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| 18 December 2014 |

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| Reply form for the  Technical Standards under the CSD Regulation |
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| Date: 18 December 2014 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper - Technical Standards under the CSD Regulation, published on the ESMA website.

***Instructions***

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, please follow the instructions described below:

1. use this form and send your responses in **Word format**;
2. do not remove the tags of type <ESMA\_QUESTION\_TS\_CSDR\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
3. if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

1. if they respond to the question stated;
2. contain a clear rationale, including on any related costs and benefits; and
3. describe any alternatives that ESMA should consider

**Naming protocol:**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_ TA\_CSDR \_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be ESMA\_TS\_CSDR\_AIXX\_REPLYFORM or ESMA\_CE\_TS\_CSDR\_AIXX\_ANNEX1

Responses must reach us by **19 February 2015**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Disclaimer’.

# General information about respondent

|  |  |
| --- | --- |
| Are you representing an association? | No |
| Activity: | Central Counterparty |
| Country/Region | Germany |

##### Do you think the proposed timeframes for allocations and confirmations under Article 2 of the RTS on Settlement Discipline are adequate?

##### If not, what would be feasible timeframes in your opinion?

##### Please provide details and arguments in case you envisage any technical difficulties in complying with the proposed timeframes.

<ESMA\_QUESTION\_TS\_CSDR\_1>

1.) Central counterparties are not subject to obligations set forth in Article 6 para 1 CSDR considering that a central counterparty is not an investment firm authorised pursuant to Article 5 of Directive 2014/65/EU. In consequence, this requirement for investment firms is – to the understanding of Eurex Clearing – not applying for central counterparties. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TS\_CSDR\_1>

##### Do you agree with the cases when matching would not be necessary, as specified under Article 3(2) of the draft RTS?

##### Should other cases be included? Please provide details and evidence for any proposed case.

<ESMA\_QUESTION\_TS\_CSDR\_2>

2.) Eurex Clearing supports the measures to facilitate STP given that efficiency will be increased in general. Hence, Eurex Clearing understood the recommendation of some participants to propose the usage of “already matched” settlement instructions.

In that regard some elements require consideration:

1. The requirement to use “already matched” settlement instructions is to our understanding only referring to settlement instructions initiating the transfer of securities from one legal entity to another. This requirement is not applying to settlement instructions if the same legal entity is re-balancing its holdings on settlement accounts in one or two CSDs.
2. The functionality to receive and process “already matched” settlement instructions is to our understanding neither available in all CSDs nor supported without limitations when available in a CSD’s technical infrastructure.   
   Subsequently, we want to make that transparent considering the functionality T2S will offer to the participating CSDs and their participants. T2S is aiming to support the processing of “already matched” settlement instructions but only for intra-CSD settlement instructions. Instructions aiming to initiate settlement between 2 CSD participants operating their accounts in 2 different CSDs cannot be treated as already matched (i.e. matching must take place on the T2S platform as an inter-CSD settlement instruction) and, in consequence, the provision of such “already matched” settlement instructions is not possible.
3. The introduction of T2S will presumably increase the ability of market participants to freely choose the CSD they want to use for holdings and for the settlement of security settlement instructions. Hence, trading venues and the CCPs have to connect and operate settlement accounts with an increased number of CSDs.
4. A CCP becomes buyer to every seller and seller to every buyer holding the role of an intermediary in the delivery process which needs to be completed as quick and cost effective as possible.

Given this situation a CCP

(a) will be required to operate a settlement account in each CSD in which at least one of its Clearing Members (e.g. the seller) holds its settlement account and

(b) is required to arrange the necessary re-alignment delivery from such CSD to the CSD of the other Clearing Member (e.g. the buyer).

In consequence, the number of settlement accounts required to be used by a CCP is significantly increased, re-alignment deliveries become necessary which will increase costs and decrease operational efficiency and, last but not least, the idea of T2S to allow a market participant (and therefore also a CCP) the concentration of its entire activity within one CSD is contradicted.

Subsequently, the background of Eurex Clearing’s concern on costs and settlement efficiency should be made transparent:

**Cost Impact:**  
Example: 2 Clearing Members (CM A, CM B) have chosen 2 CSDs (CSD A, CSD B) where they want to operate their settlement accounts; the CCP is concentrating its activity in CSD B.

1. Current processing

Delivery chain for 1

- CCP instructs – on-behalf of CM A and based on a Power-of-Attorney – CSD A to deliver to CSD B for the CCP in CSD B  
- CCP instructs CSD B that he – the CCP – will receive securities from CM A in CSD A   
🡺 those inter-CSD settlement instructions both sent by the CCP to the respective CSD

will match in T2S and result in the respective delivery

Delivery chain for 2:

- CCP instructs CSD B that he – the CCP – will deliver securities to CM B in CSD B  
- CCP instructs – on-behalf of CM B and based on a Power-of-Attorney – CSD B to receive securities for CM B  
🡺 those intra-CSD settlement instructions both sent by the CCP to CSD B will match in T2S and result in the respective delivery. Alternatively and considering the functionality T2S will offer this settlement instructions sent for matching in CSD B can be replaced by one “already matched” settlement instruction provided by the CCP

Enabling this delivery requires 4 settlement instructions (2 to complete delivery chain 1 and 2 to complete delivery chain 2) to be processed in the settlement environments of both CSDs.Alternatively, in case the option to use already matched in T2S is used, only 3 settlement instructions are required.

The settlement costs to complete the delivery from CM A to CM B via the CCP are the same, irrespective of the numbers of technical settlement instructions.  
- CM A needs to pay for one settlement in CSD A  
- CM B needs to pay for one settlement in CSD B  
- CCP needs to pay for one settlement in CSD A and for one settlement in CSD B

1. Future processing   
   (i.e. assuming already matched becomes mandatory for a CCP)

Delivery chain 1:

- CCP instructs – on-behalf of CM A and based on a Power-of-Attorney – CSD A to deliver to the CCP account in CSD A  
- CCP instructs CSD A that he – the CCP – will receive securities from CM A in CSD A

🡺 this already matched intra-CSD settlement instruction will be sent by the CCP to CSD A

Delivery chain 2:

- CCP instructs CSD A to deliver to CSD B for the CCP  
- CCP instructs CSD B to receive from CSD A for the CCP  
🡺 those inter-CSD settlement instructions will be sent by the CCP to CSD A and CSD B for matching in T2S

Delivery chain 3:

- CCP instructs CSD B that he – the CCP – will deliver securities to CM B in CSD B

- CCP instructs – on-behalf of CM B and based on a Power-of-Attorney – CSD B to receive securities for CM B  
🡺 this already matched intra-CSD settlement instruction will be sent by the CCP to CSD B

Enabling this delivery requires 4 settlement instructions (1 to complete delivery chain 1, 2 to complete delivery chain 2 and 1 to complete delivery chain 3) to be processed in the settlement environments of both CSDs.

The settlement costs to complete the delivery from CM A to CM B via the CCP are the same, irrespective of the numbers of technical settlement instructions.

- CM A needs to pay for one settlement in CSD A

- CM B needs to pay for one settlement in CSD B

- CCP needs to pay for two settlements in CSD A and for two settlements in CSD B

**Settlement efficiency**

Split liquidity will be the result from the requirement that the CCP operates a settlement account in each CSD and, subsequently, an increasing number of re-alignment deliveries will become necessary to ensure that the securities can be made available in the CSD where the buyer(s) is (are) located.  
Taking up the example before and assuming another CM C in CSD C will be added, 2 additional settlement instructions are necessary to ensure delivery to such CM C in the current processing environment but 3 become necessary in the future environment. Similar also the costs are increased  
Current processing: CM C needs to pay for one settlement in CSD C  
Future processing: CCP, in addition, needs to pay for one settlement in CSD A or CSD B depending where the securities are located and for two settlements in CSD C  
  
In that regard it needs to be mentioned that the CCP needs to implement a calculation algorithm which allows for a prediction whether the securities have to be delivered from CSD A or CSD B. Any intra-day adaption of those originally predicted deliveries requires cancellation and re-instruction which is costly and time-consuming.

The more Clearing Members are participating in a CCP and the more CSDs are chosen for settlement, the more the complexity of such prediction algorithm will increase. Cost will increase, the timely re-alignment of securities will become less and less possible and, in consequence, overall settlement efficiency will be decreased.

Considering,

* the limitations within the settlement environment (e.g. its limited availability within T2S),
* the expectable development of the market (i.e. the number of inter-CSD settlements will presumably increase resulting from the introduction of T2S),
* the special role of a CCP (i.e. being buyer to each seller and seller to each buyer),
* the interrelated costs resulting from the intra-CCP re-alignments and
* the issue which will presumably arise with settlement efficiency (resulting from a increasing number of re-alignment deliveries across CSDs)

the requirement that a CCP must always process its settlement instructions as “already matched” should be clarified.

Considering the processing of Eurex Clearing – and to our understanding of CCPs in general – have in place, Eurex Clearing already ensures that settlement instructions (for the selling or buying Clearing Member but also for Eurex Clearing) will match in the CSD without any issues. This is resulting from the fact that they are entirely prepared and sent by Eurex Clearing.

The following paragraph is aimed to make that transparent.

In general, Eurex Clearing is using the Power-of-Attorney principle when providing settlement instructions to CSDs. This principle foresees that Eurex Clearing produces the settlement instructions to be sent to the relevant CSDs and, subsequently, provides the instruction for its side of a settlement and also for the side of the selling or buying Clearing Member to the relevant CSD. The instructions for the selling of buying Clearing Member are provided to the CSD by using the Power-of-Attorney principle. Considering that the settlement instructions for the selling and buying Clearing Member as well as the matching settlement instructions for the Eurex Clearing are produced by Eurex Clearing, it can be assured that they “fit together” and the subsequent settlement process taking place in the CSD is not disturbed.

In cases where the Power-of-Attorney principle is not required the settlement instruction are sent to the CSD by Eurex Clearing and by the Clearing Members. In theses cases the CSD is required to conduct the matching of settlement instructions.

Hence, Eurex Clearing proposes a clarification on Article 3, 2, 2nd paragraph making transparent that “already matched” settlement instructions should be provided where this is technically supported and overall settlement efficiency is not harmed in the following way:

*3.) Concrete redrafting proposal of Article 3 para 2:*

***For intra-CSD settlement instruction (specified in point f) of Article 4(2))*** *CSDs shall require that CCPs send already matched settlement instructions into the securities settlement system operated by a CSD* ***which technically supports such functionality****, unless letter b) of subparagraph 1 applies.*

<ESMA\_QUESTION\_TS\_CSDR\_2>

##### What are your views on the proposed approach under Article 3(11) of the draft RTS included in Chapter II of Annex I?

##### Do you think that the 0.5% settlement fails threshold (i.e. 99.5% settlement efficiency rate) is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

##### Do you think that the 2,5 billion EUR/year in terms of the value of settlement fails for a securities settlement system operated by a CSD is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

<ESMA\_QUESTION\_TS\_CSDR\_3>

4.) The CSD is obliged to recycle settlement instructions as long as these have not been bilaterally cancelled. In line with the anti-circumvention rules set forth in Article 19 of draft RTS on settlement discipline a CCP is entitled to use netting models such as continuous net settlement in which bilateral cancellation is also performed for already sent but not settled settlement instructions.

5.) We like to point out from a CCP perspective that the introduction of crucial system functionalities is dependent on the implementation effort that includes an adequate build and diligent testing phase for the adaptions in the core system and therefore may take considerably more than 3 months.

<ESMA\_QUESTION\_TS\_CSDR\_3>

##### What are your views on the proposed draft RTS included in Chapter II of Annex I?

<ESMA\_QUESTION\_TS\_CSDR\_4>

6.) Eurex Clearing has no comment on these provisions.

<ESMA\_QUESTION\_TS\_CSDR\_4>

##### What are your views on the proposed draft RTS on the monitoring of settlement fails as included in Section 1 of Chapter III of Annex I?

<ESMA\_QUESTION\_TS\_CSDR\_5>

7.) As pointed out earlier, according to the anti-circumvention rules set forth in Article 19 of draft RTS on settlement discipline a CCP is entitled to use netting models such as continuous net settlement in which bilateral cancellation is performed for already sent but not settled settlement instructions.

However Eurex Clearing will make a copy available in addition to our standard procedure that will be provided to the relevant CSD(s) and enable the CSD(s) to monitor settlement fails of cleared transactions.

8.) ESMA aims to facilitate the monitoring of settlement fails and asks for a market wide working flow across trading venues, central counterparties and security settlement systems to blacklist the top ten participants with the highest rates of settlement fails in Article 4 para 3 RTS on settlement discipline. Eurex Clearing is bound to carefully consider European and national data protection requirements. The working flow has not been further detailed by ESMA. Additionally the communication to inform these participants has to be structured and should not contradict with other legal obligations.

<ESMA\_QUESTION\_TS\_CSDR\_5>

##### What are your views on the proposed draft RTS related to the penalty mechanism? Do you agree that when CSDs use a common settlement infrastructure, the procedures for cash penalties should be jointly managed?

<ESMA\_QUESTION\_TS\_CSDR\_6>

9.) It is Eurex Clearing’s understanding that a CSD may provide the CCP with the cash penalty. We appreciate that the CCP can then collect and redistribute the penalties in order to maintain the penalty regime directly with Clearing Members. A CCP would not be able to analyse a business relationship of a CSD as well as a CSD will not be able to trace all business relationships of a CCP. We point out that a recalculation will be required to align with the CSD’s calculation of penalties since the settlement participants can be different from the clearing members. Nevertheless, we would also like to point out that this redistribution, required because of legal relations, should not affect the total amount of cash penalties originally calculated by the CSD and provided to the CCP for collection and redistribution.

10.) Further it is important to note that EU-wide unique reference prices used for penalty calculation need to be available per ISIN irrespective if the compensated trade is CCP cleared or bilateral processed. This is to avoid the occurrence of different penalties within a harmonized European penalty regime.

11.) Additionally, the classification of ISINs should be determined in a distinctive way to prevent the application of different penalty rates on the same ISIN, i.e. per ISIN the asset class must be given or ideally a penalty rate directly per ISIN.

12.) In any case enough lead time is needed to establish and test a penalty redistribution mechanism that allows collecting and forwarding penalties. Moreover, the CSDR penalty regime covers many more asset classes than the existing Short Selling Regulation. As a result many market participants will take a considerable effort to set up the legal documentation and new system functionalities.

<ESMA\_QUESTION\_TS\_CSDR\_6>

##### What are your views on the proposed draft RTS related to the buy-in process?

##### In particular, what are your views on applying partial settlement at the end of the extension period? Do you consider that the partialling of the settlement instruction would impact the rights and obligations of the participants?

##### What do you think about the proposed approach for limiting multiple buy-in and the timing for the participant to provide the information to the CSD?

<ESMA\_QUESTION\_TS\_CSDR\_7>

13.) The buy-in process requires an agreed legal framework and therefore such a buy-in process can be executed only between contractual counterparties. We appreciate that ESMA clarifies this in Article 11 of the draft RTS on settlement discipline.

14.)As Eurex Clearing currently employs an auction model, we appreciate that the CCP is not required to add additional risk by outsourcing buy-ins to a buy-in agent. We also appreciate a clarification that recurring partial buy-ins are not possible.

15.) Eurex Clearing supports the suggested approach of a cash compensation following a buy-in fail to facilitate an EU-wide approach harmonized for the cash compensation.

16.) In article 11 para 7 draft RTS on settlement discipline ESMA referrers to Article 9 draft RTS on settlement discipline for the “timeframe established” to limit the deferral period. However the reference to Article 9 is misleading. We wonder whether ESMA stipulated the deadline for a deferral as described in recital 23 in Article 13. If the deferral period was ultimately 4 to 7 days, we would appreciate ESMA to further detail how this timeframe was set.

17.) We point out that the partial settlement functionality as required cannot oblige CSD participants to disclose their remaining holdings as this would contradict German provisions regarding data protection and depository activities. Such information is highly sensible and is not disclosed to the CCP in cleared business or to our understanding to the bilateral counterparty in non-cleared business. In consequence, CCPs can only perform a buy-in considering the outstanding delivery obligation of a Clearing Member towards the CCP. Eurex Clearing provides its Clearing Members with trade management functionalities that allows to (partially) block transactions and prevent their settlement. Only the Clearing Member has access to this information either directly or via the custodian.

<ESMA\_QUESTION\_TS\_CSDR\_7>

##### What are your views on the proposed draft RTS related to the buy-in timeframe and extension period?

<ESMA\_QUESTION\_TS\_CSDR\_8>

18.) We like to point out for less and low liquid instrument the buy in timeframe might not be sufficient.

<ESMA\_QUESTION\_TS\_CSDR\_8>

##### What are your views on the proposed draft RTS related to the type of operations and their timeframe that render buy-in ineffective?

<ESMA\_QUESTION\_TS\_CSDR\_9>

19.) Eurex Clearing would like a clearer provision in Article 14 for the definition of the type of operations such as the settlement of repurchase agreements and security lending transactions, i.e. security financed transactions. ESMA makes an illustrative case starting on page 31 of the consultation paper to explain when a buy-in is rendered ineffective.

We would appreciate an addition that any buy-in cannot be deemed ineffective as long as a buy-in has not been started. This would avoid any doubt that the deferral of a buy-in for bonds postpones the relevant time of the buy-in attempt for the first leg. According to CSDR Level 1 the specific time-frames have to be specified for such operations. We would appreciate if ESMA chooses to further clarify in Article 14 para 2 of the RTS on settlement discipline that a delivery can be expected to take place for the number of business days that a buy-in can be deferred.

20.) Eurex Clearing also assumes that the qualification of the liquidity of a market – as stipulated in Article 12 RTS on settlement discipline – of a bond can only be relevant at the time of the buy-in attempt. As a result, market participants are obliged to take into account for security financing transactions based bonds that have a market considered not liquid a timeframe to deliver the bonds of seven business days instead of four business days in accordance with Article 12 RTS on settlement discipline.

<ESMA\_QUESTION\_TS\_CSDR\_9>

##### What are your views on the proposed draft RTS related to the calculation of the cash compensation?

<ESMA\_QUESTION\_TS\_CSDR\_10>

21.) We appreciate that the calculation of cash compensation can be based on a “pre-agreed price to settle(d) cash compensation” as stipulated in Article 15 para 1 of the draft RTS on settlement discipline.

<ESMA\_QUESTION\_TS\_CSDR\_10>

##### What are your views on the proposed draft RTS related to the conditions for a participant to consistently and systematically fail?

<ESMA\_QUESTION\_TS\_CSDR\_11>

22.) Eurex Clearing has no comment on these provisions.

<ESMA\_QUESTION\_TS\_CSDR\_11>

##### What are your views on the proposed draft RTS related to the settlement information for CCPs and trading venues?

<ESMA\_QUESTION\_TS\_CSDR\_12>

23.) Eurex Clearing has no comment on these provisions.

<ESMA\_QUESTION\_TS\_CSDR\_12>

##### What are your views on the proposed draft RTS related to anti-avoidance rules for cash penalties and buy-in?

<ESMA\_QUESTION\_TS\_CSDR\_13>

24.) Eurex Clearing acknowledges that a netting model such as Continuous Net Settlement (CNS) is not discriminated by ESMA’s standards. Nevertheless, Eurex Clearing would request for clarification whether this understanding is correct.

25.) According to the anti-circumvention rules set forth in Article 19 of draft RTS on settlement discipline a CCP is entitled to use netting models such as CNS in which bilateral cancellation is also performed for already sent but not settled settlement instructions.

<ESMA\_QUESTION\_TS\_CSDR\_13>

##### Do you agree that 18 months would be an appropriate timeframe for the implementation of the settlement discipline regime under CSDR? If not, what would be an appropriate timeframe in your opinion? Please provide concrete data and evidence justifying a phase-in for the settlement discipline measures and supporting your proposals.

<ESMA\_QUESTION\_TS\_CSDR\_14>

26.) The provisions in the draft RTS on settlement discipline require a technical implementation within Eurex Clearing and an interaction with Clearing Members. We deem that a project phase of at least 18 months is necessary.

27.) A clear and reliable timetable for the implementation phase should be announced as early as possible. In order to avoid disruptions in the market, this implementation phase should not be subject to discussion once these have been set in ESMA’s final draft. Eurex Clearing is asking to ensure certainty of these provisions as far as possible in the political process.

<ESMA\_QUESTION\_TS\_CSDR\_14>

##### What are your views on the proposed draft RTS on CSD authorisation (Chapter II of Annex II) and draft ITS on CSD authorisation (Chapter I of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_15>

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<ESMA\_QUESTION\_TS\_CSDR\_15>

##### What are your views on the proposed draft RTS on CSD review and evaluation (Chapter III of Annex II) and draft ITS (Chapter II of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_16>

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<ESMA\_QUESTION\_TS\_CSDR\_16>

##### What are your views on the proposed draft ITS on cooperation arrangements as included in Chapter III of Annex VI?

<ESMA\_QUESTION\_TS\_CSDR\_17>

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##### What are your views on the proposed draft RTS on CSD recognition (Chapter IV of Annex II)?

<ESMA\_QUESTION\_TS\_CSDR\_18>

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##### What are your views on the proposed approach regarding the determination of the most relevant currencies?

<ESMA\_QUESTION\_TS\_CSDR\_19>

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<ESMA\_QUESTION\_TS\_CSDR\_19>

##### What are your views on the proposed draft RTS on banking type of ancillary services (Chapter VI of Annex II) and draft ITS on banking type of ancillary services (Chapter IV of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_20>

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<ESMA\_QUESTION\_TS\_CSDR\_20>

##### What are your views on the proposed draft RTS on CSD participations (Chapter II of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_21>

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<ESMA\_QUESTION\_TS\_CSDR\_21>

##### What are your views on the proposed draft RTS on CSD risk monitoring tools (Chapter III of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_22>

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<ESMA\_QUESTION\_TS\_CSDR\_22>

##### What are your views on the proposed draft RTS on CSD record keeping (Chapter IV of Annex III) and draft ITS on CSD record keeping (Annex VII)?

<ESMA\_QUESTION\_TS\_CSDR\_23>

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<ESMA\_QUESTION\_TS\_CSDR\_23>

##### What are your views on the types of records to be retained by CSDs in relation to ancillary services as included in the Annex to the draft RTS on CSD Requirements (Annex III)? Please provide examples regarding the formats of the records to be retained by CSDs in relation to ancillary services.

<ESMA\_QUESTION\_TS\_CSDR\_25>

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<ESMA\_QUESTION\_TS\_CSDR\_25>

##### What are your views on the proposed draft RTS on reconciliation measures included in Chapter V of Annex III?

<ESMA\_QUESTION\_TS\_CSDR\_25>

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<ESMA\_QUESTION\_TS\_CSDR\_25>

##### Do you believe that the proposed reconciliation measures where other entities are involved in the reconciliation process for a certain securities issue within the meaning of Article 37(2) of CSDR are adequate? Please explain if you think that any of the proposed measures would not be applicable in the case of a specific entity. Please provide examples of any additional measures that would be relevant in the case of specific entities.

<ESMA\_QUESTION\_TS\_CSDR\_26>

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<ESMA\_QUESTION\_TS\_CSDR\_26>

##### What are your views on the proposed reconciliation measures for corporate actions under Article 15 of the draft RTS included in Chapter V of Annex III?

<ESMA\_QUESTION\_TS\_CSDR\_27>

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<ESMA\_QUESTION\_TS\_CSDR\_27>

##### What are your views on the proposed draft RTS on CSD operational risks included in Chapter VI of Annex III?

<ESMA\_QUESTION\_TS\_CSDR\_28>

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<ESMA\_QUESTION\_TS\_CSDR\_28>

##### What are your views on the proposed draft RTS on CSD investment policy (Chapter VII of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_29>

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<ESMA\_QUESTION\_TS\_CSDR\_29>

##### What are your views on the proposed draft RTS on access (Chapters I-III of Annex IV) and draft ITS on access (Annex VIII)?

<ESMA\_QUESTION\_TS\_CSDR\_30>

28.) Given the nature of Eurex Clearing as a leading Clearing House in Europe operating a Central Counterparty (CCP), the comments will concentrate on the necessary provisions which focus on access requests from CSDs towards a CCP.

29.) Formal adjustments

The proposed draft RTS on access are currently not consistently reflecting the required provisions in the case in which a CSD requests access to a CCP. There is only one exception in Article 1 of the draft RTS on Access and Links: “ Definitions - b) ‘requesting party’ means one of the following entities, as appropriate: (…) “(iii) a CSD which requests access to the trading feed of a CCP;”. However, there is no further mentioning of a CCP as the party receiving a request, or furthermore how a CCP is supposed to analyse and implement such a request. Moreover, Chapter 2 of the draft RTS on Access and Links deals exclusively with “Access to a CSD” – a CSD as the receiving party. We recommend including a Chapter describing provisions “Access to a CCP” with a CCP as the receiving party. The proposed draft ITS on access, in contrast, in Chapter II, Article 2, 3. and 4., foresee procedures for the case that a CCP is a receiving party.

30.) Assessment of necessary risks to be included

We agree to include the risk assessment as set out in Chapter II, Article 2, 1 of the draft RTS on Access and Links, which comprises

(a) the legal risks;

(b) the financial risks;

(c) the operational risks.

31.) Adaptation of assessment of risks for a CCP

Although we generally agree to include an assessment of the risks as set out in Chapter II, Article 2, 1 of the draft RTS on Access and Links, some of the considerations will not apply to the specifics of a CCP compared to those of a CSD. Additionally, there are some considerations which need to be included from our point of view before accepting or refusing a request for access from a CSD to a CCP. We deem the following paragraphs in Chapter II, Article 2 of the draft RTS on Access and Links as also appropriate for a risk assessment of a CCP as receiving party in case a CSD requests access:

1. General provisions for a risk assessment

2. Legal risks: a), b), and c) (replace “securities settlement system” by “central counterparty system”)

(3. Custody services – not applicable)

4. Legal risks assessment with competent authority

(5. Access request from a CCP – not applicable)

6. Financial risks

7. Financial risks assessment with competent authority

8. Financial risks assessment with competent authority regarding fees

9. Financial risks assessment with competent authority regarding connectivity cost

10. Operational risks assessment: a) to e)

(11. Custody services – not applicable)

12. Operational risks assessment with competent authority

13. Refusal provisions

14. Ongoing compliance provisions

32.) Additionally to the risk assessment provisions as set out above, Eurex Clearing deems the assessment of the following risks as necessary accepting or refusing a request for access from a CSD to a CCP:

1. Eurex Clearing as CCP under EMIR must not be forced to file an application for a service extension pursuant to Article 14 EMIR.
2. the legal risk assessment must include that a requesting CSD complies with the Default Management Process of Eurex Clearing
3. Besides the operational risks assessment, the technical connectivity requires that in case a requesting CSD requests access to the trading feed of Eurex Clearing the requesting CSD shall also comply with the technical and functional requirements established by the CCP. This includes the settlement of the full scope of securities and also the necessary payments infrastructure.
4. Further considerations may be necessary if the access is requested not only to the trading feed of a CCP but also to the collateral positions of a CCP by a CSD. Collateral for clearing purposes of Eurex Clearing can only be held at eligible CSDs as defined by Eurex Clearing.

33.) Refusal process

The provisions as set out in the draft RTS on access regarding Chapter III, Article 3, Procedure for Refusal of Access in our view are generally applicable for CCPs as well.

34.) Draft ITS on Access (Annex VIII)

We generally agree to the provisions as set out in the Draft ITS on Access (Annex VIII). Annex II – Template for the Response to the Request for Access should be updated in section IV. Risk analysis of the request for access, to reflect the additional requirements of a CCP as described in the preceding paragraph.

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##### What are your views on the proposed draft RTS on CSD links as included in Chapter IV of Annex IV?

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##### What are your views on the proposed draft RTS on internalised settlement (Annex V) and draft ITS on internalised settlement (Annex IX)?

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