

ESMA UPDATES CSDR Q&A;AS

The purpose of the CSDR is to harmonise certain aspects of both the settlement cycle and the general settlement discipline, and to provide a set of common requirements for CSDs operating securities settlement systems across the EU.

The revised ESMA Regulation (Article 16b(5)) specifies that ESMA transfers queries which interpret Union law to the European Commission (EC). The latest Q&As on the CSDR contain answers provided by the EC that relate to:

- The provision of CSD services in other Member States: (i) the first Q&A further clarifies that Article 23 of CSDR applies to all types of financial instruments, as defined under MIFID II, whether or not admitted to trading, or traded, on trading venues; (ii) the second Q&A clarifies that, for the purpose of Article 23(2) of CSDR, the “law under which the securities are constituted” should by default be the standard law of the issuance of the securities and/or, if determined by the issuer, the national law of the issuer; and
- The exemption from the application of cash penalties and the buy-in requirements for settlement fails relating to transactions involving CCPs: the third Q&A clarifies that only settlement fails relating to transactions for which a CCP interposes itself between the counterparties (i.e. transactions cleared by the concerned CCP) should be captured by the exemption under Article 7(11) of CSDR.

Background

Q&As are an important tool to promote common supervisory approaches and practices in the application of CSDR. This document is aimed at national competent authorities under the CSDR to ensure that, in their supervisory activities, their actions are converging along the lines of the responses published by ESMA. It should also help investors and other market participants by providing clarity on CSDR requirements.

Next steps

ESMA will continue to publish Q&As on the CSDR and will review and update them where required.

Further information:

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