.~~

<sup>5</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 in its respective valid version.~~

~~involvement in insider dealings as well as the use of the exchange and its facilities to commit other economic crimes or tax offences are banned.~~

~~(3) It is prohibited to manipulate the settlement price or settlement price determination:~~

- ~~• by the conclusion of transactions or by entering orders in order to achieve a deviation of the settlement price from the fair market value (fair values); or~~
- ~~• as participant in the chief trader procedure or any other procedure in which the fair market value (fair values) is determined by EEX by means of a survey to knowingly transmit an assessment which is not free from self-interest or is not given to the best of his/her knowledge and belief.~~

~~(42) The prohibitions ban according to paragraph 24 and 3 and the following provisions also comprise the respective attempt to engage in the ~~ban~~prohibited conduct.~~

~~(3) The trading participants and exchange traders commit to fairness towards the EEX and the other trading participants. They shall only conclude transactions on EEX in compliance with the customary trade practices and the principles of professional exchange traders.~~

### **3.2 Ban of Market Manipulation**

#### **§ 4 Definition**

~~The term “market manipulation” comprises without limitation particularly the following acts and conducts:~~

- ~~• entering of orders without trading interests (fictitious orders),~~
- ~~• the conclusion of transactions suitable for a manipulation of the exchange prices (misleading trading transactions),~~
- ~~• collusions or the collusive co-operation of trading participants or exchange traders among each other or with third parties,~~
- ~~• influencing of settlement prices so that these do not reflect the fair market value.~~
- ~~• publishing or disseminating news via the facilities of EEX or outside EEX of which the trading participants or the persons acting on behalf of them know or should have known that they are false or misleading and which are likely to give, false or misleading signals as to the supply of, demand for or the price of the products traded at the markets of EEX Group.~~

#### **§ 5 Ban on Fictitious Orders**

~~It is forbidden to enter orders into the trading systems of EEX which are not intended to lead to the conclusion of a transaction (fictitious orders).~~

**§ 6 — Ban on Misleading Transactions**

~~The conscious conclusion of transactions which are suitable for setting incorrect or misleading signals regarding the supply or the demand for the products traded on EEX or establishing an artificial price level shall be banned.~~

**§ 7 — Collusions and Collusive Behaviour**

- ~~(1) Any collusive co-operation of trading participants or exchange traders among each other or with third parties which is suitable for influencing trading on EEX shall be banned.~~
- ~~(2) The conclusion of collusive transactions and internal transactions concluded by trading participants shall not be permitted unless these are expressly permissible as an exception according to the more detailed provisions of the Rules and Regulations of EEX. Sentence 1 shall be applied accordingly with regard to other behaviour which constitutes a circumvention of this provision.~~

**§ 8 — Establishment of Settlement Prices**

- ~~(1) Any influencing of the settlement price and, in particular, any attempts at achieving a deviation of the settlement price from the fair market value (fair values) by means of the conclusion of transactions or by entering orders shall be banned.~~
- ~~(2) All participants in the chief trader procedure in which the fair market value (fair values) is established by means of a survey by EEX shall convey their assessment free from any self-interest and to the best of their knowledge and belief.~~

**3.3 Requirement for Transparency and Ban of Insider Dealings****§ 9 — Requirement of Transparency**

~~The trading participants support EEX in ensuring and further developing the transparency of the exchange and the information of the public beyond the pure exchange trading.~~

**§ 10 — Definition of Inside Information**

~~“Inside information” is any information of a precise nature, which has not been made public, relating, directly or indirectly to a product traded on the markets of EEX Group or that concerns a trading participant in relation to such a product and which, if it were made public, would be likely to have a significant effect on the prices of that product or associated products or products referring thereto. This comprises also the respective information about announced but not yet executed buy or sell orders of clients.~~

**§ 11 — Ban of Insider Trading**

~~Trading participants and exchange traders are prohibited to directly or indirectly buy or sell a product traded at EEX for own account or the account of a third party, by using insider~~

~~information. This includes cancellations or modifications of an order, if the order has been placed before the inside information has been acquired. This also includes the transmission, modification or withdrawal of a bid with regards to primary auctions of emission allowances or any products referring thereto.~~

#### ~~§ 12 — Ban of Dissemination and Recommendation~~

- ~~(1) — Trading participants or their exchange traders are forbidden to disseminate inside information to third parties if they are not authorized by law to do so.~~
- ~~(2) — Similarly, a trading participant or its exchange traders are forbidden to recommend other persons or to incite other persons based on inside information to buy or sell products the information relates to or to cancel or modify orders that have already been placed.~~

#### ~~§ 13 — Exemptions~~

~~The bans according to Articles 11 and 12 do not apply as far as one of the exemptions of Article 3 paragraphs 3 or 4 REMIT apply to the concrete act.~~

### ~~3.4 — Further Economic Crimes and Tax Offences~~

#### ~~§ 14 — Ban of Use of Facilities of EEX~~

~~Without prejudice to the criminal law and tax law provisions, trading participants and exchange traders are forbidden to use the facilities of EEX or the markets of EEX Group for the purpose of committing other economic crimes or tax offences.~~



## 4. Conduct Towards the Public

### § 154 Principle

- (1) In as far as a trading participants or exchange traders makes statements regarding its ~~their~~ participation in the exchange towards the public, ~~they said participant~~ shall be obliged to make such statements truthfully.
- (2) Moreover, trading participants and exchange traders shall be obliged to refrain from bringing EEX and ~~the companies operating the exchange as well as the other~~ market operators and markets of EEX Group or ECC AG into disrepute by consciously false statements.

## 5. Internal Regulation and Organisation

### § 165 Principle

The trading participant shall be obliged to establish internal regulations for itself in accordance with its personal circumstances and the extent of its business activities and to provide an organisational structure ensuring a proper participation in exchange trading and the settlement of exchange transactions.

### § 176 Organisation

- (1) The trading participant shall be obliged to organise its business operations in such a way that it fulfils all the legal and regulatory requirements for ~~energy~~ trading [in the markets of EEX](#).
- (2) The adequate organisation of the trading participant shall comprise, in particular, the following – under consideration of the personal circumstances and the extent of the business activities of the trading participant:
  - that the trading participant has an internally established organisational structure,
  - that the scope of duties of the employees is clearly defined,
  - that the trading activities are monitored effectively internally and
  - that effective risk management with regulations and control mechanisms for the basic risks from participation in trading on the markets of EEX is available.

### § 187 Qualification of the Traders

The trading participants shall ensure that their traders are sufficiently qualified and enjoined to comply with the rules of the exchange, including this EEX Code of Conduct.

## 6. The Trading Participant's Conduct towards its Clients

### § 198 Principle and Scope of Application

- (1) The provisions of this section apply to the trading participants and exchange traders who carry out their clients' orders directly or indirectly on EEX.
- (2) The trading participants are obliged to treat their clients with the required professionalism and fairness and to resolve conflicts with client's interests adequately.

### § 209 General Rules of Conduct

- (1) Trading participants shall, in particular, be obliged
  - to provide their services in connection with trading on EEX with the required expert knowledge, care and conscientiousness in the interest of their clients at all times,
  - to endeavour to avoid conflicts of interests and to clearly explain the general type and origin of conflicts of interest to the clients prior to the execution of transactions for clients.
- (2) All the information which trading participants make accessible to their clients has to be honest, unmistakable and such information must not be misleading.

### § 210 Processing of Orders

Upon the execution of client orders a trading participant shall take precautions safeguarding that

- client orders are executed forthwith, in particular, independently from other client orders and own interests of the trading participants or forwarded to third parties,
- comparable client orders are executed or forwarded in accordance with the sequence in which they were received,
- the interests of all the clients involved are preserved in combining client orders,
- any misuse of information in connection with client orders which have not yet been carried out is prevented.

## 7. Instructions, Information and Penalties

### § 22~~11~~ Instructions

The trading participants and exchange traders licensed to trade on the exchange are obliged to comply with the instructions and rules by the exchange supervisory authority, the management board of the exchange and the market surveillance department.

### § 23~~12~~ Information Rights

- (1) The exchange supervisory authority and the market surveillance department are entitled to request information and the submission of documents from any trading participant, [exchange trader and member](#) and to carry out inspections in as far as this is required for the performance of their tasks.
- (2) The exchange supervisory authority and the market surveillance department can request information from everyone, they can also request the submission of documents and the surrender of copies, summon and interview persons in case there are indications substantiating the assumption that provisions or instructions under exchange law are violated or that there are other grievances which might affect the proper execution of trading on the exchange or the settlement of exchange transactions.
- (3) In addition to this, the statutory provisions and further specific provisions applicable on exchanges shall apply.

### § 24~~13~~ Sanctions

- (1) In case trading participants and exchange traders ~~admitted~~ licensed to trade on the exchange violate existing [exchange](#) rules, [including this EEX Code of Conduct](#), fail to comply with instructions by the management board of the exchange or the request for information by the market surveillance department or the exchange supervisory authority, they can be excluded from trading on the exchange in its entirety or for certain partial markets or products by the management board of the exchange either temporarily or permanently in accordance with the more detailed provisions in the exchange rules. The same applies in the event, that supervisory, [financial](#) or criminal prosecution authorities detect and inflict a penalty for a trading participant's or exchange trader's infringement of exchange law or capital markets law [or other tax or criminal law](#) provisions.
- (2) Further, cases that fall within the scope of paragraph 1 may be filed with the Sanctions Committee. The Sanctions Committee has the competences to impose the trading participants and exchange traders with sanctions as stipulated in Section 22 of the German Exchange Act (*Börsengesetz*) and the Saxon Exchange Act Execution Ordinance<sup>6</sup> (*SächsBörsDVO*) in their respective valid version.

<sup>6</sup> Ordinance by the Saxon State Ministry of Economic Affairs, Labour and Transport regarding the Execution of Exchange Law of 9 February 2012.

- (3) This provision does not exclude sanctions on account of other provisions and/or by other authorities.

## 8. Final Provisions

### § ~~25~~<sup>14</sup> Entry into Force

The EEX Code of Conduct as well as any amendments thereto shall enter into force on the day after its publication unless a different time is provided for.