

Exchange Traded Commodities / Exchange Traded Notes

Notes on the Admission of exchange-traded commodities (ETCs) and exchange-traded notes (ETNs) to trading on the Regulated Market of the Frankfurt Stock Exchange

Introduction

Exchange-traded commodities (ETCs) and exchange-traded notes (ETNs) are admitted and traded on the Regulated Market of Frankfurter Wertpapierbörse (FWB[®], the Frankfurt Stock Exchange). The Frankfurt Stock Exchange operates two trading venues, Xetra[®] and Börse Frankfurt. Admission is granted by a decision of the management board following verification by Deutsche Börse's Listing Services division that all legal requirements have been met. It is the applicant's responsibility to fulfil the admission requirements and to provide all necessary information. Admission is granted by a resolution of the management board.

The admission of securities to exchange trading is regulated under public law with the aim to use the exchange facility so that trading in the securities in question may take place in the respective market segment. The Regulated Market is regulated by EU law. It is governed by the Stock Exchange Act (Börsengesetz, BörsG), the Stock Exchange Admission Regulation (Börsenzulassungs-Verordnung, BörsZulV) and the Stock Exchange Regulation (BörsO). Additional laws such as the Hessian Administrative Procedure Act (Hessisches Verwaltungsverfahrensgesetz, HVwVfG) may apply. The listing fees are defined by the Fee Schedule (Gebührenordnung, GebO).

Amongst other things, the BörsG stipulates that the application for admission must be submitted together with a co-applicant. The BörsZulV regulates concrete admission requirements, the content of the admission application, minimum time sequences to be observed within the procedure, and lists part of the documents to be submitted. The BörsO defines the basic rules and regulations applicable to securities trading at the Frankfurt Stock Exchange. Finally, the HVwVfG is relevant to the question of when administrative proceedings must be opened, and which parties shall be involved.

The above means that, amongst other things, the admission of an ETF to exchange trading is an administrative act. The admission requirements are not defined by the Frankfurt Stock Exchange. While there is a margin of discretion in the application of approval regulations, this discretion is limited to the scope of past cases and the resulting decisions made by the Frankfurt Stock Exchange, referred to as "administrative practice". A decision outside the legal scope is an illegal admission decision.

The admission procedure is not an automated process. Each individual application is a legal assessment on a case-by-case basis. A processing time of five trading days should thus be regarded as a guideline, provided that all necessary documents have been submitted on time.

Prior coordination of a timeline with Listing Services is recommended. Any commitments in this regard are subject to the fulfilment of all admission requirements. In the course of the procedure, applicants can assume that they will be informed in good time of any obstacles to admission or unfulfilled admission requirements.

In addition, Listing Services must ensure that the admitted ETFs are eligible for settlement. This means that after each transaction, the buyer may expect booking of the securities purchased and the seller may expect payment of the purchase price. Therefore, the admission process also comprises an examination of the availability of the securities to be admitted and demand of proof of the minimum issue amount of securities and their deliverability.

The regulations in place for the admission of securities may differ from country to country. There is no legally required application form. However, in order to help issuers and their co-applicants with the application process, the Frankfurt Stock Exchange provides standard application forms that contain categories of generally required information plus a checklist in the appendix listing documents which need to be submitted.

An admission decision can only be made if all requirements are fulfilled and all supporting documents are provided by the applicant. However, it is possible to supplement information, submit additional documentation or make minor changes throughout the proceedings as long as this supplementary information does not significantly influence the procedure in general. All approval requirements must be fulfilled at the time of the approval decision.

Please note that **as of 2 October 2023**, applications for admission to the regulated market and applications for admission to trading must be submitted digitally via the eListing platform. There is a separate manual for this which explains how to complete the applications. As of this date, application forms will no longer be accepted.

The following sections therefore only serve to describe the individual application sections, which have been adopted digitally in a similar form.

Application for admission to the Regulated Market

The admission to the Regulated Market must be filed by the ETC/ETN issuer together with his co-applicant. Both parties may be represented by an authorised representative. In such a case, a letter of attorney shall be attached to the application for admission.

Section 1: Applicant

Section 1.1: Issuer of the securities

In section 1.1, the applicant is required to provide information on the issuer of the securities. The issuer is the legal entity of the fund and not the management company. The applicant must provide the Legal Entity Identifier (LEI) of the issuer, not of the management company or the fund.

The issuer itself may act as applicant or be represented by an authorised agent. In such a case a letter of attorney must be attached to the application for admission. It is recommended to provide a fax number so that the admission resolution can be delivered after it has been issued. If the issuer's registered company office is outside Germany, the issuer may name a process agent in Germany to ensure that the documents can be delivered with legal certainty within specified deadlines.

1. Applicant	
1.1 Issuer of the securities to be admitted (§§ 32 Paragraph 2 Clause 1 of the Börsengesetz (BörsG, German Stock Exchange Act), 48 Paragraph 1 Clause 2 of the Börsenzulassungsverordnung (BörsZulV, German Stock Exchange Admission Regulation))	
Company name:	
Registered office:	
Business address:	
Legal Entity Identifier (LEI):	
If the issuer is represented by a proxy agent:	
Name:	
Address:	
<input type="checkbox"/>	The issuer is represented by the co-applicant according to Sec. 1.2.
<input type="checkbox"/>	The power of attorney in writing is attached hereto.
Issuer's contact for the admission procedure:	
Name:	
Department:	
Phone/Fax:	
E-Mail:	
In case of non-German issuers – authorized recipient in Germany:	
Name:	
Address:	

Section 1.2: Co-applicant

In section 1.2, the applicant is required to provide information on the co-applicant. A co-applicant must be a credit institution, financial services institution or a company operating in accordance with section 53(1) sentence 1 or section 53b (1) sentence 1 of the German Banking Act (Kreditwesengesetz, KWG) that is admitted to a German stock exchange with the right to participate in trading and has liable equity capital equivalent to at least €730,000. Compliance with these requirements must be confirmed in the application. In case the co-applicant is represented by an authorised agent, a letter of attorney must be attached to the application file. In addition to the above formal requirement, the co-applicant is generally the main contact person for Listing Services during the admission process.

1.2 Company or institution in accordance with §§32 Paragraph 2 BörsG, 48 Sec. 1 Clause 2 BörsZulV (co-applicant)	
Company name:	
Registered office:	
Business address:	
If the co-applicant is represented by a proxy agent:	
Name:	
Address:	
<input type="checkbox"/> The power of attorney in writing is attached hereto.	
Contact nominated by the co-applicant for the admission procedure:	
Name:	
Department:	
Phone/Fax:	
E-Mail:	

Section 2: Invoicing

Section 2 differentiates between the public-law fees for admission to the Regulated Market and the costs of publishing the admission decision in the Federal Gazette (Bundesanzeiger). A distinction can be made between the debtor and the invoice recipient.

According to the Fee Schedule (Gebührenordnung, GebO), the debtor can only be the legal entity of the ETC/ETN or the co-applicant. The recipient of the invoice can be any other third party. The debtor and invoice recipient are provided to the Billing department of Deutsche Börse AG in the application for admission.

According to the BörszulV, the Frankfurt Stock Exchange is legally obliged to publish its admission decision in the Federal Gazette at the applicant's expense. The invoice is issued by the Federal Gazette based on the information provided in the application to admission.

2. Invoicing*

2.1 Debtor for the admission fee according to §4 Paragraph 2 Fee Regulations

issuer

co-applicant

Value added Tax Identification Number (VAT-ID):

2.2 Recipient of the invoice for the admission fee and the costs for the Federal Gazette (§51 BörsZulV)*

If the recipient of the invoice should be another than in 2.1.:

Company name:

Contact person:

Department:

Address:

E-Mail:

* A differing invoice recipient does not affect the legal status of the debtor according to the Fee Regulations for the Frankfurt Stock Exchange.

Section 3: Description of the ETC/ETN

In section 3, the applicant shall indicate the name of the ETC/ETN to be listed, the ISIN and “up to” number of issued shares. Listing Services will use the Key Investor Information Document (KIID) as reference.

Number of issued volume (in units) “up to”:

Since the subject of the permission procedure is a number of units, as opposed to an amount to be determined in one currency as would be the case for a bond, this number of units is indicated as "up to". More specifically, this means that (subject to the introduction of the approved securities to be applied for separately) any number of ETC/ETN units up to the amount indicated in the application may be issued. If a greater number of units shall be issued, their admission must be applied for separately before they are booked in the same ISIN. The admission of an “up to” number takes into account the fact that an ETC/ETN may create shares on a continuous basis if there is a respective demand. Nevertheless, an initial number of at least 10,000 shares is required to legally exist and be available before the admission decision is taken. In the administrative practice of the Frankfurt Stock Exchange, the existence of a smaller number of shares is allowed under certain conditions. However, any delineation must be discussed with Listing Services during the admission procedure and well ahead of the admission decision.

With regard to the type of securitisation, the issuer must indicate the form in which the ownership rights are securitised. The most common type to date is the global certificate. However, there are other possibilities, such as book-entry rights or a global bearer certificate.

Excursus: issue and availability

The purchase contracts for securities concluded on the stock exchange must be fulfilled, which means that the buyer of securities must receive the respective securities and the seller must be credited accordingly. The securities must therefore be issued and introduced into the respective custodian system.

The securities are securitised in a global certificate, which is admitted to collective safe custody at Clearstream Banking AG and the securities are valued on this certificate. This process is reviewed by Listing Services.

In contrast to this (but with the same basic assumption), a distinction must be made between various options for issuing securities and custody, such as issuing them in book entry rights and custody at Clearstream Luxembourg or another securities clearing and deposit bank. Securitisation in global certificates and depositing them with a foreign custodian is also conceivable, as is availability in the dual deposit custody structure.

It is the responsibility of the issuer and its authorised institutions to issue the securities and to make them available for delivery in such a way that exchange transactions concluded at the Frankfurt Stock Exchange can be fulfilled. On the other hand, it is the task of Listing Services to request this at the latest at the time of the admission decision by means of suitable documents (legal opinion, confirmation of the value date, assurance, etc.). If the issue of the securities and their availability on the stock exchange has not been established at the time of the admission decision, the admission decision cannot be made by Listing Services and the listing cannot take place as planned.

Section 4: Further listings with other exchanges within the EU or EEA

In section 4, the applicant is asked to indicate whether the listing of the securities has also been applied for on another German trading venue or on a trading venue in another EU or EEA country.

4. A similar application for admission has previously or at the same time been filed with another stock exchange in Germany, in another Member State of the European Union (EU) or of the European Economic Area (EEA) or will shortly be filed (§48 Paragraph 1 Clause 3 BörsZulV

No

Yes, namely _____

Section 5: Prospectus and documentation (§32 Abs. 3 Nr. 2 BörsG)

In section 5, the applicant is asked to confirm whether a prospectus-free admission exists or whether a prospectus is required.

In the basic assumption of the legislator, a prospectus is required for the offer, distribution and listing of securities. Different laws and ordinances regulate this requirement as well as the exceptions provided for under certain circumstances. This paragraph addresses the question of whether a prospectus is required for the admission of the ETC/ETN to trading on the Regulated Market.

According to the provisions of the BörsG, securities may be admitted if, among other requirements, a prospectus approved or certified in accordance with Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing Directive 2003/71/EC (OJ L 168 of 30.6.2017, p. 12) Prospectus Regulation (Prospektverordnung, ProspVO) or a sales prospectus within the meaning of Section 42 of the German Investment Act (Investmentgesetz, InvG) has been published in the version valid until 21 June 2013, which may be used for the period provided for in section 345(6) sentence 1 of the German Capital Investment Code (Kapitalanlagegesetzbuch, KAGB), or a sales prospectus within the meaning of section 165 KAGB or a prospectus within the meaning of section 318(3) of the KAGB has been published, unless the publication of a prospectus can be waived pursuant to Article 1(2) or (5) of the Prospectus Ordinance.

5. Prospectus and documentation

5.1 Publication of a prospectus (§32 Paragraph 3 No. 2 BörsG)

Published was/will be:

- prospectus approved according to the regulations of the Regulation (EU) 2017/1129
- a prospectus confirmed according to the regulations of the Regulation (EU) 2017/1129 name and registered office of the competent authority of the EU or EEA state, which has approved the prospectus:

5.2 Publication date and location of the prospectus (Article 21 Regulation (EU) 2017/1129)

Date of prospectus:

Date of approval:

Date of publication:

This prospectus was/will be published:

- on the website of the issuer, the offeror or the person asking for admission to trading (Article 21 para. 2 a) Regulation (EU) 2017/1129
- on the website of the financial intermediaries placing or selling the securities, including the paying agents (Article 21(2)(b) of Regulation (EU) 2017/1129)
- on the website of the regulated market on which admission to trading has been requested (Article 21(2)(c) Regulation (EU) 2017/1129)

Section 6: Schedule and confirmations

In section 6, three confirmations are requested. As a first step, the applicant must confirm it has taken note of Delegate Regulation (EU) 2017/568 (RTS 17). The issuer must then confirm that the ETC/ETN to be authorised is not a derivative within the meaning of Article 2 (1) No. 29 Regulation (EU) No. 600/2014 (MiFIR) in conjunction with Article 4 (1) No. 44 letter c of Directive 2014/65/EU or in conjunction with Annex I Section C paragraphs 4 to 10 of Directive 2014/65/EU (MiFID II). Finally, the co-applicant confirms that it is a credit institution, financial services institution or an enterprise operating pursuant to Art. 53 (1) sentence 1 or Art. 53b (1) sentence 1 of the German Banking Act.

In addition, the applicant can define a non-binding timetable. The German law distinguishes two necessary (official) acts for securities to be traded in the Regulated Market of a stock exchange: the admission and the introduction of the securities to trading. The admission to the Regulated Market must be granted at least one trading day before the introduction of the admitted securities to trading.

In addition, the Frankfurt Stock Exchange is legally obliged to provide the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) with the date and time at which the issuer has agreed to the admission of the securities. This information is an obligation imposed on the Frankfurt Stock Exchange which it shall not interpret and which it cannot verify. The date and the time of said agreement must, of course, precede the receipt of the application for admission by the Frankfurt Stock Exchange. It is not possible to process the application for approval without providing this information.

6. Timetable* and confirmations	
<input type="checkbox"/>	Article 7 paragraph 1 and 4 delegated regulation (EU) 2017/568 (RTS 17) supplementing the directive 2014/65/EU (MiFID II). The issuer of the securities to be admitted was informed about his obligations under union law. The issuer took notice from the overview published under www.xetra.com/cash market/primary market/going public respectively. www.xetra.com/cash market/primary market/publications .
<input type="checkbox"/>	The securities to be admitted are no derivatives according to article 2 paragraph 1 no 29 regulation (EU) 600/2014 (MiFIR) in connection with article 4 paragraph 1 no 44 letter c of the directive 2014/65/EU or in connection with annex I section C paragraphs 4 to 10 of the directive 2014/65/EU (MiFID II), respectively.
<input type="checkbox"/>	The co-applicant confirms that it is a credit institution or a financial services institution or a company within the meaning of § 53 Paragraph 1 Clause 1 or § 53 b Paragraph 1 Clause 1 of the Kreditwesengesetz (KWG, German Banking Act), that it is admitted to a German stock exchange and entitled to participate in trading and that it is able to provide evidence of liable equity capital in the amount of at least € 730,000.
Date of admission:	
First date of trading (listing date):	
Date and time the issuer has approved admission to trading**:	
* Please note: Subject to compulsory legal reasons the the requested time schedule of the applicants is not binding for the admission procedure.	
** The date of approval must be before the date of application for approval.	

Section 7: Signatures

In section 7, the ETC/ETN issuer and the co-applicant or the authorised agents must sign the application; the ETC/ETN issuer or his authorised agent must sign under section 7.1 and the co-applicant or his authorised agent under section 7.2.

7. Signatures (§§ 32 Paragraph 2 Clause 1 BörsG, 48 Paragraph 1 Clause 1 BörsZulV)

7.1 Signature of the issuer or its proxy agent

Place, Date:

Name(s):

Signature(s):

7.2 Signature of the co-applicant or its proxy agent

Place, Date:

Name(s):

Signature(s):

Appendix: Overview of documents to be filed/information regarding the admission of ETCs or ETNs

The appendix lists all the documents necessary for a successful admission procedure. Listing Services is authorised to request additional documents, confirmations and evidence if deemed necessary for the admission decision to be taken lawfully. The list is based on documents available in the German jurisdiction. If comparable documents are available in the jurisdiction of the issuer, they must be enclosed with the application. In case of doubt, the applicant is advised to coordinate with Listing Services.

Overview of the documents to be submitted:

Appendix – Overview of the filed documents / information* regarding the admission of ETCs/ETNs

*Please note: The Management Board is authorised to request further documentation.

1. General documents
<input type="checkbox"/> Application from duly signed (original copy)
<input type="checkbox"/> Power of attorney (in case of representation)
2. Documents regarding the company
<input type="checkbox"/> Current and certified excerpt of the commercial register (§ 48 Paragraph 2 Clause 2 No. 1 BörsZulV)
<input type="checkbox"/> Current company memorandum and articles of association (§ 48 Paragraph 2 Clause 2 No. 2 BörsZulV)
<input type="checkbox"/> Annual financial statement of the preceding business year (§ 48 Paragraph 2 Clause 2 No. 4 BörsZulV)
3. Documents / information regarding the authorisation to issue securities / legal steps
<input type="checkbox"/> Evidence of the legal basis of the issue of the securities (§ 48 Paragraph 2 Clause 2 No. 5 BörsZulV) Resolution regarding the issue of the securities
<input type="checkbox"/> Resolution of the company regarding the designated listing (as far as required under (company) law)
<input type="checkbox"/> Other permissions or deeds of authorization for the incorporation of the issuer, the lawful performance of its business activities or the issue of the securities, if these require governmental authorisation (§ 48 Paragraph 2 Clause 2 No. 3 BörsZulV)
4. Securitization
<input type="checkbox"/> Declaration whether there is a global certificate for the securities to be admitted and regarding their deposit type (§ 48 Paragraph 2 Clause 2 No. 7 BörsZulV)
<input type="checkbox"/> Copy of the global certificate (signed) or other confirmation of securitisation
<input type="checkbox"/> Date of issue / launching date
<input type="checkbox"/> Terms and conditions of the bond issue
5. Prospectus etc.
<input type="checkbox"/> Prospectus / supplements approved by Federal Financial Supervisory Authority (BaFin) (§ 48 Paragraph 2 Clause 1 BörsZulV)
<input type="checkbox"/> Prospectus approved by the competent authority of another EU or EEA state / supplements
<input type="checkbox"/> Certificate by BaFin or the corresponding competent authority evidencing the approval of the prospectus / supplements
<input type="checkbox"/> Evidence of the publication of prospectus / supplements
<input type="checkbox"/> Final terms and evidence of publication

Documents, which are relevant for examination and currently not available in their final version, shall be submitted as draft for the time being

Application for introduction of admitted securities to trading

The introduction of admitted securities to trading can be filed by the issuer or any authorised agent on behalf of the issuer. In such a case, a letter of attorney shall be attached to the application for admission.

Section 1: Applicant/issuer

In section 1, the applicant is required to provide information on the ETC/ETN issuer of the securities. The issuer is the legal entity of the fund and not the management company. The applicant must enter the Legal Entity Identifier (LEI) of the issuer, not of the management company or the fund.

The issuer itself may act as applicant or be represented by an authorised agent. In such a case a letter of attorney must be attached to the application for admission.

1. Issuer (§ 38 Par. 1 German Stock Exchange Act (BörsG), § 58 Par. 1 Exchange Rules for the Frankfurt Stock Exchange (BörsO FWB))	
Company name:	
Registered office:	
Business address:	
If the issuer is represented by an authorised person:	
Company name:	
Registered office:	
Business address:	
<input type="checkbox"/> The written power of attorney is attached hereto.	
<input type="checkbox"/> The written power of attorney has already been filed within the context of the admission procedure.	
Contact person of the applicant:	
Company name:	
Contact person:	
Department:	
Address:	
Phone/Fax:	
E-Mail:	

Section 2: Invoicing

Section 2 differentiates between the debtor and the recipient of the invoice with regard to the public law fees for the introduction of the admitted securities to the Regulated Market.

According to the Fee Schedule (Gebührenordnung, GebO), the debtor can only be the applicant issuer of the securities or the co-applicant. The recipient of the invoice can be any other third party. The debtor and invoice recipient stated in the application for admission shall be the addressee of the invoice issued by the Billing department of Deutsche Börse.

2. Invoice recipient for introduction fee (if different from debtor (issuer)*)

Copy the invoice details from the application for admission

Company name:

Contact person:

Department:

Business address:

*A differing debtor does not affect the legal status of the debtor according to the fee regulation of the FSE (§ 4 Par. 2 GebO FWB).

Section 3: Trading currency on Xetra (MIC XETR)

In section 3, the applicant has to choose the trading currency for the ETCs/ETNs to be listed. Deutsche Börse offers multiple trading currencies on the trading venue Xetra such as euro, US dollar, British pound, Swiss franc. On Börse Frankfurt, ETCs/ETNs are tradable only in euros.

3. Trading Currency (only for trading on MIC: XETR)

EUR

USD

CHF

CNY

CAD

AUD

GBP

YEN

SEK

Section 4: Assignment of specialist for Börse Frankfurt (MIC: XFRA)

In section 4, the applicant can appoint a specialist of his choice to be responsible for price determination in the respective ETCs/ETNs on the trading venue Börse Frankfurt. If no specialist is appointed by the applicant, the decision shall be made by Deutsche Börse AG pursuant to the specialist contract.

4. Assignment of specialist

Specialist*: No

Yes, namely

* The inclusion of securities into the specialist contract is subject to a decision of the DBAG pursuant to the specialist contract. Relevant for the decision above is the status prevailing on the third day of trading before the applied date of introduction (T-3) at 10:00 a.m. Postponement of the introduction date will generally not affect the original decision.

Section 5: Description of securities

Section 5 asks the applicant to fill in certain information on the ETC/ETN. This includes the name of the ETC/ETN (as stated in the KIID), the ISIN, the outstanding volume in units with “up to” and the desired trading currency.

5. Description of securities			
ISIN	Name of the ETC(s)/ETN(s)	amount (up to units)	trading currency

Section 6: Signature of the applicant

In section 6, the final section, the applicant must sign the application for introduction to trading.

6. Signature of the applicant	
Place, Date:	
Name(s):	
Signature(s):	