

IMPORTANT NOTICE

European Central Counterparty Limited



#: E#9-09
Date: July 15, 2009
To: All Participants
Attention: Managing Partner/Officer;
Manager, Operations Department;
Manager, Treasury/Finance Department
From: EuroCCP Counsel's Office
Subject: Rule Change –Novation

In November, 2008 European Central Counterparty Limited (“EuroCCP”) proposed a rule change (to Rule 7) to enhance its trade guarantee and the protection of Participants by providing that EuroCCP’s trade guarantee will take effect from the time of trade, subject to satisfaction of certain specified conditions. The clarification is intended to provide Participants (and their Non-Clearing Firms) with additional assurances that trade submission delays will not impact the effectiveness of EuroCCP’s trade guarantee. See EuroCCP Important Notice E#9-08 (4 November 2008) (available at www.euroccp.co.uk).

EuroCCP received comments from several Participants, and discussed with each the questions they raised. All of the commenters were supportive of the proposal, and were helpful in identifying potential ambiguities in language. In addition, several raised questions as to the intended scope of the cancellation provision (formerly proposed section 1.8 of Rule 7). In light of these comments, EuroCCP management has reconsidered the original proposed text and concluded that there is no need to deal specifically with the cancellation of erroneous transactions in that paragraph, as that is already adequately dealt with elsewhere in the Rules. Accordingly, the originally proposed section 1.8 text has been deleted in the final Rule.

Several commenters expressed concern about the condition to the effectiveness of the novation of trades to EuroCCP that requires trade data to be received by EuroCCP prior to the Close of Business on the business day in which the trade is effected. Their concern related to circumstances where EuroCCP or a trading platform encounters systems or communication difficulties which could prevent the trade data from being received by EuroCCP before the relevant Close of Business. However, the need to receive, process and risk manage trades on trade date is an inherent feature of EuroCCP’s system, which is based on trade date netting. Nevertheless, EuroCCP recognises the need to be flexible, and the Rules allow EuroCCP to vary the time, on a given day, of the Close of Business. Accordingly, EuroCCP management would expect to extend the cut-off time to the extent practicable to accommodate and resolve such processing issues if, and when, they arise.

In addition, based upon discussions with the commenters and with the U. K. Financial Services Authority, certain other clarifying changes have also been made, including modifying the introductory language of section 1.7 to make clearer when novation actually occurs.

The full text of the final revised language of the Rule is attached. These changes are effective immediately. Any questions should be directed to your Relationship Manager at euroccp_crm@euroccp.co.uk.

Merrie Faye Witkin
Corporate Secretary

TEXT OF CHANGES TO EuroCCP's RULES

Underlined text indicates additions to EuroCCP's Rules.

~~[Strikethrough and Bracketed]~~ text indicates deletions to EuroCCP's Rules.

RULE 7 – NOVATION OF OBLIGATIONS, NETTING, SETTLEMENT AND DELIVERIES

1. SECTION 1: NOVATION OF TRANSACTIONS

- 1.1 Each transaction included in a Trade Status Report shall be novated as provided in Section 1.3 at the time when the transaction is ~~validated and~~ accepted or deemed to be accepted (pursuant to Section 1.7 below) by the Corporation (the "**Time of Novation**"). A transaction which has been novated under this Section 1.1 is referred to in these rules as an "**Accepted Trade**".
- 1.2 If notice of cancellation of an Accepted Trade (the "**Original Transaction**") is received by the Corporation from the relevant Approved Entity prior to the cut-off time specified by the Corporation and is shown as cancelled on a Report then, at the time when the Report is issued to Participants, the Novation in respect of the Original Transaction shall be reversed unless an Insolvency Event has occurred in relation to an original party. Similarly, if the Corporation receives notice of a correction (if applicable in the relevant market) of an Accepted Trade from the Approved Entity prior to such specified cut-off time or the Corporation, pursuant to its authority under Rule 6, makes a correction to avoid an error, and the details of such correction are indicated on a Report then, at the time the Report is issued to Participants, the Novation in respect of the Original Transaction shall be reversed and replaced with a novated transaction reflecting the terms of such transaction as appropriately adjusted by the correction. Accordingly, if an Original Transaction is reported as cancelled or corrected, that Original Transaction shall be treated as if it had never been accepted and novated under this Section 1 and, if an Original Transaction is corrected, it shall be treated as if it had always been in the form as corrected.
- 1.3 At the Time of Novation:
- (a) each Participant which is party to a transaction novated under Section 1.1 shall be released from its obligation to deliver securities or make payments (as the case may be) and its rights against the other in respect of the corresponding payment or deliver obligation owed to it shall cease to exist (being the "**Discharged Rights and Obligations**");
 - (b) the Participant which was the seller under the transaction so novated shall (acting as principal) acquire rights against, and assume obligations towards, the Corporation exactly equivalent to the Discharged Rights and Obligations but with the substitution of the Corporation (acting as principal) in place of the original buyer;
 - (c) the Participant which was the buyer under the transaction so novated shall (acting as principal) acquire rights against, and assume obligations towards, the Corporation exactly equivalent to the Discharged Rights and Obligations but with the substitution of the Corporation (acting as principal) in place of the original seller.

- 1.4 To the extent that the rights and obligations of each party to a transaction are not novated as described under Section 1.3, those rights and obligations shall continue in force and between those parties.
- 1.5 The obligations assumed by the Corporation under Section 1.3 as a counterparty to a Participant shall take effect subject to these Rules in all respects, including, without limitation, all restrictions on the Corporation's obligations and liabilities contained in these Rules.
- 1.6 If and to the extent that the terms of any transaction or any Participant's accounting or other records, forms, correspondence or telephone or other statements, are or purport to be inconsistent with the terms of these Rules, the terms of these Rules shall prevail.

1.7 Each transaction effected on, via or by an Approved Entity shall be deemed to be accepted by the Corporation for the purposes of Section 1.1 of this Rule and Novation in respect of the transaction concerned pursuant to Section 1.3 of this Rule (the "Relevant Novation") shall consequently have automatic effect at the time that the transaction is effected (i.e., the time at which a binding transaction is created under the terms and conditions of the relevant Approved Entity; the "Time of Trade"), subject to the satisfaction of all the following conditions:

- (a) the transaction satisfies the requirements of the Corporation for validation and acceptance of transactions in force and applied by the Corporation at the Time of Trade; and
- (b) the complete trade data in respect of the transaction (including both buy and sell sides) is received by the Corporation prior to the Close of Business for the Business Day in which the transaction is effected (the "Cut-off Time"); and
- (c) The Corporation has not, prior to the Time of Trade, notified the Approved Entity that it will not accept trades:
- (i) from a Participant or Non-Clearing Firm that is a party to, or responsible for, the transaction; and/or
- (ii) in relation to the Eligible Instrument that is the subject of the transaction.

If all of the above conditions are satisfied, then such deemed acceptance, and assumption and release of rights and obligations by virtue of the Relevant Novation, shall be treated as taking effect as from the Time of Trade.

1.8 The Corporation may make Procedures varying the provisions of Section 1.7 of Rule 7 as they apply to a specific service or type of transaction.

1.9 Section 1.7 of this Rule 7 is without prejudice to any other right of the Corporation pursuant to these Rules in respect of Accepted Trades and transactions submitted to the Corporation, including, without limitation, the Corporation's rights pursuant to Sections 2.2 and 4 of Rule 6, Section 1.2 of Rule 7 and Section 3 of Rule 12.

1.10 Nothing in Section 1.7 of this Rule 7 shall fetter the Corporation's discretion to validate and accept a transaction in accordance with Section 1.1 of Rule 7, notwithstanding that such transaction does not satisfy the conditions in Section 1.7 of this Rule 7.

The remainder of Rule 7 is unchanged