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| 18 December 2014 |

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

1. use this form and send your responses in Word format;
2. 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
3. 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:

1. if they respond to the question stated;
2. contain a clear rationale, including on any related costs and benefits; and
3. 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](http://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](http://www.esma.europa.eu) under the heading ‘Disclaimer’.

# General information about respondent

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| Are you representing an association? | No |
| Activity: | Central Counterparty |
| Country/Region | Germany |

Q1: What are your views on the proposed Guidelines?

<ESMA\_QUESTION\_ GUID\_CSDR\_1>

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 CSD as well as a trading venue (TV) should be required to be compatible with the CCP’s risk management measures such as the near real-time risk check that is performed across CSDs/TVs and the stop button functionality that a CCP can use to set a member of CSDs/TVs on hold in certain cases, e.g. in case of Default Management. We point 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 the prices that a CSD charges.
3. For the admission of new products the CCP should be involved in the decision process. Specifically, elements of New Product Process should be aligned between CSDs/TVs and CCP. For instance the availability of sufficient price history, the suitability of risk methodology to cover all relevant risk factors and other special aspects such as the liquidity situation need to be sufficiently taken into account. The CSD should be required to disclose and align modifications of new products and services.
4. The CSD should maintain a risk methodology that is in line with the CCP analysis of the risk profile for the products/CSDs/TVs in question. For example, the CCP and the CSD should not have a contradicting approach in setting risk parameters, attributing to specific liquidation groups, calculating portfolio offsets, considering potential basis risk in a portfolio and determining margin add-ons.
5. For the Default Management, CCPs need an access to CSDs/TVs that allows performing 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. For instance, in cases of volatility the CCP needs to be able to interrupt clearing services and all further processing instantly with a circuit breaker feature. The CSD should also be required to provide the CCP with the safety that the CCP can use its market maker protection functionality to the full extent.
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. The CSD should not force CCPs to file an application for a service extension pursuant to Article 14 EMIR. Hence, the CCP should be able to dismiss requests of CSDs if the CCP considers that these would lead to major changes in the existing service offering.
10. Besides the operational risk assessment, a CSD requesting access to the trading feed of a CCP shall also comply with the technical and functional requirements established by the CCP. This is necessary to enable the CCP to assess if a reliable technical connectivity is available to the CSD. Such operational prerequisites include the CSD’s ability to settle the full scope of securities and the access to the necessary payment infrastructure.
11. Further considerations are critical if the CSD ask for access not only to the trading feed of a CCP but also to the collateral positions of a CCP. If a CCP holds collateral for clearing purposes, the CCP has to maintain the discretion to choose eligible CSDs.

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 opening 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.

<ESMA\_QUESTION\_ GUID\_CSDR\_1>