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Additional Information

Level 1 Regulation

Central Securities Depositories Regulation (CSDR) Regulation (EU) No 909/2014- PTR-CSDR

Topic

Settlement discipline - Buy-in: process

Subject Matter

Buy-in timeframes

Question

(a) Article 36 of the RTS on Settlement Discipline provides that “the extension period... shall be increased from four to seven business days for all financial instruments other than shares that have a liquid market.” As the liquidity classification of a share could potentially change between the trade date and the intended settlement date and over the lifecycle of an

unsettled transaction, on which date should participants determine whether a share is deemed to have a liquid market or not?

(b) According to Articles 26, 27(1), 28, 29(1), 30 and 31(1) of the RTS on Settlement Discipline, a buy-in process should be initiated “on the business day following the expiry of the extension period”. By when, on the business day following the extension period, should the buy-in process be started by the party in charge of it?

ESMA Answer

08-07-2020

Original language

[ESMA70-156-4448 CSD Settlement discipline Q&A 7]

(a) The length of the extension period should be determined based on the liquidity classification of the share as of the intended settlement date of the transaction.

(b) Article 2(1)(14) of CSDR refers to the definition of “business day” that is provided in point (n) of Article 2 of SFD: it “shall cover both day and night-time settlement and shall encompass all events happening during the business cycle of a system”. For the purposes of conducting a buy in process, the relevant system is the securities settlement system where the settlement fail occurred. Therefore, should the buy-in process be considered effective according to Article 22 of the RTS on Settlement Discipline, the party in charge of the buy-in should initiate the process (i.e. check if a buy-in is possible and, if it is the case, launch an auction or appoint a buy-in agent, as the case may be) at any time during the business day (as defined in the rules of the securities settlement system where the settlement fail occurred) following the expiry of the extension period, and not necessarily at the start of that business day.