# Response Form to the Consultation Paper

**Draft Guidelines on CCP recovery plan scenarios (Article 9(12) 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 **20 September 2021.**

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_SCN_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_SCN_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_SCN_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 CCP recovery plan scenarios").

**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? | ☐ |
| Country/Region | Germany |

# Introduction

***Please make your introductory comments below, if any***

<ESMA_COMMENT_SCN_00>

Eurex Clearing is an EMIR-authorised 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.

Eurex Clearing appreciates the opportunity to provide feedback to ESMA's consultation regarding the Draft Guidelines on CCP recovery plan scenarios. Please also note in this context that we provided responses as well to the consultations on the Guidelines for recovery plan indicators and on the draft RTS for factors to be taken into account by NCAs and colleges when assessing recovery plans.

While we agree in principle with the Guidelines, we would caution against an overly prescriptive approach and recommend that a CCP have some flexibility in assessing the risks to be reflected in its recovery plan scenarios based on its risk profile and characteristics. As such, we would advise against requiring each CCP to create at least one scenario for each of the seven types identified in the consultation paper for default, non-default and combined scenarios. Rather, CCPs should have some flexibility to create a smaller number of scenarios that are most meaningful to their risk profile and combine this with a comprehensive recovery indicator framework and robust indicator monitoring process.

We trust our comments are considered a useful contribution to the specification of the new CCP RR regime ensuring an effective implementation. Eurex Clearing remains at the disposal of ESMA for any questions and additional feedback.

<ESMA_COMMENT_SCN_00>

# Questions

**Guideline 1 Questions:**

> Q1 : Do you agree that each CCP should include, in its recovery plan, at least one scenario for each of the seven types of scenarios?

<ESMA_QUESTION_SCN_01>

We believe that ESMA's proposed list of scenarios is a good representation of the range of risks to which a CCP might be exposed but would caution against requiring every CCP to create at least one scenario for each of the seven types. There is, of course, an operational burden involved in creating, analyzing and monitoring each scenario. The workload associated with having a large number of scenarios would of course be justifiable if each scenario provided genuine insight into the risks a CCP is facing and how they could be managed. In our view, this is not necessarily the case for each of the seven types of scenarios proposed by ESMA, and the utility of each of the types of scenarios proposed needs to be assessed in relation to each CCP's individual risk profile.

In our experience, developing a comprehensive recovery indicator framework that can capture all events that could impact a CCP, regardless of cause, can be much more illustrative and useful than creating a large number of scenarios, some of which may end up being redundant due to the specific characteristics of any individual CCP. The vast majority of recovery options fall into three categories: measures to restore the CCP's capital base, measures to restore its liquidity position, and measures to restore its operational capacity. This means that the steps the CCP would have to take to recover can be very similar, even where the reasons for recovery (the 'scenarios') are superficially very different.

For this reason, we believe it may be more useful to have CCPs focus on creating and implementing a comprehensive recovery indicator framework that can adequately describe the impact *any* risk event could have on the CCP. From our perspective, this could be more productive than requiring every CCP to create a large number of scenarios that may not give any additional insight, depending on the specific risk profile and recovery options available to that CCP. For example, if a CCP has chosen not to implement the capital, loss allocation, position allocation, and liquidity actions with respect to clearing members for non-default losses in recovery, we are not certain that a large number of non-default scenarios would be particularly instructive: since there would be no loss propagation path through the clearing membership, each of these scenarios would in practice simply end up pointing at a need for one of the three broad recovery options (capital restoration, liquidity restoration, operational restoration).

For these reasons, we would suggest that the recovery indicators could be a better tool to capture the entire spectrum of risks to which CCPs could be exposed, with the added advantage of also being used as a framework to monitor risks over time in the

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actual course of business. We would therefore consider it more effective if CCPs did not necessarily need to create one scenario for each of the seven types proposed by ESMA, but instead create a smaller number of scenarios that are most meaningful to their risk profile, and combine this with a comprehensive recovery indicator framework and a robust indicator monitoring process.

<ESMA_QUESTION_SCN_01>

Q2 : Do you agree with the proposed list of the types of scenarios? Would you propose any additional types of scenarios?

<ESMA_QUESTION_SCN_02>

We agree that Table 1 of the Annex is a good representation of the types and sources of risks to which a CCP could be exposed in principle, but we believe that it may in some ways be too detailed. We see two potential drawbacks to this: Firstly, it may accidentally exclude certain types of unique risk that specific individual CCPs may be exposed to and, secondly, it may guide CCPs to create scenarios that are not as tailored to the risk profile of the individual CCP as they could be. For example, in some cases, the Guideline seems to assume not only the 'type of scenario' but also the *root cause* of the scenario. In other cases, the Guidelines appear to assume the specific recovery options that would be most appropriate in certain cases: For example, for Scenario 1, 'voluntary, market-based tools' are assumed to be appropriate, and for Scenario 2 'mandatory, rules-based arrangements' are the recovery option assumed. We would therefore suggest that ESMA consider making the list of types of scenarios somewhat less specific, in order to allow CCPs appropriate flexibility in tailoring the scenarios to their specific business models and risk profiles.

<ESMA_QUESTION_SCN_02>

Q3 : Do you agree that CCPs should further assess, based on the factors provided, whether it is necessary to create additional scenarios for each type of scenario?

<ESMA_QUESTION_SCN_03>

Where a CCP is of the opinion that any additional type of scenario would be necessary, we agree that it should have the flexibility to add it on a voluntary and case-by-case basis.

<ESMA_QUESTION_SCN_03>

**Guideline 2 Question:**

Q4 : Do you agree with the proposed Guideline 2 and the list of relevant types and sources of risk that CCPs should cover when building their range of recovery plans scenarios?

<ESMA_QUESTION_SCN_04>

We generally agree with the types and sources of risk that ESMA has identified in Guideline 2. However, as indicated to in our previous responses, we would caution against an overly prescriptive approach and would recommend allowing some flexibility for CCPs to assess the risks to be reflected in their recovery plan scenarios based on their individual risk profiles.

<ESMA_QUESTION_SCN_04>

## Guideline 3 Questions:

Q5 : Do you agree with the proposed Guideline 3 and the principles for determining the magnitude of the recovery plan scenarios (with reference to the overall risk management framework of the CCP as required by EMIR and the relevant RTSs)?

<ESMA_QUESTION_SCN_05>

Yes, we agree with the principles in Guideline 3.

<ESMA_QUESTION_SCN_05>

Q6 : As regards operational risk, do you agree the recovery plan scenarios should include, if deemed relevant, scenarios in which all resiliency measures that form part of the policies and procedures required by Article 34 of EMIR are surpassed, leading to a failure in one or more critical functions of the CCP that exceed the legal requirement set out in article 17(6) of RTS 153/2013?

<ESMA_QUESTION_SCN_06>

Yes, we think this is a good approach to calibrating the magnitude of operational risk scenarios.

<ESMA_QUESTION_SCN_06>

## Guideline 4 Question:

Q7 : Do you agree with the proposed Guideline 4 and the information to be included when describing the recovery plan scenarios?

<ESMA_QUESTION_SCN_07>

Yes, we believe Guideline 4 is comprehensive and also provides a useful framework for structuring the scenarios in the recovery plan.

<ESMA_QUESTION_SCN_07>

**Guideline 5 Question:**

Q8 : Do you agree with the proposed Guideline 5?

<ESMA_QUESTION_SCN_08>

Yes, we agree with Guideline 5.

<ESMA_QUESTION_SCN_08>


**Cost and Benefit Analysis Questions:**

Q9 : Do you agree with the Option 3, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 3)?

<ESMA_QUESTION_SCN_09>

We agree in principle, but we would also refer back to the concerns we expressed in response to Questions 1 and 2.

<ESMA_QUESTION_SCN_09>


Q10 : If you advocated for a different approach, how would it impact the cost and benefit assessment? Please provide details.

<ESMA_QUESTION_SCN_10>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_SCN_10>