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**EUROPEAN CENTRAL COUNTERPARTY N.V.  
CLEARING RULE BOOK**

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# EuroCCP

## 1 Definitions

1.1 The following capitalised terms shall, unless specifically defined otherwise, have the respective meanings set out below:

“**Account**” means a Position Account or a Collateral Account;

“**Account Structure**” means all Accounts registered in the Clearing System in the name of one Clearing Participant;

“**Aggregate Margin**” means the aggregate of all Margin amounts for all Position Accounts of a Clearing Participant;

“**Applicant**” means a legal entity that wishes to be recognised as a Clearing Participant;

“**Auction Portfolio**” has the meaning as set out in article 8.12.2;

“**Breach**” has the meaning as set out in article 10.1;

“**Capital**” means the shareholders’ equity determined in the most recent audited annual account prepared in accordance with the accounting principles of the Clearing Participant;

“**Cash Call 1**” has the meaning as set out in article 8.6.4;

“**Cash Call 2**” has the meaning as set out in article 8.6.5;

“**CET**” means Central European Time or Central European Summer Time, when applicable;

“**Clearing Agreement**” means the agreement referred to in article 5.2.1 which is to be entered into between a General Clearing Participant and a Trading Participant;

“**Clearing Day**” means any day as set out in the Regulation Clearing Days published by EuroCCP at least annually;

“**Clearing Fund**” means the clearing fund set up pursuant to article 8;

“**Clearing Hours**” means such hours as set out in the Regulation Clearing Hours by EuroCCP from time to time;

“**Clearing Participant**” means either a General Clearing Participant or a Direct Clearing Participant, recognised as such by EuroCCP under the conditions set out in article 4;

“**Clearing Participant Agreement**” means the written agreement entered into between EuroCCP and a Clearing Participant pursuant to article 4.1.1;

“**Clearing Rule Book**” means this document as may be amended from time to time;

“**Clearing Rules**” means the rules set out in this Clearing Rule Book, including all Regulations hereto, as may be amended from time to time;

“**Clearing Services**” means any and all of the services provided by EuroCCP pursuant to article 3;

“**Clearing System**” means the system operated by EuroCCP and designated as mentioned in article 3.9.1;

“**Client**” means any Person which has opened accounts with respect to the trading of Securities in the books of a Clearing Participant, other than a Trading Participant;

“**Collateral**” means cash or such approved Financial Instruments as set out in the Regulation Collateral deposited in a Collateral Account or transferred to EuroCCP by way of a title transfer financial collateral arrangement (*financiële zekerheidsovereenkomst tot overdracht*) in accordance with the Regulation Collateral;

“**Collateral Account**” means a House Collateral Account, an Omnibus Client Collateral Account, or an Individual Client Collateral Account opened by a Credit Institution, CSD and/or central bank which is approved by EuroCCP, or by EuroCCP, in the name of the Clearing Participant in order to hold Collateral provided by the Clearing Participant by way of depositing approved Financial Instruments and/or cash to cover the Margin for the corresponding Position Account;

“**Collateral Directive**” means Directive 2002/47/EC of 6 June 2002 on financial collateral arrangements;

“**Competent Authority**” means any body by which the Clearing Participant, a Co-operating Clearing House or EuroCCP is supervised pursuant to any law, regulation or agreement;

“**Completed Posting**” means the receipt of an Electronic Message containing the details of a Posting by EuroCCP. The Electronic Message is deemed not to be received by EuroCCP if that Electronic Message is Corrupt;

“**Contribution**” has the meaning as set out in article 8.2.1;

“**Cooling off period**” has the meaning as set out in 8.7.1;

“**Co-operating Clearing House**” means a Person which entered into a Link Agreement with EuroCCP with approval from the Competent Authority of EuroCCP;

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“**Correction**” means the modification by an Exchange or, in accordance with a Link Agreement by a Co-operating Clearing House or another Person, in each case of a Posted Trade, including the cancellation of a Trade;

“**Corrupt**” means that an Electronic Message does not meet the technical requirements in order for EuroCCP to process such Electronic Message;

“**Credit Institution**” means any credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms;

“**CSD**” means any central securities depository or securities settlement system designated as such by EuroCCP in the Regulation Settlement;

“**Deposit**” has the meaning as set out in article 7.2.1;

“**Direct Clearing Participant**” means a Clearing Participant authorised to clear Trades which have been dealt for its own account or have been concluded for the account of its Clients;

“**Dutch Civil Code**” means *Burgerlijk Wetboek*;

“**DVP**” or “**Delivery versus Payment**” means the settlement of a Trade Leg by way of simultaneous delivery of Securities and payment of cash or by way of simultaneous receipt of Securities and payment of cash (RVP or Receipt versus Payment), as the case may be;

“**Electronic Message**” means a message sent by fax, email, FIX message or a SWIFT message or by any other electronic means as set out in the Regulation Trade Refusal;

“**Equal Bid**” has the meaning as set out in article 8.12.7;

“**EuroCCP**” means European Central Counterparty N.V.;

“**Exchange**” means any regulated market, multilateral trading facility or other trading venue within the meaning of the MiFID or a Platform, for which EuroCCP provides the clearing and settlement of Trades;

“**Fail**” means any Open Position that has not given rise to a full cash payment or full delivery of Securities during the last settlement windows of the Settlement Date;

“**Fee**” means such fee as referred to in article 2.2.1;

“**Financial Instrument**” has the meaning ascribed to it in the Collateral Directive;

“**Force Majeure**” means any extraordinary event or events independent of either of the parties’ will that cannot be foreseen or avoided by them, being beyond their control which prevents the Parties from complying with their obligations undertaken in the Clearing Rules or in the Clearing Participant Agreement such as hurricanes, earthquakes, international conflicts, strokes of lightning and war or any other event referred to by article 6:75 Dutch Civil Code;

“**GDPR**” means Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);

“**General Clearing Participant**” means a Clearing Participant authorised to clear Trades which have been dealt for its own account or have been concluded for the account of Clients or for Trading Participants;

“**Gross Trade**” means Trades which are Posted to EuroCCP;

“**Home State**” means the Member State in which a Person has its registered office, if any, or its head office;

“**House Collateral Account**” means the Collateral Account holding Collateral to cover the Margin for the House Position Account;

“**House Position Account**” means the Position Account opened by EuroCCP for registration of Trade Legs Posted for the account of that Clearing Participant;

“**Individual Client Collateral Account**” means the Collateral Account holding Collateral to cover the Margin for the Individual Client Position Account and on which collateral for that individual client will be posted;

“**Individual Client Position Account**” means the Position Account opened by EuroCCP for registration of Trade Legs Posted for the account of that individual Client;

“**Interoperability Fund**” means the interoperability fund set up pursuant to article 7;

“**Investment Firm**” means an investment firm as defined in point (1) of article 4 (1) of MiFID;

“**Investment Losses**” has the meaning as set out in 9.1.1;

“**Investment Losses Cash Call**” has the meaning as set out in 9.1.4;

“**Invited Bidder**” has the meaning as set out in article 8.12.2;

“**Link Agreement**” means any agreement between EuroCCP and a Co-operating Clearing House relating to an interoperable central counterparty structure between them;

“**Liquidation Amount**” means the liquidation amount as described in article 10.4.2(d);

“**Liquidation Date**” means the liquidation date as described in article 9.4.2;

“**Margin**” means the amount calculated by EuroCCP, as specified in the Regulation Margin, to cover the liquidation risk resulting from a Clearing Participant’s Open Positions;

“**MiFID**” means Directive 2014/65/EU of 15 May 2014 on markets in financial instruments;

“**Minimum Deposit Value**” has the meaning as set out in article 7.2.2;

“**Member State**” means any of the member states of the European Economic Area;

“**Notice of Default**” means a notice of default as referred to in article 9.3.1;

“**Omnibus Client Collateral Account**” means the Collateral Account holding Collateral to cover the Margin for the Omnibus Client Position Account;

“**Omnibus Client Position Account**” means the Position Account opened by EuroCCP for registration of Trade Legs Posted for the account of joint clients of that Clearing Participant;

“**Open Position**” means the net aggregated balance of the Trade Legs of a Clearing Participant, per ISIN code, per Position Account, per CSD account, per currency and per Settlement Date;

“**Person**” means any individual, legal entity, corporation, partnership, association or entity as the context admits or requires;

“**Platform**” means any system that facilitates or provides execution or matching of Trades, which system is not a regulated market, multilateral trading facility or other trading venue within the meaning of the MiFID;

“**Posting**” means the process whereby an Exchange submits an Electronic Message containing all information of a Trade to EuroCCP or whereby a Clearing Participant submits all information of a Trade to EuroCCP in a manner agreed with EuroCCP. And “**Post**” and “**Posted**” will have corresponding meanings;

“**Position Account**” means a House Position Account, an Omnibus Client Position Account or an Individual Client Position Account opened by EuroCCP in the name of the Clearing Participant within the Account Structure for registration of Trade Legs Posted for the account of the Clearing Participant, joint clients of that Clearing Participant, or the individual client;

“**Recovery Liquidity Cash Call**” has the meaning as set out in 8.11.1;

“**Recovery Plan**” means the plan that has been developed by EuroCCP pursuant to the *Principals for Financial Markets Infrastructures* (as published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions) on how to recover from threats to its viability and financial strength;

“**Regulation**” means any document issued as such by EuroCCP, as amended from time to time, whereby the provisions of this Clearing Rule Book are interpreted, implemented or executed and which binds the Clearing Participants generally or any category of Clearing Participants in particular. A list of the current Regulations is set out in Appendix 1;

~~“**Risk Neutralising Instructions**” means new delivery or payment instructions (**New Instructions**) in respect of some or all Open Positions as identified by EuroCCP, that are equal but opposite to the delivery or payment instructions already submitted (**Original Instructions**) whereas at the same time new delivery or payment instructions are submitted in respect of those Open Positions which are identical to the Original Instructions save for the Settlement Date which shall be five Clearing Days following the Settlement Date of the Original Instructions or such other date as specified by EuroCCP. In this definition *equal but opposite* means that all information of a Trade submitted for a Posting is equal except that the “buy” and the “sell” indicators are reversed.~~ “**RLCC Securities**” has the meaning as set out in 8.11.3;

“**RTS 152/2013**” means Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 with regard to regulatory technical standards on capital requirements for central counterparties;

“**Security**” means any Financial Instrument which is traded on or off an Exchange and which is eligible for clearing as set out in the Regulation Securities;

“**Settlement Address**” means an account or sub-account in a CSD and/or an account in a central bank/Credit Institution, as the case may be, notified by the Clearing Participant to EuroCCP as the account in which settlement will take place. This can be the own account of the Clearing Participant, the account of the settlement agent of the Clearing Participant or the account of the settlement agent designated by a Trading Participant as the case may be;

“**Settlement Date**” means the date on which a DVP is intended to take place, as set out in the Regulation Settlement;

“**Settlement Finality Directive**” means Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems;

“**Statement of Authority**” means a statement of a Clearing Participant to EuroCCP that it authorises a specified Trading Participant to conclude Trades in the name of the Clearing Participant, in the form as set out in the Regulation Statement of Authority;



**“Trade Date”** means the day on which a Clearing Participant executes a Trade;

**“Trade for Novation”** means a Trade in respect of which one party is a Clearing Participant and the other is also a Clearing Participant or a clearing member or clearing participant (however described) of a Co-operating Clearing House that clears that Trade using novation;

**“Trade for Open Offer”** means a Trade in respect of which one party is a Clearing Participant and the other is also a Clearing Participant or is a clearing member or clearing participant (however described) of a Co-operating Clearing House that clears that Trade using open offer;

**“Trade Leg”** means

- (a) in respect of a Clearing Participant and a Trade for Novation, the contract between EuroCCP and the Clearing Participant which is created pursuant to article 3.11 on the same terms (except parties and the Trade Leg being subject to the provisions of the Clearing Rules) as the Trade;
- (b) in respect of a Clearing Participant and a Trade for Open Offer, the contract between EuroCCP and the Clearing Participant which is created pursuant to article 3.12 on the same terms (except the Trade Leg being subject to the provisions of the Clearing Rules) as the Trade; and
- (c) in respect of a Co-operating Clearing House and a Trade, the contract between EuroCCP and the Co-operating Clearing House which is created pursuant to the relevant Link Agreement on the same terms (except parties and the Trade Leg being subject to the provisions of the Link Agreement) as the Trade.

**“Trade(s)”** means (i) the matching in the systems of the Exchange, or by two Clearing Participants, or by a Clearing Participant and a clearing member or clearing participant (however described) of a Cooperating Clearing House of one or more orders to buy Securities and one or more orders to sell Securities which orders are matched in accordance with the Trading Rules or (ii) the purchase or sale of Securities, whether on or off an Exchange;

**“Trading Participant”** means any Person which has been and is admitted by an Exchange as a participant of that Exchange as a broker and/or dealer;

**“Trading Rules”** means the rules set out by an Exchange for trading on that Exchange;

**“UK Time”** means Greenwich Mean Time or British Summer Time, when applicable; and

**“VAT”** means any applicable value added tax imposed by a government or taxing authority.

## 2 General Provisions

### 2.1 General

- 2.1.1 References to a law or directive include any (i) amendment or modification thereto, and any rules or regulations issued thereunder, (ii) replacement (with or without modification) or extension thereof, (iii) any re-enactment and (iv) restatement or consolidation of or any subordinate legislation or regulation made under such law.
- 2.1.2 References to articles are to articles of this Clearing Rule Book, unless indicated otherwise.
- 2.1.3 Titles or article headings are for ease of reference only.
- 2.1.4 Words and expressions defined or used herein imparting the singular shall where the context permits or requires, include the plural and vice versa.
- 2.1.5 Capitalised terms used in this Clearing Rule Book and not defined in Regulations or in other communications of EuroCCP shall have the meaning as set out in this Clearing Rule Book.
- 2.1.6 References to the use of Collateral and Contribution also include the enforcement of Collateral and Contribution.

### 2.2 Fees

- 2.2.1 Clearing Participants shall pay to EuroCCP Fees as set out in the Regulation Fees and Penalties.
- 2.2.2 The Fees (including applicable VAT) incurred by a Clearing Participant in a calendar month will be invoiced on or before the day as set out in the Regulation Fees and Penalties of the following calendar month by EuroCCP in Euros or any other currency as approved by EuroCCP and will be direct debited on the due date.
- 2.2.3 If the Clearing Participant does not pay the amounts due or if the designated account cannot be debited for the amounts due within the time stipulated in the Regulation Fees and Penalties, the Clearing Participant will pay a penalty as set out in the Regulation Fees and Penalties.
- 2.2.4 EuroCCP may use the Collateral, the Contribution and the Deposit provided in cash of the Clearing Participant to satisfy any Fees as they become payable.

### 2.3 Currency

EuroCCP shall determine in the Regulation Securities the currency in which Securities are cleared.

### 2.4 Local time

Where reference is made in the Clearing Rules to a time or deadline, it shall be understood to mean CET unless indicated otherwise.

## 3 Legal Framework

### 3.1 Governing law

The Clearing Rules shall be governed by the laws of the Netherlands.

### 3.2 Complaints

If a Clearing Participant has a complaint about EuroCCP in the performance under the Clearing Rules, the Clearing Participant may submit a written complaint to EuroCCP. EuroCCP will inform the Clearing Participant that it received the complaint upon receipt. EuroCCP will handle the complaint in accordance with its complaints procedure as set out in the Regulation Complaints.

### 3.3 Settlement of disputes

Any dispute between EuroCCP and a Clearing Participant that may arise under the Clearing Rules shall be settled in accordance with the Clearing Participant Agreement.

### 3.4 Scope of EuroCCP activities

3.4.1 Trades will be cleared by EuroCCP and Open Positions will be settled on DVP-basis in accordance with the Clearing Rules.

3.4.2 EuroCCP can refuse to clear Trades on grounds as set out in the Regulation Trade Refusal.

### 3.5 Rights of EuroCCP

3.5.1 In the interests of the proper functioning of the Clearing System, EuroCCP may take any measure it reasonably deems necessary in relation to the organisation and the operation of the Clearing System, whether or not these measures are set out in the Clearing Rules.

3.5.2 Without prejudice to the generality of the foregoing, EuroCCP may suspend the settlement of Open Positions ~~and/or submit Risk Neutralising Instructions to the relevant Settlement Addresses in which case each Clearing Participant shall submit or arrange that corresponding Risk Neutralising Instructions are submitted to the relevant Settlement Addresses at the latest during the last settlement window of the Settlement Date in each case~~ where EuroCCP deems it reasonably necessary in relation to the organisation and the operation of the Clearing System.

### 3.6 Decisions of EuroCCP

3.6.1 This Clearing Rule Book sets out the principles and general conditions governing the organisation and operation of the clearing activities of EuroCCP.

- 3.6.2 The Clearing Rule Book shall be implemented and interpreted through Regulations, issued and published by EuroCCP. In the event of any conflict between the provisions of the Clearing Rule Book and the Regulations, the provisions in the Clearing Rule Book will prevail.
- 3.6.3 The Clearing Rules may be modified from time to time by EuroCCP. Each Regulation states the procedure to be followed by EuroCCP for its changes. If any material modification of the Clearing Rules, (other than a modification required by EU or relevant national law), adversely affects the rights or obligations of the Clearing Participants generally or of any category of Clearing Participants, then any Clearing Participant so affected may terminate its relationship effective immediately by written notice given to EuroCCP, provided that such notice is given within one (1) month from the date of publication of the relevant modification.
- 3.6.4 EuroCCP will give thirty (30) Clearing Days prior written notice to the Clearing Participants if it intends to undertake other services than the Clearing Services.

## **3.7 Changes in the Clearing Rule Book**

- 3.7.1 EuroCCP may from time to time amend the Clearing Rule Book.
- 3.7.2 A change in the Clearing Rule Book may include such transitional provisions as EuroCCP considers appropriate.
- 3.7.3 Subject to article 3.7.6, Clearing Participants will receive notice of each proposed change at least thirty (30) calendar days prior to the date of entry into force.
- 3.7.4 EuroCCP shall notify each proposed change providing explanation regarding its intended purpose and effect.
- 3.7.5 Subject to article 3.7.6 Clearing Participants shall be invited to contribute to a consultation to a proposed change and may make their opinions known to EuroCCP on the change. EuroCCP shall give due consideration to such opinions before adopting the change. EuroCCP shall notify the Clearing Participants of any material amendment to the proposed change which EuroCCP makes in respect of such comments.
- 3.7.6 EuroCCP is not under the obligation to consult the Clearing Participants as set out in article 3.7.5 and/or to notify the Clearing Participants within the timeframe as set out in 3.7.3 when the change is needed because of changes in laws, regulations or other regulatory requirements or as a matter of urgency to protect the interest of the Clearing System, EuroCCP or the Clearing Participants. However EuroCCP shall make best efforts to notify or consult the Clearing Participants to the extent permitted by the circumstances.

## 3.8 Publication

- 3.8.1 EuroCCP shall publish the Clearing Rule Book, Regulations and other decisions of general application to its Clearing Participants or to the relevant category of Clearing Participants by publishing them on its website or by issuing individual notifications as appropriate. EuroCCP will notify the Clearing Participant of any publication by email.
- 3.8.2 Except in cases of emergency, such publications shall become effective and binding on all Clearing Participants or to the relevant category of Clearing Participants on the Clearing Day following the day of publication or at a later date as specified in such publication.
- 3.8.3 EuroCCP will notify the Clearing Participants whenever a new Link Agreement has been agreed in accordance with article 3.8.1. A copy of each Link Agreement will be available on request.

## 3.9 Settlement Finality

- 3.9.1 The Clearing System operated by EuroCCP and EuroCCP as operator, have been designated by the Dutch Minister of Finance pursuant to the Settlement Finality Directive. If the designation of EuroCCP as a system (operator) pursuant to the Settlement Finality Directive is withdrawn, EuroCCP will inform the Clearing Participants as soon as reasonably possible.
- 3.9.2 Any Completed Posting qualifies as an entry into a settlement finality system and is irrevocable in the sense of article 212b of the Bankruptcy Law (*Faillissementswet*) provided the requirements of article 3.10.3 are fulfilled.

## 3.10 General obligations of EuroCCP

- 3.10.1 In accordance with this Clearing Rule Book, EuroCCP shall enter into Trade Legs with Clearing Participants, supervise the Open Positions of its Clearing Participants, calculate the associated risk, call Margins and Collateral to cover this risk, ensure the proper settlement of Open Positions as central counterparty, manage the default procedures, and perform all other functions specified by the Clearing Rules.
- 3.10.2 EuroCCP acts as a multilateral clearing facility for the clearing and settlement of Trades.
- 3.10.3 Application of article 3.11 in relation to a Trade for Novation and of article 3.12 in relation to a Trade for Open Offer is conditional on the requirements:
- (a) that no measure has been taken under article 3.5.1;
  - (b) that Completed Posting occurs on the day of conclusion of such Trade; and
  - (c) that there is no ground for refusal under Regulation Trade Refusal.

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3.10.4 Notwithstanding article 3.10.3 (b), EuroCCP can novate or accept a Trade under open offer as provided in articles 3.11 and 3.12, respectively, if a Completed Posting occurs on the Clearing Day immediately following Trade Date provided no Breach as referred to in article 9.1 (j) through (o) in respect of the relevant Clearing Participant has occurred.

## **3.11 Central Counterparty- Novation**

3.11.1 This article 3.11 applies to Trades for Novation.

3.11.2 Subject to article 3.10.3;

(a) from the conclusion of a Trade on an Exchange, EuroCCP guarantees that such Trade will be novated by EuroCCP; and

(b) pursuant to a Completed Posting a Trade will be novated by EuroCCP as a Trade Leg in the name of the selling Clearing Participant and a Trade Leg in the name of the buying Clearing Participant. As a result of novation, EuroCCP becomes the counterparty to the relevant Clearing Participant and therefore both become subject to the rights and obligations arising from the Trade Leg registered in the name of each Clearing Participant.

3.11.3 The Clearing Participant accepts that novation will occur upon registration by EuroCCP of a Trade as two Trade Legs, based on the information contained in the Posting of a Trade.

3.11.4 Novation takes place per Gross Trade.

## **3.12 Central Counterparty - Open Offer**

3.12.1 This article 3.12 applies to Trades for Open Offer.

3.12.2 Subject to article 3.10.3:

(a) EuroCCP makes an offer to each Clearing Participant to enter into a Trade Leg with that Clearing Participant; and

(b) that offer is accepted by a Clearing Participant in respect of a Trade when that Trade is concluded on an Exchange, whereupon a Trade Leg will arise between EuroCCP and that Clearing Participant as a selling or buying Clearing Participant. As a result, EuroCCP becomes the counterparty to the relevant Clearing Participant and therefore both become subject to the rights and obligations under the Trade Leg registered in the name of the Clearing Participant.

3.12.3 The Clearing Participant accepts that a Trade Leg will arise based on the information contained in the Posting of a Trade.

3.12.4 Creation of a Trade Leg takes place per Gross Trade.

### **3.13 Central Counterparty - Further provisions**

3.13.1 EuroCCP aggregates and nets Trade Legs with respect to payment of cash and/or delivery of Securities, into Open Positions on a real-time basis.

3.13.2 EuroCCP will provide an overview to the Clearing Participant of all its Open Positions at the end of each Clearing Day.

3.13.3 Each Clearing Participant shall arrange in respect of its Open Positions, or the open positions as booked in any sub-account, if applicable, that the requisite delivery or payment instructions to the relevant Settlement Addresses are submitted at the latest during the last settlement window of the Settlement Date. Each Clearing Participant will ensure that the requisite funds and the requisite Securities will be available for settlement at the latest during the last settlement window of the Settlement Date. The Regulation Settlement will give details of the timeframe in which such delivery and payment instructions are to be sent to the relevant Settlement Addresses and the conditions for Settlement (including partial Settlement). The Regulation Fees and Penalties will give details of the penalties imposed on a Clearing Participant if it fails to act in accordance with the Regulation Settlement. EuroCCP will not be liable to the Clearing Participant if any payment or delivery instruction is not made in accordance with the Regulation Settlement and it shall be discharged of its obligations towards a Clearing Participant once the payment and the settlement have occurred. The payment of funds and delivery of Securities are linked so as to settle DVP.

3.13.4 EuroCCP may require the Clearing Participant to grant a power of attorney to EuroCCP for payment or delivery instructions. Upon such request by EuroCCP the Clearing Participant shall arrange for EuroCCP to be authorised to provide the requisite delivery or payment instructions on behalf of the Clearing Participant to a CSD, the settlement agent of the Clearing Participant or the settlement agent of a Trading Participant, as the case may be, in accordance with the Regulation Settlement.

### **3.14 Scope of EuroCCP's obligations**

3.14.1 Upon registration, and as a consequence of article 3.11 and 3.12 and subject to the other provisions of this Clearing Rule Book, EuroCCP undertakes to fulfil its obligations to deliver or to pay each Clearing Participant on the basis of Open Positions, or the open positions as booked in any sub-account, if applicable, registered in the name of the Clearing Participant. The fulfilment by EuroCCP of its obligations towards a certain Clearing Participant is conditional upon the timely performance by such Clearing Participant of its own obligations. EuroCCP may, but is under no obligation to, start the buy-in procedure as set out in the Regulation Buy-in Procedure, if a Clearing Participant does not deliver Securities on time to the relevant Settlement Address. In the event no buy-in procedure is started and in the event a Clearing Participant fails to provide funds

on time to the relevant Settlement Address, the provisions of the Regulation Fees and Penalties shall apply.

- 3.14.2 If EuroCCP is unable to deliver certain Securities as a result of any Fail or due to market conditions, EuroCCP may partially settle any delivery obligation in accordance with the Regulation Settlement, and/or may settle such delivery obligation or remaining part thereof in cash, in accordance with the provisions of the Regulation Buy-in Procedure. In the event of a Fail, article 11.4 applies.
- 3.14.3 Where a corporate action makes the delivery of the Securities that were the object of a Trade impossible, EuroCCP may deliver other Securities or cash payment in substitution under the conditions specified in the Regulation Corporate Actions.
- 3.14.4 Cash settlement as provided for under 3.14.2 or 8.12.9 shall take place in the currency as specified by EuroCCP.
- 3.14.5 The obligation of EuroCCP as provided for in article 3.10.1 covers the payment of cash and the delivery of the Securities. The circumstances in which EuroCCP may perform its delivery or payment obligation at a later time than the time originally specified for the relevant Open Positions are set out in the Regulation Settlement.

## **4 Participation**

### **4.1 Clearing Participant Status**

- 4.1.1 A Clearing Participant is a legal entity recognised as such by EuroCCP and authorised, subject to the Clearing Rules, to authorise the relevant Exchange(s) to Post Trades, pursuant to a Clearing Participant Agreement between EuroCCP and itself.
- 4.1.2 The following entities are eligible to become a Clearing Participant, provided the required internal approval is obtained, in each case:
- (a) Credit Institutions and banks established in a jurisdiction that is a direct or indirect member of the Financial Action Task Force (FATF);
  - (b) Investment Firms established in a jurisdiction that is a direct or indirect member of the FATF;
  - (c) legal entities established in a jurisdiction that is a direct or indirect member of the FATF whose members or shareholders have unlimited joint and several liability for their debts and obligations, provided that such members or shareholders are institutions or firms mentioned under (a) and/or (b) above; and
  - (d) legal entities in a jurisdiction that is a member of the FATF and whose principal or sole object is the clearing of financial instruments.



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4.1.3 A Clearing Participant can operate as a:

- (a) Direct Clearing Participant; or
- (b) General Clearing Participant.

## 4.2 Application Procedure

4.2.1 The items to be included in the recognition application are specified in the 'clearing participant information and application form' as disclosed on EuroCCP's website.

4.2.2 Any Applicant wishing to be recognised as a Clearing Participant by EuroCCP shall satisfy the following conditions:

- (a) be validly incorporated;
- (b) accept the Clearing Rules by executing the Clearing Participant Agreement;
- (c) meet the financial requirements as determined by EuroCCP from time to time and specified in article 5.3, and also meet any further requirements as to liquidity and/or solvency as may be set by EuroCCP;
- (d) provide a list with the persons competent to take decisions;
- (e) submit details of the relevant Settlement Addresses;
- (f) where it is incorporated outside the EEA, satisfy EuroCCP, by providing a legal opinion from a local counsel, that its domestic law system will not inhibit the ability of EuroCCP to act effectively under these Clearing Rules. EuroCCP can request the Clearing Participant to update such legal opinion. EuroCCP can request the same legal opinion from any Applicant which is incorporated inside the EEA;
- (g) satisfy the IT requirements as set by EuroCCP (including but not limited to adhering to any IT security protocols and have the requisite controls, systems and procedures to maintain an adequate level of (cyber) security and prevent cyber incidents from impacting their networked counterparts); and
- (h) satisfy such other requirements as may be imposed by EuroCCP generally or for a category of Clearing Participants, as set out in a Regulation.

4.2.3 EuroCCP shall examine the information in the recognition application and inform the Applicant of its recognition decision in writing within one (1) month following the date of receipt of all documents to be included in the application. Should the information contained in the application be incomplete or unsatisfactory, EuroCCP may request additional information from the Applicant.

The period within which the applicant must be informed of the decision of EuroCCP shall run from the receipt of the complete recognition application, including any additional information required by EuroCCP.

- 4.2.4 If an application is approved, EuroCCP may impose conditions or limitations on the exercise of certain rights under these Clearing Rules provided that such conditions or limitations are imposed without discrimination.
- 4.2.5 Whilst the application is pending, the Applicant must notify EuroCCP in advance in writing of every change in the data supplied with the application and of the facts and circumstances concerning the Applicant which may be of importance in the context of the application or of the ability of the Applicant to perform its obligations under the Clearing Rules and the orderly conduct of its activities as a Clearing Participant.
- 4.2.6 EuroCCP may refuse recognition if it considers that such recognition may adversely affect the operation of the Clearing System, or when the applicant does not comply with its obligations resulting from its recognition to another clearing house or central securities depository. Such a refusal of recognition will be justified in writing to the applicant and shall be based on a comprehensive risk analysis.
- 4.2.7 If the Applicant has been recognised as a Clearing Participant, before commencing operations it shall:
- (a) return the signed Clearing Participant Agreement signifying its acceptance of the Clearing Rules as a contracting party;
  - (b) pay to EuroCCP its admission fee; and
  - (c) pay its Contribution as set out in article 8.2 to the Clearing Fund.
- 4.2.8 A Clearing Participant must commence operations within six (6) months of its recognition, unless EuroCCP grants an extension. Failing this, the recognition decision shall be automatically revoked and any new recognition will require compliance with the provisions of this article.
- 4.2.9 A Clearing Participant may request EuroCCP in writing to designate the Clearing Participant as inactive. EuroCCP may comply with such request in writing provided that no Open Positions and no Statements of Authority are outstanding. Such designation by EuroCCP of the Clearing Participant as inactive only suspends (i) the obligation to make a Contribution as set out in article 8.2.1, (ii) the obligation to make a Deposit as set out in article 7.2.1 and (iii) the access requirement as set out in article 5.5.6.

- 4.2.10 A Clearing Participant may request EuroCCP in writing to terminate the designation of the Clearing Participant as inactive. EuroCCP shall comply as soon as reasonably possible with such request in writing provided that the Clearing Participant complies with the Clearing Rules.

## 5 Specific requirements

### 5.1 Clearing Participant as principal

- 5.1.1 The Clearing Participant shall be a principal to, and not an agent in respect of, any Trade Leg registered in his name by EuroCCP. In performing its obligations and exercising its rights under the Clearing Rules, EuroCCP shall take no account of any right or interest which any person other than the Clearing Participant may have in any Collateral furnished by such Clearing Participant to EuroCCP, save for arrangements as foreseen in the Regulation Segregation and Portability.
- 5.1.2 Except with regard to the collateral deposit form and the collateral withdrawal form as attached to the Regulation Collateral and the Statement of Authority, a Clearing Participant cannot refuse to acknowledge the acts or omissions of any person acting on its behalf on the basis that such person was not duly authorised.

### 5.2 Relationship with Trading Participants

- 5.2.1 A General Clearing Participant which clears Trades for one or more Trading Participants must have concluded an agreement (the **Clearing Agreement**) with each such Trading Participant. The Clearing Participant will send to EuroCCP one or more Statements of Authority with regard to each Trading Participant with which it has concluded a Clearing Agreement, after which EuroCCP will admit the Trading Participant. EuroCCP will confirm the admittance of the Trading Participant to the Clearing Participant.
- 5.2.2 As soon as the Clearing Participant suspends or terminates any Statement of Authority the Clearing Participant will give notice to that effect to EuroCCP and the relevant Exchange(s), if any, immediately. If there is a Statement of Authority for Trades concluded off an Exchange, EuroCCP will confirm to the Clearing Participant that the Statement of Authority is suspended or terminated, as the case may be, and subsequently will refuse to clear and settle any Trades entered into by that Trading Participant. If there is a Statement of Authority for Trades concluded on an Exchange, upon receipt by EuroCCP of a notification from the relevant Exchange(s) that it has taken appropriate measures in its systems to procure that such Trading Participant can no longer conclude Trades on the relevant Exchange(s) in the name of the Clearing Participant, EuroCCP will confirm to the Clearing Participant that the Statement of Authority is suspended or terminated, as the case may be, and subsequently will refuse to clear and settle any Trades entered into by that Trading Participant. Until the time of each such confirmation, the relevant Statement of Authority will remain in full force and effect as between EuroCCP and the Clearing Participant.

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5.2.3 EuroCCP shall not be liable for any damage arising from the Clearing Agreement, whether incurred by the General Clearing Participant or by a third party.

## 5.3 Financial Requirements

5.3.1 In order to clear Trades, a Direct Clearing Participant must at all times maintain such capital that is the higher of:

- (a) EUR 7,5 million Capital; or
- (b) 20% of 30-day average Aggregate Margin requirement; or
- (c) 20% of 250-day average Aggregate Margin requirement.

5.3.2 In order to clear Trades, a General Clearing Participant must at all times maintain such capital that is the higher of:

- (a) EUR 25 million Capital; or
- (b) 20% of 30-day average Aggregate Margin requirement; or
- (c) 20% of 250-day average Aggregate Margin requirement.

5.3.3 In deviation to articles 5.3.1 and 5.3.2, for Direct Clearing Participants or General Clearing Participants that want to clear Trades that are not concluded on an Exchange the minimum capital requirements as set out 5.3.1 (a) and 5.3.2 (a) will be as indicated in the Regulation Trade Refusal.

5.3.4 In the case of business combinations, the minimum Capital shall be determined by adding the Capital of each Person in such combination which is jointly and severally liable, and subtracting any cross-shareholdings between such Persons. The total Capital must at all times be at least equivalent to the minimum amounts set forth in these Clearing Rules.

5.3.5 A Clearing Participant whose Capital at any point falls below the required amount is obliged to immediately ensure that it is brought back up to the minimum requirement.

## 5.4 Location of offices, on-site inspections and subcontracting

5.4.1 As far as permitted by applicable laws and regulations, EuroCCP may carry out on-site inspections at the offices of the Clearing Participant in order for EuroCCP to determine whether the Clearing Participant is compliant with the Clearing Rules and the Clearing Participant Agreement.

5.4.2 A Clearing Participant may locate the human and technical resources needed to carry on its clearing and back office activities wherever it chooses, provided that such activities are carried

out in a country in which on-site inspections by or on behalf of EuroCCP are practicable and permitted by applicable laws and regulations.

5.4.3 A Clearing Participant may subcontract all or part of its clearing activities, to another Clearing Participant, or to a company in the same group as the Clearing Participant, provided that such arrangements shall not relieve the subcontracting Clearing Participant of any of its obligations under these Clearing Rules.

5.4.4 Prior to the subcontracting, EuroCCP requires a written undertaking by the subcontractor which will include a provision authorising EuroCCP and any Person acting on behalf of EuroCCP to request the same information as may be required from a Clearing Participant pursuant to these Clearing Rules and a provision authorising to perform inspections at the premises in which the clearing activities actually take place.

## **5.5 Other continuing obligations**

5.5.1 Clearing Participants shall at all times during the time it is recognised as such, comply with any additional conditions and limitations imposed upon recognition, with the requirements of article 4.2.2 and with these Clearing Rules.

5.5.2 EuroCCP may request the Clearing Participant for information to a reasonable extent about the criteria and arrangements it adopts to allow its clients to access the services of EuroCCP.

5.5.3 Clearing Participants shall bear the risk of any instructions which are given incorrectly or late to EuroCCP.

5.5.4 EuroCCP may furnish any information provided to it to Competent Authorities.

5.5.5 EuroCCP may furnish any information to a Co-operating Clearing House in such form as agreed under the Link Agreement.

5.5.6 During Clearing Hours and during the two (2) hours immediately after that on every Clearing Day, the Clearing Participant and sufficient persons competent to act on behalf of the Clearing Participant will be accessible to EuroCCP.

5.5.7 Clearing Participants shall, upon reasonable request of EuroCCP, participate in, and make available sufficient staff for, any fire drill or default simulation exercises.

5.5.8 During Clearing Hours and during the two (2) hours immediately after that on every Clearing Day, EuroCCP and sufficient persons competent to act on behalf of EuroCCP will be accessible to the Clearing Participant.

- 5.5.9 A Clearing Participant must notify EuroCCP in advance in writing of every change in the data supplied in its application for recognition and of any facts and circumstances concerning the Clearing Participant which may materially affect the exercise of its duties or the orderly conduct of its activities as a Clearing Participant. Such developments include, but are not limited to:
- (a) those which could or are likely to result in the Clearing Participant no longer being able to comply with its obligations under these Clearing Rules;
  - (b) any significant change in its financial situation, in particular where shareholders' equity has decreased by more than ten per cent (10%) compared with the amounts previously reported or if shareholders' equity falls below the amount specified in article 5.3;
  - (c) any other change which has or could have a significant impact on their financial position, reliability or operations;
  - (d) any change in their legal status or structure, including change of address, office or object under their constitutional documents;
  - (e) changes in the power of control (shareholders) over their business with respect to the appointment and dismissal of their personnel, changes in the composition of their management or executive bodies, in their accounting system or organisation, in the holders of a ten per cent (10%) or more participating interest in their business, in the participating interests they hold or the joint ventures or alliances they have entered into; and
  - (f) any event occurring between the reporting dates set out in article 5.7.1 that would significantly reduce the Clearing Participants' interim balance sheet or shareholders equity.
- 5.5.10 The obligation to notify becomes effective at the time the Clearing Participant anticipates or becomes aware of the events, or, if earlier, at the time at which the Clearing Participant ought reasonably to have anticipated or become so aware.
- 5.5.11 Clearing Participants shall send EuroCCP a copy of all injunctions, formal notifications or sanctions imposed on them by any Competent Authority regarding any event that could be relevant for EuroCCP.

## **5.6 Record keeping and providing data**

- 5.6.1 The Clearing Participant is required to keep such data regarding its clearing activities as is necessary to ensure compliance with the Clearing Rules and the applicable laws and regulations of the jurisdiction of the Competent Authority of the Clearing Participant for such period as required under the applicable laws and regulations. If there is no such period under the applicable laws and regulations, the period to keep the aforementioned data will be five (5) years.

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5.6.2 On first request of EuroCCP the Clearing Participant shall provide EuroCCP, within the time period specified in such request, with data as set out in article 5.6.1.

5.6.3 The Clearing Participant understands that EuroCCP may process personal data in the course of its activities which processing is necessary for compliance with legal obligations to which EuroCCP is subject. When providing personal data to EuroCCP, the Clearing Participant shall ensure that it complies with GDPR or other personal data protection legislation applicable to it.

## 5.7 Financial Information

5.7.1 Clearing Participants must send or provide access to the following information to EuroCCP:

- (a) Annually ultimately two (2) weeks after they become available:
  - (i) audited financial statements – balance sheet, profit and loss account, and notes to the annual financial statements; and
  - (ii) audited consolidated financial statements - balance sheet, profit and loss account, and notes to the financial statements.
  
- (b) At the intervals required by the Competent Authority or by the regulations of the Home State or at other less frequent intervals than under 5.7.1(a) required by EuroCCP:
  - (i) interim balance sheet;
  - (ii) profit and loss account;
  - (iii) documents concerning prudential supervision of market risks, prepared on a consolidated or unconsolidated basis; and
  - (iv) statements concerning core capital (tier 1) and supplementary capital (tier 2) as defined by the said authority or regulations.

## 5.8 Suspension and termination of relationship between Clearing Participant and EuroCCP

5.8.1 Without prejudice to the possible application of the provisions set out in article 9, if EuroCCP is of the opinion that any event could or is likely to result in a situation in which a Clearing Participant no longer satisfies one or more of the requirements set out in article 5, or endangers the proper functioning of the Clearing System, or can no longer comply with its obligations under these Clearing Rules, or is consistently in breach and failure with the Clearing Rules, EuroCCP may:

- (a) suspend its relationship with the Clearing Participant; or
  
- (b) terminate its relationship with the Clearing Participant as stated in the Clearing Participant Agreement; and
  
- (c) refuse registration as Trade Legs; or

(d) submit registration as Trade Legs to specific conditions, or impose additional conditions which EuroCCP deems appropriate in the circumstances and notifies in writing to the Clearing Participant.

- 5.8.2 Before exercising any such power, EuroCCP may, but is not obliged to, enter into consultations with the Clearing Participant, which may result in EuroCCP specifying the latest date and time limit on which the Clearing Participant must have remedied the situation.
- 5.8.3 In any event and at any time, EuroCCP can decide to temporarily suspend the Clearing Participant's activities or terminate its relationship with the Clearing Participant under the conditions set out in the Clearing Participant Agreement. The Clearing Participant shall inform its clients accordingly. Such Clearing Participant is informed in writing of the reasons for termination or suspension. The termination is subject to the period of notice set out in the Clearing Participant Agreement.
- 5.8.4 When a Clearing Participant's relationship with EuroCCP is suspended, EuroCCP shall inform the relevant Exchange(s) immediately, after which the relevant Exchange(s) will not Post any new Trades on behalf of the Clearing Participant and EuroCCP shall refuse the registration of any new Trade Legs in the Clearing Participant's name. However, EuroCCP may decide, in view of the particular circumstances, to only refuse the registration of a new Trade Leg increasing the Clearing Participant's Open Position. The Clearing Participant will continue to be required to provide Collateral and settle Open Positions as they fall due.
- 5.8.5 When a Clearing Participant's relationship with EuroCCP is terminated, EuroCCP shall discontinue registration of any new Trade Legs in the Clearing Participant's name. EuroCCP shall inform the relevant Exchange(s) immediately, after which the relevant Exchange(s) will not Post any new Trades on behalf of the Clearing Participant.
- 5.8.6 Suspension or revocation of the recognition of a Clearing Participant as such shall be promptly notified to the other Clearing Participants. EuroCCP will also promptly notify the Competent Authorities and the relevant Exchange(s).
- 5.8.7 A Clearing Participant shall have the right at all times to terminate its relationship with EuroCCP in accordance with the Clearing Participant Agreement.

## **6 Margin Requirements and Risk Supervision**

### **6.1 Margin**

- 6.1.1 Margin is called each Clearing Day to protect EuroCCP against Clearing Participant default. Margin shall be calculated per Position Account.



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- 6.1.2 Based on the Open Positions of Clearing Participants at any time during the day, EuroCCP shall have the right during the day to re-determine and, if necessary according to EuroCCP, to call Margin from Clearing Participants and to inform them accordingly as set out in the Regulation Margin.
- 6.1.3 EuroCCP shall at all times have the right to impose upon a Clearing Participant an additional Margin as it reasonably deems useful or necessary. This can be done either on an individual basis based on specific information relating to that Clearing Participant or based on the nature of the Securities to which the relevant Open Positions relate.
- 6.1.4 Margin shall be covered by sufficient Collateral. EuroCCP shall publish in the Regulation Margin the principles used to calculate Margin. EuroCCP shall publish in the Regulation Collateral the type of Financial Instruments approved as Collateral to meet Margin calls by EuroCCP and any haircut to be applied to the market value of such Collateral.
- 6.1.5 Once the Margins have been communicated, the Margins become immediately payable without further notice. The Regulation Collateral specifies the maximum time limit putting up Collateral to cover the required amount of Margin.

## 6.2 Collateral

- 6.2.1 A Clearing Participant shall provide sufficient Collateral as security for the performance of the obligations of the Clearing Participant. The minimum amount of Collateral per Position Account is determined by EuroCCP.
- 6.2.2 EuroCCP may determine that Collateral shall consist for at least a percentage set out in the Regulation Collateral, of (i) cash held in a Collateral Account with EuroCCP as set out in the Regulation Cash Collateral Account and/or (ii) specific Financial Instruments transferred to EuroCCP by way of a title transfer collateral arrangement as set out in the Regulation Collateral.
- 6.2.3 EuroCCP may amend the percentage as referred to in article 6.2.2 by giving fifteen (15) Clearing Days prior written notice. EuroCCP will endeavour to give thirty (30) Clearing Days notice if circumstances permit.
- 6.2.4 EuroCCP is allowed to invest the Collateral deposited in cash by the Clearing Participant. If EuroCCP invests the Collateral, EuroCCP will adhere to the investment guidelines as set out in the Regulation EuroCCP Investment Policy.
- 6.2.5 The Clearing Participant shall provide security in accordance with the Regulation Collateral.
- 6.2.6 The Clearing Participant shall at all times be the sole beneficial owner of the Collateral and all Collateral provided by the Clearing Participant shall be free and clear of any liens or other encumbrances.

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6.2.7 Any Collateral required to be provided by a Clearing Participant must be provided not later than the time set by EuroCCP in accordance with the Regulation Collateral.

6.2.8 Where Collateral is due to EuroCCP, EuroCCP reserves the right to exclude certain collateral and may accept other assets on the terms specified by EuroCCP in the Regulation Collateral.

## 6.3 Risk supervision and accounting

6.3.1 EuroCCP may define Open Position limits and limits on risk exposure applicable to Clearing Participants. Such limits can be set out in a Regulation.

6.3.2 When these limits are reached, EuroCCP can increase the Margin requirements in respect of Clearing Participant's Open Positions.

6.3.3 In addition, EuroCCP may order a Clearing Participant to reduce its Open Positions within a time limit stipulated by EuroCCP by written notice.

## 7 Interoperability Fund

### 7.1 Establishment of Interoperability Fund

7.1.1 EuroCCP shall establish and maintain the Interoperability Fund, in order for EuroCCP to be able to meet the margin requirements of any Co-operating Clearing House.

7.1.2 The assets of the Interoperability Fund shall be the property of EuroCCP. EuroCCP shall have the authority to transfer and to grant security over the assets of the Interoperability Fund to one or more Co-operating Clearing Houses. EuroCCP shall also have the authority to grant security over the assets of the Interoperability Fund to the Clearing Participants that have made Deposits to the Interoperability Fund.

### 7.2 Deposits by Clearing Participants

7.2.1 Each Clearing Participant shall transfer to the Interoperability Fund of EuroCCP cash and/or securities to an account of EuroCCP within the timeframes as specified in the Regulation Interoperability Fund. This cash and/or securities will constitute the deposit of the Clearing Participant (the **Deposit**).

7.2.2 The value of the Deposit (as calculated by EuroCCP) shall be at least the minimum amount as calculated in accordance with this article 7 and the Regulation Interoperability Fund (the **Minimum Deposit Value**).

7.2.3 The Minimum Deposit Value of each Clearing Participant shall be calculated as the aggregate amount of the following three amounts:

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- (a) the base amount, as specified in the Regulation Interoperability Fund;
- (b) a percentage per Clearing Participant of the sum of the daily margin calls by all Co-operating Clearing Houses specified in the Regulation Interoperability Fund; and
- (c) a pro-rata percentage of the percentage as calculated under article 7.2.3(b) of the unsettled amount of any Deposit by another Clearing Participant which remains unpaid after the time specified in the Regulation Interoperability Fund.

- 7.2.4 If a Co-operating Clearing House requests EuroCCP intra-day for additional margin, EuroCCP will recalculate the Minimum Deposit Value as set out in articles 7.2.3(b) and 7.2.3(c). If the value of the Deposit of the Clearing Participant is less than the recalculated Minimum Deposit Value, the Clearing Participant shall, upon request of EuroCCP, transfer the necessary additional amount to EuroCCP within the timeframe as specified in the Regulation Interoperability Fund.
- 7.2.5 If the value of the Deposit of the Clearing Participant is more than the Minimum Deposit Value, the Clearing Participant may request EuroCCP to transfer (part of) such surplus to the Clearing Participant.
- 7.2.6 If a Deposit or any part of it is not available to EuroCCP to use as security to meet the margin requirements of any Co-operating Clearing House as a consequence of bankruptcy, insolvency or comparable proceedings of the credit institution or CSD, a Force Majeure or for whatever other reason, EuroCCP will raise the Minimum Deposit Value by the amount which is not available. The Clearing Participant shall deposit the additional Minimum Deposit Value on the account, and within the time period, as notified by fax and/or email by EuroCCP. The risk that the Deposits are not available to EuroCCP or will not be recovered is the risk of the Clearing Participant. EuroCCP shall use its reasonable efforts to recover any cash and/or securities from the credit institution or CSD. Transfer or assignment by EuroCCP of its claim on the credit institution or CSD to the Clearing Participant will be deemed to be a reasonable effort. If EuroCCP recovers any cash and/or securities, it will return such cash and/or securities to the Clearing Participants on a pro rata basis of the Deposits made by the Clearing Participants in the account of EuroCCP relating to the Interoperability Fund with that credit institution or CSD.
- 7.2.7 The base amount as mentioned in article 7.2.3(a) can be different for a Direct Clearing Participant and a General Clearing Participant.
- 7.2.8 At the end of each calendar year and additionally at any time if the circumstances on the relevant markets or regulatory requirements so require, EuroCCP will review the numbers, amounts and percentages set out in the Regulation Interoperability Fund. EuroCCP may make changes thereto in its reasonable discretion having regard to developments on comparable markets and observing a reasonable period between the publication of new numbers, amounts and/or percentages in the Regulation Interoperability Fund and their coming into force, except when regulatory requirements require their coming into force at an earlier date.

## **7.3 Form of Deposits**

- 7.3.1 A Clearing Participant shall provide its Deposit in such form as specified in the Regulation Interoperability Fund.

## **7.4 Application of the Interoperability Fund**

- 7.4.1 EuroCCP will apply the Interoperability Fund if the security granted over the assets of the Interoperability Fund is enforced by a Co-operating Clearing House. The Minimum Deposit Value of each Clearing Participant will be reduced pro rata. The security granted over the assets of the Interoperability Fund may be enforced by a Co-operating Clearing House to make good all losses suffered by a Co-operating Clearing House as a result of a Default Event (as defined in the Link Agreement) of EuroCCP.
- 7.4.2 EuroCCP will apply a Deposit made by a Clearing Participant from the Interoperability Fund to make good all losses suffered by EuroCCP as a result of a Breach by such Clearing Participant.
- 7.4.3 If the Interoperability Fund is applied by EuroCCP pursuant to article 7.4.1 or article 7.4.2, EuroCCP shall not reimburse the Interoperability Fund or any Clearing Participant.

## **7.5 Return of Deposits**

- 7.5.1 If the Minimum Deposit Value of the Clearing Participant is zero, EuroCCP will return the remaining Deposit of that Clearing Participant as soon as reasonably possible after having deducted all amounts under or pursuant to the Clearing Participant Agreement that are in the reasonable opinion of EuroCCP required to cover the remaining obligations of the relevant Clearing Participant, whether contingent or not. If EuroCCP makes a deduction, EuroCCP will provide the Clearing Participant with the reason for such deduction.
- 7.5.2 EuroCCP will repay a deduction as set out in article 7.5.1 to the Clearing Participant promptly when the reason for such deduction no longer exists, as reasonably determined by EuroCCP.

# **8 Clearing Fund**

## **8.1 Establishment of Clearing Fund**

- 8.1.1 EuroCCP shall establish and maintain the Clearing Fund, in order to mitigate the risks of all participants in the event of a default by one of the Clearing Participants or a Co-operating Clearing House under the Clearing Rules and/or relevant the Link Agreement.
- 8.1.2 The assets of the Clearing Fund shall be the property of EuroCCP.

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- 8.1.3 The Clearing Fund shall consist of the Contributions (as defined below).
- 8.1.4 The purpose of the Clearing Fund is not commercial and not for profit.
- 8.1.5 The investment guidelines of EuroCCP in relation to the Contributions are set out in the Regulation EuroCCP Investment Policy.

## 8.2 Contributions by Clearing Participants

- 8.2.1 Each Clearing Participant shall pay to EuroCCP such amounts as set out in the Regulation Clearing Fund as contribution to the Clearing Fund (the **Contribution**).
- 8.2.2 The Contribution of each Clearing Participant shall be calculated daily as the sum of the following two amounts:
  - (a) the base amount, as specified in the Regulation Clearing Fund; and
  - (b) a variable amount determined in accordance with the Regulation Clearing Fund.

The base amount mentioned in 8.2.2(a) can be different for a Direct Clearing Participant and a General Clearing Participant.

## 8.3 Form of Contributions

- 8.3.1 A Clearing Participant shall provide its Contribution in such form as specified in the Regulation Clearing Fund.

## 8.4 Application of the Clearing Fund

- 8.4.1 For the purpose of articles 8.4, 8.6.1 and 9.4.6 if a breach has a referral to 'Breach' or 'its default' it will be a referral to all those facts, events and circumstances that gave rise to the losses suffered by EuroCCP that existed in relation to the relevant Clearing Participant on or before the time the Clearing Fund was applied.
- 8.4.2 The Clearing Fund may be applied to make good all losses suffered by EuroCCP as a result of a Breach by any Clearing Participant and losses which are remaining after EuroCCP has enforced:
  - (a) **firstly**, any Collateral posted by the defaulting Clearing Participant;
  - (b) **secondly**, any Deposit furnished by the defaulting Clearing Participant;
  - (c) **thirdly** the Contributions made by the defaulting Clearing Participant, and
  - (d) **fourthly**, after EuroCCP has subsequently used its dedicated own financial resources in accordance with Regulation Dedicated Own EuroCCP Resources.

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8.4.3 The Clearing Fund may be applied to make good all losses suffered by EuroCCP as a result of a Default Event (as defined in the relevant Link Agreement) of a Co-operating Clearing House and losses which are remaining after EuroCCP has enforced:

(a) **firstly** the security provided by such Co-operating Clearing House to EuroCCP;

(b) **secondly**, after EuroCCP has subsequently used its dedicated own financial resources in accordance with Regulation Dedicated Own EuroCCP Resources.

## 8.5 Application of Contributions

Payments out of the Clearing Fund shall be made against the Contributions made by all other Clearing Participants on a pro rata basis in proportion to the amount of their Contributions on the date that such payment is made.

## 8.6 Top-up of Contributions

8.6.1 A defaulting Clearing Participant shall reimburse the Clearing Fund for any amount which was applied out of the Clearing Fund as a result of its default.

8.6.2 EuroCCP shall notify a Clearing Participant in writing whenever its Contribution (or any part thereof) is applied pursuant to article 8.5.

8.6.3 If any amount is paid out of a Clearing Participant's Contributions pursuant to article 8.5 the Clearing Participant shall, upon demand by EuroCCP, top-up the deficiency in its Contribution arising from the said payment. EuroCCP shall notify each of the Clearing Participants in writing of the amount payable by it to EuroCCP under this article 8.6.3. Any top-up payment shall not be used to cover the losses caused by the Breach which originally caused the deficiency that has led to the top-up payment.

8.6.4 If the losses caused by a specific Breach cannot be covered by the aggregate amount of the Contributions of all Clearing Participants and, if any, the amount of the reimbursement set out in article 8.6.1, the non-defaulting Clearing Participants shall on demand make an additional payment to EuroCCP on a pro rata basis in proportion to the amount of their Contributions to cover any such remaining losses, provided that for each Clearing Participant the obligation to make such additional payment shall be limited to an amount equal to the amount of ~~each of their Contributions~~its Contribution at the time the Breach occurred (**Cash Call 1**).

8.6.5 If the losses cannot be covered by the aggregate amount received pursuant to article 8.6.4, the non-defaulting Clearing Participants shall on demand make a further additional payment to EuroCCP on a pro rata basis in proportion to the amount of their Contributions to cover any such remaining losses, provided that for each Clearing Participant the obligation to make such further

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additional payment shall be limited to an amount equal to the amount of ~~each of their Contributions~~ its Contribution at the time the Breach occurred (**Cash Call 2**).

8.6.6 Per Breach EuroCCP can demand no more than the aggregate amount due under Cash Call 1 and Cash Call 2 from each Clearing Participant.

8.6.7 Cash calls pursuant to 8.6.4 and 8.6.5 shall be expressed in Euro (EUR). Once a cash call has been communicated, the cash call becomes immediately payable without further notice.

8.6.8 The amounts so received following Cash Call 1 and/or Cash Call 2 shall be applied to make good all losses suffered by EuroCCP as a result of the Breach.

8.6.9 EuroCCP shall not reimburse any Clearing Participant for any amount received under Cash Call 1 or Cash Call 2.

## 8.7 Cooling off period

8.7.1 If EuroCCP has issued three Notices of Default in any six month period, a 30 calendar day period will commence (a **Cooling off period**) on the day on which EuroCCP has issued the third Notice of Default.

8.7.2 During the Cooling off period, article 8.2.2 shall not apply and the minimum Contribution of each Clearing Participant shall be no less than the base amount as specified in the Regulation Clearing Fund.

8.7.3 To determine whether a Cooling off period is to commence, EuroCCP shall on each day on which it issues a Notice of Default determine whether it has issued two or more Notices of Default in the six month period immediately preceding that day.

8.7.4 EuroCCP shall inform the Clearing Participants as soon as possible and no later than by close of business on the day on which the third Notice of Default has been issued if a Cooling off period is to commence.

8.7.5 If a non-defaulting Clearing Participant notifies EuroCCP within tweten business days after the commencement of a Cooling off period that it wishes to resign as a Clearing Participant and assuming all other requirements for termination of its membership have been satisfied ~~by the end of the Cooling off period~~, such Clearing Participant shall cease to be treated as a Clearing Participant for the purpose of article 8.6, and its Contribution shall (unless utilised in the interim in accordance with article 8.4) be repaid by EuroCCP in accordance with the Clearing Rules. A Clearing Participant which has notified its wish to resign remains liable under article 8.6 until ~~the effective date of its resignation~~ notified by EuroCCP.

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8.7.6 On the thirtieth (30<sup>th</sup>) calendar day of the Cooling off period EuroCCP shall calculate the Contribution of each Clearing Participant once again pursuant to article 8.2.2 and each Clearing Participant is to pay its Contribution on the immediately following Clearing Day.

## 8.8 Return of Contributions

8.8.1 On termination of the Clearing Participant Agreement, EuroCCP shall return the balance of the relevant Clearing Participant's Contributions as soon as reasonably possible. EuroCCP may, acting reasonably, make such deductions from that balance as it deems necessary to cover for foreseeable future losses. If EuroCCP makes a deduction, EuroCCP will provide the Clearing Participant with the reason for such deduction.

8.8.2 EuroCCP will repay a deduction as set out in article 8.8.1 to the Clearing Participant promptly when the reason for such deduction no longer exists, as reasonably determined by EuroCCP.

## 8.9 Time of Payment of Contribution

8.9.1 Clearing Participants shall pay any amounts required by EuroCCP as Contributions or as a top-up to Contributions, promptly within one (1) Clearing Day after the date of the written notice from EuroCCP requiring such payment, or within such other period as may from time to time be determined by EuroCCP.

8.9.2 EuroCCP shall be entitled to charge interest, as specified in the Regulation Clearing Fund, on any amount payable by a Clearing Participant as its Contribution or as a top-up to its Contribution in the event that such Clearing Participant does not pay the required amount in accordance with this Clearing Rule Book.

## 8.10 Transfer of Clearing Fund

8.10.1 EuroCCP has the right to transfer the Clearing Fund to a special purpose legal entity. The only objective of the special purpose vehicle will be to hold assets that comprise the Clearing fund.

8.10.2 EuroCCP will give prior written notice, at least no later than five (5) Clearing Days, to the Clearing Participants if EuroCCP intends to transfer the Clearing Fund to a special purpose legal entity.

## 8.11 Liquidity Cash Calls in extreme and implausible situations

8.11.1 Provided EuroCCP has activated its Recovery Plan, EuroCCP may call for an amount in a currency as specified by EuroCCP from each Clearing Participant (a **Recovery Liquidity Cash Call**) to enable the physical settlement of Open Positions.

8.11.2 The amount for which a Recovery Liquidity Cash Call can be issued is limited to the value of the Securities that a Clearing Participant is selling to EuroCCP.



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8.11.3 EuroCCP shall sell-out the Securities that have been purchased by use of the proceeds of the Recovery Liquidity Cash Call (**RLCC Securities**) as soon as reasonably possible pursuant to the sell-out procedure specified in the Regulation Buy-in Procedure or by means of a voluntary auction as set out in article 8.12.1.

8.11.4 EuroCCP shall upon sell-out or auction of the RLCC Securities distribute the proceeds received from the sell-out or auction to the Clearing Participants on a pro rata basis in proportion to and up to the amount of the contributions made by all other Clearing Participants to the aggregate amount received under the Recovery Liquidity Cash Calls. EuroCCP shall distribute to a Clearing Participant that was not reimbursed in full by the proceeds received from the sell-out or auction, on a pro rata basis and up to the amount provided under a Recovery Liquidity Cash Call, the amount available in accordance with the Clearing Rules (and in particular in the sequence as set out in article 8.4).

## 8.12 Voluntary Auction of Positions to non-defaulting Clearing Participants and/or third parties

8.12.1 Without prejudice to the ability for EuroCCP to take any other action as described in the Clearing Rules, EuroCCP may, where it deems appropriate and acting commercially reasonably, organise an auction to transfer of the Open Positions of a defaulting Clearing Participant to the non-defaulting Clearing Participants and/or third party brokers.

8.12.2 Immediately after serving the Notice of Default, EuroCCP shall invite all non-defaulting Clearing Participants and/or any third party brokers as selected by EuroCCP in its sole discretion (**Invited Bidders**) to participate in an auction to acquire all or part of the Open Positions that EuroCCP has not yet closed out (**Auction Portfolio**). The contents of an Auction Portfolio shall be disclosed only to Invited Bidders participating in the auction of that Auction Portfolio and shall be subject to a non-disclosure agreement.

8.12.3 EuroCCP reserves the right, at any point and in its sole discretion, to exclude a Clearing Participant to participate in an auction if it appears to EuroCCP, in its reasonable opinion, that such exclusion is desirable for any reason.

8.12.4 EuroCCP shall prescribe procedures for the completion of such auction process as it considers reasonably appropriate from time to time.

8.12.5 EuroCCP shall notify each Invited Bidder of all details that may be reasonably required in relation to the Auction Portfolio prior to commencing the auction. The auction may take place on the day on which the Notice of Default has been issued and can take place over a number of days following such day. Auctions of different Auction Portfolios may take place at different times.

8.12.6 Invited Bidders who decide to participate in an auction will submit bids to EuroCCP. Bids may be submitted for the entire Auction Portfolio or for a portion (as determined by EuroCCP) of the

Auction Portfolio. Bids shall be submitted at a price at which the relevant Invited Bidder is willing to acquire the Auction Portfolio or portion (as determined by EuroCCP) of the Auction Portfolio. EuroCCP will oversee the bidding process in a manner which it considers best protects the resources of EuroCCP and ensures an orderly process.

8.12.7 EuroCCP will have full discretion in deciding whether or not to accept one or more bids for the entire Auction Portfolio or for a portion (as determined by EuroCCP) of the Auction Portfolio and, in so deciding, will take into account the range of bids received relative to the amount of Collateral held in respect of initial margin, variation margin (if applicable) and additional margin and the Contributions and Deposits of the defaulting Clearing Participant and, subject to their availability, EuroCCP capital resources. Bids on the entire Auction Portfolio may take preference over bids for portions of the Auction Portfolio. In the event that more than one Invited Bidder submits a bid of the same value (each an **Equal Bid**), EuroCCP may, subject to its discretion to reject one or more such Equal Bids, split the relevant Auction Portfolio between the relevant Invited Bidders who submitted Equal Bids on parts of the Auction Portfolio on an individual Security basis. If EuroCCP decides to accept more than one bid for the entire Auction Portfolio or for a portion (as determined by EuroCCP) of the Auction Portfolio, the price payable or receivable by all such winning bidders will be the price of the lowest bid which is accepted by EuroCCP. EuroCCP may choose to accept a bid in respect of a smaller proportion of an Auction Portfolio than an Invited Bidder has specified in its bid. In addition, EuroCCP reserves the right to reject an auction bid from a Clearing Participant if it deems the overall risk presented by that Clearing Participant, following the transfer of any Auction Portfolio, to be in excess of EuroCCP's risk tolerance for that Clearing Participant.

8.12.8 In the case of an auction in which no bid is accepted or received (as the case may be), one or more further auctions may, at the discretion of EuroCCP, be held in relation to the relevant Auction Portfolio or that part of the Auction Portfolio which remains.

8.12.9 In cases where EuroCCP has activated its Recovery Plan, EuroCCP may, in case an auction conducted pursuant to article 8.12.1 is unsuccessful or is deemed ineffective, whether in whole or in part, cash settle the outstanding positions with the Clearing Participants at a price determined at EuroCCP's discretion.

## **8.13 Suspension of Collateral, Deposit and Contribution withdrawals**

8.13.1 To continue to perform its settlement obligations towards the non-defaulting Clearing Participants in times of liquidity stress and without prejudice to the ability for EuroCCP to take any other action as described in the Clearing Rules, EuroCCP may suspend withdrawals of Contributions, Deposits and/or Collateral by non-defaulting Clearing Participants until the date as notified by EuroCCP to the Clearing Participants as of which EuroCCP will return to perform its settlements on a business as usual basis.

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- 8.13.2 EuroCCP shall notify the Clearing Participant of the suspension as mentioned in article 8.13.1 becoming effective.
- 8.13.3 As of the date as of which EuroCCP will return to perform its settlements on a business as usual basis, the non-defaulting Clearing Participants may again withdraw Collateral pursuant to the Regulation Collateral and/or withdraw Contributions pursuant to the Regulation Clearing Fund and/or withdraw Deposits pursuant to the Regulation Interoperability Fund.
- 8.13.4 EuroCCP shall notify the non-defaulting Clearing Participants of the date as of which the non-defaulting Clearing Participants may again make the withdrawals pursuant to article 8.13.3.

## 9 Investment Losses

- 9.1.1 Any losses incurred by EuroCCP related to investments (**Investment Losses**) that have been made in accordance with the Regulation EuroCCP Investment Policy which are in excess of the capital allocated by EuroCCP for credit, counterparty and market risk pursuant to article 1 (c) of RTS 152/2013 shall be borne by the Clearing Participants.
- 9.1.2 EuroCCP will allocate Investment Losses to Clearing Participants which delivered cash as collateral. The amount payable by each Clearing Participant shall be calculated by dividing the respective Clearing Participant cash collateral position by the total cash collateral pool and multiplying the outcome by the Investment Losses.
- 9.1.3 Currency exchange losses resulting from cash provided in a currency other than the currency in which the Investment Losses are expressed will be distributed pro rata to the respective Clearing Participants which delivered such currency.
- 9.1.4 Upon determination of the Investment Losses, EuroCCP shall deduct the amount payable by the respective Clearing Participant from its Collateral Account and may issue a margin call (**Investment Losses Cash Call**) to the Clearing Participant to cover for the shortfall in Collateral.
- 9.1.5 The amounts so received pursuant to the Investment Losses Cash Call shall be applied to make good for all losses suffered by EuroCCP as a result of the Investment Losses.
- 9.1.6 EuroCCP shall not reimburse any Clearing Participant for Investment Losses Cash Calls.

## 10 Breaches

### 10.1 Definition of a Breach

- 10.1.1 If a Clearing Participant appears to EuroCCP to be unable, or to be likely to become unable, to meet its obligations under the Clearing Rules, EuroCCP may declare such event a Breach. A

Breach can be qualified by EuroCCP as a Breach that triggers a Notice of Default as set out in article 10.3 or as a Breach leading to the imposition of a disciplinary measure or sanction.

10.1.2 Each of the events or circumstances set out in this sub-article is a Breach:

- (a) the Clearing Participant fails to perform, or is in breach of, any of the terms of the Clearing Rules or the Clearing Participant Agreement;
- (b) the Clearing Participant is in breach of the rules of an Exchange applicable to the Clearing Participant;
- (c) the Clearing Participant is in breach of the terms of membership of, licence with, authorisation from a Competent Authority or in breach of the rules of a Competent Authority;
- (d) a Competent Authority over a market where EuroCCP is active takes or threatens to take action against or in respect of the Clearing Participant related to that market under any statutory provision or process of law;
- (e) failure to pay or deliver any or all balances in Securities or cash owed to EuroCCP in respect of Open Positions of the Clearing Participant with EuroCCP, within the stipulated deadlines;
- (f) failure to pay or provide Margin or any additional Margin as indicated in article 6.1.2, imposed by EuroCCP, within the stipulated time limits;
- (g) failure to pay or provide the Minimum Deposit Value as indicated in article 7 imposed by EuroCCP, within the stipulated time limits;
- (h) failure to pay or provide Contributions as indicated in article 8 imposed by EuroCCP, within the stipulated time limits;
- (i) failure to pay the Fees imposed by EuroCCP;
- (j) the Clearing Participant is presented with a bankruptcy petition or a bankruptcy order is made or a voluntary arrangement for debts is approved;
- (k) the Clearing Participant is presented with or an order is made for the appointment of an administrator, a receiver or manager or a composition or scheme of arrangement is approved by the court;
- (l) a petition is presented or a petition is made for the winding up of the Clearing Participant, or a resolution is passed for the winding up of the Clearing Participant;

- (m) the Clearing Participant is presented with the declaration pursuant to article 3:160 (1) of the Act on Financial Supervision (*Wet op het financieel toezicht*);
- (n) any of the insolvency proceedings listed in Annex A to the Regulation (EU) 2015/848 of 20 May 2015 on Insolvency Proceedings becomes or is expected to become effective in respect of the Clearing Participant;
- (o) any step analogous to those mentioned in paragraphs (j) to (n) is taken in respect of the Clearing Participant in any jurisdiction; and
- (p) (in respect of a Co-operating Clearing House) an event of default, however described, has occurred under the Link Agreement.

10.1.3 Article 10.2, 10.3 and article 10.4 shall apply in respect of all Position Accounts even if the Breach occurs in respect of one (1) Position Account.

## 10.2 Measures in case of a Breach (not qualified as trigger of a Default)

10.2.1 In case of a Breach, EuroCCP may impose any of the following measures to the Clearing Participant:

- (a) to require the Clearing Participant to provide, within such timeframe, in such detail and in such manner as EuroCCP shall determine, with written assurances that the Participant will comply with the Rules.
- (b) to demand compliance by the Clearing Participant of its obligations in the manner as determined by EuroCCP;
- (c) the issue of directions as to future conduct;
- (d) the issue of recommendations in the remedy of past conduct;
- (e) the issue of warning or reprimand;
- (f) the temporary suspension of relationship with the Clearing Participant pursuant to article 5.8;
- (g) the declaration of default of the Clearing Participant; and finally
- (h) suspend settlements of Trade Legs on DVP basis of both the Clearing Participant causing the Breach as well as any non-defaulting Clearing Participant; and finally,
- ~~(i) submit Risk Neutralising Instructions to the relevant Settlement Addresses in which case any Clearing Participant so notified shall submit or arrange that corresponding Risk~~

~~Neutralising Instructions are submitted to the relevant Settlement Addresses at the latest during the last settlement window of the Settlement Date.~~

- 10.2.2 In determining the level of any measure or sanction EuroCCP will, inter alia, take into account:
- (a) the seriousness of the Breach;
  - (b) any evidence of repeated or regular Breaches;
  - (c) accumulation of complaints against the Clearing Participant;
  - (d) the degree of co-operation with EuroCCP by the Clearing Participant in connection with the identification and rectification of the Breach; and
  - (e) relevant precedent, although EuroCCP will not be bound by precedent.

### 10.3 Declaration of a default

- 10.3.1 Upon the occurrence of a Breach, EuroCCP may declare, acting reasonably and proportionately in its sole discretion, the Clearing Participant concerned in default by any means which will be confirmed in writing (such notification to be referred to as the **Notice of Default**), provided the Breach has not, or not fully been remedied at the time of the Notice of Default.
- 10.3.2 The events described in 10.1.2 under (n) shall constitute a Breach leading to a declaration of a default and EuroCCP shall serve Notice of Default to the Clearing Participant concerned without delay.

### 10.4 Measures in case of a declaration of a default

- 10.4.1 Immediately after serving the Notice of Default, EuroCCP shall take any of the following, or any other measure as may be provided elsewhere in the Clearing Rules or Clearing Participant Agreement:
- (a) to suspend its relationship with the Clearing Participant;
  - (b) to terminate its relationship with the Clearing Participant as stated in the Clearing Participant Agreement;
  - (c) to request that the relevant Exchange(s) suspend(s) any trading activity of the Clearing Participant and/or any of the Trading Participants of the defaulting Clearing Participant;
  - (d) to demand compliance by the Clearing Participant of its obligations in the manner as determined by EuroCCP;

- (e) where Positions and Collateral are recorded in an Omnibus Client Position Account and in an Omnibus Client Collateral Account respectively in an Individual Client Position Account and in an Individual Client Collateral Account, EuroCCP to trigger the procedures for the transfer of the assets and positions held by the defaulting Clearing Participant in these Accounts, to another Clearing Participant in accordance with the Regulation Segregation and Portability. If the transfer to that other Clearing Participant has not taken place for any reason within the predefined transfer period as specified in the Regulation Segregation and Portability, EuroCCP may take the steps permitted by these Clearing Rules, in particular under (f), (g), (h) and (i) in relation to the assets and positions held by the defaulting Clearing Participant.
- (f) to impose further requirements as regards Collateral to be furnished to secure the Clearing Participant's compliance with its obligations;
- (g) to declare one or more or all of the obligations of the Clearing Participant to be due and payable immediately;
- (h) to buy, borrow or sell Securities for the account of the Clearing Participant to secure compliance with the settlement obligations of the Clearing Participant or to buy or sell Securities for the account of the Clearing Participant to close a position of the Clearing Participant (regardless whether this position is created pursuant a settlement), or to enter into new Trades in the name of and for the account of the Clearing Participant in order to hedge Open Positions of the Clearing Participant;
- (i) to enforce the Collateral furnished by the Clearing Participant and apply the Clearing Fund provided that EuroCCP may only use the Collateral held in a House Collateral Account, an Omnibus Client Collateral Account and an Individual Client Collateral Account for a shortfall in the corresponding Position Account and for any other obligations the Clearing Participant may have towards EuroCCP;
- (j) to act on behalf and for the account of the defaulting Clearing Participant to pay funds and deliver Securities due;
- (k) apply the Deposits and Contributions of the defaulting Clearing Participant in accordance with articles 7.4 and 8.4;
- (l) to obtain any advice or assistance, as EuroCCP may reasonably require in connection with the default at the expense of the defaulting Clearing Participant;
- (m) to claim damages and costs; and

(n) suspend settlements of Trade Legs on DVP basis of both the defaulting Clearing Participant as well as any non-defaulting Clearing Participant; ~~and,~~

~~(o) submit Risk Neutralising Instructions to the relevant Settlement Addresses in which case any Clearing Participant so notified shall submit or arrange that corresponding Risk Neutralising Instructions are submitted to the relevant Settlement Addresses at the latest during the last settlement window of the Settlement Date.~~

10.4.2 If a Notice of Default has been sent in respect to a Clearing Participant, EuroCCP may specify a date (the **Liquidation Date**). EuroCCP will notify in writing the defaulting Clearing Participant of the Liquidation Date. After such notification:

(a) per the Liquidation Date in accordance with sub-articles 10.4.2(c) and 10.4.2(d), EuroCCP will determine a Liquidation Amount for each Position Account as applicable;

(b) on the Liquidation Date neither EuroCCP nor the Clearing Participant shall be obliged to make any further payments or deliveries under any Open Position, but shall be obliged to pay the Liquidation Amount(s);

(c) EuroCCP shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate) its total cost, loss or, as the case may be, gain, in each case expressed in Euro (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position), as a result of the termination of each payment or delivery which would otherwise have been required to be made under such Open Position, having due regard to, if appropriate, such market quotations published on, or official settlement prices set by, an Exchange as may be available on, or immediately preceding, the time of calculation) including the costs and losses, or gains, in respect of any payment or delivery required to have been made (assuming satisfaction of any applicable condition precedent) on or before the designated Liquidation Date and not made; and

(d) EuroCCP shall treat each cost or loss to it, determined as above, as a negative amount and each gain by it, so determined, as a positive amount and aggregate all of such amounts to produce a single, net positive or negative amount, per Position Account, denominated in Euro (the **Liquidation Amount**). EuroCCP shall notify the Clearing Participant of the Liquidation Amount, specifying the Liquidation Amount per Position Account, immediately after the calculation of such amount.

10.4.3 If the Liquidation Amount of a House Position Account is a positive amount, EuroCCP shall owe it to the Clearing Participant. If the Liquidation Amount of the House Position Account is a negative amount, the Clearing Participant shall owe such amount to EuroCCP.



- 10.4.4 If the Liquidation Amount of an Omnibus Client Position Account is a positive amount, EuroCCP shall pay it to those clients when they are known to EuroCCP or, if they are not, to the Clearing Participant for the account of those clients, provided the conditions set out in the Regulation Segregation and Portability are met. If the Liquidation Amount of the Omnibus Client Position Account is a negative amount, the Clearing Participant shall owe such amount to EuroCCP.
- 10.4.5 I If the Liquidation Amount of an Individual Client Position Account is a positive amount EuroCCP shall pay it to the client when known to EuroCCP or, if not, to the Clearing Participant for the account of the client, provided the conditions set out in the Regulation Segregation and Portability are met. If the Liquidation Amount of the Individual Client Position Account is a negative amount, the Clearing Participant shall owe such amount to EuroCCP.
- II EuroCCP may only use the Collateral held in the corresponding Collateral Account for the negative Liquidation Amount of a Position Account and for any other obligations the Clearing Participant may have towards EuroCCP in relation to the Position Account. EuroCCP may not use the Collateral surplus in the Omnibus Client Collateral Account or the Individual Client Collateral Account for a negative Liquidation Amount in a House Position Account.
- III If permitted by law, EuroCCP will set off the amount owed by it to the Clearing Participant pursuant to article 10.4.3 as well as any remaining Collateral held in a House Collateral Account with the amount(s) owed by the Clearing Participant to EuroCCP pursuant to article 10.4.4 and/or 10.4.5.
- 10.4.6 If a Breach has occurred in relation to a Clearing Participant, and EuroCCP has sent a Notice of Default to that Clearing Participant, EuroCCP will only allow that defaulting Clearing Participant to recommence its activities as Clearing Participant after the payment of all obligations of that Clearing Participant towards EuroCCP. Any payment made by the defaulting Clearing Participant to EuroCCP including interest will be credited in the reverse order of the order in which EuroCCP has applied the Clearing Fund, taking into account article 8.5, and its own or other funds to cover the losses caused by that Breach.
- 10.4.7 If EuroCCP has sent out a Notice of Default to the Clearing Participant, EuroCCP will promptly notify this to the other Clearing Participants by way of publication according to article 3.8.1.

## **10.5 Liability of Clearing Participants**

- 10.5.1 A Clearing Participant shall be liable for any damage, with the exception of loss of profit and loss of opportunity, which EuroCCP suffers as a consequence of that Clearing Participant's default.
- 10.5.2 All reasonable expenses incurred by EuroCCP as a consequence of a Breach shall be taken from the proceeds of the enforcement of the Collateral of the defaulting Clearing Participant, the cash in the Non-segregated Cash Collateral Account or where relevant any other funds made available

by such defaulting Clearing Participant with EuroCCP. Any remaining balance shall be remitted to the Clearing Participant after EuroCCP has discharged all its obligations.

## **10.6 Liability of EuroCCP**

- 10.6.1 In no circumstance shall EuroCCP incur any liability for any breach of the Clearing Rules by a Clearing Participant towards other Clearing Participants.
- 10.6.2 EuroCCP shall not incur any liability for any breach of a Clearing Participant's obligation, under the relevant applicable law, to segregate clients and non-clients assets, notably in securities settlement systems or CSDs. EuroCCP only registers the Trade Legs in the Position Account indicated by the Posting by an Exchange of the Trade.
- 10.6.3 EuroCCP shall not be liable if the trade reports provided by an Exchange do not reflect the terms and conditions reached between the Trading Participants.
- 10.6.4 EuroCCP shall be liable for damage arising from non-compliance with its delivery or payment obligation under the Clearing Rule Book under Trade Legs it has entered into with Clearing Participants unless such non-compliance is the result of a Force Majeure event.
- 10.6.5 In the event of the occurrence of Force Majeure or the danger of Force Majeure occurring, or if EuroCCP determines that it will not be able to comply with its obligations to a Clearing Participant as a result of compliance with a Link Agreement or as a result of a failure by the Co-operating Clearing House to meet its obligations under the Link Agreement, EuroCCP or Clearing Participants, as the case may be, will take such measures as may be reasonably demanded of them in order to limit as much as possible the detrimental consequences for the other party resulting from these circumstances.
- 10.6.6 For damage arising from obligations other than those referred to in article 10.6.4 above, EuroCCP will under no circumstances be held liable unless such damage is a direct result of negligence or an intentional act or omission on the part of EuroCCP.
- 10.6.7 EuroCCP will not be held liable for any detrimental consequences of abnormal or fraudulent use of the Clearing System or for any detrimental consequences of acts or omissions of third parties.
- 10.6.8 EuroCCP will under no circumstances be liable for consequential loss suffered by the Clearing Participant such as loss of custom, profit or revenues believed by the Clearing Participant to be the consequence of a total or partial failure to perform the Clearing Rules or the Clearing Participant Agreement.
- 10.6.9 EuroCCP shall take all reasonable care in the selection and monitoring of any third party that is to act on its behalf.

- 10.6.10 Notwithstanding the other paragraphs of this article 10.6, in the event that a third party engaged by EuroCCP has caused any loss or damage to a Clearing Participant and EuroCCP is contractually or otherwise in a position to claim damages from that third party, EuroCCP will be liable to the relevant Clearing Participant for at maximum the amount that is actually recovered by EuroCCP from that third party less the amount of EuroCCP's own loss or damage.
- 10.6.11 Subject to article 12, set-off by Clearing Participants of their obligations with the obligations of EuroCCP shall not be permitted, unless expressly provided otherwise in writing.

## 11 Clearing and Settlement of Trades

### 11.1 Registration of Trades

- 11.1.1 Each Clearing Day, EuroCCP registers Trade Legs.
- 11.1.2 EuroCCP informs each Clearing Participant of the Trade Legs registered in its name.
- 11.1.3 On the basis of the registered Trade Legs, EuroCCP calculates an Open Position per Clearing Participant per Position Account, per ISIN code, per CSD account, per currency and per Settlement Date.
- 11.1.4 When calculating Open Positions, EuroCCP can make adjustments in accordance with the Regulation Corporate Actions to reflect corporate actions on Securities.

### 11.2 Accounts

- 11.2.1 The Clearing Participants may request EuroCCP to facilitate a certain account structure. EuroCCP registers each Trade Leg in one of such Position Accounts based on the information contained in the Posting of a Trade. EuroCCP will facilitate each of the following account structures:
- (i) EuroCCP can open one (1) or more Omnibus Client Position Account(s) and one (1) House Position Account;
  - (ii) EuroCCP can open one (1) or more Individual Client Position Account(s) and one (1) House Position Account;
  - (iii) EuroCCP can open one (1) or more Individual Client Position Account(s), one (1) or more Omnibus Client Position Account(s) and one (1) House Position Account;  
or
  - (iv) EuroCCP can open one (1) House Position Account for a Direct Clearing Participant.

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- 11.2.2 EuroCCP shall open the necessary Collateral Accounts for each of the Position Accounts within the account structure of the Clearing Participant.
- 11.2.3 Upon request by the Clearing Participant EuroCCP opens sub-accounts. The sub-accounts are opened by EuroCCP for settlement and/or information purposes only. The Margin calculations relating to the sub-accounts are only provided by EuroCCP for information purposes.
- 11.2.4 Upon request by the Clearing Participant EuroCCP will transfer positions between Position Accounts or sub-accounts opened for that Clearing Participant. It is the responsibility of the Clearing Participant to ensure compliance with the segregation obligations of article 39(4) of Regulation (EU) No. 648/2012 of 4 July 2012, when requesting such transfers.
- 11.3 Correction**
- 11.3.1 An Exchange may send Corrections to EuroCCP on the Trade Date until thirty (30) minutes after close of trading on the relevant Exchange. A Correction may also be sent to EuroCCP by a Co-operating Clearing House or another Person pursuant to a Link Agreement, (i) when both EuroCCP and the Co-operating Clearing House agree to the Correction under or as required by the rules of an Exchange and (ii) if a Co-operating Clearing House is required to send a Correction by a Competent Authority or an equivalent body by which it is supervised.
- 11.3.2 EuroCCP shall amend the corresponding Trade Leg in accordance with the received Correction.
- 11.3.3 The Clearing Participant agrees and accepts the amendment of the Trade Leg as set out in 11.3.2.
- 11.4 Fails**
- 11.4.1 Fails may at any time be subject to repurchase or resale on the initiative of EuroCCP. EuroCCP may, but is under no obligation to, repurchase or resale if a fail occurs. Such repurchase or resale is to be made in accordance with buy-in or sell-out procedures specified in the Regulation Buy-in Procedure, at the risk and expense of the defaulting Clearing Participant.
- 11.4.2 Fails are subject to an indemnity for late delivery or payment, charged to the defaulting Clearing Participant by EuroCCP.
- 11.4.3 In the case of Fails, EuroCCP continues to call Margin for the failed Open Positions.
- 11.4.4 When the buy-in or sell-out procedure is not successfully completed as set out in the Regulation Buy-in Procedure due to market conditions or other conditions, the Securities that needed to be delivered or received, will no longer be required to be delivered or received and the Trade Leg will be settled for a cash amount as specified in the Regulation Buy-in Procedure.

## 12 Close out netting

For the purpose of this article 12, the following definitions will apply:

**“EuroCCP Default Event”** means the failure to comply with an undisputed obligation to pay money or deliver Securities to a Clearing Participant for a period of thirty (30) business days;

**“EuroCCP Insolvency Event”** means a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights of EuroCCP;

**“Notice of Termination”** means a written notification by the Clearing Participant to EuroCCP that it terminates all Trade Legs;

**“Net Asset Position”** or **“Net Liability Position”** means the close-out values of the Open Positions within each Position Account as of the Termination Date by netting the aggregate of the asset position against the aggregate of the liability position within each Position Account and setting off the Collateral or its market value as of the Termination Date in the relevant Collateral Account;

**“Termination Date”** means as of the close of business on the third business day following EuroCCP’s receipt of the Notice of Termination, which term of notification shall be deemed reasonable, or any longer period stipulated in the Notice of Termination;

**“Net Settlement Amount”** means one net amount calculated in accordance with article 12.1.7 and 12.1.8.

- 12.1.1 The Clearing Participant shall be entitled to exercise its rights stipulated in the articles below, if an EuroCCP Default Event or an EuroCCP Insolvency Event occurs.
- 12.1.2 Upon the occurrence of an EuroCCP Default Event or an EuroCCP Insolvency Event, a Clearing Participant that is not in default with respect to any obligation owing to EuroCCP may send EuroCCP a Notice of Termination.
- 12.1.3 A Notice of Termination resulting from an EuroCCP Default Event, may only be sent by the Clearing Participant against which EuroCCP is in default.
- 12.1.4 A Notice of Termination is deemed to be received by EuroCCP one (1) business day after sending such Notice of Termination by a Clearing Participant.
- 12.1.5 The Clearing Participant shall calculate the Net Asset Position or Net Liability Position in Euro’s. When calculating the Net Asset Positions and Net Liability Positions within each Position Account, the Clearing Participant shall exercise its discretion, acting in good faith, in adopting methods of valuation expected to produce reasonably accurate substitutes for the values that would have been obtained from the relevant market if it were operating normally.

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- 12.1.6 The Clearing Participant shall calculate the Net Settlement Amount as promptly as reasonably practicable.
- 12.1.7 The Net Settlement Amount for the House Position Account, the Omnibus Client Position Account and the Individual Client Position Account is calculated by netting all Net Asset Positions in these Accounts against all Net Liability Positions in these Accounts as well as against any other obligation, including the Collateral in the relevant Collateral Account the Clearing Participant may have towards EuroCCP.
- 12.1.8 The Clearing Participant shall notify EuroCCP of the calculated value of the Net Settlement Amounts as promptly as possible and provide EuroCCP with a written statement in which an explanation is given as to how the Net Settlement Amounts were determined.
- 12.1.9 If a Clearing Participant has a positive Net Settlement Amount, EuroCCP shall pay such amount to the Clearing Participant as soon as reasonably possible. If a Clearing Participant has a negative Net Settlement Amount, the Clearing Participant shall pay such amount to EuroCCP on the first business day following the written statement mentioned in 12.1.8.

**Appendix 1****List of current Regulations**

- 1 Regulation Clearing Days pursuant to the definition Clearing Day of the Clearing Rule Book;
- 2 Regulation Clearing Hours pursuant to the definition Clearing Hours of the Clearing Rule Book;
- 3 Regulation Segregation and Portability pursuant to articles 5.1.1 and 10.4 of the Clearing Rule Book;
- 4 Regulation Collateral pursuant to the definition Collateral and articles 5.1.2, 6.1, 6.2 and 8.13.3 of the Clearing Rule Book;
- 5 Regulation Securities pursuant to the definition Security and article 2.3 of the Clearing Rule Book;
- 6 Regulation Complaints pursuant to article 3.2 of the Clearing Rule Book;
- 7 Regulation Margin pursuant to the definition Margin and articles 6.1.2 and 6.1.4 of the Clearing Rule Book;
- 8 Regulation Settlement pursuant to the definitions CSD and Settlement Date and articles 3.13.3, 3.13.4, 3.14.2 and 3.14.55 of the Clearing Rule Book;
- 9 Regulation Statement of Authority pursuant to the definition Statement of Authority of the Clearing Rule Book;
- 10 Regulation Fees and Penalties pursuant to articles 2.2, 3.13.3 and 3.14.1 of the Clearing Rule Book;
- 11 Regulation Trade Refusal pursuant to the definition Electronic Message and articles 3.4.2, 3.10.3(c) and 5.3.3 of the Clearing Rule Book;
- 12 Regulation Buy-in Procedure pursuant to articles 3.14.1, 3.14.2, 8.11.3, 11.4.1 and 11.4.4 of the Clearing Rule Book;
- 13 Regulation Corporate Actions pursuant to articles 3.14.3 and 11.1.4 of the Clearing Rule Book;
- 14 Regulation EuroCCP Investment Policy pursuant to articles 6.2.4, 8.1.5, 9.1.1 and of the Clearing Rule Book;
- 15 Regulation Cash Collateral Account pursuant to article 6.2.2;
- 16 Regulation Interoperability Fund pursuant to article 7 and 8.13.3 of the Clearing Rule Book;

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- 17 Regulation Clearing Fund pursuant to article 8 of the Clearing Rule Book; and
- 18 Regulation Dedicated Own EuroCCP Resources pursuant to article 8.4.2 and 8.4.3 of the Clearing Rule Book.