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Additional Information

Level 1 Regulation

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

Topic

CSD questions - Organisational requirements (governance arrangements, record keeping, outsourcing, user committee)

Subject Matter

Organisational requirements: Record keeping

Question

- (a) When will the CSD record keeping requirements under CSDR and the related technical standards start applying?
- (b) Can a CSD only validate the format of the data field for an LEI and not check that the LEI

actually exists and that it belongs to the said entity?

Article 55(2)(a) of the RTS on CSD Requirements

Annex IV, Field 1 of Table 2 on Position (Stock) Records of the ITS on CSD Requirements

(c) Can a CSD refuse to complete field 16 of Table 2 (Types of securities account) on the basis that only the participant knows the usage?

Article 55(3)(b) of the RTS on CSD Requirement

Annex IV, Field 16 of Table 2 on Position (Stock) Records of the ITS on CSD Requirements

(d) What is the point in time where settlement instructions are considered as 'failing settlement instructions'?

(e) Should the record keeping requirements applying to the provision of ancillary services listed in the CSDR Annex also apply to the provision by a CSD of an ancillary service that is not precisely listed in the CSDR Annex?

(f) Under rules implementing Articles 22 and 29 of CSDR, CSDs must record the LEIs of the issuers pertaining to the financial instruments in respect of which CSDs provide notary or central maintenance services. What action should be taken by CSDs in order to obtain the LEIs of issuers?

(g) Which entities should be covered for the purpose of the records a CSD has to keep in relation to settlement banks as referred to in Article 54(2)(l) and Article 55(2)(g), (l) and (m) of the RTS on CSD Requirements?

ESMA Answer

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Original language

[ESMA70-156-4448 CSD - CSD Q&A 3]

(a) The CSD record keeping requirements under CSDR and the related technical standards will start applying from the date of authorisation of each CSD under CSDR, except for Article

54 (Transaction/Settlement Instruction (Flow) Records) of the RTS on CSD Requirements and Article 11(1) of the ITS on CSD Requirements, which apply as of date of entry into force of the RTS on Settlement discipline.

(b) No. The notary function is a core service provided by a CSD. The CSD has a responsibility to verify that it has the correct credentials in place for issuers that wish to issue securities into its system. The CSD should verify that the LEI is for the correct entity, and that it is current (i.e. the status of the LEI shall be either “Issued”, “Pending Transfer” or “Pending archival”).

If the CSD finds out that the LEI status of an issuer is not current, it should put in place enforceable rules according to which appropriate validation should be carried out upstream by an issuer’s agents, so that accurate up-to-date div are provided. This should apply in relation to all the information that issuers have to provide to CSDs under CSDR.

(c) No. A participant need to know these div at all times, and a CSD should require in its rules that the participant disclose the account type to it and inform it of any updates.

(d) Settlement instructions are considered as ‘failing settlement instructions’ from the moment when settlement at the Intended Settlement Date (ISD) is no longer possible, i.e. if they are still pending on the ISD after the settlement processing related to the respective settlement instructions submitted by the relevant cut-off time has been completed. The cut-off time is the deadline set by a system or an agent bank for the acceptance of transfer orders for a given settlement cycle, for the relevant settlement instructions, i.e. there could be different cut-off times for different settlement instructions.

(e) The NCA should assess on a case by case basis whether an ancillary service provided by a CSD falls within one of the types of ancillary services listed in the CSDR Annex. If this is the case, the NCA should require the CSD to comply with the corresponding record keeping requirements specified in Annex II to the RTS on CSD Requirements. If this is not the case, i.e. the ancillary service does not fall within a type of ancillary services expressly listed in the CSDR Annex, the NCA should assess on whether the records kept by the CSD are adequate for the service provided.

(f) CSDs should require in their rules that all issuers obtain and provide current LEI codes (cf. point (b) above).

For issuers of securities issues that will occur after the entry into force of the requirements for CSDs to record LEIs for issuers, CSDs should not accept new securities issues from issuers which cannot provide the CSD with an LEI that is current (cf. point (b) above).

For issuers of securities issues that have occurred before the entry into force of the requirements for CSD to record LEIs, the CSDs should inform the issuers pertaining to the securities in respect of which the CSD provide notary service or central maintenance service of their obligation to obtain an LEI that is current (cf. point (b) above).

(g) A CSD should keep records of the settlement banks which have a contractual relationship with the CSD or which are known to the CSD in relation to the provision of services by the CSD to participants or issuers.