

K-004681/2014

**European Securities and Markets Authority**

Subject: KELER comments on the ESMA Discussion Paper on CSDR technical standards – Part 1 and Part 2

Dear Sir/Madam,

We hope that the proposal prepared by ECSDA will help ESMA in the drafting process of the CSDR technical standards and will be a good basis for further discussions. We are aware that the recommendations contained in the ECSDA paper are the result of joint work by European CSDs, and they have also been discussed with market participants, including in the context of the T2S Harmonisation Steering Group task force on settlement discipline.

In case of KELER we fully support the ECSDA proposal and from our point of view the following statements are the most important:

Article 6.

- **Trade confirmation:** Implementing such a regime will require considerable investments and adaptations from both CSDs and market participants. – *KELER fully supports the concept to minimize additional costs/investments for the CSD-s and also additional burdens for the market participants.*
  
- **Measure facilitating settlement on ICSD:** The proposed technical standards should be proportionate, given that the level of settlement efficiency in Europe is already high (more than 98%).
  
- **Incentives for timely settlement:** An overly prescriptive approach in CSDR technical standards could be detrimental if it prevents CSDs' settlement discipline regimes to be calibrated and further improved.

#### Article 7.

- **Monitoring and reporting settlement fails:** The timing for rolling out settlement discipline measures under the CSD Regulation should be phased.
- **Buy-ins:** CSDR technical standards should set some minimum standards, but still allow CSDs to go beyond these standards in some cases.
- **Suspension of failing participants:** CSDR technical standards should take into account existing standards supporting efficient matching and settlement of securities transactions such as the ESSF-ECSDA Matching Standards of 2006.

#### Article 9.

- **Internalised settlement:** Technical standards under the CSD Regulation should not be considered as 'minimum requirements' for competent authorities. The imposition of additional requirements ('on top of' the European rules) by national regulators should be avoided as much as possible to ensure truly equal conditions of competition for CSDs and truly harmonised safety standards across EU markets.

#### Article 17.

- **Information provided to the authorities for authorisation:** Harmonised standards do not equal a "one-size-fits-all" approach and it should be possible for European technical standards to be implemented proportionately, taking into account the diversity in CSD business models, activities and size.
- **Procedure for granting authorisation:** ***KELER recommends that the procedure for granting authorisation should be reviewed taking into account the experiences of the EMIR authorisations. Timely evaluation process will be crucial to the continuous smooth operation of the capital markets.***

#### Article 22.

- **Review and evaluation:** The ongoing supervisory assessments to be carried out based on the CSDR technical standards should build on, and avoid duplication with, assessments under the CPSS-IOSCO Principles for financial market infrastructures, and Eurosystem assessments, including for CSD links.

#### Article 25.

- **Recognition of third country CSDs:** Technical standards should ensure that the recognition of third country CSDs under CSDR is not just a one-off approval, but an ongoing process.

Article 29.

- **Recordkeeping:** The recordkeeping requirements currently envisaged by ESMA are unnecessarily extensive and should be substantially reduced to avoid imposing unnecessarily high costs on CSDs and their users.

Article 55.

- **Procedure to provide banking type of ancillary services:** For CSDs with a banking licence, ESMA should anticipate possible overlaps and avoid whenever possible inconsistencies between CSDR technical standards and applicable banking legislation (CRD IV and CRR in particular). – *KELER when applying for two licenses would like to avoid inconsistencies, duplications of burdens and unnecessary extra cost of capital, and also be able to continuously provide its services to market participants without limitation in the future under the new CSD regime.*

Article 71.

- An appropriate transition period must be foreseen.

Summary: The most important aspects of the planned technical standards from KELER point of view is proportionality. ESMA should take into account the diversity of CSD models in Europe, especially considering the variant activities and sizes. For establishing a level playing field for CSDs, it must be considered, that obtaining a CSD license under the CSDR should not require significant expenses from the CSDs and therefore potentially rise the overall market costs.

The rules of the technical standards should be flexible for all kind of CSDs. The technical standards should focus on the detailed frameworks to be compliant, and contain rules expecting the CSDs to change for example their organisational or operational structures as less as possible.

We hope, that our comments will help your work, and most of them would be considered during the law-making procedure.

Best regards  
KELER

Budapest, 22 May 2014.