

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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Table of Contents

1.	Preamble	3
2.	Scope of Application	4
§ 1	Scope of Application	4
§ 2	Legal Classification	4
3.	Rules of Conduct for Exchange Trading	5
§ 3	Integrity of the Markets of EEX; Prohibition of Insider Trading, Market and Settlement Price Manipulation	5
4.	Conduct Towards the Public	6
§ 4	Principle	6
5.	Internal Regulation and Organisation	7
§ 5	Principle	7
§ 6	Organisation	7
§ 7	Qualification of the Traders	7
6.	The Trading Participant's Conduct towards its Clients	8
§ 8	Principle and Scope of Application	8
§ 9	General Rules of Conduct	8
§ 10	Processing of Orders	8
7.	Instructions, Information and Penalties	9
§ 11	Instructions	9
§ 12	Information Rights	9
§ 13	Sanctions	9
8.	Final Provisions	11
§ 14	Entry into Force	11

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 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 exchange traders 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, § 3 para 3 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 complying with further statutory and regulatory provisions applicable to them, such as
 - the market conduct rules under REMIT¹ and MAR², including the relevant delegated acts,
 - the rules of general conduct and organisational requirements under MiFID II³, 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.

¹ 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.

² 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.

³ 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 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.

(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.

(4) The prohibitions according to paragraph 2 and 3 also comprise the attempt to engage in the prohibited conduct.

4. Conduct Towards the Public

§ 4 Principle

- (1) In as far as trading participants or exchange traders make statements regarding their participation in the exchange towards the public, they 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 other market operators and markets of EEX Group or ECC AG into disrepute by consciously false statements.

5. Internal Regulation and Organisation

§ 5 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.

§ 6 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 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.

§ 7 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

§ 8 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.

§ 9 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.

§ 10 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

§ 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.

§ 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.

§ 13 Sanctions

- (1) In case trading participants and exchange traders admitted 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 Ordinance⁴ (*SächsBörsDVO*) in their respective valid version.

⁴ 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

§ 14 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.