Xetra Circular
100/13

To all Xetra® Members and Vendors

Recipients: Traders, Technical Contacts, Nominated Persons, General

1 October 2013

**Further information on German HFT Act
regarding report for daily order and quote transactions**

Dear Sir or Madam,

This circular aims to provide you with information on services by Deutsche Börse which may assist direct trading participants in counting their intra-day message rates for the purposes of the German High Frequency Trading Act (HFT Act).

According to the German Federal Financial Supervisory Authority (BaFin), a high-frequency algorithmic trading technique under section 1 par. 1a sentence 2 no. 4d of the German Banking Act (KWG) shall only be deemed to exist if all three of the following criteria are met (cumulative criteria):

- use of infrastructure intended to minimise latency, particularly co-location,
  proximity hosting or high-speed direct electronic market access (i.e., a 10 GBit/s connectivity in Co-Location);
- system determination of order initiation, generating, routing or execution without human intervention; and
- **high message intra-day rates**[1].

BaFin states[2] that trading participants are required to store and keep available the data regarding their message rate starting 16 July 2013, if they use high-frequency algorithmic trading techniques and do not hold a licence pursuant to section 32 of the KWG or are exempt pursuant to section 2 (4) of the KWG.

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[1] Cp. BaFin's frequently asked questions relating to the HFT Act
  (Hochfrequenzhandelsgesetz), question: "What is high-frequency algorithmic trading technique?"
[2] Cp. BaFin's FAQ, question: "How is the high message intra-day rate being calculated?"

Deutsche Börse will provide its direct Members with the new report "TL900 Daily Order and Quote Transactions" which may help these firms to count and document their message rate in order to store and keep available such data. The new report contains the aggregation of transactions as envisaged by the German HFT Act. The report is calculated on a daily basis and shows numbers for the report creation dates, average of the last 249 days, average of the preceding 250 days and the new 250 days average including the report day. For calculation purposes transactions include:
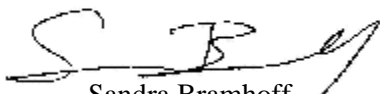
- Order and Quote Additions
- Order and Quote Modifications
- Order and Quote Deletions

The report will be available for members via their MISS-Server or Common Report Engine in simulation of the Xetra Release 14.0 on 8 October 2013 and in production on 14 November 2013. No report selection will be available; the report is distributed to each Member automatically. Members are requested to import the *xetra_tl900.xsd* and to replace *xetra_reports_data_types.xsd* in case they would like to interpret the new report. The XML Report Reference Manual will be updated at the beginning of October 2013 and made available in the Xetra Member Section.

Please also note that the calculation of the message rate is ultimately the responsibility of the legal entity generating the messages. Whether Deutsche Börse's report TL900 fulfils all the relevant criteria set out by BaFin should be determined bilaterally between the direct trading participant and BaFin. Deutsche Börse cannot generate such a report for users of order routing systems.

For further information on high-frequency trading and the obligations for exchange participants in this context we recommend the FAQ on BaFin's website and to contact BaFin in case you have further questions in this context. It may also be advisable to seek additional advice from a legal counsel.

Yours faithfully,

Sandra Bramhoff   Dr. Miroslav Budimir