



European Securities and  
Markets Authority

# Report to the European Commission

**Cross-border services and handling of applications under Article 23 of CSDR**



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## Table of Contents

Executive Summary .....	2
1 Legislative references and acronyms.....	4
1.1 Legislative references.....	4
1.2 Acronyms .....	5
2 Background .....	6
3 Scope .....	6
4 Sources of information.....	7
5 Findings.....	8
5.1 CSD SERVICES PROVIDED ON A CROSS-BORDER BASIS.....	8
<b>5.1.1 Measuring CSD cross-border services .....</b>	<b>8</b>
<b>5.1.2 Evolution of CSD cross-border services since CSDR entry into force..</b>	<b>20</b>
<b>5.1.3 Evolution of CSD cross-border services in the next 3 to 5 years .....</b>	<b>22</b>
<b>5.1.4 Evolution in the pricing of CSD cross-border services .....</b>	<b>24</b>
<b>5.1.5 Considerations on the provision of cross-border services by CSDs ....</b>	<b>24</b>
5.2 HANDLING OF APPLICATIONS TO PROVIDE CROSS-BORDER NOTARY AND CENTRAL MAINTENANCE SERVICES.....	26
<b>5.2.1 Characteristics of the applications received .....</b>	<b>26</b>
<b>5.2.2 Handling of applications by the Home Member State NCAs .....</b>	<b>29</b>
<b>5.2.3 Handling of applications by Host Member State NCAs .....</b>	<b>30</b>
<b>5.2.4 Handling of applications by Host Member State RAs .....</b>	<b>31</b>
<b>5.2.5 Main suggestions for improvement of the cross-border application process</b>	<b>32</b>
6 Conclusion.....	42
7 Annexes .....	44
7.1 Annex I: List of respondents .....	44
7.2 Annex II: List of authorities and CSDs covered by the responses to the survey ..	45
7.3 Annex III: ESMA survey.....	47

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## Executive Summary

### Reasons for publication

According to Article 74 of CSDR, ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit annual reports to the European Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by CSDR.

In accordance with paragraphs (d) and (f) of Article 74(1) of CSDR, the present report covers: *“the cross-border provision of services covered by this Regulation based on the number and types of CSD links, number of foreign participants in the securities settlement systems operated by CSDs, number and volume of transactions involving such participants, number of foreign issuers recording their securities in a CSD in accordance with Article 49 and any other relevant criteria;”* and *“the handling of applications submitted in accordance with the procedures referred to in Article 23(3) to (7) of CSDR”*.

### Contents

The present report is structured in 5 Sections and 3 Annexes.

Section 1 describes the background for this exercise.

Section 2 lists the legislative references and acronyms used.

Section 3 sets out the scope of the report.

Section 4 details the source of information used for the analysis in the report.

Section 5 covers the findings of this report, divided in 2 subsections dedicated to (i) the provision of cross-border services by CSDs and (ii) the handling of applications submitted in accordance with Article 23(3) to (7) of CSDR.

Finally, Section 6 presents the conclusion.

Then, Annex I provides the list of respondents to ESMA’s survey, Annex II details the authorities and CSDs which provided responses and Annex III includes the questions in the survey used as the baseline for the preparation of this report.

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## **Cross-border provision of CSD services**

European CSDs' cross-border activity i.e. the CSD services provided in host Member States can be measured through the study of the use of CSD links established between EU CSDs and through the measurement of the services provided to participants and issuers from host Member States.

EU CSDs which responded to ESMA survey all have links with CSDs from other Member States and maintain an average of five links with other EU CSDs, and the numbers are relatively stable since 2017. Most of these links are standard (or direct) links and allow for delivery versus payment settlement.

Consistently with the data collected by ESMA, most respondents did not detect any major variation in the provision of cross-border services since the entry into force of CSDR, but do foresee a potential increase in the coming years with the progressive harmonisation of the regulatory framework.

They however also see challenges to the development of cross-border services, such as the absence of harmonisation of securities law across the EU, and the application process to provide services in another Member State as currently set out in Article 23 of CSDR.

## **Handling of applications submitted in accordance with Article 23(3) to (7) of CSDR**

Authorities and market participants agree on the complexity and lack of clarity of the application process through which CSDs have to go to be able to provide notary and central maintenance services in other Member States.

Suggestions have been made to simplify the process, ranging from replacing it with a simple notification procedure, to streamlining and clarifying certain aspects of the existing process, in particular as to the determination of the relevant law, the assessment of the measures the CSD has to take to comply with the law of the host Member State and the prerogatives of the host Member State competent authority in the process.

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# 1 Legislative references and acronyms

## 1.1 Legislative references

CSDR	Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC
MIFID2	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU Text with EEA relevance
RTS on CSD Requirements	Commission Delegated Regulation Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories

## 1.2 Acronyms

CSD	Central Securities Depository
EC	European Commission
ESMA	European Securities and Markets Authority
EEA	European Economic Area
EU	European Union
NCA	National Competent Authority, designated as per Article 11 of CSDR
PTSC	Post-Trading Standing Committee
SSS	Securities settlement system

## 2 Background

1. According to Article 74 of CSDR, ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit annual reports to the European Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by CSDR.
2. Those reports shall notably include an assessment of the provision of services on a cross-border basis in other Member States and of the handling of applications to provide services on a cross-border basis, which are the topics covered by this survey.

## 3 Scope

3. This report presents two aspects of the provision of cross-border services by CSDs:
  - “the cross-border provision of services covered by this Regulation based on the number and types of CSD links, number of foreign participants in the securities settlement systems operated by CSDs, number and volume of transactions involving such participants, number of foreign issuers recording their securities in a CSD in accordance with Article 49 and any other relevant criteria;”
  - “the handling of applications submitted in accordance with the procedures referred to in Article 23(3) to (7) of CSDR”.
4. **Personal scope.** This report covers the services provided by CSDs established in the EU<sup>1</sup> in Member States other than the one of their establishment. It does not cover the activities of central banks acting as CSDs in the EU given that, as per Article 1(4) of CSDR, they are exempted from certain CSDR requirements, including the requirements on CSD links and on provision of services in other Member States.
5. **Material scope.** This report covers the provision of services in host Member States however in terms of CSD services, the scopes of the two parts differ: the first part on cross-border provision of services covers the three core CSD services (settlement, notary and central maintenance services, as per Article 23(1) of CSDR) while the second part on the handling of applications is narrower, as, according to Article 23(2) of CSDR, the procedure only applies to “CSDs that intend to provide the core services referred to in points 1 and 2 of Section A of the Annex in relation to financial instruments constituted under the law of another Member State referred to in Article 49(1) or to set up a branch in another Member State” i.e. only to the provision of notary and central maintenance services.

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<sup>1</sup> All references to “EU” should be read as ‘EEA’ given that CSDR has been incorporated into the EEA Agreement as of 1 January 2020.

## 4 Sources of information

6. **ESMA survey.** In preparation for this first report on this topic, in June and July 2020 ESMA developed and launched a survey addressed to CSD national competent authorities (NCAs), relevant authorities as defined in Article 12 of CSDR (RAs) and relevant European trade associations.
7. The responses to the survey are the primary source of information that fed this report and any conclusions drawn stem from the contributions of the authorities and the trade associations.
8. **Respondents.** In total, 22 authorities, covering 22 EU CSDs, and 3 trade associations (AFME, EBF and ECSDA) have provided their input to various parts of this survey. Please refer to Annexes 1 and 2 for more details on the respondents and covered CSDs (including their CSDR authorisation status).
9. CSDR entered into force in September 2014, however the requirements relating to the provision of cross-border services, i.e. services provided in other Member States, only started applying to CSDs upon their authorisation under Article 16 of CSDR. At the date of the survey, 22 CSDs had been authorised under Article 16 of CSDR, mainly in 2018 and 2019. It does not cover services provided in securities settlement systems (SSSs) operated by central banks (six central banks operate SSSs in the EU).
10. As there are currently 29 CSDs in operation within the EU, this first report can therefore not be seen as providing a full overview of the cross-border provision of services by CSDs in the EU but gives an indication on trends in this area over the last few years.
11. **Substantial importance indicators.** This report has also been informed by the data provided for the annual exercise on substantial importance, which has been conducted for three years and now includes all EU CSDs. It allows ESMA to collect information in order to identify the countries in which either the notary and central maintenance services, or the settlement services, carried out by a CSD have become of substantial importance for the functioning of the securities markets and the protection of investors<sup>2</sup>. The data collection process is conducted by reference to the criteria defined in the Commission Delegated Regulation (EU) 2017/389<sup>3</sup> and to ESMA Guidelines on the process for the calculation of the indicators to determine the substantial importance of a CSD for a host Member State<sup>4</sup>.

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<sup>2</sup> Article 24 of CSDR

<sup>3</sup> Commission Delegated Regulation (EC) 2017/389 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host Member States

<sup>4</sup> [ESMA CSDR guidelines on substantial importance of a CSD](#)



## 5 Findings

### 5.1 CSD SERVICES PROVIDED ON A CROSS-BORDER BASIS

#### 5.1.1 Measuring CSD cross-border services

12. This report provides an overview of the provision of services by CSDs on a cross-border basis within the EU. To estimate the size of the provision of cross-border services by CSDs, several indicators may be used:

- Number and use of CSD links between EU CSDs,
- Services provided to users (i.e. issuers and participants) from other Member States,
- Services provided in relation to financial instruments constituted under the law of another Member State.

##### 5.1.1.1 CSD links

13. Under CSDR, a CSD link is “an arrangement between CSDs whereby one CSD becomes a participant in the securities settlement system of another CSD, in order to facilitate the transfer of securities from participants of the latter CSD to the participants of the former CSD, or an arrangement whereby a CSD accesses another CCSD indirectly via an intermediary. CSD links include standard links, customised links, indirect links, and interoperable links.”<sup>5</sup>. In practice, it allows one CSD to give its clients access to the securities recorded and settled in another CSD, through the opening of an account with the latter CSD.

14. This section studies the existing CSD links through various criteria: (i) the number of links established between EU CSDs, (ii) the number of new links established since the entry into force of CSDR, (iii) the characteristics of the links established between the EU CSDs: types of CSD links, as defined under CSDR, settlement model (DvP vs FoP), (iv) types of financial instruments settled through EU CSD links and (v) figures on the volume and value of settlement instructions settled through these links.

#### **Number of links established between EU CSDs**

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<sup>5</sup> Article 2(1)(29) of CSDR

Country	CSD	2017	2018	2019	2020
BE	CIK (Euroclear Belgium)	4	4	4	4
BE	Euroclear (Euroclear Bank) - ICSD	23	23	25	25
CZ	Central Securities Depository Prague (CSD Prague)	3	3	3	3
DE	Clearstream Banking AG	10	10	13	13
ES	Iberclear		5	6	6
FI	Euroclear Finland	4	4	4	4
FR	Euroclear France	8	8	8	8
HU	KELER Ltd	1	1	1	1
IT	Monte Titoli		10	11	10
LU	Clearstream Banking S.A. - ICSD	34	36	34	31
LU	LuxCSD	2	3	3	3
NL	Euroclear Nederland	8	8	8	8
PL	KDPW	7	7	7	7
PT	Interbolsa		3	1	1
RO	Depozitarul Central	5	7	1	1
SE	Euroclear Sweden	5	6	6	6
SI	KDD Central Securities Clearing Corporation (KDD)	3	3	3	3
SK	CSD of the Slovak Republic (CDCP SR)	4	4	4	4
SK	Narodny centralny depozitar cennych papierov, akciová spoločnosť (NCDCP)		1	1	
		2017	2018	2019	2020
	<b>Total number of links</b>	<b>121</b>	<b>146</b>	<b>143</b>	<b>138</b>
	<b>Average number of links</b>	<b>8.1</b>	<b>7.7</b>	<b>7.5</b>	<b>7.7</b>
	<b>Total number of links excluding ICSDs</b>	<b>64</b>	<b>87</b>	<b>84</b>	<b>82</b>
	<b>Average number of links excluding ICSDs</b>	<b>4.9</b>	<b>5.1</b>	<b>4.9</b>	<b>5.1</b>

15. If we take aside the two ICSDs<sup>6</sup> which both have a very high number of links (respectively 31 for Clearstream Banking, 25 for Euroclear Bank), the average number of links per respondent CSD is approximately 5 links with other EU CSDs in 2020<sup>7</sup>.

### **New links: number of links established after the entry into force of CSDR.**

16. In the area of CSD links the entry into force of CSDR indeed differs for each CSD, as it depends on its date of authorisation under Article 16 of CSDR<sup>8</sup> as this is the date when CSDs must begin to comply with the requirements set out in Title III and IV of CSDR<sup>9</sup>. According to the responses received, only 2 CSDs have set up new links since their authorisation i.e. directly under the new requirements: 12 new links have been established so far (9 by Iberclear (8 in 2018 and 9 in 2019 and 2020), and 3 by Interbolsa (1 in 2018, 2019 and 2020)). All other operating CSD links had been set up prior to the authorisation of CSDs under CSDR and were adapted to the new requirements for the authorisation purposes.

<sup>6</sup> Although the concept of international CSD (or ICSD) is widely used, it is not defined under CSDR. One can refer to this description provided by the ECB in its [Glossary of terms related to payment, clearing and settlement systems in 2009](#): *a central securities depository (CSD) which was originally set up to settle Eurobond trades and is now active also in the settlement of internationally traded securities from various domestic markets, typically across currency areas. At present, there are two ICSDs located in EU countries: Clearstream Banking in Luxembourg and Euroclear Bank in Belgium.*

<sup>7</sup> The numbers have been reported per type of link (standard, indirect, interoperable, or customised), per settlement model (DvP, FoP or both), and position in the link (requesting vs receiving CSD).

<sup>8</sup> Please see Annex 2 hereto for the status of the authorisation process for each CSD covered in this report

<sup>9</sup> Cf. [European Commission CSDR FAQ October 2014](#), Question 9.

## **Types of CSD links established between EU CSDs**

17. CSDR distinguishes the following four types of links<sup>10</sup>:

**Standard links**<sup>11</sup> are links whereby a CSD becomes a participant in the securities settlement system of another CSD under the same terms and conditions as applicable to any other participant in the securities settlement system operated by the latter (they are also called “direct links”). As shown in the table below, the majority of links established between responding CSDs are standard links (64.5% in 2020).

**Indirect links**<sup>12</sup> are arrangements between a CSD and a third party other than a CSD, that is a participant in the securities settlement system of another CSD. Such link is set up by a CSD in order to facilitate the transfer of securities to its participants from the participants of another CSD. Approximately a quarter (23% in 2020) of the links reported are indirect links.

**Interoperable links**<sup>13</sup> are links whereby CSDs agree to establish mutual technical solutions for settlement in the securities settlement systems that they operate. This type of links notably exists between the two ICSDs (called “the Bridge”), and between the CSDs participating in T2S<sup>14</sup>, for the purposes of their settlement taking place in T2S<sup>15</sup>. Out of the 22 CSDs covered in this report, 14 are connected to T2S since 2017, which would explain the rise in the number of interoperable links between 2017 and 2018.

**Customised links**<sup>16</sup> are links whereby a CSD that becomes a participant in the securities settlement system of another CSD is provided with additional specific services to the services normally provided by that CSD to participants in the securities settlement system. Only one customised link has been reported through our survey.

18. The table below shows the various types of links established by CSDs covered by our survey since 2017, as reported by each respondent NCA:

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<sup>10</sup> CSDR does not distinguish the so-called “relayed links” as such i.e. indirect links where the intermediary is a CSD.

<sup>11</sup> Article 2(1)(3) of CSDR

<sup>12</sup> Article 2(1)(32) of CSDR

<sup>13</sup> Article 2(1)(33) of CSDR

<sup>14</sup> [T2S](#), or Target-2 Securities, is a settlement platform owned by the Eurosystem, allowing for delivery-versus-payment (DvP) settlement in Euro and Danish Krone. Please note in respect of the reference to T2S made throughout this report that the Eurosystem (as T2S Operator) was not consulted on this document and the mentioned associations cannot provide a full picture/representation of T2S stakeholders and governance. Therefore, the views on T2S were only expressed by some of the respondents to this survey and cannot be taken as representing a (market) consensus view or the views of ESMA.

<sup>15</sup> Cf. [ESMA CSDR Q&As](#), CSD Question 10(d)

<sup>16</sup> Article 2(1)(31) of CSDR

Type of link	2017	2018	2019	2020
customised	1	1	1	1
indirect	41	44	34	33
interoperable	11	19	20	18
standard	68	82	88	86
	2017	2018	2019	2020
<b>Total number of links</b>	<b>121</b>	<b>146</b>	<b>143</b>	<b>138</b>

### Receiving vs requesting CSDs

19. Under CSDR, the *receiving CSD* is the one that received the request of another CSD to have access to its services through a CSD link<sup>17</sup>, whereas the *requesting CSD* is the one that requests access to the services of another CSD through a CSD link<sup>18</sup>.

20. The table below shows that most CSDs are mostly receiving CSDs which means they give access to other CSDs to the securities settlement systems they operate.

Type of linked CSD	2017	2018	2019	2020
receiving linked CSD	80	87	86	82
requesting linked CSD	35	45	42	41
Both	6	14	15	15
	2017	2018	2019	2020
<b>Total number of links</b>	<b>121</b>	<b>146</b>	<b>143</b>	<b>138</b>

### DvP vs FoP links

21. “DvP” or “delivery versus payment” designates a securities settlement mechanism which links a transfer of securities with a transfer of cash in a way that the delivery of securities occurs if and only if the corresponding transfer of cash occurs and vice-versa<sup>19</sup>.

22. “FoP” stands for “free of payment” and designate a type of link that allows only for transfers of securities. Examples for use of FoP settlement could be portfolio transfers or the processing of a corporate action or a securities lending transaction. It may also be used when the parties have made an arrangement to settle the cash leg of a securities transaction outside of the securities settlement system where the securities leg is to be settled (eg. if in a foreign currency not settled by that SSS).

<sup>17</sup> Article 2(1)(5) of CSDR

<sup>18</sup> Article 2(1)(6) of CSDR

<sup>19</sup> Article 2(1)(27) of CSDR

23. The table below shows the number of each type of reported CSD link<sup>20</sup>. In 2020, 77% of CSD links reported by the responding CSDs allow for settlement on a DvP basis, while 21% are only available for free of payment.

DvP vs. FoP	2017	2018	2019	2020
DvP link	41	63	58	56
FoP link	29	30	29	29
Both	43	45	48	45
Unknown	8	8	8	8
	2017	2018	2019	2020
<b>Total number of links</b>	<b>121</b>	<b>146</b>	<b>143</b>	<b>138</b>

#### Types of financial instruments settled through links

24. The table below shows per each year the number of reported CSD links that settle the various types of financial instruments listed under MIFID2. Apart from emission allowances, all types of financial instruments are settled through the responding CSD links, with a preponderance in shares (category (a)) and bonds (categories (b) and (c)).

Types of financial instruments settled through links	2017	2018	2019	2020
a) transferable securities referred to in point (a) of Article 4(1)(44) of Directive 2014/65/EU	45	63	60	58
b) sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU	38	51	54	51
c) transferable securities referred to in point (b) of Article 4(1)(44) of Directive 2014/65/EU, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU	29	42	43	41
d) transferable securities referred to in point (c) of Article 4(1)(44) of Directive 2014/65/EU	24	22	23	22
e) exchange-traded funds as defined in point (46) of Article 4(1) of Directive 2014/65/UE	16	17	19	23
f) units in collective investment undertakings, other than ETFs	15	15	18	18
g) money-market instruments, other than sovereign debt referred to in Article 4(1)(61) of Directive 2014/65/EU	0	0	2	2
h) emission allowances	0	0	0	0
i) other types of financial instruments	1	3	6	8
	2017	2018	2019	2020
<b>Total</b>	<b>168</b>	<b>213</b>	<b>225</b>	<b>223</b>

<sup>20</sup> The "unknown" category stands for the links for which we did not receive the relevant information.





host Member State that are initially recorded or centrally maintained in securities accounts by all CSDs established in the Union;

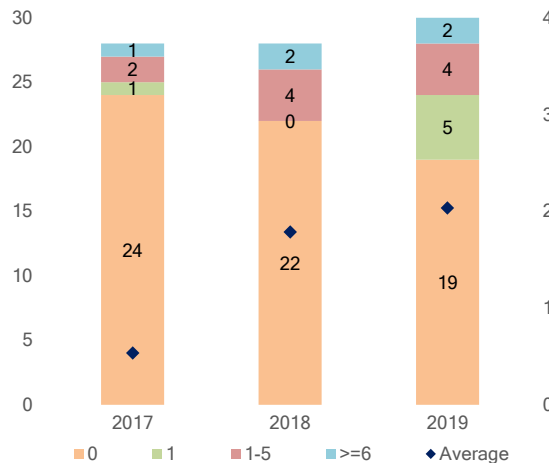
- the aggregated market value of financial instruments centrally maintained in securities accounts by the CSD for participants and other holders of securities accounts from the host Member State represents at least 15 % of the total value of financial instruments centrally maintained in securities accounts by all CSDs established in the Union for all participants and other holders of securities accounts from the host Member State.

32. In order to ensure a consistent application of the relevant provisions of the Commission Delegated Regulation (EU) 2017/389, ESMA has published guidelines<sup>26</sup> to clarify the scope of the data to be reported for the purpose of the calculation of the relevant indicators, by providing examples regarding the types of transactions and operations that should be included, as well as examples regarding the types of transactions and operations that should not be included.
33. The two graphs below show the evolution of this indicator per year since 2017, noting that Evolution of the indicators since 2017 of the number of host Member States for which the activity of a CSD is substantially important: noting that (i) the indicator for 2017 is based only on the figures provided for notary and central maintenance services provided by CSDs in relation to financial instruments issued by issuers established in host Member States, and that (ii) the EEA/EFTA States have been included in the scope of these calculations only in 2019.
34. The chart below shows a slight increase in the number of Member States in which the activities of CSDs from other Member States are of substantial importance:

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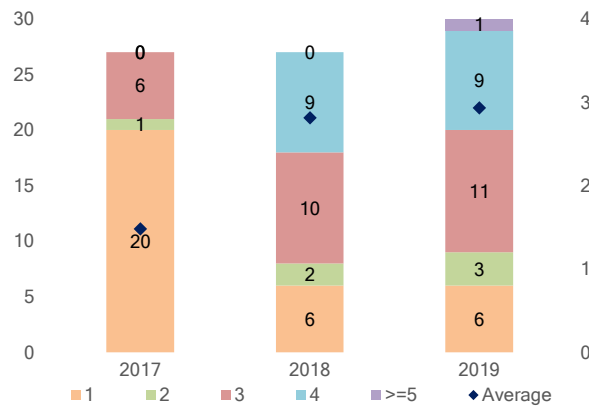
<sup>26</sup> [ESMA Guidelines](#) on the Process for the Calculation of the Indicators to Determine the Substantial Importance of a CSD for a Host Member State, 24 May 2018





Note: Number of CSDs by bucket of number of other EEA30 States for which a CSD is of substantial importance, excluding its home State. Average per CSD reported on the right-hand side.  
Sources: NCAs, ESMA.

35. The chart below also shows a slight increase in the number of EU CSDs which are of substantial importance in other Member States:



Note: Number of CSDs by bucket of number of CSDs of substantial importance per EEA31 State (including CSDs from the same State and excluding Central Banks). Average per EEA State reported on the right-hand side.  
Sources: NCAs, ESMA.

### Services to participants from other Member States

36. **Types of participants.** Under CSDR, ‘participant’ is defined by reference to the definition given in the Settlement Finality Directive (or ‘SFD’)<sup>27</sup>, which defines ‘participant’ and distinguishes ‘indirect participants’<sup>28</sup>.

<sup>27</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, OJ L 166, 11.6.1998, p. 45–50

<sup>28</sup> Article 2(f) and (g) of SFD:

- ‘participant’ shall mean an institution, a central counterparty, a settlement agent or a clearing house.

According to the rules of the system, the same participant may act as a central counterparty, a settlement agent or a clearing house or carry out part or all of these tasks.

A Member State may decide that for the purposes of this Directive an indirect participant may be considered a participant if it is warranted on the grounds of systemic risk and on condition that the indirect participant is known to the system;

37. The ESMA survey asked respondents to distinguish between three categories of participants established in host Member States: linked CSDs (direct or indirect), direct participants other than CSDs, and indirect participants other than CSDs. Please see the below table<sup>29</sup>, which shows the total number of each type of participants and the averages per CSD and per SSS, and that most participants from host Member States are direct participants in the responding CSDs.

Type of participants	2017	2018	2019	2020
Direct participant, other than CSDs	882	930	1,036	1,048
Indirect participants other than CSDs	2	6	6	7
Linked CSDs	41	48	51	49
	2017	2018	2019	2020
<b>Total number of participants</b>	<b>925</b>	<b>984</b>	<b>1,093</b>	<b>1,104</b>
	2017	2018	2019	2020
<b>Average per CSD - Direct participant, other than CSDs</b>	<b>80.2</b>	<b>71.5</b>	<b>79.7</b>	<b>80.6</b>
<b>Average per CSD - Indirect participants other than CSDs</b>	<b>0.3</b>	<b>0.8</b>	<b>0.8</b>	<b>1.2</b>
<b>Average per CSD - Linked CSDs</b>	<b>3.7</b>	<b>3.7</b>	<b>3.9</b>	<b>3.8</b>
	2017	2018	2019	2020
<b>Average per SSS - Direct participant, other than CSDs</b>	<b>80.2</b>	<b>71.5</b>	<b>79.7</b>	<b>80.6</b>
<b>Average per SSS - Indirect participants other than CSDs</b>	<b>0.3</b>	<b>0.8</b>	<b>0.8</b>	<b>1.0</b>
<b>Average per SSS - Linked CSDs</b>	<b>3.7</b>	<b>3.7</b>	<b>3.9</b>	<b>3.8</b>

38. As for the **services** provided by CSDs to their foreign participants: the data collected to establish the substantial importance indicator allows to give a view on the share of each CSD in the provision of central maintenance services and settlement services to participants established in Member States other than its home Member State.

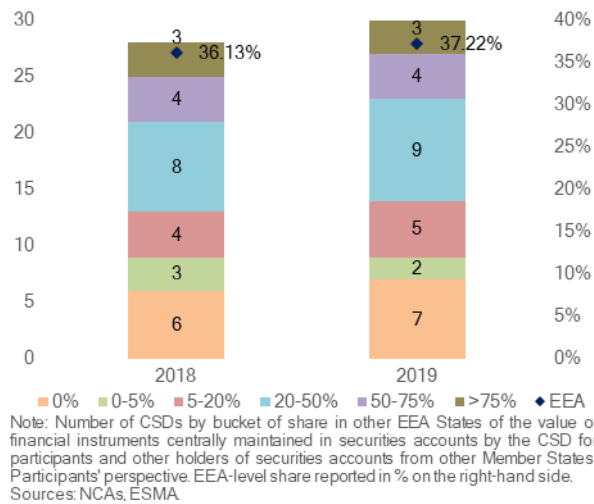
39. The two graphics below show that, overall, the share of central maintenance and settlement services provided to participants from other Member States by EU CSDs is of 37%. It also shows a slight increase in the share of EU CSDs in the provision of central maintenance and settlement services in other Member States.

- 'Indirect participant' shall mean a credit institution as defined in the first indent of (b) with a contractual relationship with an institution participating in a system executing transfer orders as defined in the first indent of (i) which enables the abovementioned credit institution to pass transfer orders through the system;

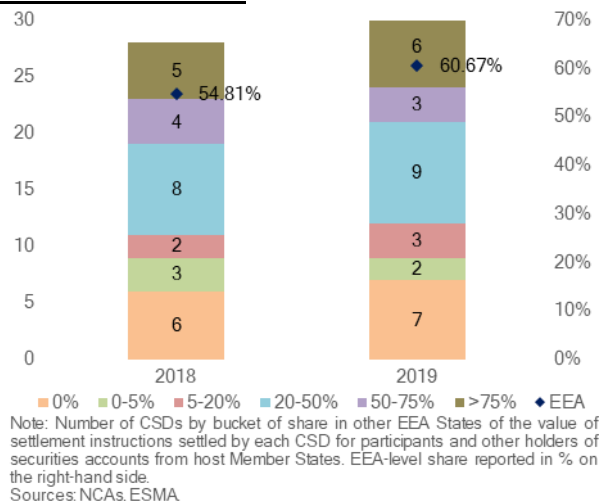
<sup>29</sup> Average computed by dividing the number of foreign participants (by type and year) by the number of reporting CSDs each year (same logic for SSS)

**40. Central maintenance services provided to participants from other Member States.**

The chart below shows the share of central maintenance services provided by each CSD to participants from other Member states, calculated in respect of the value of financial instruments centrally maintained in securities accounts by each CSD for participants and other holders of securities accounts from host Member States.



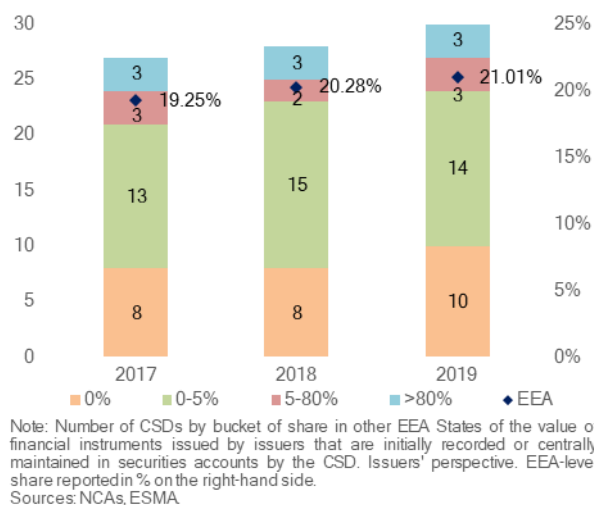
**41. Settlement services provided to participants from other Member States.** The chart below shows for each EU CSD the share of the value of settlement instructions settled by each CSD for participants and other holders of securities accounts from host Member States (annual value of settlement instructions settled by each CSD for participants and other holders of securities accounts from other Member States). While two-thirds of EU CSDs settle less than 50% of instructions for participants from other Member States (in value of instructions settled), 6 CSDs provide settlement services to more than 75% of participants from other Member States.



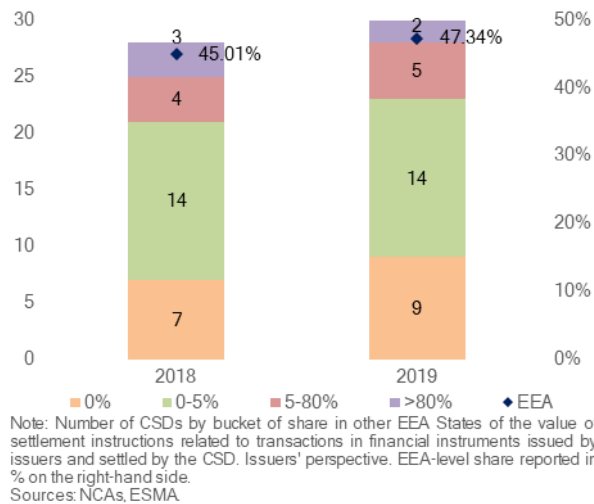
**Services provided to issuers from other Member States**

42. This section aims at providing an overview of the activity of EU CSDs in relation to financial instruments issued by issuers from another Member State, based on the market value of such instruments. The tables below tend to show that CSDs provide on average less services to issuers from other Member States than to participants from other Member States, and that the provision of services to issuers from other Member States is mainly concentrated on a very small number of CSDs, in particular on the ICSDs.

43. Notary and central maintenance services provided in relation to financial instruments issued by issuers from other Member States: the chart below shows the share in the value of financial instruments issued by issuers from host Member States that are initially recorded or centrally maintained in securities accounts by each CSD. Two different profiles of CSDs appear: while most EU CSDs do not provide or dedicate less than 5% of their notary and central maintenance activity to securities issued by issuers from other Member States, 3 of them (including the two ICSDs) provide more than 80% of their services in relation to issuers from other Member States.



44. **Settlement services provided in relation to transactions on financial instruments issued by issuers from other Member States:** the chart below shows the share in host Member States, in the value of settlement instructions related to transactions in financial instruments issued by issuers from host Member States and settled by each CSD. Here as well the particularity of the ICSDs clearly appears: for most EU CSDs, the settlement of securities issued by issuers from other Member States represents less than 5% of their settlement activity, while it represents more than 80% of the ICSDs' activity.



### 5.1.2 Evolution of CSD cross-border services since CSDR entry into force

45. Most respondents answered they did not notice any significant variation in the provision of cross-border services by CSDs since the entry into force of CSDR, giving the following reasons:

- **Lack of data** at this stage:
  - need to wait to have all CSDs authorised to precisely quantify if there is an effective variation in the provision of notary and central maintenance services,
  - although in general the service offering by CSDs has increased, a trade association answered that they do not have the relevant set of aggregated data to confirm to which extent the increased service offering corresponds to a variation in service activity. In the context of Article 23 of CSDR, they also highlighted that the fact of having a link or a foreign participant does not mean that a CSD provides cross-border services.
- One trade association highlighted that **much of the cross-border activity remains with global custodians**. For the provision of investor services (custody/intermediary services, and settlement services) for securities for which the CSD is acting as an investor CSD, both to domestic participants, and to participants located in another Member State, the respondent believes that although there has been a small increase in the provision of investor CSD services, the level of cross-CSD settlements is not an adequate indicator for measuring the provision of the above categories of cross-border services, nor is it a sign of potential low inbound investment into the EU capital markets by non-EU investors. There is already a well-established and functioning network of custodians and clearing banks, which provide those services to non-domestic investors at great efficiency and low cost. These custodians usually open accounts in the different issuer CSDs (directly or

via local sub-custodians). This trend has been seen after the launch of T2S for some global custodians to open such direct accounts. As a result, foreign investors can trade, settle and safekeep already adequately into the different domestic EU markets, trading venues and CSDs, without the need for cross-CSD settlement.

46. A few respondents noted an **increase**, although not significant, for the provision of central account maintenance, and settlement services provided by a CSD to a CSD participant located in another Member State, four respondents linking it to the launch of T2S<sup>30</sup>. An authority noted that overall, the valuation of securities where notary services are provided has increased between 2019 and 2020 but this can be explained by the increase in valuation of the underlying markets. The increase of number of issuers/securities is mostly due to a piling effect rather than an impact of CSDR provisions (this is based on absolute amounts that may take into account other factors). One authority mentioned there would be another increase in 2020 in connection with the stressed market conditions during the pandemic.
47. As to the **impact of CSDR**, although many respondents claimed it was premature after such limited time of application to really evaluate such impact, the following comments were made:
- The complexity of CSDR requirements led to heterogeneous interpretations between NCAs on Article 23 of CSDR.
  - Increased costs: since the entry into force of CSDR the impact of compliance cost on the business case related to the establishment of links has increased and may question the maintenance of links with lower volumes in the future. One NCA also mentioned a potential decrease in cross-border provision of services may occur for smaller CSDs, which, due to potential costs generated by the procedure introduced by Article 23 of CSDR, prefer not to maintain cross-border services in some member states, especially in cases where there is no important volumes to support those services.

**Other factors** appear more important than CSDR to drive development of cross-border services:

- Although CSDR and T2S, in particular, have led to more harmonised settlement processes, but neither significant increase nor decrease is noticed. The reasons are seen in the fact that trading requirements, economic, business or political factors are relevant for cross-border trading activities in the first place and not back-office services. Therefore, events like the Covid-19 pandemic seem to have a far bigger impact on these activities than technical harmonisation.

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<sup>30</sup> 20 European CSDs migrated to T2S in several waves in 2017. There are now 21 CSDs connected to T2S.

- Unharmonised securities law: the objective of CSDR (the harmonisation of requirements and prerequisites for issuance and settlement of securities) is well supported but cannot come into effect as long as the civil law requirements behind the technical processes remain fragmented. In respect of the cross-border provision of issuer services (provided by a CSD in one Member State to an issuer located in another Member State), a trade association also noted that the effective ability of CSDs to provide these services on a cross-border basis is critical. Without such an effective ability, the merger of CSDs, and effective competition between CSDs, are impossible. Besides the complexity and costs of CSDR, key reasons why CSDs find it difficult to provide these services include: the diversity of national issuance processes and requirements, of national corporate law requirements, and of national processes for the attribution of corporate action entitlements remains an issue (arguing on this last point that many national processes for the attribution of corporate action entitlement are – prima facie – inconsistent with Article 3 of CSDR).
  
- the valuation of securities where notary services are provided has increased between 2019 and 2020 but this can be explained by the increase in valuation of the underlying markets. The increase of number of issuers/securities is mostly due to a piling effect rather than an impact of CSDR provisions (this is based on absolute amounts that may take into account other factors).

### 5.1.3 Evolution of CSD cross-border services in the next 3 to 5 years

48. Most respondents foresee a **potential increase** of the provision of cross-border services by CSDs as an effect of implementation of harmonised rules, which should allow increased competition and economies of scale, in particular of settlement services via CSD links, and notably on T2S. One authority also noted that CSDs across the EU are either in the process of authorisation or have been recently authorised. We are of the view that it will take some time for these CSDs to focus efforts on passporting their services abroad.
49. Some respondents however foresee a **potential decrease** in cross-border provision of services for smaller CSDs which, due to the potential costs generated by the disproportionate procedure introduced by Article 23 of CSDR, would prefer not to maintain cross-border services in some member states, especially in cases where there is no important volumes to support those services.
50. Respondents mentioned the following **challenges** to the development of cross-border services:
- For notary and central maintenance services:

- unharmonised securities and company law, nationally specific corporate actions and withholding tax processes, including national requirements as to which entities can act as withholding agent
- Article 23 of CSDR itself is the main challenge, since it has produced divergent handling of applications among NCAs and divergent interpretations of the meaning of cross-border provision of services.

**ESMA** acknowledges the challenges linked to unharmonised securities, corporate and tax law, but also that addressing them would require a political agreement of all Member States and a Level 1 intervention. On Article 23 of CSDR, **ESMA** believes some identified shortcomings of the existing application process could be addressed through the planned CSDR targeted review, please refer to the next section of this report for further details.

- For settlement services: according to a trade association, substantial challenges remain around the settlement between the CSDs who use T2S as a common settlement platform, and the ICSDs which continue to settle through their own link<sup>31</sup>. These challenges are around: the usage of different settlement formats and deadlines, and the need to switch between commercial bank money settlement in the ICSDs vs. being able to settle in central bank money in T2S, leading to split liquidity and additional collateral costs, and inability to net trades for balance sheet netting purposes.

**ESMA** believes that the challenges referred to here would deserve further reflection.

- For the establishment of new CSD links: the different capabilities of the different CSDs complicate the risk assessments to be performed, which take longer and are more expensive.

**ESMA** considers that this is an impact of CSDR itself, of the requirements applicable to the establishment of links, more than a challenge for the development of cross-border services.

- For the provision of investor CSD services: additional challenges for participants in investor CSDs are linked (i) to the lack of clarity on the status of investor CSDs with regards to the liability for loss of assets and (ii) to the difficulties that investor CSDs experience in providing segregated accounts at the level of the issuer CSD. Investors can also choose to access local markets and the level of segregation in their current set-up of global and sub-custody, and use the custodians' services. In all those cases, challenges continue to arise out of national definitions of legal owner, national

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<sup>31</sup> The two ICSDs have set up an interoperable link between them called "the Bridge"



corporate event processing, national tax processes, and national registration and shareholder identification processes.

**ESMA** will further investigate the above-mentioned challenge, as to the interaction with CSDR requirements in terms of account segregation and as to the role of custodians in the provision of cross-border services.

#### 5.1.4 Evolution in the pricing of CSD cross-border services

51. Most of the respondents did not identify any trend in the pricing of cross-border services by CSDs, and only four respondents provided their assessment on this topic:

52. Among the respondents that provided their input, two noticed a **decrease** of the costs:

- one of them noticed that some CSDs have temporarily reduced the costs of providing their services and
- the other one reported that the CSD in its jurisdiction reduced the average unit price charged for a cross-border settlement instruction involving European securities markets by more than 3 between 2017 and 2020.

53. The other respondents noted to the contrary an **increase** of the costs:

- Increased regulatory compliance and heavy IT investments resulted and keep resulting in fee increases. ICSDs tend to increase fees for smaller markets, even tend to stop providing services to smaller markets, whereas local CSDs have kept their fees at the same level.
- The introduction of T2S did not lead to a decrease in the cost of settlement in Europe, as most CSDs continue to apply transaction charges on top of the T2S charges, even though settlement has been outsourced to T2S.

54. **ESMA** believes this topic should be further investigated with more substantiated data on the pricing of cross-border services.

#### 5.1.5 Considerations on the provision of cross-border services by CSDs

55. The following comments were made by respondents:

- One trade association noted **diverging practices among NCAs**, at various levels:
  - When applying Article 23 of CSDR, in general NCAs would be keen to request more information and data than the ones required by European legislation and Supervisors and that creates unjustified additional burden.
  - NCAs would be keen to request to be more engaged in the supervision of requesting CSD than what is expected under Article 24 of CSDR and that would create additional burden.

- Some NCAs wish to request for the banking services the passporting under CRR and CRD 4, which is not foreseen in CSDR and would create additional burden.

On this point, **ESMA** would like to highlight that the minimum requirement as to information and data are not clearly set in the regulation (this is one of the challenges also highlighted by the authorities when implementing this article) and that the higher complexities derive from the lack of harmonisation of corporate law that CSDs are supposed to support in front of harmonisation of financial services legislation. Although the CSDR passport has been designed having in mind the MiFID one, they are not comparable, because CSDR relies on national corporate laws, and national specificities are to be expected.

- **Facilitating access to non-domestic central bank money to CSDs should be considered:** access to central banks of other currencies in which the settlement of securities may take place would significantly increase the CSDs' capacity to provide cross-border services. More options for CSDs to offer settlement in different European currencies would make it easier for CSDs to address the issuers' needs from other Member States and would increase the cross-border activities. There are also concerns by CSDs that they meet the threshold for the Banking licence. There should be some base currencies which even though are not Euro, would still be allowable.
- **Importance of developing standard market practices:** a trade association highlighted that legislative change would need to be complemented by the creation of, and effective compliance with, pan-European market practices.
- CSDR requirements make **credit facility arrangements between CSDs and their CSD-participants** more costly, ultimately for end investors – this should be reviewed.

56. **ESMA** believe that the issues raised in this section should be further investigated and will follow-up on them in future reports.

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## 5.2 HANDLING OF APPLICATIONS TO PROVIDE CROSS-BORDER NOTARY AND CENTRAL MAINTENANCE SERVICES

### 5.2.1 Characteristics of the applications received

#### 5.2.1.1 Services provided on a cross-border basis

57. **Provision of both notary and central maintenance services.** The application process set out in Article 23(2) to (7) of CSDR applies to the provision of notary services (i.e. “*initial recording of securities in a book-entry system*”) and central maintenance services (i.e. “*providing and maintaining securities accounts at the top-tier level*”) in another Member State. Whereas the definition of ‘CSD’ under CSDR allows a CSD to provide these services separately<sup>32</sup>, all applications received by responding authorities were for the provision of both notary services and central maintenance services<sup>33</sup>.

#### 5.2.1.2 Measures taken by CSDs in accordance with host Member State corporate law

58. As a general remark in this respect, one authority wished to highlight that there is a large difference in the measures envisaged to be taken by the CSDs to cope with the issuance laws: in their notification, the vast majority of CSDs elaborate the measures they envisage to take to enable the issuers to comply with their applicable laws, while a limited number of CSDs explain in their notification that they will rely on their issuance acceptance process which puts the responsibility on the issuer to check whether the CSD is able to comply with their requirements, including the provision by the issuers of legal opinions certifying the CSD is able to cope with the issuance. According to the respective NCA, such divergent notification requirements should be adjusted through convergence measures, including by ESMA guidance on a minimum set of measures to be included in the notification for the home authority.

59. **Measures taken by CSDs to provide notary services in host MS.** Most responses received showed no country-specific measures to be taken or provided too high-level answers. However the answers showed there are split views among authorities as to the nature of the measures that should be established by a CSD to provide notary services in respect of securities governed by the law of the host Member State, ranging from corporate law measures (e.g. one NCA indicated that the general measures that CSDs take regardless of the constituting law when providing notary services are the new issues admission processes; and certain other services that it offers which facilitate in exercising their rights and obligations by the participants and issuers in relation to the relevant securities) or going much beyond, with measures which include but are not limited to holding, insolvency, securities loss and tax related requirements.

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<sup>32</sup> Cf. [ESMA CSDR Q&A](#)

<sup>33</sup> This application process also applies in case a CSD would provide cross-border services through a branch established in another Member State, however we did not collect any information on this from the survey.

60. **Measures taken by CSDs to provide central maintenance services in host MS.** Only one authority (CNMV) provided some details about country-specific measures that CSDs need to adopt to provide central maintenance services in relation to Spanish securities: a two-tier registration Spanish system composed of a *registro central* (central registry, CSD level) and a second-tier registry or *registro de detalle* (registry in detail, participants' level) and they must comply with the requirements and features that this two-tier registry should have under Spanish law, including the oversight responsibilities assigned to the CSDs. The rules governing this system must be developed in the CSD rulebook with the aim to comply with these functions. It should also be noted that the CSD is liable for any damages caused due to a lack of diligence in the exercise of its functions of monitoring and controlling the system.

**5.2.1.3 Financial instruments in relation to which applications to provide cross-border notary and central maintenance services were made**

Applying CSD	a) shares (Article 4(1)(44)(a) MIFID2)	b) sovereign debt (Article 4(1)(61) of MIFID2)	c) bonds (Article 4(1)(44)(b) of MIFID2), other than (b)	d) transferable securities (Article 4(1)(44)(c) of MIFID2)	e) ETFs	f) UCITS, other than ETFs	g) money-market instruments, other than (b)	h) emission allowances	i) other types of financial instruments
CIK (Euroclear Belgium)	14	25	25	26	11	11	25	0	0
Euroclear (Euroclear Bank) - ICSD	6	26	26	26	12	12	26	0	0
Clearstream Banking AG	7	8	8	8	6	6	8	0	0
Iberclear	0	0	0	1	0	0	0	0	0
Euroclear France	28	28	28	28	28	28	28	28	28
Monte Titoli	5	4	4	4	0	1	0	0	0
LuxCSD	0	2	2	0	1	1	0	0	0
Euroclear Nederland	26	26	26	26	26	26	26	26	26
KDPW	3	0	0	1	0	0	0	0	0
Euroclear Sweden	0	4	0	4	0	0	0	0	0
<b>Total</b>	<b>89</b>	<b>123</b>	<b>119</b>	<b>124</b>	<b>84</b>	<b>85</b>	<b>113</b>	<b>54</b>	<b>54</b>

61. The above table shows that the application files were received in respect of all types of financial instruments as listed under MIFID2 – which does however not mean that cross-border services will effectively be provided in respect of all these financial instruments.

62. The types of financial instruments that were most applied for are bonds (categories b, c) and money-market instruments other than sovereign debt (category g), and then shares, ETFs and UCITS, in decreasing order.

**5.2.1.4 Laws under which financial instruments are constituted in applications received.**

63. The below table shows very different profiles of the responding CSDs, with 5 of them applying to provide services in relation to financial instruments constituted under at least 20 different laws, and the other CSDs applying to provide cross-border services in less than 10 laws.

Country	CSD	Number of laws
BE	CIK (Euroclear Belgium)	26
BE	Euroclear (Euroclear Bank) - ICSD	26
LU	Clearstream ICSD	20
DE	Clearstream Banking AG	8
ES	Iberclear	1
FR	Euroclear France	28
IT	Monte Titoli	8
LU	LuxCSD	2
NL	Euroclear Nederland	26
PL	KDPW	3
SE	Euroclear Sweden	4

64. The next table shows the most used laws from EU jurisdictions:

National law	# used
DE	7
LU	7
AT	6
DK	6
FI	6
FR	6
IE	6
NL	6

## 5.2.2 Handling of applications by the Home Member State NCAs

65. **Existing process.** Under the current provisions of Article 23 of CSDR, the home Member State NCA is the entry point to the application process for provision of notary and central maintenance services by EU CSDs in other Member States. Home Member State NCAs receive the application file, including where relevant an assessment of the measures to be set up by the CSD to allow its users to comply with the laws of the host Member State and, within three months, shall either communicate that information to the host Member State NCA, or give the reasons of its refusal to the applicant CSD and inform the host Member State NCA accordingly. According to Article 23(4) of CSDR, such refusal shall be decided if, “*by taking into account the provision of services envisaged, [the home Member State NCA] has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State*”.

66. This process has been further specified through seven ESMA CSDR Q&As<sup>34</sup>.

67. **Outcome of the process.** No refusal has been reported.

68. **Length of the process** i.e. the time period between reception of the application file and its transmission to host Member State NCAs: on average six months. This appears to be much longer than the expected – however it covers mostly processes running concurrently with initial authorisation process which would explain such length.

69. Challenges encountered:

- **Clarifications to Article 23 of CSDR have been made so far in the form of L3 provisions** which are not legally binding (existing ESMA CSDR Q&As and new Article 23-related issues should be “upgraded” to Level 2 or Level 1 measures);
- Clarifications are required as to the **identification of the law** referred to in Article 23(2) of CSDR;
- Clarifications are needed in respect of the **measures CSDs have to take** to allow their users to comply with host Member State law requirements:
  - The level of detail requested as to the description of the measures should be harmonised;
  - The information provided by the Member States under Article 49(1) of CSDR and published on ESMA website as the key relevant provisions of their corporate or similar law are not harmonised, and the provisions relevant for the purposes of Article 23(3)(e) of CSDR are not identified as such;
  - An authority observed a difference in the requirement of the host Member State and the depth of the analysis required by the host Member State competent authorities – from very limited requirement to extensive ones, including a request withdrawn due to market specifics.

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<sup>34</sup> Cf. [ESMA CSDR Q&As](#), CSD Question 9 - Provision of services in other Member States

- Clarifications needed in respect of the **assessment** to be provided under Article 23(3)(e) of CSDR, in respect of both its substance and its format
- The role and the prerogatives of the **Host Member State NCA** in the process need to be clarified.
- Interactions with host Member State NCA's review to be clarified:
  - Absence of a clear process for the host Member State CA to request clarifications or additional information: introduction of a possibility for the Host Member State CA to ask for clarifications, set deadlines and to declare the completeness, which would become the starting point of the review.
  - Absence of clarity as to the conclusion of the review: silence not sufficiently clear, should be turned into an express approval.

### 5.2.3 Handling of applications by Host Member State NCAs

70. **Existing process.** The host Member State NCA takes up the process when the home Member State NCA leaves it and concludes it. Under paragraphs 4 and 6 of Article 23 of CSDR, host Member State NCAs shall:

- receive the application file from the home Member State NCA within 3 months from the reception of that file by the latter;
- within three months, review the application file and either (i) communicate their decision to the applicant CSD, or, (ii) in case of approval of the file, remain silent, as in the absence of receipt of any communication from the host Member State NCA after three months from the transmission of the file by the home Member State NCA to the host Member State NCA, the applicant CSD can start providing services in the host Member State.

71. **Outcome of the process.** Out of the 69 applications reported by host Member State NCAs, at the date of the survey:

- 52 were approved
- 11 files were not approved, and
- No information was provided on the status of the other applications.

Out of the 11 applications that were reported as “not approved”:

- one case of withdrawal of the application by the applicant CSD following a request for clarification from the host Member State NCA was reported; and
- for the other applications, additional information and clarifications have been requested in relation to the CSD assessment of measures (no update received so far, no formal disapproval issued by the host Member State CA), they are considered as on-going.

72. **Length of the process** i.e. the period of time between the reception of documents from the home Member State NCA and the Host Member State NCA's decision. On average, the length of the review reported by host Member State NCAs for applications reported as "approved" was 130 days i.e. approximately 4 months, which is slightly longer than expected by the legislator. The maximum reported length is 481 days.

73. Challenges encountered:

**Lack of standardisation** in the quality of the information received:

- as the assessment required under Article 23(3)(e) of CSDR is not mandatory, its reception depends on the CSD's analysis.
- the level of detail greatly varied, in particular in the assessments made by CSDs.
- the form also varied: from legal opinions, to internal assessments, or to no assessment at all.
- Clarifications provided in ESMA Q&As only do not ensure harmonisation.

**Tight timeframe:** the three-month period set in Article 23(6)(b) of CSDR generally seen as too short to conduct a thorough review of the application and is sometimes used as a means to trigger the silent approval if unanswered during the three month period (the right to request complementary information should be included in level 1 procedures).

**Absence of process to request additional information** or clarifications.

#### 5.2.4 Handling of applications by Host Member State RAs

74. **Existing process.** Under Article 23 of CSDR, the relevant authorities of host Member States have no active role. Pursuant to the second subparagraph of Article 23(4) of CSDR they shall only be informed by the competent authorities of the same Member State of any communication received from the competent authority of home Member State.

75. **Information received.** Only two authorities have responded to the ESMA survey . The information received by the host Member State Relevant Authorities under Article 23(4) of CSDR, second paragraph varies depending on the applicant CSD:

- information listed under Article 23(3) of CSDR (i.e. the full application file)
- information listed under Article 23(3) and additional information such as the CSD's CPMI-IOSCO disclosure framework, the CSD's annual report and a note on the Rights of Clients to Securities deposited in the CSD.
- not the full application file but information on the targeted services, financial instruments, currencies.



76. **Follow-up information on the procedure:** one host Member State Relevant Authority mentioned having been updated of the start of provision of the services on a cross-border basis by the applicant CSD.

77. **Challenges encountered.** No specific challenge was reported by NCAs having acted as host Member State Relevant Authorities.

### 5.2.5 Main suggestions for improvement of the cross-border application process

78. Suggestions received cover the two aspects of the application process to provide notary and central maintenance services on a cross-border basis: its scope, with the well-known challenge of the identification of the “law under which securities are constituted” and the process itself. For the latter, two particular features of the process, which are linked, have attracted most of the comments:

- The assessment of the measures a CSD referred to under Art 23(3)(e) of CSDR, both in substance and in form, and
- The involvement and the prerogatives of host MS CAs in the process (Article 23(6) of CSDR).

79. In addition, a general comment also pointed that the clarifications provided in respect of Article 23 of CSDR were made so far only in the form of Level 3 measures (ESMA CSDR Q&As) and were therefore not legally binding.

80. Finally, several respondents suggested that a mandate should be given to ESMA to address the issues already tackled in CSDR Q&A 9 on cross-border provision of services through draft regulatory technical standards. The mandate shall give to ESMA the power to improve the current framework for the provision of services in another MS and to enhance the harmonisation as well as to better achieve the original purpose of CSDR.

81. In this respect, **ESMA** acknowledges the fact that the cross-border provision regime as it stands under Article 23 of CSDR raises a number of issues often requiring interpretation of Union law, as well as requiring an interpretation of national applicable laws and their extraterritorial application, so indeed, clarifications of the scope issue relating to the determination of the relevant law described below at a higher level in the hierarchy of norms would be welcome, as this would give more legal certainty to the market participants and authorities. However, it is important to note that for certain issues, Q&As allow more flexibility in the implementation and can usefully address other more processual issues for instance.

#### 5.2.5.1 Scope of the cross-border application process

82. According to the responses received to the survey, the most difficult issue concerning the implementation of Article 23(2) to (7) of CSDR appears to be the scope of application of

the process set in Article 23(2) of CSDR, which is based on the identification of the law to be considered as the “*law under which securities are constituted*”, that is relevant for the determination of the scope of this article, which is often described by respondents as “unnecessarily burdensome and complex, in particular for bonds”.

83. **ESMA** acknowledges the difficulties of interpretation linked to this provision. Indeed, Article 23(2) of CSDR refers to “the law of another Member State referred to in Article 49(1) [of CSDR]”, the latter provision mentioning the “corporate or similar law of the Member State under which the securities are constituted”. The issue is that while for shares, this determination is simple as the corporate aspects of the legal framework are usually governed only by their issuer’s national law, whereas for bonds, two different laws can apply to different aspects of a bond’s legal framework (the issuer’s law for the corporate aspects, and the contractual law chosen to govern certain (generally economic) rights attached to the issuance).

84. Suggestions received in order to simplify this were in favour of:

- Addressing the issue at Level 1 directly, with the objective of having only one host MS per issuance: for instance, by amending Article 23(2) (or alternatively 23(3)) of CSDR in order to clarify that where a CSD provides the core services referred to in points 1 and 2 of Section A of the Annex in relation to financial instruments for which the issuer has contractually elected a law different from the law of the Member State where such CSD is established, the CSD should be considered, for the purposes of article 23 of CSDR, as providing the services in the Member State [of which the law has been contractually elected]/[where the issuer is established] (two alternative options, provided that in the end only one is selected). This would clarify that for the purposes of Article 23 of CSDR there would be only one host Member State concerned, thus potentially avoiding two passporting procedures for a single issuance and would also avoid referring directly to Article 49(1) of CSDR and would simplify the interpretation of this article.
- Clarify the interplay between Articles 23 and 49(1) of CSDR (Article 23 cross-refers to the law designated in Article 49(1)).
- The elements in the Recital 56<sup>35</sup> of CSDR (which relates to Article 49(1) of CSDR) should be mentioned in an article and not only in a recital, in order to allow an easier

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<sup>35</sup> Recital 56 of CSDR: “In many Member States issuers are required by national law to issue certain types of securities, notably shares, within their national CSDs. In order to remove this barrier to the smooth functioning of the Union post-trading market and to allow issuers to opt for the most efficient way of managing their securities, issuers should have the right to choose any CSD established in the Union for recording their securities and receiving any relevant CSD services. Since harmonisation of national corporate law is beyond the scope of this Regulation, such national corporate or similar law under which the securities are constituted should continue to apply and arrangements be made to ensure that the requirements of such national corporate or similar law can be met where the right of choice of CSD is exercised. **Such national corporate and similar law under which the securities are constituted govern the relationship between their issuer and holders or any third parties, and their**

determination of the law under which the financial instruments are constituted, and the relationship between Recitals 56 and 57<sup>36</sup> of CSDR should be clarified: for instance, by clarifying, based on Recital 57, that Article 23 procedure shall not incorporate the national requirements regarding ownership and insolvency laws.

- Clarify the concept of “providing services within the territory of another Member State” used in Article 23(3) of CSDR in relation to the reference made in Article 23(2) to the “law referred to in Article 49(1) under which financial instruments are constituted”: one respondent noted that Article 23(2) of CSDR could be read in the way that a CSD also needs to successfully pass the procedure referred to in Article 23(3) to (7), if the CSD wants to offer its core services in relation to financial instruments constituted under the laws of another Member State within its Home Member State. It should be clarified whether the provision of services “within the territory of another Member State” is actually required or whether providing services in relation to financial instruments constituted under the law of another Member State as referred to in Article 49(1) is the sole criteria of application of Article 23(3) to (7) procedure, and what happens if the law elected by an issuer is the law of third country.
- Limit the scope of Art 23(3)(e) of CSDR to shares, as national corporate laws are in fact not so relevant for securities other than shares and the application of Article 23(3)(e) for instruments other than shares is not proportionate and triggers unintended and meaningless consequences.

85. On this complex topic, **ESMA** would like to highlight the work already carried out with the PTSC: as per the new Q&A process established under the revised ESMA Regulation, and given that this issue includes an element of interpretation of Union law, earlier this year ESMA has submitted a draft Q&A to the European Commission precisely on the issue of the determination of the relevant law for the purpose of applying Article 23(2) of CSDR, putting the task of determining whether the issuer’s law requires measures to be taken by the CSD on the issuer.

86. However, **ESMA** agrees that such clarification should be provided in CSDR itself. This could be done along the line suggested in the ESMA draft Q&A, also including a clarification as to the interplay with Recital 57 of CSDR.

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**respective rights and duties attached to the securities such as voting rights, dividends and corporate actions.** A refusal to provide services to an issuer should be permissible only based on a comprehensive risk assessment or if that CSD does not provide any issuance services in relation to securities constituted under the corporate or similar law of the relevant Member State. A quick and appropriate remedy should be made available to competent authorities to address any unjustified refusal of CSDs to provide their services to issuers.”

<sup>36</sup> Recital 57 of CSDR: “In view of the increasing cross-border holdings and transfers of securities enhanced by this Regulation, it is of the utmost urgency and importance to establish clear rules on the **law applicable to proprietary aspects in relation to the securities held in the accounts maintained by CSDs**. Nevertheless, this is a horizontal issue which goes beyond the scope of this Regulation and could be dealt with in future Union legislative acts.”

87. As to the territorial scope for the procedure, it seems that for the purposes of Article 23(2) of CSDR the territorial element is limited to the use of the law of another Member State for the constitution of the financial instruments in respect of which notary or central maintenance service is provided. The localisation of the issuer or the participants to which the notary or central maintenance service is provided does not appear to be relevant. It would indeed be useful to confirm this in Level 1 or 2.
88. As to a limitation of the scope to certain types of financial instruments: ESMA understands that it was a political choice when CSDR was adopted to give a broad scope to the process. Limiting the scope to transferable securities would not improve the process as to the determination of the relevant law (as it would still include bonds). Limiting the scope to shares should indeed allow to greatly simplify the whole process of determination of the relevant law for the purposes of Article 23 and ensure only one law (the law of the issuer) and therefore one Host Member State would be brought into the process. This however requires a political decision and a Level 1 modification.

#### **5.2.5.2 The cross-border application process**

89. Although all respondents agree on the fact that the process set out in Article 23(3) to (7) of CSDR should be leaner, clearer and with less room for diverging interpretations, the views are split as to the way to achieve it. The most “radical” suggestion would consist in replacing this process by a simple prior notification procedure, as certain respondents claim that “the costs for CSDs and authorities largely outweighed benefits, which are unknown”.
90. On this last statement, **ESMA** would like to note that, although the difficulties in implementing this procedure are well known, at a minimum the benefit seems to be that now authorities have a much better view of the services provided on a cross-border basis by the CSDs they supervise or by other EU CSDs in their jurisdictions, with a detail of information that was not available before.
91. Most suggestions were about clarifying certain aspects – some authorities not being in favour of completely abolishing the role of the host authority, or limiting the scope of application of the cross-border application process.
92. Main suggestions made by respondents have been grouped into two proposals, which details are highlighted below: **Proposal 1** – replacement of the existing application procedure by a simple notification and **Proposal 2** – targeted improvements of the existing application procedure.

- **PROPOSAL 1: REPLACEMENT OF THE EXISTING PROCEDURE BY A NOTIFICATION**

93. Based on the view that the current process under Article 23 of CSDR is complex, unclear and expensive for both NCAs and CSDs, and in addition the fact that the assessment is (i) not mandatory and (ii) not based on a predefined ESMA template creates uncertainty and does not allow a level playing field, this proposal envisages the replacement of the procedure set out in Article 23(2) to (7) (and in particular of the requirement to provide an assessment) by a simple notification by the CSD to the host Member State competent authority through the home Member State competent authority.
94. As a result, the assessment of the suitability of each CSD to support the corporate law in consideration would be left to the interplay between the issuer and each CSD. Issuers are equipped enough to manage directly with CSDs the legal technicalities encompassed by their own corporate law. Authorities may be possibly involved on a voluntary basis by the issuers or CSDs when an issue is faced or in any case on an ex-post basis in a complaint procedure should access be refused.
95. This would be coupled with transparency requirements, which would be useful in any case (and are also included within the targeted clarifications detailed under Proposal 2 below): (i) identification by each Member State, within the Article 49(1) key provisions of corporate law, of those that are relevant for Article 23; and (ii) clarification of what is meant by the reference to “corporate law” in Article 49(1) of CSDR.
96. **ESMA** agrees that this proposal would indeed simplify the process, however, it also notes that it would totally deprive the host MS Competent Authority from the “prior authorisation” role it has under the existing process and more broadly from all its actual prerogatives i.e. its ability to properly exercise its tasks and responsibilities as a securities regulator, moreover as long as corporate law is not harmonized. The new process should therefore be carefully designed in respect of the information available to authorities and to their intervention powers in case an issue arises (issues that would have to be defined with care as well).

- **PROPOSAL 2: TARGETED MODIFICATIONS OF THE EXISTING PROCEDURE**

97. This proposal envisages to keep the process set up in Article 23 of CSDR but enhancing it by clarifying some of its main features, namely, the assessment referred to in Article 23(3)(e) of CSDR and the role of the host Member State competent authority.
98. As to the assessment referred to in Article 23(3)(e) of CSDR the main suggestions aim at making this assessment mandatory, identifying by each Member State the specific national law provisions which are relevant in this context and standardising the format in which this assessment should be made by the applicant CSDs.
99. As to the role of the host Member State competent authority, suggestions include clarifying that the latter can indeed refuse an applicant CSD the possibility to provide services in its

jurisdiction based on the assessment provided, specify the process in relation to the possibility for the host Member State authority to request clarifications to the applicant CSD before declaring the completeness of the application file and start the review. Another suggestion would be to enhance the cooperation between authorities by establishing colleges including ESMA.

100. The above-mentioned suggestions are detailed below.

### **On the assessment referred to in Article 23(3)(e) of CSDR**

101. Article 23(3)(e) of CSDR requires CSDs to include in the information package they communicate to their competent authority to provide cross-border services, “*where relevant, an assessment of the measures the CSDs intends to take to allow its users to comply with the national law referred to in Article 49(1)*”. The implementation of this requirement has raised a number of issues as to its scope of application and as to the format such assessment should take.

102. One respondent claimed that the use of “**where relevant**” does not allow for a harmonised approach, suggesting to simply delete “where relevant” from Article 23(3)(e) of CSDR, which would make the assessment mandatory for all combinations of services and financial instruments the notifying CSD intends to offer.

103. On this point, the following specific drafting was suggested for addition in subparagraph (e) of Article 23(3) of CSDR:

*“(e) an assessment of the measures the CSD intends to take to allow issuers to comply with the national law referred to in Article 49(1) under which the securities issued in the CSD by the issuers are constituted, and the evidence that the proposed measures ensure compliance. The assessment shall cover at least each type of financial instruments in respect of which it intends to provide the services referred to in points 1 or 2 of Section A of the Annex to CSDR. To assess that these measures allow issuers using the services of the CSD to comply with the applicable securities law, the CSD should not only communicate the measures it intends to take and the procedure it intends to follow, but should also provide actual evidence that the proposed measures ensure compliance.”*

104. **ESMA** has already clarified through a Q&A that “relevant” meant “whenever there are requirements under the national law that it has determined as being relevant for the users of each cross-border service it provides or intends to provide”<sup>37</sup>. It therefore left to the CSDs to make their due diligences in that respect. However, given the uncertainties that remain as to the determination of the relevant provisions of national corporate law and necessary

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<sup>37</sup> cf. [ESMA CSDR Q&A - Question 9\(f\)](#)

measures to be implemented by CSDs, we consider that the suggestion made above could indeed allow for more legal certainty and harmonisation in the application process.

105. **Identification of the corporate law provisions relevant for Article 23** of CSDR that should be considered as embedding a legal obligation (i) for the Issuer CSD; or (ii) for the CSD Participants, to be involved in the exercise of rights and obligations. It is suggested that Member States should make separate notifications under Article 49(1) of CSDR, distinguishing among their national corporate law provisions, those bearing an impact on the CSD i.e. for which the CSD should take measures to allow its users to comply with them.
106. **ESMA** considers that this is a good suggestion that would bring more clarity to CSDs as to the local/national provisions in respect of which they would need to set up specific measures. The obligation for Member States under Article 49(1) could be further specified to that end.
107. **Format of the assessment:** some authorities noted important discrepancies in the level of detail provided in respect of the measures set up by CSDs to allow their users complying with national requirements, as this is not harmonised under CSDR. Moreover, some CSDs solely seem to rely on the issuer to perform a legal analysis of the capacity of the CSD to service their issuance. Some also claimed it is not clear whether a legal opinion is needed to support the assessment. Another respondent highlighted that there are some important differences in the degree of information in the provided documentation (e.g. from very detailed information to rather limited and high-level information) and mostly in the assessments done by different CSDs. Some CSDs provided independent legal opinions, some provided internal assessment and others estimated that an assessment of each national requirement under Article 49 of CSDR was not necessary, due to the typology of services/instruments the CSD provided.
108. In this respect it has been suggested to provide more detailed information on how the application should be structured (e.g. how detailed the legal opinion should be), how it should be provided, and even a template legal opinion that would determine the key issues which need to be thoroughly analysed in cross-border situations to ensure that all reasonable steps were taken to tackle potential conflicts of law.
109. **ESMA** agrees that the format as well the content of this assessment should be further harmonised, possibly including also the automatic rejection of certain applications not complying with the requirements. Depending on the level of detail required, this could be addressed at Level 2 (supplementing the RTS on CSD Requirement (Delegated Regulation (EU) 2017/392), which already lists the documents to be provided under Article 23(3) of CSDR) or, if the idea of having a template was being pursued, by supervisory convergence measures such as guidelines, as this would allow more flexibility in the evolution.

### **On the role of the host Member State competent authorities**

110. It should be noted that the issue which attracted the most comments under this survey is the **role of host MS competent authorities** in the application process.
111. It was claimed that it was **not clear from Article 23(6) of CSDR if a host Member State competent authority could actually oppose** to the provision of services in its jurisdiction and it was suggested to upgrade the clarification made in that sense in an ESMA Q&A<sup>38</sup> to Level 1.
112. Indeed, it results from the drafting of Article 23(6) of CSDR that the host Member State NCA has an active role of authorisation of provision of services in relation to financial instruments constituted under its national law and this has been clarified through ESMA CSDR Q&As<sup>39</sup>. However it appears that, being very different from the role of host MS CAs in passporting processes under other EU legislative frameworks, which usually give them less or no power, the role and powers of the Host Member State competent authority in the CSDR cross-border application process are still discussed among authorities and would benefit from more legal certainty. ESMA would therefore recommend clarifying this issue at Level 1.
113. **Host MS CA review process.** As mentioned above, important differences were noted between the different applications received, however the process unclear as to possibility for Host Member State competent authorities to request additional information (i.e. before even being able to make a decision of disapproval). There are no specific elements related to 'clarification requests' which are made by Host Member State competent authorities. There is no specific deadline and no defined scope for these clarification requests. However, such additional elements would be useful in order to avoid differences among Member States. The process could be improved by modifying Article 23 and complementing it with an RTS on substantive and procedural issues.
114. It has also been noted that it is not completely clear when the three-month period for Host Member State competent authority to review assessment is supposed to start. This is also consistent with another comment received from several authorities in their capacity as Host Member State competent authority that the three-month period foreseen in Article 23(6)(b) of CSDR is not enough for the Host Member State competent authority to thoroughly review the measures taken by the CSD in accordance with article 23(3)(e) of CSDR.
115. It has been suggested to introduce in CSDR (i) a provision to enable the Host Member State competent authority to state the missing elements of the file received and (ii) a declaration of completeness of the documentation, triggering the start of the three-month period for the Host Member State competent authority's evaluation.

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<sup>38</sup> Cf. [ESMA CSDR Q&A](#), CSD Question 9(g)

<sup>39</sup> Cf. [ESMA CSDR Q&As](#), CSD Question 9(g)



116. The following amendments to paragraphs (3) and (5) of Article 23 were proposed:

*Amend sub (e) as follows: “(e) where ~~relevant~~ the programme of operations includes the provision of the core services referred to in points 1 and 2 of Section A of the Annex in relation to transferable securities referred to in point (a) of Article 4(1)(44) of Directive 2014/65/EU, an assessment of the measures the CSD intends to take to allow its users to comply with the national law referred to in Article 49(1) whenever the provisions of corporate law identified in the list of key relevant provisions published by ESMA pursuant thereto clearly contemplate a role for the CSD users. In connection with securities out of the scope of Article 49(1), the provisions of corporate law deemed relevant for the purposes of this paragraph shall be communicated to ESMA together with the list of key relevant provisions contemplated under Article 49(1).”*

*Add a paragraph 5a: “The competent authority of the host Member State shall consider whether the set of information is complete and inform the home Member State competent authority thereof. If the set of information is considered not to be complete, the host Member State competent authority shall set a time limit by which the applicant CSD has to provide additional information.”*

*Amend paragraph 6 sub (b): “(b) in the absence of any receipt of a communication, after three months from the ~~date of transmission of the communication referred to in paragraph 4~~ moment when the set of information provided is declared by the host Member State competent authority to be complete.”*

117. **ESMA** agrees on the need to specify further the framework in which the Host Member State competent authority should intervene, and the whole process would need to be carefully looked at. It is true that given its key role in this application process, the Host Member State competent authority should be able to request clarifications and benefit from an appropriate review period. This could be adapted from the authorisation process completeness step provided under Article 17(3) of CSDR, bearing in mind that it should not result into a too long timeframe. For the purpose of clarifying the process it would however be more appropriate however to limit the scope to shares rather than to “transferable securities”, which also include bonds. In addition, since ‘users’ are not defined in Article 2 (definitions) of CSDR, and in order to avoid misunderstanding it might be preferable to replace ‘user’ with ‘issuers’ or, alternatively, ‘issuers and participants’. Finally, it is not clear to whom the last sentence of the first paragraph is addressed and it would be good to clarify whether this should be done by the NCAs or by the issuers.

118. **Communication between authorities could also be improved**, in particular in respect of the conclusion of the procedure, as silence from the Host Member State competent authority after the three-month review period (as per Article 23(6)(b) of CSDR) has apparently led to some confusion.

119. Suggestions have been made to introduce an **express communication of no-objection** at the end of the three-month period.

120. **ESMA** agrees that an express decision from the host MS CA would be preferable to avoid any confusion for CSDs intending to provide cross-border services. A Level 1 modification would be required to change Article 23(6)(b) to impose the communication of an express decision by the Host Member State competent authority to the CSD.
121. Other suggestions have been made by NCAs to **include ESMA more actively in the process**. In the current set up, ESMA plays no role in the Article 23 process. It was therefore suggested that, as an independent third party, ESMA could monitor the process, confirming the validity of notifications that are silently approved.

On this suggestion, the **views from NCAs are split**:

122. On the one hand, some NCAs considered that, at a minimum, Article 21 of CSDR could be modified to introduce a requirement to immediately notify ESMA of a decision taken by competent authorities under Article 23 of CSDR. This would serve to update the CSD register on a more dynamic basis (as it includes information on the services provided on a cross-border basis upon authorisation). Further, as an objective neutral party, ESMA could play a more active role in the process: ESMA could be included in the initial communication from the home Member State NCA to the host Member State NCA. In case of silence by the host Member State NCA during three months, both the home Member State NCA and ESMA would be aware that silence means 'no objection'. It would enable ESMA (i) to gain more detailed insight in the process of cross border services notifications and (ii) to ensure a level playing field amongst the Member States. In addition, the colleges of supervisors foreseen in Article 24(4) of CSDR in case of substantial importance of the CSD in more than one host Member State could be made mandatory and their composition could be expanded to include ESMA participation. Although the scope of the application process and of the substantial importance calculation differ, colleges could facilitate supervisory convergence regarding the cross-border provision of services (not only at the cross-border application level but also to exchange information on cross-border provision of services afterwards) and contribute to a level playing field in this respect. The colleges could also be used in the ongoing review and evaluation process.
123. On the other hand, other NCAs considered that ESMA should support the process without any direct intervention, and that a centralisation of the application process at ESMA level would be adding a layer to an already burdensome process and make even less practicable. On colleges, several NCAs strongly support the current CSDR above-mentioned provision, which allows colleges in case of substantial importance but does not impose them. Furthermore, a respondent considered that the interaction with the local market is still relevant for CSDs, and therefore the flexible approach already available in CSDR appears to be the most appropriate to balance all the instances and proportionality considerations and that in this context the 'one size fits all' principle does not work and could create important drawbacks. Before deploying new tools, which will have implementation costs, it is preferable to fully apply current tools to improve supervisory

convergence. In order to do so, the PTSC forum could more frequently be used to discuss real cases.

124. **Clarification of the interaction with the initial authorisation process:** CSDR does not clearly provide for a possibility for newly created CSDs that would want to provide cross-border services from the day they are authorised to do so. ESMA CSDR Q&A 9(d)<sup>40</sup> for CSDs already providing cross-border services does not cover this case.
125. The suggestion supported by some respondents is to clarify that a CSD applying to be authorised under Article 16 of CSDR should be able to submit applications to provide cross-border notary and central maintenance services during this authorisation process, it being noted that such application will be subject to the outcome of the authorisation process.
126. **ESMA** considers this should indeed be clarified. This could be addressed through a change in the drafting of Article 23(2) of CSDR which restricts the scope of the application process to provide cross-border notary and central maintenance services to an “authorised CSD”. This would allow conducting this process in parallel with the authorisation process and to start providing cross-border services upon authorisation, instead of carrying out the two processes successively. Drafting changes may also be needed in Article 17 of CSDR on the initial authorisation to cross-refer to this process.

## 6 Conclusion

127. **Cross-border provision of services:** the data collected through the survey and through the annual exercise on substantial importance indicator shows that overall there has been a limited progression of the provision of CSD services on a cross-border basis within the EU since 2017 and in the context of the progressive entry into force of CSDR.
128. To provide a more comprehensive overview on the provision of cross-border services by European CSDs, future reports on this topic would need to be informed on all of the CSDs established in the EU and on more aspects of their cross-border activities. Also, certain issues raised in this Report but which could not be fully investigated at this stage would deserve to be further analysed: in particular, the claim that “*much of the cross-border activity remains with global custodians*”, the impact of CSDR in terms of costs linked to the provision of cross-border services and in terms of competition between CSDs and between CSDs and custodians in relation to the provision of cross-border services, and the role of T2S in facilitating the provision of cross-border services.

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<sup>40</sup> Cf. [ESMA CSDR Q&As](#)

129. **Handling of application under Article 23 of CSDR could be improved.** Many challenges have been identified by all actors of the process: by CSDs, but also by home and host Member State competent authorities.

130. However, despite the challenges raised by the actual process, there was no consensus among NCAs on the suggestion to substitute a mere notification process to the existing process. It could be suggested to streamline the existing process through a combination of the main following changes:

- **Limiting the scope of this process to notary and central maintenance services provided in relation to shares**, as this would allow to simplify the determination of the law referred to in Article 23(2) of CSDR and ensure there is only one Host Member State concerned by such process;
- **Making the assessment referred to in Article 23(3)(e) of CSDR mandatory and standardising its format and content.** On the latter point, such assessment should be based on the identification by each Member State within their respective Article 49(1) key provisions of corporate law, of those that are relevant for Article 23 of CSDR; and
- Clarifying the role and process of review of the assessment by the Host Member State competent authority.

131. ESMA also suggests further analysing the possibility of setting up mandatory colleges under Article 24(4) of CSDR with ESMA participation, which could also address the cross-border applications, in order to support supervisory convergence and a level playing field.

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## 7 Annexes

### 7.1 Annex I: List of respondents

#### Authorities

1. BE National Bank of Belgium
2. CZ Czech National Bank
3. DE Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
4. ES CNMV-ES
5. FI Financial Supervisory Authority (FIN-FSA)
6. FR Autorité des Marchés Financiers
7. HU National Bank of Hungary (Magyar Nemzeti Bank)
8. IE Central Bank of Ireland
9. IS The Central Bank of Iceland
10. IT CONSOB
11. LI Financial Market Authority (FMA) Liechtenstein
12. LT Lietuvos bankas
13. LU CSSF
14. MT Malta Financial Services Authority (MFSA)
15. NL Autoriteit Financiële Markten
16. NO Finanstilsynet
17. PL Komisja Nadzoru Finansowego (The Polish Financial Supervision Authority)
18. PT Comissão do Mercado de Valores Mobiliários
19. RO Romania Financial Supervisory Authority
20. SE Finansinspektionen
21. SI Securities Market Agency
22. SK National Bank of Slovakia

#### Trade associations

1. AFME
2. European Banking Federation (EBF)
3. ECSDA

## 7.2 Annex II: List of authorities and CSDs covered by the responses to the survey

Country	National Competent Authority	CSD (*: connected to T2S)	if authorised under Article 16 of CSDR, date of authorisation	if not yet authorised under CSDR, date of declaration of completeness
BE	National Bank of Belgium	CIK (Euroclear Belgium)*	23/04/2019	
		Euroclear Bank	4/12/2019	
CZ	Czech National Bank	Central Securities Depository Prague (CSD Prague)	21/12/2018	
DE	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Clearstream Banking AG*	21/01/2020	
ES	Comision Nacional del Mercado de Valores (CNMV)	Iberclear*	18/09/2019	
FI	Financial Supervisory Authority (FIN-FSA)	Euroclear Finland Oy	20/08/2019	
FR	Autorité des Marchés Financiers (AMF)	Euroclear France*	16/04/2019	
		ID2S*	2/10/2018	
HU	National Bank of Hungary (Magyar Nemzeti Bank)	KELER Ltd. *		26/06/2020
IE	Central Bank of Ireland (CBol)	<i>no CSD</i>		
IS	The Central Bank of Iceland	VBM, Icelandic CSD		Authorised under older law and preparing an application for CSDR authorisation
IT	Commissione Nazionale per le Società e la Borsa (CONSOB)	MONTE TITOLI*	18/12/2019	
LI	Financial Market Authority (FMA) Liechtenstein	<i>no CSD</i>		
LT	Lietuvos Bankas	<i>no CSD</i>		
LU	Commission de Surveillance du Secteur Financier (CSSF)	LuxCSD S.A. *	15/04/2020	
		Clearstream Banking S.A.		Completeness not yet declared
NL	Autoriteit Financiële Markten	Nederlands Centraal Instituut voor Giraal	2/05/2019	

Country	National Competent Authority	CSD (*: connected to T2S)	if authorised under Article 16 of CSDR, date of authorisation	if not yet authorised under CSDR, date of declaration of completeness
		Effectenverkeer B.V. (Euroclear Nederland) *		
NO	Finanstilsynet	VPS		Application received on 30/06/2020. Completeness not yet declared
PL	Komisja Nadzoru Finansowego (The Polish Financial Supervision Authority, KNF)	Krajowy Depozyt Papierów Wartościowych	3/03/2020	
PT	Comissão do Mercado de Valores Mobiliários (CMVM)	Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A.*	12/07/2018	
RO	Romania Financial Supervisory Authority	Depozitarul Central SA*	19/12/2019	
SE	Finansinspektionen	Euroclear Sweden AB	14/11/2019	
SI	Securities Market Agency	KDD - Central Securities Clearing Corporation*	26/09/2019	
SK	National Bank of Slovakia	CSD of the Slovak Republic (CDCP SR)*	11/01/2019	
		Narodny centralny depozitar cennych papierov, akciová spoločnosť (NCDCP)*	20/07/2018	

## 7.3 Annex III: ESMA survey

### General information

1. Choose your jurisdiction: [list of countries]
  2. Please, provide the name of your institution/ organisation and your capacity: NCA/Trade Association [free text]
  3. If applicable, please indicate: [free text]
    - for NCAs the name of other NCAs which have contributed to your answers
    - for ECSDA, the names of the CSDs which have contributed to your answers
  4. Please, provide the contact details of the person answering this questionnaire (Name, position and email address) [free text]
  5. Please, provide the name and authorisation stage of the CSD(s) for which you are NCA, at the date of your response. [free text]
    - [if CSD authorised under Article 16 of CSDR, date of authorisation: DD/MM/YYYY]/
    - [if CSD not authorised yet, date of declaration of completeness: DD/MM/YYYY]
- N/A for ECSDA

### Cross-border provision of services

*Article 74(1)(d) of CSDR: “the cross-border provision of services covered by this Regulation based on the number and types of CSD links, number of foreign participants in the securities settlement systems operated by CSDs, number and volume of transactions involving such participants, number of foreign issuers recording their securities in a CSD in accordance with Article 49 and any other relevant criteria”*



**Please note that this survey covers the period from 30 March 2017 (entry into force of Commission Delegated Regulation (EU) 2017/392<sup>41</sup> and Commission Implementing Regulation (EU) 2017/394<sup>42</sup>) to the date when the survey is launched.**

1. [NCAs] Please fill in the following table for **each CSD** for which you are NCA. For the volume and value of settled instructions, please use the same principles as the ones used for the data for the substantial importance and relevant currencies indicators.

Name of the CSD	Year	Total (number) of instructions through links per year	Total volume of settled instructions per year	Total value (EUR) of instructions settled through links per year
[CSD1]	2017	[free text]		[free text]
	2018	[free text]		[free text]
	2019	[free text]		[free text]
	2020	[free text]		[free text]
[CSD2]	2017	[free text]		[free text]
	2018	[free text]		[free text]
	2019	[free text]		[free text]
	2020	[free text]		[free text]

2. [NCAs] Please fill in the following table for **each CSD** for which you are NCA, indicating all links in place, per year and in total. For the volume and value of settled instructions, please

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<sup>41</sup> Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (OJ L 65, 10.3.2017, p. 48–115)

<sup>42</sup> Commission Implementing Regulation (EU) 2017/394 of 11 November 2016 laying down implementing technical standards with regard to standard forms, templates and procedures for authorisation, review and evaluation of central securities depositories, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving central securities depositories, and with regard to the format of the records to be maintained by central securities depositories in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council (OJ L 65, 10.3.2017, p. 145–206)

use the same principles as the ones used for the data for the substantial importance and relevant currencies indicators<sup>43</sup>.

CSD	Year	Name of the linked CSD	Jurisdiction of the linked CSD	Characteristics of each CSD link						Types of financial instruments settled through the link	Volume (number) of instructions settled through the link per year	Value (EUR) of instructions settled through the link per year
[CSD 1 name]	2017	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	[list of types of MIFID2 financial instruments]	[free text]	[free text]	
		Add line for each link										
	2018	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	<b>TOTAL</b> [list of types of MIFID2 financial instruments]	[free text]	[free text]	
	2019	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR]	[DD list: in operation/inactive during that year]	<b>TOTAL</b> [list of types of MIFID2 financial instruments]	[free text]	[free text]	

<sup>43</sup> Possibility to add lines



									authori sation / new link]	that year]		
	<b>2020</b>	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	<b>TOTAL</b>	[list of types of MIFID2 financial instruments]	[free text] [free text]	[free text] [free text]
[CSD 2]	<b>2017</b>	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	<b>TOTAL</b>	[list of types of MIFID2 financial instruments]	[free text] [free text]	[free text] [free text]
		Add line for each link										
	<b>2018</b>	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	<b>TOTAL</b>	[list of types of financial instruments]	[free text] [free text]	[free text] [free text]
									<b>TOTAL</b>		[free text]	[free text]

<b>2019</b>	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	[list of types of financial instruments]	[free text]	[free text]
<b>2020</b>	[free text]	DD list: [list of EU countries]	[DD list: standard/customised/indirect/interoperable]	[DD list: receiving linked CSD/requesting linked CSD]	[DD list: FoP link/DvP link]	[DD list: Link pre-existing CSDR authorisation / new link]	[DD list: in operation/inactive during that year]	<b>TOTAL</b> [list of types of MIFID2 financial instruments]	[free text]	[free text]
								<b>TOTAL</b>	[free text]	[free text]

Please specify any other information you may consider useful (e.g. link classification if pre-CSDR). *[insert text box]*

3. [NCAs] **Foreign participants** (i.e. established in a Member State different from that of the CSD) in each securities settlement system (SSS) operated by each CSD for which you are NCA, please fill in the following table, per year and in total. To indicate the volume and value of transactions, please use the same principles as the ones used for the data for the substantial importance indicators<sup>44</sup>.

a) Per type of participant:

Name of the CSD	Name of the SSS	Year	Foreign participant's type	Number of foreign participants per type	Volume (number) of transactions involving such	Value (EUR) of transactions involving such
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<sup>44</sup> Possibility to add lines

				type participants	of	type participants	of
[CSD 1]	2017	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]	
		Linked CSDs (all types of links)	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	
	2018	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]	
		Linked CSDs (all types of links)	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	
	2019	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]	
		Linked CSDs (all types of links)	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	
2020	Direct participants, other than CSDs	[free text]	[free text]		[free text]		
	Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]		
	Linked CSDs (all types of links)	[free text]	[free text]		[free text]		
	<b>Total</b>	[free text]	[free text]		[free text]		
[CSD 2]	2017	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]	
		Linked CSDs (all types of links)	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	
	2018	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]		[free text]	
		Linked CSDs (all types of links)	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	
	2019	Direct participants, other than CSDs	[free text]	[free text]		[free text]	
		<b>Total</b>	[free text]	[free text]		[free text]	

	Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]	[free text]
	Linked CSDs (all types of links)	[free text]	[free text]	[free text]
	<b>Total</b>	[free text]	[free text]	[free text]
<b>2020</b>	Direct participants, other than CSDs	[free text]	[free text]	[free text]
	Indirect participants other than CSDs (if known to the CSD)	[free text]	[free text]	[free text]
	Linked CSDs (all types of links)	[free text]	[free text]	[free text]
	<b>Total</b>	[free text]	[free text]	[free text]

b) Per participants' jurisdiction:

Name of the CSD	Name of the SSS	Year	Foreign participant's jurisdiction	Number of foreign participants per jurisdiction	Volume (number) of transactions involving participants from each jurisdiction	Value (EUR) of transactions involving participants from each jurisdiction		
[CSD 1]		<b>2017</b>	List of EU MS	[free text]	[free text]	[free text]		
			List of EU MS	[free text]	[free text]	[free text]		
			List of EU MS	[free text]	[free text]	[free text]		
				<b>2018</b>	<b>Total</b>	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					<b>Total</b>	[free text]	[free text]	[free text]
				<b>2019</b>	List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					<b>Total</b>	[free text]	[free text]	[free text]
		<b>2020</b>	List of EU MS	[free text]	[free text]	[free text]		
			List of EU MS	[free text]	[free text]	[free text]		
			List of EU MS	[free text]	[free text]	[free text]		
			<b>Total</b>	[free text]	[free text]	[free text]		
[CSD2]		<b>2017</b>	List of EU MS	[free text]	[free text]	[free text]		
			List of EU MS	[free text]	[free text]	[free text]		
					List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]
					<b>Total</b>	[free text]	[free text]	[free text]
				<b>2018</b>	List of EU MS	[free text]	[free text]	[free text]
					List of EU MS	[free text]	[free text]	[free text]

	<b>Total</b>	[free text]	[free text]	[free text]
<b>2019</b>	List of EU MS	[free text]	[free text]	[free text]
	List of EU MS	[free text]	[free text]	[free text]
	List of EU MS	[free text]	[free text]	[free text]
	<b>Total</b>	[free text]	[free text]	[free text]
<b>2020</b>	List of EU MS	[free text]	[free text]	[free text]
	List of EU MS	[free text]	[free text]	[free text]
	List of EU MS	[free text]	[free text]	[free text]
	<b>Total</b>	[free text]	[free text]	[free text]

4. [NCAs] **Foreign issuers** (i.e. established in a Member State different from that of the CSD) recording their securities in accordance with Article 49 of CSDR in each CSD for which you are the NCA. Please indicate, per year and in total<sup>45</sup>:

Name of the CSD	Year	Foreign issuers' jurisdiction	Number of issuers per jurisdiction recording financial instruments in the CSD	Types of MIFID2 financial instruments recorded in the CSD [multiple answers possible]	Law under which the financial instruments are issued, per type of financial instruments [multiple answers possible]
[CSD1]	2017	[list of countries] [list of countries] [list of countries]	EU [free text] EU EU	[list of financial instruments]	[list of countries]
	<b>Total</b>				
	2018	[list of countries] [list of countries] [list of countries]	EU [free text] EU EU	[list of financial instruments]	[list of countries]
	<b>Total</b>				
	2019	[list of countries] [list of countries] [list of countries]	EU [free text] EU EU	[list of financial instruments]	[list of countries]
	<b>Total</b>				
	2020	[list of countries]	EU [free text]	[list of financial instruments]	[list of countries]
	<b>Total</b>				

<sup>45</sup> Possibility to add lines

		[list of countries]	EU			
		[list of countries]	EU			
	<b>Total</b>					
[CSD2]	2017	[list of countries]	EU	[free text]	[list of financial instruments]	[list of countries]
		[list of countries]	EU			
		[list of countries]	EU			
	<b>Total</b>					
	2018	[list of countries]	EU	[free text]	[list of financial instruments]	[list of countries]
		[list of countries]	EU			
		[list of countries]	EU			
	<b>Total</b>					
	2019	[list of countries]	EU	[free text]	[list of financial instruments]	[list of countries]
		[list of countries]	EU			
		[list of countries]	EU			
	<b>Total</b>					
	2020	[list of countries]	EU	[free text]	[list of financial instruments]	[list of countries]
		[list of countries]	EU			
		[list of countries]	EU			
	<b>Total</b>					

**[NCAs, ECSDA]**

5. Have you noticed a variation (increase or decrease) in the provision of cross-border services since 30 March 2017 (entry into force of the relevant CSDR provisions)?
  - a. Yes. Please provide explanations and evidence per type of service. *[insert text box]*
  - b. No. Please provide explanations, if any. *[insert text box]*
  
6. Do you consider the provision of cross-border services will increase in the next 3 to 5 years?
  - a. Yes, for all services. Please provide explanations and evidence. *[insert text box]*
  - b. Yes, for certain services. Please provide explanations and evidence, for each service that may be concerned. *[insert text box]*
  - c. No. Please provide explanations and evidence, in particular on what would be the main challenges for the concerned services. *[insert text box]*



7. Did you notice any trends in the pricing of cross-border services since 30 March 2017 (entry into force of the relevant CSDR provisions)?
  - a. Yes. Please provide explanations and evidence. *[insert text box]*
  - b. No.
  
8. Do you have any additional comments or suggestions regarding the cross-border provision of services by CSDs? *[insert text box]*

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## Handling of applications to provide services in another Member State

*Article 74(1)(f) of CSDR: “the handling of applications submitted in accordance with the procedures referred to in Article 23(3) to (7)”*

***Note that this survey covers the period from the application for authorisation of the CSD(s) established in your jurisdiction to the date when this survey is launched.***

### ***As home Member State NCA***

9. Please detail each application to provide services in another Member State received by your authority as a home Member State NCA, as requested below:

Date of reception of the application to provide cross-border services	Applying CSD	Provision of services through branch	Targeted host MS	Targeted services	Targeted financial instruments types	National law under which financial instruments are constituted	Targeted issuers' jurisdiction (per types of financial instruments and if relevant, per service)	Targeted currencies	Date of communication of application to host MS NCA	In case of non-communication, justification
---	--------------	--------------------------------------	------------------	-------------------	--------------------------------------	--	--	---------------------	---	---

[free text]	[name of CSD]	[dropdown: men Y/N]	[dropdown: list of EU countries] Possibility to choose several categories	[dropdown: notary/central maintenance/both] Possibility to choose several categories	[dropdown: list of types of MIFID2 financial instruments] Possibility to choose several categories	[dropdown: list of EU countries] Possibility to choose several categories	[dropdown: list of EU countries] Possibility to choose several categories	[dropdown: list of EU currencies] Possibility to choose several categories	[date]	[dropdown menu: Inadequacy of the administrative structure/ Financial situation of the CSD/ Both] Possibility to choose several categories
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**As host Member State NCA**

10. Please detail as requested below the applications to provide services in your jurisdiction received by your authority as host Member State<sup>46</sup>:

Date of reception of the application to provide cross-border services	Name of the applying CSD	Home MS of the applying CSD	Targeted services	Targeted financial instruments types	Targeted currencies	Provision of services through a branch	Approval of assessment in accordance with Article 23(6)(a) of CSDR
[date]	[free text]	[DD list of countries]	[DD list: notary /central maintenance/ both]	[DD list of types of financial instruments, possibility to choose several]	[list of currencies]	[Y/N]	[Y/N]

<sup>46</sup> Possibility to add lines

11. As a host Member State NCA, please describe the activities performed by the CSDs for the provision of each service throughout these applications, as well as the measures taken by the CSD to allow its users complying with the law of your jurisdiction:

<b>Service</b>	<b>Brief description of activities performed to provide each service</b> (brief description, if needed per type of financial instrument)	<b>Measures taken by the CSD to allow its users to comply with the national law referred to in Article 49(1)</b> (brief description, if needed per type of financial instrument)
<b>Notary service</b> <i>(Initial recording of securities in a book-entry system)</i>	[free text]	[free text]
<b>Central maintenance</b> <i>(Providing and maintaining securities accounts at the top tier level)</i>	[free text]	[free text]

12. **Disapproval of assessment** [Q addressed only to authorities which answered No in the column “Approval of assessment...” in the above table]

As a host Member State NCA, if your authority decided not to approve any assessment referred to in point (e) of Article 23(3) of CSDR in accordance with Article 23(6)(a) of CSDR, please indicate for each such disapproval:

<b>Applying CSD</b>	<b>Home MS of the applying CSD</b>	<b>Date of disapproval of assessment</b>	<b>Grounds for refusal</b>	<b>Follow-up (on the date of this survey)</b>
[free text]	[dd list of EU countries]	[date]	[free text]	[drop-down menu: Termination of the application procedure (no follow-up to disapproval/ Provision of updated CSD assessment of measures/ Approval of updated assessment by your authority]

**As home or host Member State NCA**

13. Please indicate the main challenges encountered throughout the process in general (in particular, please indicate if you had to face any delay in the process, the reasons for the delay and its length):

- a) as a home Member State NCA? *[insert text box]*
- b) as a host Member State NCA? *[insert text box]*

14. Please indicate the requirements, whether procedural or substantive, which were the most challenging to implement.

CSDR requirement	Please describe the challenge(s) encountered	Is it a barrier to competition in relation to the provision of CSD services?
[free text]	[free text]	[Y/N]

15. Do you consider the process could be improved?

- a. Yes
- b. No

*[Q dependent on Q14(a)]* What would be your suggestions for improvement? *[insert text box]*

*[Q dependent on Q14(a)]* What would be your suggestions for potential amendments to the existing requirements? *[insert text box]*

**As host Member State relevant authority**

16. In respect of each application by a CSD to provide services in another Member State in which you have been involved in accordance with Article 23(4) of CSDR, please indicate the following information, per applying CSD<sup>47</sup>.

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<sup>47</sup> Possibility to add lines

Date of reception of the information	Name of the applying CSD	Home Member State of the applying CSD	Please describe the type of information received	Please describe the follow-up information received in the course of the application process
[date]	[free text]	[DD list of countries]	[free text]	[none/ free text]

17. Do you consider this application process could be improved?

- a. Yes
- b. No

[Q dependent on Q16(a)] What would be your suggestions for improvement? *[insert text box]*

[Q dependent on Q16(a)] What would be your suggestions for potential amendments to the existing requirements? *[insert text box]*

### **[ECSDA]**

18. Please indicate the main challenges encountered throughout the application process in general (in particular, if you had to face any delay in the process, the reasons for the delay and its length). *[insert text box]*

19. Have these challenges prevented CSDs from providing certain services on a cross-border basis?

- a. Yes
- b. No

[Q dependent on Q18(a)] Please provide examples. *[insert text box]*

20. Have these challenges prevented CSDs from applying to provide certain services on a cross-border basis?

- a. Yes
- b. No

[Q dependent on Q19 (a)] Please provide examples. [insert text box]

21. Please indicate the CSDR requirements, whether procedural or substantive, which were the most challenging to comply with<sup>48</sup>:

CSDR requirement	Please describe the challenge(s) encountered	Is it a barrier to competition in relation to the provision of CSD services? If yes, please briefly describe how.
[free text]	[free text]	[Y/N]

22. Do you consider this application process could be improved?

- a. Yes
- b. No

[Q dependent on Q21(a)] What would be your suggestions for improvement? [insert text box]

[Q dependent on Q21(a)] What would be your suggestions for potential drafting amendments to the existing requirements? [insert text box]

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<sup>48</sup> Possibility to add lines