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Additional Information

Level 1 Regulation

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

Topic

CSD questions - Conduct of business rules (participation criteria, transparency, communication procedures)

Subject Matter

Conduct of business rules

Question

(a) Does Article 35 of CSDR allow CSDs to use internal or proprietary messaging standards in their communication procedures with the participants of the securities settlement system they operate and the market infrastructures they interface with?

(b) Should a CSD assess the risks borne by the participants, issuers, linked CSDs or market infrastructures which are already using the CSD?

ESMA Answer

23-03-2018

Original language

[ESMA70-156-4448 CSDR - CSD Q&A 4]

(a) Article 35 of CSDR expressly requires that CSDs use “international open communication procedures and standards with participants and market infrastructures in order to facilitate efficient recording, payment and settlement. “International open communication procedures and standards” are defined in Article 2(1)(34) of CSDR as “internationally accepted standards for communication procedures, such as standardised messaging formats and data representation, which are available on a fair, open and non-discriminatory basis to any interested party”.

Therefore, as a principle, the use by CSDs of other messaging standards (such as internal or domestic standards) in their communication procedures with the participants of the securities settlement systems they operate, and the market infrastructures they interface with, would not fulfil this requirement, even with a mapping from domestic standards to international open communication procedures and standards such as the SWIFT/ISO standards. However, if a CSD can evidence:

- (i) cases where such internationally accepted standards are not “available on a fair, open and non-discriminatory basis to any interested party” or do not exist, its competent authority may allow that CSD to use other messaging standards, until international standards become available; or
- (ii) cases where the use of internationally accepted standards that are “available on a fair,

open and non-discriminatory basis to any interested party" does not "facilitate efficient recording, payment and settlement" for a CSD, specific participants or market infrastructures, its competent authority may allow that CSD to use other messaging standards, as long as such lack of efficiency can be evidenced.

For the sake of clarity, interfaces designed for human-to-machine communication (e.g. graphical user interfaces or 'GUIs'), are not covered by Article 35 of CSDR, which relates to machine-to-machine communication.

(b) Yes, a CSD should inter alia monitor and manage the risks borne by all its participants, issuers, linked CSDs or market infrastructures, including those which are already using its services.

Indeed, Article 47(1) of RTS on CSD requirements provides that "a CSD should establish, as part of its governance arrangements, documented policies, procedures and systems that identify, measure, monitor, manage and enable reporting on the risks that the CSD may be exposed to and the risks that the CSD may pose to any other entities including its participants and their clients, as well as linked CSDs, CCPs, trading venues, payment systems, settlement banks, liquidity providers and investors".

In respect of participants, the requirements for participation defined under Article 33(1) of CSDR are a tool to mitigate those risks and, once adopted by a CSD, the criteria for participation should apply indistinctively to all participants of the CSD, including existing participants. If the adoption of CSDR-compliant criteria for participation has triggered changes to the rules of the CSD, such changes should be notified by the CSD to its existing participants and the CSD should assess its participants' compliance with such new requirements. The same applies to the rules for access applicable to issuers, other CSDs and other market infrastructures.

In addition, Article 41(m) of the RTS on CSD Requirements on the information to be provided by CSDs for each review period specifies that CSDs provide "information concerning the cases where the CSD denied access to its services to any existing or potential participant, any issuer, another CSD or another market infrastructure". Denying access to an existing participant, issuer, CSD or market infrastructure also implies a periodic review of the compliance with the criteria for access.

