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| Response Form to the Consultation Paper  |
| Draft RTS on the content of CCP resolution plans (Article 12(9) of the 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 **24 January 2022.**

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\_RSPL\_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\_RSPL\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_RSPL\_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 the content of CCP resolution plans”).

**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**

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

**Introduction**

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

<ESMA\_COMMENT\_RSPL\_00>

LSEG welcomes the opportunity to respond to ESMA’s Draft RTS on the content of CCP resolution plans. We would like to make the following key observations:

* We agree with the flexibility and proportionality of ESMA’s draft RTS on the content of the CCP resolution plans. We believe that taking a too prescriptive approach can limit flexibility to the resolution authority to assess the factors to be reflected in its resolution plan based on the CCP’s risk profile and specificities. This is also useful for the resolution authority to ensure they are able to stay fit-for-purpose for any innovations and changes in future to CCPs
* We believe that in line with Level 1 text, CCP RRR should complement EMIR whereby all recognised CCPs already comply with the strict standards and legal requirements. As such, the resolvability assessment should be limited in scope and should not supersede EMIR or other regulations CCPs are subject to.

<ESMA\_COMMENT\_RSPL\_00>

**Questions**

1. : Do you agree with how ESMA has enabled sufficient flexibility and ensured proportionality in the draft RTS? If not, please explain?

<ESMA\_QUESTION\_RSPL\_01>

We agree that the draft RTS enables sufficient flexibility and ensures proportionality as envisaged in the Level 1 text. We believe that taking a too prescriptive approach can limit flexibility to the resolution authority to assess the factors to be reflected in its resolution plan based on the CCP’s risk profile and specificities. This is also useful for the resolution authority to ensure they are able to stay fit-for-purpose for any innovations and changes in future to CCPs.

<ESMA\_QUESTION\_RSPL\_01>

1. : Is there any aspect from the BRRD RTS that is not included in the draft RTS, but should be? If yes, please specify and explain why?

<ESMA\_QUESTION\_RSPL\_02>

We find that the aspects most relevant from the BRRD RTS are indeed covered.

<ESMA\_QUESTION\_RSPL\_02>

1. : Do you agree with how the draft RTS envisages to further specify the resolution plan? If not, please explain?

<ESMA\_QUESTION\_RSPL\_03>

We broadly agree with the ESMA’s draft RTS on further specifying the resolution plans. We believe that in line with Level 1 text, CCP RRR should complement EMIR whereby all EU CCPs already comply with the strict standards and legal requirements. As such, the resolvability assessment should be limited in scope and should not supersede EMIR or other regulations CCPs are subject to.

Regarding “timeframe for implementation”, we believe that some flexibility should be afforded to CCPs and as such when it comes to the timeframe for implementation of the resolution plan and in particular, in point (b), instead of “allocated times” we would suggest using the wording “allocated timeframes”.

<ESMA\_QUESTION\_RSPL\_03>

1. : In particular, do you agree with the content of the summary of the resolution plan (Article 12(7)(a))? Is there any aspect missing? If yes, please specify and explain why?

<ESMA\_QUESTION\_RSPL\_04>

We agree with the contents of the summary of the resolution plan and with ESMA’s not too prescriptive approach. We believe resolution plans should vary depending on various conditions and the right amount of flexibility when determining the summary of the resolution plan is required while at the same time following an outcome-based approach.

Finally, we would suggest ESMA to further consider distinguishing the various responsibilities amongst different types of non-defaulting events since (i) some might not be the sole responsibility of the CCP and (ii) for some non-default event the responsibility will be shared among different stakeholders (e.g., investment losses or losses caused by the failure of a custodian). Loss allocation mechanisms for non-default losses should be proportional to the level of responsibility and/or benefits extracted from a service of each stakeholder.

<ESMA\_QUESTION\_RSPL\_04>

1. : Do you agree with the Option 1, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 1)?

<ESMA\_QUESTION\_RSPL\_05>

We agree with Option 1.

<ESMA\_QUESTION\_RSPL\_05>

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

<ESMA\_QUESTION\_RSPL\_06>

N/A

<ESMA\_QUESTION\_RSPL\_06>