
**EACH response to the ESMA consultation
on Draft Guidelines on the summary of
resolution plans (Article 12(7)(a) of
CCPRRR)**

August 2022

Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 18 members from 14 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

EACH appreciates the opportunity to provide feedback to the ESMA Consultation Paper on Draft Guidelines on the summary of resolution plans (Article 12(7)(a) of CCPRRR) (hereinafter called "The consultation")¹.

Section III.1 – Guideline 1: General considerations of relevance and proportionality

Question 1: Do you agree with the general considerations in establishing the summary of the resolution plan in Guideline 1? If not, please explain why.

EACH overall agrees with the general considerations in establishing the summary of the resolution plan in Guideline 1.

Question 2: Do you agree with ESMA's proposal of establishing a harmonised template of the summary of the resolution plan? If not, how would you suggest the summary to look like? Please provide details.

EACH overall agrees with ESMA's proposal of establishing a harmonised template of the summary of the resolution plan.

Question 3: Do you agree with how the principle of proportionality has been considered for the purpose of the summary of the resolution plans? If not, please explain why.

EACH overall agrees with how the principle of proportionality has been considered for the purpose of the summary of the resolution plans.

Section III.2 – Guideline 2: Default and non-default events scenarios

Question 4: Do you agree with Guideline 2 on the key aspects of the default and non-default scenarios that should be included in the summary of the resolution plan? Please provide details.

¹ https://www.esma.europa.eu/sites/default/files/library/esma91-372-1630_guidelines_template_summary_resolution_plans_article_127a_public.pdf

EACH overall agrees on the key aspects of the default and non-default scenarios that should be included in the summary of the resolution plan. In the context of non-default event scenarios, EACH would like to reiterate the importance of distinguishing among **two main types of non-default events**:

- Those non-default events that are the **sole responsibility of the CCP**;
- Non-default events whose responsibility is to be **shared among different stakeholders** and that occurred despite the CCP complying with all the rules.

As a general rule, and as foreseen in Recital 20 of the CCP Recovery and Resolution Regulation², EACH believes that all stakeholders involved (e.g. CCP or clearing members) should bear the losses caused by a non-default event if they are responsible for them unless other arrangements are indicated in the CCP rulebook. Loss allocation for non-default losses should be proportional to the level of responsibility and/or benefits extracted from a service of each stakeholder.

² *As a general principle, losses in recovery should be distributed between CCPs, clearing members, and, where applicable, their clients as a function of their responsibility for the risk transferred to the CCP and their ability to control and manage such risks. Recovery plans should ensure that the CCP's capital is exposed to losses caused by both default and non-default events, before losses are allocated to clearing members.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0023&from=EN>