

Guideline for DEA/ DMA to Eurex

NCA notification, systems authorization at Eurex
and order flow identification with T7 Release 8.0

October 2020



Legal prerequisites for DEA as stipulated by MiFID II allow Eurex' trading participants to offer DEA

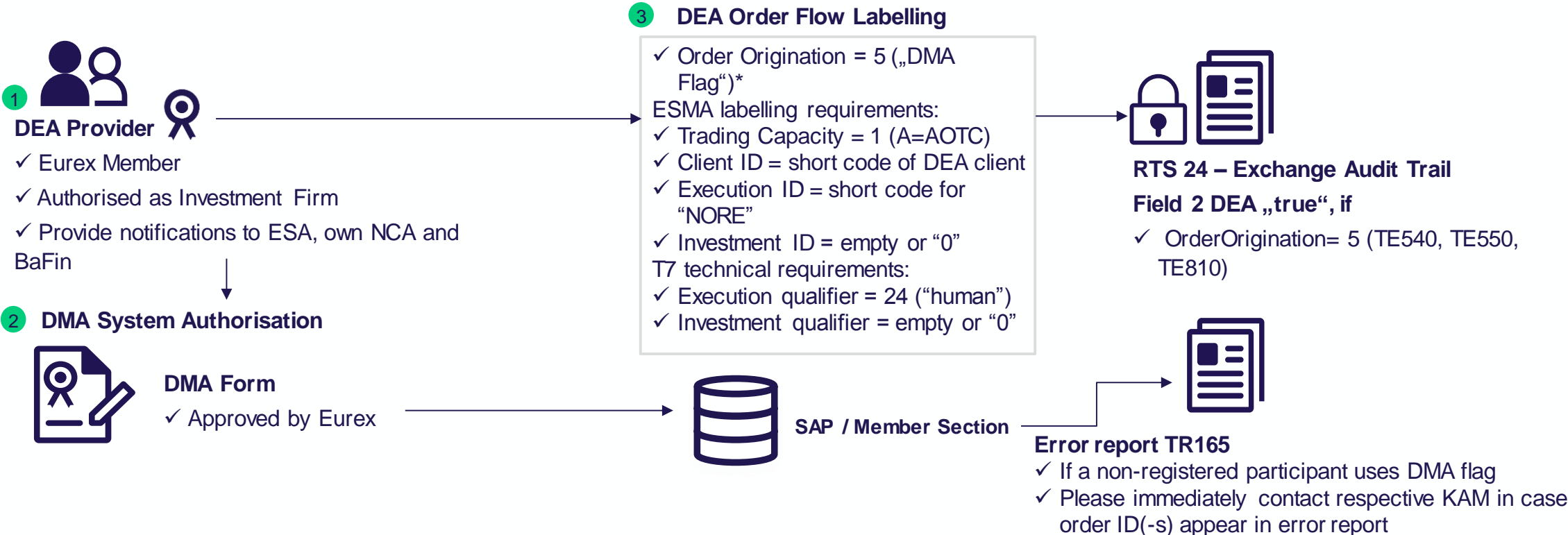
Regulatory prerequisites

- 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**.
- Historically, trading venues were only allowed to grant direct access to their order books for their direct trading participants and their respective traders.
- According to DR 2017/565 Art.20, trading venues are now 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 (1)(41) DEA comprises **Direct Market Access (DMA)** and **Sponsored Access (SA)**: ‘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 *infrastructure of the member or participant* 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 *infrastructure is not used* by a person (*sponsored access*).

Eurex solution

- Eurex will only allow trading participants to offer DMA for clients. **SA remains out of scope**.
- In order to provide DEA/DMA to Eurex, members 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 Deutschland via respective application form (*see slide 6*)
 3. Adhere to requirements on DEA labelling as set out in the Exchange Rules of Eurex Deutschland § 61 (*see slide 7*)

Overview on the Eurex approach, depicting roles, interactions and processes in regards to DEA



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/>

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/EN/Formular/WA/fo_20180102_Formular_DEA.html

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.

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:

https://service.hessen.de/xbcr/0458_Meldung_DEA_ENG.pdf

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

Authorisation of the DMA system at Eurex via respective application form

- According to § 61 (1) of Exchange Rules of Eurex Deutschland, exchange 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 authorise 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

Fax Frankfurt a. M.: +49-69-211-11641

Fax London: +44-207-862 7297

Fax Paris: +33-1-55 27 67 50

or your respective **Key Account Manager**

- Members will find the respective **DMA system authorisation confirmation** in the Member Section of the **Common Report Engine**.

Obligation to label transactions entered or concluded via DEA

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 DEA client
AND
Execution ID = short code for "NORE"
AND
Investment ID = empty or "0"

Execution qualifier = 24 ("human")
AND
Investment qualifier = empty or "0"

Please be aware, that **orders and trades shall only be labelled as DEA***, 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
- Please be aware 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 as well as in a separate Error Report (TR165) in case no DMA authorisation was conducted by exchange participant

*For the requirement, please, refer to highlighted passage on slide 11 (backup) for reflection in Exchange Rules of Eurex Deutschland

** 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 section 5.28. 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

Appendix



Comply with requirements on DEA as set out in Exchange Rules of Eurex Deutschland § 61 (1/2)

§ 61 (1) Exchange Rules for Eurex Deutschland on Direct Electronic Access:

- 1) **An Exchange Participant is entitled, upon request of and after authorization by the Management Board of Eurex Deutschland to grant another person (indirect Trading Participant) direct access** to the market via its infrastructure for the transmission of orders pursuant to § 2 Paragraph 9, provided that
 - a) between the Exchange Participant and the indirect Trading Participant a contract has been concluded which at least contains the requirements within the meaning of Article 22 of the Delegated Regulation (EU) 2017/589 and
 - b) the Exchange Participant ensures that the indirect Trading Participant conducts control measures and fulfils its control obligations within the meaning of Article 19 to 23 of the Delegated Regulation (EU) 2017/589.

- 2) **The Exchange Participant is obliged to immediately notify the Management Board of Eurex Deutschland of any conclusion or termination** of or any essential changes to the contract. Upon request by the Management Board of Eurex Deutschland, the Exchange Participant must present contracts pursuant to Paragraph 1 and provide information on the indirect Trading Participant's conduct of control measures and its outcome pursuant to Paragraph 1. Further supervisory and control rights of the exchange bodies and the exchange supervisory authority under statutory law remain unaffected.

- 3) **The Exchange Participant is obliged to flag orders and trades which are entered or concluded, respectively, by an indirect Trading Participant via direct electronic access** pursuant to Paragraph 1. Further details are determined by the Management Board of Eurex Deutschland. See slide 7.

Comply with requirements on DEA as set out in Exchange Rules of Eurex Deutschland § 61 (2/2)

§ 61 (1) Exchange Rules for Eurex Deutschland on Direct Electronic Access:

3) *The forwarding of trading data and information from the electronic trading system of Eurex Deutschland via direct electronic access of an Exchange Participant to third parties requires the respective consent of the Management Board of Eurex Deutschland* pursuant to § 22 of the Exchange Rules for Eurex Deutschland. The consent of the Management Board of Eurex Deutschland vis-à-vis the Exchange Participant who is operating the direct electronic access is deemed to be given if the relevant Exchange Participant has concluded a respective Market Data Dissemination Agreement with Deutsche Börse Group on the prices of Eurex Deutschland. In case of an additional installation, as the case may be, an installation of electronic eyes and/or third party software, respectively, which comes along with the opening of a direct electronic access with the electronic trading system, this intention shall also be notified unrequested in writing by the Exchange Participant vis-à-vis the Management Board of Eurex Deutschland. The provision of § 62 shall remain unaffected.

4) *The Exchange Participant is responsible for the indirect participant's compliance with the exchange-related statutory provisions.* In case of violations against regulations on direct electronic access, in particular violations against the Exchange Rules or the Conditions for Trading, the Management Board of Eurex Deutschland may suspend or terminate a direct electronic access pursuant to Paragraph 1.

The Management Board of Eurex Deutschland may, in particular, terminate the direct electronic access if

1. the prerequisites for the authorization have not been fulfilled, in particular if the authorization has been granted upon false or incomplete information of the Exchange Participant; or
2. if the prerequisites of the granting have ceased to apply retroactively; or
3. if an orderly futures and options trading through direct electronic access is not or cannot be guaranteed any more.

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