

27/03/2023

# General Conditions Part II – Borsa Italiana Services

## 1. – Definitions

**1.1** The terms written with an initial capital letter in these General Conditions Part II are to be understood - unless indicated otherwise - as having the meanings specified in the definitions contained in the General Conditions Part I and the Annexes.

**1.2** In this part of the General Conditions:

**"ACER"**: shall mean the Agency for the Cooperation of Energy Regulators, the agency for the cooperation of energy regulators;

**"Data Protection Laws"**: shall mean the Legislative Decree no. 196 of June 30, 2006 and, as of May 25, 2018 the (EU) Regulation of the European Parliament and Council of April 27, 2016 No. 679, having **"Personal Data"** the same meaning as in the Data Protection Laws;

**"Information"**: shall mean the data and the information provided by the Client within the Member Portal;

**"Market Data"**: shall mean the Data as defined in the General Conditions Part I and, more specifically, all data and information transmitted to the Markets by the Client, as a consequence of trading and/or of the non-executing broker activities and/ or generated on the Markets, in the form of both elementary and aggregated data, i.e. the result of the processing of elementary data using algorithms, as specified in the Rules, and all data on the Markets, and financial instruments that come into the Client's possession as a consequence of trading and/or of the non-executing broker activities or in any case made available to the Client in connection with the provision of the Trading Service and/or of the Non-Executing Broker Service;

**"Markets"**: shall mean one or more markets, regulated or not, organised and managed by Borsa Italiana in relation to which Borsa Italiana supplies the Client with the relevant Trading Service and/or the relevant Non-Executing Broker Service;

**"Member Portal"**: shall mean the Borsa Italiana's web platform relating to the management of the relationship with the Client for the delivery of the Services as made available, from time to time, to the Client;

**"Non-Executing Broker Service"**: shall mean all the activities and services in order to allow the Client to enter and to cancel orders concluding *committed cross* and/or *block trades* contracts into the Markets as indicated in the Rules and related Instructions, on behalf of Intermediaries admitted to the Markets, and, in case orders are entered with prior general acceptance by the Intermediaries and therefore in the name and on behalf of the latter, the receipt of the transactions executed in relation to the non-executing broker activities;

**"REMIT Data"**: shall mean Market Data referring to the orders entered by the Client on the IDEM Derivatives Market – IDEX Segment;

**"REMIT Reporting Service"**: shall mean all the activities and services such as acquisition, processing, management, recording, transmission to ACER and/or availability for the Client of REMIT Data pursuant to REMIT Rules;

**"REMIT Rules"**: shall mean the (EU) Regulation of the European Parliament and Council of October 25, 2011 No. 1227 and the (EU) Implementation Regulation of the Commission of December 17, 2014 No. 1348, and any following amendment and/or integration;

**"Services"**: shall mean the Trading Service, the Non-Executing Broker Service and the REMIT Reporting Service;

**"Service Provider"**: shall mean the entity appointed as a Service Provider by Borsa Italiana in accordance with the agreement signed by Borsa Italiana and the Service Provider;

**"Trading Service"**: shall mean all the activities and services in order to allow the Client to trade financial instruments in the Markets, including liquidity support activity of financial instruments, through the entry, the cancellation and the modifications of the orders, the conclusion of the relevant transactions, their remittance, where applicable, to the daily trade-checking service and the receipt of the transactions executed.

## 2. – Trading Service

2.1 In this article and in Article 5 Client shall mean an Intermediary.

**2.2** From the effective date, as defined in paragraph 2.5 of the General Conditions Part I, of the Contract referred to in the Request for Services, Borsa Italiana shall provide the Client with Trading Service in the Markets, as specified in the Annexes. The Trading Service shall not include the supply of Market Data and of the Technological Infrastructures. The Client shall have in place separate agreements for the provision of Market Data and of the Technological Infrastructures (network and related hardware).

**2.3** Borsa Italiana shall ensure the correct processing and transmission of the data and information entered by the Client into the systems of the Trading Service or generated by such systems. The Parties acknowledge that Borsa Italiana shall not be under any obligation to check the truth, accuracy or completeness of the data and information provided by clients that are transmitted to the Client via the systems of the Trading Service.

**2.4** If the Client, operating on IDEM - Derivatives Market, requests one or more user to the Pre-Trade Validation (PTV) functionality for control and risk management purposes associated to its trading activity on such market, it shall use such user according to the Service Manual attached to the General Conditions Part II.

The Client shall be responsible for the set up and for the use of such users although it decides to delegate totally or partially such activities to third parties. Borsa Italiana declines any liability for consequences of such activities which shall occur on the Client, on third parties and on trading activity on IDEM – Derivatives Market and for any potential direct or indirect damages suffered by the Client or third parties as a consequence of such activities.

### **3. – Non-Executing Broker Service**

**3.1** In this article and in Article 6 Client shall mean a Non-Executing Broker. The Non-Executing Broker, while undertaking its activity, shall not deal on its own account and/or execute orders on behalf of clients.

**3.2** From the effective date, as defined in paragraph 2.5 of the General Conditions Part I, of the Contract referred to in the Request for Services, Borsa Italiana shall provide the Client with Non-Executing Broker Service in the Markets, as specified in the Annexes. The Non-Executing Broker Service shall not include the supply of Market Data and the provision of the Technological Infrastructure. The Client shall have in place separate agreements for Market Data and Technological Infrastructure (network and related hardware).

**3.3** Borsa Italiana shall ensure the correct processing and transmission of the data and information entered by the Client into the trading systems in relation to the Non-Executing Broker Service or generated by such systems. The Parties acknowledge that Borsa Italiana shall not be

under any obligation to check the truth, accuracy or completeness of the data and information provided by clients that are transmitted to the Client via the trading systems in relation to the Non-Executing Broker Service.

**3.4** The Client is the only subject responsible vis-a-vis Borsa Italiana and the Intermediaries on behalf of which the Client carries out the Non-Executing Broker Service in the IDEX Segment, with regard to the modality of entering and executing the orders selected from time to time.

#### **4. – REMIT Reporting Service**

**4.1** In this article and in the following article 7 the Client shall mean an intermediary admitted to IDEM Derivatives Market – IDEX Segment.

**4.2** From the effective date, as defined in paragraph 2.5 of the General Conditions Part I, of the Contract referred to in the Request for Services, Borsa Italiana shall provide the Client with REMIT Reporting Service according to the Annexes.

**4.3** The REMIT Reporting Service shall allow the Client to choose from one of the functionalities indicated below which the Client selects in the Participation Documentation:

- (i) Borsa Italiana shall transmit REMIT Data to ACER on behalf of the Client according to REMIT Rules;
- (ii) Borsa Italiana shall transmit REMIT Data to ACER on behalf of the Client according to REMIT Rules and shall make REMIT Data available to the Client through one of the connection types specified by the Client in the Participation Documentation;
- (iii) Borsa Italiana shall make REMIT data available to the Client through one of the connection types specified by the Client in the Participation Documentation.

**4.4** For the purpose of Article 4.3 (i) and 4.3 (ii) of these General Conditions, by executing the Request for Services, the Client grants Borsa Italiana a proxy to transmit REMIT Data to ACER on his/her behalf. Borsa Italiana will transmit REMIT data to ACER through the Registered Reporting Mechanism (RRM) provided for by REMIT Rules. For the purpose of such transmission, the Client shall enter into the reporting data agreement provided by the RRM indicated in the Participation Document.

**4.5** Borsa Italiana shall ensure the correct processing and transmission of REMIT Data entered by the Client on the IDEM Derivatives Market – IDEX Segment. The Parties acknowledge that Borsa Italiana shall not be under any obligation to check the truth, accuracy or completeness of the data entered by the Client on IDEX Segment.

## 5. – Obligations of the Client of the Trading Service

### 5.1 Notwithstanding the provisions of the General Conditions Part I, the Client shall:

- a) in case of use of a Service Provider, provide Borsa Italiana, at its request, with copies of the contracts complying with what is established in the Rules;
- b) ensure, in case of use of a Service Provider, the correct use of the network, software and hardware infrastructure inherent to the Trading Service by adopting suitable solutions for the control and the monitoring of their activities; c) ensure that third persons shall respect the obligations pursuant to the General Conditions and its relevant Annexes;
- d) comply with the liquidity obligations set out in the Rules as from time to time undertaken through the Member Portal and/or other communication channels made available to the Client when acting as a liquidity provider, specialist, market maker or MiFID II market maker, as defined in the Rules;
- e) install and maintain appropriate automatic systems with which to monitor the prices, equivalents, quantities and frequency of orders entered into the Markets, also through interconnections. In this, ensure also that the interconnected subjects are eligible to do so and clearly identifiable being also possible to track down their orders. In case the interconnection amount to an “electronic direct access”, ensure that the interconnected subjects comply with article 22 of the Regulation (EU) 2017/589;
- f) adopt all the measures necessary to prevent unauthorised use of the infrastructures and systems used in relation to the Trading Service and ensure that orders transmitted have not been generated by unauthorised sources or activities;
- g) co-operate with Borsa Italiana, or with third parties specified by the latter, *inter alia* by allowing their employees or collaborators to have access to its premises in order a) to make all the changes to the equipment (hardware and software) it uses that are strictly required to ensure the regular operation of the Markets; b) the carrying out, after due notice, of audits to check the state of performance of the Negotiation Service c) to test the start-up procedures and verify the functioning of the disaster recovery system for what pertains to Borsa Italiana;

- h) ensure that applications software they or third parties have built and that are directly connected to Technological Infrastructure conform with the Rules and have passed a compatibility test with Technological Infrastructure and with its new versions released by Borsa Italiana; i) ensure the full efficiency of the infrastructure and systems used inherent to the Trading Service, in terms of timeliness of response in the interaction with trading and settlement systems as well as in terms of allocation of resources in relation to the volumes handled;
- j) ensure quickness in restoring operational capability following technical malfunctions, providing for proper levels of infrastructure redundancy;
- k) establish proper procedures which, in the event of technical malfunctions, make it possible to reconstruct, in good time with respect to the settlement deadlines, the status of transactions carried out on the Markets;
- l) establish proper mechanism for inhibiting access to Markets for interconnected persons and/or automatic order-generating systems, whenever filter control is not possible;
- m) with respect to the use of the Member Portal, and in addition to the Obligations of the Client set forth in the General Condition Part I, ensure that: (i) the Information provided are accurate, complete and up-to-date; (ii) the Client maintains back-ups of the Information provided and (iii) the persons having access to the Member Portal have received proper instructions with respect to its functioning;
- n) acknowledge and agree that Borsa Italiana will use the data and the information provided by the Client in relation to the orders in the Markets as required by the Rules to the extent of: (i) ensuring compliance with the provisions of the Delegated Regulation (EU) no. 2017/580 and the Delegated Regulation (EU) no. 2017/590; (ii) ensuring compliance with the Rules; (iii) performing the obligations of the present Contract and (iv) carrying out research and analysis for internal purposes;
- o) ensure to have been authorized to transfer the data and the information indicated under lett. n) above to Borsa Italiana and comply at all time to the relevant Data Protection Laws, whether applicable.

## **6. – Obligations of the Client of the Non-Executing Broker Service**

### **6.1** Notwithstanding the provisions of the General Conditions Part I, the Client shall:

- a) in case of performance of the Non Executing Broker Service for the IDEX Segment, communicate to Borsa Italiana according to the Participation Documentation, the functionalities chosen for entering the orders, namely: 1) the functionality which provides the counterparties' explicit acceptance of each order entered by the Non Executing Broker; 2) the functionality which provides the counterparties' preliminary general acceptance of the orders entered on their behalf by the Non-executing Broker; 3) both functionalities under 1) and 2) above, ensuring to use them in compliance with the Annexes
- b) in case of use of a Service Provider, provide Borsa Italiana, at its request, with copies of the contracts complying with what is established in the Rules;
- c) ensure, in case of use of a Service Provider or, in case of installation of the network, software and hardware infrastructure inherent in the Non-Executing Broker Service at third parties used by the Client the correct use by such persons of the infrastructure and systems by adopting suitable solutions for the control and the monitoring of their activities
- d) ensure that third persons shall respect the obligations pursuant to the General Conditions and its relevant Annexes;
- e) install and maintain appropriate automatic systems with which to monitor the prices, equivalents, quantities and frequency of orders entered into the Markets;
- f) adopt all the necessary measures to prevent unauthorised use of the infrastructure and systems inherent in the Non-Executing Broker Service and to ensure that transmitted orders have not been generated from unauthorised sources or activities;
- g) co-operate with Borsa Italiana, or with third parties specified by the latter, *inter alia* by allowing their employees or collaborators to have access to its premises in order a) to make all the changes to the equipment (hardware and software) it uses that are strictly required to ensure the regular operation of the Markets; b) to carry out checks, upon adequate advance notice, to verify the level of trading system, the performance of the Non-Executing Broker Service; and c) to test the start-up procedures and verify the functioning of the disaster recovery system for what pertains to Borsa Italiana;

- h) ensure that any application software directly connected to the infrastructure and systems used, whether implemented by the Customer and inherent to the Trading Service or provided by third parties, complies with the Regulations and have passed the compatibility tests required by Borsa Italiana as well as with the subsequent versions thereof issued by Borsa Italiana.
- i) ensure full efficiency of the infrastructure and systems used related to the Trading Service in terms of quick response in the interaction with trading and settlement systems and of resources allocation in relation to the volume of trading;
- j) ensure quickness in restoring operational capability following technical malfunctions, providing for proper levels of infrastructure redundancy;
- k) establish proper procedures which, in the event of technical malfunctions, make it possible to reconstruct, in good time with respect to the settlement deadlines, the status of transactions carried out on the Markets;
- l) establish a proper mechanism for inhibiting access to Markets for automatic order-generating systems;
- m) with respect to the use of the Member Portal, and in addition to the Obligations of the Client set forth in the General Condition Part I, ensure that: (i) the Informations provided are accurate, complete and up-to-date; (ii) the Client maintains back-ups of the Information provided; and (iii) the persons having access to the Member Portal have received proper instructions with respect to its functioning;
- n) acknowledge and agree that Borsa Italiana will use the data and the information provided by the Client in relation to the orders in the Markets as required by the Rules to the extent of: (i) ensuring compliance with the provisions of the Delegated Regulation (EU) no. 2017/580 and the Delegated Regulation (EU) no. 2017/590; (ii) ensuring compliance with the Rules; (iii) performing the obligations of the present Contract; (iv) carrying out research and analysis for internal purposes;
- o) ensure to have been authorized to transfer the data and the information indicated under lett. n) above to Borsa Italiana and comply at all time to the relevant Data Protection Laws, whether applicable.



## **7. – Obligations of the Client of the REMIT Reporting Service**

**7.1** Notwithstanding the provisions of the General Conditions Part I, the Client shall:

- a) use REMIT Data solely for the purpose of compliance with REMIT Rules. The Client shall guarantee Borsa Italiana that it or third parties will not use REMIT Data for purposes other than the compliance to REMIT Rules and that neither the Client nor third parties will copy, record, reproduce, sell or otherwise exploit in any other way, in whole or in part, such data;
- b) follow REMIT Rules and use the REMIT Service according to such rules;
- c) communicate to Borsa Italiana, following alleged irregularities in the use of REMIT Data or if so requested in the Participation Documentation, the list of terminals, fixed or portable, which may receive or display REMIT Data used internally by the Client and by third parties to which the Client provides REMIT Data;
- d) co-operate with Borsa Italiana, or with third parties specified by the latter, *inter alia* by allowing their employees or collaborators to have access to its premises in order to perform checks, upon adequate advance notice, to verify the use of REMIT Data.

## **8. – Intellectual and/or industrial property rights**

**8.1** The trademarks ATFund, BIT CLUB, BIT EQ MTF, BIT GEM, BIT SYSTEMS, BORSA ITALIANA, BORSA ITALIANA EQUITY MTF, BORSA ITALIANA GLOBAL EQUITY MARKET, BORSA ITALIANA ITALIAN STOCK EXCHANGE, BORSA ITALIANA TRADING ONLINE, BORSA ITALIANA TRADING ONLINE EXPO, BORSA ITALIANA TRADING ONLINE MAGAZINE, BORSA VIRTUALE, BTS, ETFPLUS, ETF-PLUS, ETF PLUS, EUROMOT, EXTRAMOT PRO 3, EXTRAMOT, ExtraMOT, PROlink, EuroTLX, FIB, IDEM, IDEM-THE ITALIAN DERIVATIVES MARKET, IDEX, MIB, MIB 30, MIBTEL, MIDEX, MINIFIB, MIV, MOT, MTA, NIS, NIS TECH, SEDEX, STAR, STAR SEGMENTO TITOLI CON ALTI REQUISITI, TOL, TOL EXPO, TOL MAGAZINE are owned by Borsa Italiana. The above trademarks and any other trademark owned by Borsa Italiana cannot be used without the prior written consent by Borsa Italiana for each single use.

**8.2** Any other trademark owned by companies belonging to the Group cannot be used without the prior written consent of such companies.

**8.3** The Services, the Member Portal and the layouts as well as the contents of the websites [www.borsaitaliana.it](http://www.borsaitaliana.it), [www.memberportal.it](http://www.memberportal.it) and of the Services, including, but not limited to, all

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