

Manual Buyer Protection procedure for OTC transactions in The Netherlands

30 Aug 2019 ¹

Introduction

Buyer Protection (BP) is one of the processes in the context of Corporate Actions (CA) on pending transactions.

The Market Standards for Corporate Action Processing (MS CAP) – accepted by all relevant industry associations and adopted by the European Central Bank for their Target 2 Securities processes as well – define what has to be done when securities are not delivered on the intended settlement date while a Corporate Action with options (an “elective event”) is actual, and a buyer cannot regularly exercise his elective rights.

The Market Standards define automated and manual BP processes. While all parties involved are convinced there is no business case for automated BP in The Netherlands, a manual process has been implemented.

DACSI members (both in custodian/broker and in issuer agent role) have committed to the implementation of manual BP for OTC transactions in the Netherlands by 1 January 2016.

1. Buyer Protection in relation to the European Market Standards for Corporate Actions

According to the Market Standards for Corporate Action Processing (MS CAP), Buyer Protection (BP) is a process where a buyer who has yet to receive the underlying securities of an elective Corporate Action (CA) instructs the seller in order to receive the outturn of his choice. The MS CAP define two different mechanisms:

- an automated BP mechanism: an institutionalised and automated service provided by market infrastructure organisations (i.e. where the election instruction is routed through the CSD/CCP, and where the CSD/CCP uses the BP instruction to process the transformation);
- a manual BP mechanism: a bilateral agreement between the respective trading parties by means of a manual process (no intervention of the market infrastructure regarding the exchange of BP instructions).

2. Scope and context – OTC transactions only

This document describes the manual BP mechanism for OTC transactions, as in place in The Netherlands as a market practice. Its scope is therefore limited to non-centrally cleared transactions.

A BP procedure for centrally cleared transactions is in the hands of the CCP(s). LCH.Clearnet targets to implement CCP manual BP at a later date and will fully align with the CAJWG² and CASG³ standards for manual BP.

The described manual BP procedure is applicable to elective corporate actions (mandatory reorganisations with options and voluntary reorganisations), as far as temporary rights are created.

The Dutch market applies manual BP for OTC transactions as of 1 January 2016.

¹ This document replaces the previous version of 19 Oct 2016 (DACSI 16-1193); in paragraph 4 the description of the timeline for the Guaranteed Participation Date is now aligned with that in the Market Standards and the scheme quoted from those standards; otherwise the practice remains unchanged.

² CAJWG: Corporate Actions Joint Working Group

³ CASG: T2S Corporate Action Subgroup

3. Guidelines for Buyer Protection Instructions

In order to invoke Buyer Protection the buyer should:

- create a BP Instruction referencing the corporate action, the chosen option(s), the quantity of securities and the underlying transaction in line with the template attached. Even when the buyer's requested option is the default option, he can create a BP instruction in order to eliminate the possibility of the seller having chosen for another option (for whatever reason);
- communicate the BP Instruction to the seller electronically using the attached template.

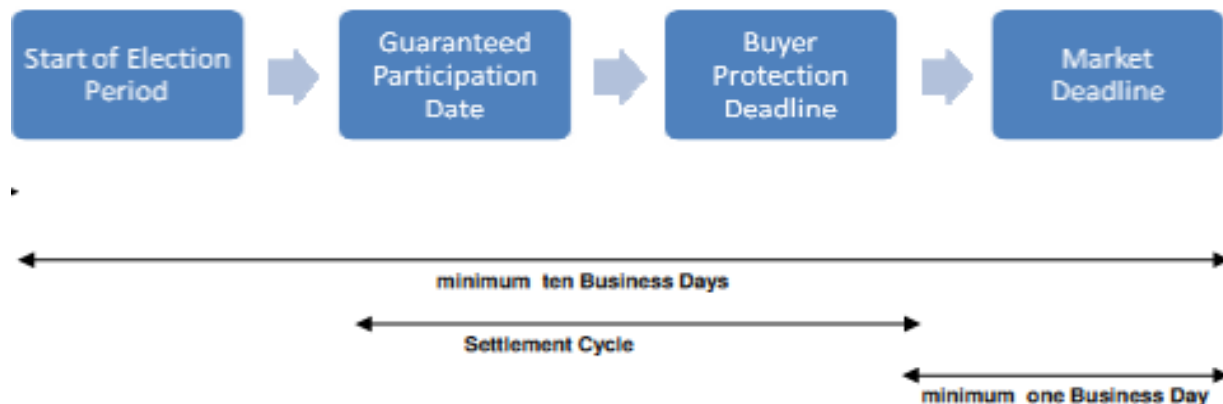
BP Instructions are detected, generated and communicated between the buyer and the seller without any role for the CSD (Euroclear Netherlands), the T2S system, the Issuer Agent or any other Intermediary.

The ultimate election by the seller as instructed by the buyer is processed in accordance with the MS CAP and the CASG standards.

4. Timeline (key dates)

The Issuer / Issuer Agent will include the relevant dates in the announcement of the Corporate Action: Guaranteed Participation Date, Buyer Protection Deadline and Market Deadline.

- The Market Deadline (MKDT) should follow the start of the Election Period by at least ten Business Days.
- The BP Deadline (ECPD) should be at least one business day (24 hours) before the Market Deadline.
- The Guaranteed Participation Date (GUPA) should precede the BP Deadline by one Settlement Cycle and is considered to be "close-of-business" (COB). The creation of a BP Instruction is possible until the BP Deadline.



Two examples of application of the relevant key dates:

Example 1: Market Deadline (COB): 07/10/2016, 18:00
 Buyer Protection Deadline: 06/10/2016, 18:00
 Guaranteed Participation Date: 04/10/2016

Example 2: Market Deadline (intraday): 07/10/2016, 15:00
 Buyer Protection Deadline: 06/10/2016, 15:00
 Guaranteed Participation Date: 03/10/2016

5. Processing

- Any BP Instruction by the buyer prior to the BP Deadline and related to a transaction for which the trade date is on or before the Guaranteed Participation Date should be accepted by the seller (i.e. the BP Instruction is binding for the seller);
- It is recommended that the seller acknowledges the receipt of the BP Instruction to the buyer. Furthermore, the seller has to compare the BP Instruction details against the terms of the event and verify whether the instruction is logical and consistent;
- If the BP Instruction is sent after the BP Deadline (where ECPD is applicable), then the seller may be required to match/confirm the instruction from the buyer. The seller should always act on the basis of a buyer protection instruction sent by the buyer on a best-effort basis;
- BP Instructions are only applied on matched pending transactions;
- With regard to any BP Instruction by the buyer prior to the BP Deadline, (regular) settlement of the underlying transaction should be allowed until the BP Deadline;
- A BP Instruction issued on a pending transaction that finally settles before the BP Deadline (end of settlement process) should be declared invalid and non-binding;
- The transformation of the underlying transaction should be carried out by the buyer and the seller in accordance with the BP Instruction on the Market Deadline/Record Date of the concerned elective corporate action at the latest;
- If a buyer wants to make a partial election, he would need to split the original transaction into the shapes required. The original pending instructions should both be cancelled and replaced by several settlement instructions in line with his partial CA election;
- The Settlement Date (SD) of the protected entitlements should be the Payment Date of the underlying CA. The entitlement resulting from the BP will be delivered to the buyer with the transformation of the pending transaction on the payment date of the underlying CA;
- For mandatory reorganisations with options, the CSD (Euroclear Netherlands) will transform pending transactions into the default option set by the issuer on the market deadline/record date "end of day".

6. Template for Buyer Protection Instruction

This Market Practice includes the use of the template developed by the CAJWG, as included in this document as Appendix (together with two examples).

Appendix - Buyer Protection Instruction (BPI) as published by ECB August 2015

Blank template and two filled-in forms as examples.

The template (Excel) can be [downloaded](#) from the DACSI-website.

Buyer Protection Instruction (BPI)	
BPI Reference:	<i>This is the buyers reference which easily identifies their election.</i>
Date of issuance (dd-mm-yy):	<i>This is the date in which the BPI is created and sent to the counterparty.</i>
Security Name:	<i>Name of the security in which the Corporate Action is taken place and the trade/loan has been executed on.</i>
ISIN:	<i>The International Securities Identification Number of the above security</i>
Market Deadline Date and Time:	<i>DD-MM-YY: HH-MI (time zone GMT/CET etc)</i>
CA Event Type (CAEV):	<i>ISO code</i>
Official Corporate Action Reference (COAF):	<i>This should be the COAF which is announced by the Issuer. Should a COAF not exist then this filed must be left blank.</i>
CSD	<i>This is the name of the CSD which the trade will be settling in</i>

Corporate Action Details:		Default Indicator
Option 1:	<i>Ratio's should be on a per share ration to allow for counterparties to potentially use Excel to format their calculations.</i>	
Option 2:	<i>ISO definition</i>	
Option 3:	<i>ISO definition</i>	

Pending Transaction Details:					
RvP / FoP	Transaction Ref	Quantity	Cash Amount	Trade Date	Intended Settlement Date
		<i>UNIT / FAMT Delete where appropriate</i>		<i>dd-mm-yy</i>	<i>dd-mm-yy</i>

Election Details:					Expected Outturn:		
Entitled Nominal/Quantity	Transaction Ref (as per the details above)	Election Quantity	Option No (as per the details above)	Total Unelected Amount	ISIN	Cash	Currency
				0			
				0			
				0			
				0			
				0			

As per standards 20 to 22 of the Market Standards for Buyer Protection being part of the Market Standards for Corporate Actions Processing, version 2012,:

- 1) We shall **allow settlement** until end of settlement on the date of the Buyer Protection Deadline.
- 2) Should the trade(s) **settle in full** on or before the Buyer Protection Deadline, this instruction is **void**.
- 3) Should the trade(s) remain unsettled on the Buyer Protection Deadline, we shall cancel and reinstruct the trade(s) according to the option chosen above. The trade(s) shall not be allowed to settle after the Buyer

Should partial settlement occur after the Buyer Protection has been issued the following will apply:

- 4) If the above election is a split election on the same trade ref this Buyer Protection is **void** and the buyer should re-instruct with a new election(s).
- 5) If the above election is **not** a split election then the election will **remain** on the pending quantity.

Please confirm receipt and agreement of the above protection by return mail.

Name:	Telephone Number:	Email Address:
Mr Smith	++ 44 207 *****	Jsmith@CAJWG.eu

Buyer Protection Instruction (BPI)

BPI Reference:	BS00123
Date of issuance (dd-mm-yy):	20/11/2013
Security Name:	Banco Santander
ISIN:	ES0113900J37 Ords / ES06139009G0 Rights
Market Deadline Date and Time:	22/11/2013 15:00 CET
CA Event Type (CAEV):	EXRI
Official Corporate Action Reference (CORP):	Banco6987858
CSD	Iberclear

Corporate Action Details:			Default Indicator
Option 1:	NOAC		Y
Option 2:	CASH	€ 0.53	N
Option 3:	SECU	0.024390244	N

Pending Transaction Details:					
RvP / FoP	Transaction Ref	Quantity	Cash Amount	Trade Date	Intended Settlement Date
RvP	123456	10,000	EUR 15,000.00	18/11/2013	21/11/2013
RvP	987654	4,000	EUR 7,500	15/11/2013	20/11/2013

Election Details:					Expected Outturn:		
Entitled Nominal/Quantity	Transaction Ref <small>(as per the details above)</small>	Election Quantity	Option No. <small>(as per the details above)</small>	Total Unelected Amount	ISIN	Quantity - Cash / Stock	Currency
10,000	123456	10,000	002	0	n/a	€ 5,300.00	EUR
4,000	987654	4,000	003	0	ES0113900J37	97	n/a

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- 3) Should the trade(s) remain unsettled on the Buyer Protection Deadline, we shall cancel and reinstruct the trade(s) according to the option chosen above. The trade(s) shall not be allowed to settle after

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CA Event Type (CAEV):	EXRI
Official Corporate Action Reference (CORP):	Banco6987858
CSD	Iberclear

Corporate Action Details:			Default Indicator
Option 1:	NOAC		Y
Option 2:	CASH	€ 0.53	N
Option 3:	SECU	0.024390244	N

Pending Transaction Details:					
RvP / FoP	Transaction Ref	Quantity	Cash Amount	Trade Date	Intended Settlement Date
RvP	123456	10,000	EUR 15,000.00	18/11/2013	21/11/2013
RvP	987654	4,000	EUR 7,500	15/11/2013	20/11/2013

Election Details:					Expected Outturn:		
Entitled Nominal/Quantity	Transaction Ref <small>(as per the details above)</small>	Election Quantity	Option No. <small>(as per the details above)</small>	Total Unelected Amount	ISIN	Quantity - Cash / Stock	Currency
10,000	123456	8,500	002	0	n/a	€ 4,505.00	EUR
		1,500	003	0	ES0113900J37	36	n/a
4,000	987654	2,580	002	0	n/a	€ 1,367.40	EUR
		1,420	003	0	ES0113900J37	34	n/a

As per standards 20 to 22 of the Market Standards for Buyer Protection being part of the Market Standards for Corporate Actions Processing, version 2012,:

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- 2) Should the trade(s) **settle in full** on or before the Buyer Protection Deadline, this instruction is **void**.
- 3) Should the trade(s) remain unsettled on the Buyer Protection Deadline, we shall cancel and reinstruct the trade(s) according to the option chosen above. The trade(s) shall not be allowed to settle

Should partial settlement occur after the Buyer Protection has been issued the following will apply:

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