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| 18 December 2014 |

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| Reply form for the Technical Advice under the CSDR  |
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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 - D Technical Advice under the CSDR, 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\_TA\_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\_ TA\_CSDR \_ESMA\_REPLYFORM or ESMA\_CE\_AIFMD\_ESMA\_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

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

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| --- | --- |
| Are you representing an association? | No |
| Activity: | Investment Firm |
| Country/Region | UK |

Q1: What are your views on the proposed basis for the cash penalty calculation?

<ESMA\_QUESTION\_TA\_CSDR\_1>

The cash penalty will far outweigh the economic benefit of making markets in securities of an illiquid nature, in particular AIM and many SME’s, where delivery failure occurs. Therefore we believe the cash penalty is punitive in nature and struggle to see how it could do more to increase the resilience of the delivery system. Please consider, commission for trading these stocks can be as low as 6bps or sometimes zero if dealing with retail investors. Also, what economic disadvantage has been incurred by the failures of the current system to buyers of a stock that don’t receive delivery on settlement day, not a lot. Therefore the fine is trying to fix a problem that is not causing an issue other than a self-imposed /created one.

<ESMA\_QUESTION\_TA\_CSDR\_1>

Q2: What are your views on the proposed approach regarding the categories of financial instruments and the penalty rates? In particular, do you consider that these penalty rates could dis-incentivise trading in small caps? Please provide evidence to support your views.

<ESMA\_QUESTION\_TA\_CSDR\_2>

The penalties will clearly disincentive listing as a market maker in stocks of this nature. A stock that has very few institutional holders will be very un-likely to be borrowable. Therefore if fines accrue, participants will exit the stock ,leaving a few less market makers than present to maintain the stocks quote, most likely 2 to 3.This will have a the effect of creating a wider spread, possibly creating duopolies, abusive price squeezes will become more likely. Volatility will increase. Trades will most likely occur on guaranteed only basis, creating smaller traded volumes. All of this will serve to force SME’s to decide whether to list at all on the exchange, thus eroding strength of the UK in particular versus the US.

Perhaps the regulator should consider a central clearing mechanism or a central borrowing facility to help reduce the risk of delivery failure. The stock borrow market is not sufficiently deep to cope in this sector. This will drive out smaller players

<ESMA\_QUESTION\_TA\_CSDR\_2>

Q3: What are your views on the proposed approach regarding the increase and reduction of the basic penalty amount?

<ESMA\_QUESTION\_TA\_CSDR\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TA\_CSDR\_3>

Q4: What are your views on the proposed approach regarding the cash penalties in the context of chains of interdependent transactions?

<ESMA\_QUESTION\_TA\_CSDR\_4>

1 failure , 1 fine, that should be passed along the chain. This should not be revenue generation mechnaism

<ESMA\_QUESTION\_TA\_CSDR\_4>

Q5: Do you agree with the proposed frequency of one year for the assessment of the substantial importance of a CSD in another Member State?

<ESMA\_QUESTION\_TA\_CSDR\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TA\_CSDR\_5>

Q6: What are your views on the proposed indicators?

<ESMA\_QUESTION\_TA\_CSDR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TA\_CSDR\_6>

Q7: What are your views on the proposed thresholds?

<ESMA\_QUESTION\_TA\_CSDR\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TA\_CSDR\_7>

Q8: Do you believe that the proposed indicators and thresholds are relevant in the case of government bonds? If not, please provide details and arguments.

<ESMA\_QUESTION\_TA\_CSDR\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TA\_CSDR\_8>