



European Securities and
Markets Authority

Reply form for the Guidelines on the Access to a CCP or a Trading Venue by a CSD





European Securities and
Markets Authority

Date: 18 December 2014



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper - Guidelines on the Access to a CCP or a Trading Venue by a CSD, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, please follow the instructions described below:

- i. use this form and send your responses in Word format;
- ii. do not remove the tags of type <ESMA_QUESTION_GUID_CSDR_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- iii. if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

- i. if they respond to the question stated;
- ii. contain a clear rationale, including on any related costs and benefits; and
- iii. describe any alternatives that ESMA should consider

Naming protocol:

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_GUID_CSDR_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be ESMA_GUID_CSDR_ESMA_REPLYFORM or ESMA_GUID_CSDR_ESMA_ANNEX1

To help you navigate this document more easily, bookmarks are available in "Navigation Pane" for Word 2010 and in "Document Map" for Word 2007.

Responses must reach us by **19 February 2015**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input/Consultations'.

Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Disclaimer'.



General information about respondent

Are you representing an association?	No
Activity:	Central Securities Depository
Country/Region	Europe

Q1: What are your views on the proposed Guidelines?

<ESMA_QUESTION_GUID_CSDR_1>

The responses provided in this document convey the views and opinions of the Deutsche Börse Group, and more specifically of: Clearstream Banking Luxembourg S.A., Clearstream Banking Frankfurt AG, and LuxCSD S.A. jointly referred hereafter as “Clearstream”.

We are in favour of closing the CSD-R gap in this regard by issuing these guidelines for CCPs and TVs to ensure consistent, uniform and coherent application by all entities subject to CSD-R.

We agree with the types of risk to be assessed as long as they are identical to those specified in the CSD-R RTS applicable for CSDs.

With regard to chapter 2.5 paragraph 12 a, the term “obligations” should be specified further as it is unclear which financial obligations should be considered relevant in regards to CSD access to a CCP or TV.

With regard to chapter 2.5 paragraph 13 c, the term “significant changes” should be specified further to ensure a common understanding.

With regard to chapter 2.5 paragraph 13 d, we suggest to phrase the sentence “...to implement on-going unreasonable (e.g. in terms of volume, capacity required) manual processing...” to avoid that any type of (minor) manual intervention could lead to a denial of access.

Moreover, we agree to include the risk assessment as set out in 2.5 Guidelines, which comprises

- (a) the legal risks in 11.
- (b) the financial risks in 12.
- (c) the operational risks in 13.

Furthermore, a risk analysis of a CSD requesting access at the CCP might entail shortcomings if the following criteria are not duly assessed:

1. A trading venue’s (TV) compatibility with Advanced Risk Protection i.e. near real-time risk check across TVs/CSDs and Stop Button functionality to set member of TVs/CSDs on hold triggered by CCP e.g. in case of Default Management. CCPs points out that such functionality is vital for the processing in the case of a Clearing Member Default.
2. Price Quality Checks are necessary to ensure the quality of the settlement price and intraday prices. We also highlight that the CSD should be required to provide evidence of the reliability of these prices.
3. For the admission of new products the CCP should be involved in decision process. Specifically, elements of New Product Process should be aligned between TVs/CSDs and CCP e.g. availability of sufficient price history, suitability of risk methodology to cover all relevant risk factors and other special aspects e.g. liquidity situation.
4. The Risk Methodology should be based on CCP analysis of risk profile for the products / TVs/ CSDs in question. For example, setting of risk parameters, attribution to specific liquidation groups, portfolio offsets (considering potential basis risk) and margin add-ons have to be assessed.
5. For the Default Management, CCPs need access to TVs/ CSDs to perform a default management process as stated above. For instance, the access should be compatible with standard APIs and with the auction format.

6. The CSD should not prevent the application of functionalities of continuous trading and risk management on CCP level: Volatility Interrupts/ Circuit Breakers, Market Maker protection functionality.
7. CSDs (in a role as settlement location) should adhere to high standards of reliability to allow smooth processing also on CCP side from operational risk perspective.
8. CSDs (in a role as collateral location) should be compatible with CCP's monitoring and enforcement of Credit, Concentrations- and Wrong-Way Risks, and compatible to collateral eligibility rules set by CCP. Legal Accessibility to securities collateral by CCP should be ensured in case of CSD default.
9. CCP under EMIR must not be forced to file an application for a service extension pursuant to Article 14 EMIR.
10. Besides the operational risk assessment, the technical connectivity requires that in case a requesting CSD requests access to the trading feed of the CCP the requesting CSD shall also comply with the technical and functional requirements established by the CCP. This includes the settlement of the full scope of securities and also the necessary payments infrastructure.
11. Further considerations may be necessary if the access is requested not only to the trading feed of a CCP but also to the collateral positions of a CCP by a CSD. Collateral for clearing purposes of a CCP can only be held at eligible CSDs as defined by the CCP.

We appreciate that the listed prerequisite for granting a CSD access to the transaction feeds of the CCP entails minimum standards only. Therefore the Guidelines should keep enumerating by open a list with the phrase "that the competent authority should take into account at least the following criteria". This will ensure that latest standards driven by the market or by regulatory requirements can be fully considered.

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