

REGIS-TR contribution to

Consultation Paper

**Procedural rules for penalties imposed on
Third-Country CCPs, TRs and CRAs**

January 2020

General information about respondent

Name of the company / organisation	REGIS-TR S.A.
Activity	Other Financial service providers
Are you representing an association?	<input type="checkbox"/>
Country/Region	Luxembourg

Introduction

REGIS-TR is a European Trade Repository (TR) which enables market participants to report derivatives trades as required under the Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4th July 2012 on OTC derivatives, central counterparties, and trade repositories (referred to as “EMIR”). REGIS-TR thanks ESMA for the opportunity to participate in this consultation paper on guidelines on periodic information and notification of material changes to be submitted to ESMA by Trade Repositories.

Questions

Q3: Regarding TRs, do you agree with the proposal regarding the file to be submitted by the investigation officer to ESMA? Please elaborate on the reasons for your answer.

REGIS-TR agrees with the proposed approach to include a copy of the statement of findings of the investigation officer.

Q8: Do you agree with the proposal regarding the adoption of interim decisions for TRs? Please elaborate on the reasons for your answer.

REGIS-TR does not fully agree with the proposal regarding the adoption of interim decisions for TRs.

Being that Article 67(1) EMIR states that the “opportunity to be heard” should be given to the persons concerned after ESMA has taken its decision, REGIS-TR does not disagree with the treatment of such opportunity in the proposal presented.

However, with regard to the access to the file, this point is not mentioned in the regulation and therefore such possibility should be available as soon as the investigation officer has issued his/her findings to ESMA. This would allow the persons subject to investigation to have access to the elements that the investigation officer has taken into consideration in his/her findings, which are to be shared in accordance with the proposed process.

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It is REGIS-TR's understanding that this is of a special importance due to the sensitive nature of some of the decisions that can be taken ad interim by ESMA for TRs, namely the issuance of public notices (with the consequent reputational damage) and the withdrawal of the registration, which would require the persons subject to investigation to have the necessary time to understand the elements have been taken into consideration by the investigation officer, in addition to the time provided following the decision from ESMA.

Q12: Do you agree with the proposed collection of fines and periodic penalty payments regarding TRs? Please elaborate on the reasons for your answer.

REGIS-TR agrees with the amendments proposed regarding the collection of fines and periodic penalty payments.