

**Italian Banking Association's
response to ESMA's
consultation on
"Guidelines on participant
default rules and procedures
under CSDR"**

30 June 2016

The Italian Banking Association (ABI), representing the entire Italian banking industry with over 800 member banks, welcomes the opportunity to contribute to this public consultation on the content of the future Guidelines on participant default rules and procedures under CSDR.

The answers are provided under each relevant question.

Q1: Do you consider other stakeholders should be involved in the definition of the default rules and procedures of a CSD? If so, which ones, and what should be the level of their involvement?

The following stakeholders should be involved in the drafting of the default rules:

- National Central Banks (NCBs)
- CSD participants
- Linked payment system participants
- Recovery and resolution authorities
- Payment banks

The default rules should account for the interconnections between CSDs, CCPs and payment systems, as well as for the default of clients of CSD participants, which in Italy are known as “indirect CSD participants”.

Q2: Do you think that such acknowledgement process is appropriate? In particular, do you consider it necessary for the CSD to verify the information regarding the default with the designated authority under the SFD before the CSD can take any action, or should the CSD be able to start taking actions based on its reasonable assessment of the participant’s situation and on the reliability of the source that informed the CSD in the first place?

The CSD should identify in its Rules the “sources” considered *a priori* reliable, in accordance with the local legal framework governing bankruptcy and insolvency. For the safe and efficient management of default events, the convergence and coordination of insolvency management procedures and applicable legal framework on a cross border level is of crucial importance.

As it regards par. 18 on page 11, where it is stated that “...*the CSD should identify and transmit to its competent authority at least the following information: (...) the number of clients concerned (...)*”, it is not clear “who”

the clients are. If par. 18, 4th bullet, refers to "clients of the CSD", then such bullets should be replaced with a reference to "Participants" rather than to "clients". In fact, a CSD may not know who are the clients of the Participant that defaults.

Q3: Do you consider that the actions listed are appropriate or that other actions should be listed? Should certain actions be mandatory, depending for instance on the type or size of default, the characteristics of the participant or the CSD or any other criteria?

Firstly, point (d) and (e) are not clear. Indeed, our members wonder:

- what does '*changes to the treatment*' mean: Cancellation? holding of instructions?
- who is the owner of the mentioned '*financial resources*' as per point (e).

Secondly, to provide an answer to the core of Q3, our members:

- recommend to draft a complete and detailed description of the CSD's actions in any applicable scenario, including interactions with CCPs operating with the CSD;
- deem that a CSD should publish the timing (i.e. cut off) for the communication of insolvency and the related effectiveness, likewise for each step of the process;
- consider it necessary to disable the acquisition in T2S of new settlement instructions to be settled in the CSD account of the insolvent participant, or due to impact in the T2S DCA of the insolvent participant.

The default procedures should account for the possibility of default of an "indirect CSD participant" (i.e. a client of a CSD participant). In this scenario, the CSD participant cannot and should not be called upon to guarantee settlement of trades on behalf of a defaulting "indirect CSD participant". This implies that, in case of default of an "indirect CSD participant", all transactions of the "indirect CSD participant(s)" should be suspended similarly as it would occur in case of default of a direct CSD participant.

Q4: Do you think other items should be included in the internal plans?

Our members think that the items suggested by ESMA are reasonable, and that no other items shall be included in the internal plans, but they suggest that such plans should be part of the licensing process. Also, these should be reviewed periodically, as the legal framework may change over time.

CSD's participants should communicate to the CSD the updated contact list for any communication concerning the insolvency procedures. The CSD is due to ensure the collection and storage of its participants' data and contacts for this purpose. Please, note that appropriate contacts for insolvency management do not necessarily coincide with those for system contingency. Consequently, we regard that agreed procedure(s) with other market infrastructure(s) and / or other CSDs when involved should be taken into account.

Q5: Do you think that information on the implementation of the default rules and procedures should be transmitted to other stakeholders? If so, which other stakeholders?

In addition to the list presented in the consultation paper, information on the implementation of the default rules and procedures should also be transmitted to connected payment systems' managers because there are cases where the owner of a DCA in T2S is not also a participant to that relevant CSD.

A coordinated involvement of T2S governance groups (e.g. "settlement managers call") should be implemented for the timely and efficient dissemination of the information about a default procedure.

Q6: Do you think that such testing and reviewing processes are appropriate?

Yes, we consider such testing and reviewing processes appropriate, but it should in any case be done in close cooperation with the relevant authorities managing the default of a participant. The details on the execution of the test and the results should be shared with CSD participants.