

Guidelines

On CCP recovery plan indicators (Article 9(5) CCPRRR)



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I. Scope

Who?

1. These Guidelines apply to competent authorities as defined in point (7) of Article 2 of CCPRRR and to CCPs authorised under Article 14 of EMIR.

What?

2. These Guidelines apply in relation to Article 9(5) of CCPRRR, which mandates ESMA to specify the minimum list of qualitative and quantitative indicators referred to in Article 9(3) of CCPRRR to be included in CCP recovery plans. These Guidelines also apply in relation to Article 9(4) of the CCPRRR, as they provide guidance on the integration of the CCP recovery plan indicators within the CCP's monitoring system.
3. These Guidelines should be read in conjunction with the ESMA guidelines on CCP recovery plan scenarios (ESMA ESMA91-372-1701).

When?

4. These Guidelines apply from two months after the date of publication on ESMA's website in the official languages of the European Union.

II. Legislative references, abbreviations and definitions

Legislative references

CCPRRR	Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 ¹
EMIR	Regulation (EU) 648/2012 of 4 July 2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories ²
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ³
Delegated Regulation 152/2013	Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 on capital requirements for central counterparties ⁴
Delegated Regulation 153/2013	Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 on requirements for central counterparties ⁵

¹ OJ L 22, 22.1.2021, p. 1–102

² OJ L 201, 27.7.2012, p.1

³ OJ L 331, 15.12.2010, p. 84

⁴ OJ L 52, 23.2.2013, p. 37

⁵ OJ L 52, 23.2.2013, p. 41

Abbreviations

<i>BAU</i>	Business as Usual
<i>CCP</i>	Central Counterparty
<i>EC</i>	European Commission
<i>EEA</i>	European Economic Area
<i>ESFS</i>	European System of Financial Supervision
<i>ESMA</i>	European Securities and Markets Authority
<i>ESRB</i>	European Systemic Risk Board
<i>EU</i>	European Union
<i>FMI</i> s	Financial Market Infrastructures

Definitions

5. Unless otherwise specified, the terms used in these guidelines have the same meaning as in CCPRRR, EMIR and the Delegated Regulations 152/2013 and 153/2013.

III. Purpose

6. These Guidelines are based on Article 9(5) of CCPRRR and issued in accordance with Article 16 of the ESMA Regulation. The objectives of these Guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of Article 9(3) of CCPRRR. In particular, they aim at specifying the minimum list of qualitative and quantitative indicators to be included in CCP recovery plans. Such indicators shall be assessed by the competent authorities as part of their assessment of recovery plans as stipulated in and in accordance with Article 10 of CCPRRR.
7. The objective of preparing a set of recovery plan indicators is to define a set of triggers that should be used by each CCP to define the points at which it has to decide whether to take action under its recovery plan, and to determine which particular actions or measures contained in the recovery plan may be taken, in accordance with the conditions and requirements set out in CCPRRR.
8. Furthermore, pursuant to Article 16(1) of ESMA Regulation, ESMA may issue guidelines with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring the common, uniform and consistent application of Union law. The scope of these guidelines is with this aim expanded beyond the scope set forth by Article 9(5) of CCPRRR, by introducing Guideline 4 covering the integration of the CCP recovery plan indicators with the CCP's monitoring system. The purpose of this guidance is to ensure the monitoring of all relevant types and sources of risk and their integration in the monitoring system, as these are necessary steps in order to ensure that recovery plan indicators are overall effective.

IV. Compliance and reporting obligations

Status of the Guidelines

9. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and CCPs must make every effort to comply with these Guidelines.
10. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular Guidelines are directed primarily at CCPs. In this case, competent authorities should ensure through their supervision that CCPs comply with the Guidelines.

Reporting requirements

11. Within two months of the date of publication of the Guidelines on ESMA's website in all EU official languages, competent authorities to which these Guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the Guidelines.
12. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the Guidelines.
13. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
14. CCPs to which these Guidelines apply shall report to their competent authorities, in a clear and detailed way, whether they comply with these Guidelines.

V. Guidelines on CCP recovery plan indicators

Guideline 1: Non-automaticity of CCP recovery plan indicators

15. The setting-off of a CCP recovery plan indicator should be an event requiring attention by senior management or the Board of the CCP so that they start considering and decide, on a case by case basis, whether to take action under the CCP's recovery plan, and determine which particular recovery measures may be taken, in accordance with the conditions and requirements set out in CCPRRR. The setting-off of a CCP recovery plan indicator should, therefore, not be understood as an event that generates an automatic response.

Guideline 2: Categories of CCP recovery plan indicators

16. A CCP should include in its recovery plan the following categories of indicators:

CCP recovery plan indicators based on their position in the recovery plan and the degree of deterioration of the financial or operational situation of the CCP:

- a) Category (a) ('Indicators that provide early warning for recovery actions'):
- (i) These indicators signal a material probability of the need to use recovery measures such that they may warrant the initiation of the governance process necessary to activate the CCP's recovery plan (in other words, the risk level is high enough so that activating the recovery plan is plausible although still uncertain).
 - (ii) These indicators should be calibrated and set at an appropriate level by the CCP so that they:
 - reflect the CCP's characteristics and specificities with respect to its risk profile (including the level of complexity, structure, etc).;
 - provide, when set off, sufficient time for the CCP to start the governance process, notify senior management or the Board of the CCP, perform an assessment of the situation and notify the competent authority, with an adequate degree of anticipation before applying recovery measures;
 - signal a high enough probability of need to apply recovery measures, so that they do not overlap with early warning indicators used for BAU risk management; and
 - do not overlap with the category (b) indicators ('indicators that signal the move from BAU risk management to the recovery phase').
- b) Category (b) ('Indicators that signal the move from Business as Usual risk management to the recovery phase'):
- (i) These indicators signal the change from the BAU risk management stage to the recovery phase due to the unavoidable need for the use of

recovery measures (in other words, the realised impact exceeds the BAU resources and capabilities and there is a need for recovery measures).

- (ii) These indicators should be calibrated and set at an appropriate level by the CCP so that they:
 - reflect the CCP's characteristics and specificities with respect to its risk profile (including the level of complexity, structure, etc.);
 - clearly define the point in time, situation or marker that triggers the need for the use of recovery measures; and
 - do not overlap with the category (a) indicators ('indicators that provide early warning for recovery actions').

CCP recovery plan indicators linked to recovery measures:

- c) Category (c) ('Indicators that signal the usage of specific recovery measures'):
 - (i) Where a CCP activates its recovery plan, these indicators provide information on the specific circumstances or thresholds that would trigger the use of a specific recovery measure where there are multiple measures assigned to a single recovery plan scenario. In other words, a specific recovery measure is linked to the existence of specific circumstances or consequences and the indicator signals that those circumstances arise.
 - (ii) These indicators should guide the decision-making process and aid the CCP with choosing the appropriate recovery measure for the situation or circumstances at hand.
 - (iii) At the same time, however, as already explained in Guideline 1, the CCP retains the flexibility to use whichever measure is ultimately determined by the CCP as the most appropriate one for the given situation, in accordance with the conditions and requirements set out in CCPRRR. In other words, the CCP is not necessarily expected to use the specific recovery measure that is signalled by the indicator.

Guideline 3: Creating CCP recovery plan indicators

17. A CCP should link each of its recovery plan scenarios with at least:

- a) One category (a) indicator (indicator that provides early warning for recovery actions); and
- b) One category (b) indicator (indicator that signals the move from Business as Usual risk management to the recovery phase).

18. Where a CCP combines two types of scenarios into one actual scenario (consistent with the Guidelines on CCP Recovery Plan Scenarios - ESMA91-372-1701), the CCP should link such a scenario with at least two indicators from the category (a) indicators (one indicator for each type of scenario used for the combined scenario) and two indicators from the category (b) indicators (one indicator for each type of scenario used for the combined scenario).
19. A CCP should create the category (a) and category (b) indicators for each of its recovery plan scenarios using the matrix in Table 1 in the Annex. For the avoidance of doubt, the CCP should create these indicators for every actual recovery plan scenario included in its recovery plan (i.e. the scenarios created for each of the seven types of scenarios and any additional scenarios, as well as any further scenarios designed by the CCP, pursuant to the Guidelines on CCP Recovery Plan Scenarios - ESMA91-372-1701).
20. As regards the category (a) indicators, a CCP may create its own indicators for this category (i.e. indicators not specified in Table 1 in the Annex), for each of its recovery plan scenarios, if the CCP deems the indicators proposed in Table 1 in the Annex not appropriate. In such a case, the CCP should provide a justification to its competent authority.
21. A CCP should calibrate and quantify (e.g. by setting thresholds) the category (a) and category (b) indicators, where feasible, based on the CCP's characteristics and specificities with respect to its risk profile (including the level of complexity, structure, etc.), consistent with Guideline 2.
22. To create its category (c) indicators (indicators that signal the usage of specific recovery measures), a CCP should use any of the following options:
 - a) Define the situation or marker that would indicate the usage of the specific recovery measure;
 - b) Indicate the main factors or circumstances that would be assessed and would guide the decision-making process for the usage of the recovery measures;
 - c) Provide a flowchart or similar tool describing the criteria and decision-making process for the usage of the recovery measures;
 - d) Indicate that the recovery plan measure forms part of an ordered sequence (e.g. the CCP may create a chart indicating the (assumed) sequence of specific recovery measures that would be used to counter each recovery plan scenario).
23. A CCP should provide its competent authority with an explanation of how the indicators calibrations were determined and an analysis that demonstrates that the category (a) indicators would be triggered early enough to be effective.

Guideline 4: Integration of the CCP recovery plan indicators with the CCP's monitoring system

24. In order to integrate the recovery plan indicators with the CCP's monitoring system, a CCP should:

- a) monitor all 'relevant types and sources of risk' (as identified in the Guidelines on CCP Recovery Plan Scenarios - ESMA91-372-1701);
- b) monitor the liquidity and of the number of active market participants for the activities they clear and for the assets they hold as collateral or investments;
- c) monitor any trend in the number and severity of incidents at the CCP and at FMIs to which the CCPs are exposed;
- d) maintain and monitor a list of entities that may be sources of material risk, including:
 - (i) the members who are the main contributors of risk to the CCP (e.g. through the default fund);
 - (ii) interoperable CCPs;
 - (iii) the entities, service providers or Financial Market Infrastructures that may pose material liquidity risk in case of financial or operational distress;
 - (iv) the members that can be a material source of simultaneous default and non-default losses.

Guideline 5: Maintenance of CCP recovery plan indicators

25. A CCP should review and where necessary update its recovery plan indicators, following Guidelines 1 – 4, every time the CCP reviews its recovery plan in accordance with Article 9(9) of CCPRRR.

VI. Annexes

Table 1: Matrix for creating recovery plan indicators

Types of Recovery Plan Scenarios	Category (a) indicators (<i>‘Indicators that provide early warnings for recovery actions’</i>)	Category (b) indicators (<i>‘Indicators that signal the move from Business as Usual risk management to the recovery phase’</i>)
1a. Default event causing financial losses that propagate through the CCP’s default waterfall with return to a matched book through voluntary, market-based tools	<p>Default of one or more members whose combined effect could consume a significant percentage of the CCP’s default fund.</p> <p>Start of default management process with portfolio(s) that have mark to market losses exceeding [defaulting member(s) margins + Skin in the game + a significant amount of the total default fund size].</p> <p>High probability of default of one or more members whose combined effect could consume a significant percentage of the CCP’s default fund.. The probability of default would be signaled by market-based indicators.</p>	<p>Realised or forecasted default loss that would consume all default fund prefunded resources .</p>
1b. Interoperable CCP default event causing financial losses that propagate through the CCP’s default waterfall	<p>Interoperable CCP default under stressed market conditions when this type of entity represents one of the largest exposures of the CCP.</p>	<p>Realised or forecasted default loss that would consume all relevant prefunded resources available to</p>

Types of Recovery Plan Scenarios	Category (a) indicators (<i>‘Indicators that provide early warnings for recovery actions’</i>)	Category (b) indicators (<i>‘Indicators that signal the move from Business as Usual risk management to the recovery phase’</i>)
	<p>High probability of an interoperable CCP default under stressed market conditions when this type of entity represents one of the largest exposures of the CCP.</p> <p>Combined default of a member and an interoperable CCP whose combined effect would represent a significant challenge to the CCP’s funding.</p> <p>High probability of combined default of a member and an interoperable CCP whose combined effect would represent a significant challenge to the CCP’s funding.</p>	<p>cover the default of an interoperable CCP.</p>
<p>2. Default event causing financial losses with a default management process that necessitates the use of mandatory, rules-based arrangements (as set out in the CCP’s recovery plan) in order to re-establish a matched book</p>	<p>Early identification of potential inability to successfully re-establish a matched book through voluntary, market-based tools due to auctioned portfolio characteristics, market conditions or operational factors.</p>	<p>CCP is unable to re-establish a matched book without recovery measures.</p>
<p>3. Non-default event preventing the CCP from performing its critical functions</p>	<p>Business continuity event or accumulation of operational incidents or deteriorating trend in the performance of either the CCP’s systems or of services from a third party providing critical</p>	<p>A third party providing critical services to the CCP is unable or unwilling to provide its service.</p>

Types of Recovery Plan Scenarios	Category (a) indicators (<i>‘Indicators that provide early warnings for recovery actions’</i>)	Category (b) indicators (<i>‘Indicators that signal the move from Business as Usual risk management to the recovery phase’</i>)
	<p>services to the CCP, or perception of an increased cyber threat.</p> <p>CCP becomes aware of the likely withdrawal of some related services.</p> <p>Likely changes in the legal framework which would lead to material hinderance in the CCP’s service provision.</p>	<p>Inability to continue operating the CCP’s system regardless of the origin of the incident.</p> <p>New legal provisions (e.g. legislation or court ruling) affect the CCP’s capacity to perform its critical functions.</p>
<p>4. Non-default event causing financial losses</p>	<p>Failure of a third-party entity with potential to create a material direct or indirect financial loss.</p> <p>High probability of failure of a third-party entity with potential to create a material direct or indirect financial loss.</p> <p>Legal risk with high probability of materialising and potential to create a material impact to CCP’s resources.</p> <p>Fraud, cyber-attack or operational event with potential to create severe financial loss.</p> <p>Investment losses with potential to create severe financial impact.</p>	<p>Realised or forecasted loss that would consume all relevant capital resources.</p>

Types of Recovery Plan Scenarios	Category (a) indicators (<i>‘Indicators that provide early warnings for recovery actions’</i>)	Category (b) indicators (<i>‘Indicators that signal the move from Business as Usual risk management to the recovery phase’</i>)
5. Default event causing a liquidity shortfall	<p>Failure of one or more members whose combined effect would represent a significant challenge to the CCP’s liquidity position.</p> <p>High probability of failure of one or more members whose combined effect would represent a significant challenge to the CCP’s liquidity position. The probability of default would be signaled by market-based indicators.</p> <p>Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP.</p>	<p>Realised or forecasted liquidity shortfall that would exhaust all BAU liquidity generation capacity as defined by the CCP.</p>
6. Non-default event causing a liquidity shortfall	<p>Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP.</p> <p>Loss/removal of a liquidity service (contract ending, counterparty rejecting the CCP, counterparty exiting the market for this service, etc.) that is material to the CCP’s liquidity position.</p> <p>Operational or financial failure of a third-party entity, Financial Market Infrastructure or service provider that has the potential to cause a material impact to the CCP’s liquidity position.</p>	<p>Realised or forecasted liquidity shortfall that would exhaust all BAU liquidity generation capacity as defined by the CCP.</p>

Types of Recovery Plan Scenarios	Category (a) indicators (<i>‘Indicators that provide early warnings for recovery actions’</i>)	Category (b) indicators (<i>‘Indicators that signal the move from Business as Usual risk management to the recovery phase’</i>)
7. Event(s) causing simultaneous default and non-default losses	<p>Failure of an entity that has been identified as a potential source of simultaneous default and non-default losses.</p> <p>High probability of failure of an entity that has been identified as a potential source of simultaneous default and non-default losses.</p>	<p>Failure of one or more entities whose combined effect creates both default and non-default losses triggering any of the above category (b) indicators (<i>indicators that signal the move from Business as Usual risk management to the recovery phase</i>) of default losses, non-default losses or liquidity shortfall scenarios.</p>