



Post-trade made easy

Procedure for refusal of access and complaints for issuers

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Introduction

This document describes the procedures and criteria Euroclear Sweden ("ES") uses to refuse an issuer access to the VPC system. The procedures apply in situations when issuers do not comply with ES rules for Issuers and Issuer Agents or fulfil the criteria to be affiliated as an issuer.

The CSD Regulation (CSDR) requires that an issuers application for affiliation to a CSD shall be handled in accordance with Article 49 of Regulation (EU) No 909/2014 ("Level 1") and Articles 88-90 of Commission Delegated Regulation (EU) 2017/392 ("Level 2 RTS"). The templates regarding refusal and complaint are according to Article 12 of Commission Delegated Regulation (EU) 2017/394 ("Level 2 ITS"). RTS refers to Regulatory Technical Standards and ITS refers to Implementing Technical Standards.

Refusals are treated in different ways depending on the reason for refusal. Therefore, this document describes the refusal process in relation to the Due Diligence assessment and the comprehensive risk assessment separately. In addition to this, the complaint process is described.

This document is mainly for internal use, but the content is not to be regarded as confidential.

References

This document contains references to the below documents:

- ES Rules for Issuers and Issuer Agents (rules)
- Affiliation of Issuer (external process description)
- Acceptance Questionnaire for new clients
- Template for refusal (template)
- Template for complaint (template)

Procedure – refusal based on Due Diligence

ES conducts a Due Diligence assessment for all new issuers who want to affiliate their financial instruments to ES. The affiliation process is described in Affiliation of Issuers (external process description).

1. ES receives the Acceptance Questionnaire from the requesting issuer.
2. ES conducts a Due Diligence assessment based on the Acceptance Questionnaire information given by the issuer.
3. If ES discovers any doubt when conducting the Due Diligence assessment, this should be escalated to ES Compliance. ES Compliance evaluates if an enhanced Due Diligence assessment through Euroclear Group Compliance is required.
4. A refusal due to Due Diligence should not always be notified directly to the issuer. Under some circumstances it should first be reported to the Swedish FSA ("Finansinspektionen"). Therefore, all refusals due to Due Diligence assessment should be done according to instructions from ES Compliance.

Procedure – refusal based on a comprehensive risk assessment

In addition to a refusal due to a Due Diligence assessment, ES can refuse an issuer to affiliate financial instruments based on a comprehensive risk assessment. The affiliation process is described in Affiliation of Issuer (external process description).

1. ES receives application forms and documents from the requesting issuer.
2. ES conducts a comprehensive risk assessment, which includes the following parts:
 - a. **Legal risks** – ES verifies the issuers Legal Entity Identifier (LEI) and if the issuer is compliant with all legal requirements for the services ES provides. ES also checks that the financial instruments are issued in a manner that enables ES to ensure and reconcile the issuance of the financial instruments. To ensure the above ES requires the issuer to provide relevant documents, e.g. certificate of incorporation, articles of association.
 - b. **Financial risks** - ES conducts a credit assessment in order to evaluate if the issuer holds sufficient financial resources to fulfill its obligations towards ES.
 - c. **Operational Risks** – ES evaluates that the affiliation does not require ES to implement significant changes in its activities regarding risk management processes or implementation of manual processes. ES also checks that the affiliation does not require handling of any other currencies than those that currently are used as settlement, payment or issue currencies in the VPC system.
3. If any of the requirements in the comprehensive risk assessment are not fulfilled, ES has the right to refuse to affiliate the issuer and its financial instruments.
4. In case of a refusal, ES is required to fill out the refusal template (appendix 1) and send it to the requesting issuer. The reason for refusal must be described.
5. ES logs all refusals and files all relevant documents related to the refusal.

Procedure – refusal based on that ES does not provide notary services in relation to securities constituted under the corporate or similar law of the relevant member state

ES may also refuse an issuer to affiliate financial instruments based on that ES does not provide the services referred to in point (1) of Section A of the annex to CSDR in relation to securities constituted under the corporate or similar law of the relevant member state. Also in case of a refusal based on this criteria, ES is required to fill out the refusal template (appendix 1) and send it to the requesting issuer. The reason for refusal must be described (for example by adding text in section VII). ES logs all refusals and files all relevant documents related to the refusal.

Procedure – withdrawal of access for an affiliated issuer

ES has the right to withdraw access for an existing issuer and its financial instruments that are recorded in the VPC system if the issuer does not fulfil the criteria set out in the Due Diligence, or in the comprehensive risk assessment, or if the issuer does not comply with ES Rules for Issuer and Issuer Agents.

1. If the withdrawal is due to Due Diligence criteria, the process for refusal based on Due Diligence is applied.
2. If the withdrawal is due to comprehensive risk assessment criteria or due to that the issuer and its financial instruments does not comply with ES Rules for Issuers and Issuer Agents , the process for refusal based on comprehensive risk assessment is applied.

Procedure – complaints

An issuer who has been refused access has the right to complain to Finansinspektionen. This has to be done within one month after the refusal.

1. When complaining, the issuer should use the complaint template (appendix 2) which is available on ES web page. The template should be sent directly to Finansinspektionen.
2. Finansinspektionen may request additional information from ES concerning the refusal. ES is required to respond to such request within two weeks from the date of the receipt of the request.
3. If the refusal is deemed to be unjustified, Finansinspektionen can order ES to grant access for the requesting issuer. ES has to grant the issuer access within three months from the date the order from Finansinspektionen enters into force.
4. A complaint for access should be treated according to ES general complaint procedure, i.e. Legal will liaise with Operations, Compliance and Risk to prepare and send a response to Finansinspektionen.

Appendix 1

Refusal of access to Euroclear Sweden

I. General information	
Sender: receiving CSD	Euroclear Sweden
Addressee: requesting party	
Date of request for access	
Reference number given by the requesting party	
Date of receipt of the request for access	
Reference number given by the receiving CSD	

II. Identification of the receiving CSD	
Corporate name of receiving CSD	Euroclear Sweden
Country of origin	Sweden
Legal address	PO Box 191, SE-101 23 Stockholm, Sweden
LEI	5493006WLDSUHWHT321
Name and contact details of the person responsible for the assessment of the request for access	Name
	Function
	Phone
	Email

III. Identification of the requesting party	
Corporate name of requesting party	
Country of origin	
Legal address	
LEI	
Name and contact details of the person responsible for the assessment of the request for access	Name
	Function
	Phone
	Email

IV. Risk analysis of the request for access	
Legal risks resulting from the provision of services	
Financial risks resulting from the provision of services	
Operational risks resulting from the provision of services	

V. Outcome of the risk analysis	
Access would affect the risk profile of the CSD	YES/NO
Access would affect the smooth and orderly functioning of the financial markets	YES/NO
Access would cause systemic risk	YES/NO
In case of refusal of access, a summary of the reasons for such a refusal	
Deadline for complaint by the requesting party to the competent authority of the receiving CSD	
Access granted	NO

VI. Identification of authorities	
Name and contact details of the competent authority of the receiving CSD	Finansinspektionen
	Name
	Function
	Phone
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014	Email
	Name
	Function
	Phone
	Email
	Name
	Function
	Phone
VII: Any other relevant information and/or documents	

Appendix 2

Complaint for refusal of access to Euroclear Sweden

I. General information	
Sender: requesting party	
Addressee: competent authority of receiving CSD	Finansinspektionen, Box 7821, SE-103 97 Stockholm, Sweden
Date of request for access	
Reference number given by the requesting party	
Date of receipt of the request for access	
Reference number given by receiving CSD	

II. Identification of the requesting party	
Corporate name of requesting party	
Country of origin	
Legal address	
LEI	
Name and contact details of the person responsible for the assessment of the request for access	Name
	Function
	Phone
	Email

III. Identification of the receiving CSD	
Corporate name of receiving CSD	Euroclear Sweden
Country of origin	Sweden
Legal address	PO Box 191, SE-101 23 Stockholm, Sweden
LEI	5493006WLDSUHWHT321
Name and contact details of the person responsible for the assessment of the request for access	Name
	Function
	Phone
	Email

IV. Comments of the requesting party in relation to the risk assessment of the request for access conducted by the receiving CSD and the reasons for refusal of access	
Comments of the requesting party on the legal risks resulting from the provision of services	
Comments of the requesting party on the financial risks resulting from the provision of services	
Comments of the requesting party on the operational risks resulting from the provision of services	
Comments of the requesting party concerning the refusal to provide the services referred to in point (1) of Section A of the Annex to Regulation (EU) No 909/2014 applicable to the specific issue of securities.	
Comments of the requesting party on the reasons of the receiving party for refusal of access	
Any relevant additional information	

V. Annexes
Copy of the initial application for access submitted by the requesting party to the receiving CSD
Copy of the response of the receiving CSD to the initial request for access

V. Any other relevant information and/or documents