



Breach of Rulebook procedure

page intentionally left blank



## **Content**

Content	1
Introduction	2
Definitions	3
Procedure Description	4
Procedure Objective	4
Procedure Description	4
Flowchart	5
Description flowchart	6
Roles and responsibilities	7
Appendices	8

## Introduction

This documents includes the version for publication of the EuroCCP Breach of Rulebook procedure for the Risk Management, Operations and finance department and the Breach and default Management Team of European Central Counterparty N.V. – further “EuroCCP”.

The purpose and scope of this document is to describe:

- Definitions
- Procedure description
- Roles & responsibilities

This procedure will be reviewed on an annual basis or if this is required by the respective situation.

European Central Counterparty NV

## Definitions

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

“**BDMT**” means Breach and default Management Team;

“**Breach**” has the meaning as set out in article 9.1 in EuroCCPs Clearing Rulebook.

“**Clearing Participant**” means the written agreement entered into between EuroCCP and a Clearing Participants pursuant to article 4.4.1. in EuroCCPs Clearing rule book;

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

“**Competent Authority**” means anybody by which the Clearing Participant, a Co-operating Clearing House of EuroCCP is supervised

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

“**EuroCCP**” means EUROPEAN CENTRAL COUNTERPARTY N.V.;

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

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

“**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;

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

“**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;

## Procedure Description

### Procedure Objective

This procedure describes how EuroCCP deals with a potential Breach of the Clearing Rulebook by a Clearing Participant or a Co-operating Clearing House. The seriousness of Breaches may vary widely, from the simple and easily rectified to major incidents or systematic failings. EuroCCP shall carefully consider the circumstances in assessing the seriousness of a Breach. A Breach applies to a Clearing Participant. In case of a Co-operating Clearing House a breach should be read as a breach of the MCLA.

As a Breach (as defined in section 9.1 of the EuroCCP Clearing Rulebook) may develop into a (potential) default situation, the handling of a (potential) Breach requires a structured and formal approach:

- to ensure observance of the obligations of the Clearing Participant towards EuroCCP;
- to prevent losses for EuroCCP and;
- to minimize impact on the market, Clearing Participants and EuroCCPs services.

### Procedure Description

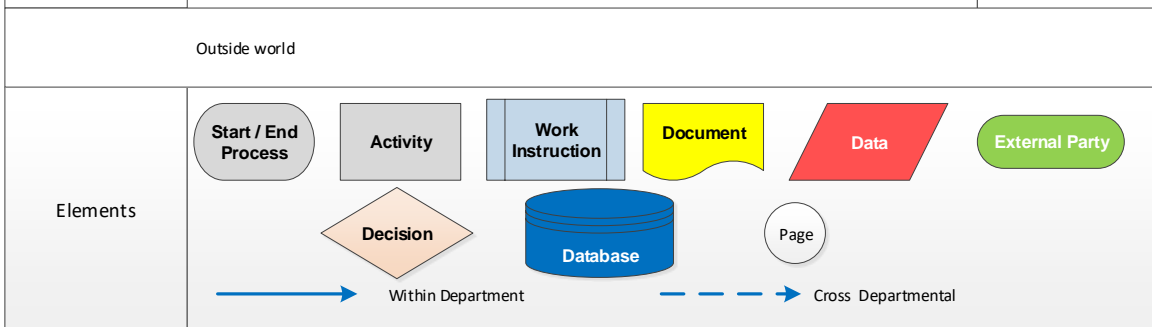
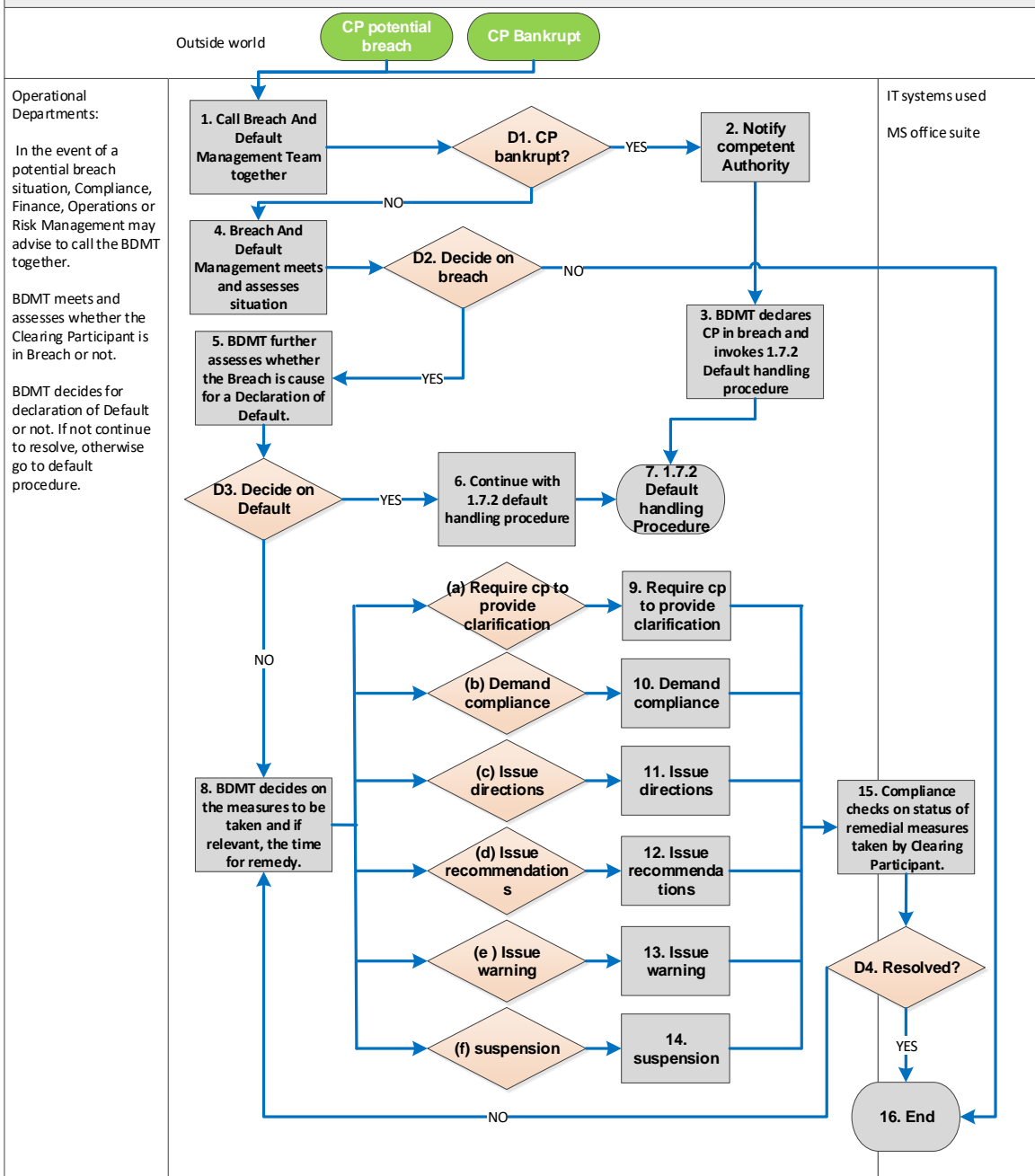
#### Basic principles

The events that can lead EuroCCP to declare that a Clearing Participant is in Breach of the Rulebook are described in section 9.1.2 of the Clearing Rulebook. Triggers include but are not limited to:

- Breach of Rules (EuroCCP, trading platform or regulatory rules and regulations);
- failure to pay or provide margin within the stipulated time limits;
- winding up, critical solvency level;
- bankruptcy/administration order.

The Management Board of EuroCCP is responsible to take appropriate measures in close cooperation with relevant stakeholders, especially EuroCCP Compliance and Risk Management. Timely and accurate communication is critical in this process.

## 1.7.1 Breach of Rulebook procedure



Version 3.0 20190124

## Description flowchart steps

- 1 In the event of a (potential) breach situation, EuroCCP Compliance, Client Services, Operations and or Risk Management assesses the claim and may advise the Management Board to activate the BDMT.**

Compliance and/or Risk Management and/or Client services and/or Operations assess the situation and may advise to activate the BDMT. Such advice will be logged including the reason for the advice. For some triggers in the Rulebook discretion may be applied before declaring it a breach. See appendix A for an overview of the triggers to which this discretion applies.

In the event that the clearing participant received an administration order, is declared bankrupt or is insolvent as listed in Annex A and B of EC No. 1346/2000 (Insolvency regulation), the above mentioned departments will notify the Management Board that the BDMT needs to be activated immediately.

- 2 Notify competent Authority**

Before the breach of rulebook of notification is issued, Compliance will inform EuroCCP's competent authority about the intended breach of Rulebook notification.

- 3 BDMT declares Clearing Participant in breach and invokes default handling procedure**

The BDMT will issue a formal statement that the Clearing Participant has breached the Clearing Rulebook and will invoke the default handling procedure.

- 4 BDMT meets and assess whether the Clearing Participant is in Breach or not.**

Upon activation, BDMT will meet initially every hour. The BDMT may decide to schedule meetings at a different frequency. For all meetings minutes are taken and decisions are formally documented by the Corporate Secretary. EuroCCPs' Compliance and/or Risk Management department will advise the Management Board whether or not to declare Breach in accordance with the Clearing Rule Book section 9.1.2. The Management Board will take a unanimous formal decision. The advice provided by the Compliance and Risk Management departments to the BDMT will be documented and contains, if required, supporting financial information (e.g. pledged collateral and margin requirements).

If the BDMT decides that the issue is not declared as a Breach, the decision is documented including the advice of the Compliance and/or Risk Management departments and this procedure ends. If BDMT decided that this is a Breach, the procedure continues at step 3.

- 5 BDMT decides whether the Breach is cause for a Declaration of Default.**

EuroCCP Compliance and/or Risk Management will advise the Management Board whether or not to declare an event of default in accordance with the Clearing Rule Book section 9.3. The Management Board will take a formal decision by absolute majority. The decision and the EuroCCP Compliance and/or Risk Management advice will be documented and contains, if required, supporting financial information (e.g. pledged collateral and margin requirements).

In case the BDMT decides to declare a default, step 4 is followed, otherwise step 5 is followed.

- 6 Continue with the default handling procedure.**

See further the default handling procedure (procedure 1.6.1) of EuroCCP (Breach of Rulebook procedure ends).

- 7 1.7.2 Start Default handling procedure.**

The BDMT will start the procedure "1.7.2. Default handling procedure", the breach of Rulebook procedure ends.



## **8 BDMT decides on the measures to be taken and if relevant, the time for remedy.**

Taking into account the factors listed in section 9.2.2 of the Rulebook, the BDMT will decide which of the measures listed in section 9.2.1 (a) to (f) of the Rulebook to impose. The Management Board will inform the Clearing Participant that is in Breach, in writing of the decision and imposed measures, with reference to the specific Clearing Rule Book section. Furthermore the Clearing Participant will be given a deadline before which the Breach should be remedied. EuroCCP will consult with DNB and AFM whether the Breach should be publicly disclosed. Furthermore the BDMT will discuss whether to inform the Supervisory Board, risk committee, interoperable CCPs and/or Clearing Participants and act accordingly.

The BDMT shall take at any time into account:

- seriousness of the Breach;
- any evidence of repeated or regular Breaches;
- accumulation of complaints against the Clearing participant
- the degree of co-operation with EuroCCP by the Clearing Participant in connection with the identification and rectification of the Breach;
- relevant precedent, although EuroCCP will not be bound by precedent

## **9 Require Clearing Participant to provide clarification**

The BDMT shall on behalf of EuroCCP request the Clearing Participant to provide ,within such timeframe, in such details and in such manner as EuroCCP shall determine, written clarification that the Clearing Participant will comply with EuroCCPs Clearing rulebook.

## **10 Demand compliance**

The BDMT shall on behalf of EuroCCP demand compliance by the Clearing Participant in the manner as determined by EuroCCP.

## **11 Issue directions**

The BDMT shall on behalf of EuroCCP issue directions to the Clearing Participant as to future conduct.

## **12 Issue recommendations**

The BDMT shall on behalf of EuroCCP issue recommendations in the remedy of past conduct.

## **13 Issue warning**

The BDMT shall on behalf of EuroCCP issue a warning or reprimand.

## **14 Suspension**

The BDMT shall on behalf of EuroCCP temporary suspend the relationship with the Clearing Participant pursuant to article 5.8 of EuroCCPs Clearing Rulebook. The Statement of Authority (SoA) of the Clearing Participant for the relevant Exchanges will be revoked and the trade link of the clearing participant in TM will be removed as well by Client Services.

## **15 Compliance checks on status of remedial measures taken by Clearing Participant.**

When the deadline is reached, Compliance checks that the imposed measures have been implemented by the Clearing Participant. If so, the Clearing Participant is no longer in Breach. If not, step 3 of this procedure is repeated.

## **16 End procedure.**

End procedure.

## Roles and responsibilities

RACI*	Role	Responsibility
A	Management Board	Overall responsible as part of BDMT
R	Risk Management	Advise & Propose decisions on handling the breach/default
I	Relationship Management	Informed regularly, decides which information can be externally shared
C	Legal & Compliance	Advise & Propose decisions on handling the breach/default, communicate with Regulators and shareholders
C	Operations	Advise on operational issues / funding requirements
C	Treasury Department	Managing cash flows / funding
I	Corporate Secretary	Call for meetings and record decisions
I	Internal Audit	Check if all activities and measures were taken in accordance with procedure "Breach of Rule Book procedure".

\* Responsible / Accountable / Consulted / Informed

## Appendices

### Appendix A: Breaches to which discretion may be applied.

In the following table we list the breaches to which EuroCCP may apply some discretion in defining it as a breach.

9.2	Breach	Department	Reaction
(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;	Operations	Depends on the severity of the failure(s). If the percentage of failure(s) is over 5% no discretion may be applied and the BDMT must be called together. As long as percentage of failure(s) is under 5%, the BDMT may be called but does not have to be called BDMT together.
(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;	Risk mgmt.	If the time limit is exceeded by more than 2 hours no discretion may be applied and the BDMT must be called together. As long as time limit is not exceeded by 2 hours, the BDMT may be called together but does not have to be called BDMT together.
(g)	failure to pay or provide the Minimum Deposit Value as indicated in article 7 imposed by EuroCCP, within the stipulated time limits;	Risk mgmt.	If the time limit is exceeded by more than 2 hours no discretion may be applied and the BDMT must be called together. As long as time limit is not exceeded by 2 hours, the BDMT may be called together but does not have to be called together.
(h)	failure to pay or provide Contributions as indicated in article 8 imposed by	Risk mgmt.	If the time limit is exceeded by more than 2 hours no discretion may be applied and the BDMT must be called together. As long as time limit

	EuroCCP, within the stipulated time limits;		is not exceeded by 2 hours, the BDMT may be called together but does not have to be called together.
(i)	failure to pay the Fees imposed by EuroCCP;	Finance	Does not lead to notice of default, only to follow up with the Clearing Participant involved.