

Guidelines

On the summary of resolution plans



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1 Scope

Who?

1. These Guidelines apply to resolution authorities of CCPs as defined in point (3) of Article 2 of Regulation (EU) 2021/23.

What?

2. These Guidelines apply in relation to Article 12(8) of CCPRR, in relation to the information referred to in point (a) of paragraph 7 of Article 12 CCPRR which shall be disclosed to the CCP and in relation to the Commission Delegated Regulation (EU) No 2023/1193.

When?

3. These Guidelines apply from two months after the date of publication on ESMA's website in the relevant official languages of the European Union.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

CCPRRR	Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 ¹ .
EMIR	Regulation (EU) 648/2012 of 4 July 2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories ² .
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ³ .

2.2 Abbreviations

<i>CCP</i>	Central Counterparty
<i>CP</i>	Consultation Paper
<i>EC</i>	European Commission
<i>EEA</i>	European Economic Area
<i>ESFS</i>	European System of Financial Supervision
<i>ESMA</i>	European Securities and Markets Authority
<i>EU</i>	European Union

¹ OJ L 22, 22.1.2021, p. 1–102

² OJ L 201, 27.7.2012, p.1-59

³ OJ L 331, 15.12.2010, p. 84

2.3 Definitions

4. Unless otherwise specified, the terms used in these Guidelines have the same meaning as in CCPRRR and EMIR.

3 Purpose

5. Given the need to provide guidance on the summary of the resolution plan to be disclosed to CCPs subject to resolution planning under Article 12(8) of CCPRRR, ESMA has decided to issue Guidelines under Article 16(1) of ESMA Regulation, pursuant to which ESMA may issue guidelines with a view to establishing consistent, efficient and effective supervisory practices within the ESFS and to ensuring the common, uniform and consistent application of EU law, in this case Article 12(7), point (a) and Article 12(8) of CCPRRR and Delegated Regulation 2023/1193 on the content of the resolution plans.
6. In particular, the aim of those Guidelines is to provide clarity on the key elements of the resolution plan that should be included in the summary referred to in Article 12(7), point (a), of CCPRRR and disclosed to the CCP in accordance with Article 12(8) of CCPRRR. ESMA has therefore established a template for this summary in Annex A to these Guidelines. This template is to be used by the resolution authorities in drafting the summary of the resolution plans under Article 12(7), point (a) of CCPRRR.
7. Clarifying the aspects that the resolution authorities should consider in identifying the key elements of the summary of the resolution plan to be disclosed to the CCP, will help resolution authorities to draft the summaries of resolution plans in a common and harmonised manner.
8. The Guidelines allow resolution authorities to adapt the summary to the conditions and organisation of each particular CCP. The Guidelines present a list that the resolution authority should at least consider in establishing the summary of the resolution plan. The list under the Guidelines is not an exhaustive list, hence the resolution authority may add aspects considered material and relevant for the CCP.
9. The Guidelines contain guidance on building an appropriate summary of the key elements of the resolution plan, while at the same time ensuring that resolution authorities have a sufficient degree of flexibility so that each summary can be tailored to each CCP in a proportionate manner bearing in mind the specificities of the concerned CCP.

4 Compliance and reporting obligations

4.1 Status of the guidelines

10. In accordance with Article 16(3) of the ESMA Regulation, the resolution authorities must make every effort to comply with these Guidelines.
11. The resolution authorities to which these Guidelines apply, should comply by incorporating them into their national legal and/or supervisory and resolution frameworks as appropriate.

4.2 Reporting requirements

12. Within two months of the date of publication of the Guidelines on ESMA's website in EU relevant official languages, resolution authorities to which these Guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the Guidelines.
13. In case of non-compliance, resolution authorities must also notify ESMA within two months of the date of publication of the Guidelines on ESMA's website in the relevant EU official languages of their reasons for not complying with the Guidelines.
14. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.

5 Guidelines on the Summary of Resolution Plans

5.1 Guideline 1: General considerations of relevance and proportionality

Guideline 1

The summary of the key elements of the plan referred to in Article 12(7)(a) of CCPRRR should be drafted respecting the following principles on relevance:

- a) The summary should inform the CCP of the key elements of the resolution plan and should provide the CCP with an overview of the plan, in particular with a view to share information in relation to the following: (i) the different resolution scenarios and strategies envisaged to be applied in a resolution, distinguishing between default events, non-default events and a combination of the two; (ii) what resolution actions are planned to be taken and how they may affect the CCP, (iii) where there are expectations that the CCP will cooperate to the resolution process and (iv) how the resolution measures may affect the continuity of the CCP's functions.
- b) The summary should make the CCP aware **of the key actions that the CCP should be ready to perform** and of the data that the CCP should be ready to submit.
- c) The summary of the resolution plan should focus on the aspects of the plan that are **likely to have a material impact on the CCP's recovery and crisis management planning**.
- d) The summary should be succinct with a focus on the key elements set out above. At the same time the summary should be explanatory enough presenting the **key elements** that have been taken into account in developing the CCP's resolution plan.
- e) The key elements in the summary should accurately reflect the relevant elements of the resolution plan for the CCP based on its risk and organisational profile, including in view of the products cleared, business model and memberships.
- f) The summary should take into account the specificities of the CCP, the complexity of the resolution plan and the level of detail of information considered necessary to be shared to achieve the aim of the summary to inform the CCP of the key elements of the plan that are relevant to the CCP.

5.2 Guideline 2: Default and non-default events scenarios

Guideline 2

When drafting the summary of the resolution plan, the resolution authority should use the template included in Annex A Part 1 of these Guidelines.

The resolution authority should, where relevant, fill out the column for each scenario in the template summary included in Annex A with the key elements of each of the scenarios including the details of how the scenarios have been tailored to the CCP. For this purpose, the resolution authority may consider the CCP's business structure, its risk, its complexity, the clearing services it provides, its clearing members (and their clients) and its overall ownership and group organisation. It should indicate for each scenario whether it is derived from a default event, from a non-default event or from a combination of both.

5.3 Guideline 3: Content of the summary – key elements

Guideline 3

When drafting the summary of resolution plans the resolution authority should use the template included contained in Annex A, Part 2 of these Guidelines and fill out the information on the “Key elements of the summary of the resolution plan”.

5.4 Annex A – To the Guidelines: Template of Summary of the Resolution Plan

5.4.1 Part 1 – Key elements of the scenarios established by the resolution authority

The Annex below should be completed by the resolution authority consistent with Guidelines 1 to 2. Where a type of scenario is not used the resolution authority should mark the table with “N/A”. The assessment that such a scenario is not to be used for the concerned CCP is a decision taken following the procedure set out in Article 14 of CCPRRR.

Types of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	Factors to describe type of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	A description of the key elements of the scenarios established by the resolution authority. (to be completed by the resolution authority)
Default Scenario – Unsuccessful recovery where the CCP does not have sufficient resources and tools for a successful recovery	Establish scenario where a CCP has not fully addressed liquidity shortfalls or established loss allocation arrangements that fully address uncovered credit losses. As a result, recovery resources and tools are insufficient to absorb losses and replenish financial resources to minimum regulatory requirements.	
Default Scenario - Failure of loss allocation arrangements	Establish scenario where the CCP's loss allocation arrangements set out in the recovery plan do not operate as intended and as a result, the planned resources or tools are not, or not sufficiently, available at the time of recovery.	
Default Scenario - Multiple clearing members do not meet their obligations under the CCP's recovery actions	Establish scenario where the multiple clearing members do not meet their obligations under the CCP's recovery actions. If the group of non-performing clearing members is sufficiently large or if their failure to meet obligations leads to a general loss of confidence in the CCP, the CCP may become unable to continue operations.	
Default Scenario – Timing of resolution actions	Establish scenario where the relevant authorities determine that resolution should be initiated before some of the arrangements or tools under the CCP's recovery plan are applied. In this scenario, the relevant authorities have determined that applying recovery arrangements or tools in the prevailing market conditions may threaten financial stability and/or the continuity of critical functions.	
Non-default Scenario - Investment loss	Establish scenario where losses on investments of initial margin or default fund assets could arise for example if an investment counterparty fails. A CCP may need to bear such losses, if the loss allocation tools in the CCP's rules do not cover them in another manner. Losses could also occur from the investment of a CCP's own financial resources including SITG and SSITG. Investment losses could materialise suddenly.	
Non-default Scenario - Failure of service providers	Establish scenario where, as a result of a failure of a custodian, depository, a payment or settlement bank, a payment system, a securities settlement system or other entity providing similar services, the CCP could lose timely access to its assets, become unable to collect margins or become unable to transform non-cash collateral or investments into cash. This could cause liquidity and/or solvency challenges to a CCP, depending on the nature or consequences of the failure and the time it takes to regain access to the assets.	

Types of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	Factors to describe type of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	A description of the key elements of the scenarios established by the resolution authority. (to be completed by the resolution authority)
Non-Default Scenario - Operational risk events	Establish scenario where financial losses or liquidity challenges arise from a range of operational failures, such as human error, information technology failure, fraud, cyber incident, or non-performance of vendors or service providers. A CCP can incur operational losses directly (primary losses) or due to the legal actions taken by others affected by the event (secondary losses). Operational risk events can happen suddenly, but certain losses, particularly secondary losses can take years to fully materialise.	
Non-Default Scenario - Financial losses (Comprehensive loss allocation arrangements for custody and investment losses the CCP incurs as a result of its clearing and settlement activity)	Establish scenario where the CCP does not have sufficient financial resources or tools to cover non-default losses (including losses deriving from legal risks, including legal, regulatory, enforcement or contractual penalties that could lead to significant losses or uncertainty for the CCP and that can take a long time to materialise). In this scenario, the non-default losses would be larger than the CCP's capital and contingent resources (e.g. insurance, parental guarantees). Alternatively, in a scenario where the CCP's clearing members would also be required to bear losses, the aggregate resources available would be insufficient to cover the losses and/or to replenish capital back to the required minimum.	
	Establish scenario where the CCP's arrangements to cover (specific) non-default losses set out in the recovery plan cannot be used or do not operate as intended. As a result, the planned resources or tools are not, or not sufficiently, available at the time of recovery.	
	Establish scenario where the CCP's clearing members do not meet their obligations under the CCP's recovery actions. In this scenario, clearing members do not meet the applicable loss allocation or replenishment obligations.	
	Establish scenario where the CCP's shareholders do not support the CCP's recovery actions. In this scenario, the CCP's parent company or other shareholders do not cover the CCP's non-default losses that are not allocated elsewhere and/or are unwilling to recapitalise the CCP, irrespective of whether there is a contractual commitment, parental guarantee, or similar arrangement to provide financial resources or not.	
	Establish scenario where the relevant authorities determine that resolution should be initiated before	

Types of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	Factors to describe type of scenarios (Article 12(3)(a) and 12(7)(j)) of CCPRRR	A description of the key elements of the scenarios established by the resolution authority. (to be completed by the resolution authority)
	<p>some of the recovery arrangements or tools are applied or the CCP is wound down. In this scenario, the CCP's recovery and wind-down arrangements are consistent with the PFMI, but the relevant authorities have determined that applying them in the prevailing market conditions may threaten financial stability and/or the continuity of critical functions.</p>	
<p>Event(s) causing simultaneous default and non-default losses - This scenario addresses the situation in which there are concurrent default and non-default losses as a result of a single event or as a result of multiple events that occur in a reduced time span.</p>	<p>Establish scenario where there are specific entities that are material sources of both default and non-default losses, specific scenarios analyzing the effects of default events affecting these entities may be relevant.</p> <p>Consider where non-default losses would be borne by clearing members affecting the path of loss propagation and where there are material differences between different combinations of default and non-default events with respect to the available tools, usage of tools, paths of losses or impact on stakeholders.</p>	

5.4.2 Part 2 – Key elements of the summary of the resolution plan

The Annex below should be completed by the resolution authority consistent with Guidelines 1 and 3.

CCPRR Reference	Aspect	Description of the key elements	Comments	Keys elements of the summary (to be completed by the resolution authority)
12(7)(b)	Summary of material changes	Any material changes to the CCP.	The focus of the summary on material changes should be a short description of the material changes in relation to the CCPs: markets in which it operates, core business lines, clearing services, interoperability arrangements or other interdependences including service providers, capital structure, prudential requirements (including the default fund methodologies, margin and liquidity risk management frameworks, investment policies, collateral policies and settlement), non-prudential requirements (including organisational requirements, business continuity, outsourcing, conduct of business rules), ownership, managers' incentive structures, resolution scenarios and resolution strategies.	
12(7)(c)	Critical Functions	A high-level description of the functions defined as	The focus of the summary on critical functions should be to list the functions of the CCP that the resolution authority has deemed critical	

		<p>critical by the resolution authority.</p> <p>A high-level description of the main dependencies between critical functions and critical interdependencies.</p>	<p>and the main dependencies identified including the key internal and external arrangements and processes, such as operations, IT procedures, a list of key staff and main service providers that are necessary for the CCP to continue providing its critical functions or any other aspects that may be necessary to consider in view of a possible transfer, if that is part of the proposed resolution strategy, a description of how critical functions could be separated from non-critical functions in economic, operational and legal terms and a summary of how the CCP's proposed approach to separating or not separating the CCP's critical functions from its other functions may affect the resolvability assessment for the CCP.</p> <p>Where there are any material differences compared to list of critical functions provided in the recovery plan, the summary should describe the main reasons why the resolution authority has assessed the critical functions differently, the material effects of such different assessment and how this could affect the resolvability of the CCP.</p> <p>The summary may include a mapping of critical functions to identified legal entities and to the CCP's core business lines.</p>	
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12(7)(d)	Timeframe for implementation	A high-level description of the key steps with estimated time allocations to implement the key material aspects of the resolution plan.	According to the principle of relevance, the CCP may not receive any information on the timeframe for implementation. If it does, the focus of the summary on the timeframe for implementation should be to give the CCP a general understanding of the timeframe.	
12(7)(e)	Assessment of resolvability	A description on whether the CCP is deemed to be resolvable.	The focus of the summary on the assessment of resolvability should be to provide the conclusion of the assessment of the CCPs resolvability, including at least, whether or not the CCP is deemed resolvable based on the resolution authorities' considerations.	
12(7)(f)	Impediments to resolvability	Information on any impediments to resolvability where such have been identified and shared with the CCP in a report in accordance with Article 16(1) of CCPRRR.	The focus of the summary on impediments to resolvability should refer to the report issued to give an indication to what extent impediments have been identified and where possible, provide some further details on how the process is undertaken to remove such impediments.	
12(7)(g)	Determination of the value and marketability of the critical functions and assets	A high-level description of the determined value and the marketability of the critical functions and assets of the CCP.	The focus of the summary on determining the value and marketability of the critical functions and assets should be to provide the CCP with the main elements underpinning the determinations of the value and marketability of the CCP's critical functions. Where the method applied by the resolution authority to assess those elements materially deviates from the valuation methodology applied under the recovery plan applicable, the summary	

			should include a description of the main reasons for this difference and of its material effects, if any.	
12(7)(h)	Information requirements	A description of the relevant information.	The focus of the summary on information requirements should be to inform the CCP of the information required, under Article 13 of CCPRR, to be kept up to date and available at all times. .	
12(7)(i)	How resolution actions could be financed	A high-level description of the relevant resolution action's types of financing.	The focus of the summary on how resolution actions are financed should be to provide the CCP, where relevant, with an overview of the potential sources of resolution funding .	
12(7)(j)	Resolution strategies and scenarios	A high-level description of the resolution scenarios chosen, as well as a brief description of the strategies chosen.	The focus of the summary on the resolution scenarios and strategies should be to provide the CCP with an overview of the resolution scenarios and strategies chosen, and if several strategies are chosen how their application differs, and the main aspects of the strategic analysis that underpins the choices of the resolution scenarios and strategies.	
12(7)(k)	Critical interdependencies external	A high-level description of the critical external interdependencies of the CCP.	The focus of the summary on the critical external interdependencies should be to provide the CCP with an overview of what the critical external interdependencies are in order to ensure the continuity of the CCP's critical functions. Where the interdependencies identified by the resolution authority differ materially from those identified in the recovery	

			<p>plan, the summary should state the main reasons for which the resolution authority has assessed the critical independencies differently and any material consequence on the application of the resolution plan and on the CCP's resolvability of the different assessments. Outsourcing arrangements to critical service providers should be included in that section to the extent that they cover part of the CCP's core business.</p>	
12(7)(l)	Critical intra-group interdependencies	A high-level description of the critical intra-group interdependencies of the CCP.	<p>The focus of the summary on the critical intra-group interdependencies should be to provide the CCP with an overview of the interdependencies identified in order to ensure the continuity of the CCP's critical functions.</p> <p>Where the interdependencies identified by the resolution authority differ materially from those identified in the recovery plan, the summary should state the main reasons for which the resolution authority has assessed the critical independencies differently and any material consequence on the application of the resolution plan and on the CCP's resolvability of the different assessments.</p>	
12(7)(m)	Ensure certain functions of the CCP	A high-level description of the different options to ensure the continuation of the essential operational processes and systems	The focus of the summary of certain functions of the CCP should be to provide the CCP with a description of the essential operational processes and systems, a description of how to assess and maintain those, with identified	

		and the maintenance of contractual agreements (external and internal).	<p>options of continued access to infrastructures, processes and operational arrangements in order to maintain the continuous functioning of the CCP's essential operations and systems. and the key outcomes of the assessment.</p> <p>The summary should also contain a high-level description on how to ensure contractual agreements are maintained (external and internal), including contractual resilience clauses, resolution-proof clauses, limitations of termination rights in resolution and for internal agreements, arms' length contract terms and pricing structures.</p>	
12(7)(n)	How to obtain the necessary information to perform the valuation	A high-level description of the type of information that will be requested to perform a valuation.	The focus of the summary on information for valuation should be to provide a description on the information needed to perform the valuation and should provide the CCP with an overview of the type (and the level of detail) of the information that could be requested by the resolution authority in order to take actions under the resolution plan and to ensure a fair, prudent and realistic valuation referred to in Article 24 of CCPRRR.	
12(7)(o)	Impact assessment on employees	A high-level description on the employees of the CCP and how to retain key staff.	The focus of the summary on the impact assessment on employees should be to provide an overview of the different types of employees of the CCP and especially how it is envisaged to retain key staff during the	

			resolution phase as well as a description of the plan for communication with employees.	
12(7)(p)	Communication plan	A high-level description of the communication plan specifying who informs the media and the public, when they are informed and what is planned to be communicated.	The focus of the summary on the communication plan should be to provide the CCP with a description of how the communication plan is envisaged to be implemented and specifying (to the extent possible) who informs the media and the public, when they are informed and what is planned to be communicated.	
12(7)(q)	Essential operations and systems	A high-level description of the essential operations and systems identified under the resolution plan.	<p>The focus of the summary on essential operations and systems should be to provide the CCP with a description of the essential operations and systems identified under the resolution plan.</p> <p>Where the essential operations and systems identified by the resolution authority differ materially from those identified in the recovery plan, the summary should state the main reasons for which the resolution authority has assessed the essential operations and systems differently and any material consequence on the application of the resolution plan and on the CCP's resolvability of the different assessments.</p>	
12(7)(r)	Notification arrangements to the resolution college	A high-level description of the arrangements for	According to the principle of relevance, the CCP may not receive any information on the notification arrangements to the college. If it	

		notifying the resolution college	does, the summary should provide the CCP with a description of the procedures and processes to follow when notifying the resolution college.	
12(7)(s)	Measures to facilitate portability of positions and related assets	A high-level description on how the portability of positions and related assets of its clearing members and their clients to another CCP or a bridge CCP can be concretely achieved.	The focus of the summary on the measures to facilitate portability of positions and related assets should be to provide the CCP with a general overview of the process governing the portability of positions and related assets of its clearing members and their clients to another CCP or a bridge CCP and the measures implemented by the CCP that would facilitate the process.	