Reply Form

Draft amending technical standards to Regulation (EU) 2017/392 and Regulation (EU) 2017/394 under CSDR

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annex 1. 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 **9 September 2024.**

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:

• Insert your responses to the questions in the Consultation Paper in this reply form.

• Please do not remove tags of the type < ESMA\_QUESTION\_CR&E\_0>. Your response to each question has to be framed by the two tags corresponding to the question.

• 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.

• When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP1\_ CR&E\_nameofrespondent.

 For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ CR&E\_ABCD.

• Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). 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.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

All interested stakeholders are invited to respond to this consultation paper. In particular, ESMA invites market infrastructures (CSDs, CCPs, trading venues), their members and participants, other investment firms, credit institutions, issuers, fund managers, retail and wholesale investors, and their representatives to provide their views to the questions asked in this paper.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Euronext  |
| Activity | Central Security Depositaries |
| Are you representing an association? |[ ]
| Country / Region | Italy, Portugal, Denmark and Norway |

# Questions

1. Do you agree with the proposed requirement for data on “relayed links”? If not, please elaborate.

<ESMA\_QUESTION\_CR&E\_1>

Euronext supports the ESMA’s proposal to get additional data about CSDs cross border activities. Nevertheless, the rationale for providing data on “relayed links” in addition to the data already provided on “direct links” is not clear. In principle these information should not be considered relevant to assess cross border activity of a CSD in another country. Relayed links are composed of two direct links – as defined in the ECB Guideline for eligibility of links for Eurosystem credit operations – therefore, the settlement activity and related obligations should be referred separately to each direct link and to the CSDs directly involved. Further, data on “relayed links” are already included in the information reported under letter (l) of Table 3 in relation to “direct links”. Therefore including a specific reporting requirement for relayed links results in double counting the same data and could be also misleading in the assessment of the cross border activity of the involved CSDs.

We would welcome a further dialogue with ESMA to identify a set of data that meets supervisory needs while being accurate from CSDs perspective.

<ESMA\_QUESTION\_CR&E\_1>

1. Do you agree with the proposed amendments to Delegated Regulation (EU) 2017/392? If not, please elaborate.

<ESMA\_QUESTION\_CR&E\_2>

We welcome ESMA proposal to further standardise the reporting of information required for the review and evaluation process. In this regard we would like to provide the following suggestions to clarify and/or simplify the scope of some reporting items.

**TABLE 1**

10 (vi) on substantive changes referred to in Article 16(4) of Regulation (EU) No 909/2014: without being limited to, any of the following events:

change in the CSD’s risk management framework impacting the calculation of capital requirements under Article 47 of Regulation (EU) 909/2014;

We would suggest to either clarify (with examples) or remove the reporting of this this piece of information. Indeed this information seems to be covered already under other reporting items related to risk management, capital requirements and recovery plan.

**TABLE 2**

(i) a report on whether the CSD’s established operational reliability objectives, including operational performance objectives and committed service -level targets for its services and securities settlement systems, as referred to in Article 70(3) of this Regulation, are met, including information on the CSD’s actions to regularly monitor, assess, and report them as referred to in paragraphs 5 and 6 of Article 70 of this Regulation, and an assessment of the system’s availability during the review period , measured on a daily basis as the percentage of time the system is operational and functioning according to the agreed parameters

As regard the settlement system supported by the T2S platform, the content of this report could be further harmonized considering the parameters set by the T2S Framework Agreement.

(n) A report on the **major** changes affecting any CSD links established by the CSD **that have an impact on the requirements referred to in chapter XII of Regulation (EU) no 392/2017**, including changes to the mechanisms and procedures used for settlement in those CSD links

The scope of this reporting item seems too broad and need further clarification. Therefore we propose an amendment specifying that only changes affecting compliance with CSDR requirements should be reported. It seems not to be relevant to report any operational change occurring to CSDs links.

(j) A summary of the types of manual intervention performed by the CSD **in the automated settlement process according to article 4 of Regulation (EU) no. 1229/2018**.

The scope of this reporting item is too broad. It should not be relevant to report every manual intervention performed by the CSD. Therefore we suggest to specify that manual intervention should be reported only to the extent that this is linked to the specific requirements provided by article 4 of Regulation (EU) no. 1229/2018 in relation to the settlement process.

**TABLE 3**

(a) List of participants of each securities settlement system operated by the CSD, specifying: - their country of incorporation ~~and, when acting through a branch, the country where the branch is located~~ […].

[…] For each participant, only one of the following categories shall be indicated and if the participant is a third country entity, indicate a function similar to one of those listed below: ~~- ‘INVF’ - Investment firm authorized in accordance with Directive 2014/65/EU of the European Parliament and of the Council; - ‘CDTI’ - Credit institution authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council;~~ […]

Currently, there is no obligations for CSD to collect or maintain information regarding participants’ branches. Indeed the CSDs maintains information related to the entity that, having legal capacity, assumes all obligations deriving from the participation in the system. Whilst branches usually do not have legal capacity. The collection of this data could be particularly cumbersome to manage for CSDs while they are already available to competent authorities supervising banks and investment firms participating to CSDs. Therefore we suggest removing the reporting requirement related to the location of participants’ eventual branches.

Regarding the participants categorization this is not an information that the CSD maintains in its database. Indeed, after checking the regulatory status and authorisation as part of the onboarding procedure the information related to the categorization is not maintained as it is not relevant in terms of the on-going participation. The reporting of this information would be particularly cumbersome whilst it is already in available to competent authorities supervising banks and investment firms participating to CSDs. Also, a participant could have been authorized to act as both investment firm and credit institution making hard to report under ‘only one’ category. Therefore we suggest removing the ‘INVF’ and ‘CDTI’ categories.

(c) Total market value and nominal value of the securities recorded in securities accounts centrally and non-centrally maintained in each securities settlement system operated by the CSD.

Nominal value of securities: Positive and negative value, up to 25 numeric characters including up to 5 decimal places.

Market value of securities: Positive and negative value, up to 25 numeric characters including up to 5 digital places.

We suggest ESMA to provide further clarification of this data (e.g. providing examples). In particular, it is not clear what is intended by ‘positive and negative’ value in relation to the total nominal/market value of the securities. The total nominal/market value of a security could not be negative.

(ha) For each FOP settlement instruction: corporate action/ portfolio transfer/ collateral management operation/ ~~transaction in commercial bank money and foreign currencies/~~ other.

CSDs usually do not collect info regarding the type of the underlying transaction of a FOP settlement instruction.

As regard to the proposed category of underlying transactions, it is not clear how a FOP settlement instruction could result from a ‘transaction in commercial bank money and foreign currencies’ since Free-of-Payment instructions are defined as a delivery of securities which is not linked to a corresponding transfer of fund. We suggest that this reporting requirement is either clarified (with examples) or removed.

(j) Number and amount of penalties referred to in Article 7(2) of Regulation (EU) No 909/2014 per CSD participant.

This reporting requirement is not clear. In particular, as regard the ‘amount’ it could refer either to the penalty paid per participant or to the total amount charged by the CSD to all participants. Also, since this information should be provided in the context of R&E process, we assume that the requirement refers to the amounts paid on annual basis. As regard the ‘number’, we are not sure about what value is to be provided. Considering that all penalty reports are already available in the report provided under Regulation (EU) no. 1229/2018 we suggest removing this requirement.

(k) **Where applicable, the** total value of securities borrowing and lending operations processed by the CSD acting as an agent and as principal, as the case may be, divided per type of financial instruments referred to in point d.

It seems that this requirement does not consider the case where CSDs do not act as an agent nor a principal. Therefore we suggest adding “where applicable” (or similar) to the wording.

~~(la) The total number and value of settlement instructions settled via relayed links […]~~

As commented under Q1, this data should not be considered as relevant to assess the cross border activity of a CSD. This data is already included in the information reported under letter. (l) of Table 3 related to “direct links”. For this reason we suggest to remove the reporting requirement provided by in letter ‘la’.

(m) **Where applicable, the** value of guarantees and commitments related to securities borrowing and lending operations.

The reporting requirements does not consider the case where CSDs do not support ‘guarantees and commitment related to securities borrowing and lending operations’. Therefore we suggest adding “where applicable” (or similar) to the wording.

(n) **Where applicable, the** value of treasury activities involving foreign exchange and transferable securities related to managing participants' long balances including categories of institutions whose long balances are managed by the CSD.

The reporting requirement does not consider the case where CSDs do not support ‘treasury activities involving foreign exchange and transferable securities related to managing participants’ long balances. Therefore we suggest adding “where applicable” (or similar) to the wording.

<ESMA\_QUESTION\_CR&E\_2>

1. Do you agree with the proposed amendments to Implementing Regulation (EU) 2017/394? If not, please elaborate.

<ESMA\_QUESTION\_CR&E\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CR&E\_3>