

# Regulations for the Audit Group of Eurex Deutschland

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## **Preamble**

The Management Board of Eurex Deutschland shall, according to the Exchange Rules for Eurex Deutschland ("Exchange Rules"), be responsible for the monitoring and inspection of compliance with the Rules and Regulations of Eurex Deutschland. With respect to foreign Exchange Participants, i.e. with respect to enterprises which have their registered offices outside the Federal Republic of Germany, Eurex Deutschland may avail itself of the services of the administrating and operating institution of Eurex Deutschland in the fulfilment of such responsibilities. At the same time, foreign Exchange Participants have, in connection with their admission to trading on Eurex Deutschland, authorized the administrating and operating institution of Eurex Deutschland in accordance with the Exchange Rules to control compliance with the Rules and Regulations on behalf of Eurex Deutschland.

The foregoing provisions shall apply mutatis mutandis with respect to Participant Front End Installations of an Exchange Participant, such Participant Front End Installations having been installed at the business premises outside the Federal Republic of Germany (e. g. at branches or business premises of third parties) after prior approval by Eurex Deutschland. In such case, the Exchange Participant concerned shall, in accordance with the Exchange Rules for Eurex Deutschland be obliged to guarantee by means of appropriate agreements concluded with the third party that the third party grants to Eurex Deutschland the right to inspect the business premises of such third party at all times for the purpose of determining compliance with the requirements for the installation and operation of a Participant Front End Installation.

For the purpose of exercising these rights, an Audit Group shall be set up. Such Audit Group shall perform the right to control compliance with the Rules and Regulations granted by the Exchange Participants to the administrating and operating institution of Eurex Deutschland outside the Federal Republic of Germany. The Audit Group shall exercise such rights on behalf of and in accordance with the Regulations of Eurex Deutschland.

## **1. Appointment of an Audit Group**

The members of the Audit Group shall be appointed by the Management Board of Eurex Deutschland for an indefinite period of time until such appointment is revoked. The Hessian Exchange Supervisory Authority shall promptly be notified of the appointment. The Hessian Exchange Supervisory Authority may object to the appointment of a person as member of the Audit Group, to the extent that in his/her capacity as staff member of the Trading Surveillance Office the fulfilment of the monitoring responsibilities conferred upon such person is impaired due to the activities in connection with this appointment.

The administrating and operating institution of Eurex Deutschland gives the members of the Audit Group appointed by Eurex Deutschland a written authorization necessary in order to conduct monitoring and inspection activities.

The appointed members of the Audit Group may be removed by the Management Board of Eurex Deutschland at any time without the existence of reasons therefor. Upon removal, the authorization granted shall be returned to the administrating and operating institutions of Eurex Deutschland.

Eurex Deutschland may announce to the Eurex Participants the appointment or removal of the members of the Audit Group. Eurex Deutschland may freely decide on the announcement itself as well as the form of the announcement.

## **2. Responsibilities and Powers of the Audit Group**

The Audit Group shall control compliance with the Rules and Regulations of Eurex Deutschland with respect to Exchange Participants which have their registered offices outside the Federal Republic of Germany or whose Participant Front End Installations are installed at business premises outside the Federal Republic of Germany (e.g., in branches or business premises of third parties). The inspections shall take place at the business premises of these Exchange Participants or at the business premises of third parties, to the extent that Participant Front End Installations of the Exchange Participant have been installed at such business premises after prior approval. The Audit Group shall conduct the inspections in the interest of Eurex Deutschland and for the administrating and operating institution of Eurex Deutschland within its responsibilities and powers derived therefrom.

## 2.1 Responsibilities

The contents and scope of the responsibilities to be fulfilled by the Audit Group shall be determined on the basis of the monitoring rights of the Management Board of Eurex Deutschland pursuant to § 5 Paragraph 3 Clause 2 No. 3 and § 9 Paragraph 3 Clause 2 No. 3 of the Exchange Rules. According thereto, the Audit Group shall verify:

- (1) compliance with all laws, regulations, terms and conditions and other rules governing trading at Eurex Deutschland, to the extent that the Trading Surveillance Office of Eurex Deutschland is not solely responsible therefor,
- (2) in particular, compliance with the provisions of the Exchange Rules for Eurex Deutschland contained in the Section Access to the Exchange-EDP,
- (3) the fulfillment of the obligation of the Exchange Participants to notify Eurex Deutschland of any modification regarding the technical configuration used by them as well as compliance with the notification and registration requirement incumbent on them in respect of the software and hardware used by them,
- (4) whether Exchange Participants have taken sufficient precautions so that only authorized persons (Exchange Traders, etc.) have access to the EDP system of Eurex Deutschland,
- (5) whether the persons met at the business premises of the Exchange Participants or at other approved business premises with access to the trading system of Eurex Deutschland are admitted to trading at Eurex Deutschland ("Exchange Trader") or have a respective authorization therefor ("Exchange Trader Assistants").

## 2.2 Powers

The powers granted to the Audit Group are based on the authorization of Eurex Deutschland to conduct inspections pursuant to § 39 Paragraph 1 and 2 of the Exchange Rules or § 54 Paragraph 2 of the Exchange Rules respectively in connection with the authorization to monitor compliance with the Eurex Rules and Regulations given to the administrating and operating institution of Eurex Deutschland by foreign Exchange Participants with registered offices outside Germany.

Thus, the Audit Group is, within its responsibilities (Subsection 2.1), authorized to conduct at any time announced or unannounced inspections at all business premises of a Eurex Participant or at any approved business premises of a third party outside the Federal Republic of Germany. The Audit Group may, for the discharge of its duties, enter the business premises of a Eurex Exchange Participant, inspect the documents of such Participant and question its personnel, to the extent necessary for the discharge of the duties of the Audit Group pursuant to Subsection 2.1.

### **3. Reporting**

The Audit Group shall, in general, give a written report on the findings within the context of its inspections to the Management Board of Eurex Deutschland; upon demand of the Management Board, an oral report shall be given promptly. The report shall be given promptly, whenever facts result in the conclusion that a violation of exchange laws or orders are occurring or that other irregularities exist which might impair the orderly conduct of trading at Eurex Deutschland.

Upon application by an Exchange Participant affected by such an audit, the Management Board of Eurex Deutschland shall permit such Exchange Participant to inspect such written report of the Audit Group at the offices of the Management Board. The Management Board of Eurex Deutschland may, at its discretion, make such report of the Audit Group also available to third parties (supervisory authorities, Disciplinary Committee, etc.), provided that these present grounds for a legitimate interest in the inspection and are bound by an obligation of confidentiality. The submission of the report to the Hessian Exchange Supervisory Authority does not require the presentation of grounds for a legitimate interest.

### **4. Right to Give Instructions**

The members of the Audit Group are subject to the right of the Management Board of Eurex Deutschland to give instructions in fulfilling their responsibilities pursuant to these Regulations. The right to give instructions is exercised by means of individual regulations and general rules. In particular, the procedure of the inspection to be conducted by the Audit Group may be determined by general rules ("Implementation Regulations Concerning the Regulations for the Audit Group").