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**ESMA consultation on
Draft Technical Standards for the Regulation on
OTC Derivatives, CCPs and Trade Repositories
Euroclear response**

We are pleased to be given the opportunity to offer Euroclear's¹ views on ESMA's consultation on Draft Technical Standards for EMIR, the Regulation on OTC Derivatives, CCPs and Trade Repositories.

Euroclear is registered on the European Commission's register of interest representatives - ID number 88290282308-75.

Our response focuses solely on aspects of the Investment policy (art. 44) relating specifically to where financial instruments posted as margins or as default fund contributions shall be deposited to ensure full protection of these assets (question 55):

Q55 Do you consider that the elements outlined above would rightly outline the framework for determining the highly secured arrangements in respect of which financial instruments lodged by clearing members should be deposited? Should ESMA consider other elements?

The discussion paper explicitly ranks operators of EU securities settlement systems that ensure the full protection of those instruments as the default option and it offers four alternative options that could be envisaged if the CCP is unable to use the preferred option.

¹ The Euroclear group is the world's leading provider of domestic and cross-border settlement and related services for bond, equity, fund and derivative transactions. User owned and user governed, the group comprises the international central securities depository Euroclear Bank, based in Brussels, as well as the national central securities depositories (CSDs) Euroclear Belgium, Euroclear France, Euroclear Nederland, Euroclear UK & Ireland and Euroclear Finland and Euroclear Sweden. Euroclear also owns Xtrakter, which operates the trade and transaction reporting services.



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To avoid any confusion and for clarity's sake we would recommend, as it was done in the context of other recent regulatory initiatives such as for instance the AIFMD, to refer to 'systems for the settlement of securities designated by Member States in accordance with Article 10 of Directive 98/26/EC of the European Parliament and of the Council' to qualify the default option.

The proposed draft technical standards should be consistent with the proposed CSD Regulation² being discussed by the Council and Parliament. The proposed regulation defines a CSD as being a legal person that operates a securities settlement system and at least one other core service (either 'notary' service or central maintenance service). The text should therefore refer to those EU Securities Settlement Systems which are operated by EU CSDs.

As for option (d) referring to credit institutions with a low credit risk, it is our view that the Technical Standards should not only be more specific as to what minimum criteria apply to objectively establish what constitutes a low risk credit institution but it should also be ensured that where client securities collateral is deposited with a credit institution, these assets are adequately protected.

Contacts

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² [Proposal for a Regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories \(CSDs\) and amending Directive 98/26/EC adopted by the European Commission on 7 March 2012](#)