

**EuroCCP Clearing Rule Book consultation**

*Proposal to change certain provisions – comments requested by 10 December 2019*

**Introduction**

EuroCCP is proposing changes to its Clearing Rule Book. The changes further clarify EuroCCP's rules in relation to Clearing Fund contributions, usage and replenishment in the event of a Clearing Participant default. The rule changes will allow Clearing Participants to better quantify their financial obligations and exposures to EuroCCP.

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 11 November 2019)* which is available on the website of EuroCCP.

The changes are subject to regulatory approval, if required.

**Time lines**

The changes to the Clearing Rule Book are open for consultation pursuant to article 3.7.3 of the Clearing Rule Book. The 30 calendar day consultation period ends on 10 December 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.

In particular the terms **Default Handling Period** and **Default Handling Completion Notice** have been added. The purpose of these definitions is to be more specific as to when and what kind of actions are taken if a Clearing Participant is in default. This will enhance transparency and predictability.

## **Article 5.8.7 – Termination (new clarifying provision)**

It has been clarified that termination of the clearing relationship by a Clearing Participant is conditional upon EuroCCP not holding any Open Position for such resigning Clearing Participant. This new provision supplements the rule that Clearing Fund Contributions will only be returned if the Clearing Participant has no obligations towards CCP.

Furthermore it has been made clear that during a Default Handling Period no resignation can take place and any pending but not completed resignations are null and void. This is to allow EuroCCP to focus on the default situation at hand and avoids Clearing Participants foregoing obligations during the default management process. It enhances the reliability of the relevant funds being available in times of stress.

However, during the first ten days of a Cooling-Off Period, Clearing Participant resignations will not be subject to the notice period applicable under the Clearing Participation Agreement (see article 8.7.2).

## **Article 8.2.3 – Freezing of Clearing Fund Contributions (new clarifying provision)**

A new provision 8.2.3 is introduced to make clear that upon a Clearing Participant entering into default, resizing of the Clearing Fund does not take place and any Clearing Fund Contributions made by the non-defaulting Clearing Participants remain unaffected apart from any reductions due to manage the default or any increases due to any Clearing Fund Cash Calls. This was already implied but has now been made more explicit.

A new provision 8.2.4 is introduced to clarify that during a Cooling-Off Period, non-defaulting Clearing Participants must maintain at least the applicable base deposit as their Contribution to the Clearing Fund. This is currently already the case. What is now being made more specific is that additional funds are to be deposited if such Contributions fall below the applicable base deposit.

## **Article 8.5.1 – Application of defaulting Clearing Participant Contributions (new provision)**

A new provision 8.5.1 is introduced to clarify that on issuance of a Notice of Default, the Clearing Fund shall be treated as having been reduced by the amount of the Contributions made by the defaulting Clearing Participant. This is to explicitly reflect the immediate availability of the defaulting Clearing Participant's Contribution ahead of the non-defaulting Clearing Participants' Contributions in the default waterfall, and a commensurate reduction in the remaining Clearing Fund resources.

## **Article 8.6 – Clearing Fund Cash Calls (adjusted/clarified provision)**

Currently the Clearing Rule Book provides that additional cash calls can only be requested if the Clearing Fund has been fully depleted. Revised provisions in Article 8.6 allow Clearing Fund Cash Calls for additional funds to be made if the Clearing Fund drops below 50% of its pre-default value. The possibility to call for additional funds is therefore now being brought forward to enhance the resilience of EuroCCP during the Default Handling Period. The maximum amount for which the Clearing Fund Cash Calls can be requested from a Clearing Participant continues to be two times the value of its Contributions just prior to the default.

In any period of six months, Clearing Fund Cash Calls with respect to a maximum of three Notices of Default can be made. This means that during any six month period, a maximum of 6 times the value of Contributions just prior to the default can be called by EuroCCP as additional Contributions (i.e. three times the two cash calls equal to the pre-default Contribution).

This cap will allow Clearing Participants to better quantify their financial obligations and exposures to EuroCCP.

## **Article 8.7 – Cooling-Off Period (adjusted/clarified provision)**

After the Rule Book Consultation in June 2019, a Cooling-Off Period was introduced. This Cooling-Off Period currently commences after the third default declaration in a rolling six month period and during this period Clearing Participants would only need to contribute a minimum amount to the Clearing Fund.

During and after the consultation EuroCCP received feedback that although the Cooling-Off Period was an enhancement to the current situation, it still does not allow Clearing Participants to control their exposure towards EuroCCP at all times as the Cooling-Off Period only starts after the third default notice is issued and not after the first. This means that after the first (and second) default event the non-defaulting Clearing Participants could potentially be subject to a Clearing Fund Contribution requirement (and potential cash calls) that is materially different (higher) compared to the pre-default requirement.

For this reason a Cooling-Off Period is proposed to commence immediately after a Default Handling Period has ended (as opposed to the current process where it comes into force after the third default). The nature of the Cooling-Off Period does not change and the length of the period remains at 30 calendar days.

The Cooling-Off Period allows the Clearing Participants time to assess their membership in the CCP and resign if so desired. During the Cooling-Off Period, the Clearing Participants are not required to contribute to the Clearing Fund except up to their applicable minimum base amount, and all excess Clearing Participant risk exposures shall be covered directly by additional margin collateral in the usual manner.

The issuance of one or multiple notices of default within a continuing Default Handling Period will only result in one Cooling-Off Period after the completion of the handling of all prevailing defaults. Where a subsequent Notice of Default is issued prior to completion of a Cooling-Off Period the Default Handling Period is reinstated. This is again to allow EuroCCP to focus on the default situation at hand and avoids leakage of funds during the default management process. It enhances the reliability of the relevant funds being available in times of stress.