

› eex group

**General Conditions to
the MiFID II/MiFIR
Reporting Agreement**

Effective as of

01.07.2024

Leipzig

Ref. 0001A

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1. Scope of Application

These General Conditions (“**GC**”) to the MiFID II/MiFIR Reporting Agreement (“**Agreement**”) shall apply to any Agreement, consisting of the Participation Form, EEX AG’s corresponding notice of acceptance and these General Conditions to the Agreement.

2. General Information

European Energy Exchange AG, Augustusplatz 9, 04109 Leipzig, Germany (“**EEX AG**”), as the market operator of EEX, is regulatorily required under Article 58 of Directive 2014/65/EU (“**MiFID II**”) and under Article 26 of Regulation (EU) 600/2014 (“**MiFIR**”) to report details of positions and transactions of its trading participants and their clients to the respective competent authority. Trading participants of EEX (“**Participants**”) are required to contribute to such reporting (Article 58 MiFID II and Article 26 MiFIR are cited in excerpts for ease of reference further below).

EEX AG requires Participants to contribute data (“**Data Contribution**”) to the fulfillment of these reporting requirements as set forth by the exchange rules, affiliated proceedings, and this Agreement. This Agreement covers transactions concluded via order book trading or trade registration on trading venues operated by EEX AG where the reporting obligation is applicable. It remains the sole responsibility of the Reporting Participant to evaluate whether European or national law requires further activities to achieve compliance.

In order to facilitate Data Contribution by the Participant under Schemes 1 and 3, EEX AG will provide the Participant with MiFID Instrument Files and Draft Reports for verification and amendment, as necessary (“**Data Provision**”). Necessary amendments include, in particular, completion of the details outlined in Article 58(3) MiFIR and in the [MiFID II/MiFIR Reporting Description](#) (“**Description**”).

In accordance with Article 26(5) of MiFIR, EEX AG only reports details of transactions in financial instruments traded on its platform which are executed through its systems by firms which are not subject to this Regulation. In relation to firms which are subject to this Regulation, EEX AG offers Data Provision under Scheme 2 as a service under this Agreement.

Under this Agreement, EEX AG also offers further services related to reporting under MiFID II/MiFIR as outlined in more detail in the List of Services and Prices of EEX AG.

It remains the sole responsibility of the Participant to evaluate whether European or national jurisdictions require further activities to achieve compliance.

Article 58 of [Directive 2014/65/EU](#) (“MiFID II”)¹ states:

“[...] a market operator operating a trading venue which trades commodity derivatives or emission allowances or derivatives thereof [shall]:

[...]

¹ Article 58 MiFID II has been transposed into Article 57 of the German Securities Trading Act (*Wertpapierhandelsgesetz*).

(b) provide the competent authority with a complete breakdown of the positions held by all persons, including the members or participants and the clients thereof, on that trading venue, at least on a daily basis.

[...] members or participants of regulated markets, [...] and clients of OTFs [shall] [...] report to the [...] market operator operating that trading venue the details of their own positions held through contracts traded on that trading venue at least on a daily basis, as well as those of their clients and the clients of those clients until the end client is reached.”

Article 26 of [Regulation \(EU\) 600/2014](#) (“MIFIR”) states:

“The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by a firm which is not subject to this Regulation [...].”

“[...] For commodity derivatives, the reports shall indicate whether the transaction reduces risk in an objectively measurable way in accordance with Article 57 of Directive 2014/65/EU.”

3. Definitions

In this Agreement:

Agreement

shall have the meaning given in Section 1.

Business Day

shall mean every working day except for Saturdays and public holidays under TARGET2.

Commencement Date

shall have the meaning given in Section 5.1.

Contact Person

shall mean the individual reflected as “Contact Person” in the Participation Form.

Data Contribution

shall have the meaning given in Section 7.1.

Description

shall mean the MiFID II/MiFIR Reporting Description as outlined in Section 9.3.

Draft Report

shall have the meaning given in Section 7.2.

EEX AG

shall mean “European Energy Exchange AG” as defined in Section 2.

Force Majeure

shall have the meaning given in Section 18.

GC

shall have the meaning given in Section 1.

Invoice Recipient

shall mean the individual reflected as “Invoice Recipient” in the Participation Form.

List of Services and Prices

Shall have the meaning given in Section 11.

Master Data

shall have the meaning given in Section 7.1.

MiFID II

shall have the meaning given in Section 2.

MiFID Instrument File

shall mean the file published by EEX AG comprising information as to the instruments which (i) have been traded on that trading day on EEX and (ii) are to be reported pursuant to Article 58 Directive 2014/65/EU. More details are written in the Description.

MiFIR

shall have the meaning given in Section 2.

Participant

shall have the meaning given in Section 2.

Participant Report

shall have the meaning given in Section 7.5.

Participation Form

shall mean the Participation Form to the MiFID II/MiFIR Reporting Agreement.

Party

shall mean EEX AG and the Participant (collectively referred to as Parties).

Reporting Day

shall mean the working day following the relevant business day except for Saturdays and public holidays under TARGET2.

Required Data

shall have the meaning given in Section 7.1.

Schemes

shall mean the different MiFID II/MiFIR Reporting Schemes 1, 2, and 3 of EEX AG that the Participant must select in the Participation Form of the Agreement in dependency to the Participant’s regulatory status.

4. Prerequisites for Conclusion of the Agreement

Prerequisite for **conclusion of the Agreement** is that the Participant

- (a) is either
 - (i) admitted for trading at EEX, **or**
 - (ii) in the process of being admitted at EEX; **and**
- (b) has a LEI with the entity status “active” for both the Participant and – if applicable – its ultimate parent entity² **and**
- (c) has provided the duly completed and signed Participation Form.

5. Commencement Date

5.1 Data Contribution shall commence on the date (“**Commencement Date**”) on which the Participant

- (a) has been admitted at EEX, **and**
- (b) has provided a public IP and a public key to access the Reporting Services SFTP of EEX AG, **and**
- (c) has been granted access to the Reporting Services SFTP server of EEX AG to download Draft Reports and/or upload Participant Reports, **and**
- (d) has uploaded valid short codes to identify LEIs and/or national ids.³

² In case the entity status of the LEI changes into any other status than “active” EEX AG will not be able to successfully report within the given reporting deadline d+1.

³ Information on how to provide public IPs, public keys, and short codes and how to access the Reporting Services SFTP are provided by EEX AG to the Participant at the latest upon receipt of a duly completed Participation Form.

5.2 Data Contribution shall include all Required Data as of conclusion of this Agreement and the Participant shall upload the respective Participant Report without undue delay following the Commencement Date.

6. Term of the Agreement

6.1 The Agreement is concluded for an indefinite term. The Agreement may be terminated by each party with fourteen (14) calendar days' prior written notice. A termination by the Participant will only be effective if the MiFID II/MiFIR Reporting Termination Form is used, duly signed and the original document is sent to EEX AG.

6.2 This Agreement shall terminate automatically without prior notice and with immediate effect on the date the EEX membership of the Participant terminates.

6.3 Notwithstanding the foregoing, EEX AG reserves the right to terminate this Agreement entirely or partly with immediate effect, and without prior notice,

- (a) If the Participant is in material breach of any of its obligations under this Agreement **or**
- (b) On occurrence of an insolvency event with respect to the Participant.

7. Data Contribution

7.1 In accordance with the terms and conditions of this Agreement and without prejudice to any regulatory obligation on the part of the Participant, the Participant shall provide EEX AG with all information required by EEX AG to report in a complete, accurate and timely manner and in accordance with the requirements under MiFID II/MiFIR, the respective applicable national implementing legislation of MiFID II/MiFIR, applicable delegated acts of the European Commission, the procedures, standards and electronic formats published by ESMA and the respective rules and regulations of EEX in their respective valid version ("**Data Contribution**"). Such information comprises the data provided by the Participant in the Participation Form ("**Master Data**") and the data outlined in more detail in the Description ("**Required Data**").

7.2 In order to facilitate Data Contribution by the Reporting Participant under Schemes 1 and 3, EEX AG will provide the Participant with MiFID Instrument Files and Draft Reports relating to transactions concluded at EEX via order book or trade registration ("**Draft Transaction Report**") and to positions resulting from those transactions ("**Draft Position Report**"). The Participant may use the MiFID Instrument File in its ordinary course of business, provided that the MiFID Instrument File is not made publicly available or otherwise onward disseminated to third parties. The draft reports ("**Draft Reports**") are created on Participant level, more specifically for each ECC Member ID, and based on the available data received from EEX's electronic trading systems, from ECC AG's clearing system and from the Participant (including, but not limited to, its Master Data).

7.3 EEX AG shall use reasonable efforts to ensure (i) that the data included in Draft Report accurately and completely reflects the relevant and available data received from EEX's electronic trading systems, from ECC AG's clearing system or from the Participant and (ii) that the Draft Report is made available to the Participant in a timely manner. Any further responsibility of EEX AG for the correctness, completeness and timeliness of the Draft Report shall not be considered part of EEX AG's contractual obligations.

- 7.4 The Draft Transaction Report will be based on end-of-day status, i.e. new trades are reported for the ultimate counterparties, excluding lifecycle events, which are not reported. The Draft Position Report will be based on end-of-day position data.
- 7.5 The Participant shall verify the completeness and accuracy of the Draft Report and – if needed – submit a corrected and completed report (“**Participant Report**”) including all Required Data to EEX AG until 02:00 p.m. CE(S)T on the Business Day following the reportable event (“**Reporting Day**”), either by amending the Draft Report or by creating a report on its own. If the Participant becomes aware of any reporting error it cannot remedy, the Participant shall notify EEX AG thereof without undue delay.
- 7.6 For the avoidance of doubt, Section 7.5 applies in case a give-up by a Participant that is admitted to EEX as trading broker is not completed successfully.
- 7.7 Should EEX AG provide the Draft Reports after 12:00 a.m. CE(S)T on the Reporting Day, the Reporting Participant shall perform its obligations under Section 7.5 above as soon as reasonably possible thereafter.
- 7.8 For the avoidance of doubt, EEX AG shall have no obligation to verify the Participant Report in terms of accuracy, completeness or otherwise. Although, EEX AG reserves the right to (i) execute spot checks of Participant Reports to evaluate the Data Contribution of Participants in relation to the Required Data and (ii) inform the Management Board of the Exchange of EEX AG and the competent authority of any discrepancies.
- 7.9 EEX AG validates all Participant Reports in relation to certain aspects as outlined in more detail in the Description. The system may automatically correct certain inconsistencies between the Participant Report and the MiFID Instrument File in which case the Participant will receive a warning for the concerned position shown in the acknowledgement file deployed on the Reporting Services SFTP server. Other non-compliances with technical aspects may result in a rejection of the Participant Report as outlined more specifically in the Description.
- 7.10 Only in the event that a Participant Report fails the validation process or is not provided in time, the Draft Report of the respective Business Day will be – as a rule – submitted. This does not release the Participant from its obligation to submit a proper Participant Report later on.
- 7.11 If a Participant submits a Participant Report after 02:00 p.m. CE(S)T on the Reporting Day and EEX AG – in accordance with Section 8.2 – did not consider this Participant Report in its submission to the competent authority on that Reporting Day, EEX AG will resubmit this report to the competent authority. In this regard, EEX AG may charge a fee dependent on the day of the contribution of the Participant Report in accordance with the List of Services and Prices of EEX AG.

8. Reporting to the Competent Authority

- 8.1 Under Schemes 1 and 3, the obligation for reporting according to Article 57 German Securities Trading Act and Article 26 MiFIR and compliance with the regulatory requirements of such reporting rests and remains with EEX AG.⁴

⁴ Scheme 2 is specific to Participants which are themselves subject to the reporting requirements under Article 26 MiFIR.

- 8.2 EEX AG fulfills its own reporting requirements vis-à-vis the competent authority on the Reporting Day on the basis of the Draft Report or Participant Report.
- 8.3 For the avoidance of doubt, the Participant accepts that EEX AG is not and shall be responsible for any consequences of (i) a failure on the part of the Participant to submit an accurate and complete Participant Report by 02:00 p.m. CE(S)T on the Reporting Day and in particular (ii) the process outlined in Sections 8.1 and 8.2 above.

9. Technical Details

- 9.1 EEX AG reserves the right to utilize any of the available connectivity channels and file formats specified by the competent authority.
- 9.2 EEX AG will provide the Draft Reports and only accepts Participant Reports in accordance with the relevant validations, technical specifications and formats applied by the so-called FIA/EFET schema. EEX AG will not adapt non-conforming messages to format requirements and will not accept those.
- 9.3 The technical and procedural details are stipulated in the MiFID II/MiFIR Reporting Description (“**Description**”), which shall apply – as amended from time to time – to this Agreement. The Description is available [here](#).

10. Subcontractors

EEX AG may subcontract third parties for the performance of any activities envisaged under this Agreement or any part thereof, provided that EEX AG remains responsible for the performance of this Agreement.

11. Fees

As consideration for the Data Provision under this Agreement, EEX AG charges fees as stipulated in the respective valid version of the List of Services and Prices of EEX AG which is available at www.eex.com. EEX AG further charges extra fees for (additional) individual services requested by the Participant pursuant to the List of Services and Prices of EEX AG. The full monthly fee under Scheme 2 is due for every commenced month, unless (i) the Data Contribution starts within five (5) calendar days before the end of a month or (ii) the Data Contribution terminates within five (5) calendar days after the start of a month, in which case no fee shall be charged in relation to the respective month.

12. Invoicing

- 12.1 Invoices are issued by EEX AG once per quarter and due upon receipt. EEX AG reserves the right to submit invoices electronically to the email address of the Invoice Recipient. It is the Participant’s obligation to provide and update the details of an Invoice Recipient by using the Participation Form. EEX reserves the right to send the invoice to the email address of the Contact Person if delivery to the email address of the Invoice Recipient fails or if the Invoice Recipient was not populated.
- 12.2 Any due fees according to this Agreement are debited directly via the clearing member or the settlement agent as appointed paying agent of the Participant. Clearing member/settlement agent is the Participant’s clearing member/settlement agent on the debit date.

13. Amendment to these General Conditions

EEX AG may amend these General Conditions. Any amendment to these General Conditions by EEX AG shall be electronically announced by EEX AG to the Participant at least ten (10) working days before such amendment becomes effective. The amendment shall be considered accepted by the Participant unless the Participant objects in writing to EEX AG until it becomes effective. EEX AG will advise the Participant thereof in the electronic announcement. In the event of an objection against an amendment of the Agreement, EEX AG reserves the right to terminate this Agreement.

14. Request for Change by the Participant

The Participant may request a change in the scope of this Agreement by submitting a new duly completed Participation Form. The requested change shall become effective on the date indicated in the notice of acceptance.

15. Confidentiality

15.1 Information transmitted in the framework of this Agreement shall be considered confidential. EEX AG and the Participant shall exercise at least the same degree of care as they use with regard to their own confidential information, but in no event less than a reasonable degree of care in protecting the other party's confidential information.

15.2 EEX AG may share such information with third parties, in particular competent authorities, to the extent required for the performance of the activities envisaged under this Agreement.

16. Liability

16.1 Each Party shall be liable – irrespective on which legal ground (e.g. default or tort) – only in the following scope:

- (a) in the event of willful intent, gross negligence or a guarantee undertaking, each Party shall be fully liable;
- (b) in the event of simple negligence, each Party shall only be liable when defaulting with an essential contractual obligation. Essential contractual obligations are those whose infringement jeopardizes the contractual purpose, or whose fulfilment enables proper implementation of the Agreement in the first place and on the compliance of which the other Party may regularly rely. In this case, however, the defaulting Party shall be liable only for the foreseeable, contract-typical damage;
- (c) Beyond lit. a) to c), neither Party shall be liable.

16.2 The limitations of liability outlined above shall not apply to

- (a) any injury to life, body, and health; **and**
- (b) any liability pursuant to the German Product Liability Act;

16.3 EEX AG shall not be liable for any consequences of incorrect, incomplete, invalid data or data not compliant with the regulatory requirements provided to EEX AG by the Participant.

17. Representations and Warranties of the Participant

Each Participant hereby represents and warrants on a continuing basis to EEX AG that:

- (a) its Master Data is accurate, true and complete and that it promptly informs EEX AG of any changes to its Master Data;
- (b) it waived off any confidentiality obligations in relation to the reported data to the extent required for the performance of the activities envisaged under this Agreement;
- (c) it has full capacity, capability and all authorizations, consents and approvals of all competent authorities necessary to enter into and perform its obligations under this Agreement;
- (d) there are no actions, suits or proceedings or regulatory investigations pending or, to the Participant's knowledge, threatened against or affecting the Participant before any court or administrative body or arbitration tribunal that might affect the ability of the Participant to meet and carry out its obligations under this Agreement.

18. Force Majeure

Neither Party shall be responsible for delays or failures in performance resulting from any exceptional event or a set of circumstances beyond the reasonable control of such Party, which cannot be reasonably avoided or overcome, and which make it impossible for such Party to fulfil temporarily or permanently its obligations under this Agreement ("**Force Majeure**"). These events include (but are not limited to) natural disasters (storms, floods, weather damage, etc.), fires, total or partial labor strikes, epidemics, transport blockings, computer breakdowns, telecommunications disruptions, system unavailability and legally binding orders of a governmental or other competent authority. In the event of Force Majeure, the Party affected thereby shall notify the other Party thereof.

19. Applicable law

The Agreement shall be subject to, construed in accordance with and governed by the laws of Germany excluding the German laws on conflict of laws. The exclusive jurisdiction for all conflicts arising in connection with the Agreement shall be Leipzig.

20. Miscellaneous

If any of the provisions of this Agreement shall become or be held invalid or unenforceable, all other provisions hereof shall remain in full force and effect. The invalid or unenforceable provision shall be deemed to be automatically amended and replaced by a valid or enforceable provision which economically accomplishes as far as possible the purpose and the intent of the invalid or unenforceable provision. The same shall apply with regard to any unintentional loopholes in the regulations.

Except as may be expressly provided therein, the governing documents and any other relevant agreement between EEX AG and a Participant are solely for the benefit of EEX AG and the relevant Participant. No other party shall have or be entitled to assert any rights, claim or remedies against EEX AG. The Participant may not assign, resell, and sublicense any of its rights, duties, or obligations without EEX AG's prior consent.

EEX AG may transfer this Agreement and all of its rights and obligations under this Agreement to a third party, provided such third party is an affiliated company ("*verbundenes Unternehmen*") of EEX AG. Prior to such transfer, EEX AG will inform the Participant as early as possible but no later than 6 weeks prior to such transfer becomes effective. The consent of the Participant to such transfer shall not be required.

No waiver by EEX AG of any breach by the Participant of any term, condition or obligation hereunder shall be effective unless made in writing executed by EEX AG and no such waiver shall be deemed a waiver of the same or similar breach thereafter.