**CNMV ADVISORY COMMITTEE RESPONSE TO THE DRAFT TECHNICAL STANDARDS FOR THE REGULATION ON IMPROVING SECURITIES SETTLEMENT IN THE EUROPEAN UNION AND ON CENTRAL SECURITIES DEPOSITORIES (hereinafter CSD)**

The CNMV's Advisory Committee has been set by the Spanish Securities Market Law as the consultative body of the CNMV. This Committee is composed by market participants (members of secondary markets, issuers, retail investors, intermediaries, the collective investment industry, etc) and its opinions are independent from those of the CNMV.

INTRODUCTION

The discussion paper published by ESMA proposes a consultation to several stakeholders in the post-trading process (CSD, participants, market infrastructures, etc.) on the possible content of the technical standards, whose development has been entrusted to ESMA by the Regulation of both the European Parliament and the Council, concerning the improvement of securities settlement in the European Union and its central securities depositories (CSDR).

This EU Regulation is at the final step of the legislative process and it is expected to be approved by the EU Parliament next July. The initiative establishes a uniform legal framework for CSD and for settlement operation systems. The systemic importance of these financial market infrastructures is recognized and therefore, this regulation can significantly contribute to increasing the safety, efficiency and competition in the settlement markets of the European Union. Furthermore, this regulation will reduce regulatory complexity for trading venues and CSDs triggered by several national rules and will allow CSD to provide cross-border services without having to comply with different national requirements.

Among the matters included in the discussion paper and provided by the Regulation:

- Mechanisms to respond settlement failures.

- Procedure for the authorization and evaluation of CSD.

- Organization requirements.

- Contents of the CSD´s records.

- Access to CSD, market participants and other infrastructure in the CSD.

The response deadline for the discussion paper is next May 22; subsequently, and according to Regulation 1097/2010 of the European Parliament and of the Council, ESMA will publish a new public consultation on the final text of the technical standards before submitting it to the European Commission for its approval.

CNMV Advisory Committee welcomes ESMA´s invitation to discuss any issue raised in the discussion paper. This Committee acknowledges ESMA´s interest in receiving well-founded answers that incorporate data on incurred costs for CSD, its participants and other industry members, for each of the regulatory proposals. However, given our composition and functions, the Committee does not have specific information about costs in which the subjects directly affected may incur by the changes introduced in this Regulation.

GENERAL CONSIDERATIONS:

After answering the questions posed by ESMA there are some arguments underlined which, for a better understanding and to avoid unnecessary repetitions, are exposed below:

1. This Regulation aims to establish a uniform legal framework for the settlement development in Europe. Thus, by eliminating national legislation disparities in settlement disciplines, authorization, conduct and supervision of the CSD, services can be provided on a competitive basis in the European Union. However, the discussion paper refers occasionally to the minimum requirements to be met by the CSD, being understood after this minimum harmonization that national regulators and supervisors may require more costly conditions for CSD´s operations in their territory. This problem should be solved by developing rules enhancing effective harmonization, not only minimum requirements rules, but a real harmonization of the condition to provide CSD services.
2. The existence of CSD services currently provided in the territory of the European Union should be considered for the drafting of the technical standards, specifically those related to the CSD authorization. This means that these CSD comply with the regulations in their country of origin and also that they are regularly evaluated by several European and international organizations (Settlement Systems Assessment and links from the European Central Bank; Infrastructures Market Principles for CPSS-IOSCO). In order to facilitate these CSD’s authorization process according to the Regulation (validation), we suggest that ESMA should consider this reality and, when applicable, use the documentation that has already been provided by the CSD to its respective competent authorities.
3. The approval of a uniform legal framework should not hinder the proportionate application of organizational requirements established by the Regulation, taking into account the wide range of CSD types according to their corporate structures, possibilities of corporate group integration, volumes activity and size, and at the same time protecting the objective of solvency and proper risk management.
4. With reference to the settlement discipline regime, we should remind that the main objective of the technical standards in this area should be to provide the necessary tools to CSD to settle in an efficient way. The penalty for offending entities is not the objective in itself but a way to achieve the objective mentioned before. It should be noted that a failure in the securities delivery is not always directly linked to short selling and that, according to a study published in March 2012 by ECSDA (European Central Securities Depositories Association) which studies 19 European markets, the percentage of operation settled within its theoretical settlement date is 98.9 % in value and 97.4% in volume.
5. We must avoid explicit references to infrastructure or platforms, such as TARGET2 -Securities, or specific standards, such as ISO 20022, as they may change in the future. In addition, technical standards must be mandatory rules.
6. Standards related to data conservation exceed the delegation laid down by the first level of the CSDR. We should never confuse CSD and trade repositories. The rules on the information storage should focus on enabling regulators to evaluate the level of compliance determined by the CSDR. The list of mandatory registration fields should be reduced, besides unnecessary costs for CSDs and its participating entities should be avoided.
7. Finally, we must emphasize the difficulty of undertaking the adjustments required by CSDR and of specifying this adjustments through technical standards in the time originally planned. Changes clearly affect CSD, however they do it in a substantive way to systems and business models of its participants and clients. They also require adaptations to CCP and to trading platforms. This difficulty increases in the Spanish case with the reform that is being carried out of the registration system, clearing and settlement; and with the connection to TARGET2-Securities that will occur in the fourth wave of migration which has been scheduled for 2017.

**Respond to the questions stated on Annex 4 of the draft document**

**Q1: Which elements would you propose to take into account ESMA / to form the technical standards on confirmation and allocation Between Investment Firms and Their professional clients?**

Article 6 (4) of CSDR lays down that ESMA must set technical standards to determine how investment firms should establish mechanisms with professional clients to ensure that the data for transactions settlement are available for the CSD in the trading day and to promote the operations are settled on time, limiting the amount of settlement failures.

The Committee considers that the roles of the CSD´s participating entities are crucial here. Indeed, these entities are the most interested in having a fast and efficient settlement processes, and not having settlement failures. Nevertheless, investment firms should not be burdened with more responsibility that they could reasonably assume.

In this way, we should, at least, keep the following in mind:

* The investment companies may have an influence in the behavior of their customers, usually through contracts that estipulate the relationship between the counterparties. Therefore, they are not entities that supervise such customers, instead both of them are tied by a contractual relationship to each other through certain obligations.
* Time and procedural differences in markets may cause delays in confirmations and in operations assignments. This mentioned before should be taken into account when technical standards are set, since they are circumstances that not dependent on entities or clients.
* This Committee considers that establishing an appropriate national legal framework can protect banks against defaults or delays of its customers. In addition to this, it is considered very useful to promote a lower default rate on settlement system instrument.

Moreover, measures to prevent a higher number of failed operations, especially in TD +2 cycles, could be:

* To establish a mandatory transactions report to be sent to CSD and ICSD on the trade date (already there is a recommendation that recommend to do so, but in practice it does not occur, OTC transactions).
* A verification system should be set up by the CSD and ICSD which analyses that this communication occurs on schedule, also they must establish a control systems and even penalties in the case of systematic delays.
* A market procedure should be created for claiming the interest of CSD and ICSD in the case of the transactions that were not reported in time.

**Q2: In your opinion, are there any exceptions that should be allowed to the rule that no manual intervention occurs in the processing of settlement instructions? If so please highlight them together with an indication of the cost involved if these exceptions are not considered.**

Straight-through processing (STP) is core to the CSD business. However, it should be taken into account that manual intervention is necessary in exceptional cases (normally where corrective actions are required). Due to the nature of these cases, it is not possible to list when manual intervention should occur.

The standards should encourage automation whenever this increases the efficiency and safety of the system. But mandating automation and limiting the type of exceptions (=”manual intervention”) in Level 2 legislation could be counterproductive and actually reduce settlement efficiency, removing all flexibility for CSDs and their participants.

**Q3: ESMA welcomes concrete proposals on how the relevant communication procedures and standards could be further defined to ensure STP.**

ESMA should encourage CSDs to promote STP and to use international standards whenever is possible but Level 2 legislation should not mandate the use of specific communication standards (e.g. to ISO15022 or ISO 20022).

 ISO standards do not cover all functionalities and services offered by CSDs that are helpful to the participants and support efficient settlement process. In the case of the Spanish market they do not cover, among others functionalities, multilateral system transactions without intervention of a CCP or communication of end investor’s ownership details.

Moreover, the reference to a specific communication standard could cause problems once the standard evolves to a new one and an amendment of Level 2 legislation will be needed.

**Q4: Do you share ESMA’s view that matching should be compulsory and fields standardised as proposed? If not, please justify your answer and indicate any envisaged exception to this rule. Are there any additional fields that you would suggest ESMA to consider? How should clients’ codes be considered?**

Matching should be compulsory whenever is possible. Matching fields should not be standardized at Level 2 legislation.

Matching is not possible in the following cases:

1. When instructions have already been matched by a trading venue or a CCP and are received by the CSD via a trade feed (i.e. in the context of multilateral systems without CCP intervention).
2. In case of corporate actions processing.

Further clarification is needed to evaluate the effects of the exception mentioned by ESMA, “FoP instructions which consist in transfer of securities between different accounts opened in the name of the same participant”. Anyway, matching should be compulsory in any transaction between accounts managed by different participants with the exceptions mentioned above.

Regarding standardized matching fields we think that there is no need for technical standards to mandate the use of certain matching fields (e.g. in line with T2S matching fields) and, in any case, technical standards should not contain a direct reference to TARGET2-Securities or any other technical facility.

CSDs need flexibility to use matching fields (including optional fields) for their internal transactions to allow the provision of additional services to their participants, for example to prevent cross-matching.

**Q5: Do you agree with the above proposals? What kind of disincentives (other than monetary incentives such as discounts on matching fees) might be envisaged and under which product scope?**

To define what is considered late-matching would be necessary to take into account the trade date and the settlement cycle (for example, defining “late matching” as “matching completed after trade date” rather than on SD-2). Otherwise, there would be an incentive to use longer settlement cycles in order to benefit from early matching discounts.

Technical standards should provide CSDs measures that can be used, where appropriate, to encourage timely settlement. Measures like hold and release and bilateral cancelation facilities could be available for CSDs participants if there is a demand for such a functionality, but not mandatory.

We agree that CSDs should provide their participants with up-to-date information on their status on their pending instructions.

**Q6: In your opinion, should CSDs be obliged to offer at least 3 daily settlements/batches per day? Of which duration? Please elaborate providing relevant data to estimate the cost and benefit associated with the different options.**

If there is market demand and CSDs do not operate on RTGS basis, they should have at least 3 daily settlement batches per day.

**Q7: In your view, should any of the above measures to facilitate settlement on ISD be mandatory? Please describe any other measure that would be appropriate to be mandated.**

Technical standards should ensure that CSDs are allowed to use the most appropriate measures to facilitate and incentive timely settlement in their market, but should not seek to mandate specific tools when there is no evidence that such measures and tools would substantially benefit settlement efficiency.

Such functionalities are not always required in a given market and for example the shaping of trades is not a functionality offered in T2S.

**Q8: Do you agree with this view? If not please elaborate on how such arrangements could be designed and include the relevant data to estimate the costs and benefits associated with such arrangements. Comments are also welcome on whether ESMA should pro-vide for a framework on lending facilities where offered by CSDs.**

From our point of view, securities lending and borrowing services at the end of the day should be mandated in technical standards because we consider it is an important mechanism to prevent settlement fails.

**Q9: Do you agree with the above monitoring system description? What further elements would you suggest? Please present the appropriate details, notably having in mind the current CSD datasets and possible impact on reporting costs.**

We agree with the monitoring system description. Moreover, technical standards should be seen as an opportunity to harmonize the methodology used by all EU CSDs for reporting on settlement fails to their regulators.

**Q10: What are your views on the information that participants should receive to monitor fails?**

We believe that CSDR technical standards should require CSDs to provide participants access to the status of their pending instructions. This information aims at preventing/managing fails. However, some flexibility should be maintained as to how participants can access information on their own level of settlement performance. The information required by the participants can be obtained by the CSDs graphical user interface GUI or by a report.

**Q11: Do you believe the public information should be left to each CSD or local authority to define or disclosed in a standard European format provided by ESMA? How could that format look like?**

We believe that there would be value to define in technical standards a minimum harmonize European template to be used by CSDs for disclosing settlement fails data to the general public.

The format should include the total value and the total volume of instructions settled by the CSD.

One possibility is to make available this information on the CSDs public website.

**Q12: What would the cost implication for CSDs to report fails to their competent authorities on a daily basis be?**

Currently, the Spanish CSD reports fails to the competent authorities on a daily basis.

**Q13: CSDR provides that the extension period shall be based on asset type and liquidity. How would you propose those to be considered? Notably, what asset types should be taken into consideration?**

The extension period should be the same for all types of assets because it has an impact in the risk and in the implicit cost thus market spread. Moreover, that period should be the same in all those regulated markets, MTS, etc. where an asset is being quoted.

Surely institutional investors would be aware of these extension periods for each asset/market, but the individuals would have much more difficulties to know and understand them.

**Q14: Do you see the need to specify other minimum requirements for the buy-in mechanism? With regard to the length of the buy-in mechanism, do you have specific suggestions as to the different timelines and in particular would you find a buy-in execution period of 4 business days acceptable for liquid products?**

No, we don’t see the necessity of specify other requirements. We consider the period of 4 business days acceptable for all type of products.

**Q15: Under what circumstances can a buy-in be considered not possible? Would you consider beneficial if the technical standard envisaged a coordination of multiple buy-ins on the same financial instruments? How should this take place?**

Technical Standards should not regulate the way of performing the "multiple buy-ins on the same financial instruments". Each CSD, TV or CCP should establish in its internal rules the necessary procedures, not affecting the price of the securities.

**Q16: In which circumstances would you deem a buy-in to be ineffective?**

We agree that the buy-in mechanism will be ineffective in the case of different type of operations, for example in the case of a repo transaction when the second leg is going to settle in a short period, in a transfer of a portfolio from the same investor, in a securities lending transaction, etc.

**Q17. Do you agree on the proposed approach? How would you identify the reference price?**

We agree with ESMA approach. There should be just cash compensation in case the prices have increase. With respect to the reference price, there should be alternatives because in some cases there is no last quoted price makes in many sessions.

**Q18: Would you agree with ESMA’s approach? Would you indicate further or different conditions to be considered for the suspension of the failing participant?**

The suspension of a CSD participant should be considered only as the ultimate measure in extreme cases and will always be implemented after careful consideration of the circumstances of each case and in coordination with the competent authority.

It must be considered that suspending a participant that has repeatedly failed to settle on time would imply that the CSD can trigger the suspension of a participant from all relevant trading venues and CCPs.

It should be clear that the suspension of a participant should never be triggered automatically once the thresholds are reached. Some degree of discretion is needed for the CSD to consult with the authority and assess the possible consequences of a suspension for systemic risk.

**Q19: Please, indicate your views on the proposed quantitative thresholds (percentages / months).**

No threshold should be applied as each case should be studied by the CSD and consult with the authority.

**Q20: What is in your view the settlement information that CSDs need to provide to CCPs and trading venues for the execution of buy-ins? Do you agree with the approach out-lined above? If not, please explain what alternative solutions might be used to achieve the same results.**

As far as buy-ins of CCP-cleared transactions is concerned, a requirement to segregate accounts of clearing members at CSD level is unnecessary. CCP obtain the required information through direct participation in the CSD.

When a CSD receives a transaction feed directly from a trading venue, it is able to link a trading counterparty and a CSD participant. This allows the CSD to send back to the trading venue the necessary information to manage the buy-in.

**Q21: Would you agree that the above mentioned requirements are appropriate?**

 We agree that the requirements are appropriate.

**Q22: Would you agree that the elements above and included in Annex I are appropriate? If not, please indicate the reasons or provide ESMA with further elements which you find could be included in the draft RTS, and any further details to justify their inclusion.**

Given the additional complexity of having to implement these changes in parallel with the migration to T2S, a transition period is need for many CSDs to make the necessary adaptations to CSDR.

ESMA should clarify that the items listed under points E2 and E3 of Annex I of the Discussion Paper (intended settlement dates, preventing fails and measures to address settlement fails) will not be required for a CSD to obtain authorisation, at least in the first three years after the Level 2 standards on settlement discipline have been adopted.

The information specified by ESMA under article 17(8) and detailed in Annex 1 of the Discussion Paper should be described as “minimum requirements”. Since the level 1 text does not refer to “minimum” requirements, ESMA should avoid this term.

CSDs should be allowed to leverage where appropriate on the extensive information provided as part of their yearly disclosure or self-assessment reports under the CPSS-IOSCO Principles for financial market infrastructures (PFMI) in order to demonstrate compliance with the CSDR.

In the case of CSD links (section G of Annex I in the ESMA Discussion Paper), it should be possible for CSDs and competent authorities to refer to and to rely on existing link assessments, whenever this is applicable. A complete re-assessment of CSD links for the purpose of CSDR authorization should be avoided, especially given the resources involved in the exercise, notably as part of the ongoing and upcoming Eurosystem link assessments in preparation for CSDs’ migration to T2S.

**Q23: Do you agree that the above mentioned approach is appropriate? If not, please indicate the reasons or provide ESMA with further elements which could be included in the draft ITS**

Yes, we agree with the template.

**Q24: Do you see other risks and corresponding mitigating measures? Do CSDs presently have participations in legal persons other than CCPs, TRs and trading venues that should be considered? Would banning CSDs from directly participating in CCPs is advisable, in your view?**

We do not agree with all the restrictions suggested by ESMA. The following restrictions on CSD participations would be faithful to the spirit and the letter of the Level 1 text of the CSD Regulation, thereby ensuring that CSDs maintain a low risk profile:

1) Prohibiting CSDs from assuming guarantees leading to unlimited liability in virtue of a participation and allowing limited liability only where the resulting risks are fully capitalized;

2) Requiring competent authorities to ensure that the activities of the entities in which a CSD holds participations are complementary to the activities of the CSD;

3) Ensuring that CSDR-authorized services, including when they are performed by a subsidiary of the CSD, constitute the main source of revenues of the CSD;

4) Allowing CSDs to assume control over other entities where such control contributes to a better management of the risks to which the CSD is exposed as a result of these participations.

**Q25: Do you consider the approach outlined above adequate, in particular as regards the scope and frequency of information provision and the prompt communication of material changes? If not, please indicate the reasons, an appropriate alternative and the associated costs.**

We agree with the proposed approach. The notion of “materiality” could be further stressed to ensure that a CSD’s supervisors focus on changes and processes that truly have a potential impact on a CSD’s risk profile.

The annual review of CSD’s compliance with the regulation, it should rely as much as possible on information already provided by the CSD and only require CSDs to provide information where such information is not yet available to the competent authorities. The annual review described article 22 of CSDR should replace the previous reviews carried out using the ESCB-CESR framework.

The annual review exercise should also leverage as much as possible on CSDs’ assessments against CPSS-IOSCO PFMIs, which cover most of the information required for the review.

**Q26: Do you agree with this approach? Please elaborate on any alternative approach illustrating the cost and benefits of it.**

We agree with ESMA approach. The applicant CSD shall provide ESMA with all information deemed necessary for its recognition. As ESMA mention in its discussion paper, the definition of the items that a non-EU CSD could provide for EU recognition purposes could be similar to the elements required for the registration of an EU CSD. The CSDR technical standards should include a list of all requirements for third country CSDs to apply for recognition.

Furthermore, once a third country CSD is recognized, there should be follow-up arrangements and requirements to ensure ongoing supervisory equivalence.

**Q27: Do the responsibilities and reporting lines of the different key personnel and the audit methods described above appropriately reflect sound and prudent management of the CSD? Do you think there should be further potential conflicts of interest specified? In which circumstances, if any, taking into account potential conflicts of interest between the members of the user committee and the CSD, it would be appropriate not to share the audit report or its findings with the user committee?**

Monitoring tools

We do not agree with the proposal made by ESMA in §110 of its Discussion Paper which would require CSDs to monitor, not only their own risks, but also to the risks they pose to participants and other entities. This is not consistent with and goes beyond Article 26(1) in the Level 1 text of the CSD Regulation, which requires CSDs to “identify, manage, monitor and report the risks to which it is or might be exposed”.

It is not clear how a CSD would be able to identify, manage, monitor and report risks in relation to participants’ clients. In our view, it is the responsibility of the respective participant to assess and manage the risks in relation to its clients. Technical standards on monitoring tools should be limited to the risks faced by CSDs.

Responsibilities of key personnel

We agrees with the lists of responsibilities of key personnel suggested by ESMA but there should be clarifications to the notions of dedicated functions, in smaller organizations, the functions mentions will not always justify a full-time job. Technical standards should make it clear that the “dedicated functions” should be clearly attributed to an individual, but that this individual should be allowed to perform other functions within the firm, and in the case of corporate groups, it should be possible for an individual to perform one of these functions for different entities within the group.CSD

We consider that the CSD must share relevant audit results with the User Committee. However, taking into consideration the potential conflict of interest and the confidential information that can be contained in the audit result, we believe that the circumstances in which CSDs should share the audits with the user committee should be based on the impact and the importance of such results or contents for the mandate of the User Committee.

**Q28: Do you agree with this minimum requirements approach? In case of disagreement, what kind of categories or what precise records listed in Annex III would you delete/add?**

The requirements proposed in Annex III of the discussion paper are extremely extensive and go beyond the purpose of ensuring the compliance of the CSDs with the requirements of CSDR.

A CSD needs to implement a complete new and costly IT system for requirements proposed.

**Q29: What are your views on modality for maintaining and making available such records? How does it impact the current costs of record keeping, in particular with reference to the use of the LEI?**

Regarding the data keeping and availability, we consider that the modality for maintaining and making available the records proposed by ESMA is excessive and out of the scope of Level 1. Moreover, its implementation would be very costly for CSDs.

The use of LEIs will mean a major cost to the market. For this reason, a gradual implementation of the use of LEIs should be coordinated at global level rather than imposed on EU CSDs and its participants via CSDR technical standards on recordkeeping.

**Q30: Do you agree that the CSD risk analysis performed in order to justify a refusal should include at least the assessment of legal, financial and operational risks? Do you see any other areas of risk that should be required? If so, please provide examples.**

We agree with ESMA proposal regarding the type of risks that should be analyzed in order to justify a refusal of an applicant participant.

Notwithstanding it, regarding legal risks must be noted that CSDs cannot be expected to assess whether the requesting party is not compliant with prudential requirements and that they should be allowed to rely on the existing authorizations obtained by the requesting party.

The criteria for refusal provided by ESMA should not be interpreted as a substitute for regular approval process for CSD participants based on positive participation criteria specified by each CSD. It should be clear that technical standards are limited to cases of refusal of a new participant.

**Q31: Do you agree that the fixed time frames as outlined above are sufficient and justified? If not, which time frames would you prefer? Please provide reasons to support your answer.**

We agree with the time frames proposed by ESMA.

**Q32: In your opinion, do the benefits of an extra reconciliation measure consisting in comparing the previous end of day balance with all settlements made during the day and the current end-of-day balance, outweigh the costs? Have you measured such costs? If so, please describe.**

Reconciliation measures are already preformed in the IT applications of the Spanish CSD. This type of reconciliation measures will be available in T2S and additional “extra” reconciliation measures which indeed, will increase the cost are not needed.

**Q33: Do you identify other reconciliation measures that a CSD should take to ensure the integrity of an issue (including as regards corporate actions) and that should be considered? If so, please specify which and add cost/benefit considerations.**

No, it is not necessary.

**Q34: Do you agree with the approach outlined in these two sections? In your opinion, does the use of the double-entry accounting principle give a sufficiently robust basis for avoiding securities overdrafts, debit balances and securities creation, or should the standard also specify other measures?**

Double-entry accounting principle provides a robust basis for avoiding securities overdrafts, debit balances and securities creation and no further measures are needed.

**Q35: Is the above definition sufficient or should the standard contain a further specification of operational risk?**

We agree with the definition proposed by ESMA and we consider it sufficient. We support the referring to the definition of operational risk included in the CPSS-IOSCO Principal for financial market infrastructure. The definition mentioned will guarantee consistency with global standards.

**Q36: The above proposed risk management framework for operational risk considers the existing CSDs tools and the latest regulatory views. What additional requirements or details do you propose a risk management system for operational risk to include and why? As always do include cost considerations.**

Given the detailed provisions included in theCPSS-IOSCO Principal for financial market infrastructure and their assessment methodology, additional requirements or details are not necessary.

**Q37: In your opinion, does the above proposal give a sufficiently robust basis for risk identification and risk mitigation, or should the standard also specify other measures? Which and with what associated costs?**

Yes, we believe that ESMA proposal is sufficient.

**Q38: What are your views on the possible requirements for IT systems described above and the potential costs involved for implementing such requirements?**

The review to the IT systems and the information security framework, on an annual basis, will suppose an important cost for the CSDs,

**Q39: What elements should be taken into account when considering the adequacy of resources, capabilities, functionalities and staffing arrangements of the secondary processing site and a geographic risk profile distinct from that of the primary site?**

It will be important to provide to the CSD with sufficient period of time to implement the required changes to comply with the CSDR technical standards, in case of a CSD has to set up a new secondary processing site.

**Q40: In your opinion, will these requirements for CSDs be a good basis for identifying, monitoring and managing the risks that key participants, utility providers and other FMIs pose to the operations of the CSDs? Would you consider other requirements? Which and why?**

Yes, we agree that the requirements proposed by ESMA.

**Q41: Do you agree with the approach outlined above? In particular, do you agree with the approach of not distinguishing between CSDs that do not provide banking services and CSDs that do so?**

We agree with the proposed approach and the need to align rules on investment risk with the EMIR technical standards as much as possible. The restrictions on the investment policy do not need to be as strict. CSDs have a limited amount of capital to invest and generally keep that capital in cash deposits.

**Q42. Should ESMA consider other elements to define highly liquid financial instruments, ‘prompt access’ and concentration limits? If so, which, and why?**

We don’t think that ESMA should consider other elements to define highly liquid financial instruments, prompt access and concentration limits.

**Q43: Do you agree that links should be conditioned on the elements mentioned above? Would there be any additional risks that you find should be considered, or a different consideration of the different link types and risks? Please elaborate and present cost and benefit elements supporting your position.**

We agree with ESMA and the intention to treat standard and customized links equally from a risk perspective. In our opinion no additional risk should be consider.

**Q44: Do you find the procedures mentioned above adequate to monitor and manage the additional risk arising from the use of intermediaries?**

We don’t have any comments on the additional requirements for indirect links.

**Q45: Do you agree with the elements of the reconciliation method mentioned above? What would the costs be in the particular case of interoperable CSDs?**

We agree with the elements of the reconciliation method mentioned.

**Q46: Do you agree that DvP settlement through CSD links is practical and feasible in each of the cases mentioned above? If not explain why and what cases you would envisage.**

DvP settlement cases suggested by ESMA can be considered practical and feasible.

**Q47: Do you agree that the risk analysis performed by the CSD in order to justify a refusal to offer its services to an issuer should at least include legal, financial and operational risks? Do you see any other areas of risk that should be considered? If so, please give examples.**

We agree with ESMA’s proposal, as regards the type of risks that need to be taken into consideration when carrying out the risk analysis to justify the refusal to offer CSDs services to an issuer.

The examples listed in the Discussion paper are helpful indications, but they should not be considered as an exhaustive list. We are of the opinion that any other risk that may impact the legal certainty of the issuer, the protection of the investors and its rights, or the rules applicable to the CSD should be considered for the benefit of the market. CSD

We expect that technical standards will not affect the general rights for CSDs provided in Article 49 (3) of CSDR to refuse issuers in cases where the CSD does not provide notary services in relation to securities constituted under the law of the requesting issuer. This is important safeguard since it protects CSDs from unnecessarily legal risks arising from differences in national law in relation to securities issues.

**Q48: Do you agree that the time frames as outlined in the procedure above are sufficient and justifiable? If not, which time frames would you prefer? Please provide reasons to support your answer.**

We agree with the time frames proposed by ESMA.

**Q49: Do you agree that the time frames as outlined in the procedure above are sufficient and justifiable? If not, which time frames would you prefer? Please provide reasons to support your answer.**

We agree with the time frames proposed by ESMA.

**Q50: Do you believe that the procedure outlined above will work in respect of the many links that will have to be established with respect to TARGET2-Securities?**

Yes, probably it will work. Nevertheless, the procedure proposed by ESMA should be applicable to all links between CSDs, not only for CSDs in T2S.

**Q51: Do you agree that the risk analysis performed by the receiving party in order to justify a refusal should include at least legal, financial and operational risks? Do you see any other areas of risk that should be considered? If so, please give examples?**

The risk analysis performed by the receiving party should include at least legal, financial and operational risks. Nevertheless, the examples proposed should be only considered as an open list.

**Q52: Do you agree that the time frames as outlined in the procedure above are sufficient and justifiable? If not, which time frames would you prefer? Please provide reasons to support your answer.**

We consider appropriate the time frames proposed in the document.

**Q53: Do you agree with these views? If not, please explain and provide an alternative.**

The information specified by ESMA, in which the CSD shall provide the competent authority to obtain the relevant authorization, should be requested to all CSDs, not only the ones who apply now for the authorizations but also the CSDs who already have it. We understand that authorization to provide banking services should be given if all the criteria specified in the CSDR have been applied to all CSDs, apart from the CSDs current status.

**Q54: What particular types of evidence are most adequate for the purpose of demonstrating that there are no adverse interconnections and risks stemming from combining together the two activities of securities settlement and cash leg settlement in one entity, or from the designation of a banking entity to conduct cash leg settlement?**

The ESMA proposals are adequate to demonstrate that there are no adverse interconnections and risks stemming from combining together the two activities. However, we strongly believe that authorization to provide banking services should be given if all the criteria specified in the CSDR have been applied to all CSDs, apart from the CSDs current status.