

In case of discrepancies between the French and the English text, the French text shall prevail.

Luxembourg, 5 April 2018

To all central securities depositories

CIRCULAR CSSF 18/688

Re: Guidelines issued by the European Securities and Markets Authority (ESMA) on the process for the calculation of the indicators to determine the most relevant currencies in which settlement takes place

Ladies and Gentlemen,

This circular implements the ESMA Guidelines on the Process for the Calculation of the Indicators to Determine the Most Relevant Currencies in which Settlement Takes Place.

The purpose of the guidelines is to ensure common, uniform and consistent application of point (b) of Article 12(1) of 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.

In particular, they aim to ensure that Central Securities Depositories (CSDs) apply common, clear and effective rules for the collection of data.

The guidelines specify the scope of data to be reported by CSDs as well as the general process for the collection of data information and the calculation of the indicators to determine the most relevant currencies in which settlement takes place.

The guidelines are attached to this circular and are available on ESMA's website <https://www.esma.europa.eu/>.

This circular enters into force on the day of its publication.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Françoise KAUTHEN Claude SIMON Simone DELCOURT

Director

Director

Director

Annex:

Guidelines on the process for the calculation of the indicators to determine the most relevant currencies in which settlement takes place



European Securities and
Markets Authority

Guidelines

On the Process for the Calculation of the Indicators to Determine the Most Relevant Currencies in which Settlement Takes Place



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I. Executive Summary

1 Reasons for publication

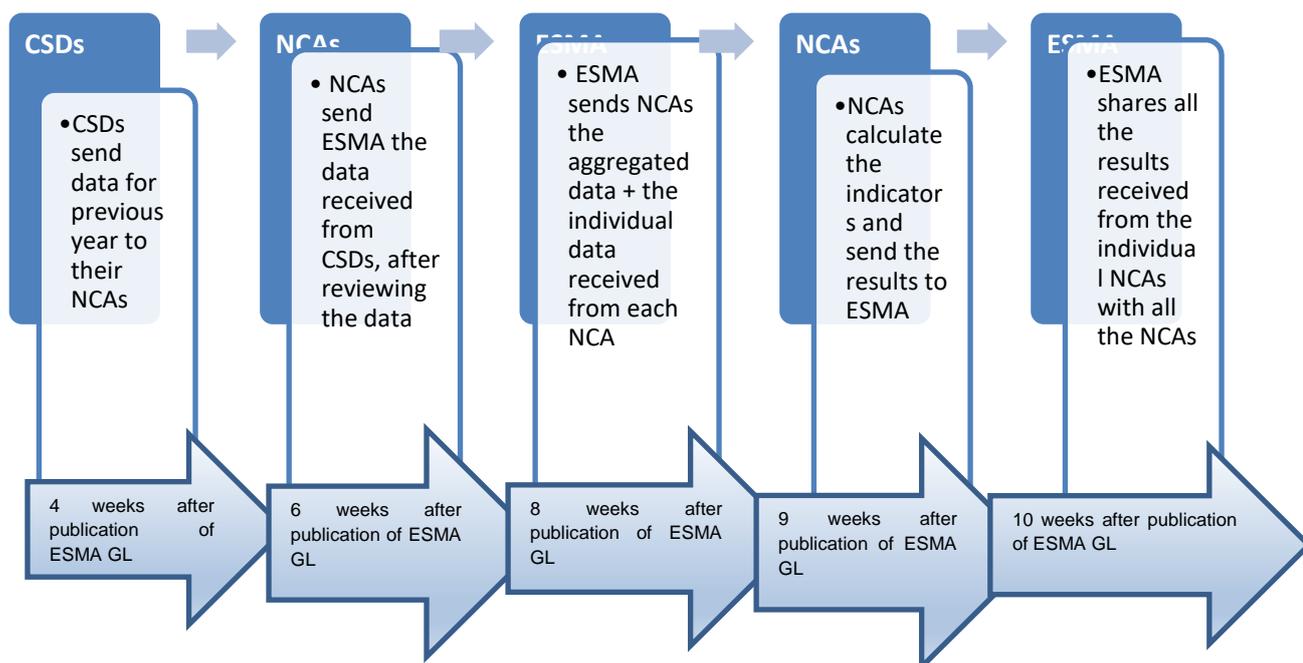
1. According to Article 12(1) of Regulation (EU) No 909/2014 (CSDR), the following authorities shall be involved in the authorisation and supervision of CSDs where specifically referred to in the CSDR:
 - (a) the authority responsible for the oversight of the securities settlement system operated by the CSD in the Member State whose law applies to that securities settlement system;
 - (b) the central banks in the Union issuing the most relevant currencies in which settlement takes place;
 - (c) where relevant, the central bank in the Union in whose books the cash leg of a securities settlement system operated by the CSD is settled.
2. Article 2(1) of the Commission Delegated Regulation (EU) 2017/392¹ specifies the conditions under which the Union currencies referred to in Article 12(1)(b) of CSDR are considered to be the most relevant. In order to calculate the relevant indicators, competent authorities need to use aggregated data at EU level. However, individual competent authorities may face challenges in collecting and aggregating all the relevant data from CSDs across the EU. In addition, such an approach may lead to duplication of efforts for the competent authorities and may generate risks regarding the use of inconsistent data.
3. Given the need to use consistent data aggregated at EU level for the calculation of the indicators specified in Article 2(1) of the Commission Delegated Regulation (EU) 2017/392, ESMA has decided to issue Guidelines on the process for the collection, processing and aggregation of the data necessary for the calculation of the indicators to determine the most relevant currencies in which settlement takes place (Article 12(1)(b) of CSDR).
4. Having regard to ESMA's task to contribute to the consistent application of legally binding Union acts, in particular by contributing to a common supervisory culture through the establishment of consistent, efficient and effective supervisory practices, ESMA should undertake a coordination role in the process of centralising and aggregating the data received from CSDs, including central banks acting as CSDs. Competent authorities should perform the calculations for the indicators based on the data centralised and aggregated by ESMA.
5. Even though the indicators will not be calculated for central banks acting as CSDs (given that they are exempted from certain CSDR requirements under Article 1(4) of CSDR), it is important that central banks acting as CSDs should send the relevant data which will be

¹ 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)

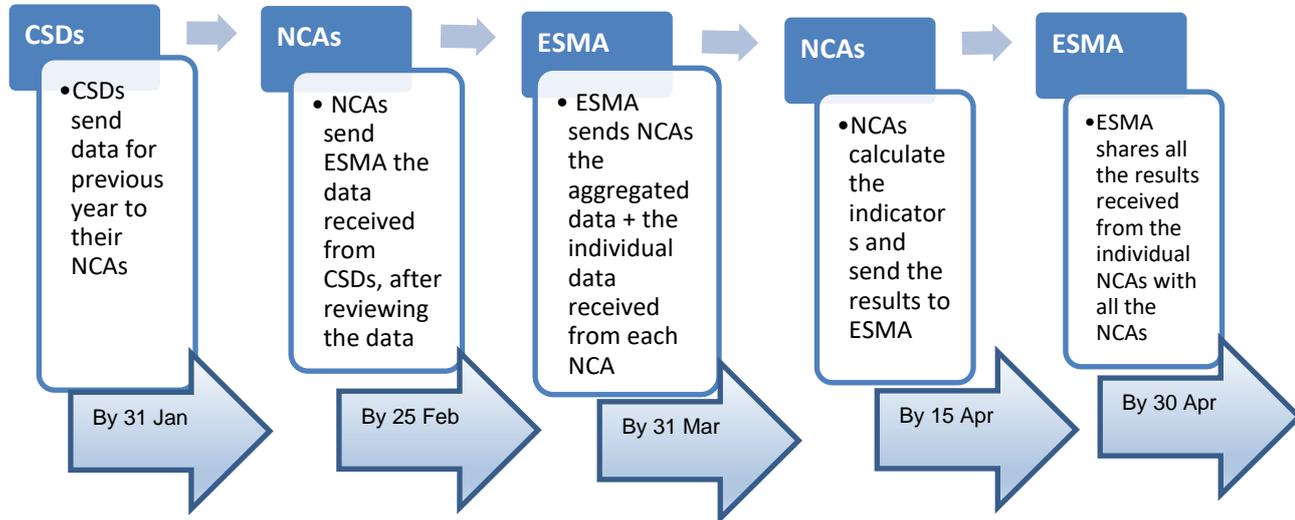
used to determine the values for the denominators, in order to have a full picture of the activity at EU level for the respective indicators.

6. In order to ensure a consistent implementation of the relevant provisions of the Commission Delegated Regulation (EU) 2017/392, the guidelines clarify the scope of the data to be reported for the purpose of the calculation of the 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.
7. In the pursuit of the same objective, and in particular to ensure a harmonised and consistent approach for data reporting across CSDs for the purpose of the calculation of the indicators specified in points (a) and (b) of Article 2(1) of the Commission Delegated Regulation (EU) 2017/392, these guidelines propose common parameters for reporting settlement instructions (i.e. without double-counting settlement instructions depending on the manner in which they are settled: through CSD links or not). These parameters would not affect the application of substantive rules related to settlement, including in relation to Directive 98/26/EC and national securities and property laws.
8. Having regard to the date of entry into force of the Commission Delegated Regulation (EU) 2017/392, these guidelines describe a general process to be used for the data collection and calculation of the indicators starting with 1 January 2018, as well as an initial process to be used for the first application of the general process in 2017 covering the reporting period of 1 January to 31 December 2016.

Outline of Initial Process (to be applied in 2017)



Outline of General Process (to be applied from 1 January 2018)



2 Content

- Section II includes the full text of the Guidelines on the Process for the Calculation of the Indicators to Determine the Most Relevant Currencies in which Settlement Takes Place.

3 Next steps

- The guidelines in Section II will be translated into the official languages of the European Union and published on ESMA's website.

II. Guidelines on the Process for Calculation of the Indicators to Determine the Most Relevant Currencies in which Settlement Takes Place

1 Scope

Who?

1. These guidelines apply to competent authorities designated under Regulation (EU) No 909/2014² (CSDR).

What?

2. These guidelines apply in relation to the process for the collection, processing and aggregation of the data necessary for the calculation of the indicators to determine the most relevant currencies in which settlement takes place, in accordance with point (b) of Article 12(1) of the CSDR.

When?

3. These guidelines apply from 28/03/2018.

2 Definitions

4. Terms used in these guidelines have the same meaning as in the CSDR and in the Commission Delegated Regulation (EU) 2017/392³.

3 Purpose

5. The purpose of these guidelines is to ensure common, uniform and consistent application of point (b) of Article 12(1) of CSDR. In particular, they provide guidance on the process for the collection, processing and aggregation of the data necessary for the calculation of the indicators to determine the most relevant currencies in which settlement takes place.

² 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 Directive 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

³ 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)

4 Compliance and reporting obligations

4.1 Status of the guidelines

6. This document contains guidelines issued under Article 16 of the ESMA Regulation⁴. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and financial market participants must make every effort to comply with guidelines and recommendations.
7. Competent authorities to whom these guidelines are addressed should comply by incorporating them into their supervisory practices.

4.2 Reporting requirements

8. Competent authorities to whom these guidelines are addressed must notify ESMA [to: csdr.data@esma.europa.eu] whether they comply or intend to comply with these guidelines, with reasons for non-compliance, within two months of the date of their publication. In the absence of a response by this deadline, competent authorities will be considered as non-compliant. A template for notifications is available on ESMA's website. However, in order to ensure the smooth and timely implementation of the process for the collection, processing and aggregation of the data necessary for the calculation of the indicators referred to in these guidelines, it is advisable that competent authorities notify ESMA as soon as possible, and preferably within two weeks of the date of publication of these guidelines.
9. The date of publication of these guidelines means the date of their publication on ESMA's website in all official languages of the EU.
10. Central securities depositories (CSDs) are not required to report whether they comply with these guidelines.

⁴ Regulation (EU) No 1095/2010 of 24 November 2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

5 Guidelines on determining the most relevant currencies in which settlement takes place

5.1 Scope of data to be reported by CSDs

11. Competent authorities should ensure that CSDs, including central banks acting as CSDs, report the relevant data in the format provided in the templates in the Annex. The list of CSDs (including central banks acting by CSDs) specified in the templates included in the Annex should be updated by the competent authorities on an annual basis.

12. Competent authorities should ensure that CSDs apply the following data reporting parameters:

- a) The data should include absolute values of settlement by each CSD for each currency covering the previous calendar year.
- b) The values should be expressed in the original currencies in which settlement takes place.
- c) All categories of settlement instructions against payment settled by a CSD should be included, irrespective of whether they relate to transactions that are executed on a trading venue or on an OTC basis.
- d) For operations composed of several transactions, such as securities repurchase or lending agreements, both legs should be reported once settled.
- e) In the case of intra-CSD settlement, the CSD (issuer CSD or investor CSD) should report both legs of a transaction, i.e. it should report the two settlement instructions received.
- f) In the case where more than one CSD is involved in the settlement of a transaction through standard, customised or indirect links, only the CSD (issuer CSD or investor CSD) settling the two legs of the transaction should report. It should report the two settlement instructions received. The investor CSD “settling” only one leg of the transaction should not report.
- g) In the case of cross-CSD settlement by CSDs using a common settlement infrastructure or through interoperable links, each CSD should report the single settlement instruction received in relation to a transaction.

13. The settlement instructions could be related to the following types of transactions:

- a) purchase or sale of securities (including primary market purchases or sales of securities);
- b) collateral management operations (including triparty collateral management operations or auto-collateralisation operations);
- c) securities lending/borrowing operations;
- d) repurchase transactions;
- e) others (including corporate actions on flows, i.e. market claims and transformations).

14. The following types of transactions should be considered out of scope of the reporting:

- a) corporate actions on stock, such as cash distributions (e.g. cash dividend, interest payment), securities distributions (e.g. stock dividend; bonus issue), reorganisations (e.g. conversion, stock split, redemption, tender offer);
- b) primary market operations, meaning the process of initial creation of securities;
- c) creation and redemption of fund units, meaning the technical creation and redemption of fund units, unless such creation and redemption of fund units is done through transfer orders in a securities settlement system operated by a CSD;
- d) realignment operations.

5.2 General process for the collection of data and the calculation of the indicators to determine the most relevant currencies in which settlement takes place

15. The general process proposed in this section should be applied from 1 January 2018.
16. Competent authorities should ensure that CSDs, including central banks acting as CSDs, report the relevant data for the previous calendar year, which is necessary for the calculation of the indicators specified in Article 2(1) of the Commission Delegated Regulation (EU) 2017/392, to them, by 31 January of each year (i.e. data from 1 of January to 31 December of the previous calendar year should be used).
17. After reviewing the data, competent authorities should transmit to ESMA the data received from CSDs in their jurisdiction, including central banks acting as CSDs, by 25 February of each year.
18. Competent authorities should perform the calculation for the indicators specified in Article 2(1) of the Commission Delegated Regulation (EU) 2017/392 in respect of each CSD for which a competent authority is the home Member State competent authority, upon receipt of the following data from ESMA by 31 March of each year:
 - a) all data received from the individual competent authorities;
 - b) data aggregating the values per CSD and per currency, to be used for the calculation of the denominators of the indicators specified in points (a) and (b) of Article 2(1) of the Commission Delegated Regulation (EU) 2017/392.
19. When aggregating the data, where necessary, the conversion of other currencies into euros should be used. For this, the exchange rates valid on the last day of the calendar year for which data is reported should be used. Where available, the exchange rate of the European Central Bank valid on the last day of the calendar year for which data is reported should be used for the conversion of other currencies into euros.
20. Competent authorities should send ESMA the results for the indicators and the identification of the relevant authorities in accordance with point (b) of Article 12(1) of the

CSDR, by 15 April of each year, to enable ESMA to share this information with all the competent authorities by 30 April of each year.

5.3 Initial process for the collection of data and the calculation of the indicators to determine the most relevant currencies in which settlement takes place

21. For the first application of the general process in 2017 covering the reporting period of 1 January to 31 December 2016, CSDs, including central banks acting as CSDs, as well as competent authorities should apply the general process using the following dates, each date calculated from the date of publication of these guidelines:

- a) CSDs, including central bank acting as CSDs, should report the relevant data necessary for the calculation of the indicators specified in Article 2(1) of the Commission Delegated Regulation (EU) 2017/392 to the competent authorities within four weeks;
- b) Competent authorities should transmit to ESMA the data received from CSDs, including central banks acting as CSDs, within six weeks, to enable ESMA to send the competent authorities the aggregated data, as well as the individual data received from each competent authority, within eight weeks;
- c) Competent authorities should send the results for the indicators and the identification of the relevant authorities in accordance with point (b) of Article 12(1) of the CSDR to ESMA within nine weeks, to enable ESMA to share this information with all the competent authorities within ten weeks.

6 Annex

6.1 Templates for the collection of data to determine the most relevant currencies in which settlement takes place