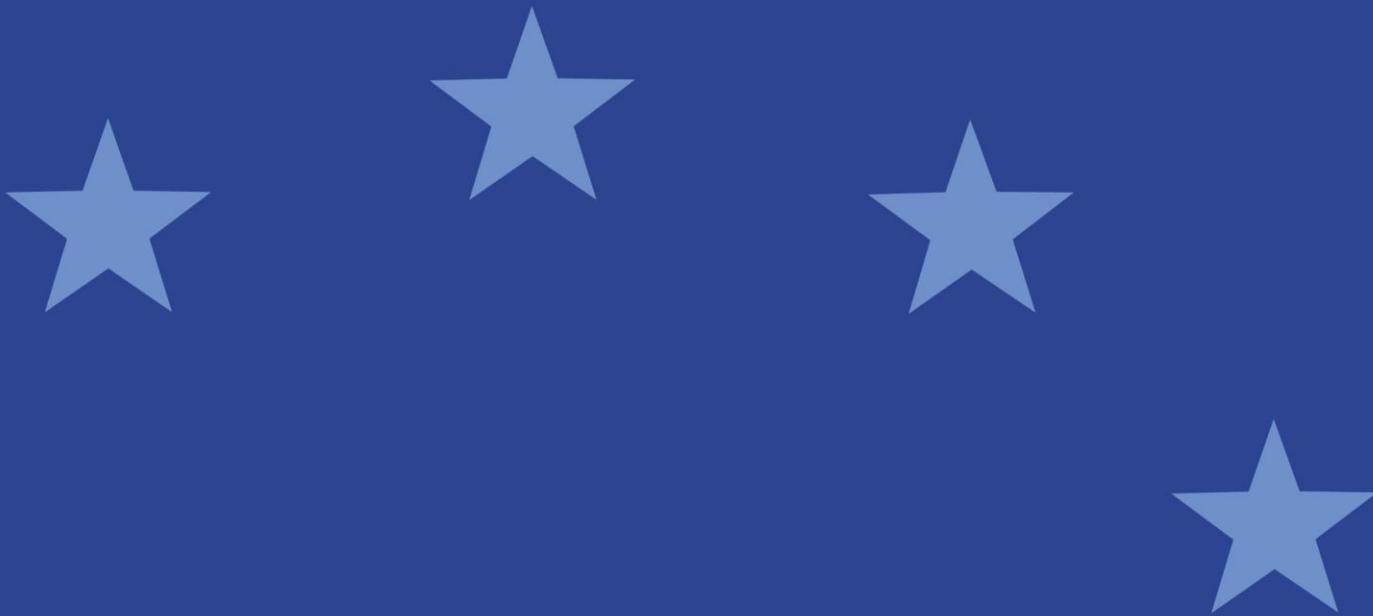




European Securities and
Markets Authority

Consultation Paper

Draft Guidelines on CCP recovery plan indicators (Article 9(5) CCPRRR)



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by 20 September 2021.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. 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 not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

The collection of confidential responses is without prejudice to the scope of Regulation (EC) No 1049/2001. Possible requests for access to documents will be dealt in compliance with the requirements and obligations laid down in Regulation (EC) No 1049/2001.

Data protection

Information on data protection can be found at <https://www.esma.europa.eu/data-protection> under the heading Data Protection.

Who should read this paper?

All interested stakeholders are invited to respond to this consultation. In particular, this paper may be specifically of interest for EU central counterparties, clearing members and clients of clearing members.

Table of Contents

1	Executive Summary	4
2	Legislative References, Abbreviations and Definitions	6
3	Background and Mandate	8
4	Designing and Maintaining CCP Recovery Plan Indicators.....	10
5	CCP Recovery Plan Indicators	12
5.1	Introduction	12
5.2	Guideline 1: Objectives of the framework of CCP recovery plan indicators.....	14
5.3	Guideline 2: Categories of CCP recovery plan indicators	14
5.4	Guideline 3: Creating CCP recovery plan indicators	16
5.5	Guideline 4: Integration of the CCP recovery plan indicators with the CCP's monitoring system.....	20
5.6	Guideline 5: Maintenance of CCP Recovery Plan Indicators	21
6	Annexes	22
	Annex I: Legislative mandate to develop the Guidelines.....	22
	Annex II: Cost and benefit analysis	23
	Annex III: Summary of questions.....	27
	Annex IV: Proposed Guidelines (without explanatory notes)	28
1	Scope.....	28
2	Legislative references, abbreviations and definitions.....	29
3	Purpose.....	31
4	Compliance and reporting obligations.....	32
5	Guidelines on CCP recovery plan indicators.....	33
5.1	Guideline 1: Objectives of the framework of CCP recovery plan indicators	33
5.2	Guideline 2: Categories of CCP recovery plan indicators	33
5.3	Guideline 3: Creating CCP recovery plan indicators.....	34
5.4	Guideline 4: Integration of the CCP recovery plan indicators with the CCP's monitoring system	35
5.5	Guideline 5: Maintenance of CCP recovery plan indicators.....	35
6	Annexes	36

1 Executive Summary

Reasons for publication

Article 9(1) of Regulation (EU) 2021/23 ('CCPRRR') sets out an obligation for central counterparties (CCPs) to draw up and maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both, in order to restore their financial soundness, without any extraordinary public financial support, and allow them to continue to provide critical functions following a significant deterioration of their financial situation or a risk of breaching their capital and prudential requirements under Regulation (EU) No 648/2012 ('EMIR').

Article 10(2) of CCPRRR then sets out an obligation for the CCP's competent authority to review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9 of CCPRRR, in coordination with the supervisory college in accordance with the procedure in Article 11 of CCPRRR.

Article 9(3) of CCPRRR further stipulates that the recovery plan shall include a framework of indicators based on the risk profile of the CCP, that identify the circumstances under which measures in the recovery plan are to be taken. The indicators may be of either a qualitative or a quantitative nature relating to the financial soundness and operational viability of the CCP and should enable recovery measures to be taken early enough to provide sufficient time for the plan to be implemented.

ESMA is mandated in Article 9(5) of CCPRRR, in cooperation with the ESRB, to issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 ('ESMA Regulation') to specify the minimum list of qualitative and quantitative indicators referred to in Article 9(3) of CCPRRR.

The purpose of this consultation paper is to seek views from all interested stakeholders on these draft guidelines aiming at establishing the minimum list of qualitative and quantitative indicators to be included in CCP recovery plans.

Contents

Sections 2 and 3 set out the definitions, background and mandate for the guidelines. Section 4 provides the summary and objectives of the proposed guidelines.

Section 5 outlines the approach ESMA suggests to adopt with regard to specifying the minimum list of qualitative and quantitative indicators to be included in CCP recovery plans. In particular, ESMA proposes to divide the CCP recovery plan indicators into three categories: a) '*indicators that provide early warning for recovery actions*'; b) '*indicators that signal the move from Business as Usual risk management to the recovery phase*'; c) '*indicators that signal the usage of specific recovery measures*'. Furthermore, ESMA proposes that CCPs link each of their recovery plans scenarios with at least: a) one *indicator*

that provides early warning for recovery actions; and b) one indicator that signals the move from Business as Usual risk management to the recovery phase. A list of proposed indicators for these two categories of indicators is provided for each type of scenarios. In addition, ESMA proposes several options for how to create the indicators that signal the usage of specific recovery measures.

Finally, section 6 contains all relevant annexes. Annex I sets out the legislative mandate for developing the guidelines. Annex II includes the cost and benefit analysis for the guidelines. Annex III provides a summary of the consultation questions. Annex IV contains the proposed guidelines.

Next Steps

The consultation will be open until 20 September 2021. ESMA will consider the feedback received to the consultation in Q3 2021 and expects to publish the guidelines and the final report by Q1 2022.



2 Legislative References, Abbreviations and Definitions

The following legislative references are used in this consultation paper:

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
RTS 152/2013	Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 on capital requirements for central counterparties ⁴
RTS 153/2013	Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 on requirements for central counterparties ⁵

The following abbreviations are used in this consultation paper:

<i>CCP</i>	Central Counterparty
<i>CP</i>	Consultation Paper
<i>EC</i>	European Commission
<i>EEA</i>	European Economic Area

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



<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

Unless otherwise specified, the terms used in this consultation paper have the same meaning as in CCPRRR, EMIR and the RTS 152/2013 and 153/2013.

3 Background and Mandate

1. ESMA is mandated to foster sound and effective supervision and to drive supervisory convergence across the EU under its founding regulation (ESMA Regulation).
2. CCPRRR was published in the Official Journal on 22 January 2021 and entered into force on 12 February 2021. CCPRRR puts into place a recovery and resolution framework for CCPs which are systemically important for the financial system. This aims at ensuring that the critical functions of CCPs are preserved while maintaining financial stability and helping to avoid the costs associated with the restructuring and the resolution of failing CCPs from falling on taxpayers. CCPRRR therefore establishes a minimum standard as regards the information to be included in recovery plans to ensure that all CCPs have sufficiently detailed recovery plans should they face financial distress.
3. As regards recovery planning, Article 9(1) of CCPRRR places an obligation on CCPs to draw up and maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both, in order to restore their financial soundness, without any extraordinary public financial support, and allow them to continue to provide critical functions following a significant deterioration of their financial situation or a risk of breaching their capital and prudential requirements under EMIR.
4. Article 10(2) of CCPRRR then sets out an obligation for the CCP's competent authority to review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9 of CCPRRR within six months of the submission of the plan and in coordination with the supervisory college in accordance with the procedure in Article 11 of CCPRRR.
5. Article 9(3) of CCPRRR further stipulates that the recovery plan shall include a framework of indicators based on the risk profile of the CCP, that identify the circumstances under which measures in the recovery plan are to be taken. The indicators may be of either a qualitative or a quantitative nature relating to the financial soundness and operational viability of the CCP and should enable recovery measures to be taken early enough to provide sufficient time for the plan to be implemented. Furthermore, recovery plans are to be drawn up in accordance with Section A of the Annex to the CCPRRR, which includes the requirement for the CCP to have a framework of quantitative and qualitative indicators which identifies the points at which appropriate actions referred to in the plan may be taken (point (19)). In addition, Article 9(4) of CCPRRR requires CCPs to put in place appropriate arrangements for the regular monitoring of the indicators and to report to their competent authorities on the outcome of that monitoring.
6. Recital (19) of CCPRRR further clarifies that CCPs should be required to draw up and regularly review and update their recovery plans. The recovery phase in that context should start when there is a significant deterioration in the CCP's financial situation or

risk of breach of its capital and prudential requirements under EMIR that could lead to the infringement of its authorisation requirements that would justify the withdrawal of its authorisation pursuant to EMIR. This should be indicated with reference to a framework of qualitative or quantitative indicators included in the recovery plan.

7. CCPRRR contains various tasks ascribed to ESMA. In particular, Article 9(5) of CCPRRR contains a mandate for ESMA, in cooperation with the ESRB, by 12 February 2022 to issue guidelines in accordance with Article 16 of the ESMA Regulation to specify the minimum list of qualitative and quantitative indicators referred to in Article 9(3) of CCPRRR.
8. The objective of the guidelines is therefore specifying the minimum list of qualitative and quantitative indicators to be included in CCP recovery plans. Such indicators shall then 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.

Recital (19)

(19) CCPs should be required to draw up and regularly review and update their recovery plans. The recovery phase in that context should start when there is a significant deterioration in the CCP's financial situation or risk of breach of its capital and prudential requirements under Regulation (EU) No 648/2012 that could lead to the infringement of its authorisation requirements that would justify the withdrawal of its authorisation pursuant to Regulation (EU) No 648/2012. This should be indicated with reference to a framework of qualitative or quantitative indicators included in the recovery plan.

Article 9(1)

1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both, in order to restore their financial soundness, without any extraordinary public financial support, and allow them to continue to provide critical functions following a significant deterioration of their financial situation or a risk of breaching their capital and prudential requirements under Regulation (EU) No 648/2012.

Article 9(3)

3. The recovery plan shall include a framework of indicators based on the risk profile of the CCP, that identify the circumstances under which measures in the recovery plan are to be taken. The indicators may be of either a qualitative or a quantitative nature relating to the financial soundness and operational viability of the CCP and should enable recovery measures to be taken early enough to provide sufficient time for the plan to be implemented.

Article 9(5)

5. ESMA shall, in cooperation with the ESRB, by 12 February 2022, issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in paragraph 3 of this Article.

4 Designing and Maintaining CCP Recovery Plan Indicators

9. In order to fulfil the mandate in Article 9(5) of CCPRRR, ESMA proposes five guidelines that should be followed by CCPs when designing and maintaining their framework of recovery plan indicators. In order to establish and maintain the minimum list of indicators, a CCP should consider all the guidelines as they cover different aspects of the process of designing and maintaining the suitable indicators for the CCP, for example, the objectives thereof; the different categories of indicators; how to create indicators suitable for the CCP; and how to integrate the indicators with the CCP's monitoring system in order to ensure that the indicators reflect the risk profile of the CCP, are set at an appropriate level and are overall effective.
10. Drafting a recovery plan is an obligation of CCPs undertaken prior to a crisis in order to assess the potential options that a CCP could itself implement to restore its financial soundness and operational viability should the CCP come under severe stress. The purpose of preparing a set of recovery plan indicators is to define a set of "triggers" that can be used by each CCP to define the moments at which it has to start considering and decide whether to take action under its recovery plan and to determine which particular measures contained in the recovery plan may be taken (in accordance with the conditions and requirements set out in CCPRRR). Therefore, CCP recovery plan indicators should not be understood as elements that generate automatic responses.
11. ESMA recognises that the specific number of indicators that each CCP should include in its recovery plan will inevitably vary depending inter alia on the size of the and level of complexity of the CCP, the types and sources of risks it faces, the number of its recovery plan scenarios and the array of recovery measures included in the CCP's recovery plan.
12. In the draft guidelines (Guidelines 1-3) presented in this consultation paper, ESMA proposes to divide the CCP recovery plan indicators into three categories: a) '*indicators that provide early warning for recovery actions*'; b) '*indicators that signal the move from Business as Usual risk management to the recovery phase*'; c) '*indicators that signal the usage of specific recovery measures*'.
13. As regards the category (a) Indicators, they would be triggered with some time in advance before (but with a high probability of) the CCP's entry into a recovery phase. These indicators should be calibrated to provide sufficient time 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.
14. As regards the category (b) indicators, they would be the threshold that separates Business as Usual (BAU) risk management from the recovery phase. These indicators should therefore clearly define the point in time, situation or marker that triggers the application of recovery measures.

15. ESMA proposes that CCPs link each of their recovery plans scenarios with at least: a) *one indicator that provides early warning for recovery actions*; and b) *one indicator that signals the move from Business as Usual risk management to the recovery phase*. A list of proposed indicators (for these two categories of indicators) is provided for each type of scenario (please see Table 1, below).
16. As regards the category (c) indicators, they are different to the categories (a) and (b) (above) as they are not linked to or based on the indicators' position in the recovery plan or the degree of deterioration of the financial or operational situation of the CCP. Instead, these indicators are linked to specific measures contained in the CCP's recovery plan. These indicators would provide information of the specific circumstances or thresholds that would trigger the usage of a specific recovery measure, following the activation of its recovery plan by a CCP, 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. As such, these indicators should guide the decision-making process and aid the CCP with choosing the appropriate measure for the given situation (while keeping the necessary flexibility to use whichever measure is eventually determined as the most suitable one, subject to the conditions and requirements stipulated in CCPRRR). With respect to this category, ESMA proposes several options for how to create these indicators.
17. The draft guidelines (Guideline 4) also set out how CCPs should integrate the list of recovery plan indicators with the monitoring system.
18. In addition, ESMA notes that the CCP shall draw up but also maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both. Hence, in addition, the draft guidelines (Guideline 5) will also capture the obligation for CCPs to review and where necessary update their indicators, following Guidelines 1 – 4, every time they review their recovery plans in accordance with Article 9(9) of CCPRRR.
19. The aim of the proposed approach is to harmonise the range of CCP recovery plan indicators as much as possible, while providing some flexibility to CCPs to create or design their recovery plan indicators that best fit their specific characteristics.
20. With this consultation paper ESMA seeks input and views of the stakeholders on each of these draft guidelines: (i) objectives of the framework of CCP recovery plan indicators; (ii) categories of CCP recovery plan indicators; (iii) creating CCP recovery plan indicators; (iv) integration of CCP recovery plan indicators with the CCP's monitoring system; and (v) maintenance of CCP recovery plan indicators.
21. This consultation paper should be read and considered in conjunction with the ESMA consultation paper on draft guidelines on CCP recovery plan scenarios (ESMA70-151-3404).

5 CCP Recovery Plan Indicators

5.1 Introduction

22. The setting-off of a 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 whether to take action under the CCP's recovery plan, as well as determine which particular measures contained in the recovery plan may be taken, in accordance with the conditions and requirements set out in CCPRRR. They should, therefore, not be understood as elements that generate automatic responses.
23. Generally, financial institutions' indicators should be calibrated with the objective to provide sufficient notice to allow the financial institution to take corrective action, if this becomes necessary. ESMA acknowledges that for the case of CCPs, designing indicators that provide sufficient notice while at the same time being relevant enough to warrant the start of preparatory actions for a recovery phase presents significant challenges given that:
- The timeframe between events generating risks for CCPs and the point in time where the damage has materialised usually ranges between one to five days for most market and liquidity risk events.
 - The situations that generate risks for a CCP are mostly event based, involving extreme events with sudden impact. This is due to the fact that CCPs are mainly exposed to risks in the event of failures from counterparties or interconnected entities. This characteristic usually exposes CCPs to sudden, event based impacts rather than progressive deterioration.
24. ESMA has identified the following phases that can help illustrate the different stages of the deterioration of the financial or operational situation of the CCP and identify the points or situations that could serve to create recovery plan indicators:
- a. Phase 0: Risks managed via Business as Usual tools (risk management measures set out in EMIR)
 - i. The CCP, its members or clients, and interconnected entities are not experiencing specific financial distress or operational disruptions.
 - ii. However, events or new developments are identified, that may lead to a deterioration of the financial or operational situation at the CCP, its members and/or clients, or other entities to which the CCP is exposed (these may include evolutions in the market liquidity, market volatility of one or more asset classes cleared by the CCP, operational difficulties, changes in the legal environment, cyber threats, or any other type of risk to which the CCP is exposed).
 - iii. However, risk management in this phase is still performed through Business as Usual (BAU) tools (i.e. risk management measures set out

- in EMIR): changes in risk parameters, increase of guarantees, trading limits, etc.
- iv. Indicators pertaining to this phase could be categorised as early warning indicators for Business as Usual risk management and precede the phases where any discussion about activation of the recovery plan are relevant. Therefore, the indicators for this phase are for illustration purposes only and are not developed in these Guidelines.
- b. Phase 1: Risk level is high enough so that activating the recovery plan is plausible although still uncertain
- i. This phase usually involves a very short time frame, as it would involve one of two situations:
 - A risk event has materialised, the realised impact at the time of the event does not exceed available BAU measures/resources, however, there is uncertainty about the remaining impact (e.g. a reduction in market liquidity could materialise in the case of a member default, a legal risk could materialise once a court of law issues a verdict, etc.) until all risks are eliminated from the CCP; therefore the need for recovery measures is a plausible possibility.
 - An event has not yet materialised, however, there is a very high probability of it materialising; the event, in case of materialising, would require the use of recovery measures with a high probability.
 - ii. Less frequently, there may be a gradual deterioration of the situation and it is expected to reach a level requiring the activation of the recovery plan (for example, if the CCP has losses every year and the capital of the CCP is expected to deteriorate as a result of ongoing losses).
 - iii. Indicators in this phase would be triggered with some time in advance before the CCP's entry in the recovery phase.
- c. Phase 2: Current situation requires recovery measures
- i. This phase is reached when the realised impact exceeds the BAU measures/resources and there is a need for recovery measures. For the avoidance of doubt, this may follow Phase 1, but there may also be unforeseen circumstances that place the CCP in this situation without Phase 0 and 1 having been identified.
 - ii. Indicators in this phase would be the threshold that separates BAU from the recovery phase.

5.2 Guideline 1: Objectives of the framework of CCP recovery plan indicators

25. ESMA recognises that the specific number of indicators that each CCP should include in its recovery plan will inevitably vary depending inter alia on the size of the and level of complexity of the CCP, the types and sources of risks it faces, the number of its recovery plan scenarios and the array of recovery measures included in the CCP's recovery plan.
26. However, the framework of indicators and the minimum list of indicators included in a CCP recovery plan should be designed in such a way so as to enable the CCP to:
- Identify the circumstances under which measures in the recovery plan are to be taken in line with Article 9(3) of CCPRRR;
 - Identify the points at which appropriate actions referred to in the plan may be taken in line with point (19) of Section A of the Annex of CCPRRR;
 - Allow for a timely implementation of recovery actions in line with the general requirement to have appropriate conditions and procedures to ensure the timely implementation of recovery actions as stipulated in point (6) of Section A of the Annex of CCPRRR.
27. The setting-off of a recovery plan indicator should be an event requiring attention by senior management or the Board of the CCP so that they, on a case by case basis, start considering and decide 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 CCP recovery plan indicators should, therefore, not be understood as elements that generate automatic responses.

Guideline 1 Question:

Question 1: Do you agree with the overarching principle and objectives of the guidelines for the framework of CCP recovery plan indicators as set out in the proposed Guideline 1?

5.3 Guideline 2: Categories of CCP recovery plan indicators

28. In order to ensure effectiveness and fulfil the objectives of the CCP recovery plan indicators and recovery plans overall, and to fulfil the requirements in this regard stipulated in CCPRRR, ESMA proposes to divide the recovery plan indicators into three categories:

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. *'Indicators that provide early warning for recovery actions':*
- These indicators would 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.
 - These indicators would fit in the phase 1 as described in Section 5.1 (paragraph 24(b)).
 - These indicators should be calibrated to provide sufficient time 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.
 - This category of indicators should not be confused with early warning indicators that are used in Business as Usual risk management, which would fit the phase 0 as described in Section 5.1 (paragraph 24(a)), and would have as a result changes in margins, default fund contributions, trading limits, etc. Therefore, the *'indicators that provide early warning for recovery actions'* should be calibrated to signal a high enough probability of needing recovery measures, so that they do not overlap with the aforementioned early warning indicators used for Business as Usual risk management.
- b. *'Indicators that signal the move from Business as Usual risk management to the recovery phase':*
- These indicators would signal the change from the Business as Usual risk management stage to the recovery phase due to the unavoidable need for recovery measures usage.
 - These indicators would fit in the phase 2 as described in Section 5.1 (paragraph 24(c)).
 - These indicators should clearly define the point in time, situation or marker that triggers the initiation of usage of recovery measures.

CCP recovery plan indicators linked to recovery measures:

- c. *'Indicators that signal the usage of specific recovery measures':*
- This category of indicators is different to the categories (a) and (b) (above) as it is not linked to or based on the indicators' position in the recovery plan or the degree of deterioration of the financial or operational situation of the CCP (neither is it specifically linked to any of the phases described in paragraph 24). Instead, these indicators are linked to specific measures contained in the CCP's recovery plan.
 - These indicators would provide information of the specific circumstances or thresholds that would trigger the usage 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.

- As such, where a CCP activates its recovery plan, these indicators should guide the decision-making process and aid the CCP with choosing the appropriate measure for the situation or circumstances at hand (while retaining 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).

29. ESMA believes that such an approach and categorisation of indicators are consistent with the requirements of Article 9(3) of CCPRRR that stipulates that the framework of recovery plan indicators should identify the circumstances under which measures in recovery plan are to be taken and enable recovery measures to be taken early enough to provide sufficient time for the plan to be implemented; of point (6) of Annex A of CCPRRR that stipulates that CCPs should ensure timely implementation of recovery actions; and of point (19) of Annex A of CCPRRR that stipulates that the framework of indicators should identify the points at which appropriate actions referred to in the recovery plan may be taken.

Guideline 2 Question:

Question 2: Do you agree with the proposed Guideline 2 and the categorisation of CCP recovery plan indicators into the three categories? Would you propose a different categorisation?

5.4 Guideline 3: Creating CCP recovery plan indicators

30. ESMA is of the view that designing the range of CCP recovery plan scenarios is one of the first steps when drawing up CCP recovery plans as the creation of the recovery plan scenarios requires CCPs to take stock of and consider all types and sources of risks (and their combinations) they may face, which will then in turn help to determine the recovery plan indicators and recovery plan measures. ESMA therefore believes that the most efficient and pragmatic way how to create the CCP recovery plan indicators is to link them with the recovery plan scenarios.

31. In particular, ESMA proposes that a CCP should link each of its recovery plan scenarios with at least:

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

32. A CCP should create and calibrate these indicators for each of its recovery plan scenarios using the matrix in Table 1 below.

33. For the avoidance of doubt, CCPs should create the above mentioned indicators for every recovery plan scenario included in their recovery plans (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 CCPs).
34. Therefore, it is important that this consultation paper and the accompanying draft guidelines are read and considered in conjunction with the ESMA consultation paper on draft guidelines on CCP recovery plan scenarios (ESMA70-151-3404).
35. With respect to the *indicators that signal the usage of specific recovery measures*, ESMA considers that they are fundamentally different than the other two types of indicators, in the sense that they are not related to stages of financial or operational degradation of the CCP. Instead, where the CCP activates its recovery plan, these indicators provide information to the users of the recovery plan about which criteria will be relevant when assessing which of the recovery measures available for a scenario should be used depending on the circumstances. ESMA proposes that CCPs use the measure that best fits this purpose while keeping the necessary flexibility to use whatever measures is eventually determined as best suited for the unfolding situation, in accordance with the conditions and requirements set out in CCPRRR.
36. When creating their *indicators that signal the usage of specific recovery measures*, ESMA proposes that CCPs use any of the following options:
 - Define the situation or marker (that would indicate the usage of the specific recovery plan measure);
 - Indicate the main factors or circumstances that would be assessed and would guide the decision-making process for the usage of the recovery plan measures;
 - Provide a flowchart or similar tool describing the criteria and decision-making process for the usage of the recovery plan measures;
 - Indicate that the recovery plan measure forms part of an ordered sequence.
37. In order for authorities to be able to assess the adequacy of CCP recovery plan indicators as part of their assessment of CCP recovery plans, as stipulated in Article 10 of CCPRRR, CCPs should provide their competent authorities with an explanation of how the indicator calibrations were determined and an analysis that demonstrates that the indicators that provide early warnings for recovery actions would be triggered early enough to be effective.

Table 1: Matrix for creating recovery plan indicators

Types of Recovery Plan Scenarios	<i>Indicators that provide early warnings for recovery action</i>	<i>Indicators that signal the move from Business as Usual risk management to the recovery phase</i>
<p>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>	<ul style="list-style-type: none"> • Default of one or more members whose combined effect could consume a significant percentage of the CCP's default fund. • 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]. • 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. 	<ul style="list-style-type: none"> • 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>	<ul style="list-style-type: none"> • Interoperable CCP default under stressed market conditions when this type of entity represents one of the largest exposures of the CCP. • 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. • Combined default of a member and an interoperable CCP whose combined effect would represent a significant challenge to the CCP's funding. • 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. 	<ul style="list-style-type: none"> • Realised or forecasted default loss that would consume all relevant prefunded resources available to cover the default of an interoperable CCP.
<p>2. Default event causing financial losses with a default management process that requires mandatory, rules-based arrangements in order to re-establish a matched book.</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • CCP is unable to re-establish a matched book without recovery measures.
<p>3. Non-default event preventing the CCP from performing its critical functions</p>	<ul style="list-style-type: none"> • Business continuity event or accumulation of operational incidents or deteriorating trend in the performance of either the CCP's systems or of services 	<ul style="list-style-type: none"> • A third party providing critical services to the CCP is unable or unwilling to provide its service.

Types of Recovery Plan Scenarios	<i>Indicators that provide early warnings for recovery action</i>	<i>Indicators that signal the move from Business as Usual risk management to the recovery phase</i>
	<p>from a third party providing critical services to the CCP, or perception of an increased cyber threat.</p> <ul style="list-style-type: none"> • CCP becomes aware of the likely withdrawal of some related services. • Likely changes in the legal framework which would lead to material hinderance in the CCP's service provision. 	<ul style="list-style-type: none"> • Inability to continue operating the CCP's system regardless of the origin of the incident. • New legal provisions (e.g. legislation or court ruling) affect the CCP's capacity to perform its critical functions.
<p>4. Non-default event causing financial losses</p>	<ul style="list-style-type: none"> • Failure of a third-party entity with potential to create a material direct or indirect financial loss. • High probability of failure of a third-party entity with potential to create a material direct or indirect financial loss. • Legal risk with high probability of materialising and potential to create a material impact to CCP's resources. • Fraud, cyber-attack or operational event with potential to create severe financial loss. • Investment losses with potential to create severe financial impact. 	<ul style="list-style-type: none"> • Realised or forecasted loss that would consume all relevant capital resources.
<p>5. Default event causing a liquidity shortfall</p>	<ul style="list-style-type: none"> • Failure of one or more members whose combined effect would represent a significant challenge to the CCP's funding. • High probability of failure of one or more members whose combined effect would represent a significant challenge to the CCP's funding. The probability of default would be signaled by market-based indicators. • Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP. 	<ul style="list-style-type: none"> • Realised or forecasted liquidity shortfall that would exhaust all Business as Usual liquidity generation capacity as defined by the CCP.
<p>6. Non-default event causing a liquidity shortfall</p>	<ul style="list-style-type: none"> • Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP. • 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. • Operational or financial failure of a third-party entity, Financial Market 	<ul style="list-style-type: none"> • Realised or forecasted liquidity shortfall that would exhaust all Business as Usual liquidity generation capacity as defined by the CCP.

Types of Recovery Plan Scenarios	<i>Indicators that provide early warnings for recovery action</i>	<i>Indicators that signal the move from Business as Usual risk management to the recovery phase</i>
	Infrastructure or service provider that has the potential to cause a material impact to the CCP's liquidity position.	
7. Event(s) causing simultaneous default and non-default losses	<ul style="list-style-type: none"> • Failure of an entity that has been identified as a potential source of simultaneous default and non-default losses. • High probability of failure of an entity that has been identified as a potential source of simultaneous default and non-default losses. 	<ul style="list-style-type: none"> • Failure of one or more entities whose combined effect creates both default and non-default losses triggering any of the above indicators (that signal the move from Business as Usual risk management to the recovery phase) of default losses, non-default losses or liquidity shortfall scenarios.

Guideline 3 Questions:

Question 3: Do you agree with the proposal to link each recovery plan scenario of a CCP with at least one ‘indicator that provides early warning for recovery actions’ and one ‘indicator that signals the move from Business as Usual risk management to the recovery phase’? Would you propose a higher number of indicators for each scenario?

Question 4: Do you agree with the list of proposed indicators for each type of scenario as set out in Table 1? Would you add/delete any?

Question 5: Do you agree with the degree of granularity of the proposed indicators (as set out in Table 1) or should these be more prescriptive? Example: to assess the reduced liquidity of a market and the increased likelihood of being unable to reach a balanced book, the indicators could be the withdrawal of one or several market participants, the trading volumes, and the typical transaction costs.

Question 6: Do you agree with the proposed approach for the ‘indicators that signal the usage of specific recovery measures’?

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

38. Article 9(4) of CCPRRR requires CCPs to put in place appropriate arrangements for the regular monitoring of the recovery plan indicators and to report to their competent authorities on the outcome of that monitoring.

39. Therefore, in order to integrate the list of recovery plan indicators with the monitoring system, and to ensure that the indicators reflect the risk profile of the CCP, are set at an appropriate level and are overall effective, ESMA proposes that CCPs monitor all relevant types and sources of risks, as well as maintain and monitor a list of entities that may be sources of material risk, including:

- The members who are the main contributors of risk to the CCP (e.g. through the default fund);
- Interoperable CCPs;
- The entities, service providers or Financial Market Infrastructures that may pose material liquidity risk in case of financial or operational distress;
- The members that can be a material source of simultaneous default and non-default losses.

40. Additionally, CCPs should perform ongoing monitoring of:

- 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; and
- any trend in the number and severity of incidents at the CCP and at FMIs to which the CCPs are exposed.

Guideline 4 Question:

Question 7: Do you agree with the proposed Guideline 4 on the integration of CCP recovery plan indicators with the CCP's monitoring system, and with the list of risks, entities and issues that should be monitored?

5.6 Guideline 5: Maintenance of CCP Recovery Plan Indicators

41. According to Article 9(1) of CCPRRR, CCPs shall draw up but also maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both. Hence, in addition, the CCPs should review and where necessary update their indicators, following Guidelines 1 – 4, every time they review their recovery plans in accordance with Article 9(9) of CCPRRR.

Guideline 5 Question:

Question 8: Do you agree with the proposed Guideline 5?

6 Annexes

Annex I: Legislative mandate to develop the Guidelines

Article 9 of the CCPRRR provides that:

“1. CCPs shall draw up and maintain a recovery plan providing for measures to be taken in the case of both default and non-default events and combinations of both, in order to restore their financial soundness, without any extraordinary public financial support, and allow them to continue to provide critical functions following a significant deterioration of their financial situation or a risk of breaching their capital and prudential requirements under Regulation (EU) No 648/2012.

(...) 3. The recovery plan shall include a framework of indicators based on the risk profile of the CCP, that identify the circumstances under which measures in the recovery plan are to be taken. The indicators may be of either a qualitative or a quantitative nature relating to the financial soundness and operational viability of the CCP and should enable recovery measures to be taken early enough to provide sufficient time for the plan to be implemented.

(...) 5. ESMA shall, in cooperation with the ESRB, by 12 February 2022, issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in paragraph 3 of this Article.”



Annex II: Cost and benefit analysis

Introduction

Pursuant to the Article 9(5) of CCPRRR, ESMA shall, in cooperation with the ESRB, by 12 February 2022, issue Guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in Article 9(3) of CCPRRR. The objective of the Guidelines is therefore specifying the minimum list of qualitative and quantitative indicators to be included in CCP recovery plans. Such indicators shall then 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.

Article 16 of the ESMA Regulation requires ESMA, where appropriate, to analyse the potential costs and benefits relating to proposed guidelines. It also states that cost-benefit analyses must be proportionate in relation to the scope, nature and impact of the proposed guidelines.

The objective of performing a cost-benefit analysis is to assess the costs and benefits of the various policy or technical options which were analysed during the process of drafting the guidelines.

The guidelines included in this CP are of a mandatory nature, i.e. they are envisaged in CCPRRR in order to ensure uniform, consistent and coherent application of Union Law.

In carrying out a cost-benefit analysis on the Guidelines it should be noted that the main policy decisions have already been taken under the primary legislation (CCPRRR) and the impact of such policy decisions have already been analysed to some extent by the Impact Assessment by the European Commission⁶.

Cost and benefit analysis

Below are detailed the different corresponding policy options on how to promote the consistent application of Article 9(3) of CCPRRR regarding the minimum list of qualitative and quantitative indicators.

Specific objective	The objective of the Guidelines is to specify the minimum list of qualitative and quantitative indicators for the purposes of CCP recovery plans.
Policy option 1	To specify highly prescriptive recovery plan indicators that every CCP should include in its recovery plan without providing much flexibility for the CCP to customise its indicators based on the characteristics of the CCP.

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD%3A2016%3A0368%3AFIN>

<p>How would this option achieve the objective?</p>	<p>This option would create a high level of convergence as the indicators would be prescribed in detail by the Guidelines and each CCP would apply the same indicators.</p> <p>However, this option would not provide much flexibility for a CCP to customise its indicators, based on the specificities and characteristics of the CCP. It would therefore mean the indicators may not be particularly relevant for the given CCP, may not accurately reflect the risk profile of the CCP or its complexity and characteristics etc, which could negatively affect the effectiveness of the whole recovery plan.</p> <p>Therefore, it is questionable whether this option would meet i) the legal mandate as CCPRRR stipulates that the indicators should be based on the risk profile of the CCP and ii) the overall objectives regarding recovery planning.</p>
<p>Policy option 2</p>	<p>To specify a minimum high-level list of recovery plan indicators (without providing further guidance that CCPs should consider when creating the indicators) allowing each CCP much flexibility to customise its indicators based on the specificities and characteristics of the CCP.</p>
<p>How would this option achieve the objective?</p>	<p>This option may meet the mandate as it would specify the minimum list of recovery plan indicators. It would also allow every CCP to customise its indicators based on the characteristics and risk profile of the CCP.</p> <p>However, this option would create a low level of convergence across CCPs, and may result in some recovery plans being less detailed than others and therefore also less effective. Therefore, it is questionable whether this option would meet the overall objectives regarding recovery planning.</p>
<p>Policy option 3</p>	<p>To specify a minimum list of recovery plan indicators that each CCP should include in its recovery plan and provide further guidance, which is linked to the risk profile and the characteristics of the CCP, that the CCP should use when creating and customising its indicators.</p>
<p>How would this option achieve the objective?</p>	<p>This option would meet the mandate as it would specify the minimum list of recovery plan indicators as well as provide further guidance on how a CCP should create and customise its indicators based on its risk profile and characteristics.</p> <p>This option would also create a relatively high level of convergence while at the same time leaving the necessary flexibility to every</p>

	CCP, taking into account the CCP's risk profile, characteristics, etc. This should also ensure the overall effectiveness of the CCP's recovery plan.
Which policy option is the preferred one?	Option 3, given that Option 1 could be seen as too prescriptive (without allowing much flexibility for a CCP to customise its indicators based on the CCP's risk profile and characteristics) and Option 2 could be seen as too vague and may fall short of the aim of ensuring convergence and that recovery plans are sufficiently detailed and overall effective.
Is the policy chosen within the sole responsibility of ESMA? If not, what other body is concerned / needs to be informed or consulted?	ESMA is responsible, in cooperation with the ESRB, for issuing the Guidelines and the mandate is of a mandatory nature, i.e. the Guidelines are envisaged in CCPRRR in order to ensure uniform, consistent and coherent application of Union Law. ESMA has cooperated with the ESRB in issuing the Guidelines.

Impacts of the proposed policies:	
Policy option 1	
Benefits	It will provide a high level of convergence as the indicators would be prescribed in detail by the Guidelines and each CCP would apply the same indicators. It would also result in lower maintenance costs.
Regulator's costs	The costs for competent authorities will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and the Guidelines envisaged to specify the minimum list of indicators.
Compliance costs	The compliance costs for CCPs will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and the Guidelines envisaged to specify the minimum list of indicators. While the maintenance costs for CCPs may be lower for this option than the other options, this option may result in less appropriate indicators for the given CCP and in effect also a less effective recovery plan, which could ultimately lead to higher costs for the CCP.

Policy option 2	
Benefits	It would provide a lot of flexibility to CCPs to customise their indicators based on the risk profile and characteristics of each CCP.
Regulator's costs	The costs for competent authorities will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and the Guidelines envisaged to specify the minimum list of indicators.
Compliance costs	The compliance costs for CCPs will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and recovery plan scenarios and the Guidelines envisaged to specify the minimum list of indicators.
Policy option 3	
Benefits	It would provide a relatively high level of convergence while at the same time leaving the necessary flexibility to every CCP to customise its indicators based the risk profile and characteristics of the CCP. This should also ensure the overall effectiveness of the CCP's recovery plan.
Regulator's costs	The costs for competent authorities will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and the Guidelines envisaged to specify the minimum list of indicators.
Compliance costs	The compliance costs for CCPs will be moderate, however already envisaged by CCPRRR due to the detailed requirements regarding recovery plans and the Guidelines envisaged to specify the minimum list of indicators.

Cost and Benefit Analysis Questions:

Question 9: Do you agree with the Option 3, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 3)?

Question 10: If you advocated for a different approach, how would it impact the cost and benefit assessment? Please provide details.

Annex III: Summary of questions

Guideline 1 Question:

Question 1: Do you agree with the overarching principle and objectives of the guidelines for the framework of CCP recovery plan indicators as set out in the proposed Guideline 1?

Guideline 2 Question:

Question 2: Do you agree with the proposed Guideline 2 and the categorisation of CCP recovery plan indicators into the three categories? Would you propose a different categorisation?

Guideline 3 Questions:

Question 3: Do you agree with the proposal to link each recovery plan scenario of a CCP with at least one 'indicator that provides early warning for recovery actions' and one 'indicator that signals the move from Business as Usual risk management to the recovery phase'? Would you propose a higher number of indicators for each scenario?

Question 4: Do you agree with the list of proposed indicators for each scenario as set out in Table 1? Would you add/delete any?

Question 5: Do you agree with the degree of granularity of the proposed indicators (as set out in Table 1) or should these be more prescriptive? Example: to assess the reduced liquidity of a market and the increased likelihood of being unable to reach a balanced book, the indicators could be the withdrawal of one or several market participants, the trading volumes, and the typical transaction costs.

Question 6: Do you agree with the proposed approach for the 'indicators that signal the usage of specific recovery measures'?

Guideline 4 Question:

Question 7: Do you agree with the proposed Guideline 4 on the integration of CCP recovery plan indicators with the CCP's monitoring system, and with the list of risks, entities and issues that should be monitored?

Guideline 5 Question:

Question 8: Do you agree with the proposed Guideline 5?

Cost and Benefit Analysis Questions:

Question 9: Do you agree with the Option 3, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 3)?

Question 10: If you advocated for a different approach, how would it impact the cost and benefit assessment? Please provide details.



Annex IV: Proposed Guidelines (without explanatory notes)

1 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 to be included in CCP recovery plans.
3. These guidelines should be read in conjunction with the ESMA guidelines on CCP recovery plan scenarios (ESMA70-151-3404).

When?

4. These guidelines apply from [dd month yyyy].



2 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 ⁷
EMIR	Regulation (EU) 648/2012 of 4 July 2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories ⁸
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 ⁹
RTS 152/2013	Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 on capital requirements for central counterparties ¹⁰
RTS 153/2013	Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 on requirements for central counterparties ¹¹

Abbreviations

<i>CCP</i>	Central Counterparty
<i>CP</i>	Consultation Paper
<i>EC</i>	European Commission
<i>EEA</i>	European Economic Area
<i>ESFS</i>	European System of Financial Supervision

⁷ OJ L 22, 22.1.2021, p. 1–102

⁸ OJ L 201, 27.7.2012, p.1

⁹ OJ L 331, 15.12.2010, p. 84

¹⁰ OJ L 52, 23.2.2013, p. 37

¹¹ OJ L 52, 23.2.2013, p. 41



<i>ESMA</i>	European Securities and Markets Authority
<i>ESRB</i>	European Systemic Risk Board
<i>EU</i>	European Union

Definitions

5. Unless otherwise specified, the terms used in this consultation paper have the same meaning as in CCPRRR, EMIR and the RTS 152/2013 and 153/2013.

3 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.

4 Compliance and reporting obligations

Status of the guidelines

8. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and CCPs must make every effort to comply with these guidelines.
9. 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

10. 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.
11. 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.
12. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
13. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, CCPs to which these guidelines apply shall report to their competent authorities, in a clear and detailed way, whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with these guidelines. In case of non-compliance, CCPs must also report to their competent authorities their reasons for not complying with the guidelines. Competent authorities shall notify ESMA whether CCPs comply with the guidelines and of any reasons for not complying with the guidelines.

5 Guidelines on CCP recovery plan indicators

5.1 Guideline 1: Objectives of the framework of CCP recovery plan indicators

14. The framework of indicators and the minimum list of indicators included in a CCP recovery plan should enable the CCP to:
- Identify the circumstances under which measures in the recovery plan are to be taken as required in Article 9(3) of CCPRRR;
 - Identify the points at which appropriate actions referred to in the plan may be taken as required in point (19) of Section A of the Annex of CCPRRR;
 - Allow for a timely implementation of recovery actions in line with the general requirement to have appropriate conditions and procedures to ensure the timely implementation of recovery actions as stipulated in point (6) of Section A of the Annex of CCPRRR.
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, on a case by case basis, start considering and decide 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 CCP recovery plan indicators should, therefore, not be understood as elements that generate automatic responses.

5.2 Guideline 2: Categories of CCP recovery plan indicators

16. CCPs should include in their recovery plans 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. *'Indicators that provide early warning for recovery actions':*
- These indicators would 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).
 - These indicators should be calibrated to provide sufficient time 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.
 - At the same time, they should be calibrated to signal a high enough probability of needing recovery measures, so that they do not overlap with early warning indicators used for Business as Usual risk management.

- b. *'Indicators that signal the move from Business as Usual risk management to the recovery phase'*:
- These indicators would signal the change from the Business as Usual (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).
 - These indicators should clearly define the point in time, situation or marker that triggers the initiation of usage of recovery measures.

CCP recovery plan indicators linked to recovery measures:

- c. *'Indicators that signal the usage of specific recovery measures'*:
- Where a CCP activates its recovery plan, these indicators should guide the decision-making process and aid the CCP with choosing the appropriate recovery plan measure for the situation or circumstances at hand (while retaining 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).
 - These indicators would provide information of the specific circumstances or thresholds that would trigger the usage 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.

5.3 Guideline 3: Creating CCP recovery plan indicators

17. A CCP should link each of its recovery plan scenarios with at least:
- a. One *indicator that provides early warning for recovery actions*; and
 - b. One *indicator that signals the move from Business as Usual risk management to the recovery phase*.
18. A CCP should create and calibrate these two categories of indicators for each of its recovery plan scenarios using the matrix in Table 1 in Annex. For the avoidance of doubt, the CCP should create these indicators for every 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).
19. When creating its *indicators that signal the usage of specific recovery measures*, a CCP should use any of the following options:
- Define the situation or marker (that would indicate the usage of the specific recovery plan measure);

- Indicate the main factors or circumstances that would be assessed and would guide the decision-making process for the usage of the recovery plan measures;
- Provide a flowchart or similar tool describing the criteria and decision-making process for the usage of the recovery plan measures;
- Indicate that the recovery plan measure forms part of an ordered sequence.

20. CCPs should provide their competent authorities with an explanation of how the indicators calibrations were determined and an analysis that demonstrates that the *indicators that provide early warnings for recovery actions* would be triggered early enough to be effective.

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

21. In order to integrate the list of recovery plan indicators with the monitoring system, CCPs should monitor all relevant types and sources of risks, as well as maintain and monitor a list of entities that may be sources of material risk, including:

- The members who are the main contributors of risk to the CCP (e.g. through the default fund);
- Interoperable CCPs;
- The entities, service providers or Financial Market Infrastructures that may pose material liquidity risk in case of financial or operational distress;
- The members that can be a material source of simultaneous default and non-default losses.

22. Additionally, CCPs should perform ongoing monitoring of:

- 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; and
- any trend in the number and severity of incidents at the CCP and at FMIs to which the CCPs are exposed.

5.5 Guideline 5: Maintenance of CCP recovery plan indicators

23. CCPs should review and where necessary update their indicators, following Guidelines 1 – 4, every time they review their recovery plans in accordance with Article 9(9) of CCPRRR.

6 Annexes

Table 1: Matrix for creating recovery plan indicators

Types of Recovery Plan Scenarios	Indicators that provide early warnings for recovery action	Indicators that signal the move from Business as Usual risk management to the recovery phase
<p>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>	<ul style="list-style-type: none"> • Default of one or more members whose combined effect could consume a significant percentage of the CCP's default fund. • 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]. • 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. 	<ul style="list-style-type: none"> • 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>	<ul style="list-style-type: none"> • Interoperable CCP default under stressed market conditions when this type of entity represents one of the largest exposures of the CCP. • 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. • Combined default of a member and an interoperable CCP whose combined effect would represent a significant challenge to the CCP's funding. • 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. 	<ul style="list-style-type: none"> • Realised or forecasted default loss that would consume all relevant prefunded resources available to cover the default of an interoperable CCP.
<p>2. Default event causing financial losses with a default management process that requires mandatory, rules-based arrangements in order to re-establish a matched book.</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • CCP is unable to re-establish a matched book without recovery measures.
<p>3. Non-default event preventing the CCP from</p>	<ul style="list-style-type: none"> • Business continuity event or accumulation of operational incidents or deteriorating trend in the performance of 	<ul style="list-style-type: none"> • A third party providing critical services to the CCP is unable or unwilling to provide its service.

Types of Recovery Plan Scenarios	<i>Indicators that provide early warnings for recovery action</i>	<i>Indicators that signal the move from Business as Usual risk management to the recovery phase</i>
performing its critical functions	<p>either the CCP's systems or of services from a third party providing critical services to the CCP, or perception of an increased cyber threat.</p> <ul style="list-style-type: none"> • CCP becomes aware of the likely withdrawal of some related services. • Likely changes in the legal framework which would lead to material hinderance in the CCP's service provision. 	<ul style="list-style-type: none"> • Inability to continue operating the CCP's system regardless of the origin of the incident. • New legal provisions (e.g. legislation or court ruling) affect the CCP's capacity to perform its critical functions.
4. Non-default event causing financial losses	<ul style="list-style-type: none"> • Failure of a third-party entity with potential to create a material direct or indirect financial loss. • High probability of failure of a third-party entity with potential to create a material direct or indirect financial loss. • Legal risk with high probability of materialising and potential to create a material impact to CCP's resources. • Fraud, cyber-attack or operational event with potential to create severe financial loss. • Investment losses with potential to create severe financial impact. 	<ul style="list-style-type: none"> • Realised or forecasted loss that would consume all relevant capital resources.
5. Default event causing a liquidity shortfall	<ul style="list-style-type: none"> • Failure of one or more members whose combined effect would represent a significant challenge to the CCP's funding. • High probability of failure of one or more members whose combined effect would represent a significant challenge to the CCP's funding. The probability of default would be signaled by market-based indicators. • Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP. 	<ul style="list-style-type: none"> • Realised or forecasted liquidity shortfall that would exhaust all Business as Usual liquidity generation capacity as defined by the CCP.
6. Non-default event causing a liquidity shortfall	<ul style="list-style-type: none"> • Degradation of internal liquidity indicators signaling a liquidity position below the minimum threshold as defined by the CCP. • 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. • Operational or financial failure of a third-party entity, Financial Market Infrastructure or service provider that 	<ul style="list-style-type: none"> • Realised or forecasted liquidity shortfall that would exhaust all Business as Usual liquidity generation capacity as defined by the CCP.

Types of Recovery Plan Scenarios	<i>Indicators that provide early warnings for recovery action</i>	<i>Indicators that signal the move from Business as Usual risk management to the recovery phase</i>
	has the potential to cause a material impact to the CCP's liquidity position.	
7. Event(s) causing simultaneous default and non-default losses	<ul style="list-style-type: none"> • Failure of an entity that has been identified as a potential source of simultaneous default and non-default losses. • High probability of failure of an entity that has been identified as a potential source of simultaneous default and non-default losses. 	<ul style="list-style-type: none"> • Failure of one or more entities whose combined effect creates both default and non-default losses triggering any of the above indicators (that signal the move from Business as Usual risk management to the recovery phase) of default losses, non-default losses or liquidity shortfall scenarios.