



## 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. Preamble

- (1) The European Energy Exchange (EEX) is a state-approved and supervised exchange that runs Spot and Derivatives Markets for energy and energy-related products. The EEX and its holding companies see themselves as a European market place and aim to develop this market place, e.g. by means of co-operations.
- (2) In the course of such a co-operation, the European Energy Exchange AG (EEX AG) has contributed its power Spot Markets for Germany/Austria and Switzerland to a joint-venture, Paris-based EPEX Spot SE. In order to ensure the appropriate further development and the orderly trading procedure on these exchanges, the EEX and EPEX, as well as their respective bodies, will work closely with each other and exchange information on a regular basis.

### **3. 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:
  - Sub-market of EEX Power Derivatives Market for derivatives trading in Power and Guarantees of Origin,
  - Sub-market of EEX Gas Market for spot and derivatives trading in natural gas,
  - Sub-market of EEX Emission Market for spot and derivatives trading in emission rights,
  - Sub-market of EEX Coal Market for derivatives trading in Coal.
- (2) EEX has different electronic trading systems. The execution of transactions is ensured using the respective trading systems according to the conditions for trading on EEX (Trading Conditions).
- (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.
- (4) Provided that the EEX is referred to in the Regulations of the Exchange, all sub-markets within the EEX are included.

#### **§ 2 Operating Companies**

- (1) EEX AG is operating the exchange. EEX AG operates the EEX Power Derivatives Market through EEX Power Derivatives GmbH, EEX Gas Market through EGEX European Gas Exchange GmbH and EEX Emission Market through Global Environmental Exchange GmbH. EEX AG itself is operating EEX Coal Market.
- (2) EEX AG as operating company is obligated to, at the request of the Management Board, make available necessary staff, financial resources, facilities and premises for the adequate further development of the sub-markets.

#### **§ 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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## **§ 4 Exchange Bodies**

- (1) The following are the exchange bodies:
  - the Exchange Council,
  - the Management Board of the Exchange,
  - the Market Surveillance Department,
  - 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. The rules and regulations of EEX consist in particular of the following parts:
  - the Exchange Rules,
  - Trading Conditions with the Contract Specifications,
  - the Code of Conduct,
  - the Trade Registration Rules and
  - 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 rules regarding individual areas. The implementation rules are binding for the companies and traders admitted to trading on the exchange.
- (3) Trading participants 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 (Börsengesetz, BörsG) 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:
  - the adoption of the Exchange Rules,
  - the appointment, re-appointment and dismissal of the Managing Directors of the Exchange in consultation with the Exchange Supervisory Authority,
  - the supervision of the Management Board of the Exchange,

- the approval of the rules of internal procedure for the Management Board of the Exchange,
  - the approval of the conditions for Exchange trading,
  - the appointment, reappointment and dismissal of the head of Market Surveillance upon the nomination of the Management Board of the Exchange in agreement with the Exchange Supervisory Authority,
  - 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 matters of fundamental importance.

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

The terms of office, the election and the composition of the Exchange Council is regulated by the Saxon Exchange Act Execution Ordinance issued by the Exchange Supervisory Authority.

## **§ 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) If nothing to the contrary is explicitly stipulated, the consecutive order of the deputyship shall be based on the majority of votes for the respective deputy.
- (3) The chairperson shall preside over the proceedings of the Exchange Council, or if he is unable to do so, one of the deputies. In case the chairperson and all the deputies are prevented from attending the proceedings, the member of the Exchange Council eldest in age shall serve as chairperson.

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

- (1) The Exchange Council shall have a quorum when more than one half of its members are in attendance, either in person, or effectively represented by another member as the result of the correct submission of the notification of proceedings.
- (2) Resolutions shall be passed by a simple majority of the valid votes cast. In the case of a tie vote, the chairperson of the meeting shall cast the deciding vote. If the chairperson abstains from voting the motion shall be deemed rejected.
- (3) If unable to attend, a member of the Exchange Council may allow another member to submit his 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) In accordance with § 15 of the Exchange Act, 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 according to paragraph (2) may take all necessary actions for proper implementation of trading on the EEX and the handling of the Exchange transactions.
- (4) Companies and persons permitted to trade on the Exchange shall follow the instructions issued by the Management Board of the Exchange and their representatives.
- (5) Companies and persons who contravene existing rules, or do not observe instructions within the meaning of paragraph (4), can be temporarily suspended from trading entirely or with respect to each sub-market, if and for as long as, the orderly trading procedure is disturbed by the company or person, respectively.
- (6) The Management Board of the Exchange may, with respect to foreign participants, avail itself of the services of the Exchange Operating Company in the fulfilment of its monitoring duties. The Exchange Operating Company must ensure, in a suitable manner, in particular through an agreement with the future participants that it may at any time demand information and evidence from the participant to the extent that this serves the purpose of fulfilling the monitoring function.

## **§ 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 for the monitoring of trading on the Exchange and the settlement of Exchange transactions pursuant to § 7 Exchange Act.



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- (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.

### **§ 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 § 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 § 22 Exchange Act and the rules regarding the sanctions procedure in the Saxon Exchange Act Execution Ordinance.

## **4. Admission**

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

#### **§ 14 Exchange Trading**

Trading on the sub-markets of the EEX shall only be carried out or brokered by an approved Exchange participant.

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

- (1) Application for admission may be filed
  - for spot trading only,
  - for derivatives trading only,
  - for one or more sub-markets or products,
  - for spot and derivatives trading altogether as well as
  - using the simplified procedure according to § 16.
- (2) An application for admission as a Trading participant can also be filed for one branch of office or several branch offices of one company.
- (3) Even if they are not Trading 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 Trading 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.
- (4) In accordance with § 23 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 Simplified Admission to Trading**

- (1) In coordination with the exchange supervisory authority, the Management Board of the Exchange can permit a simplified procedure for the admission as a Trading participant of EEX by means of exchanging information with Eurex Germany (simplified admission) in the case that:

- the applicant is a Trading participant of Eurex Germany (Eurex),  
and
- the preconditions for admission to trading on EEX specified in §§ 18 – 21 of these Exchange Rules are fulfilled.

(2) Decisions regarding the simplified admission

- of a company to exchange trading (Exchange participant),
- of persons who are to trade on EEX (Exchange traders)

shall be taken by the Management Board of the Exchange by means of a written notification. Simplified admission as an Exchange participant can be limited to certain products or groups of products and trading systems.

(3) In as far as a Trading participant requests simplified admission at EEX, it authorises EEX to receive and forward information including personal data with the other exchange.

## **§ 17 Admission Procedure**

(1) Decisions regarding the admission

- of companies to participate in Exchange trading (Exchange participant) and
- of persons who shall trade on the EEX (Exchange traders)

are made by the Management Board of the Exchange upon written application pursuant to § 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 participants 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 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. In order to ensure this, the Management Board can demand additional information and documents under analogous application of paragraph (2); items 3 and 4.

## **§ 18 General Admission Requirements for Exchange participants**

- (1) Only those Exchange participants which are permitted to participate in Spot and Derivatives trading (Exchange trading) that are, with respect to the products that may be traded on the Exchange, commercially engaged in the business of
- purchasing and selling for their own account (own transactions), or
  - purchasing and selling in their own name for the account of a third party (customer transactions), or
  - acting as intermediaries for contracts to buy and sell (brokerage operations).
- (2) Exchange participants 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 § 19 paragraph (4) Exchange Act, Exchange participants shall meet the general admission requirements:
- Exchange participants 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 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.
  - The orderly settlement of such transactions must be assured.

- The applicant 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 § 53 paragraph (1), sentence 1 or § 53 b paragraph (1), sentence 1 of the German Banking Act (Kreditwesengesetz – KWG) and is authorized to engage in financial commission business within the meaning of § 1 paragraph (1), sentence 2 No. 4, or to provide a financial service within the meaning of § 1 paragraph (1) a, 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.
  - 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.
  - 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 §1 Abs.1 of the KWG (“Gesetz über das Kreditwesen”- German Law on Banking) 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.
  - The evidence of liable equity is not necessary if the Exchange participant only applies for participation in primary auctions of emission rights 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.

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

- (1) The orderly settlement of Exchange transactions as stipulated in § 19 paragraph (4) No. 2 of the Exchange Act is deemed to be secured when all of the following requirements are fulfilled:
- The Exchange participant has to take part in clearing on ECC AG in accordance with the respectively valid Clearing Conditions of ECC AG.
  - A participant must have sufficient technical facilities at its disposal which guarantee correct trading and settlement by means of telephone/facsimile or via the trading systems of EEX. When using an EDP system, it must be ensured that these tech-

nical facilities do not impair the Exchange Trading and settlement of transactions. The Management Board can recommend hardware and software, which meet the criteria of 1 and 2. When using other hardware and software, the applicant is obliged to furnish evidence that the requirements of 1 and 2 are met. Details are regulated by the regulations pertaining to technical facilities.

- 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.
  - The 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, alinea 1 is deemed to be secured when the ECC AG confirms to the EEX in a binding form that the Exchange participant:
- 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 participant has concluded a respective agreement with a Clearing Member and the ECC AG (NCM Agreement) and
  - 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.

## **§ 20 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. The Exchange is permitted 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 provisions of 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 accordance with the provisions of Exchange law. 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.

## **§ 21 Admission of Exchange Traders**

- (1) 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 detailed provision in the rules for admission. They can only be admitted for one Exchange participant at any given time.
- (2) Further details concerning the requirements with regard to the professional qualification of the exchange traders and the examination procedure are established in the rules for admission.

## **§ 22 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 and participate in trading at the EEX markets only under control and instruction of one specific exchange trader (Responsible Exchange Trader) and only insofar the admission of the Responsible Exchange Trader lasts,
- (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 resignation, withdrawal, revocation and suspension in Section 4.2 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.

## **4.2. Resignation, Withdrawal, Revocation and Suspension of Exchange Admission**

### **§ 23 Resignation, Withdrawal and Revocation of Exchange Admission**

- (1) An Exchange participant or Exchange trader can resign from admission upon written notice to the Management Board. The resignation can be limited to individual sub-markets.
- (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. 38.

- (4) ECC as the Clearing House or a Clearing Member of ECC 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.

## **§ 24 Consequences of Resignation, Withdrawal and Revocation of Exchange Admission**

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.

## **§ 25 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 can also suspend in case of non-payments for the time being in default, in all other cases for a maximum period of six months the admission of an Exchange Participant, should the Exchange Participant contravene provisions of the German Exchange Act or the EEX Rules or fails 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. 38.

- (3) ECC AG as the clearing house 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 § 22. 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. § 25 (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.

## **§ 26 Stop Button on the Derivatives Markets**

- (1) A Clearing Member of ECC AG can file an application for the temporary exclusion from trading on the Derivatives Markets of EEX of an Exchange participant for which it provides services by means of a corresponding entry into the Eurex system of EEX (Stop Button), provided such Clearing Member has made an agreement regarding the permissibility and toleration of this measure with the Exchange participant and provided the Eurex system is used for trading on the EEX Derivatives Markets. At the same time, the Clearing Member states that it is not prepared to clear further transactions by this Trading participant on the Derivatives Markets of EEX. The Clearing Member can submit the application and declaration which is not supported technologically if the Non-Clearing Member
  - (a) does not provide or fulfil the margins established by its Clearing Member, the daily settlement payments, the delivery obligations or the purchase and payment obligations, any premiums or fees which have their legal basis in transactions on the Derivatives Markets of EEX or if it does not provide such when due or
  - (b) does not comply with an order limit established by the Clearing Member and supported technologically ("Pre-Trade Limit") for the derivatives trading on EEX or
  - (c) has failed to fulfil its other contractual obligations and existing towards the Clearing Member with regard to transactions on the Derivatives Markets of EEX.
- (2) The Clearing Member which has used the function of the Stop Button is obliged to make all the required declarations to permit trading on the Derivatives Markets of EEX, by means of an immediate corresponding entry into the system of EEX (deactivation of the Stop Button) once the preconditions for the use of the Stop Button specified in paragraph 1 have ceased to exist.

- (3) In each individual case, the Clearing Member which has used the Stop Button is obliged to immediately communicate a written explanation for the use of the Stop Button to the managing 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 Stop Button.
- (4) Upon the use of the Stop Button, the managing 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 managing board of the exchange that it is ready to re-commence clearing of derivatives transactions of the Non-Clearing Member concerned by deactivating the Stop Button.
- (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 Non-Clearing Member concerned is no longer entitled to conclude Derivatives Market transactions on EEX or to make entries for the purpose of position administration according to § 53 of the Trading Conditions as of the order regarding the suspension of the admission to trade on the exchange.

## **§ 27 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 EEX Conditions for Trading or in the EEX Clearing Conditions, 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

## **§ 28 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, the Clearing House of the exchange, 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.

## **4.3. Admission, Resignation and Revocation of Market Makers**

### **§ 29 Admission requirements**

- (1) 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) Upon being granted admission and pursuant to the Exchange Rules and Regulations, the Market Maker assumes the obligation to simultaneously enter limited bid and ask orders (quotes) into the EEX trading system at any time during trading hours and to do business on the basis of such quotes.
- (3) 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 technical knowledge.
- (4) The Market Maker's admission is dependent on the admission as an Exchange participant.

### **§ 30 Rights and Obligations of Market Makers**

- (1) A Market Maker is obliged to promptly supply bid and ask quotes and to enter into transactions on such basis in an extent determined by the Management Board. The Market Maker must be available 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.

### **§ 31 Resignation and Revocation of Market Maker Admission**

- (1) A Market Maker may at any time resign from its Market Maker Admission upon written notice 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 he resigned from.

- (2) In the case of a reapplication for admission as a Market Maker concerning products where the admission has been resigned from before, the EEX may prescribe a waiting period of at least 10 trading days.
- (3) The Management Board of the Exchange may revoke the admission of a market maker upon prior notice if the market maker does not fulfil its obligations specified in Section 30.

#### **4.4. 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 without being admitted as an Exchange participant.
- (2) Auctioneer in the meaning of this clause is a private law or public law institution mandated by one or several EU member states or by the European Commission with the primary auction of greenhouse gas emission allowances (Emission Rights) in the sense of Directive 2003/87/EG and any following acts (public mandate) and who acts only as seller of Emission Rights using an auction (single sided auction). Under the admission as auctioneer any other participation of the auctioneer in trading at EEX is prohibited.
- (3) An auctioneer may be admitted upon request as auctioneer if:
  - a. the auctioneer is entitled by public mandate in the sense of subsection 2 to sell Emission Rights,
  - b. the orderly settlement of the auctions is secured and
  - c. the orderly settlement of transactions is secured; § 19 applies mutatis mutandis.

The prerequisites under lit. a–c shall be considered as fulfilled for auctioneers that request to be admitted to auctions within the meaning of Art. 26 (2) of Commission Regulation (EC) No 1031/2010 („Transitional Common Auction Platform“ or „TCAP“) if the prerequisites for admission stipulated in the “Arrangements on primary auctions of emission allowances on the spot market of the European Energy Exchange (EEX) under Commission Regulation (EU) No 1031/2010 and clearing and settlement of such transactions through European Commodity Clearing AG (ECC)” (“Arrangements”) are accepted and fulfilled.

- (4) An auctioneer is only entitled to act as a seller within an auction. Auctioneers that have been admitted in accordance with Art. 22 of Regulation (EC) No. 1031/2010, shall not be entitled to enter sell orders into the trading system, the respective sell order is the Auction calendar in its respective valid version.
- (5) Regarding resignation, withdrawal, revocation and suspension of an acceptance as auctioneer the rules in Section 4.2 apply mutatis mutandis.

## **4.5. Use of the Trade Registration Functionality**

### **§ 33 Admission as Trade Registration Participant**

- (1) Companies may be admitted to use the Trade Registration Functionality according to the Trade Registration Rules by the Management Board of the Exchange without being admitted as an Exchange participant pursuant to § 17 (1) (Trade Registration Participant).
- (2) Companies will only be admitted as Trade Registration Participants within the meaning of this provision if:
  - for companies that are organized in the legal form of a sole proprietorship, the proprietor, or in the case of other companies, the individuals who are by law, articles of association or shareholders' agreement entrusted with the management and the representation of the applicant's business are reliable; the applicant shall nominate such persons in the application form,
  - they have the required technical access to the Trade Registration Functionality of EEX,
  - they have appointed persons that are entitled to use the Trade Registration Functionality on their behalf; the appointed persons are required to be reliable and have the necessary professional qualification,
  - and if the proper settlement of the registered trades in accordance with the respectively valid Clearing Conditions of ECC AG is safeguarded.
- (3) The proper execution of registered transactions is considered safeguarded if ECC AG bindingly confirms to EEX that the Trade Registration Participant
  - takes part in the clearing procedure of ECC AG either directly (Clearing Member) or indirectly (Non-Clearing Member) and
  - has been recognised as a Trading participant by ECC AG for every product to be registered.
- (4) Trade Registration Participants that are not admitted as Trading participants on EEX at the same time are exclusively authorised to register trades. Participation in exchange trading is excluded.
- (5) The provisions contained in section 4.2 shall apply accordingly with regard to the surrender, withdrawal, revocation and suspension of admission as a Trade Registration Participant.

### **§ 33a 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 or Trade Registration Participants in accordance with the Trade Registration Rules (Non-Trading Broker). Non-Trading Brokers are not Exchange participants within the meaning of Section 17 (1) or Trade Registration Participants within the meaning of Section 33 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:

- which are a credit institution, a financial services institution, or an undertaking operating within the meaning of Section 53 para 1 sentence 1 or Section 53b para 1 sentence 1 of the German Banking Act ("KWG") that are authorised to conduct principle broking business within the meaning of Section 1 para 1 sentence 2 no. 4 KWG or to provide a financial service within the meaning of Section 1 para 1a sentence 2 no. 1 to 4 KWG;
- 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 persons who are entrusted with managing the applicant's transactions and authorised to represent him (managing director) according to the applicable law, the statutes or the articles of association 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;
- which have successfully completed the KYC process;
- which have the required technical access to the EEX Trade Registration Functionality;
- 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;
- which must be able to furnish proof of equity in the amount of, at least, EUR 50,000 with the paid-up capital and the reserves after the deduction of the withdrawals by the proprietor or the personally liable shareholder and of the loans granted to these as well as of any excess debt in the proprietor's free assets being considered as equity;
- which guarantee
  - that through their internal organisation they ensure that transactions are only registered in the name of such Exchange participants and Trade Registration participants with whom they have concluded a broker agreement and
  - that the process for automatic matching of order within their internal trading system cannot be manipulated;
- which have deposited a bank guarantee of EUR 100,000 at EEX. The bank guarantee must be declared by a domestic credit institute within the meaning of Art. 1 (1) KWG or a comparable foreign institute to the benefit of EEX. The bank guarantee must contain the unconditional and irrevocable obligation of the guarantor to provide



the amount guaranteed to an account of EEX upon the first request to this end by EEX. The type, content and form of the bank guarantee shall be determined by EEX.

- (3) Non-Trading Brokers, who are not also admitted as Exchange participants or Trade Registration 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 and Trade Registration Participants of EEX.

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

### **§ 34 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 of the sub-markets and 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 not launched for trading at the same time, it shall determine the contract specifications. More detailed provisions regarding this are made in the Trade Registration Rules.

## **§ 35 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, trading on individual sub-markets or 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.
- (4) The Trading 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. The same holds for the suspension of trading on a sub-market.

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.



## **5. Exchange Trading**

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

#### **§ 36 Electronic Exchange**

- (1) The EEX is a fully electronic exchange. It has electronic trading platforms for the conclusion and registration of Spot transactions, for the conclusion and registration 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 sub-markets 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.

#### **§ 37 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) Within the trading system ComXerv the exchange price is determined during continuous trading on the basis of the respective highest sell limit or lowest buy limit in the order book at which the orders are executed automatically by the trading system (price-time priority). Further details are stipulated in Sect. 22 of the Trading Conditions of EEX.

- (4) Within the trading system Trayport® ETS<sup>SM</sup> the exchange price is determined during continuous trading on the basis of the sell or buy limit in the order book at which the orders are executed manually by entering a corresponding countering order. Further details are stipulated in Sect. 25 and Sect. 46 of the Trading Conditions of EEX.
- (5) In primary auctions of emission allowances at the spot market in accordance with Regulation (EU) No. 1031/2010 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 EU emission 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 market value (reference price procedure as per Art. 7 (6) of Regulation (EU) No. 1031/2010) and the other cases as foreseen in Art. 9 of Regulation (EU) No. 1031/2010. Further details are stipulated in Sect. 30 and Sect. 51 of the Trading Conditions of EEX.

- (6) 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. 40 of the Trading Conditions of EEX.

- (7) 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.

## **§ 38 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). Enterprises, whose entries to the order book serve to fulfill their quotation obligation, may be exempted from the obligation stipulated in paragraph 1.

### **§ 39 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.

### **§ 40 Algorithmic Trading**

- (1) The use of systems for trading, in which a computer algorithm determines single order parameters automatically (algorithmic trading), requires the permission of the Management Board of the Exchange. Order parameters within the meaning of clause 1 are particularly decisions about whether the order is to be initiated, the point in time, the price or the quantity of the order or how the order is adapted with limited or no involvement of humans at all, after its submission.
- (2) Paragraph 1 shall not apply for systems that only serve for forwarding orders (order routing), confirming orders or supporting of quotation obligations.
- (3) The permission to use systems described in paragraph 1 shall be granted, if it is safeguarded, that the systems used for algorithmic trading
  - Are sufficiently resilient, come with sufficient capacity and are subject to adequate trading thresholds and upper trading limits;
  - Avoid the submission of erroneous orders or a functionality of the system that causes dysfunctions of exchange trading or could contribute thereto;
  - Cannot be used for a purpose that violates European or national laws against market abuse or the rules of the exchanges it is connected to;
  - Are continuously parameterized by an exchange trader admitted for the exchange participant at the exchange and controlled by an exchange trader admitted for the exchange participant at the exchange.
- (4) Further, an exchange participant operating algorithmic trading, must have efficient emergency arrangements at its disposal, to deal with unforeseen disruptions in its systems and safeguard, that its systems are completely inspected and monitored properly. Further-

more, it has to safeguard, that records about each change in the computer algorithm are kept.

- (5) The Management Board of the Exchange may permanently or temporarily, completely or partially revoke the permission to use a system as described in paragraph 1, if one of the prerequisites mentioned in paragraph 3 did not exist or ceased to exist afterwards, the exchange participant does not comply with the requirements according to paragraph 4 or the duty of disclosure according to Sect. 3 paragraph 4 sentence 4 Nr. 5 of the German Exchange Act, or a disturbance of the proper exchange trading or the proper execution of exchange trades impends for other reasons.

## **§ 41 Technical Malfunctions**

- (1) The affected Exchange participants shall inform the EEX without delay of any malfunctions which occur on the technical equipment of the sub-markets during the business hours.
- (2) In the case of technical malfunctions, EEX or third parties commissioned by it 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 or the third party commissioned by it 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 or by the third parties commissioned by it shall be binding for all Exchange participants. Further rules are contained in the Technical Implementing 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. 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 ECC AG as central counterparty. 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 regardless of the provision of Sect. 28 enter orders either for own behalf and own account of the CCP or on behalf of and on account of the clearing members or non-clearing members of the CCP or register trades to safeguard the proper execution of exchange trades.

## **5.2. 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 periods 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 periods 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 periods:
  - Call Phase and
  - 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) 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 per-

missible, 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 EEX Conditions for Trading.

### **5.3. 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 of at least the following period in accordance with the more detailed provisions in the conditions of trading:
  - Trading Period;Furthermore, it can establish further periods:
  - Pre-Trading Period and
  - 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, 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.



## **5.4. Special Provisions for the Primary Auction of Emission Rights**

### **§ 48 Primary Auction - Auctioneer**

- (1) Primary auction of emission rights is effected as an element of exchange trading on the spot and/or derivatives market of EEX.
- (2) The primary auction of emission allowances comprises both EU emission allowances (EUA) and EU aviation allowances (EUAA) according to Commission Regulation (EU) No 1031/2010 (Auctioning Regulation).
- (3) In addition to the rules and regulations of EEX, the respectively valid statutory bases are applicable to the respective auctions. For TCAP-Auctions within the meaning of Art. 26 (2) of the Auctioning Regulation the provisions of the Arrangements as defined in Art. 32 (3) shall apply additionally for the respective contracting parties. In case of a conflict between the Arrangements including the provisions the Arrangements refer to and the Exchange rules, the provisions of the Arrangement precede in the relation between the auctioneers and EEX.
- (4) EEX is the exchange carrying out the primary auction of emission allowances.
- (5) Contracting entity of EEX is the national or European institution, EEX has concluded an agreement about the execution of auctions with. The respectively competent national or European institution or a third party commissioned by it (auctioneer) shall provide the emission allowances to be auctioned off. Trading participants other than the auctioneer are not entitled to conclude sales transactions in the framework of the primary auction.

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

- (1) Exchange, trading for the primary auction of emission allowances is effected by means of a closed auction on the EEX Spot and Derivatives Market.
- (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 emission allowances to be auctioned off during a given auction date
- (3) More detailed provisions regarding the execution of the auctions are established in the EEX Trading Conditions.

### **§ 50 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 implementing rules 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 Commission Regulation (EU) No 1031/2010 in its respectively valid version, entitled and obliged to forward data and infor-

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mation 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 Para. 3 lit h of the Commission Regulation (EU) 1031/2010 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.



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

### **§ 51 Margin Requirements**

- (1) Each Exchange participants 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 shall demand margins of their customers which amount at least to the sum established by means of the calculation method of ECC AG. Upon a request to that end the Exchange participant shall disclose the calculation method to their customers.
- (3) 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.
- (4) 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 § 20 of the Exchange Act.

### **§ 52 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.

### **§ 53 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.

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## **§ 54 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.

## **§ 55 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.

## **7. Final Provisions**

### **§ 56 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 Exchange Management Board and the Operating Company are entitled to share information and data related to the exchange membership within the scope of cooperations, outsourcings and the assignment of external service providers. A transfer of information and data 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 possible after authorization by the individual concerned.

### **§ 57 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.

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

The Management Board of the Exchange shall publish Exchange prices, daily 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.

## **§ 59 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.

## **§ 60 Date of Effectiveness**

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

## **§ 61 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.