

OTC Clearing Conditions

Datum / Date 01.01.2009

Ort / Place Leipzig

Dokumentversion / Document Release 004b



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§ 1 Scope of Regulation

- (1) The European Energy Exchange provides an “OTC clearing facility” to companies which are licensed as trading participants to participate in spot or in derivatives trading at the European Energy Exchange (EEX), and which participate either directly or indirectly in the clearing procedure at the European Commodity Clearing AG (ECC) (“participants”) subject to the conditions listed herein below.
- (2) The OTC clearing is defined as the bilateral exchange of trades concluded outside the exchange and the registration of these trades as OTC trades into the EEX trading systems by mutual consent provided said trades are approved for such and said entry is carried out subject to the conditions listed herein below.
- (3) An “OTC trade” within the meaning of these terms and conditions is considered to exist if the participants and/ or their customers have agreed on the purchase and/ or sale of one of the products approved for the OTC clearing facility of the exchange, if the characteristics of said agreements correspond to the respective contract specifications for these products according to the terms and conditions for trading on the European Energy Exchange and if the price agreed on is permissible as an entry price.

§ 2 Preconditions for Participation

- (1) The use of the OTC clearing facility is based on the precondition that the participant is admitted as an exchange participant and that proper settlement is ensured. Proper settlement of the OTC trades is considered ensured if ECC as clearing house of the exchange has recognised this participant as trading participant in the sense of the clearing conditions for the respective product..
- (2) The admission of a participant to the OTC Clearing Facility may be limited to the spot market or to the derivatives market. The admission will be limited to the products, which he is permitted to trade, at EEX.
- (3) EEX can bar any participant from using the OTC clearing facility if the said participant does not fulfil his obligations arising under these terms and conditions or in case the preconditions for such participation were not fulfilled or in case said preconditions have ceased to be fulfilled later on. In such a case no claims regarding the reimbursement of costs, expenses or other disadvantages arise to the participant.

§ 3 Approved Products

(1) EEX has approved the following products for the OTC clearing facility:

a) OTC Clearing at the Spot Market

Presently, the OTC Clearing Facility can be used for

- spot market contracts for EU-Allowances

A minimum number of contracts for the entry into the EEX system is currently not defined.

b) OTC Clearing at the Derivatives Market

Presently, the OTC Clearing Facility can be used for all products that are admitted to the derivatives market of EEX.

A minimum number of contracts for the entry into the EEX system is currently not defined.

(2) EEX can include further contracts to the OTC clearing facility or exclude temporarily or permanently contracts from it, which were included previously, in the future.

§ 4 General Provisions

- (1) The OTC trades are entered into the systems via fixed functionalities (OTC block trade entry or OTC EFP trade entry (derivatives markets) and Open OTC trading window or OTC trade entry window (Spot market)) and, moreover, such entries can only be made during the phases determined by EEX valid for the respective products.
- (2) If one of the products admitted to the OTC clearing facility is suspended from trading at EEX, it is not possible to enter any OTC trade for this product for the duration of suspension.
- (3) OTC trades can be entered on proprietary, agent and market maker position accounts.

§ 5 Compulsory Entries for OTC Trades at the Spot Market

- (1) At the spot market, OTC trades can be entered into the EEX system through the Open OTC Trading Window. The Seller and the buyer can enter OTC Trades. The OTC Trade has to be confirmed by the other party on the same exchange day, otherwise the OTC trade will be cancelled in the EEX system at the end of this exchange day.
- (2) When entering OTC trades into the EEX system, the buyer has to enter at least the following data:
 - the contract traded,
 - the purchase and sale of information
 - the number of contracts,

- the price of the contract,
- the position account and
- the participant identification.

In case of entering a OTC trade for EU Emission Allowances the settlement code dvp (delivery versus payment) and as the settlement date the first settlement day after the entry date of the OTC trade has to be specified, otherwise the OTC trade will be cancelled immediately with effect for both parties.

The other party confirms the entry by confirming in the respective entry window the data entered into the trading system by the other party as binding.

- (3) Upon this confirmation by the other party the OTC trade becomes binding for both parties. In case of an error or of any other wrong entry the OTC trade can only be changed by an informal and consensual request by both parties to such a degree that the position created by the cancellation of the trade corresponds to the position which would have been created without the trade which has to be cancelled until the expiry of the respective contract or the end of the exchange trading day concerned. If a trading participant cannot enter that correction, the entry will be made by EEX by means of entering a corresponding offsetting transaction.

§ 6 Compulsory Entries for OTC Trades at the Derivatives Market

- (1) At the derivatives market OTC trades will be entered into the EEX system via the OTC Block Trade Entry or the OTC EFP Trade Entry. Only the buyer can enter an OTC trade. The seller of the OTC trade has to confirm the data entered by the buyer forthwith, however, not later than 30 minutes after the trade is entered by the buyer.
- (2) Upon confirmation of the OTC trade by the buyer, a verification procedure is carried out by the EEX system as to whether the OTC trade was entered or changed within the last 30 minutes for the purpose of safeguarding price continuity. If this is not the case, the buyer can modify the OTC trade. If the buyer modifies the OTC trade, the trade is given a new time stamp. If the buyer does not modify the OTC trade on the other hand, it becomes invalid.
- (3) When entering OTC trades into EEX system, the buyer has to enter the following data:
- the futures contract traded (underlying security and maturity) and/ or the option traded (underlying security, type of option (call/ put), maturity, basic price),
 - the number of contracts,
 - the price of the contract,
 - the open/close indicator,
 - the position account, and
 - the seller's participant identification.
- (4) The seller confirms the buyer's entry by entering the following data:
- the OTC transaction number,

- the open/ close indicator and
 - the position account.
- (5) The OTC trade becomes binding on both parties upon confirmation by the seller. In case of an error or of any other wrong entry it can only be changed to such a degree that the position created by the cancellation of the OTC trade corresponds to the position which would have been created without the trade which has to be cancelled by means of an informal and consensual request by both parties until the end of the post-trading phase on the exchange trading day concerned. If a trading participant cannot enter a corresponding offsetting transaction, the entry will be made by EEX by means of entering a corresponding offsetting transaction.

§ 7 Permitted Entry Price

- (1) The contract price of an OTC trade which is entered into the system of EEX by using the OTC clearing facility has to lie within an interval established by the system which is calculated as follows:
- a. In the case of OTC trades at the spot market for EU Emission Allowances, the interval is a per cent value around the last exchange price or the settlement price of the last trading day. The per cent value will be determined by EEX.
 - b. In the case of OTC trades for futures on power, coal and gas, the lower limit of the interval is the lowest of the two values, lowest daily rate or settlement price of the previous day minus one of the OTC margins determined by the EEX. The upper limit of the interval is the higher of the two values, either the highest daily rate or the settlement price of the previous day minus the OTC margin determined by the EEX. Should a rate not be available at any given time, the settlement price is that of the previous day plus/minus an OTC Margin determined by EEX for the upper or lower limit of the interval.
 - c. In the case of OTC futures on Emission rights, the lower limit of the interval is the lowest of the two values, lowest daily rate or the lowest reference price. The lowest reference price will be determined on the basis of the lowest daily rates of the other maturities of this contract with consideration of the difference between the settlement prices of the previous day of the respective maturities. The upper limit of the interval is the higher of the two values, either the highest daily rate or the highest reference price. The highest reference price will be determined on the basis of the highest daily rates of the other maturities in this contract with consideration of the difference between the settlement price of the previous day of the respective maturities.
 - d. In the case of OTC options, the admissible interval is calculated from an interval for the underlying future by applying a theoretical option price model (Black76). This interval for the underlying future lies between the available highest and lowest current market prices, which were quoted on the exchange for the respective futures contract on this trading day, plus or minus an OTC margin established by EEX. If these prices are not available, the settlement price from the previous day plus or minus an OTC margin established by EEX becomes the upper or lower limit of the interval for the underlying future.

- (2) If for an OTC trade at the spot marked a price outside the interval predefined will be entered, the OTC trade will be cancelled by EEX. If for an OTC trade at the derivatives marked a price outside the interval predefined will be entered, the OTC trade will not accepted by the system.
- (3) The management of the Exchange may in consent with the clearing house of the exchange permit the registration of OTC trades outside the price range mentioned in paragraph 1 to enable the participants to use the OTC clearing facility for non-exchange trades concluded a longer time before registration (so called legacy trades)

§ 8 Publication and Trade Confirmation

- (1) OTC trades, which are registered within the EEX systems by the OTC clearing facility, are not anonymous for the respective parties to the contract. In addition, OTC trades at the derivatives market are visible for all participants in an anonymous form in the system (EEX Online Time and Sales Sheet).
- (2) After OTC trades have been entered, the participants in the OTC clearing facility receive a trade confirmation generated by the system of EEX. In this confirmation the OTC trades are expressly specified as OTC trades since the OTC trades are not transactions concluded on the exchange. These trades are also labelled as transactions concluded outside the exchange in the reports generated by the clearing systems on a daily basis.

§ 9 Clearing of OTC Trades

- (1) Registered OTC trades take part at the clearing procedure valid for the respective markets the same way like exchange trades contracts: Upon entry of an OTC trade with a valid price into the EEX system, which is confirmed by the other party, the regulations regarding the conclusion of trades and regarding the contractual obligation of the clearing conditions of the ECC or the clearing conditions referred to herein shall apply accordingly with regard to the contractual relationships between ECC and the Sub-CCP taking part at the clearing procedure via ECC respectively and the trading participants involved in the OTC trade and/ or their clearing members.
- (2) In addition, the terms and conditions of the clearing conditions of the ECC and of the Sub-CCP taking part at the clearing procedure via ECC respectively in the respectively valid version shall apply with regard to the settlement and provision of security for the OTC trades entered.
- (3) If OTC trades do not correspond to the specifications and requirements referred to in these terms and conditions or in case a participant does not fulfil the other conditions for participation, EEX can cancel the OTC trades in question in a manner binding on both parties.