

## Non binding translation

### BX Participant Rules

#### 1. Purpose

- 1.1. Based on the Swiss Stock Exchange Act (SESTA), these rules govern the preconditions, registration, suspension, termination, rights and obligations for Participants of BX Swiss AG (BX).
- 1.2. These rules ensure transparency and operational capability for BX trading and equal treatment for securities dealers.

#### 2. Participants

- 2.1. BX Participants are domestic or foreign securities dealers duly authorized by FINMA.
- 2.2. Foreign Participants may connect to BX as Remote Participants, provided they have the relevant FINMA authorisation according to Swiss stock exchange ordinance (SESTO).
- 2.3. BX recognizes following categories of Participants and Remote Participants:
  - a) Trading Participant;
  - b) Market Maker (MM);
  - c) Designated Market Maker (DMM);
  - d) Reporting Participant.
- 2.4. Trading Participants
  - a) are allowed to participate to trading as agent or principal;
  - b) may limit their trading participation to single product groups or segments;
  - c) submit an application to be registered as Trading Participants.
- 2.5. Market Makers (MM)
  - a) are Trading Participants committing themselves to ensure a liquid market for certain instruments;
  - b) conclude with BX a Market Maker Agreement.
- 2.6. Designated Market Makers (DMM)
  - a) are Market Makers, who are exclusive Market Makers for certain instruments;
  - b) place Tradable Quotes through a separated, dedicated interface;
  - c) conclude with BX a Designated Market Maker Agreement.
- 2.7. Reporting Participants
  - a) are all other Swiss securities dealers or foreign participants of a Swiss stock exchange thereto authorized according to Art. 53 and Art. 53a SESTO or others subject to reporting duty;
  - b) are not Trading Participants of BX;
  - c) are granted access to BX systems to fulfil reporting duties according to SESTA.

### **3. Registration as Trading Participant or Remote Trading Participant**

- 3.1. Following preconditions have to be met to be registered as Trading Participant:
  - a) FINMA authorization as securities dealer or foreign stock exchange participant;
  - b) technical and operational capability to connect to the BX stock exchange system;
  - c) lodgement of a security deposit determined by BX;
  - d) if demanded by BX, participation or access through a general clearing member to a BX recognized clearing house;
  - e) participation or access through a custodian bank to a BX recognized settlement agent.
- 3.2. Trading Participant registration application shall be made in writing.
- 3.3. In the application, applicant shall acknowledge BX rules and commit to comply with present and future BX rules and decisions.
- 3.4. Following documents (copies) shall be attached to the application:
  - a) FINMA approval as securities dealer or foreign stock exchange participant;
  - b) bylaws and articles of association;
  - c) organizational regulations, organizational chart and other rules;
  - d) last annual report and last audited financial report including auditor's report;
  - e) certified extract of the commercial register or appropriate document certifying domicile, business purpose and authorized signatories;
  - f) evidence that the security deposit has been lodged or a guarantee (in original) of a BX recognized clearing house or settlement agent;
  - g) if demanded by BX, evidence of access to a BX recognized clearing house;
  - h) evidence of access to a BX recognized settlement agent.
- 3.5. BX notifies registration decision in writing and justifies refusals.
- 3.6. BX publishes registrations and in particular informs the other Trading Participants.

### **4. Registration as Market Maker / Designated Market Maker**

- 4.1. BX may register a Trading Participant as Market Maker (MM) or as Designated Market Maker (DMM). Related rights and obligations are determined in an additional written agreement (Market Maker Agreement or Designated Market Maker Agreement).
- 4.2. BX determines at its sole discretion or on Market Maker's request the product groups, segments or instruments for which
  - a) trading shall or may be supported by market making; BX may accept one or more Market Makers per instrument;
  - b) a Trading Participant may be registered as an exclusive Market Maker (Designated Market Maker).
- 4.3. The Market Maker commits to ensure an orderly and liquid market for the instruments he takes care of by placing bid and ask prices with a minimum volume and a maximum spread. Parameters will be determined by BX on an instrument basis and agreed upon in the Market Maker Agreement.
- 4.4. The Designated Market Maker commits to place without interruption Tradable Quotes for the instruments he takes care of and meets the agreed maximum spreads and minimum volumes. Parameters will be determined by BX on instrument basis and agreed upon in the Designated Market Maker Agreement. Exceptions may only be allowed if displaying a

Tradable Quote is unreasonable, whereas in such a case the Designated Market Maker shall inform BX immediately, in particular:

- a) Designated Market Maker special circumstances (technical failure, power failure etc.);
  - b) extraordinary market circumstances caused by extraordinary market movements in the primary market or underlying instruments;
  - c) serious disruptions of the economic and political situation (e.g. terrorist attack, crash situations);
  - d) instruments suspended from trading;
  - e) other cases determined in the Designated Market Maker Agreement.
- 4.5. BX is entitled to measure on self-defined parameters and publish market making quality.
- 4.6. BX may offer, under observance of Art. 7 SESTA, Market Makers or Designated Market Makers better fee conditions than to other Trading Participants.

## **5. Registration as Reporting Participant**

- 5.1. Participants may be registered as Reporting Participants upon request.
- 5.2. Reporting Participants are allowed to report to BX off-exchange trades (Trade Reports) and order transmissions (Transaction Reports).
- 5.3. Reporting Participant will be assigned a login and a password granting access to BX systems.
- 5.4. Reporting Participants may report to BX or to a BX recognized Trade Data Monitor (TDM).
- 5.5. Reports to BX shall be made according to BX reporting rules and instructions.
- 5.6. Reporting Participants are committed to pay reporting fees.

## **6. Maintenance of Trading Participation**

- 6.1. Trading Participants commit to
  - a) comply to the admission preconditions according to these participant rules during the whole participation period;
  - b) comply to and enforce internally any applicable domestic and foreign law, regulation and rule of conduct;
  - c) comply to and enforce internally BX rules and decisions, in particular these participant rules;
  - d) give BX, without prejudice of banking secrecy, any information or requested document useful for maintenance of an orderly market or for enforcement of exchange relevant laws and regulations or BX rules and decisions;
- 6.2. Trading Participants agree according to SESTA to undergo in all foreseen cases to the decisions of the independent complaints authority, whereas after a complaint process a dispute at civil court may be claimed.

## **7. Adequate organization and registration obligation**

- 7.1. Trading participants use the BX stock exchange system strictly observing BX terms of use and in particular avoid any manipulation or change to the BX stock exchange system, its interfaces and unauthorized use or transfer of BX Software or data received from the BX system.

- 7.2. Trading Participants provide continuously sufficient staff with suitable know-how and good reputation for trading and enact appropriate internal directives and controls to comply with BX rules and decisions.
- 7.3. Trading participants determine and notify to BX the responsible persons for compliance with BX rules and decisions, notably the responsible for compliance, the responsible for IT and technical issues and the business manager.
- 7.4. Trading Participants register and notify authorized traders and warrant for their ability and reputation. The trader shall acknowledge and comply to BX rules. BX may suspend or withdraw registrations at any time. Registered traders are granted an identification number, which will be assigned to all their system entries. The identification number is personal, but may be forwarded to other registered traders for substitution purposes, whereas the Trading Participant ensures substitute appointment transparency.
- 7.5. Trading Participants notify BX immediately any possible change of any information notified to BX in the framework of these rules, in particular if regarding responsible persons, authorized traders, participation number at clearing houses and deposit number at settlement agents.

## **8. Audit**

- 8.1. Trading Participants appoint at own full expense an auditor recognized by the supervisory authority or, upon written request to BX, the internal audit, to annually revise and to report findings to BX on compliance to applicable law and regulation and to BX rules and decisions. The auditor shall be empowered to give BX an interim report at any time upon request. The auditor shall additionally be mandated to recommend measures to resolve non-compliance situations and inform BX if the measures cannot be timely met or the targeted timeline appears pointless.
- 8.2. A request to appoint the internal audit shall be completed by following information:
  - a) last annual report;
  - b) signed audit committee or board of directors approval appointing internal audit for the participant audit;
  - c) evidence of internal audit independence;
  - d) evidence of the training as auditor of at least one member of the appointed internal audit staff;
  - e) evidence of the training as IT-auditor of at least one of the members of the appointed internal audit staff;
  - f) name and function of the members and description of the organizational unit responsible for possible immediate corrective measures;
  - g) name of the authority supervising the Participant;
  - h) written confirmation that both audit committee and official auditor regularly receive copy of the yearly participant audit report.
- 8.3. Shall compliance to the audit provisions not be satisfactory, BX may mandate on participant's full expenses a third party audit.

## 9. Fees

- 9.1. Participants shall pay timely any fee charged by BX, in particular the one time admission fee, the yearly participant fee and other periodic fees as trading and reporting fees according to BX schedule of fees or price lists.

## 10. Security deposit

- 10.1. Trading participants have to lodge a security deposit, serving as guarantee for the correct clearing and settlement of trades between trading participants.
- 10.2. The amount of the deposit shall be determined by BX on its sole discretion based on following principles and observing equal treatment, whereas in justified cases a higher deposit or immediate actions may be ordered:
- a) deposit limits: CHF 50'000 – CHF 1'000'000
  - b) formula: average trading volume per day of the last six months times duration of settlement cycle (eg. if T+2, times two)
  - c) new Participants: estimate of trading volume;
  - d) calculation interval: two times per year;
  - e) amount adjustments: 20 working days' notice.
- 10.3. In case of a price decline a Trading Participant shall timely meet BX request to adjust the security deposit, otherwise he will be suspended from trading until he meets the request.
- 10.4. The security deposit may be lodged as:
- a) deposit of cash or public or first class listed bonds at a third party bank for BX Swiss AG account;
  - b) deposit of a guarantee upon first request issued by a clearing house or settlement agent recognized by BX.
- 10.5. The guarantee or deposited securities may be drawn by BX without notice in following circumstances:
- a) buy-in;
  - b) fees or reimbursements due to delayed delivery or payment of trades or other clearing or settlement issues;
  - c) on claims which conducted to a suspension;
  - d) fulfilment of open obligations after termination of participation.
- 10.6. Provided BX opposes no claim, the security deposit will be handed back when Trading Participant gives up trading participation.
- 10.7. Trading participants or their successors may claim security deposits only for trades validly closed under BX rules.
- 10.8. These trades are in particular on-exchange and off-exchange trades in instruments listed or admitted to trade on BX.

## 11. Suspension

- 11.1. BX may, after giving notice, suspend a Trading Participant from trading in specific or all instruments for following reasons:
- a) non-compliance to BX or CCP participation maintenance obligations or decisions;
  - b) repeated delayed delivery or payment of trades or other clearing or settlement issues;

- c) payment delays towards BX, towards other participants caused by a buy-in or towards a CCP;
  - d) on debt restructuring, composition or liquidation proceedings against the Trading Participant or criminal proceedings against the Trading Participant or its top bodies or management;
  - e) continued non-use of the exchange system;
  - f) in the framework of a sanction process.
- 11.2. On suspension, the Trading Participant's access to the exchange system is blocked and his orders are deleted.

## **12. Termination of Participation**

- 12.1. Withdrawal of Participation may happen:
- a) on request of the Participant or revocation by BX with a six months' notice period having effect from the end of the calendar year;
  - b) automatically, in case of cessation of payments, insolvency or liquidation;
  - c) automatically, if a Trading Participant needs to be legally enforced to fulfil an arbitration decision;
  - d) in the framework of a sanction process.
- 12.2. Withdrawal terminates the Participation. Participants shall comply to and fulfil all possible open issues also after termination.
- 12.3. BX reserves the right to use the security deposit to fulfil any open obligation after termination of participation.
- 12.4. BX publishes the withdrawal and in particular informs the other Trading Participants.

## **13. Confidentiality**

- 13.1. BX, its bodies, staff and representatives according to Art. 43 SESTA underlie to stock exchange secrecy.
- 13.2. BX treats any information regarding Trading Participants received due to these Participant Rules as confidential, except if differently required by law, any authority or BX rules. Confidential Information shall be published only if agree with the Participant.
- 13.3. The use of anonymized data (e.g. price and volume information) not allowing conclusions on the Participant behind, does not violate the confidentiality duty.
- 13.4. The use of consolidated trading data is not subject to confidentiality.
- 13.5. BX may disclose data to third parties (e.g. settlement agents) as far as they are obliged to similar confidentiality clauses.
- 13.6. BX may disclose and collect, to the extent required by law, information to and from supervisory authorities, market supervision of other exchanges and law enforcement agencies.
- 13.7. Market data (static and dynamic data) is fully owned by BX and may be processed and published by BX.
- 13.8. With application to registration, Participants and traders agree that BX may, under observance of paragraphs 13.1 to 13.7, collect from and distribute the information to third parties.

#### **14. Limitation on liability**

- 14.1. BX, its bodies and staff shall not be liable, except for intent or gross negligence, for any damage, loss or expense caused to a Participant, his clients or third parties
- a) if the BX stock exchange system or connected systems as clearing, settlement or data dissemination, partly or totally fail due to technical issues;
  - b) for damages caused by BX decisions or measures taken in the framework of special situations;
  - c) for wrong or incomplete data processing or dissemination;
  - d) for manipulation by Participants or third parties;
  - e) following suspension, withdrawal or revocation of a participation or Participant;
  - f) for refusal or faulty execution of a trade by a clearing house or settlement agent.
- 14.2. BX rules apply for the execution of trades during trading hours. Every Trading Participant is liable for any commitment taken by his representatives. The Trading Participant is committed to take necessary measures, in particular appropriate internal instructions, systems, controls and processes, in order to reduce, supervise and avoid any risk.

#### **15. Appeal possibilities**

- 15.1. The Participant may submit a claim to the independent complaints authority against following decisions:
- a) registration denial;
  - b) denial or revocation of registration of a trader;
  - c) suspension and other sanctions;
  - d) withdrawal / revocation.
- 15.2. After a complaint process, a dispute at civil court may be claimed.

#### **16. Final provisions and validity**

- 16.1. Contractual partners (Vertragspartner) and licensees (Lizenznehmer) of the former Berne Stock Exchange Association (Berner Börsenverein) are automatically registered as BX Trading Partners. Other securities dealers (Übrige Effekthändler) according to the rules of the Berner Börsenverein are automatically registered as BX Reporting Participants.
- 16.2. These Participant Rules have been approved by the BX board of directors on 11. Aug. 2014, by FINMA on 04. Sep. 2014 and enter into force on 15. Sep. 2014 replacing the Participant Rules (Mitgliederreglement) of the Berner Börsenverein.