

**Rules for the Participation in Trading in Environmental Products and in the Clearing and Settlement of Exchange Transactions in Environmental Products concluded on Wiener Börse in its Function as a General Commodity Exchange –  
Participation Rules for Environmental Products**

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## § 1 Scope of application

- (1) Trading in emissions certificates (in the meaning of Art. 3 fig. 1 Austrian Emissions Certificates Act) hereinafter called environmental products, which are defined in detail in the contract specifications, takes place on Wiener Börse in its function as a general commodity exchange. Trading in environmental products includes the trading, clearing and settlement of exchange transactions in the following trading products:
  - a) Trading in emissions certificates.
  
- (2) These rules govern the requirements and conditions for the participation of members of Wiener Börse in its function as a general commodity exchange in trading in environmental products as well as the requirements and conditions for the participation in the clearing and settlement of exchange transactions in trading in environmental products concluded on Wiener Börse in its function as a general commodity exchange.
  
- (3) The exchange operating company has commissioned EXAA Abwicklungsstelle mit Energieprodukten AG (hereinafter “EXAA“ or “Settlement Agency“) with the task of operating and making available the automated trading and settlement system for trading in environmental products and for the clearing and settlement of exchange transactions concluded in trading in environmental products on Wiener Börse in its function as a general commodity exchange and has charged EXAA with the function of settlement agent pursuant to Art. 26 par. 3 Stock Exchange Act for the settlement of exchange transactions concluded in trading in environmental products on Wiener Börse in its function as a general commodity exchange. EXAA has accepted this commission.

## § 2 Participation requirements

- (1) (a) Only members of the commodity exchange (Art. 15 of the General Terms and Conditions of Business of the Exchange Operating Company Wiener Börse AG) whose companies are engaged in business activities related to the trading products are permitted to trade in emission certificates (Art. 1 par.1 lit.a) and/or to participate in the clearing and settlement of exchange transactions concluded in trading in emissions certificates and companies, which are entitled to receive emission certificates allocated to it or to transfer such certificates pursuant to the Emissions Certificates Act or a corresponding foreign act of an EC Member State or a third country in which emissions certificates are recognized under an agreement pursuant to Art. 300 EC Treaty.
- (b) Furthermore, companies with their registered office in the EC, which are authorized to trade on "recognized" foreign "electricity or environmental product exchanges" and/or "recognized clearing and settlement agents" for recognized foreign electricity or environmental products exchanges with their registered office in the EC, may participate in trading in emissions certificates, and/or in the clearing and settlement of exchange transactions concluded in trading in emission certificates.
- (c) Finally, pursuant to Art. 1 par. 1 Banking Act, Federal Law Gazette No. 532/1993, credit institutions with their registered office in EEA member states other than Austria, and recognized investment firms with their registered office in EEA member states other than Austria pursuant to Art. 2 fig. 31 lit. a Banking Act may participate in trading in emissions certificates and/or in the clearing and settlement of exchange transactions concluded in trading in emissions certificates, if said institutions participate and are authorized to participate in trading in environmental products, or participate and are authorized to participate as brokers in trading in environmental products in the meaning of par. 4 of these Rules.
- (2) Participation in the trading of environmental products is possible either directly or indirectly via a broker. Brokers are exchange members who on the basis of a broker agreement enter orders into the trading system for the conclusion of exchange deals in the trading products exclusively on behalf of and for account of exchange members, the broker's clients. The broker's clients are obligated to fulfill and settle the exchange deals concluded in their name and for their account by the commissioned broker, and must participate in the clearing and

settlement system. Brokers must be eligible for participation in trading in environmental products, and the broker's clients for participation in the clearing and settlement system for exchange deals concluded in trading in environmental products.

- (3) The application for admission to listing to the market for environmental products as well as for membership in the clearing and settlement system for exchange transactions in environmental products must be submitted in writing.
- (4) The participation in trading and/or in clearing and settlement may be granted for the spot market and/or for the derivatives market. Participation may be restricted to trading in at least one of the trading products named in Art. 1 par. 1 or may comprise several trading products.
- (5) The application for admission to participation in trading in environmental products as well as in the clearing and settlement system for exchange transactions concluded in environmental products shall list the following unless the data are already available to Wiener Börse in its function as a general commodity exchange:
  - a) It must state whether participation in trading is directly or indirectly as a broker, and must list the trading product(s) for which the application for participation in trading is being submitted;
  - b) The name of the company; the mailing address for legal documents where the applicant is registered; the value added tax identification number; any useful information on the exchange operating company, the clearing agency pursuant to Art. 26 par. 3 Stock Exchange Act and the exchange member to enable quick and direct contact with the applicant, including the electronic mail address and the required data for the exchange of data over the Internet that must meet the security requirements for encryption, authenticity, and integrity of the messages transmitted as well as any information needed to secure the identity of the users communicating;
  - c) Except for the broker's clients who take part only indirectly in trading: the name of the exchange trader(s) in the meaning of Art. 20 par. 2 Stock Exchange Act responsible for technical and organizational matters directly related to trading, who, as natural persons, are authorized to place orders and to conclude transactions in the name of and for the account of an exchange member, and who also has access rights to the automated trading system;
  - d) Except for brokers: the name or names of the exchange trader(s) in the meaning of Art. 20 par. 2 Stock Exchange Act responsible for technical

- and organizational clearing and settlement matters or any other person(s) who also has (have) access rights to the automated clearing and settlement system;
- e) For brokers' clients: the broker agreement with the exchange member who is a broker authorized to submit orders for the conclusion of exchange deals in the trading products in the name of and for account of the broker's client; the name or names of the broker's exchange traders who, as natural persons, are authorized to place orders and to conclude transactions in the name of and for the account of an exchange member and who also have access rights to the automated trading system;
  - f) The name or names of the natural person(s) who have at least passive rights of representation or of the person with the power of attorney to receive official mail on behalf of the applicant;
  - g) The information required for the transfer of payments.
- (6) The application for the admission to participation in trading in environmental products and/or in the clearing and settlement of exchange transactions concluded in trading in environmental products shall include the following unless the information is already available to Wiener Börse in its function as a general commodity exchange:
- a) An extract from the Companies Register or an equivalent document;
  - b) Only if the exchange members do not already participate at the trading in Spot Market Products and Derivative Market of Electric Products at Wiener Börse in its function as a General Commodity Exchange: All official authorizations, permits, licenses or admission notices issued by the public authorities or similar authorizations required for exchange trading and for the clearing and settlement of the transactions that is valid at the time the application is being submitted as well as any documents indicating that the applicant continues to meet the requirements; in the case of domestic applicants, proof of a business license, if applicable; the presentation of these certificates can be substituted by the presentation of the certificate pursuant to Art. 1 par. 2 Settlement Agencies Act; in the case of settlement agencies, the presentation of the concession pursuant to Art. 3 par. 1 of the Settlement Agencies Act; in the case of a credit institution pursuant to Art. 1 par. 1 Banking Act, the presentation of a banking license; in the case of a foreign applicant, evidence that is comparable to the documents listed above;

- c) In the case of emissions certificates: a confirmation or a similar document issued by a domestic or foreign registry pursuant to Art. 21 Emissions Certificates Act, stating
  - i) that the registry has entered the company applying in the register, and
  - ii) that the registry keeps a "registry account" for said company, on which transferable emissions certificates have been or can be entered with legally binding effect for the company applying as the owner.
  
- d) At least one application for the admission of one person named under Art. 17 par. Stock Exchange Act as an exchange trader, including proof of the specialized knowledge and experience required for participation in exchange trading and/or the clearing and settlement (Art. 20 par. 3 Stock Exchange Act);
  
- e) Except for brokers: the legally binding and valid financial clearing and settlement agreement with EXAA;
  
- f) Except for brokers: proof of the deposit of collateral in accordance with the Clearing and Settlement Rules for Environmental products;
  
- g) Except for brokers: a copy of the automatic debit order with a confirmation of the bank carrying the account, if the participant does not want to carry out settlement by prepayment to a cash account;
  
- h) Appropriate evidence of meeting the requirements of Art. 14 par. 1 fig 1 to 5, Stock Exchange Act;
  
- i) Proof of the adequate technical installations for the connection to the trading and settlement system and/or clearing and settlement system, that ensure smooth trading, and/or clearing and settlement electronically, in particular, via the Internet as well as per telefax, in which case proof must also be furnished that the technical equipment does not interfere with exchange trading and the clearing and settlement of exchange transactions;
  
- j) Proof of the capacities of the applicant to maintain the technical installations and keep them in operating condition;
  
- k) Proof of the required staff for trading, and/or the clearing and settlement, and proof that sufficient organizational measures have been taken.

### **§ 3 Other general provisions**

The exchange operating company or on its behalf EXAA shall be authorized to request at any time further documents or supplementary information and to give the applicant a period of grace for presenting these if it is necessary to clarify compliance by applicant with the admission criteria. After having informed the applicant in

advance, the management of the exchange operating company may obtain information from third parties.

#### **§ 4 Professional qualifications**

- (1) Exchange traders must furnish adequate proof pursuant to Art. 20 par. 2 Stock Exchange Act of having the specialized knowledge and experience required for trading and the clearing and settlement of the trading products. The same applies to other persons pursuant to Art. 21 Stock Exchange Act for the purpose of accessing the clearing and settlement system. The presentation of an exam certificate recognized by exchange operating company shall be accepted as proof that the applicant is fit to act as a trader. The expert knowledge required pursuant to Art. 20 par. 3 Stock Exchange Act shall be deemed to be given if the exchange operating company is furnished with proof of professional training that qualifies the applicant as an exchange trader for the trading products in the meaning of Art. 1 par.1 in or outside of Austria. The experience required pursuant to Art. 20 par. 3 Stock Exchange Act shall comprise knowledge of the operation of the trading, clearing and settlement systems in use. The presentation of the confirmation on the successful completion of the exam conducted by EXAA for trading in and/or the clearing of the trading products in the meaning of Art. 1 par. 1 (hereinafter: EXAA Exam) shall be accepted as proof of the expert knowledge and experience pursuant to Art. 20 par.3 Stock Exchange Act. These exams shall be held by a commission charged by the exchange operating company.
- (2) The application of the provisions for trader's assistants in Art. 3 of the General Terms and Conditions of Business of the exchange operating company Wiener Börse in its function as a securities and general commodity exchange shall be excluded.
- (3) Articles 2 and 3 of the General Terms and Conditions of Business of the exchange operating company Wiener Börse in its function as a securities and general commodity exchange shall apply as follows:
  - a) The application for the power of attorney shall be submitted to EXAA in writing using the forms prepared for this purpose and EXAA shall forward the application for processing to the exchange operating company.

- b) The application for admission as an exchange trader on Wiener Börse in its function as an exchange for environmental products shall furthermore include or be accompanied by the following documents:
  - aa) Unless the applicant for exchange trader status does not have the right to act as the sole representative under civil and commercial law, a power of attorney pursuant to Art. 2 of the General Terms and Conditions of Business of the exchange operating company Wiener Börse in its function as a securities and general commodity exchange shall be submitted;
  - bb) In the case of dependent employees of an exchange member, a declaration expressly confirming that the applicant for exchange trader status is a dependent employee of the exchange member.
- c) An application for the assignment of an individual access code (Key Fob) to the trading system for every exchange trader of an exchange member and/or an application for the assignment of access to the clearing and settlement system for exchange traders or other persons employed by an exchange member shall be submitted to EXAA.
- d) Exchange members shall ensure that only the authorized exchange traders have access to the trading system via the individually assigned access code and/or only the authorized exchange traders or other persons have access to the clearing and settlement system via the individually assigned access rights.
- e) If the access authorizations to the clearing and settlement system or the access codes to the trading system are not used in accordance with the rules, the exchange operating company or EXAA on its behalf shall have the right to interrupt the direct or – in the case of indirect participation in trading - indirect access of an exchange member or an exchange trader to the trading system and/ or clearing and settlement system.
- f) Upon the expiry of the power of attorney, or when membership is suspended or revoked, the access codes of the exchange trader or exchange member concerned shall be returned to EXAA.
- g) If required in order to maintain orderly trading, the exchange operating company or on its behalf EXAA shall have the right to interrupt direct or – in the case of indirect participation in trading - indirect access of an exchange member to the trading system.

## **§ 5 Admission to participate in trading and/or clearing and settlement**

The admission of the applicant to participate in trading in electricity products and/or to participate in the clearing and settlement of exchange transactions in trading in electricity products shall follow the procedure set out below:

- a) Receipt of application by EXAA, including exhibits;
- b) Examination by the exchange operating company;
- c) Admission as an exchange member with the collaboration of the Stock Exchange Commissioner (Art. 46 Stock Exchange Act) for the purpose of trading in environmental products and/or for the participation in the clearing and settlement of exchange transactions in trading in environmental products;
- d) Admission of the exchange traders;
- e) Execution of the membership agreement;
- f) Handing over of the codes (password, user name) that grant the exchange traders access to the trading system and/or the identification information that grant the exchange traders and other persons access to the clearing and settlement system;
- g) System switched on to accept the new exchange member to direct or indirect participation in trading and/or clearing and settlement.

## **§ 6 Other obligations**

- (1) Every exchange member shall be obligated to fulfill the financial obligations – including taxes – arising from exchange membership.
- (2) Every exchange member shall be obligated to immediately inform the exchange operating company of any changes in actual fact or of legal nature that may result in a situation that a member no longer meets one of the individual participation requirements pursuant to the Stock Exchange Act and its provisions, among which are also the circumstances proven by the accompanying documents to the application (Art. 2 par. 5 and 6). To ensure compliance, the exchange operating company has the right to request additional information and documents and, if necessary, to request information from third parties.
- (3) The exchange member hereby agrees that its name (company name), address and contact persons' names as well as telephone numbers, websites and e-mail

addresses and other contact addresses be passed on and/or disclosed by the exchange operating company or on its behalf by EXAA for the purpose of expanding (promoting) the circle of exchange members to other membership applicants.

## **§ 7 Expulsion, cancellation, suspension, effects of the suspension of membership**

- (1) The reasons for which an exchange member may be expelled are listed in Art. 19 par. 1 Stock Exchange Act.
- (2) If at the time the system has been switched on to accept an exchange member to trading, and/or clearing and settlement, and any of the admission criteria or participation criteria were not met, including the circumstances evidenced in the accompanying documents to the application or if these requirements are no longer met at a later time, the exchange operating company shall have the right to expel the exchange member. The exchange operating company may also expel an exchange member even if it has not been established beyond doubt that the requirements are no longer met. Orders entered for such exchange members shall be deleted. The same shall apply if an exchange member violates its statutory membership obligations and/or the General Terms and Conditions of Business of Wiener Börse AG, the exchange operating company in its function as a commodity exchange pursuant to Art. 13 Stock Exchange Act relating to membership and participation in trading in environmental products and in the clearing and settlement of exchange transactions concluded in trading in environmental products. An exchange member shall also be expelled if, within the extended period of grace granted by the exchange operating company, or by EXAA on its behalf, it fails to comply with the requirements for the technical installations of exchange members (Art. 2 par. 6 lit j) and the measures taken according to Art. 16 par. 2 of the Trading Rules for Environmental Products no longer suffice to eliminate the disruption. The expulsion shall not affect any liabilities of the exchange member valid until the time of the expulsion vis-à-vis the exchange operating company and the clearing agent or third parties acting on its behalf, nor shall it affect the rights of the exchange operating company.
- (3) The exchange member may request the suspension of the admission to membership with the exchange operating company (through EXAA). The

exchange operating company shall declare exchange membership terminated as soon as all liabilities vis-à-vis the exchange operating company, the clearing agent and third parties acting on their behalf are met and all orders deleted. The exchange member shall be responsible for furnishing proof thereof. The proof that all liabilities vis-à-vis the exchange operating company, the clearing agent and third parties acting on their behalf have been met and all orders have been deleted shall be attached to the application or shall be submitted afterwards.

- (4) In the event of a suspension of membership for the purpose of examining if the criteria for expulsion are met (Art. 19 par. 2 Stock Exchange Act), the exchange operating company may request the exchange member to provide the information needed to clarify the matter and to present the relevant documents and may also set a deadline. The exchange operating company shall have the right to obtain information from third parties after having informed the exchange member thereof.
- (5) The exchange operating company may declare the membership suspended (Art. 19 par. 3 Stock Exchange Act), if the "registry account" required pursuant to Art. 2 par. 6 fig. D in the register of the registries, which was opened at the registry by the exchange member participating in the clearing and settlement of exchange transactions concluded in trading with environmental products, has been closed or suspended.
- 6) For the duration of the suspension of membership, the exchange member and its exchange traders shall be excluded from trading, and access to the trading system shall be interrupted and orders shall be deleted; this applies in the case of indirect membership in trading via a broker acting on behalf of the exchange member to said broker. New orders may not be entered by the exchange member or by its exchange traders or in the case of indirect membership in trading by its broker. To enforce the obligations of the exchange member during suspended membership, the exchange operating company may at any time define a deadline. If the deadline is not met, the exchange operating company may take the required measures in its stead.
- 7) The clearing and settlement agent as well as any third parties charged by the latter or by the exchange operating company may inform the exchange operating company of facts that point to grounds for expulsion or suspension of membership (cf. Art. 19 par 5 of the Clearing and Settlement Rules – Environmental Products). The exchange member shall agree to the transmission of data by the clearing and settlement agent or by OeKB to the

exchange operating company for such purposes and undertakes, as OeKB is a credit institution in the meaning of the Banking Act, to release it from the bond to maintain banking secrecy and data secrecy for the purpose of reporting suspicious facts pointing to grounds for expulsion or suspension.

- 8) If membership is terminated or suspended due to one of the abovementioned reasons, the obligations and liabilities of the exchange member from exchange transactions concluded in its name and for its account prior to this shall remain unaffected until they are fully met.

## **§ 8 Miscellaneous**

- (1) The exchange operating company and the clearing and settlement agent shall hand over to each exchange member the contractual provisions and the General Terms and Conditions of Business in a form that enables the exchange member to store and replicate these.
- (2) The exchange operating company and the clearing and settlement agent shall make the following information (relating to itself) available easily, directly and regularly to the exchange member as a minimum:
  - a) Name of company;
  - b) Registered office;
  - c) Information on how the exchange member can easily and directly contact the exchange operating company, including the e-mail address;
  - d) Registration number in the Companies Register and commercial court of registration;
  - e) The competent supervisory authority, if applicable
  - f) Indications of the applicable provisions of securities legislation and access to these;
  - g) Value added tax identification number

Furthermore, the fees stated in the Schedule of Fees shall be clearly and explicitly pointed out and it shall be stated whether or not these include taxes.

The provisions of Art. 9 par. 1, par. 2, Art. 10 Art. par. 1, par. 2 as well as 12 of the E-Commerce Act shall be waived in the relationships between exchange members on the one hand, and the exchange operating company and the clearing and settlement agent on the other hand, for the purpose of meeting the requirements of swift and effective exchange trading among companies in the meaning of the Consumer Protection Act.

- (3) Announcements relating to the addition of new products and trading products to trading must be published in the Official Bulletin of the exchange at the latest by the second day prior to the exchange trading day on which trading will start in the new products and trading products.
- (4) Art. 5 par. 2 of the General Terms and Conditions of Business of the exchange operating company, Wiener Börse AG, that operates Wiener Börse in its function as a securities exchange and a general commodity exchange shall apply on the condition that such applications for corrections must be received by EXAA at the latest by 11:00 a.m. of the next exchange trading day.
- (5) The exchange operating company and EXAA shall cooperate for the purpose of investigating and examining the membership requirements in Wiener Börse AG in its function as a General Commodity Exchange for participation in the trading of environmental products and/or the clearing and settlement of the exchange transaction concluded in the trading with environmental products. The institutions named above shall exchange any information relevant for the determination if the admission and participation requirements are met during the admission procedure as well as the whole period of exchange membership. Pursuant to Art. 3 and Art. 6 of the Participation Rules Environmental Products all admission applicants and exchange members are obliged to provide the institutions named above with any information required.
- (6) Any liability of EXAA in its role as a party charged by the exchange operating company as well as of other parties charged by EXAA for damages arising due to circumstances outside of their control or for damages outside of the control of EXAA or other parties charged by EXAA shall be excluded. Any liability of EXAA as well as other parties charged by EXAA for the orderly and appropriate nature of the measures initiated shall remain unaffected within the scope of paragraph 7 below.
- (7) EXAA as well as other parties charged by EXAA shall not be liable for any losses, profits foregone or damages vis-à-vis exchange members, unless such

losses, profits foregone or damages have been caused by willful conduct or by gross negligence. Liability for consequential damages shall be excluded in all cases.

- (8) Unless expressly provided for otherwise under these Rules, EXAA as well as third parties charged by EXAA shall in no case be liable vis-à-vis other parties that are not themselves exchange members for possible losses, damages, consequential damages or profits foregone arising from or in connection with exchange transactions concluded in trading in environmental products on Wiener Börse in its function as a general commodity exchange.
- (9) EXAA as well as other parties charged by EXAA shall not be liable for damages resulting from operational disruptions caused by force majeure, riot, war or natural catastrophes or damages that are due to any other incidents or circumstances outside of their control (e.g. strikes, legal lockouts, traffic obstructions) or which are due to restraints imposed by state authorities.
- (10) This shall also apply to damages suffered by exchange members as a consequence of technical problems or due to the partial or complete inoperability of the computer systems used by the members or due to errors in data input within the context of trading and/or clearing and settlement provided inasmuch as said circumstances are not caused by willful conduct or by gross negligence on the part of EXAA or other third parties charged by EXAA. The third parties charged by EXAA shall have tested the computer systems and other technical equipment in their responsibility sufficiently before putting them into operation and shall be responsible for their adequate maintenance.

## § 9 Entry into force

These Participation Rules for Environmental Products shall enter into force on the day following their promulgation.\*

\*) Entry into force of the first version

Non-binding translation of the German “Teilnahmebedingungen Umweltprodukte” promulgated by Official Notice of the exchange operating company Wiener Börse AG No. 680 of 17 May 2005 amended by Official Notice 1687 of 29 October 2007 (effective 1 November 2007) and by Official Notice XXX of DD MMM YYYY (effective 1 January 2008).