



# **Procedure for refusal of access and complaints for participants**

**Euroclear Sweden AB • 2019**

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## Introduction

A “participant” is a legal entity, usually a bank, broker, CCP, CSD or other market infrastructure that has been affiliated to the VPC system.

This document describes the procedures that Euroclear Sweden (“ES”) follows when refusing an applicant to become a participant in the VPC system. The procedures apply in situations when applicants do not comply with ES rules or fulfil the criteria to be affiliated as a participant.

The CSD Regulation (CSDR) requires that a participant’s application for affiliation to a CSD shall be handled in accordance with Article 33 of Regulation (EU) No 90/2014 (“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.

This document describes ES refusal process, and the complaint process for a participant who wishes to question the refusal at the next level.

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 – General Terms and Conditions Account Operations and Clearing Euroclear Sweden
- Application form
- Application instruction for participation in Euroclear Sweden
- Criteria for participation – Euroclear Sweden
- Public procedure for access for participants (external process description)
  - Appendix 1 - Template for refusal (template)
  - Appendix 2 - Template for complaint (template)

## Procedure - Refusal of access

ES assesses all new applicants, and existing participants, who want to affiliate to the VPC system through one or more additional roles. The affiliation process is described in “Public procedure for access of participants” (external process description) and the assessment is based on information provided in conjunction with the application. The assessment is also dependent on successful technical set-up, training and testing.

## Procedure – refusal based on a comprehensive risk assessment

The affiliation process to become a participant is described in more detail in “Criteria for participation” and “Public procedure for access for participants” (external process description).

1. ES receives application forms and documents from the requesting participant.
2. ES conducts a comprehensive risk assessment, which includes the following parts:
  - a. **Legal risks** – ES assesses the applicant’s compliance with the legal requirements for the different roles in the VPC system (account operator, nominee, clearing member, settlement bank, issuer agent).
  - b. **Financial risks** - ES assesses the financial status of the applicant in order to determine that the applicant holds sufficient financial resources to fulfill its obligations towards ES and the market.
  - c. **Operational Risks** – ES assesses that the applicant has an acceptable operational set-up in order to be able to mitigate operational risks.
3. If requirements in the risk assessment have not been fulfilled, ES has the right to refuse to affiliate the applicant (who once accepted will become a “participant”) to the VPC system.
4. In case of a refusal, ES is required to fill out the refusal template (appendix 1) and send it to the applicant. The reason for refusal will be described and the risks that have been found will be clearly indicated.
5. ES logs all refusals and files all relevant documents related to the refusal.

## Procedure - Complaints

An applicant who has been refused access has the right to complain to the Swedish Financial Supervisory Authority, “Finansinspektionen”. This has to be done within one month after the refusal.

1. When complaining, the participant should use the complaint template (appendix 2) which will be provided upon request (or will be available on the Euroclear website). 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 participant. ES has to grant the participant access within three months from the date that order comes from Finansinspektionen.
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	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
	<b>Email</b>

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	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
	<b>Email</b>

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

IV. Risk analysis of the request for access	
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
	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
Name and contact details of the relevant authority referred to in point (a) of Article 12(1) of Regulation (EU) No 909/2014	<b>Email</b>
	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
<b>Email</b>	<b>Email</b>
	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
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	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
	<b>Email</b>

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	<b>Name</b>
	<b>Function</b>
	<b>Phone</b>
	<b>Email</b>

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