



European Securities and
Markets Authority

Response Form to the Consultation Paper

**Draft RTS on the content of CCP resolution plans (Article 12(9) of the
CCPRRR)**



Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions summarised in Annex III. 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 **24 January 2022**.

All contributions should be submitted online at 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:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_RSPL_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. 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.
4. When you have drafted your response, name your response form according to the following convention: ESMA_RSPL_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_RSPL_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open consultations” → “Consultation on the content of CCP resolution plans”).

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 under the heading [Legal Notice](#).

Who should read this paper?

All interested stakeholders are invited to respond to this consultation. In particular, this paper may be specifically of interest for EU central counterparties, clearing members and clients of clearing members.

General information about respondent

Name of the company / organisation	Eurex Clearing
Activity	Central Counterparty
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_RSPL_00>

Eurex Clearing is an EMIR-authorized central counterparty (CCP) and a subsidiary of the Deutsche Börse Group. Eurex Clearing provides clearing services for cash and derivatives markets in listed and over-the-counter (OTC) financial instruments.

Therefore, Eurex Clearing welcomes the opportunity to participate in this ESMA consultation regarding the draft RTS on the content of CCP resolution plans. We appreciate that ESMA has taken into account the existing BRRD RTS in developing these draft RTS. Furthermore, we welcome the fact that ESMA aims at ensuring sufficient flexibility and proportionality in accordance with the legislative mandate set out in Article 12(9) of Regulation (EU) 2021/23 on a framework for the Recovery and Resolution of CCPs (CCP RRR). Overall, we broadly agree with the draft RTS but would kindly request ESMA to reconsider the approach taken on resolution scenarios (see our response to Question 3 for detail).

We trust that our comments provide a useful contribution to finalise the draft RTS and remain at ESMA's disposal for any comments or questions.

<ESMA_COMMENT_RSPL_00>

Questions

Q1 : Do you agree with how ESMA has enabled sufficient flexibility and ensured proportionality in the draft RTS? If not, please explain?

<ESMA_QUESTION_RSPL_01>

We generally agree that ESMA's draft RTS enable sufficient flexibility and proportionality.

Nevertheless, ESMA's proposal to require resolution authorities to reflect a given and defined set of resolution scenarios in the resolution plan may be overly prescriptive (see also response to Q3).

<ESMA_QUESTION_RSPL_01>

Q2 : Is there any aspect from the BRRD RTS that is not included in the draft RTS, but should be? If yes, please specify and explain why?

<ESMA_QUESTION_RSPL_02>

In our view, there are no aspects of the BRRD RTS that have not been included in the draft RTS and should have been.

<ESMA_QUESTION_RSPL_02>

Q3 : Do you agree with how the draft RTS envisages to further specify the resolution plan? If not, please explain?

<ESMA_QUESTION_RSPL_03>

We broadly agree with the specifications for the resolution plan, with the exception of Article 11 (resolution strategies and scenarios).

Specifically, we question the need for the resolution plan to reflect at least the nine different types of scenarios described in the Annex. In our view, the scenarios in Annex 1 should only be referred to as examples that may or may not be reflected in the resolution plan based on the case-specific assessment of the resolution authority.

Ultimately, resolution authorities and CCPs will need to work together in order to identify meaningful resolution scenarios that are appropriate to the specifics of the respective CCP. Resolution strategies and tools may then be developed and prioritised on the basis of such scenarios. In our view, it may not be helpful to burden this process with a fixed list of mandatory scenarios, but rather to allow flexibility for both the resolution authority and the CCP to reflect their individual characteristics.

<ESMA_QUESTION_RSPL_03>

Q4 : In particular, do you agree with the content of the summary of the resolution plan (Article 12(7)(a))? Is there any aspect missing? If yes, please specify and explain why?

<ESMA_QUESTION_RSPL_04>

We agree with the content of the summary of the resolution plan.

<ESMA_QUESTION_RSPL_04>

Q5 : Do you agree with the Option 1, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 1)?

<ESMA_QUESTION_RSPL_05>

In light of our concerns with respect to the approach taken on resolution scenarios (see response to Q3), we would prefer Option 2. This option would provide resolution authorities with more flexibility to align resolution planning with the specifics of a respective CCP.

<ESMA_QUESTION_RSPL_05>

Q6 : If you advocated for a different approach, how would it impact the cost and benefit assessment? Please provide details.

<ESMA_QUESTION_RSPL_06>

Please refer to our response to Q5.

<ESMA_QUESTION_RSPL_06>