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Frequently Asked Questions on nEHS (nEHS FAQ)

12.12.2022
Leipzig

Ref V001

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I. General

1. What does nEHS mean?

The abbreviation stands for national emissions trading system (in German “nationales Emissionshandelssystem”).

2. What does an emission certificate under the nEHS mean?

An nEHS certificate entitles the holder to emit one tonne of greenhouse gases in tonnes of carbon dioxide equivalent over a specified period of time.

3. What are the emission certificates called on the EEX?

The emission certificates in the nEHS are called “national emission certificates” (nEZ).

4. In what languages is the information on the nEHS Sell-Off available at EEX?

The information is available both in German and English.

5. Are the nEHS certificates being sold via the regulated market platform of EEX?

The sale is taking place for the fixed price phase via a separate EEX platform outside the regulated market of EEX.

6. Who is obligated to participate in the nEHS?

According to the Fuel Emissions Trading Act (BEHG), so-called "distributors" or "regulated parties" within the meaning of the BEHG who place fuels on the market are obligated to participate. These are in particular companies that distribute or supply fossil fuels. Further information can be found on the DEHSt website under this [link].

7. Where can I find the nEHS website of EEX?

https://www.eex.com/en/markets/environmental-markets/nehs

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II. Timeline

1. Where can I apply for a registry account in the national Emissions Trading Registry (nEHS Registry)?

An application to open a registry account is possible via the national emissions trading registry [link]. This may either be a compliance account (an account type that regulated parties must open in accordance with the BEHG) or a trading account (an account type for those who are not regulated parties under the BEHG, e.g. acting as an intermediary).

2. When can I obtain admission for the nEHS product on EEX?

Admission for the nEHS sales platform at EEX has been possible since 9th August 2021 via the nEHS admission portal https://www.nehs-zulassung.com/.

3. When will the sales of nEHS certificates start in 2023?

The first sales date for nEHS certificates in 2023 takes place on 10th January 2023. The sales calendar can be found here [link]

4. When will be the last sales date for nEHS certificates in 2023?

The last date for the sales in 2023 is currently scheduled for the 7th of December. The sales calendar can be found here [link]

III. Admission

1. What are the admission requirements?

Information on admission options and admission requirements can be found on the nEHS website of EEX [link] as well as on the admission portal [link]. There is also an admission guide available in English [link]. A trader license analogous to EUA trading or other trading on EEX will not be required for participation in the sale during the fixed price phase. However, prior application and opening of an account in the national registry (nEHS registry), which is maintained at the German Emissions Trading Authority (DEHSt), is required for admission.

2. Is it possible to participate in the sale without having my own registry account?

No, this is not possible. Opening your own compliance account or trading account is a prerequisite for participation in the sale.

3. How and when can I open a registry account in the national emissions trading registry?

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As nEHS certificates exist only in electronic form, they move exclusively in an electronic database, the nEHS registry. An application to open an account in the registry operated by the German Emissions Trading Authority (DEHSt) is possible via this [link]. Further information can be found on the DEHSt website [link].

4. What options do I have to participate in the sale process in the nEHS?

Access is basically possible under the existing types of ECC memberships. In addition, a special EEX/ECC membership for simple access has been introduced, which entitles the holder exclusively to participate in the nEHS sale. Furthermore, access to the sales process is also possible indirectly via intermediaries. An overview of the intermediaries can be found on the nEHS website of EEX [link].

5. What is an intermediary? What are the advantages?

An intermediary is a company which is admitted to EEX/ECC and offers its services to a company which is not registered with EEX/ECC. The intermediary usually charges a fee for this service, but saves the company using the intermediary the time and process costs for admission to the EEX/ECC and participation in the sale. In addition, portfolio effects are possible via the intermediary during post-purchases. The intermediary then purchases the nEHS certificates on behalf of the company using their services.

An overview of the intermediaries can be found on the nEHS website of EEX [link].

6. I am already an EEX member and admitted to the EUA Spot Market. Am I automatically eligible to buy during the sale?

You will need to open an account in the nEHS registry maintained at the German Emissions Trading Authority (DEHSt) as well as add the product "nEHS certificate" to your EEX product range, i.e. apply for participation in the sale. The application needs to be done via the nEHS admission portal [link], further information is available in an English version of the admission guide [link]. However, there are no further additional requirements.

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IV. Sale

1. How can I access the sales platform?

The sale is accessed via a web-based platform. The log-in details will be provided to you once you are admitted to EEX/ECC. Alternatively, you can also use the services of an intermediary (see question “What is an intermediary?” under "Admission").

2. How often do the sales dates take place?

Sales dates are scheduled twice a week throughout the year, with a time window of 6 hours. The exact dates of a year will be published in the sales calendar six weeks at the latest before the sales start date.

3. Are there plans to expand the frequency of the sales dates to more than twice a week?

At present, we assume that two sales dates per week will be sufficient. There are currently no plans to expand the number of sales dates per week.

4. What quantity of nEHS certificates will be available during the sales dates?

The quantity per sales date is not limited.

5. What limitations will apply in the sale?

a. Cash limit:

i. For Non-Clearing Members and Clearing Members there are no mandatory limits but limits are possible in accordance with the settings in the ECC Member Area.
ii. For Direct Clearing Participants, a mandatory limit shall apply in accordance with the collateral provided.
iii. No limit applies to DCP-nEHS participants. However, the delivery of the nEHS certificates will as well only take place after the payment has been made.

b. Post-purchase limit:

The following applies to all participants from 2022 onwards: Only a quantity of up to 10% of the nEHS certificates with the vintage of the previous year (in the nEHS register referred to as year identifier) held in an associated compliance account on 31.12. in the previous year can be purchased in the current year (in 2023 this would be the vintage of 2022).

Example: A participant has 1,000 nEHS certificates with a vintage of 2022 in his compliance account on 31st December 2022. Now he or an intermediary acting on his behalf may buy up to 10% of this quantity, i.e. 100 nEHS certificates, with a vintage of 2022 in 2023.

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6. I would like to participate in the sale without becoming an EEX participant. How can I do that?

You can conclude a contract with an intermediary. A list of intermediaries can be found here: https://www.eex.com/en/markets/environmental-markets/nehs.

7. Will there be an interface to other EEX trading systems?

This is not planned in the first step.

8. Will it be possible to upload buy bids in bundles or is manual input necessary?

There is an import / upload functionality on the sales platform. The import is possible via uploading a .csv file. More information and a file template can be found on the nEHS website of EEX [link].

9. What vintages will be available?

Two vintages will be available per calendar year. The vintage of the current year can be acquired to an unlimited extent and, from 2022 onwards, also the vintage of the previous year can be purchased (post purchase). However, post-purchases are limited to 10% of the previous year's compliance account holdings and are only possible with delivery no later than on 30th September of the respective year (see question "What limitations will apply in the sale?" under “Sale”). Please pay attention to the information available in the nEHS sales calendar [link], e.g. information on deadlines regarding the compliance periods and the transfer of the nEHS certificates in the nEHS register.

10. Is it permissible for a company A (which is not itself subject to a surrender obligation) to procure nEHS certificates on behalf of a company B of the same group (which is subject to a surrender obligation) and to make them available by transferring them via the respective accounts?

This is possible. Corresponding prerequisites for acquiring nEHS certificates for third parties were explicitly created within the framework of Paragraph 5 of the Fuel Emissions Trading Regulation (BEHV).

11. How does the post-purchase rule work in detail?

Pursuant to Paragraph 6 subparagraph 2 BEHV, the balance of nEHS certificates shown on the compliance account of a regulated party at the end of the calendar year is decisive for the application of the so-called "post-purchase rule", which allows the limited (post-)purchase of nEHS certificates at the price of the previous year between January and September of the following year. A corresponding deposit of the balances of all compliance accounts with the sales platform is implemented so that compliance with the limitation is ensured for the post-purchase dates. The balances of trading accounts are not relevant for the assessment basis of the post-purchase rule.

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Account	Balance of the compliance account on 31.12. - Assessment basis (nEHS certificates)	Entitlement according to post-purchase rule (nEHS certificates) - 10% until 30.09.
Example 1		
Compliance Account A1	10,000	1,000
Compliance Account A2	10,000	1,000
Compliance Account A3	10,000	1,000
Example 2		
Compliance Account A1	30,000	3,000
Compliance Account A2	0	0
Compliance Account A3	0	0

While in example 1 the entitlement resulting from the post-purchase rule is distributed to three compliance accounts, example 2 shows a bundling of the nEHS certificates (and thus the assessment basis) in a single compliance account.

In principle, regulated parties have the possibility to plan the balances of the compliance account individually. Thus, it is conceivable that a company to which several individual regulated parties belong, bundles the quantities acquired in the regular sell-off of a calendar year on one compliance account instead of holding individual balances on the individual compliance accounts of the respective shareholders. The application of the post-purchase rule is stringently applied to the balance of each compliance account at the end of the year and thus determines the respective permitted post-purchase quantity for the respective compliance account in the following year. Here, there is room for manoeuvre for the companies to "bundle" the nEHS certificates into a compliance account at the end of the year (as the assessment basis for the additional purchase rule). Third parties (e.g. intermediaries or trading departments of companies) can also participate in the post-purchase for regulated parties; in this case, the data of the regulated party for whom the purchase of the nEHS certificates is made as well as his compliance account must be indicated. The purchase of nEHS certificates on the sell-off platform by regulated parties or third parties can in principle take place via a compliance or trading account.

For the surrender of nEHS certificates on 30th September it must be ensured that the quantity of nEHS certificates required for compliance is surrendered from the individual compliance account of a regulated party. I.e. if nEHS certificates were purchased by third parties, a timely transfer to the compliance account of the regulated party must be ensured before the surrender deadline.
Secondary trading can be established independently of the sale on the sales platform. In this context, transactions are possible between compliance and trading accounts as well as between trading accounts and compliance accounts. In principle, operators are free to purchase nEHS certificates in an establishing secondary market - also independently of the use of the post-purchase rule.

12. Does the so-called 10% post-purchase rule only apply to procurement on the primary market?

Yes, there is only a limitation of sales volumes in the following year for nEHS certificates with the vintage of the previous year in the primary market. In the current year, the quantity offered per sales date with nEHS allowances of the vintage of the current year is not limited.

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13. Is post-purchase possible with a trading account?

No, a post-purchase is only possible by specifying a compliance account to which the delivery of the nEHS certificates will be made in accordance with the so-called 10% post-purchase rule.

14. Is the quantity of nEHS certificates held on a compliance account limited through the so-called 10% post-purchase rule?

No, the balance of the compliance account on 30.09. is not limited to the balance on 31.12. of the previous year +10%. Certificate inflows and outflows can take place in the compliance account, e.g. in bilateral trading, via intermediaries and/or intra-company transactions.

15. Is it permitted that company A admits to EEX and company B logs in as a service provider via company A's access and buys?

No, this is not legally allowed because only buyers formally identified by EEX/ECC may have access to their accounts (see Terms of Use). However, company A can use the service of an intermediary. A list of intermediaries can be found here: https://www.eex.com/en/markets/environmental-markets/nehs

16. Can I resell purchased nEHS certificates to third parties?

In principle, this is possible. However, if you wish to serve specific customer orders as an intermediary, the third party's data must be provided at the time of purchase. Being listed as an intermediary on the EEX website is possible at any time in compliance with the respective requirements.

V. Payment and delivery

1. What will be the price of the nEHS certificates?

The nEHS certificates will initially be sold at fixed prices (2021-2025). On 16 November 2022 the ‘Second law for amendment of the Fuel Emissions Trading Act’ (BEHG) came into force. Among other items, a postponement of the price increase of nEHS certificates – initially scheduled for 2023 – was decided. Due to the postponement, the fixed price for each nEHS certificate will be as follows: 30 EUR in 2023, 35 EUR in 2024 and 45 EUR in 2025 (instead of the initially intended fix prices of 35 EUR in 2023, 45 EUR in 2024 and 55 EUR in 2025). The implementation of the so-called 10% post purchase rule according to Paragraph 10 Subparagraph 2 (3) of the Fuel Emissions Trading Act (BEHG) was not affected by the amendment of the law. The fee of the participants for the services of EEX/ECC will remain unchanged at 0.0049 EUR/certificate.

2. When are delivery and payment planned?

The procedure is as follows:

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a. For Non-Clearing Members, Clearing Members and Direct Clearing Participants: delivery and payment on business day T+1 after the sale (T+1)*.

b. For DCP-nEHS participants:

DCP-nEHS participants shall make their payment to the account designated by ECC no later than 11 a.m. on the day of the next but one sales date**. nEHS certificates will be delivered at latest on the second business day after receipt of the payment***.

Notes:

*In case the above dates fall on a TARGET2 holiday, the deadlines will be postponed accordingly to the following ECC business day.
**The above information may differ for the last sales date in December.
***In case the above dates fall on a TARGET2 holiday, the deadlines will be postponed accordingly to the following ECC business day.

3. Does the purchase of nEHS certificates via EEX increase the margin for non-clearing members or clearing members?

As with all other certificates, nEHS certificates are not included in the Initial Margin Spot Market (IMSM) calculation and therefore do not lead to higher margin requirements.

4. Will there be cross-margining between EUAs and nEHS allowances?

As with all other certificates, nEHS certificates are not included in the Initial Margin Spot Market (IMSM) calculation. Therefore, no cross-margining is necessary.

5. Can nEHS certificates be used as collateral (analogous to EUA)?

No, this will not be possible for the time being.

6. I am already active on the EU ETS spot market of EEX. Can I use the same account at ECC as for EUA?

No, each participant in the sales gives ECC a registry account in the nEHS registry. Delivery is made to this or a selected registry account.

7. Is the same registry used as for the EU ETS?

No, there is a separate registry, the so-called national fuels emissions registry (nEHS registry), operated by the German Emissions Trading Authority (DEHSt). Further information can be found here: [link].

8. Can the financial settlement be handled by the same clearing bank that was set up for EUA trading?

Yes, this will be possible.

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9. How will the settlement process of the EEX/ECC fees take place?

a. For non-clearing members, clearing members and direct clearing participants the settlement of the fees takes place at the end of the month as for other ECC services. In general, clearing members (clearing banks) are collecting ECC fees from the non-clearing members at the 10th business day of the following month.

b. For DCP-nEHS members payment of the fees is settled together with the transfer of the costs for the purchased nEHS certificates.

10. Do I have to pay VAT?

In accordance with paragraph 10 sub-paragraph 2 BEHG (Fuel Emissions Trading Act), prices for the nEHS certificates are defined as net prices.

In principle, the purchase of nEHS certificates by the participants is subject to VAT. On 22 September 2022 the German Bundestag has passed the „Achte Gesetz zur Änderung von Verbrauchsteuergesetzen“. This also includes the extension of Paragraph 13b Subparagrahph 2 Number 6 UStG so that the reverse charge mechanism applies for transactions of nEHS certificates within Germany. This rule becomes effective on 1st January, 2023.

Since 2nd January, 2023 based on the relevant Clearing Conditions, the physical delivery of nEHS certificates has been conducted by European Commodity Clearing AG. Customers located in Germany need to apply the reverse charge mechanism. For customers that are located outside of Germany, the law of the country in which the buyers are based applies to the buyers. As a rule, they are required to apply the VAT reverse-charge mechanism.

The following situations are conceivable:

1. If customers based in Germany buy nEHS certificates from ECC AG, they have to calculate and pay the respective VAT to the competent tax office on their own as the reverse charge mechanism applies for transactions of nEHS certificates within Germany, and they can, if applicable, deduct input tax. ECC AG will issue net invoices without explicitly highlighting the VAT and will relate to the reverse charge mechanism.

2. If a customer based in Germany has commissioned an intermediary to buy the nEHS certificates and if said intermediary is based in Germany, the customer must calculate the VAT on its own and pay the respective VAT to the competent tax office.

3. If the customer is based outside Germany but within the European Union, the preconditions for a border-crossing service are fulfilled. In this case, the payment of VAT based on the reverse charge mechanism is based on the VAT legislation of the country in which the customer resides.

4. If the nEHS certificates are purchased by a customer based in Germany from an intermediary based in another European country, this again constitutes a border-crossing service. The customer

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based in Germany has to pay the VAT based on the reverse charge mechanism to the locally competent tax office and can deduct input tax, if applicable.

Disclaimer: The data above is only intended as general information and should not be considered legal, tax or other specialist advice.

11. Are fees/costs incurred if nEHS certificates are transferred from one registry account to another registry account?

No, these transfers are free of charge. This applies to transfers between different compliance accounts as well as to transfers between a trading account and a compliance account, regardless of the direction of the transfer.

12. Is it possible to sell purchased nEHS certificates back to EEX or the Federal Environment Agency?

No, this is not possible. A sale is only possible to other participants in the nEHS through bilateral trading (OTC trading).

13. From which bank account must the SEPA transfer to ECC be made or can I transfer from different accounts?

For the SEPA transfer to ECC only the bank account specified upon admission as a DCP-nEHS customer can be used. Therefore, please note the information under point 2.4 "Bank details" in the admission application: "The following account will be used by the applicant to transfer the purchase price for the nEHS certificates to ECC. We are aware that any such transfer from an account other than the one specified below will be rejected by ECC and will not be used to fulfil payment obligations in respect of the nEHS certificates."

Please clarify any bank limits on transfers with your commercial bank in good time.

14. What else needs to be ensured with respect to the SEPA transfer to ECC?

Please make sure to include the reference number that is mentioned in the payment request for the SEPA transfer. Please do not add any spaces or other characters. The payment must exactly match the amount of the payment request. Please also pay attention to the payment deadlines that are mentioned in V.2.b.

15. Invoice information for DCP-nEHS clients

If you entered at least one bid in a nEHS sales session, you will receive an email with a payment request shortly after the end of the sales session. This email will be delivered to the email address that was named as "Contact person for invoicing" in section 2.3 within your application in the nEHS admission platform. For this, it is only possible to name one email address. However, this might also be an email address of a shared mailbox or you might decide to introduce a forwarding rule for this emails to other receipients in your mailbox. Please ensure that the contact that is in charge of the settlement in your company receives the payment request. If you would like to change the invoicing

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contact, please email memberreadiness@ecc.de. An invoice will be created within the first 5 business days of the following month including all nEHS certificates that were delivered in the respective month. This invoice will contain information on the beneficiary and the service provider, the VAT ID as well as an invoice number. A template for the payment request as well as the invoice can be found on https://www.eex.com/en/markets/environmental-markets/nehs.

16. Invoice information for NCM clients

If you entered at least one bid in a nEHS sales session, you will receive an email with an order overview shortly after the end of the sales session. This email will be delivered to the email address that was named as “Contact person for invoicing” in section 2.3 within your application in the nEHS admission platform. For this, it is only possible to name one email address. However, this might also be an email address of a shared mailbox or you might decide to introduce a forwarding rule for this emails to other receipients in your mailbox.

VI. Compliance

1. When is the surrendering deadline?

The surrendering deadline for nEHS certificates for previous year’s emissions is the 30th September. The authorised representatives of the respective compliance accounts need to conduct the transaction with the transaction type “surrender” on their own.

2. Is “banking” of nEHS allowances allowed (e.g. using 2021 nEHS certificates with vintage for the fulfilment of the surrender obligation for the year 2022)?

No. You cannot use nEHS certificates with a vintage lower than the current compliance year for the fulfilment of your surrender obligation.

3. Is "borrowing" nEHS allowances allowed (e.g. using nEHS certificates with vintage 2023 for the fulfilment of the surrender obligation for the year 2022)?

Yes, this is possible. It is possible to use nEHS certificates of the current year for the fulfilment of the surrender obligation of the previous year. The prices of nEHS certificates in the sale is fixed as follows (2021: 25 EUR, 2022: 30 EUR, 2023: 30 EUR, 2024: 35 EUR, 2025: 45 EUR).

4. **Which principle applies to the surrendering of nEHS certificates to cover 2022 emissions in 2023?**

According to Paragraph 9 Subparagraph 1 of the Fuel Emissions Trading Act, nEHS certificates with the vintages 2021 to 2025 are valid to cover the emissions of the current year as well as of the previous year, i.e. for the surrendering of nEHS certificates in 2023 to cover 2022 emissions, nEHS certificates with vintage 2022 as well as vintage 2023 may be used.

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VII. Secondary market

1. If there are unlimited nEHS certificates available, why could there be a need for bilateral trading?

Due to the post-purchase limit applicable to all participants from 2022 onwards, only 10% of the nEHS certificates with a vintage of the previous year held in an associated compliance account on 31st December of the previous year can be purchased in the current year at the price of the previous year.

2. When will EEX offer a secondary market for nEHS certificates?

EEX currently does not plan to offer a secondary market for nEHS certificates during the fixed price phase. Official intermediaries may be able to trade certificates of the previous year's vintage though (please see VII.3).

3. I currently still would like to purchase nEHS certificates with the previous year's vintage and cannot make use of the post purchase rule, respectively I would like to sell certificates with the previous year's vintage – what can I do?

In the excel sheet with information on the official nEHS intermediaries which is published on the EEX website (https://www.eex.com/en/markets/environmental-markets/nehs) you will find an indication whether the respective intermediary may be able to trade nEHS certificates with the previous year's vintage.

VIII. Auctions

1. When will the auctions start?

The start of the auctions is currently planned in the BEHG for 2026.

2. Is it possible that the auctions will start earlier than in 2026?

EEX has not yet received any information on this.

IX. Regulatory

The BEHG (Fuel Emissions Trading Act) is the legal basis for the introduction of a German national carbon price for fuel emissions as far as they are not covered by the EU ETS.

1. What are the underlying rules and regulations?

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The introduction of the nEHS is based on the political decision for a German Climate Protection Programme 2030 and the creation of a national emissions trading system for fuels from 2019. This fundamental decision was implemented with the Fuel Emissions Trading Act (BEHG) and various implementing ordinances for the introduction of the nEHS. Further information: [link]

2. Do the new nEHS certificates qualify as financial instruments?

The nEHS certificates are not qualified as emission certificates in the sense of the German Banking Act (paragraph 1 sub-paragraph 11 no. 9 KWG) or the German Securities Trading Act (paragraph 2 sub-paragraph 3 no. 1 lit. f WpHG) and thus do not qualify as financial instruments or derivatives.

3. Do the purchase trades with nEHS certificates have to be reported under EMIR?

The trades do not have to be reported under EMIR (Regulation (EU) 2019/834).

X. Miscellaneous

1. **Will it be possible to see the information I provided within my application in the nEHS Admission portal again after the admission has been completed?**

Yes, it will be possible after an admission has been completed to see the information provided within the application in the nEHS Admission portal at any time (https://www.nehs-zulassung.com/) such as the bank account details or the nEHS Invoice Contact.

2. How will I be able to add further client registry accounts to my account as an intermediary?

Within item 3.6 ”Trading on own account or acting as an intermediary” in the nEHS Admission portal (https://www.nehs-zulassung.com/) it will be possible to provide further registry accounts of intermediary clients. This requires information on the name of the client company according to Company Register, the VAT ID as well as the client account in the national emissions trading registry (nEHS registry). The information on the VAT ID will be used for an automatized validation on the validity of the registry account in cooperation with DEHst. Once the changes have been confirmed, you will receive a confirmation by email.

3. As a non-intermediary, how will I be able to change my registry account?

Within item 3.3 ”Account in the German national emissions trading registry (nEHS-Register) in accordance with § 10 BEHV” in the nEHS Admission portal (https://www.nehs-zulassung.com/) it will be possible to change the registry account that was provided initially with the admission. Once this change has been confirmed, you will receive a confirmation by email.

4. What shall I do if I cannot log into the nEHS sales platform any more?

After an admission has been granted, the applicant and all persons that were named in the application form will receive their personal log-in credentials to the nEHS sales platform.

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If you forgot your passwort our your account is locked, please use the “Forgot your password?” functionality. If this does not work, please contact memberreadiness@ecc.de to receive a new password.

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