



European Securities and
Markets Authority

Guidelines

**Cooperation between authorities under Articles 17 and 23 of Regulation
(EU) No 909/2014**



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1 Scope

Who?

1. These guidelines apply to the competent authorities designated under Article 11(1) of Regulation (EU) No 909/2014.

What?

2. These guidelines apply in relation to the cooperation requirements applicable to competent authorities when involved in the procedure for granting authorisation to an applicant CSD laid down in Article 17 of Regulation (EU) No 909/2014 and in the procedure relating to the provision of services in another Member State referred to in Article 23 of this Regulation.

When?

3. These guidelines apply from the date that is two months after their publication on the ESMA's website in all official languages of the EU.

4. Terms defined in Regulation (EU) No 909/2014 have the same meaning in these guidelines. In addition, the following definitions and abbreviations are used in these guidelines:

<i>Commission Implementing Regulation (EU) 2017/394</i>	Commission Implementing Regulation (EU) 2017/394 of 11 November 2016 laying down implementing technical standards with regard to standard forms, templates and procedures for authorisation, review and evaluation of central securities depositories, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving central securities depositories, and with regard to the format of the records to be maintained by central securities depositories in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council ¹
<i>CSD</i>	Central Securities Depository
<i>Directive 2014/65/EU</i>	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU
<i>ESMA</i>	European Securities and Markets Authority
<i>EU</i>	European Union
<i>Regulation (EU) No 909/2014</i>	Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation No 236/2012 ²
<i>Regulation (EU) No 1095/2010</i>	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

¹ OJ L 65, 10.3.2017, p. 145.

² OJ L 257, 28.8.2014, p. 1.

³ OJ L 331, 15.12.2010, p. 84.

2 Purpose

5. The purpose of these guidelines is to ensure the common, uniform and consistent application of certain cooperation requirements for authorities in accordance with Article 14(1), second subparagraph, of Regulation (EU) No 909/2014, which provides that *“in order to ensure consistent, efficient and effective supervisory practices within the Union, including cooperation between competent authorities and relevant authorities in the different assessments necessary for the application of this Regulation, ESMA may, in close cooperation with the members of the ESCB [European System of Central Banks], issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1095/2010.”*
6. Members of the ESCB were involved in the preparation of these guidelines, which aim at harmonising aspects of cooperation between authorities that are not already covered by the technical standards published under Regulation (EU) No 909/2014.
7. These guidelines do not address, for instance, the procedures and templates to ensure the cooperation between authorities requested under Article 24 of Regulation (EU) No 909/2014 in the context of the supervision of the activities of a CSD in a host Member State, which are already covered under Chapter III of the Commission Implementing Regulation (EU) 2017/394. Similarly, the cooperation between authorities requested in the context of the procedure for authorisation to provide banking-type ancillary services is already covered under Chapter VI of the same Implementing Regulation.
8. Therefore, aspects of cooperation between authorities which are covered by these guidelines are:
 - (i) the consultation of authorities involved in the procedure for granting authorisation to an applicant CSD in accordance with Article 17 of Regulation (EU) No 909/2014, and
 - (ii) the communication between the competent authority of the home Member State to the competent authority of the host Member State in the context of the procedure set out in paragraphs (3) to (7) of Article 23 of Regulation (EU) No 909/2014, in relation to a CSD wishing to provide the services referred to in paragraph (2) thereof within the territory of another Member State for the first time, or to change the range of services so provided.

3 Compliance and reporting obligations

3.1 Status of the guidelines

9. This document contains guidelines on cooperation between authorities issued under Article 14 of Regulation (EU) No 909/2014 in accordance with Article 16 of Regulation (EU) No 1095/2010. In accordance with Article 16(3) of Regulation (EU) No 1095/2010, competent authorities must make every effort to comply with the guidelines.
10. Competent authorities to which the guidelines apply should comply by incorporating them into their supervisory practices.

3.2 Reporting requirements

11. Competent authorities to which these guidelines apply must notify ESMA (to csdr.notifications@esma.europa.eu) whether they comply or intend to comply with the guidelines, with reasons for non-compliance, within two months of the date of their publication on ESMA's website in all EU official languages. In the absence of a response by this deadline, competent authorities will be considered as non-compliant.

4 Guidelines

4.1 General cooperation requirements

4.1.1 List of authorities

12. Upon receipt of an application for authorisation referred to in Article 17 of Regulation (EU) No 909/2014, the competent authority should identify the relevant authorities referred to in paragraph (4) of that Article, and where applicable, the authorities referred to in paragraphs (5) as well as the competent authorities referred to in paragraph (6) of the same Article, and set up a list thereof.

4.1.2 Language

13. The competent authority should agree on the working language in its cooperation with the relevant authorities referred to in paragraph (4), and where applicable, the authorities referred to in paragraphs (5) and (6) of Article 17 of Regulation (EU) No 909/2014, as well as with other competent authorities for the purposes of Article 23 of Regulation (EU) No 909/2014. Where there is no agreement, the working language should be a language customary in the sphere of international finance.
14. Where the information provided by a competent authority is in an official language of the EU that is not the working language used in application of the previous paragraph, the transmitting competent authority should provide the addressee authorities with a translation in a language customary in the sphere of international finance of all relevant documentation necessary for those authorities for the purpose of Articles 17 and 23 of Regulation (EU) No 909/2014.
15. Where such translation is provided by the relevant CSD, the competent authority has no responsibility for the translation.

4.1.3 Contact details

16. For the purposes Article 17 of Regulation (EU) No 909/2014, the competent authority should designate and share contact details of one primary and one secondary contact persons and any changes thereto with the relevant authorities, and where applicable, with the authority referred to in Article 67 of Directive 2014/65/EU and with the competent authorities of another Member State referred to in paragraph (6) of Article 17 of Regulation (EU) No 909/2014. The competent authority should also request these authorities to share with it their respective contact details of one primary and one secondary contact person and any changes thereto.

17. For the purposes of Article 23 of Regulation (EU) 909/2014, each competent authority should designate and share with the other competent authorities contact details of one primary and one secondary contact person and any changes thereto.

4.2 Provision of information and request for views

4.2.1 In relation to the procedure for granting authorisation

18. Competent authorities should use the templates included in Annex 1 and Annex 2 in order to request the views of the relevant authorities referred to in paragraph (4) of Article 17 of Regulation (EU) No 909/2014, and where applicable, to the authorities referred to in paragraph (5) and to the competent authorities referred to in paragraph (6) thereof, as well as, where relevant, to also provide them with the information included in the application.

4.2.2 In relation to the cross-border provision of services

19. For the purposes of Article 23(4), first subparagraph, of Regulation (EU) No 909/2014, the competent authority of the home Member State should use the template included in Annex 3 to provide the information referred to in Article 23(3) thereof to the competent authority of the host Member State.
20. For the purposes of Article 23(5) of Regulation (EU) No 909/20, where the competent authority of the home Member State decides not to communicate all the information referred to in Article 23(3) thereof to the competent authority of the host Member State, the competent authority of the home Member State should use the template provided as Annex 4 to inform the competent authority of the host Member State of its decision.

4.2.3 Acknowledgement of receipt

21. The addressees should immediately upon receipt, and at the latest on the business day following the day of receipt, confirm by email to the transmitting competent authority that the requested views or information have been received.
22. If no confirmation of receipt is received in accordance with paragraph 21, the transmitting competent authority should itself contact the addressees to ensure that the latter have received the request or information.

5 Annexes

Annex 1 – Template for requesting views under Article 17(4), (5) and (6) of Regulation (EU) No 909/2014 (and if relevant, for providing application and related information)

[Name of the competent authority]	
Person(s) responsible for further contacts:	<ul style="list-style-type: none"> - [Name(s)] - [Function(s)] - [Telephone number(s)] - [Email address(es)]
Date	[YYYY-MM-DD]
Re:	<i>Request for views under Article 17[(4)/(5)/(6)] of Regulation (EU) No 909/2014</i>

(1) On [Date of submission of the application for authorisation], [Name of the applicant CSD] submitted its application for authorisation as a CSD to [Name of the competent authority] in accordance with Article 17 of Regulation (EU) No 909/2014.

(2) [Name of the competent authority] has examined the completeness of the application and considers it to be complete.

(3) **[Competent authority to select the correct addressee and purpose from the alternatives listed below]**

[Name of the competent authority] hereby provides all the information included in the application to [Name of the relevant authority] as a relevant authority pursuant to Article 17(4) of Regulation (EU) No 909/2014, and requests its views on the features of the securities settlement system(s) operated by the applicant CSD within 3 months from the date of receipt of this request using the template attached as Annex 2 **[competent authority should ensure Annex 2 below is sent as an annex to this request];**

OR

[Name of the competent authority] hereby provides all the information included in the application to [Name of the authority referred to in Article 67 of Directive 2014/65/EU] as the authority referred to in Article 17(5) of Regulation (EU) No 909/2014, and requests its views

on the ability of the applicant CSD to comply with the requirements of Directive 2014/65/EU and of Regulation (EU) No 600/2014 within 3 months from the date of receipt of this request using the template attached as Annex 2 **[competent authority should ensure Annex 2 below is sent as an annex to this request];**

OR

[Name of the competent authority] hereby requests the views of [name of the competent authority from another Member State] as an authority referred to in Article 17(6) of Regulation (EU) No 909/2014, on the points listed in Article 17(7) of the same regulation within 3 months from the date of receipt of this request using the template attached as Annex 2 **[competent authority should ensure Annex 2 is sent as an annex to this request].**

(4) It is required from the addressee to acknowledge receipt of this request by email, at the latest on the business day following the day of receipt.

On behalf of [Name of competent authority],

[signature]

Content:

1. **[For requests under Art 17 (4) and (5) only:]** Application for authorisation of [Name of the applicant CSD]
2. Template for providing views under Article 17[(4)/(5)/(6)] of Regulation (EU) No 909/2014.

Annex 2 – Template for providing views under Article 17(4), (5) or (6) of Regulation (EU) No 909/2014

[Name of the consulted authority]	
Person(s) responsible for further contacts:	<ul style="list-style-type: none"> - [Name(s)] - [Function(s)] - [Telephone number(s)] - [Email address(es)]
Date	[YYYY-MM-DD]
Re:	<i>Provision of views under Article 17[(4)/(5)/(6)] of Regulation (EU) No 909/2014</i>

(1) On [Date of reception of the request], [Name of the consulted authority] received a request for views under Article 17[(4)/(5)/(6)] of Regulation (EU) No 909/2014 from [Name of the competent authority] in respect of [Name of the applicant CSD].

(2) [Name of the consulted authority] hereby provides its views, as detailed below:

a) Views
b) Additional comments – if any
[e.g. identification of key areas for post-authorisation supervisory activities, etc.]

(3) Receipt of these views should be acknowledged by email at the latest on the business day following the day of receipt.

On behalf of [Name of consulted authority],

[signature]

Annex 3 –Template for communicating information under Article 23(4) of Regulation (EU) No 909/2014 to the competent authority of the host Member State

[Name of the competent authority of the home Member State]	
Person(s) responsible for further contacts:	- [Name(s)] - [Function(s)] - [Telephone number(s)] - [Email address(es)]
Date	[YYYY-MM-DD]
Re:	Communication of information under Article 23(4) of Regulation (EU) No 909/2014

(1) On [date of communication by the CSD of information requested under Article 23(3) of Regulation (EU) No 909/2014], [Name of the CSD] communicated the information requested under Article 23(3) of Regulation (EU) No 909/2014 to [Name of the competent authority of the home Member State].

(2) [Name of the competent authority of the home Member State] has examined the information received and considers, by taking into account the provision of services envisaged, that it has no reason to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services.

(3) [Name of the competent authority of the home Member State] hereby communicates all the information received under Article 23(3) of Regulation (EU) No 909/2014 to [competent authority of the home Member State should ensure this information is sent along].

(4) Receipt of this communication and related information should be acknowledged by email on the business day following the day of receipt.

On behalf of [Name of competent authority of the home Member State],

[signature]

Content: Information received under Article 23(3) of Regulation (EU) No 909/2014 from [Name of the CSD]

Annex 4 –Template for informing on decision under Article 23(5) of Regulation (EU) No 909/2014 not to communicate all information to the competent authority of the host Member State

[Name of the competent authority of the home Member State]	
Person(s) responsible for further contacts:	<ul style="list-style-type: none"> - [Name(s)] - [Function(s)] - [Telephone number(s)] - [Email address(es)]
Date	[YYYY-MM-DD]
Re:	<i>Information on decision under Article 23(5) of Regulation (EU) No 909/2014 not to communicate information received under Article 23(3) thereof</i>

(1) On [date of communication by the CSD of information requested under Article 23(3) of Regulation (EU) No 909/2014], [Name of the CSD] communicated the information requested under Article 23(3) of Regulation (EU) No 909/2014 to [Name of the competent authority of the home Member State].

(2) [Name of the competent authority of the home Member State] has examined the information received and considers, by taking into account the provision of services envisaged, that it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services.

(3) Receipt of this information should be acknowledged by email at the latest on the business day following the day of receipt.

On behalf of [Name of competent authority of the home Member State],

[signature]