

Ordinance

by the Saxon State Ministry of Economic Affairs, Labour and Transport regarding the Execution of Exchange Law (Saxon Exchange Law Execution Ordinance – SächsBörsDVO) of 6 November 2020

The Saxon State Ministry of Economic Affairs, Labour and Transports decrees as follows on the basis of

- Art. 4 Paragraph 6 Sentence 1 of the German Exchange Act (BörsG) of 16th July 2007 (German Federal Law Gazette I, p. 1330, 1351), in conjunction with Art. 1 Figure 1 of the Ordinance on the Transfer of Competences under Exchange Law of 5th January 2009 (Saxon Law Gazette P. 2)
- Article 6 Paragraph 7 Sentence 1 BörsG of 16th July 2007 (German Federal Law Gazette I p. 1330, 1351) in conjunction with Article 1 Figure 2 Ordinance on the Transfer of Competences under Exchange Law of 5th January 2009 (Saxon Law Gazette P. 2)
- Article 13 Paragraph 4 Sentence 1 in conjunction with Sentences 3 and 4 of the German Exchange Law of 16th July 2007 (German Federal Law Gazette I, p. 1330, 1351), of which sentence 3 was amended by Art. 5 of the Law of 26th June 2012 (German Federal Law Gazette P. 1375) and Art. 1 Figure 3 of the Ordinance on the Transfer of Competences under Exchange Law of 5th January 2009 (Saxon Law Gazette p. 2) after hearing the Exchange Council,
- Article 22 Paragraph 1 Sentence 1 in conjunction with 2 BörsG of 16th July 2007 (German Federal Law Gazette I P. 1330, 1351) and Art. 1 Figure 4 of the Ordinance on the Transfer of Competences under Exchange Law of 5th January 2009 (Saxon Law Gazette P. 2) and
- Article 1 Paragraph 4 of the Saxon Act on the Costs of the Exchange Supervisory Authority of 11th June 2009 (Saxon Law Gazette p. 263):

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Section 1 Application for Establishment and Report on Shareholdings

Article 1 Application for Establishment

(1) The application for permission to establish an exchange according to art. 4 paragraph 2 of the Exchange Law of 16th July 2007 (German Federal Law Gazette I P. 1330, 1351) last amended by art. 61 of the law of 20th November 2019 (German Federal Law Gazette I P. 1626) must include the following:

1. a balance sheet and a profit and loss account by the applicant regarding the full business year preceding the application in order to furnish evidence of the availability of the funds required to operate an exchange according to art. 4 paragraph 2 sentence 2 figure 1 of the Exchange Law,
2. to assess the requirements according to art. 4a of the Exchange Law regarding the managers and according to art. 4b of the Exchange Law regarding the members of the administration and supervisory bodies of the company operating the exchange in accordance with Art. 4 Paragraph 2 Sentence 2 Figure 2 of the Exchange Law regarding every manager and every member of the administration and supervisory bodies:
 - a. complete curriculum vitae signed in person, which must contain all first names, the name at birth, the date of birth, the place of birth, the home address and nationality, a detailed presentation of the professional educational background, the names of all companies by which the person concerned was employed and information on the type of the respective work for these, including secondary activities with the exception of work in an honorary capacity; as regards the respective work the actual authority of said person, his/her internal decision-making competences and the business divisions of which said person was in charge within the company shall be described in particular, and
 - a) an excerpt from the criminal register and, in particular, in the form of an official certificate or, in the event that such a document is not issued in the respective country of origin, a self-declaration regarding good reputation and the authorisation of the competent authority to obtain information as to whether the person concerned has been legally sentenced under criminal law in connection with the provision of financial and data services or on grounds of fraudulent activities or embezzlement and
 - b) a declaration signed by the person concerned in his/her own hand confirming that the person concerned dedicates sufficient time to the execution of its tasks,
3. according to art. 4 paragraph 2 sentence 2 figure 3 of the Exchange Law, a business plan which specifies the asset or right intended for exchange trading according to art. 4 paragraph 2 sentence 2 figure 3 BörsG and the Exchange Rules, the Admission Rules as well as the Fee Rules of the Exchange,
4. in the case of commodity exchanges according to art. 2 paragraph 3 of the Exchange Law, a market concept and contract specifications for the intended goods and their derivatives as well as, upon request by the Exchange Supervisory Authority, an expert report regarding the asset's marketability and its marketability on the exchange,
5. an explanation of the ownership structure of the company operating the exchange within the meaning of art. 4 paragraph 2 sentence 2 number 4 of the Exchange Law, including information on the amount of the shareholding of every party involved in the company operating the exchange and

6. a document prepared regarding the person concerned in accordance with figure 2 lit. b in order to assess the reliability of the holder of a significant shareholding according to art. 4 paragraph 2 sentence 2 figure 5 BörsG; if this is a legal entity or partnership, this document has to be submitted for every legal or statutory representative or every personally liable shareholder.

(2) The application can be restricted to the information according to paragraph 1 figure 1 and 3 in as far as such application exclusively aims at the expansion of exchange trading to assets or rights which are not covered by an existing permission. If the managers of the company operating the exchange are managers of an organised market, the applicant can dispense with the information under paragraph 1 figure 2 and figure 6 with regard to these persons.

(3) The full application according to paragraph 1 shall be submitted to the exchange supervisory authority at the latest three months prior to the intended establishment of the exchange. The full application as per paragraph 2 shall be submitted to the exchange supervisory authority, at the latest, two months prior to the intended admission of the assets or rights to exchange trading.

Article 2

Report on shareholdings

(1) In order to assess the reliability of the party required to submit a report, the notification according to section 6 paragraphs 1, 5 and 6 of the Exchange Law regarding the intended acquisition of an important shareholding in a company operating an exchange must include the document within the meaning of art. 1 paragraph 1 figure 2 lit. b. Art. 1 paragraph 1 figure 6 second clause shall apply accordingly. In deviation from this, this document only has to be submitted upon the Exchange Supervisory Authority's request if it concerns one of the following parties required to submit a report and if this is stated in the report:

1. an organised market according to art. 2 paragraph 11 of the German Securities Trading Act in the version as announced on 9th September 1998 (German Federal Law Gazette I P. 2708), last amended by art. 4 of the law of 12th August 2020 (German Federal Law Gazette I P. 1874),
2. an institute according to art. 1 paragraph 1b of the German Banking Act in the version as announced on 9th September 1998 (German Federal Law Gazette I P. 2776), last amended by art. 4 paragraph 7 of the law of 10th July 2020 (German Federal Law Gazette I P. 1633),
3. the owner of an important shareholding in an institute within the meaning of art. 2c of the German Banking Act,
4. an institute based in a contracting state of the European Economic Area or a third country for which relief has been ordered in an ordinance according to art. 53c paragraph 1 number 2 of the German Banking Act,
5. a company which fulfils the preconditions in art. 53c paragraph 2 of the German Banking Act,
6. an insurance company within the meaning of art. 1 paragraph 1 number 1 of the Insurance Supervision Law of 1st April 2015 (German Federal Law Gazette I P. 434), last amended by article 6 of the law of 19th March 2020 (German Federal Law Gazette I P. 529),
7. a primary insurance company within the meaning of art. 61 paragraph 1 of the Insurance Supervision Act based in a member state of the European Union or a contracting state of the European Economic Area or
8. the owner of a significant shareholding according to art. 16 of the Insurance Supervision Law.

(2) In as far as this is necessary to assess the reliability of the party required to submit a report a curriculum vitae according to art. 1 paragraph 1 figure 2 lit. a has to be submitted upon a request to this end by the exchange supervisory authority. If the suitability of the party required to submit the report has been reviewed by another authority, evidence of such review shall be submitted upon request by the exchange supervisory authority. In as far as this is necessary for a review regarding reasons for a prohibition under art. 6 paragraph 2 sentence 1 of the Exchange Law, evidence regarding the origin of the funds used for the acquisition shall be presented upon request by the exchange supervisory authority. If the party required to submit a report is a legal

entity or a commercial partnership, sentences 1 to 3 shall apply accordingly to the legal or statutory representative or the personally liable shareholders.

(3) In reports according to art. 6 paragraph 1 sentence 5 of the Exchange Law, owners of a significant shareholding shall provide evidence of the material facts regarding every new legal or statutory representative appointed or for every new personally liable shareholder for the assessment of their reliability in accordance with paragraph 1.

Article 3 Form

The application according to paragraph 1 or the report according to paragraph 2 and the documents to be presented in connection with this shall be submitted as a single execution in German and, in as far as required for their effectiveness, in writing. The same also applies to other documents which have to be submitted to the exchange supervisory authority in accordance with this ordinance. Unless otherwise provided for in this ordinance, a translation into German shall be enclosed with the originals in a foreign language.

Section 2 The Exchange Council of the European Energy Exchange

Subsection 1 Election of the Exchange Council

Article 4 Election Committee

(1) The election committee prepares the election of the members of the exchange council in accordance with art. 5 to 13 and 25, carries out the election in accordance with art. 14 to 23 and decides on challenges of the election in accordance with art. 24 paragraph 2.

(2) The election committee consists of a chairman (election chairman) and two committee members. It is appointed by the exchange council in due time before the election of a new exchange council. The term of office of the election committee ends upon expiry of the deadline according to art. 24 paragraph 1 or, in the event that the election is challenged, after the end of these proceedings.

(3) The appointment and composition of the election committee shall be communicated by the exchange council forthwith on the website of the European Energy Exchange.

Article 5 Composition based on groups

The companies admitted to trading on the exchange are represented on the exchange council divided into the following groups:

1. Producers, suppliers, processors and distributors,
2. Members of the central clearing house, European Commodity Clearing AG, of EEX Group authorised to settle both their own transactions and the transactions of their customers and transactions of trading participants without a clearing licence via the European Commodity Clearing AG,
3. Trading companies, financial service providers and banking institutes unless these are covered by figure 2 and
4. Commercial consumers, their service providers that are not covered by figure 3 and other non-financial asset-based trading companies.

Article 6

Distribution of seats

(1) The election committee determines the number of seats on the exchange council under consideration of the principle of adequate representation of the companies admitted to trading on the exchange at its reasonable discretion.

(2) The seats to be staffed are distributed as follows across the groups of companies admitted to trading on the exchange:

1. The share of the respective group in the number of the seats to be allocated is calculated with a precision of two digits after the decimal point on the basis of the share which the respective group has in the total number of trading participants admitted to trading on the exchange; every group receives the number of seats corresponding to the whole parts of the share; any seats still to be allocated after this are allocated to the group in the order of the highest fractional amounts; in the event of identical fractional amounts, a decision shall be taken by the election chairman drawing lots.
2. If, in the distribution of seats, a group does not receive a seat according to figure 1, every group is initially allocated a seat in deviation from figure 1; any remaining seats to be allocated after this are allocated according to figure 1.
3. If, in the distribution of the seats according to figures 1 and 2, one group receives more than one half of the seats to be allocated, this group shall be restricted, at a maximum, to one half of the seats to be allocated in deviation from figures 1 and 2 with any further seats still be allocated being allocated in accordance with figure 1.

(3) The election committee publishes the distribution of seats at the same time and in the same manner as the final registers of voters according to art. 12 paragraph 4.

(4) If circumstances which form a material basis for the allocation of seats according to paragraph 2 have changed between the publication of the allocation of seats and the publication of the election date according to art. 13 sentence 2 and if, as a result, a group is no longer adequately represented, the election committee can distribute the seats in deviation from paragraph 2 in agreement with the exchange supervisory authority. This applies, in particular, in the event of material changes in the structure of the companies admitted to trading on the exchange. The principle of adequate representation of the companies admitted to trading on the exchange has to be considered in the exchange council.

Article 7

Election of the Members of the Exchange Council

The members of the Exchange Council are elected by the groups of the companies admitted to trading on the exchange each from within their ranks in accordance with the provisions in art. 9 to 25.

Article 8

Term of Office of the Exchange Council

(1) The exchange council is elected for a term of three years.

(2) The exchange council's term of office ends upon the first meeting of the newly elected exchange council.

(3) In the event of a material change in the proportion of the groups of companies admitted to trading on the exchange towards each other during the term of office of the exchange council, in particular, as a result of the elimination or addition of an asset or sub-asset class which can be traded on an exchange, the exchange council can decide to hold an election for a new exchange council upon a proposal by the management board of the exchange and in agreement with the exchange supervisory authority. An election for the exchange council then has to be held within a period of one year under consideration of the material change which has occurred in the participant structure.

Article 9 Eligibility

(1) In the case of companies operated under the legal structure of a sole trader, the proprietors are eligible; in the case of other companies those persons who are entrusted with the management of the company's business according to law, the statutes or the articles of association and who are authorised to represent such company are eligible to stand for election. Moreover, senior executive and expert employees of companies are also eligible to stand for election.

(2) The person to be elected as the representative of a company must fulfil the requirements for members of the exchange council according to art. 13 paragraph 3 of the Exchange Law in conjunction with art. 4b paragraph 1 and 2 sentence 2 of the Exchange Law.

Article 10 Right to Vote

The companies registered in the register of voters according to art. 12 paragraph 4 on the date of the election are entitled to vote. Every eligible voter has a number of votes corresponding to the number of representatives to be elected as members of the exchange council in his/her group.

Article 11 Election Proposals

(1) The election committee requests all eligible companies to submit election proposals by specifying the provisional number of the representatives to be elected in the groups and also sets an adequate deadline for this. At the same time, the request shall be published on the website of the European Energy Exchange on, at least, five consecutive exchange trading days.

(2) A number of election proposals which is higher than the number of representatives to be elected as members of the exchange council by the group concerned shall be submitted for every given group.

(3) An election proposal shall comprise the following:

1. the name of the person applying,
2. the name of the company for which said person applies and
3. the declaration of consent by the person applying and by the company concerned,
4. documents according to art. 1 paragraph 1 figure 2 in as far as these are necessary to evaluate the requirements created for the members of the exchange council in art. 13 paragraph 3 of the Exchange Law in conjunction with art. 4b paragraphs 1 and 2 sentence 2 of the Exchange Law as well as
5. a declaration by which the person applying agrees to processing of his/her personal data by the election committee in the framework of the exchange council election procedure.

(4) The election committee can request the submission of further documents and additional statements in as far as this is required to examine the legal requirements for members of the exchange council.

(5) In as far as the election committee does not receive valid election proposals for one group of companies admitted to trading on the exchange within the deadline set by it according to paragraph 1 sentence 1, the election committee shall prepare the required election proposals itself forthwith. In this case, paragraphs 2 and 3 shall apply accordingly. In case a valid election proposal is not established in this way, the group concerned does not take part in the election. The election committee shall specifically point out this fact in the request according to paragraph 1 sentence 1.

(6) In case several persons from one company are nominated by election proposals, the company shall declare which person will stand for election within a period of five exchange trading days after a request to that end by the election committee. Sentence 1 shall apply in the case of

affiliated companies subject to the proviso that the declarations by the companies have to correspond. In case the declarations are not made on time and in case such do not correspond, the election committee shall decide by drawing lots. Companies are defined as affiliated companies within the meaning of this ordinance if these form affiliated companies within the meaning of art. 15 of the Companies Act dated 6th September 1965 (German Federal Law Gazette I P. 1089), last amended by article 1 of the law of 12th December 2019 (German Federal Law Gazette I, P. 2637) in the respectively valid version. Companies which are not subject to the scope of application of the Companies Act constitute affiliated companies within the meaning of this ordinance if they form a group within the meaning of art. 4 paragraph 1 figure 34 of the Directive 2014/65/EU of the European Parliament and of the Council of 15th May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (European Gazette L 173 of 12th June 2014, P. 349, L 74 of 18th March 2015, p. 38, L 188 of 13rd July 2016, p. 28, L 273 of 8th October 2016, P. 35, L 64 of 10th March 2017, p. 116, L 278 of 27th October 2017, p. 56), last amended by the Regulation (EU) 2019/2115 (European Gazette L 320 of 11th December 2019, p. 1).

(7) The election committee checks whether the persons proposed by the companies admitted to trading on the exchange fulfil the preconditions in paragraph 3.

(8) In an individual case, the election committee can establish deviating provisions in agreement with the exchange supervisory authority.

Article 12

Register of Voters

(1) In order to allocate the companies admitted to trading on the exchange to one group within the meaning of art. 5, the election committee prepares separate provisional registers of voters for the different groups listing the valid election proposals. A company cannot be allocated to more than one group. Affiliated companies shall be allocated to one group as one company under consideration of the focus of their activities.

(2) The provisional registers of voters shall be published on the website of the European Energy Exchange on five consecutive exchange trading days by specifying the rights and periods of objection. At the same time, the companies listed in the provisional registers of voters are informed of their assignment to a group and of the election committee's decision on the validity of the election proposals submitted by them in writing or via e-mail.

(3) An objection against the correctness of the provisional registers of voters and, in particular against the allocation of a company to a group or against a negative decision on the validity of an election proposal has to be raised towards the election committee in writing or via e-mail within a period of ten exchange trading days after receipt of the information according to paragraph 2 sentence 2. After expiry of the period of objection, the election committee shall decide on the objection raised forthwith. In case such objection is not considered, this fact shall be communicated to the appellant in writing or via e-mail by stating the reasons for this decision. The appellant is entitled to submit a complaint regarding a decision refuting the objection to the exchange supervisory authority within a period of two weeks after receipt of said decision; with the exchange supervisory authority deciding on this forthwith, however, at the latest, within a period of two weeks after receipt of such complaint. Reasons for the complaint shall be given. After the deadline for the complaint has expired, the election committee forwards the results of its examination of the candidates for the exchange council as well as the relevant documents to the exchange supervisory authority for its information. These documents can also be submitted to the exchange supervisory authority in English.

(4) After the conclusion of all objection and complaint procedures pursuant to paragraph 3, the election committee determines the final register of voters and publishes these on the website of the European Energy Exchange, at the latest one month before the election date and until its expiry. In this process, the day of the determination of the final registers of voters shall be specified and pending legal remedies shall be pointed out. Companies which only fulfil the preconditions for taking part in the election on the day after such determination and until the election date shall not be entitled to vote. Companies listed in the registers of voters which have lost the license to participate in exchange trading during the same period of time shall be deleted from the registers of voters.

(5) If an appeal is lodged against a decision by the exchange supervisory authority regarding a complaint according to paragraph 3 sentence 4, a decision according to art. 14 paragraph 2 with regard to the groups of companies admitted to trading on the exchange concerned is excluded. The election committee establishes a separate election date for these groups. In this case, paragraph 4 shall apply accordingly.

Article 13 Election Date

The election committee shall establish the day of the election and the end of the election period on the day of the election (election date). It shall publish the election date on the website of the European Energy Exchange at least one month prior to the election date and until the end of the election date.

Article 14 Type of Election

(1) Voting is effected by secret ballot according to the groups within the meaning of paragraph 5. Unless electronic voting is ordered, voting shall be effected by postal vote.

(2) The election committee can determine that voting is to be effected electronically (electronic voting). The resolution regarding electronic voting shall be communicated to the companies entitled to vote together with the request according to art. 11 paragraph 1 sentence 1.

Article 15 Election Procedure for the Postal Vote

(1) Every company entitled to vote receives a ballot paper, a voting slip for its group and the appertaining voting slip envelope as well as a voting paper envelope for the postal vote. The voting slip contains the names of all candidates of the respective group, who are established on the basis of the valid election proposals, in alphabetic order. The voting slip must specify how many members are to be elected to the exchange council from within the respective group. Furthermore, it must specify that the overall vote of the company is invalid in case a number of candidates exceeding said number is voted for.

(2) A representative of the company who is entitled to represent the company and submit declarations on its behalf in all matters concerning the exchange and the exchange membership (authorised representative) marks the candidates selected by him/her by ticking the names on the voting slip. The voting slip has to be placed in the voting slip envelope. Said envelope then has to be sealed and the assurance specified on the voting paper has to be signed. This assurance confirms that the submission of the vote corresponds to the wishes of the company entitled to vote. The sealed voting slip envelope and the signed ballot paper have to be placed in the voting paper envelope. This envelope must be received by the election committee by the end of the election date. Only an authorised representative may cast votes for every company entitled to vote.

(3) The voting paper envelope must not be returned after receipt by the election committee.

Article 16 Electronic Voting

(1) Any company entitled to vote shall appoint an authorised representative as well as his/her official e-mail address for voting to the election company following the announcement according to art. 14 paragraph 2.

(2) If the election committee has decided that voting is to be effected in an electronic form, the authorised representative appointed according to paragraph 1 shall receive the election documents through the e-mail address specified according to paragraph 1. If the election committee is aware of several authorised representatives of a company entitled to vote and if this

company does not appoint an authorised representative for voting by way of electronic voting by 15 exchange trading days before the election date, art. 20 shall apply accordingly with the proviso that the election committee sends the postal vote documents to an authorised representative selected by it according to its reasonable discretion.

(3) The election documents comprise the letter with the access data to the online portal for electronic voting (electronic voting system) as well as information on the execution of the voting procedure and on the use of the electronic voting system. The electronic voting system permits voting using an electronic ballot.

Article 17

Voting in Electronic Elections

(1) The authorised representative authenticates by means of the access data for the electronic voting system specified in the election documents. The electronic ballot shall be electronically filled in and submitted according to the information contained in the voting documents and in the electronic voting system. In this process, the electronic voting system shall ensure that the voting right cannot be exercised repeatedly. Access to the electronic voting system after voting, in particular, shall be blocked. The submitted electronic ballot must be saved anonymously and in such a way that the sequence of receipt of the votes cannot be traced back. Upon voting, the authorised representative must have the possibility to correct the entry or to abort voting. The electronic ballot may only be submitted on the basis of an electronic confirmation by the authorised representative. The transmission must be discernible on the screen for the authorised representative. Voting is considered completed upon the information that the vote has been successfully submitted.

(2) During voting, the electronic voting system must not save the electronic ballot in the computer used to this end. It must be ensured that changes to the vote by third parties which are not noticed are excluded. On the screen, the electronic ballot must be masked out immediately after it is submitted. The electronic voting system must not permit any printing of the submitted electronic ballot. The votes cast must be saved in the electronic ballot box according to an untraceable random principle. Logging-on to the electronic voting system, casting of the vote as well as personal information and IP addresses of the parties entitled to vote must not be recorded.

Article 18

Beginning and End of Electronic Voting

The beginning and end of electronic voting are only permitted if this is simultaneously authorised by, at least, two members of the election committee. Electronic voting commences, at the latest, 15 exchange trading days before the election date and it ends as of the election date.

Article 19

Disturbance of electronic voting

(1) If electronic voting is not possible and if this lies within the responsibility of the European Energy Exchange or of the company operating it, the election committee can postpone the election date by an adequate period. Such a postponement must be announced generally.

(2) If a disturbance which can be remedied without the risk of an early publication or of the deletion of the votes already cast becomes known during the electronic voting and provided any manipulation of voting is excluded, the election committee can remedy this disturbance or have such remedied. Otherwise, electronic voting has to be cancelled without counting of the votes. The disturbance and its duration shall be recorded in the minutes regarding the election. In the event of a cancellation, the election committee shall decide on the further proceedings.

Article 20

Postal Vote in Electronic Voting

(1) If the election is carried out using electronic voting, votes can also be cast by postal vote. Unless otherwise provided for in the following paragraphs, art. 15 shall apply in this respect.

(2) In this case, the postal vote documents shall be requested from the election committee by an authorised representative in writing or via e-mail. The application must be received by the election committee, at the latest, 15 exchange trading days before the election date.

(3) In the event of an application according to paragraph 2, the election committee sends the authorised representative the postal vote documents according to art. 15 paragraph 1 forthwith and notes this down in the register of votes. Upon posting, the represented company entitled to vote is excluded from electronic voting.

(4) If a company entitled to vote does not appoint an authorised representative for voting up until 15 exchange trading days before the election date and if the election committee is not aware of such a representative at that time, this company also takes part in voting by way of a postal vote; paragraph 3 applies with the requirement that the postal vote documents have to be sent out forthwith once it has been established that the company cannot take part in electronic voting.

(5) The sealed postal vote documents must be received by the election committee, at the latest, upon expiry of the election date. The voting letter envelopes shall be collected in a joint voting box and counted in accordance with art. 22.

Article 21 Technical Requirements

(1) Electronic voting may only be carried out if the electronic voting system is an online election product certified by the Federal Office for Information Security. The system must fulfil the technical requirements listed in the following paragraphs. Compliance with these must be proven to the exchange supervisory authority with the help of suitable documents in due time before the election is carried out.

(2) In order to maintain the secrecy of the ballot, the electronic voting box, on the one hand, and, on the other hand, the electronic registers of voters of the groups of companies admitted to trading must be kept on different servers. These servers must be protected against attacks from the internet. Adequate technical measures shall ensure that data are not lost in the event of the failure or malfunction of a server or server area. Only authorised access to the server may be accepted. Authorised access shall include, in particular:

1. Reviewing the right to vote,
2. Saving of the votes cast by authorised representatives,
3. the registration of the vote cast and
4. the check for repeated exercising of the right to vote.

(3) The electronic voting system must ensure that data are protected against capture and decryption and that an allocation of the vote to the respective authorised representative is not possible at any time.

(4) The data must be transmitted in an encrypted form. During transmission and processing of the data, care has to be taken to ensure that access to these by unauthorised parties is prevented.

(5) The authorised representatives shall be informed of suitable security measures with the help of which the computer used for voting is protected against third-party intervention in accordance with the current state of the art. Free sources of suitable software shall be pointed out. The authorised representative bindingly confirms in an electronic form that he/she has taken note of the security information before voting.

Article 22 Election Result

(1) In the case of voting by postal vote, the voting paper envelopes shall be opened under the supervision of the elections administrator as of the time specified by the election committee. The voting slip envelopes containing the voting slips shall then be removed from the envelope and placed in a voting box sealed before the beginning of voting in an unopened state. After that, the votes shall be counted under the supervision of the elections administrator.

(2) In this process, the election committee checks the validity of the voting slips. Voting slips containing additions, deletions or reservations or which do not clearly indicate the wishes in casting of votes or on which more candidates are checked than may be elected from the respective group of companies admitted to trading on the exchange are invalid.

(3) In case of electronic voting, the administration of the electronic voting system and, in particular, counting and archiving of the election require the authorisation by the elections administrator and, at least, one other member of the election committee. Immediately after the end of electronic voting, the election committee effects computer-based counting of the votes cast and notes the result in a print-out of the counting results which is signed by the elections administrator and, at least, one other member of the election committee. All data sets of the electronic election shall be saved.

(4) Those candidates who have received the highest number of votes are elected within the groups of the companies admitted to trading on the exchange. In case of a voting tie, the lot which is drawn by the elections administrator shall be decisive.

Article 23

Declaration and Publication of the Election Result

(1) A record shall be prepared regarding counting of the votes. In the event of electronic voting, the print-out within the meaning of art. 22 paragraph 3 sentence 2 shall be enclosed with this record. Said record shall specify the number of eligible companies, the number of valid and invalid voting slips submitted by postal vote and electronically as well as the number of votes for the individual candidates and the number of members of the exchange council elected on this basis in an alphabetic order separately for the individual groups. Moreover, other events which are essential for the election process shall also be mentioned in the record.

(2) This record shall be signed by the members of the election committee and published on the web site of the European Energy Exchange forthwith for a period of five consecutive exchange trading days.

(3) The election committee shall announce the election result to the trading participants and to the candidates elected as members of the exchange council as well as the exchange supervisory authority in writing or via e-mail.

Article 24

Challenging an Election

(1) Eligible voters can raise objections against the election towards the election committee in writing by specifying the reasons for such objection within a period of ten exchange trading days as of receipt of the statement of the results according to art. 23 paragraph 3.

(2) The election committee shall decide on objections duly received which do not contain the request to declare the election invalid and to carry out a new election within a period of ten exchange trading days. The same shall apply with regard to objections not raised properly. The appellants shall be informed of the decision in writing by stating the reasons for such decision.

(3) The election committee shall forward objections not covered by paragraph 2 to the exchange council for a decision along with a written opinion.

(4) In case the exchange council allows an objection, the election shall be declared invalid and a new election committee shall be appointed for the preparation and execution of a new election forthwith. The declaration of invalidity of the election shall be published on the website of the European Energy Exchange forthwith, however, at the latest as of the next exchange trading day for a period of five consecutive exchange trading days. In case the exchange council refuses the objection, the appellant shall be informed of this decision by specifying the reasons in writing.

Article 25

Lapse of a Candidate

(1) In case a candidate ceases to apply by the election date and if, for this reason, there is no longer, at least, the same number of candidates as is to be elected for the group of companies admitted to trading on the exchange concerned, the election committee again requests this group to submit election proposals. The same shall apply if the election committee finds out that, on the election date, a candidate does not fulfil all the requirements for eligibility and that, for this reason, there is not, at least, the same number of candidates as is to be elected as members of the Exchange Council for the group concerned. Art. 11 shall apply accordingly in both cases. The election committee shall establish a new election date for the group concerned. In this case, only the postal vote is admissible for the group concerned according to paragraph 14.

(2) In case the original election proposal has already been published, the election committee shall publish the election proposal amended pursuant to paragraph 1 according to art. 12 paragraph 2 with the note that this replaces the election proposal previously published.

Subsection 2

Lapse and Succession of a Member of the Exchange Council

Article 26

Lapse and Succession of a Member of the Exchange Council

(1) An elected member of the exchange council elect shall lose his/her seat on the exchange council if

1. the person relinquishes his/her seat,
2. the person loses his/her eligibility to stand for election within the meaning of art. 9,
3. the person loses the capacity to hold public office,
4. the license of the company which the person concerned represents at the European Energy Exchange expires,
5. the affiliation of the person concerned with the company represented by him/her ceases,
6. the affiliation of the company represented by him/her with the group represented ceases or
7. the person loses his/her legal capacity.

(2) If a seat on the exchange council becomes vacant, the other members of the exchange council elect a new member from the ranks of the respective group upon a proposal by the chairman of the exchange council in a secret ballot for the remaining term of office. In this process, the chairman of the exchange council shall consider proposals forwarded to him from the ranks of the exchange council. He can set an adequate deadline for the submission of these proposals. The chairman of the exchange council and his deputies are responsible for checking the eligibility within the meaning of art. 9 and for the execution of the new election. The by-election shall take place within a period of six months as of the time at which the management board of the exchange or the exchange supervisory authority learnt of the departure of the member of the exchange council. This election is to be carried out during a meeting of the exchange council. If only one meeting of the exchange council is held during the period according to sentence 5, the by-election can also be carried out at the exchange council meeting following the expiry of this deadline. The candidate who receives the majority of the votes cast is elected. In case of a tie, the chairman of the exchange council shall draw lots which shall be decisive.

(3) In the event that companies represented on the exchange council become affiliated companies, these companies shall decide which member will leave the exchange council. In case a corresponding decision is not communicated within a period of 20 exchange trading days after the connection of the companies, the member who accounts for a lower number of votes in the election shall leave the exchange council. In case of a voting tie, lots shall be drawn by the chairman of the exchange council. If the chairman of the exchange council finds that, after this, the group concerned is no longer adequately represented on the exchange council within the meaning of art. 6 paragraph 4 sentence 1, the members of the exchange council shall elect

a new member from the ranks of the group concerned by applying paragraph 2 accordingly in a secret ballot for the remaining term of office.

Section 3 Sanctions Committee

Subsection 1 Establishment, Composition and Organisation of the Sanctions Committee

Article 27 Establishment

One sanctions committee each is established on the exchanges according to art. 2 para. 1 to 3 of the German Exchange Law. In as far as an organised trading system according to art. 48b of the German Exchange Law in conjunction with art. 2 paragraph 7 of the Exchange Law is operated, the competence of the sanctions committee also includes this. The sanctions committee exercises its activities free from instructions by other bodies of the exchange. The sanctions committee is subject to the legal supervision of the exchange supervisory authority.

Article 28 Composition

(1) The sanctions committee shall consist of up to three chairing members and of at least five and at maximum eleven panel members. In case there is only one chairing member on the sanctions committee, a deputy chairing member shall be appointed. The members of the sanctions committee shall discharge their activity in an honorary capacity. They shall, in each case, be entitled to lump-sum compensation to an amount of up to EUR 2 000 to be established by the company operating the exchange for every sanctions procedure for required expenses and their lost income.

(2) Chairmen and deputy chairing members shall command the qualification required for holding judicial office according to art. 5 paragraph 1 first clause of the German Magistracy Law in the version as announced on 19 April 1972 (German Federal Gazette I, p. 713) in the version last amended by art. 1 of the law of 22nd November 2019 (German Federal Gazette I, p. 1755). They must not be members of other bodies of the exchange or employees of the exchange supervisory authority. They are, in each case, appointed by the exchange council in consultation with the exchange supervisory authority upon a proposal to that end by the management board. Appointment can be effected for a limited period of time. A temporary appointment can be renewed by the exchange council upon a proposal to this end by the management board of the exchange in consultation with the exchange supervisory authority. The exchange council can revoke such appointment for an important cause in accordance with the exchange supervisory authority.

(3) Panel members shall be appointed by the exchange council for a period of three years upon a proposal to that end by the trading participants licensed according to art. 19 BörsG or by the management board in accordance with the exchange supervisory authority. Re-appointment shall be possible. Paragraph 2 sentence 6 shall apply accordingly. In case a panel member withdraws from the committee and this causes the minimum number of panel members specified in paragraph 1 sentence 1 to be undercut, the exchange council shall appoint a succeeding member for the remainder of the term of the office of the member having withdrawn.

(4) For the purposes of a sanctions procedure which has not been completed until the withdrawal of the members of the sanctions committee involved in the proceedings, the members shall remain in office until the completion of such procedure regardless of the new appointment of the members of the committee.

Article 29

Organisation

(1) The sanctions committee shall render decisions in the composition comprising one chairing member and two panel members (panel of judges). In case the sanctions committee consists of several chairing members, the individual sanctions procedures shall be assigned to the chairing members in the alphabetic order of their names in the order in which such procedures are received.

(2) The chairing member in charge of the respective sanctions procedure shall determine the two panel members based on the alphabetic order of the names of the panel members appointed for this sanctions procedure.

(3) In case the sanctions committee only has one chairing member, the chairing member shall in the event of his prevention be represented by the deputy chairing member. In case the sanctions committee consists of several chairing members, a chairing member shall be represented in accordance with the alphabetic order of the names of the chairing members appointed. In case a panel member appointed according to paragraph 2 is prevented, such member shall be replaced by the panel member that comes next according to the alphabetic order of the names.

(4) An office of the sanctions committee shall be established at the exchange.

Article 30

Persons Excluded

(1) Persons excluded may not participate in decisions of the sanctions committee. Art. 20 paragraphs 1 and 5 of the German Administrative Procedure Act (Verwaltungsverfahrensgesetzes (VwVfG)) in the version as announced on 23rd January 2003, last amended by article 5 paragraph 25 of the law of 21st June 2019 (German Federal Gazette I, p. 846) shall be applied accordingly. Excluded members shall be replaced by other members in the sequence provided for in art. 29 paragraph 3.

(2) Art. 20 paragraphs 3 and 4 of the German Administrative Procedure Act shall apply accordingly with the provision that, in the event that the chairing member in charge of the respective sanctions procedure considers himself/herself as being excluded, the notification according to art. 24 paragraph 4 sentence 1 of the German Administrative Procedure Act has to be submitted to the deputy chairing member of the sanctions committee appointed pursuant to art. 29 paragraph 3 sentences 1 and 2.

Article 31

Concern of Prejudice

If there is a cause which is suited to justify suspicion regarding impartial exercising of the activity of a member of the sanctions committee (concern of prejudice), the member who is to act as a panel member in the sanctions procedure shall inform the chairing member at the panel and abstain from any participation upon his instruction. If the concern of prejudice concerns the chairing member of the panel, art. 30 paragraph 2 shall apply accordingly. If the concern of prejudice is alleged by a party involved according to art. 32 paragraph 1, sentences 1 and 2 shall apply accordingly. If a member does not participate in accordance with this provision, he/she shall be replaced in accordance with art. 29 paragraph 3. The assertion of the concern of prejudice by a party involved according to art. 32 paragraph 1 is inadmissible if the said party makes a statement on the matter without invoking the reason of which he/she is aware in accordance with sentence 1.

Subsection 2
Parties involved

Article 32
Parties Involved

(1) The following parties are parties involved in the sanctions committee:

1. the trading participants within the meaning of Art. 2 paragraph 8 sentence 1 of the German Exchange Law to whom the application for the initiation of the sanctions procedure pursuant to art. 34 is addressed,
2. the exchange supervisory authority,
3. the management board of the exchange,
4. the market surveillance authority and
5. those persons that have been called in for the proceedings by the sanctions committee by applying art. 13 paragraph 2 German Administrative Procedure Act accordingly.

(2) The parties involved can choose to be represented by an authorised representative at their expense. Apart from this, art. 14 German Administrative Procedure Act shall apply accordingly.

Article 33
Rights of Participation

The exchange supervisory authority, the management board of the exchange and the market surveillance department can submit statements on the matter. The chairing member of the panel shall present statements by the management board of the exchange and by the market surveillance department to the exchange supervisory authority.

Subsection 3
Course of the Sanctions Procedure

Article 34
Initiation of a Procedure

(1) The sanctions committee shall become active

1. on an application by the management board of the exchange or
2. on an application by the exchange supervisory authority.

(2) Such application shall be prepared in writing and by stating the essential reasons. The trading participants against whom the application is addressed shall be named.

Article 35
Combination and Separation

(1) In the event that there is a connection between sanctions procedures, the chairing members in charge of the respective sanctions procedures can combine these proceedings at the chairing member that is in charge of the first sanctions procedure received according to art. 29 paragraph 1 sentence 2 for joint hearing and ruling on the basis of a unanimous decision.

(2) If the same parties involved are accused of violations of provisions under exchange law which are designed to ensure the proper execution of exchange trading or the settlement of exchange transactions in several sanctions procedures, these procedures are related. The same also applies if various sanctions procedures concern matters which are essentially similar in a material and legal respect.

(3) The chairing member in charge of this sanctions procedure can order several accusations of a violation of provisions under exchange law within the meaning of art. 22 paragraph 2 sentence 1 of the Exchange Law to be covered and decided in separate proceedings. The members in charge of the original sanctions procedure continue to remain in charge of the separate procedures.

(4) A decision on the combination or separation of proceedings shall be communicated to the parties involved by the chairing member that continues to be in charge after this decision is taken.

Article 36

Principle of Investigation

The sanctions committee shall investigate the facts of the case ex officio.

Article 37

Principle of the Written Procedure

(1) On principle, the sanctions committee shall adopt resolutions in a written procedure.

(2) Once an application for the initiation of a sanctions procedure has been submitted according to art. 34, the competent chairing member shall request the trading participants involved in the proceedings according to art. 32 paragraph 1 figure 1 to submit a statement on the matter in terms of the facts of the case and the legal aspects by specifying a deadline for such statement. Such request must provide information on the composition of the panel. A copy of the application, including the documents attached to it, shall be enclosed with it.

Article 38

Verbal Hearing

(1) The sanctions committee decides if a member of the sanctions committee appointed to make a decision in accordance with art. 29 paragraph 1 sentence 1 requests this because of the particular importance of the subject of the proceedings. In the event that a verbal hearing is held, the procedure shall be concluded in the framework of a date for such meeting to be prepared comprehensively.

(2) If a verbal hearing has to be carried out, the chairing member shall appoint the date for such and invite the parties involved. The summons shall contain the time and place of the meeting. Art. 37 paragraph 2 sentence 2 shall apply accordingly. Moreover, it shall contain the names of the witnesses summoned and of the experts appointed as well as the date for an inspection. Prior to the meeting, the trading participants involved in the proceedings according to section 32 paragraph 1 number 1 shall be given an opportunity to submit a written statement in terms of the facts of the case and legal aspects by setting a deadline. The parties involved shall be informed that the procedure can be carried out and that a decision on the matter can be taken in absentia in case one of the parties concerned does not appear.

(3) The meeting of the sanctions committee is not public. Upon a request to that end by one of the parties involved, a third party can be permitted to be present provided none of the parties involved objects.

(4) The chairing member opens, chairs and closes the hearing.

(5) The chairing member shall be in charge of ensuring order and can have a person not complying with instructions issued for the purpose of maintaining order removed. The discussion can then be continued without this person.

Article 39

Evidence and Hearing of the Parties Involved

(1) The sanctions committee uses the evidence which it considers required in order to establish the facts of the case. It can, in particular

1. obtain information,
2. hear parties involved,
3. examine witnesses and experts or obtain their written statement,
4. bring in documents and records as well as
5. inspect these.

(2) The parties involved shall participate in the establishment of the facts of the case. They shall, in particular, state facts and evidence which they know.

(3) The parties involved shall be informed of the appointment of experts and the written hearing of witnesses. The sanctions committee shall grant the parties involved a right to inspect the files concerning the procedure. However, this only applies to the trading participants involved in the proceedings according to art. 32 paragraph 1 figure 1 and the persons called in with regard to the proceedings within the meaning of art. 32 paragraph 1 figure 5 in as far as knowledge of these is required for asserting or defending their legal interests.

(4) The parties involved shall be given an opportunity to be present during the examination of witnesses and experts. They can ask these persons questions. Witnesses and experts called in by the sanctions committee shall be compensated by applying the Act on Judicial Remuneration and Compensation of 5th May 2004 (German Federal Gazette I, p. 718, 776), last amended by article 5 paragraph 2 of the law of 11th October 2016 (German Federal Gazette I, p. 2222) in the respectively valid version accordingly.

Article 40 Participation of Witnesses and Experts

(1) The sanctions committee can hear witnesses or experts appearing before it voluntarily or it can request such to submit expert reports. An expert report shall be made accessible to the parties involved. The provisions of the German Code of Civil Procedure regarding the rejection of experts and hearing of members of the civil service as witnesses or experts shall apply accordingly.

(2) In case a witness or expert refuses to make a statement or to submit an expertise without any of the reasons defined in art. 376, 383 to 385, 402 and 408 of the German Code of Civil Procedure, the sanctions committee can request the district court having jurisdiction at the place of residence or the place of domicile of the witnesses or experts to carry out taking of evidence. In its request, the sanctions committee shall outline the subject on which evidence is taken and specify the name and address of the parties involved.

(3) In case the sanctions committee considers swearing of the witness or of the expert required with regard to the importance of the statement by the witness or of the expertise by the expert or in order to bring about a truthful statement, it can request the court of law having jurisdiction in accordance with paragraph 2 sentence 1 to carry out a sworn examination.

Article 41 Record

(1) In case a hearing is held, a record shall be prepared with regard to such. Said record must contain information on:

1. the place and date of the meeting,
2. the names of the members of the panel of judges, the persons involved, the witnesses and the experts appeared before the panel,
3. the subject of the procedure covered in the proceedings,
4. the essential content of the statements by the witnesses and experts,
5. the results of the inspection,
6. the operative part of the decision by the sanctions committee.

(2) The chairing member of the panel can call in a minute keeper to prepare the record. This record shall be signed by the chairing member of the panel and, in as far as such has been called in, also by the secretary.

Article 42 Ruling

(1) The sanctions procedure ends upon the final decision by the sanctions committee which is to be issued within three months after receipt of the application. The sanctions committee decides by a majority of votes. Abstention is not permitted. Only members of the panel are allowed to take part in the deliberations and voting procedure.

(2) The sanctions committee takes its decision under consideration of the overall result of the procedure. In the event of a violation of exchange law provisions intended to safeguard the proper execution of exchange trading or of the settlement of exchange trades, the sanctions committee shall determine this fact in its final ruling. In this case, it can impose a sanction on the trading participant concerned in accordance with art. 22 paragraph 2 sentence 1 of the Exchange Law. Otherwise, the sanctions committee stops the proceedings. In the event of minor violations, the sanctions committee can stop the proceedings subject to conditions with the approval of the exchange supervisory authority.

(3) The ruling concluding the sanctions procedure shall be prepared in writing and reasons shall be given. It shall then be served to the trading participants against whom the application under art. 34 paragraph 2 is directed with an instruction on legal remedies.

(4) Every final ruling must establish who has to defray the administrative expenses (fees and expenses) of the proceedings. Administrative fees are charged in accordance with the Saxon Law on Administrative Expenses of 5th April 2019 (Saxon Law Gazette p. 245) in the respectively valid version and collected in accordance with the Administrative Enforcement Law for the Free State of Saxony in the version as announced on 10th September 2003 (Saxon Law Gazette, p. 614, 913) last amended by art. 2 paragraph 1 of the Law of 5th April 2019 (Saxon Law Gazette, P. 245) in the respectively valid version. The fee is determined by the chairing member and amounts to between EUR 250 and EUR 75,000. The company operating the exchange is entitled to the fees and expenses charged. The same also applies to a fine according to art. 22 paragraph 2 sentence 1 of the Exchange Law.

(5) If the Sanctions Committee determines in its decision that there has been an infringement of provisions under exchange law which are intended to ensure the orderly conduct of exchange trading or the settlement of exchange transactions, or if it discontinues the sanctions proceedings pursuant to paragraph 2 sentence 5, the trading participant concerned shall bear the administrative costs of the proceedings. Otherwise, no administrative costs shall be charged. In this case, the operating company of the exchange shall reimburse the trading participants concerned for the expenses incurred by them. In all other cases, the costs of the trading participants concerned shall not be reimbursed.

Section 4 Costs of Exchange Supervision

Article 43 Year of Allocation, Allocation Procedure, Assessment Basis

(1) The calendar year (allocation year) forms the allocation period for the levy according to art. 1 paragraph 1 of the Saxon Exchange Supervision Costs Act.

(2) Every year, the exchange supervisory authority estimates its costs which are likely not be covered for the year of allocation in accordance with art. 1 paragraph 1 and 3 of the Saxon Exchange Supervision Cost Act. Thereafter, it assesses the payments on account to be made by the party required to pay the allocation on a quarterly basis in advance on a calculation basis of 90 percent of these costs. The scope of business of the party required to pay the allocation in the calendar year preceding the year of allocation forms the allocation basis for the payments on account.

(3) After the end of the year of allocation, the exchange supervisory authority determines the allocation amounts which have to be paid by the party required to pay the allocation on the basis of the administrative costs actually incurred by the exchange supervisory authority. To this end, the parties required to pay the allocation inform the exchange supervisory authority of their scope of business for the respective year of allocation, at the latest, by 31st March of the year following the year of allocation. The respective share is based on the scope of business of the party required to pay the allocation in proportion to the scope of business of all parties required to pay the allocation for the year of allocation. If the scope of business cannot be established in an individual case, the exchange supervisory authority can estimate the scope of business of the party required to pay the allocation. In this case, the exchange supervisory authority determines the amount of allocation to be provided by the party required to pay the allocation on the basis of this estimate.

Article 44 Due Date

The allocation amount falls due for payment one month after it is announced unless the exchange supervisory authority establishes a later time. Shortfalls which remain after the consideration of the advance payments made with regard to the allocation amount shall be paid within a period of one month after the announcement of the allocation amount. Excess payments are taken into account in the next payment on account.

Article 45 Late Payment Fines

Late payment fines are charged with regard to amounts not received when due. The provisions of the Saxon Administrative Cost Law shall apply accordingly.

Section 5 Transition and Final Provisions

Article 46 Transitory rules

(1) The provisions of the Saxon Ordinance regarding the Execution of Exchange Law of 9th February 2012 (Saxon Law Gazette P. 180), last amended by art. 2 paragraph 22 of the Ordinance of 5th April 2019 (Saxon Law Gazette, p. 245) governing these proceedings shall apply to procedures according to section 1 which have already been initiated when this ordinance took effect but which have not been concluded by a ruling of the exchange supervisory authority.

(2) The provisions concerning the exchange council in the Saxon Ordinance regarding the Execution of Exchange Law in the version valid until such time shall apply to the exchange council in office at the time at which this ordinance takes effect.

(3) Art. 29 to 37 of the Saxon Ordinance regarding the Execution of Exchange Law in the version valid until such time shall apply to sanctions procedures according to section 3 which have already been initiated at the time at which this ordinance takes effect but which have not been concluded by a ruling of the sanctions committee.

Article 47 Entry into Force and Termination

This ordinance enters into force on the day after its announcement. At the same time, the Saxon Ordinance regarding the Execution of Exchange Law of 9th February 2012 (Saxon Law Gazette p. 180), last amended by art. 2 paragraph 22 of the ordinance of 5th April 2019 (Saxon Law Gazette P. 245), ceases to be in force.

Dresden, 6 November 2020

The State Minister for Economic Affairs, Labour and Transport

Martin Dulig