

EuroCCP Clearing Rule Book consultation

Proposal to change certain provisions – comments requested by 18 April 2019

Introduction

EuroCCP is proposing changes to its Clearing Rule Book. The changes primarily relate to a number of recovery tools which are included in EuroCCP's recovery plan and which require the involvement of the clearing participants. The recovery tools are in line with market practice.

Furthermore the updated Clearing Rule Book (CRB) contains a provision which gives EuroCCP the possibility to temporarily suspend collateral withdrawal rights of clearing participants to address liquidity shortages due to defaulting clearing participants or co-ccps.

In this document the proposed changes are further discussed and explained as to their intended purpose and effect.

The proposed changes are incorporated in the document *EuroCCP Clearing Rule Book (consultation version 20 March 2019)* which is available on the website of EuroCCP.

The changes are subject to regulatory approval, if required.

Time lines

The changes to the CRB are open for consultation pursuant to article 3.7.3 of the CRB. The 30 calendar day consultation period ends on 18 April 2019.

The relevant provisions are expected to apply shortly after the end of the consultation period.

Proposed changes

In this document we discuss and give background to the proposed changes.

Drafting changes, typos or lay-out corrections and changed cross-references are not discussed herein unless stated otherwise.

Article 1.1 – Definitions

Additional definitions have been included for the purposes of consistency and clarity.

Article 3.5.2 – Right of EuroCCP

Risk Neutralising Instructions

Additional wording to 3.5.2 is introduced allowing EuroCCP to submit Risk Neutralising Instructions and requiring each relevant Clearing Participant to submit corresponding instructions to the relevant settlement addresses. Risk Neutralising Instructions mean new delivery or payment instructions 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. The purpose of this arrangement is to allow the original settlement to take place on the due date, while a new settlement instruction is submitted with a new later date. By means of this measure EuroCCP is capable of temporarily reducing and managing its liquidity needs in times of stress and the measure serves as alternative to postponement of the settlement of the original Open Positions.

Article 3.14.4 – Scope of EuroCCP’s obligations

Cash settlement

A new article 3.14.4 is introduced allowing EuroCCP to clarify that it is EuroCCP that will determine in what currency Open Positions are to be cash settled. This allows EuroCCP to manage the currency and liquidity risk efficiently while it does not materially increase the burden on the Clearing Participants.

Article 8.6 – Top-up contributions

Assessment powers for default losses

Article 8.6.4 includes an assessment power of EuroCCP to make a cash call to the Clearing Participants up to the amount of their contribution in the Clearing Fund in the event that the pre-funded resources have been exhausted due to a default of a Clearing Participant.

New articles 8.6.5 through 8.6.9 are introduced including an additional cash call to the Clearing Participants if the first cash call is not sufficient to capture the losses incurred due to a Clearing Participant default. The second cash call is introduced to make recovery more robust and is also capped to the amount of the contribution in the Clearing Fund.

Article 8.7 – Cooling off period

Cooling off period

A new article 8.7 is introduced providing for a cooling off period of 30 calendar days in the event that EuroCCP has issued three consecutive notices of default in a period of six months. During the cooling off period the Clearing Participants are not required to contribute to the Clearing Fund except for a minimum amount. The exposure that the Clearing Participants create for EuroCCP shall be addressed

through margin contributions. The cooling off period allows the Clearing Participants to assess their membership in the CCP and resign if so desired.

Article 8.11 Liquidity Cash Calls in extreme and implausible situations

Assessment powers

A number of new articles are introduced catering for liquidity shortfalls that have triggered the activation of EuroCCP's recovery plan. A so called Recovery Liquidity Cash Call may be called as a result of a Clearing Participant defaulting or a liquidity provider failing.

Article 8.11 introduces an assessment power allowing EuroCCP to request the Clearing Participants to pre-fund their settlements through a liquidity cash call. This constitutes short term liquidity allowing EuroCCP to continue its settlement process. EuroCCP shall to repay to the Clearing Participants the amounts advanced under the liquidity cash call through the proceeds of the sale of the securities and up to the amount of those proceeds (if lower).

It should be noted these tools are back-stop measures and are part of EuroCCP's recovery planning which EuroCCP is obligated to have. These tools can only be deployed in extreme and implausible situations.

Article 8.12 Voluntary auction to participants or brokers; cash settlement

Auction of positions; cash settlement

Additional provisions have been included that give EuroCCP the ability, at its discretion, to organise a voluntary auction of the portfolio of the defaulting Clearing Participant (including in the situation where EuroCCP has invoked its recovery plan) to the non-defaulting Clearing Participants and/or third party brokers. See new article 8.12.

If the auction is (partly) unsuccessful in cases where EuroCCP has activated its Recovery Plan, EuroCCP may cash settle the positions with a non-defaulting Clearing Participant at a price determined by EuroCCP. See new article 8.12.9. This is also a back-stop measure and is part of EuroCCP's recovery planning which EuroCCP is obligated to have. It can only be deployed in extreme and implausible situations.

Article 8.13 Suspension of withdrawal of collateral (Liquidity)

Suspension of withdrawals

A new article 8.13 is introduced that enables EuroCCP to suspend the ability of Clearing Participants to withdraw or substitute any collateral, deposits or contributions in order for EuroCCP to be able to continue rely on such funds to facilitate the settlements in times of liquidity shortfalls.

Article 9 – Investment Losses

Assessment powers for investment losses

A new article 9 is introduced allowing EuroCCP to make a cash call to the Clearing Participants for a portion of investment losses incurred by EuroCCP. This is the only situation where EuroCCP will pass non default losses on to the Clearing Participants and only to those Clearing Participants that have contributed to the CCP resources in cash. EuroCCP will first take a portion of the losses from its own resources (own capital) before passing on the remainder to the Clearing Participants on a pro rata basis to their contribution to the total cash collateral pool of EuroCCP.

It is noted that EuroCCP's investment policy is very strict. EuroCCP invests only in liquid government issued securities of a restricted number of countries as per Regulation EuroCCP Investment Policy and the investments include appropriate haircuts. Losses are not expected and if they were to occur in extreme circumstances, they are expected to be relatively marginal.

The investment policy is approved after receiving advice from the Risk Committee which includes representatives from the Clearing Participants and the Trading Participants. Material changes to the investment policy are approved by EuroCCP's regulators. EuroCCP informs the Advisory Board of changes to its regulations in every meeting.

Article 10.1.2 (i) and 10.4.1 (o) – Breaches

Risk Neutralising Instructions

Also in the case of a Breach or in the case of a default of a Clearing Participant, EuroCCP is introducing the measure of entering into risk neutralising transactions. The reasons are similar to the changes in relation to article 3.5.2 above.