EUREX Architects of trusted markets

Direct Market Access at Eurex

NCA notification, systems authorization at Eurex and order flow identification

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Legal prerequisites for Direct Electronic Access (DEA) as stipulated by MiFID II

Regulatory Prerequisites

- Historically, trading venues were only allowed to grant direct access to their order books for their direct trading participants and their respective traders.
- 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**.
- According to DR 2017/565 Art.20, trading venues are 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 (4)(41) DEA comprises **Direct Market Access (DMA)** and **Sponsored Access (SpA):** '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 <u>*infrastructure of the member or participant*</u> 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 <u>*infrastructure is not used*</u> by a person (*sponsored access*).

Eurex Solution

- Eurex Deutschland (Eurex) allows trading participants to offer DMA & SpA for clients.
- In order to provide DMA to Eurex, trading participants 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 authorisation of DMA system to Eurex via respective application form *(see slide 6)*
3. Adhere to requirements on DMA labelling as set out in § 57 of the Exchange Rules of Eurex Deutschland *(see slide 7)*

Overview on the Eurex approach, depicting roles, interactions and processes regarding DMA

1

DMA Provider

- ✓ Eurex Trading Participants
- ✓ Authorised as Investment Firm
- ✓ Provide notifications to ESA, own NCA and BaFin

2

DMA System Authorization

DMA Form

- ✓ Approved by Eurex

3 **DMA Order Flow Labelling**

- ✓ Tag 1724 OrderOrigination = 5 ("DMA Flag")*

ESMA labelling requirements:

- ✓ Trading Capacity = 1 (A=AOTC)
- ✓ Client ID = short code of DMA client
- ✓ Execution ID = short code for "NORE"
- ✓ Investment ID = empty

T7 technical requirements:

- ✓ Execution qualifier = 24 ("human")
- ✓ Investment qualifier = empty

RTS 24 – Exchange Audit Trail

Field 2 DEA "true", if

OrderOrigination= 5 (TE540, TE550, TE810)

SAP / Member Section/ T7

- ✓ Eurex T7 system rejects orders, where OrderOrigination is set to "5", but the Exchange Participant is not authorized as DMA Provider with Eurex

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

*For the technical details on the DMA flag, please, refer to T7 system documentation: https://www.eurex.com/ex-en/technology/t7

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/DE/Formular/WA/fo_20171207_Formular_DEA.docx?__blob=publicationFile&v=1

  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:

  Application Form

  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 Authorisation of the DMA system at Eurex via respective application form

- According to § 57 of Exchange Rules of Eurex Deutschland, Trading Participants intending to grant another person (indirect Trading Participant) direct access to the Eurex market via its infrastructure for the transmission of orders, are obliged to authorize their DMA system with Eurex via respective application form:

  "Application for Authorization of a System granting **Direct Market Access (DMA)** according to section 2 para. (9) Stock_ Exchange Act"

- 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

  E-mail: client.services@deutsche-boerse.com

  or your respective **Key Account Manager**

- Registration form available on request. Please contact your key account manager (KAM)

3 Obligation to label transactions entered or concluded via DEA/DMA

Please be aware, that **orders and trades shall only be labelled as DEA/DMA**, 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/DMA

At Eurex, order flow will be labelled as DEA in the exchange Audit Trail according to DR 2017/580*, only if: OrderOrigination = '5' ("DMA Flag")	
Please note, order flow must consistently be labelled as required by ESMA Guidelines on Transaction reporting, order record keeping and clock synchronization under MiFID II, on DEA**:	Please also apply T7 technical requirements:
Trading capacity = 1 (A=AOTC) AND Client ID = short code of DMA client AND Execution ID = short code for "NORE" AND Investment ID = empty	Execution qualifier = 24 ("human") AND Investment qualifier = empty

- Please be aware Eurex T7 system rejects orders, where tag 1724 "OrderOrigination" is set to "true", i.e. "5", but the Exchange Participant is not authorized as DMA Provider with Eurex
- When setting OrderOrigination = 5 but not using Trading capacity = 1 (A=AOTC), the order will not be accepted by the trading system
- The information on DEA/DMA is provided via TE540, TE550, TE810

* See Commission Delegated Regulation (EU) 2017/580 of 24 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R0580
**See ESMA Guidelines Transaction Reporting, order record keeping and clock synchronization under MiFID II (ESMA/2016/1452): https://www.esma.europa.eu/sites/default/files/library/2016-1452_guidelines_mifid_ii_transaction_reporting.pdf

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