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| Response Form to the 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 consultation 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](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_INDC\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_INDC\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_INDC\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on CCP recovery plan indicators”).

**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.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**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.

**General information about respondent**

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| --- | --- |
| Name of the company / organisation | London Stock Exchange Group |
| Activity | Central Counterparty |
| Are you representing an association? |[ ]
| Country/Region | UK |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_INDC\_00>

The London Stock Exchange Group (“LSEG”) is a financial market infrastructure provider, headquartered in London, with significant operations in Europe, North America and Asia. Its diversified global business focuses on capital formation, intellectual property and risk and balance sheet management. LSEG operates an open access model, offering choice and partnership to customers across all of its businesses.

LSEG operates multiple clearing houses. It has majority ownership of the multi-asset global CCP operator, LCH Group (“LCH”). LCH has two licensed CCP subsidiaries – LCH Ltd in the UK and LCH S.A. in France. Both are leading multi-asset class and international clearing houses, serving major international exchanges and platforms as well as a range of OTC markets. They clear a broad range of asset classes, including securities, exchange-traded derivatives, commodities, foreign exchange derivatives, interest rate swaps, credit default swaps, euro and sterling denominated bonds and repos.

LSEG welcomes the opportunity to comment on ESMA’s draft Guidelines on CCP recovery plan scenarios (Article 9(12) CCPRRR). We would like to make the following key observations:

* LSEG agrees with the overarching principle and objectives of the guideline, however we would suggest to ESMA to consider the list of early warning indicators which in their majority appear to be part of a CCP’s BAU processes. A more targeted set of indicators would be able to provide a clarity on when a CCP would essentially move from “Phase Zero” to “Phase One”.
* We believe a more proportional approach, whereby the guidelines would only define a minimum set of indicators would allow each CCP an appropriate degree of flexibility so as to identify, in accordance with relevant authorities, the most appropriate framework of indicators, depending on the risk peculiarities of the given CCP.
* We believe that there is a great overlap between ESMA’s guidelines on “early warning indicators” in CCP recovery plans and “early intervention”. For example, a significant default of a CM could result in breaches in the CCP’s capital requirements under EMIR but that would not necessarily mean that an early intervention assessment would be required.

<ESMA\_COMMENT\_INDC\_00>

**Questions**

**Guideline 1 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?

<ESMA\_QUESTION\_INDC\_01>

LSEG agrees with the overarching principle and objectives of the guideline for the framework of CCP recovery plan indicators. We would, however, suggest to ESMA to consider the list of early warning indicators which in their majority appear to be part of a CCP’s BAU processes. A more targeted set of indicators would be able to provide a clarity on when a CCP would essentially move from “Phase 0” to “Phase 1”.

Finally, we note that in conjunction with ESMA’s guidelines on “early intervention measures”, some early warning indicators could trigger breaches in a CCP’s capital requirement and/or prudential requirements. For example, as a result of a significant default of a CM, chances are that the CCP’s capital requirements under EMIR could be temporarily breached. That would not necessarily mean that an early intervention assessment would be required, nor that risk posed by to financial stability of the Union has increased to such extremes. We believe that breaches to be considered for early warning must not only be material but also repeated and with the CCP in question having no clear plan to address them.

<ESMA\_QUESTION\_INDC\_01>

**Guideline 2 Question:**

1. : 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?

<ESMA\_QUESTION\_INDC\_02>

LSEG agrees with the ESMA’s three categorisation approach. We would however note that for the majority of indicators in the early warning stage are part of a CCP’s BAU processes and are even triggered way before the CCP reaches a pre-recovery phase. For instance, the moment a CM goes into default, a CCP will already inform its NCA and from that point onwards there will be a daily exchange of information between CCP/NCA until the default is successfully managed. Therefore, we believe that the early warning indicators should not be an extension of the BAU processes but rather provide additional clarity on the transition from Phase Zero to Phase One.

<ESMA\_QUESTION\_INDC\_02>

**Guideline 3 Questions:**

1. : 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?

<ESMA\_QUESTION\_INDC\_03>

LSEG agrees 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’.

<ESMA\_QUESTION\_INDC\_03>

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

<ESMA\_QUESTION\_INDC\_04>

LSEG agrees with the list of proposed indicators for each type of scenario as set out in Table 1. We would however note that some of the proposed category a) indicators overlap with category b) indicators, thus creating inconsistencies in the system.

<ESMA\_QUESTION\_INDC\_04>

1. : 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.

<ESMA\_QUESTION\_INDC\_05>

Although we agree with the level of granularity, in accordance with the principle of proportionality, we would suggest to ESMA to allow each CCP the possibility to undertake the actions deemed more appropriate on a case-by-case basis. In particular, too prescriptive indicators that may not properly fit all the circumstances should be avoided and we suggest ESMA to consider the potential drawbacks of such an excessively prescriptive approach.

<ESMA\_QUESTION\_INDC\_05>

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

<ESMA\_QUESTION\_INDC\_06>

We agree with the proposed approach for the ‘indicators that signal the usage of specific recovery measures’.

<ESMA\_QUESTION\_INDC\_06>

**Guideline 4 Question:**

1. : 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?

<ESMA\_QUESTION\_INDC\_07>

We 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.

<ESMA\_QUESTION\_INDC\_07>

**Guideline 5 Question:**

1. : Do you agree with the proposed Guideline 5?

<ESMA\_QUESTION\_INDC\_08>

We agree with the proposed Guideline 5.

<ESMA\_QUESTION\_INDC\_08>

**Cost and Benefit Analysis Questions:**

1. : 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)?

<ESMA\_QUESTION\_INDC\_09>

In line of principle option 3 strikes the right balance between the need to foster supervisory convergence and a level playing field and the need to let CCPs tailor their framework of recovery indicators having regard to their specific risk profile. However, as stated above, we urge ESMA to consider allowing each CCP the possibility to undertake the actions deemed more appropriate on a case-by-case basis.

<ESMA\_QUESTION\_INDC\_09>

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

<ESMA\_QUESTION\_INDC\_10>

We believe option 3 should be maintained in principle but it should be refined in light of the suggestions proposed in this response. In particular, we believe that the framework should be less prescriptive, more proportionate and tailored to the precise risk profile of the given CCP. This would greatly benefit the effectiveness of the framework in the wider context of recovery planning.

<ESMA\_QUESTION\_INDC\_10>