

Guideline for DEA/ DMA to Eurex

NCA notification, systems authorization at Eurex
and order flow identification

Version: April 2019



Legal prerequisites for Direct Electronic Access (DEA) as stipulated by MiFID II allow Eurex' trading participants to offer DEA

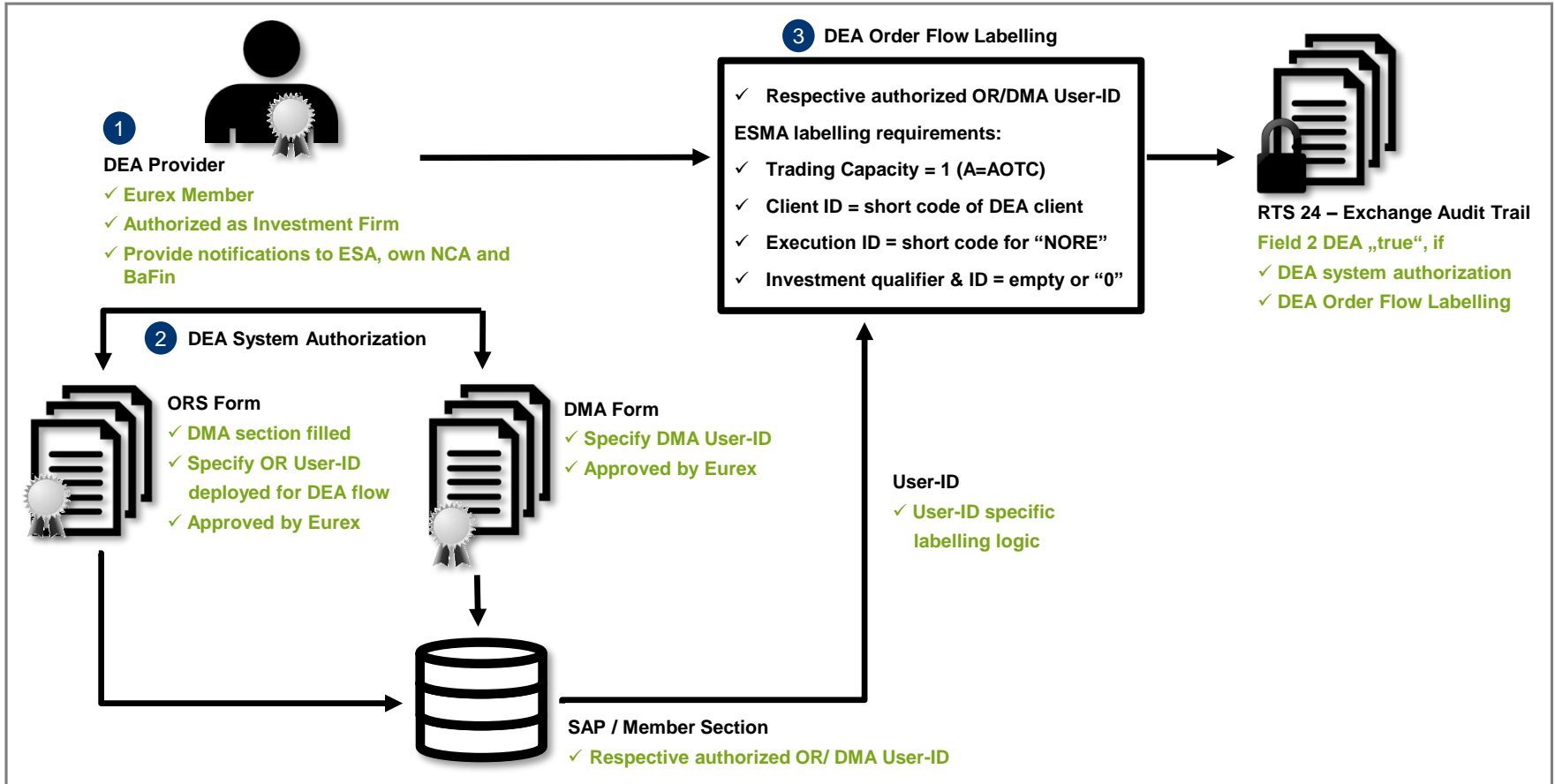
Regulatory prerequisites

- With the application of MiFID II, German trading venues have the possibility to allow **DEA**, as an additional option for **indirect market participants to access their order books**.
- Historically, trading venues were only allowed to grant direct access to their order books for their direct trading participants and their respective traders.
- According to DR 2017/565 Art.20, trading venues are now in a position to allow trading participants to grant their clients to “**exercise discretion regarding the exact fraction of a second of order entry and the lifetime of the order within that timeframe**”.
- According to MiFID Art (1)(41) DEA comprises **Direct Market Access (DMA)** and **Sponsored Access (SA)**: ‘direct electronic access’ means an arrangement where a member or participant or client of a trading venue permits a person to use its trading code so the person can electronically transmit orders relating to a financial instrument directly to the trading venue and includes arrangements which involve the use by a person of the infrastructure of the member or participant or client, or any connecting system provided by the member or participant or client, to transmit the orders (*direct market access*) and arrangements where such an infrastructure is not used by a person (*sponsored access*).

Eurex solution

- Eurex will only allow trading participants to offer DMA for clients. **SA remains out of scope.**
- In order to provide DEA/DMA to Eurex, members must adhere to the following steps:
 - 1. Submit relevant notifications to Exchange Supervisory Authority, BaFin and National Competent Authority (if not located in Germany) (see slides 4-5)**
 - 2. Coherently apply for authorization of DEA systems to Eurex Deutschland via respective application forms (see slide 6)**
 - 3. Adhere to requirements on DEA labelling requirements as set out in the Exchange Rules of Eurex Deutschland § 61 (see slide 9)**

Overview on the Eurex approach, depicting roles, interactions and processes in regards to DEA



▶ Points 1, 2, 3 will be further elaborated on the following slides, guiding through the process as foreseen at Eurex

1 Submission of notification on provision of DEA towards BaFin and relevant NCA(s) in the home jurisdiction

- From 3 January 2018, new notification requirements apply to investment services enterprises as a result of the transposition of the Markets in Financial Instruments Directive II (MiFID II) through the Second Act Amending Financial Markets Regulations (Zweites Finanzmarktnovellierungsgesetz – 2nd FiMaNoG).
 - These notification requirements affect investment services enterprises that **offer direct electronic access (DEA)** to a trading venue.
 - The notifications must be submitted to the authority responsible for supervising the investment services enterprise concerned.
- The application form „**Notification pursuant to section 77 (2) sentence 1 of the Securities Trading Act (third subparagraph of Article 17(5) of Directive 2014/65/EU)**” on the provision of direct electronic access acc. to **section 2 para. 30 Securities Trading Act** can be retrieved from the following link:

https://www.bafin.de/SharedDocs/Downloads/EN/Formular/WA/fo_20180102_Formular_DEA.html

Please provide the completed application form to:

Federal Financial Supervisory Authority (BaFin)

- Notification on provision of DEA to a trading venue to **Email: deaanzeige@bafin.de**
- Trading participants are advised to contact their own national competent authority, to clarify potential additional requirements with the NCA in their home jurisdiction.

1 Submission of notification on DEA provision towards Exchange Supervisory Authority

- Exchanges in Germany are supervised by the authorities of the federal states.
- For this reason, investment services enterprises that **offer DEA** to a German exchange must submit notification to the Exchange Supervisory Authority responsible for the respective exchange.
- The application form „**Notification on providing Direct Electronic Access (DEA)**” for market participants of Eurex can be retrieved from the website of the Exchange Supervisory Authority of the State of Hesse:

https://service.hessen.de/html/files/0458_Meldung_DEA_ENG.pdf

Please provide the completed application forms to:

Ministry of Economics, Energy, Transport and Regional Development
State of Hesse
Exchange Supervisory Authority

Email: reporting@wirtschaft.hessen.de

2 How to apply for authorization of DEA systems with Eurex Deutschland via respective application forms

As shown in the illustration on slide 3, there are two alternatives for Eurex market participants to apply for **authorization of DEA systems** with Eurex Deutschland:

1. Via form "[Application for Authorization of a System granting **Direct Market Access \(DMA\)** according to section 2 para. \(9\) Stock Exchange Act](#)"
 2. Via form "[Application for Authorization of an **Order Routing System/Automated Client Order Parameter Transfer System**](#)"
- Via both forms, Eurex members have the opportunity to assign the **respective User-IDs that send order flow via DEA** to Eurex.
 - This can be either done via authorized DMA User-IDs (see form 1.) or respective OR User-IDs (see form 2.) on the following pages
 - Please provide the completed application forms to:
 - Eurex Deutschland
c/o Eurex Frankfurt AG
Group Client Key Account Management Trading
60485 Frankfurt am Main
Germany
 - Fax Frankfurt a. M.: +49-69-211-11641
 - Fax London: +44-207-862 7297
 - Fax Paris: +33-1-55 27 67 50
- or your respective **Key Account Manager**
- Members will find the respective **DEA system authorization confirmation** in the Member Section of the **Common Report Engine**.

2 How to apply for authorization of DEA systems with Eurex Deutschland via DMA application form

Application via “Application for Authorization of a System granting Direct Market Access (DMA) according to section 2 (9) Stock Exchange Act”

In case, DEA order flow will be routed via a dedicated User-ID that will only route DEA flow, please apply via the form “Application for Authorization of a System granting Direct Market Access (DMA) according to para. 2 (9) Stock Exchange Act”:

1. Complete the respective form
2. Indicate the DMA-User-IDs that will send DEA flow (e. g. DMA001)
3. If more than one DMA-User-ID needs to be specified, send as a list in separate attachment
4. After providing all relevant information to Eurex Deutschland check correctness at the Member Section of the Common Report Engine

Application for Authorization of a System granting Direct Market Access (DMA) according to § 2 (9) Stock Exchange Act

Eurex Deutschland
 c/o Eurex Frankfurt AG
 Group Client Key Account Management Trading
 60485 Frankfurt am Main
 Germany
 Fax Frankfurt a.M. +49-69-211-11641
 Fax London: +44-203-902-7297
 Fax Paris: +33-1-55-27-67-50

Applicant
 Name: []
 Address: []
 City: []
 Country: []
 Telephone: []
 Fax: []
 E-mail: []

Contact Person
 Name: []
 Address: []
 City: []
 Country: []
 Telephone: []
 Fax: []
 E-mail: []

Member ID
 []

Application for authorization to connect a DMA System to the trading system used by Eurex Deutschland pursuant to § 61 Exchange Rules for Eurex Deutschland.

I. Hereafter we apply for:

the authorization to connect a DMA System to the Eurex trading system via the offered interface pursuant to § 61 Exchange Rules for Eurex Deutschland.

The name of the DMA System is: []

or

a further User-ID for an already approved DMA System.

II. The responsible person in the sense of § 49 Exchange Rules for Eurex Deutschland is the following, admitted exchange trader, respectively a further User-ID shall be set up for:

Member ID [] **Name of Trader** [] **Telephone Number** []

DMA []

Any changes of the responsible trader and/or changes of the above code must be reported to the Exchange immediately!

III. We guarantee that at all times we will uphold the conditions and instructions set out in § 61 Exchange Rules for Eurex Deutschland in regards concerning and operating a DMA System.

In particular, we are aware that the forwarding of trading data and information from the ECP system of the Eurex Exchanges via an DMA System for an Exchange Participant to third parties requires the respective consent of the Board of Management of Eurex Deutschland according to § 22 Exchange Rules for Eurex Deutschland.

Title [] **Place** [] **Considers stamp and authorized signature**
 (Complete name in print below)

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2 How to apply for authorization of DEA Systems with Eurex Deutschland via ORS application form

Application via “Application for Authorization of an Order Routing System/Automated Client Order Parameter Transfer System”

In case DEA order flow will be routed via an User-ID that will also route non-DEA flow, i.e. Order Routing flow, it is essential to also apply for **authorization to connect an automatic order routing system or define an already authorized OR User-ID** via the form “Application for Authorization of an Order Routing System/Automated Client Order Parameter Transfer System”:

1. Complete the respective form
 - a. Page 1 is only mandatory if the OR User-ID used for DEA flow must be authorized first
 - b. Page 2 is mandatory for the actual DEA authorization and the identification of existing User-IDs
3. Indicate the OR User-IDs that will also send DEA flow
4. If more than one OR-User-ID needs to be specified, send as separate attachment
5. After providing all relevant information to Eurex Deutschland check correctness at the Member Section of the Common Report Engine

Application for Authorization of an Order Routing System / Automated Client Order Parameter Transfer System

Eurex Deutschland
 100 Europe Frankfurt AG
 Group Client Key Account Management
 60485 Frankfurt am Main
 Germany

Fax: +49-(0)69-2 11-1 16 41

Contact person
 Name
 E-mail
 Tel.

Application for authorization to connect an automatic Order Routing System to the trading system used by Eurex Deutschland pursuant to § 60 Exchange Rules for Eurex Deutschland.

Herewith we apply for
 the authorization to connect an automatic Order Routing System to the Eurex trading system via the offered interface pursuant to § 60 Exchange Rules for Eurex Deutschland
 The name of the Order Routing System is: _____
 or
 a further User-ID for an already approved Order Routing System.

The responsible person in the sense of § 49 Exchange Rules for Eurex Deutschland is the following, admitted exchange trader, respectively a further User-ID shall be set up for:
 R _____ Name of trader Telephone number
 A, T, C _____ User Code for an Automated Client Order Parameter Transfer System

Any changes of the responsible trader and/or changes of the User Code must be reported to the Exchange immediately!

We guarantee that at all times we will uphold the conditions and instructions set out in § 60 Exchange Rules for Eurex Deutschland as regards connecting and operating an Order Routing System.

In particular, we are aware that the forwarding of trading data and information from the EDP system of the Eurex Exchanges via an Order Routing System by an Exchange Participant to third parties requires the respective consent of the Boards of Management of the Eurex Exchanges according to § 22 Exchange Rules for Eurex Deutschland.

Privacy Policy
<http://www.eurexexchange.com/privacy-policy>

Page 1: ORS authorization

Application for authorization to connect a DMA System to the trading system used by Eurex Deutschland pursuant to § 61 Exchange Rules for Eurex Deutschland.

Herewith we apply for
 the authorization to connect a system granting Direct Market Access (DMA) according to § 2 (3) Stock Exchange Act to the Eurex trading system via the offered interface pursuant to § 61 Exchange Rules for Eurex Deutschland and confirm applicable conditions precedent are fulfilled.

The name of the DMA System is: _____

The responsible person in the sense of § 40 Exchange Rules for Eurex Deutschland is the following, admitted exchange trader, respectively a further User-ID shall be set up for:
 the OR User-ID specified in section I.
 or
 an OR User-ID for an already approved Order Routing System.

User Code for an Order Routing System Name of trader Telephone number
 Co. n. _____

Any changes of the responsible trader and/or changes of the User Code must be reported to the Exchange immediately!

We guarantee that at all times we will uphold the conditions and instructions set out in § 61 Exchange Rules for Eurex Deutschland as regards connecting and operating an Order Routing System. With respect to an additional DMA authorization, conditions set out in § 61 are also applied, respected and set in applied.

In particular, we are aware that the forwarding of trading data and information from the EDP system of the Eurex Exchanges via an Order Routing System by an Exchange Participant to third parties requires the respective consent of the Boards of Management of the Eurex Exchanges according to § 22 Exchange Rules for Eurex Deutschland.

_____ Name _____ Telephone number _____
 _____ Name _____ Telephone number _____

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<http://www.eurexexchange.com/privacy-policy>

Page 2: DEA authorization

3 Obligation to label transactions entered or concluded via DEA

Please be aware, that **orders and trades shall only be labelled as DEA***, if:

- the user can exercise discretion regarding the **exact fraction of a second of order entry and the lifetime of the order within that timeframe**
- **no arrangements for optimisation** of order execution processes are applied by the provider of DEA

If both conditions are fulfilled, order flow must consistently be labelled as required by the ESMA Guidelines on Transaction reporting, order record keeping and clock synchronization under MiFID II, on Direct Electronic Access (DEA)**.

At Eurex, order flow will be labelled as DEA in the trading venue record keeping (Audit Trail), **only if**:

- DEA Order Flow labelling:

The Trader ID is populated with the respectively applied User-ID (e.g. “DMA001” or “ORS001”)

AND

Trading capacity = 1 (A=AOTC)

AND

Client ID = short code of DEA client

AND

Execution ID = short code for “NORE”

AND

Investment qualifier & ID = empty or “0”

- **The order flow sent via DMA and ORS User-IDs as specified in the relevant application forms will always be labelled as DEA in the Exchange Audit Trail if the aforementioned labelling logic is applied.**
- **Please be aware that if the functional entry field population is not applied as shown, order flow will not be labelled as DEA.**

Backup

3 Comply with requirements on DEA as set out in Exchange Rules of Eurex Deutschland § 61

§ 61 (1) Exchange Rules for Eurex Deutschland on Direct Electronic Access:

- (1) **An Exchange Participant is entitled, upon request of and after authorization by the Management Board of Eurex Deutschland to grant another person (indirect Trading Participant) direct access** to the market via its infrastructure for the transmission of orders pursuant to § 2 Paragraph 9, provided that
 - a) between the Exchange Participant and the indirect Trading Participant a contract has been concluded which at least contains the requirements within the meaning of Article 22 of the Delegated Regulation (EU) 2017/589 and
 - b) the Exchange Participant ensures that the indirect Trading Participant conducts control measures and fulfils its control obligations within the meaning of Article 19 to 23 of the Delegated Regulation (EU) 2017/589.
- (2) **The Exchange Participant is obliged to immediately notify the Management Board of Eurex Deutschland of any conclusion or termination** of or any essential changes to the contract. Upon request by the Management Board of Eurex Deutschland, the Exchange Participant must present contracts pursuant to Paragraph 1 and provide information on the indirect Trading Participant's conduct of control measures and its outcome pursuant to Paragraph 1. Further supervisory and control rights of the exchange bodies and the exchange supervisory authority under statutory law remain unaffected.
- (3) **The Exchange Participant is obliged to flag orders and trades which are entered or concluded, respectively, by an indirect Trading Participant via direct electronic access** pursuant to Paragraph 1. Further details are determined by the Management Board of Eurex Deutschland. → See slide 9.
- (4) **The forwarding of trading data and information from the electronic trading system of Eurex Deutschland via direct electronic access of an Exchange Participant to third parties requires the respective consent of the Management Board of Eurex Deutschland** pursuant to § 22 of the Exchange Rules for Eurex Deutschland. The consent of the Management Board of Eurex Deutschland vis-à-vis the Exchange Participant who is operating the direct electronic access is deemed to be given if the relevant Exchange Participant has concluded a respective Market Data Dissemination Agreement with Deutsche Börse Group on the prices of Eurex Deutschland. In case of an additional installation, as the case may be, an installation of electronic eyes and/or third party software, respectively, which comes along with the opening of a direct electronic access with the electronic trading system, this intention shall also be notified unrequested in writing by the Exchange Participant vis-à-vis the Management Board of Eurex Deutschland. The provision of § 62 shall remain unaffected.
- (5) **The Exchange Participant is responsible for the indirect participant's compliance with the exchange-related statutory provisions.** In case of violations against regulations on direct electronic access, in particular violations against the Exchange Rules or the Conditions for Trading, the Management Board of Eurex Deutschland may suspend or terminate a direct electronic access pursuant to Paragraph 1.
The Management Board of Eurex Deutschland may, in particular, terminate the direct electronic access if
 1. the prerequisites for the authorization have not been fulfilled, in particular if the authorization has been granted upon false or incomplete information of the Exchange Participant; or
 2. if the prerequisites of the granting have ceased to apply retroactively; or
 3. if an orderly futures and options trading through direct electronic access is not or cannot be guaranteed any more.

Additional information on DEA as well as the labelling of DEA order flow can be retrieved from the Eurex website

The screenshot shows the Eurex website's 'Resources' page for 'DEA/DMA'. The breadcrumb trail is: Eurex Exchange > Resources > Regulations > EU regulations > MiFID II/MiFIR > DEA/DMA. The main heading is 'Order Routing Systems (ORS) and Direct Market Access (DMA) at Eurex under the new regulatory regime'. The text explains that the commencement of MiFID II / MiFIR and its transposition into the German legal environment with the FinanzG II, coming into effect on January 3rd 2018, means that German trading venues will get the possibility to allow DMA, as an additional option to allow access to their order books by non-participants, for the first time. It also states that under the FinanzG II trading venues are now in a position to allow trading participants to grant their clients more control over the order flow using DMA and thereby granting control over the fraction of a second of the lifetime of an order. A 'Further information' section lists various documents and forms available for download, such as 'ORS and DMA at Eurex under the new regulatory regime', 'DEA/DMA vs Order Routing Systems (slides)', and 'Information Memorandum_Authorisation of a system granting Direct Market Access (DMA)'.

Additional information is provided on the Eurex website <http://www.eurexchange.com> under the following link:

[Resources > Regulations > EU Regulations > MiFID II/MiFIR > DEA/DMA](#)

Updated Slides
will be provided
on this website

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