

REGULATION

pursuant to article 3.2 of the Clearing Rule Book

Complaints

Capitalised terms used in this Regulation, and not otherwise defined, shall have the meaning as set out in the Clearing Rule Book.

This Regulation comes into force on 01 January 2011.

Changes to this Regulation will be implemented in accordance with the Change Management Process for Clearing Rules, after consultation of Clearing Participants.

1. Introduction

This Regulation describes how a person (“the Complainant”) who:

- a) has a complaint about the conduct or behaviour or other actions of a Clearing Participant with regard to that Clearing Participant’s clearing activities with EuroCCP;
or
- b) has a complaint arising in connection with the performance of, or failure to perform, any of EuroCCP’s regulatory functions

may make a formal complaint, and how that complaint will be investigated and resolved.

2. Procedure

- 2.1 A complaint with regard to the conduct or behaviour or other actions of a Clearing Participant in that Clearing Participant’s clearing activities conducted through the systems and services operated by EuroCCP or a complaint regarding the performance of the same or EuroCCP’s failure to perform any of its regulatory functions:
 - 2.1.1 must be made in writing, dated and addressed to EuroCCP’s Company Secretary, European Central Counterparty N.V., Strawinskylaan 1847, 1077 XX Amsterdam, The Netherlands;
 - 2.1.2 should set out, as far as possible, details of the conduct, behaviour or other actions complained about, date(s) and place(s) it occurred, names of (the) person(s) involved, outcome sought, and any other relevant details;
 - 2.1.3 must be made no later than 3 months after the conduct, behaviour or other actions complained about, or, if the conduct, behaviour or other actions complained about consists of a series of events, no later than 3 months after the end of the last of such an event;
 - 2.1.4 must contain the full name and address of the Complainant and, wherever possible, details of a contact telephone number and email address.
- 2.2 In submitting a complaint in accordance with these procedures the Complainant may submit such further and other documentation and material which he/she believes may be relevant.
- 2.3 Upon receipt of a written complaint pursuant to this Regulation, the Company Secretary shall acknowledge receipt of the complaint in writing to the address shown in the letter of complaint. Such acknowledgment shall be made within 14 days of receipt of the letter of complaint. After receipt of a complaint in accordance with the procedure set out in this section, EuroCCP shall conduct an internal investigation and review of such complaint in accordance with the procedures set out in section 3 below.

3 Internal investigation and review by EuroCCP

- 3.1 No later than 14 days from receipt of a complaint of the type referred to in section 1 (a) or 1 (b) above, the Company Secretary shall refer the complaint, together with any supporting material provided by the Complainant, to an Investigation Committee.
- 3.2 An Investigation Committee shall consist of at least three members of the Management Team, including at least one member of the Management Board.
- 3.3 The Investigation Committee established pursuant to this Regulation Complaints shall conduct an investigation into the subject matter of the complaint and shall deliver its report to the Complainant and to the Management Board of EuroCCP within a period of 12 weeks from the receipt of the complaint. The Investigation Committee may make such recommendations as it deems fit for resolving the subject matter of the complaint. The Investigation Committee may, if it so decides, make no recommendations if it considers such course of action to be appropriate in the circumstances. The report shall contain reasons for the Investigation Committee's decision.
- 3.4 The costs of the internal investigation and review shall be borne by EuroCCP.

4 Referral to an independent investigator

- 4.1 In the event that the Complainant is dissatisfied with the outcome of the Internal Investigation and Review procedure set out in section 3 above, or in the event that the Complainant does not receive the report of the Investigation Committee within 14 weeks of the submission of a complaint of the kind described in section 1 (a) and 1 (b) above, (and providing that the subject matter of the complaint (or substantially the same matters) shall not have already been referred to an independent investigator as a result of a complaint from that same Complainant) the Complainant may ask for the complaint to be referred to an independent member of EuroCCP's Supervisory Board (the "Complaints Investigator") in accordance with the procedure set out in section 5 below.
- 4.2 A request for referral to the Complaints Investigator shall be made in writing to EuroCCP's Company Secretary and shall be made no later than 2 weeks following notification to the Complainant of the report of the Investigation Committee or 16 weeks from the submission of the original complaint to EuroCCP in accordance with section 2.
- 4.3 Within 14 days of receipt of a written request, in accordance with section 4.2 above, the Company Secretary shall refer the complaint to the Complaints Investigator. Such Complaints Investigator shall be a person:
 - a) serving as an independent member of EuroCCP's Supervisory Board (for these purposes "independent" shall mean that such person is not and has not been an officer, executive director or employee of EuroCCP);
 - b) with appropriate knowledge of how clearing is carried out by EuroCCP and of the Clearing Rule Book (including the EuroCCP procedures), and other relevant documentation, regulation and applicable law; and
 - c) with appropriate experience of the market activities in respect of which the complaint is focused.
- 4.4 In the event, that for reasons beyond the reasonable control of EuroCCP, referral to the Complaints Investigator is not made within the 2 week period referred to in 4.2 above, then the Company Secretary shall notify the Complainant in writing of the reasons for the delay.

5 Procedure for dealing with the complaint

- 5.1 Upon appointment, the Complaints Investigator nominated in accordance with this Regulation, shall forthwith notify the Complainant and EuroCCP in writing of his appointment and shall invite the Complainant and EuroCCP to make such submissions and submit such documentation as each may wish within such timescale as the Complaints Investigator may determine.
- 5.2 The Complaints Investigator shall determine his own procedure for considering the complaint referred to him, shall be guided by the requirements of fairness and, and may do, inter alia, any one or more of the following:
 - a) interview the Complainant;
 - b) interview a representative of EuroCCP;
 - c) seek further or other information from EuroCCP and/or the Complainant;
 - d) make such further or other reasonable inquiries as he/she deems fit in order properly and fully to investigate the Complaint.

6 Outcomes

- 6.1 The Complaints Investigator shall, wherever reasonably possible, conclude his investigation of a complaint referred to him under this Regulation, within a period of 2 months from the date of his nomination. Where it is not reasonably possible so to do on account of the nature or complexity of the matter referred to him or other good reason, then he shall notify the Complainant and EuroCCP in writing of this fact and provide a further date for the completion of the investigation.
- 6.2 The Complaints Investigator shall, at the end of his investigation produce a written report setting out his findings, conclusions, and reasons for his conclusions. Such report shall be provided both to the Complainant and to EuroCCP but it shall not be made public unless the complaint is upheld in whole or in part and the Complainant so requests. In the event of such request, the report shall be made public by being published on EuroCCP's corporate website. Where only part of the complaint is upheld then only that part of the report relating to that part of the complaint shall be so published
- 6.3 In his written report the Complaints Investigator may:
 - a) dismiss the complaint;
 - b) uphold the complaint in its totality;
 - c) uphold part of the complaint and dismiss part of the complaint; or
 - d) make such recommendations as he/she deems fit in the circumstances including a binding decision that EuroCCP make a compensatory payment and/or takes such action as may be reasonably practicable to remedy the cause of the complaint.
- 6.4 Upon receipt of the report, EuroCCP's Management Board shall execute the Complaints Investigator's findings and conclusions.