

**CROSS-BORDER COOPERATION ARRANGEMENT
AMONG
THE PARTICIPATING AUTHORITIES
OF THE CRISIS MANAGEMENT GROUP IN RESPECT OF
EUROCCP**

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This arrangement, including all Annexes (together, **Arrangement**), is entered into by the Participating Authorities with effect as of [date] 2019.

Unless explicitly indicated otherwise, throughout this Arrangement capitalized terms shall have the meaning ascribed thereto in Art. 1 (*Definitions*) below and references to De Nederlandsche Bank N.V. (**DNB**) shall be deemed to be solely to DNB in its (anticipated) capacity as Home Resolution Authority.

Preambles

1. **Background.** In order to establish a crisis management group (**CMG**) and provide a dedicated framework for information exchange, coordination and cooperation among the Participating Authorities in the context of the preparation for and execution of any resolution actions, in each case in the broadest sense, in respect of European Central Counterparty N.V. (**CCP**), the Participating Authorities wish to enter into this Arrangement.
2. **Basis.** This Arrangement is based on (i) the Key Attributes, particularly KA 9 (*Institution-specific cross-border cooperation agreements*) thereof, and (ii) Appendix I-Annex 1 (*Information Sharing for Resolution Purposes*), Appendix I-Annex 2 (*Essential Elements of Institution-Specific Cross-border Cooperation Agreements*) and Appendix II-Annex 1 (*Resolution of FMIs and FMI Participants*) thereto. It also draws inspiration from the European Commission's proposal for a Regulation on CCP recovery and resolution (COM(2016)856 final) dated 28 November 2016.¹ Once the Regulation enters into force, this Arrangement shall be amended to the extent required to comply therewith.
3. **Scope.** This CMG will focus on resolution planning and execution in relation to the CCP, while those crisis management aspects relating to recovery or early intervention in respect of the CCP as currently foreseen in the draft EU-regulation on a framework for the recovery and resolution of central counterparties, will primarily be dealt with by the college established under Art. 18 of Regulation (EU) No 648/2012 (European Market Infrastructures Regulation, **EMIR**) (**EMIR College**) as well as by DNB in its capacity as competent authority and each Participating Authority individually.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0856>.

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4. **Status.** This Arrangement is neither legally binding nor legally enforceable and its provisions do not give rise to any legal claim by or on behalf of DNB or any other CMG Member, CMG Observer, CMG Attendant or third party.
5. **No prejudice.** The provisions of this Arrangement are without prejudice to the provisions of (i) other cross-border cooperation arrangements, including those governing the EMIR College, and (ii) any (future) legislation or authoritative guidance dealing with the resolution framework for central counterparties.

Article 1: Definitions

- 1) In this Arrangement, unless otherwise specified:
 - a. **Annex** means an annex to this Arrangement;
 - b. **Arrangement** has the meaning ascribed thereto in the opening paragraph of this document;
 - c. **Breaching Party** has the meaning ascribed thereto in Art. 12(7) below;
 - d. **CCP** has the meaning ascribed thereto in preamble 1 above;
 - e. **CMG** has the meaning ascribed thereto in preamble 1 above;
 - f. **CMG Attendant** means any relevant non-authority admitted by DNB to the CMG as an attendant in accordance with Art. 3(3)(b) below;
 - g. **CMG Member** means DNB and any authority admitted by DNB to the CMG as a member in accordance with Art. 3(3)(a) below;
 - h. **CMG Observer** means any authority admitted by DNB to the CMG as an observer in accordance with Art. 3(3)(a) below;
 - i. **Confidential Information** means all non-public information;
 - j. **DNB** has the meaning ascribed thereto in the opening paragraph of this Arrangement;
 - k. **DoC** means the declaration of confidentiality in the form set out in Annex 2;

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- l. **EMIR** has the meaning ascribed thereto in preamble 3 above;
- m. **EMIR College** has the meaning ascribed thereto in preamble 3 above;
- n. **ESMA** means the European Securities and Markets Authority;
- o. **FMI**s has the meaning ascribed thereto in Art. 3(1) below;
- p. **FSB** means the Financial Stability Board;
- q. **Home Authority** means DNB in its capacity as the CCP's home resolution authority unless otherwise specified in this Arrangement;
- r. **Key Attributes** means the FSB standards and guidance presented in the Key Attributes of Effective Resolution Regimes for Financial Institutions and **KA** means an individual key attribute;
- s. **Participating Authorities** means the CMG Members and CMG Observer listed in Annex 1;
- t. **PFMI** means CPSS-IOSCO's Principles for Financial Market Infrastructures;
- u. **Producing Party** has the meaning ascribed thereto in Art. 12(5) below;
- v. **Recovery Guidance** means CPMI-IOSCO's Recovery of Financial Market Infrastructures guidance;
- w. **Recovery Plan** means the CCP's recovery plan prepared in accordance with, amongst others, (i) the PFMI, (ii) the Recovery Guidance, (iii) the (draft) EU-regulation on a framework for the recovery and resolution of central counterparties, (iv) relevant technical standards or guidance published by relevant European authorities, such as ESMA, all to the extent in force at the relevant time, and (v) other applicable national laws and regulations;
- x. **Relevant Regulatory Framework** has the meaning ascribed thereto in Art. 5(3)(b) below; and

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- y. **Resolution Plan** means the CCP's resolution plan as prepared by DNB in accordance with, amongst others, (i) the Key Attributes, (ii) the FSB Guidance on Central Counterparty Resolution and Resolution Planning, (iii) the EU Regulation on a framework for the recovery and resolution of central counterparties once applicable, (iv) any relevant technical standards or guidance published by relevant European authorities, such as ESMA, all to the extent in force at the relevant time, and (v) other applicable national laws and regulations.

Article 2: The CCP

- 1) **Classification.** The CCP is a central counterparty incorporated in the Netherlands. It has been authorised as a central counterparty pursuant to EMIR since April 2014.
- 2) **Regulatory status.** The CCP is subject to regulatory regimes in- and outside the European Union based on its registration status in such other jurisdictions.

Article 3: CMG composition

- 1) **Parameters and review.** Given the ongoing regulatory developments on global and European level regarding the composition of crisis management groups for financial market infrastructures (**FMI**s), this CMG's composition has initially been determined in accordance with Art. 9.2 of the FSB Guidance on Central Counterparty Resolution and Resolution Planning (version of 5 July 2017) and shall be reviewed periodically by DNB in light of such regulatory and any other relevant developments.
- 2) **Initial composition.** The CMG's initial composition consists of the Participating Authorities listed in Annex 1.
- 3) **Changes.** DNB may from time to time in its discretion and without creating any precedent:
 - a. **Admission of CMG Member or CMG Observer.** Subject to subparagraph (e) below, invite any relevant authority to join this CMG on a standing basis, subject to such authority initialling, executing and returning by e-mail to DNB at ccp-resolution@dnb.nl a full copy of (a) the DoC and (b) the then current version of this Arrangement to indicate its acceptance thereof, after which such authority shall be deemed to be a Participating Authority and designated by DNB in writing as a CMG Member or CMG Observer, as applicable.

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- b. **Ad hoc invitation of CMG Attendant.** Subject to subparagraph (e) below, invite any relevant non-authority to attend meetings of this CMG on an ad hoc basis, subject to such non-authority initialling, executing and returning by e-mail to DNB at ccp-resolution@dnb.nl a full copy of the DoC, after which such non-authority shall be designated by DNB in writing as CMG Attendant. For the avoidance of doubt, the confidentiality provisions set forth in the relevant DoC will survive any such ad hoc attendance.
- c. **Removal by DNB.** Remove any CMG Member or CMG Observer which in the reasonable opinion of DNB (i) no longer meets the membership criteria for this CMG or (ii) is in breach of any one or more provisions of the DoC executed by it or of any one or more of the provisions of this Arrangement and such breach has not been remedied by the relevant CMG Member or CMG Observer to the satisfaction of DNB within a reasonable period to be determined at the discretion of DNB considering the relevant circumstances. DNB shall inform all other CMG Members and CMG Observers of such removal. For the avoidance of doubt, the confidentiality provisions set forth in this Arrangement and the relevant DoC will survive any such removal by DNB.
- d. **Removal upon request.** Should a CMG Member or CMG Observer wish to terminate its participation in this CMG and in this Arrangement, it must give at least three months prior written notice thereof to DNB before such removal shall become effective. DNB shall inform all other CMG Members and CMG Observers of such removal. For the avoidance of doubt, the confidentiality provisions set forth in this Arrangement and the relevant DoC will survive any such termination in accordance with the laws and regulations applicable to the relevant CMG Member or CMG Observer.
- e. **Consultation.** Prior to inviting any (non-)authority to participate in the CMG, DNB will consult all then current CMG Members and CMG Observers with a view to ascertaining that each is permitted to exchange information in line with applicable national laws and regulations, including Confidential Information, with such (non-)authority. If a CMG Member or CMG Observer does not inform DNB via ccp-resolution@dnb.nl within 20 (twenty) working days of such consultation of any objections to participation and/or exchange of information, including Confidential Information, with the relevant (non-)authority, such CMG Member or CMG Observer

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shall be deemed to accept such (non-)authority's participation in the CMG. In case a CMG Member or CMG Observer objects to the proposed participation and/or the exchange of information, DNB will undertake to mediate a solution.

- 4) **CMG Member.** Without prejudice to any other provision of this Arrangement, the role of a CMG Member within the CMG is as set out in Art. 6 (*CMG roles - DNB*) or 7 (*CMG roles - CMG Members (other than DNB) and CMG Observers*) as well as 8 (*Joint CMG roles*), 9 (*Cooperation and coordination during business as usual*) and 10 (*Cooperation and coordination in crisis times*) below.
- 5) **CMG Observer.** Without prejudice to any other provision of this Arrangement, the role of a CMG Observer within the CMG is as set out in Art. 7 (*CMG roles - CMG Members (other than DNB) and CMG Observers*), 8 (*Joint CMG roles*), 9 (*Cooperation and coordination during business as usual*) and 10 (*Cooperation and coordination in crisis times*) below and otherwise to observe the work of the CMG on a standing basis and express its views where appropriate.
- 6) **CMG Attendant.** Without prejudice to any other provision of this Arrangement, the role of a CMG Attendant within the CMG is to participate in CMG meetings solely in an informational capacity and on an ad hoc basis.
- 7) **Representatives.** Each CMG Member, CMG Observer and CMG Attendant role shall be fulfilled by one representative attending the CMG meeting, unless explicitly otherwise agreed in writing by DNB prior to the relevant event. For the avoidance of doubt, this requirement does not preclude a CMG Member or CMG Observer from fulfilling its role through more than one representative attending the CMG meeting on a rotating basis nor does it apply to DNB.
- 8) **Contact details.** DNB will maintain a document with the contact details of all representatives as well as those of key senior and working-level staff per CMG Member and CMG Observer. Each of them shall at least yearly verify the completeness and correctness of the information and provide DNB forthwith with any changes by e-mail at ccp-resolution@dnb.nl.

Article 4: CMG functioning

- 1) **Annual meetings.** CMG meetings shall take place at least annually.
- 2) **Ad hoc meetings.** Upon proposal of any CMG Member or CMG Observer or on its own initiative, DNB may decide to organize an ad hoc CMG

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meeting. If DNB organizes such a meeting, it may, depending on the circumstances, such as the urgency or the relevance to other CMG Members or CMG Observers, decide that such CMG meeting shall take place via tele- or video conference.

- 3) **Chair and organization.** DNB will chair all CMG meetings, at a sufficiently senior level. DNB will organize the practical procedures for all CMG meetings.
- 4) **Means of communication outside of CMG meetings.** All CMG Members and CMG Observers hereby irrevocably undertake to use secured methods of communication (including, but not limited to, e-mail, tele- and video conference) to facilitate rapid and effective information sharing and communication between and amongst each of them whilst simultaneously ensuring appropriate levels of confidentiality.
- 5) **Working language.** To ensure all CMG Members and CMG Observers can benefit from any information exchange, the working language to be used in any CMG meeting as well as all related communications shall be English.

Article 5: CMG framework

- 1) **Framework.** The CMG's functioning aims to achieve the objectives set out in Art. 5(2) below, subject to the principles set out in Art. 5(3) below and in accordance with the provisions of this Arrangement.
- 2) **Objectives.** The CMG's objectives include:
 - a. **Information exchange.** Facilitating the exchange of information, views and assessments, to the extent permitted by each CMG Member's and CMG Observer's respective applicable laws and regulations, amongst and between any of them in order to allow for more efficient and effective resolution planning and timely resolution action in crisis situations; and
 - b. **Coordination of resolution planning and execution.** To coordinate resolution planning and resolution execution processes with a view to facilitating an orderly resolution of the CCP in the broadest sense.
- 3) **Principles.** In pursuing the CMG's objectives, CMG Members and CMG Observers shall in all instances take into consideration the following principles:

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- a. **Minimize the impact of failure.** Resolution aims to (i) ensure the continuity of the CCP's critical functions, (ii) avoid adverse effects on financial stability and (iii) protect public funds by minimizing the reliance on extraordinary public financial support.

- b. **Alignment with applicable guidance and legislation.** The Relevant Regulatory Framework should shape the approach of each CMG Member and CMG Observer to crisis management and resolution of the CCP. The **Relevant Regulatory Framework** consists of but is not limited to: (a) the PFMI, (b) the Key Attributes, (c) the FSB Guidance on Central Counterparty Resolution and Resolution Planning, (d) relevant European legislation, including the EMIR and, once applicable, the EU Regulation on a framework for the recovery and resolution of central counterparties and legislative acts based thereon (or for non EU/EEA CMG members or non EU/EEA CMG Observers their national equivalent, if applicable), (e) any relevant treaty to which the jurisdiction of the relevant CMG Member or CMG Observer is a party, (f) the respective relevant national laws and regulations of each CMG Member and CMG Observer and (g) any such other guidance as the CMG Members may agree from time to time in writing. Each CMG Member and CMG Observer undertakes to inform all other CMG Members and CMG Observers in writing of any material change to their respective crisis management or resolution frameworks to the extent relevant to this Arrangement, including any applicable final opinions rendered by a court of competent jurisdiction, as soon as practicable upon any such change becoming reasonably foreseeable to the relevant CMG Member or CMG Observer.

- c. **No resolution or other powers of CMG.** This CMG as such does not have, nor does it intend to create at any point in time after the date of this Arrangement, any formal resolution, supervisory or other regulatory powers. Any and all such powers are exclusively entrusted to DNB in its various capacities and the other Participating Authorities by the relevant applicable laws and regulations.

- d. **No binding decisions by CMG.** This CMG does not have decision-making powers which could legally bind DNB or any CMG Member or CMG Observer.

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- e. **No separate legal status of CMG.** This CMG does not have, nor does it intend to create at any point in time after the date of this Arrangement, any legal personality for itself, any two or more CMG Members and/or CMG Observers or any combination thereof.
- f. **No limitation by Arrangement.** This Arrangement is not intended to amend or supersede any arrangement existing as at the date this Arrangement enters into force to which DNB or any other CMG Member or CMG Observer is a party or limit the terms of any future arrangement to be entered into by DNB or any other CMG Member or CMG Observer.
- g. **Right to inform third party public authorities.** DNB may, in line with the Relevant Regulatory Framework and if need be, keep any relevant authority which is not a CMG Member or CMG Observer, such as for example the FSB or the Dutch Ministry of Finance, informed of developments regarding the CMG's activities, in accordance with Articles 11 and 12.
- h. **General public disclosure.** The existence of this Arrangement may be publicly disclosed. If and to the extent required by national laws or regulations, court order or in the proper exercise of its statutory functions, powers or obligations, any CMG Member or CMG Observer may publicly disclose an outline of this Arrangement or all or portions thereof. If a CMG Member or CMG Observer intends to disclose any outline or part of this Arrangement to the general public, it should, in accordance with national laws and regulations, give prior written notice to DNB, which will as soon as reasonably practicable thereafter inform all CMG Members and CMG Observers accordingly in writing of the scope of the intended publication.

Article 6: CMG roles - DNB

In its capacity as Home Resolution Authority, DNB will at a minimum, in line with the respective national laws, regulations and any guidance declared applicable in or pursuant to this Arrangement:

- 1) **Recovery Plan.** Promote discussion in the CMG of the CCP's current Recovery Plan as well as any proposed material amendments thereto, taking into account the input of the CMG Members and CMG Observers as well as the relevant guidance set out in the PFMI, the Recovery Guidance, EMIR, the draft EU Regulation on a framework for the recovery and resolution of central counterparties with relevant technical standards and

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any other guidance DNB and the CMG Members and CMG Observers may agree upon in writing prior to or during the relevant CMG meeting.

- 2) **Resolvability Assessment.** Assess the CCP's resolvability by considering the input of CMG Members and CMG Observers as well as the relevant FSB standards/Key Attributes and guidance, the future EU Regulation on a framework for the recovery and resolution of central counterparties including relevant technical standards, guidelines and recommendations and any such other guidance as DNB, the other CMG Members and the CMG Observers may agree upon in writing prior to or during the relevant CMG meeting.
- 3) **Resolution Plan.** Draft and periodically update the Resolution Plan for the CCP, which considers, amongst others, resolution of the CCP as a whole or in part as well as the financial stability impact thereof in all relevant jurisdictions. To the extent permitted by applicable law, DNB will share the Resolution Plan with the CMG Members and, where possible, take into account their comments. As soon as DNB, in whatever capacity, can reasonably foresee that either the CCP will take recovery measures or DNB could or will exercise any supervisory, recovery or resolution action in respect of the CCP to achieve financial stability, DNB shall inform all other CMG Members and CMG Observers thereof.
- 4) **Actions to enhance and ensure resolvability.** Identify potential actions it or any one or more other CMG Members and/or CMG Observers and/or the CCP may need to take, to enhance and ultimately ensure the CCP's resolvability.
- 5) **Monitor resolvability enhancement and assurance monitoring.** Monitor the implementation of any actions set out in the Resolution Plan or covered by paragraph (4) above and provide the CMG with related periodic progress updates.
- 6) **Resolvability simulations.** Arrange periodic table top simulations or other scenario exercises in order to assess the CCP's general resolvability or, once available, the execution readiness of the Resolution Plan and to help facilitate resolution planning.
- 7) **Provide feedback to the CCP.** Periodically inform the CCP about the CMG's work, including the main findings of the resolvability assessment and resolvability simulations and any agreed views, without prejudice to Articles 11 and 12.

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- 8) **Information sharing in context of DNB intervention.** As soon as DNB, in whatever capacity, can reasonably foresee that either the CCP will take recovery measures or DNB could or will exercise any supervisory, recovery or resolution action in respect of the CCP to achieve financial stability, DNB shall inform all other CMG Members and CMG Observers thereof.
- 9) **Crisis management.** Coordinate the activities and sharing of information amongst CMG Members and CMG Observers in crisis time in accordance with Art. 10 (*Cooperation and coordination in crisis time*) below.

Article 7: CMG roles - CMG Members (other than DNB) and CMG Observers

Each CMG Member (other than DNB) and CMG Observer, as applicable and in compliance with their respective statutory and regulatory remit should, at a minimum:

- 1) **Meaningful participation and actions.** Participate, at a sufficiently senior level, in CMG meetings and should take forward the actions determined therein in accordance with the Relevant Regulatory Framework, which it hereby acknowledges will require close and continuous working-level cooperation.
- 2) **Recovery Plan.** Provide input to the Recovery Plan in the context set out in Art. 6(1) above.
- 3) **Resolution Plan.** Provide input to the preparation and updating of the Resolution Plan in the context set out in Art. 6(3) above. Where a CMG Member or CMG Observer has material concerns regarding the Resolution Plan, it should submit such concerns in writing to DNB as well as the other CMG Members and CMG Observers as soon as reasonably possible, also setting out proposed remedies.
- 4) **Information sharing to enable resolvability enhancement and assurance monitoring.** Provide input to DNB in the context set out in Art. 6(5) above.
- 5) **Information sharing to ensure compliance with Arrangement.** Subject to Art. 12 (*Confidentiality of information*) below and the relevant DoC and to the extent permitted under applicable laws and regulations, at all times share information with DNB and all other CMG Members and CMG Observers as may be required to comply with this Arrangement. In case of any information sharing not directly involving DNB, DNB shall be informed

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in writing of the purpose and the material contents of such shared information by e-mail at ccp-resolution@dnb.nl.

- 6) **Information sharing in context of non-DNB intervention.** As soon as any CMG Member can reasonably foresee that it might or will exercise its right set out in Art. 10(3)(a) below, such CMG Member should forthwith inform DNB and the other CMG Members and CMG Observers thereof in writing to the extent permitted by applicable laws and regulations.

Article 8: Joint CMG roles

Implement and coordinate actions to enhance and ensure resolvability and removal of impediments. In addition to their respective minimum undertakings set out in Art. 6 (*CMG roles - DNB*) and 7 (*CMG roles - CMG Members (other than DNB) and CMG Observers*) above, all CMG Members and all CMG Observers should, as applicable and in compliance with their respective statutory and regulatory remit, implement or coordinate with any other relevant CMG Member(s) and/or CMG Observer(s) the implementation of the actions:

- (i) set out in the Resolution Plan;
- (ii) determined in accordance with Art. 6(4) above to enhance and ensure resolvability; and
- (iii) necessary to identify critical systems and services provided to the CCP or its affiliated entities by entities within their respective jurisdiction. Where critical systems and services would be required in resolution, the Resolution Plan should provide for the continuation thereof.

To the extent this requires coordination with an authority which is not already a CMG Member or CMG Observer, the relevant CMG Member or CMG Observer shall request DNB forthwith in writing to apply the provisions of Art. 3(3)(a) above.

Article 9: Cooperation and coordination during business as usual

In addition to the respective minimum undertakings set out in Art. 6 (*CMG roles - DNB*), 7 (*CMG roles - CMG Members (other than DNB) and CMG Observers*) and 8 (*Joint CMG roles*), all CMG Members and CMG Observers should:

- 1) **Cooperation during business as usual.** In case of divergent views regarding the application of (any part of) the Relevant Regulatory

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Framework in respect of the CCP, strive to reach a common view through the CMG.

- 2) **Coordination during business as usual.** Work together, subject to the relevant CMG Member's or CMG Observer's legal and regulatory remit, to:
 - a. assess during the resolution planning process the impact of various resolution options in the relevant jurisdictions;
 - b. identify the actions that may be taken by CMG Members and/or CMG Observers to mitigate such impact; and
 - c. identify procedural requirements for the cross-border recognition of resolution measures.

Article 10: Cooperation and coordination in crisis time

- 1) **Notification.** In addition to Art. 6(8) above, DNB will, to the extent permitted under applicable laws and regulations applicable to it, also alert all CMG Members and CMG Observers without undue delay upon it becoming aware of (i) the CCP encountering material financial or operational difficulties, (ii) significant supervisory action being likely to be or will be taken, (iii) recovery actions being likely to be or being taken, whether or not set out in its Recovery Plan, or (iv) the CCP being reasonably likely to enter DNB's resolution regime.
- 2) **Cooperation in crisis times.** All CMG Members and CMG Observers should cooperate unreservedly towards the coordinated and orderly resolution of the CCP in accordance with their respective national laws and regulations.
- 3) **Coordination in crisis times.** In taking resolution actions, all CMG Members (other than DNB) and CMG Observers should, subject to their respective legal and regulatory remit:
 - a. not pre-empt any resolution actions (to be) taken by DNB, whilst reserving their respective right to act on their own initiative if and to the extent necessary to maintain their respective domestic financial stability, supervisory, oversight, recovery or resolution obligations under national laws or regulations in the absence of effective action by the DNB; and
 - b. notify DNB and all other CMG Members and CMG Observers prior to taking any resolution actions, to the extent practicable and

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permitted by their respective laws and regulations.

All CMG Members (other than DNB) and CMG Observers will inform DNB as soon as reasonably possible after becoming aware of any respective applicable legal or regulatory requirements which could negatively impact DNB's ability to execute any resolution strategy or use any resolution tools with a view to jointly resolving such possible constraints through the CMG as soon as reasonably possible.

- 4) **Communication in resolution.** In the event of resolution, the CMG Members and CMG Observers will maintain open communications at all times and coordinate with each other to ensure consistency of external communications both leading up to, at the time of, and for whatever period of time is necessary following resolution.

Article 11: Procedures for sharing Confidential Information

To facilitate information exchange for the purposes of this Arrangement, the following procedure applies.

- 1) **Request for Confidential Information.** To the extent that the national laws and regulations of any CMG Member or CMG Observer permit the sharing of Confidential Information only upon request, any requests for Confidential Information to such CMG Member or CMG Observer will be made in writing, to the extent practicable. The requesting CMG Member or CMG Observer should specify the information sought as well as the purpose and the urgency of the request.
- 2) **Response to request for Confidential Information.** Any CMG Member or CMG Observer receiving a request for Confidential Information should, to the extent permitted under laws and regulations applicable to it, make all reasonable efforts to provide the requested Confidential Information in a timely manner, taking into consideration the urgency of the request.
- 3) **Sharing of Confidential Information.** For the avoidance of doubt, Art. 4(4) above applies to the sharing of all Confidential Information.

Article 12: Confidentiality of information

- 1) **Use.** Confidential Information obtained by a CMG Member or CMG Observer under this Arrangement should be used solely for lawful supervisory, oversight, resolution and financial stability purposes in accordance with: i) the purpose(s) identified in the request for information, ii) their respective applicable laws or regulations, iii) any limitations placed upon the use of such Confidential Information by the

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providing CMG Member or CMG Observer, iv) the relevant CMG Member's or CMG Observer's DoC and v) the provisions of this Art. 12, provided that in the event that any of these conditions or limitations is incompatible with the national laws and regulations of a receiving CMG Member or CMG Observer, the providing CMG Member or CMG Observer and the receiving CMG Member or CMG Observer should in good mutual cooperation seek to find a mutually and legally acceptable solution in accordance with their respective applicable laws and regulations.

- 2) **Applicable framework.** All CMG Members (other than DNB) and CMG Observers will inform DNB as soon as possible after becoming aware of any changes to any respective legal or regulatory requirements governing the confidentiality of information to be shared pursuant to this Arrangement.
- 3) **Additional confidentiality requirements.** All CMG Members and CMG Observers agree that any Confidential Information shared under this Arrangement will be subject, for the maximum permitted duration pursuant to their respective applicable national laws and regulations, to the confidentiality requirements set out in this Art. 12, the Arrangement generally and the DoC. In case of a conflict between this Arrangement and the various provisions of the DoC, the provisions of this Arrangement shall prevail.
- 4) **Restricted access.** All CMG Members and CMG Observers hereby acknowledge that all information, including Confidential Information, in the broadest sense pertaining to recovery planning, including any versions of the Recovery Plan, and resolution planning, including any versions of the Resolution Plan, is commercially and market sensitive. Therefore, any access thereto should be restricted to those persons who have a direct and genuine need for such access.
- 5) **Request consent to share Confidential Information.** Except as provided in paragraph (6) below, each time before a CMG Member and CMG Observer discloses any Confidential Information obtained pursuant to this Arrangement to any person other than another CMG Member or CMG Observer, including another relevant authority that is not a signatory to this Arrangement, the CMG Member or CMG Observer seeking to disclose such Confidential Information should request and obtain prior written consent from the CMG Member or CMG Observer which originally provided the relevant Confidential Information (**Producing Party**).

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- 6) **Mandatory sharing of Confidential Information.** In the event that a CMG Member or CMG Observer is required by law or legal process, including a legally enforceable demand, to disclose Confidential Information, it should, to the extent permitted by laws and regulations applicable to it, endeavour to inform the Producing Party. The CMG Member or CMG Observer ordered to disclose should, if possible, take reasonable steps, to the extent permitted by the laws and regulations applicable to it, to assert legal exemptions or privileges from disclosure.
- 7) **Breach.** In the event of a breach of the provisions set out in this Art. 12, the Producing Party and the CMG Member or CMG Observer in breach (**Breaching Party**) will seek to resolve such breach as soon as possible. If this is not possible within a reasonable timeframe, the Producing Party may temporarily suspend the sharing of information with the Breaching Party under this Arrangement. Such suspension will not, however, affect the Breaching Party's confidentiality obligations arising from or under the Arrangement or its DoC.
- 8) **Scope.** The protection of confidentiality extends to all kinds of analyses, evaluations and work products derived from Confidential Information shared under the Arrangement.
- 9) **No waiver.** No privileges or confidentiality associated with information provided by any CMG Member or CMG Observer are waived as a result of sharing or disclosing information as contemplated by this Arrangement.
- 10) **Exemption.** The provision of, or request for, information under this Arrangement may be denied on grounds of public interest or national security, or when disclosure would interfere with an ongoing investigation or applicable national laws and regulations.

Article 13: Final Provisions

- 1) **Amendments only in writing.** Any modification of this Arrangement (excluding any amendment to the Annex setting out the CMG Members and CMG Observers which have executed a copy of this Arrangement) should be explicitly agreed in writing by all Authorities.
- 2) **Amendment to reflect material changes.** The CMG Members and CMG Observers will revise and update this Arrangement from time to time to reflect any material changes.
- 3) **Interpretation.** This Arrangement should be interpreted and implemented in a manner that is permitted by, and consistent with, the

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laws and regulations applicable to the CMG Members and CMG Observers. If a part of this Arrangement is or becomes invalid, the remainder shall continue to be effective as between the Participating Authorities and the Participating Authorities shall replace the invalid part by provisions which are valid and the effect of which, given the contents and purpose of this Arrangement, is, to the greatest extent possible, similar to that of the invalid part. Nothing in this Arrangement affects the competence of the supervisory, oversight, resolution or regulatory authority of the CMG Members and CMG Observers under their respective laws and regulations. In the event of disagreement regarding the interpretation of this Arrangement, the CMG Members and CMG Observers should venture to discuss the differing interpretations and seek to find a common interpretation.

- 4) **Term.** This Arrangement will come into force from the effective date set out in the first paragraph of this Arrangement and remain so in respect of any Participating Authority until it terminates its participation in the CMG and this Arrangement in accordance with Art. 3(3)(d) above.

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Signed for and on behalf of:

**Danish Financial Markets Supervisory Authority
(*Finanstilsynet*) by:**

Name:

Position:

Date:

**Danish Financial Stability Company
(*Finansiel Stabilitet A/S*) by:**

Name:

Position:

Date:

**Dutch Central Bank
(*De Nederlandsche Bank N.V.*) by:**

Name:

Position:

Date:

**Dutch Financial Markets Supervisory Authority
(*Stichting Autoriteit Financiële Markten*) by:**

Name:

Position:

Date:

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European Securities and Markets Authority

(ESMA) by:

Name:

Position:

Date:

French Central Bank

(Banque de France) by:

Name:

Position:

Date:

French Financial Markets Supervisory Authority

(Autorité des marchés financiers) by:

Name:

Position:

Date:

French Prudential and Resolution Authority

(Autorité de Contrôle Prudentiel et de Résolution) by:

Name:

Position:

Date:

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German Central Bank
(*Deutsche Bundesbank*) by:

Name:

Position:

Date:

German Financial Markets Supervisory Authority
(*Bundesanstalt für Finanzdienstleistungsaufsicht*) by:

Name:

Position:

Date:

Spanish Financial Markets Supervisory Authority
(*Comisión Nacional del Mercado de Valores*) by:

Name:

Position:

Date:

Swedish Central Bank
(*Sveriges Riksbank*) by:

Name:

Position:

Date:

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**Swedish Financial Markets Supervisory Authority
(*Finansinspektionen*) by:**

Name:

Position:

Date:

**Swedish National Debt Office
(*Riksgalden*) by:**

Name:

Position:

Date:

**Swiss Financial Markets Supervisory Authority
(*Eidgenössische Finanzmarktaufsicht FINMA*) by:**

Name:

Position:

Date:

**UK Central Bank
(*Bank of England*) by:**

Name:

Position:

Date:

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ANNEX 1 – PARTICIPATING AUTHORITIES

Based on what it believes to be a reasonable and practical interpretation of Art. 9 of the FSB Guidance on Central Counterparty Resolution and Resolution Planning, DNB has invited certain authorities to participate in EuroCCP’s CMG as Member or Observer.

In particular, DNB has invited (i) EuroCCP’s home supervisory and resolution authorities, (ii) the supervisory and resolution authorities for EuroCCP’s top ten clearing members (determined on the basis of collateral, margin and default fund contributions), (iii) the central banks of issue for the currencies denominating the majority of trades cleared by EuroCCP, (iv) supervisory and resolution authorities of those FMIs most relevant to EuroCCP, in particular the trading venues to which it provides a significant portion of its clearing activities and the CSDs with which it has a direct connection and (v) other relevant authorities.

The resulting composition of the CMG has been summarized in the table below together with a brief reference to the basis on which the relevant CMG Member or CMG Observer has been invited to participate. The ECB, although central bank of issue of the currency most trades cleared by EuroCCP are denominated in, has decided not to participate in the EuroCCP CMG and is therefore left out of this list.

Authority	Description / Functions in the CMG	Country of origin	Role in CMG
Danish Financial Markets Supervisory Authority (<i>Finanstilsynet</i>).	Financial markets conduct authority for one or more of EuroCCP’s top ten clearing members.	Denmark	CMG Member.
Danish Financial Stability Company (<i>Finansiel Stabilitet A/S</i>).	Resolution authority for one or more of EuroCCP’s top ten clearing members (determined on the basis of collateral, margin and default fund contributions).	Denmark	CMG Member.

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Authority	Description / Functions in the CMG	Country of origin	Role in CMG
Dutch Central Bank (<i>De Nederlandsche Bank N.V.</i>).	(i) Home co-supervisory authority for EuroCCP, (ii) home resolution authority for EuroCCP and (iii) supervisory and resolution authority of one or more of its top ten clearing members (determined on the basis of collateral, margin and default fund contributions).	Netherlands	CMG Member (Home Resolution Authority).
Dutch Financial Markets Supervisory Authority (<i>Autoriteit Financiële Markten</i>).	Home co-supervisory and financial markets conduct authority for EuroCCP.	Netherlands	CMG Member.
European Securities and Markets Authority (<i>ESMA</i>).	EU regulatory agency whose objectives are investor protection, orderly markets and financial stability.	N/A	CMG Observer.
French Central Bank (<i>Banque de France</i>).	Supervisory authority for a CSD with which EuroCCP has a direct connection.	France	CMG Member.
French Financial Markets Supervisory Authority (<i>Autorité des marchés financiers</i>).	Financial markets conduct authority for (i) one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions) and (ii) a CSD with which EuroCCP has a direct connection.	France	CMG Member.

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Authority	Description / Functions in the CMG	Country of origin	Role in CMG
French Resolution Authority (<i>Autorité de contrôle prudentiel et de résolution</i> (Resolution Directorate)).	Resolution and supervisory authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions).	France	CMG Member.
German Central Bank (<i>Deutsche Bundesbank</i>).	Supervisory authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions).	Germany	CMG Member.
German Financial Markets Supervisory Authority (<i>Bundesanstalt für Finanzdienstleistungsaufsicht</i>).	(i) Financial conduct and resolution authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions) and (ii) supervisory authority of a CSD with which EuroCCP has a direct connection.	Germany	CMG Member.
Spanish Financial Markets Supervisory Authority (<i>Comisión Nacional del Mercado de Valores</i>).	Financial markets conduct authority for a CSD with which EuroCCP has a direct connection.	Spain	CMG Member.
Swedish Central Bank (<i>Sveriges Riksbank</i>).	Central bank of issue (Swedish Krona).	Sweden	CMG Member.

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Authority	Description / Functions in the CMG	Country of origin	Role in CMG
Swedish Financial Markets Supervisory Authority (<i>Finansinspektionen</i>).	(i) Financial conduct authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions) and (ii) financial conduct authority of trading venue to which a significant portion of EuroCCP's clearing services are provided and a CSD with which EuroCCP has a direct connection.	Sweden	CMG Member.
Swedish National Debt Office (Riksgalden).	Resolution authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions).	Sweden	CMG Member.
Swiss financial markets supervisory and resolution authority (<i>Eidgenössische Finanzmarktaufsicht FINMA</i>).	(i) Resolution authority of a CCP with which EuroCCP is interoperable and (ii) supervisory authority in a country where EuroCCP is authorised to provide clearing services.	Switzerland	CMG Member.
UK Central Bank (<i>Bank of England</i>).	(i) Central bank of issue (British pound), (ii) resolution authority for one or more of EuroCCP's top ten clearing members (determined on the basis of collateral, margin and default fund contributions), (iii) supervisory and resolution authority of a CCP with which EuroCCP is interoperable and (iv) supervisory authority of a CSD with which EuroCCP has a direct connection.	United Kingdom	CMG Member.

ANNEX 2 – DECLARATION OF CONFIDENTIALITY

Declaration of Confidentiality

regarding

“EuroCCP Crisis Management Group”

The following authorities:

- Autorité de contrôle prudentiel et de résolution (ACPR)
- Autorité des marchés financiers (AMF)
- Autoriteit Financiële Markten (AFM)
- Bank of England (BoE)
- Banque de France (BdF)
- Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
- Comisión Nacional del Mercado de Valores (CNMV)
- De Nederlandsche Bank N.V. (DNB)
- Deutsche Bundesbank
- European Securities and Markets Authority (ESMA)
- Finansiell Stabilitet (Financial Stability Company (FSC))
- Finansinspektionen
- Finanstilsynet (Danish Financial Supervisory Authority (DFSA))
- Prudential Regulation Authority (PRA)
- Sveriges Riksbank
- Swedish National Debt Office (DO)
- Swiss Financial Market Authority (FINMA)

hereinafter: each “the Authority” or together “the Authorities”;

participating in the Crisis Management Group for EuroCCP N.V. (hereinafter: “EuroCCP”), declare the following:

1. The Authorities shall participate in the Crisis Management Group for EuroCCP N.V. (hereinafter: “the CMG”) and contribute to its work. Participation is subject to signing this Declaration.
2. The Authorities shall keep confidential all non-public information received and shared amongst them, both on a bilateral and multilateral basis (hereinafter: “confidential information”). This obligation applies to all confidential information irrespective of the type of carrier of the information, the way or format in which this information is shared.

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3. Confidential information shall only be used and further transmitted necessary to the performance of the duties of the Authorities regarding resolution concerning EuroCCP, and in circumstances permitted under law.
4. The Authorities may provide persons who work for the Authorities (i.e. officers, employees) access to confidential information only on a “need-to-know” basis. The Authorities confirm that all persons having access to confidential information are bound by the obligation of professional secrecy provided for in Article 83 of the EMIR or equivalent obligations.
5. Where further transmission of the confidential information is permitted under law, the Authorities shall not, to the extent possible under law, disclose such information without first obtaining the prior written consent of the CMG and of the relevant Authority that provided the information concerned.
6. Where the law to which the Authority is subject may prevent the Authority from obtaining prior consent for further disclosure in specific circumstances, the Authority shall inform in writing the CMG at the time of agreeing with this declaration, specifying those circumstances.
7. In case an authority intends to participate in the CMG and signs this Declaration or in case an Authority withdraws its participation and revokes this Declaration, the other Authorities will be informed in writing by DNB.
8. This Declaration remains in force and effect indefinitely, unless and until a new declaration between the Authorities is signed, revoking or modifying this Declaration, or unless terminated by written notification of one Authority to the CMG.
9. The provisions of this Declaration will remain applicable after the termination of this Declaration, the termination of the participation of an Authority to the CMG, and the termination of the CMG.
10. This Declaration will enter into force when signed by the Authority.

Place, Date

Signature

Name:

Title:

Authority: