

## **Consultation on ECC's Envisaged new Rules for Default Fund Cash Calls & Allocation of Foreign Currency Commercial Bank Losses**

In line with the continuous development and improvement of the risk management framework, ECC proposes amendments of its Clearing Conditions. The proposed changes have previously been presented to and approved by the EMIR Risk Committee of ECC.

A summary of the planned amendments is provided below.

Clearing Members and affected customers are invited to provide their feedback regarding the intended changes until 29 October 2021.

The draft of the new version of the Clearing Conditions is annexed to this consultation document. This consultation paper including the draft Clearing Conditions will be published on ECCs website as a circular.

### **Contact**

European Commodity Clearing AG  
CCP Risk Management & Risk Controlling  
E-mail: [risk.controlling@ecc.de](mailto:risk.controlling@ecc.de)

## 1. Summary of the Consulted Amendments

### a) Capped Liability for Default Fund Cash Calls, chapter 3.7 Clearing Conditions

ECC intends to change its rules for cash calls (assessment (“additional contribution”) and replenishment calls) following a Clearing Member default. The target is to limit the liability for non-defaulting Clearing Members within a defined period of time (cool down period) in case of default events with the following core elements:

1. In case of default event, a rolling cool-down period of 30 days starts. The cool-down period is extended with each new default for 30 days, up to maximum of 90 days.
2. During a cool-down period, the sum of the volume of assessment and replenishment cash calls is limited to three times the default fund (DF) contribution at the start of the cool-down period (cool down cap).
3. If Clearing Members hand in a termination notice within 10 days after the start of a cool-down period and fulfill all conditions for termination before the end of the cool-down period (e.g. all proprietary positions closed, all NCM transferred), they are released from the cash call obligations. Until the end of the cool-down period, they remain full members of ECC.

### b) Allocation of Foreign Currency Commercial Bank Losses, section 3.4.6.2 Clearing Conditions

ECC intends to change its rules regarding loss distribution for cash collateral posted in a Foreign Currency where ECC has no central bank access (currently all non-EUR currencies) with the following core elements:

1. Clearing Members that provided such cash collateral shall bear losses pro-rata in case of default of a payment bank. ECC takes over a pro-rata share based on a dedicated amount of 5 Mn. EUR maximum.
2. Losses will be allocated to Clearing Members and additional collateral will be called by ECC on the next ECC business day.

## 2. Used terms

The term “assessment” defines a cash call to non-defaulting Clearing Members issued by ECC during the management of a default in case the pre-funded default fund resources are fully used up and still excess losses remain. The assessment serves to manage losses of a default already occurred at the time of the assessment cash call. Assessment cash calls are currently regulated in section 3.7.3 of ECC’s rulebook.

The term “replenishment” defines a cash call to non-defaulting Clearing Members issued by ECC after the management of a default in case the pre-funded resources of the Clearing Fund have been utilized to any part. The replenishment serves to return the Clearing

Fund volume to its required amount and shall cover losses from potential future default events. Replenishment cash calls are currently regulated in 3.7.4 of ECC's rulebook.

The term "commercial bank loss" (non-default loss) means a loss suffered by ECC due to a default of a Commercial Bank holding cash collateral of a Clearing Member in a foreign currency.

### 3. Consultation

ECC invites all Clearing Members to submit comments regarding these intended amendments with regard to the following aspects:

1. length and definition of the cool-down period,
2. length and definition of the termination deadline,
3. total number of cash calls,
4. common cap for assessment & replenishment cash call;
5. assignment method for the distribution of commercial bank losses.

Feedback on these questions shall be provided using the following e-mail-address:  
[risk.controlling@ecc.de](mailto:risk.controlling@ecc.de)

The consultation period shall end on **29 October 2021**.