

Practical Guidance

For the Recognition of Third-Country CSDs by ESMA



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1 Introduction

1. The purpose of this note is to provide information on the recognition by ESMA of Third-Country CSDs (TC-CSDs) under Article 25 of Regulation (EU) No 909/2014¹ (CSDR) and Article 46 of the Commission Delegated Regulation (EU) 2017/392² (RTS).
2. This note does not address issues related to a substantive examination of whether the conditions for recognition are met for individual TC-CSDs.

2 Communication with ESMA prior to the application

2.1 Handling of questions before the application

3. In order to establish a quick and efficient way of communication between ESMA and TC-CSDs applying for recognition under Article 25 of CSDR, the mailbox CSDR.Notifications@esma.europa.eu should be used.
4. General questions on the preparation of an application for recognition should be sent to this email address, clearly stating on behalf of which applicant TC-CSD the questions are submitted and, if possible, the planned date for the TC-CSD's application.
5. Please note that ESMA will only review and respond to general questions regarding the preparation of an application for recognition or questions regarding procedural matters that are relevant to an application for recognition. ESMA will not review or respond to questions which would require or imply a pre-assessment of any TC-CSD's application for recognition.
6. For the avoidance of doubt, ESMA does not review draft applications for recognition or parts of an application ahead of the full submission. Only the final version of a TC-CSD's application for recognition will be acknowledged, reviewed or otherwise responded to.

2.2 Indication of the planned application date

For organisational purposes, an applicant TC-CSD is requested to send an email to CSDR.Notifications@esma.europa.eu at least 5 working days before the date on which it intends to submit its application, indicating the planned application date. This email is for information only and is not binding on the applicant TC-CSD.

¹ 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. 1-72).

² 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).

3 Timeframe for submission of an application

7. According to Article 25(4) of CSDR, ESMA may only recognise a TC-CSD where certain conditions have been satisfied. In particular the European Commission needs to have adopted an implementing act determining, amongst other things, that the legal and supervisory arrangements of the jurisdiction in which the TC-CSD is established are equivalent to the requirements laid down in CSDR (Article 25(4)(a) of CSDR). Where relevant, the TC-CSD needs to take the necessary measures to allow its users to comply with the relevant national law of the Member State in which the applicant TC-CSD intends to provide CSD services, and the adequacy of those measures needs to be confirmed by the competent authorities of the respective Member State (Article 25(4)(d) of CSDR).
8. ESMA strongly recommends that prior to submitting an application for recognition, potential applicants ascertain whether the conditions referred to in Article 25(4) of CSDR are, or are likely to be, fulfilled. This is important because should the conditions in Article 25(4) of CSDR not be fulfilled, then ESMA will not be able to grant the recognition. In this respect, it should be recalled that the provision of services set out in Sections A, B and C of the Annex to CSDR in infringement of Article 25 thereof can be sanctioned under Article 63 of CSDR.

4 Submission of an application

4.1 Format of the application and number of copies

9. A TC-CSD's application for recognition shall be submitted to ESMA by post.
10. An applicant TC-CSD is requested to send to ESMA:
11. an original paper version of its application; and
12. an electronic version of its application saved on an electronic device which stores information in a durable medium, such as USB-key (preferred option), and, if the content is compressed or encrypted, the relevant software to read it. In addition, the electronic version may be sent by email to CSDR.Notifications@esma.europa.eu.
13. The application should be sent to: Post-Trading Unit, Markets Department ESMA, CS 60747, 103 Rue de Grenelle, 75345 Paris Cedex 07, France.
14. The paper version must be strictly identical to the electronic version and must be sent to ESMA together with the electronic version.
15. If requested by ESMA, the applicant TC-CSD must send certified copies of supporting documentation.

16. A unique reference number should be given to each document submitted in support of the application, and a table should be provided which clearly links the reference number of the document with the relevant articles of CSDR and of the RTS in relation to which the document is provided.

4.2 Language of the application

17. Documents sent to ESMA (including applications) should be drafted in English and the working language for the examination by ESMA of all TC-CSD applications will also be English.

4.3 Information to be provided in an application

18. Article 46 and Annex I of the [RTS](#)³ set out the minimum information that must be provided by a TC-CSD applying for recognition under CSDR.
19. Please note that entities can apply for recognition under Article 25 of CSDR only if they are established in a third country and if they meet the definition of a CSD provided in point (1) of Article 2(1) of CSDR⁴. The application should provide clear evidence that the applying entity meets this definition.
20. With regard to that information which should be provided in relation to the rules and procedures of the TC-CSD referred to in Annex I to the RTS, an applicant TC-CSD should note that there are two limbs to this requirement. The first is a requirement to provide a copy of the rules and internal procedures of the CSD. The second is a requirement to provide evidence of the TC-CSD's full compliance with the requirements applicable in the third country.
21. In respect of this second limb, an applicant TC-CSD is not expected to provide a copy of all of the requirements to which the TC-CSD is subject (i.e. all of the legislation, rules of the relevant competent authorities, or other legally binding material). Instead, it is expected that the relevant competent authorities will provide ESMA with a letter confirming that the applicant TC-CSD complies with the requirements applicable in that third country.
22. Where the implementing act adopted by the European Commission in accordance with Article 25(9) of CSDR contains specific conditions to the recognition of the TC-CSD, the applicant TC-CSD must provide the relevant information demonstrating that they are fulfilled.

³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.065.01.0048.01.ENG&toc=OJ:L:2017:065:TOC

⁴ 'central securities depository' or 'CSD' means a legal person that operates a securities settlement system referred to in point (3) of Section A of the Annex and provides at least one other core service listed in Section A of the Annex.

5 Acknowledgment of receipt of the application

- 23. An acknowledgement of receipt will be sent to the applicant TC-CSD within five working days following receipt of the application.
- 24. An acknowledgement of receipt does not imply that ESMA considers the application to be complete under Article 25(4) of CSDR.

6 Deadlines

- 25. For the calculation of deadlines referred to in CSDR, “working days” are defined as the working days of ESMA.
- 26. For a list of dates when ESMA is closed (and which are not considered to be working days), please refer to the [list of closing days published on ESMA website](#)⁵.
- 27. The computation of deadlines starts from the working day following the relevant event (e.g. receipt of an application, notification of completeness, receipt of additional information when the application was considered as incomplete).

7 Assessment of completeness, requests for additional information and notification of completeness

- 28. If the application is considered as incomplete, ESMA will send a letter of incompleteness to the applicant TC-CSD, together with a list of the additional information that must be submitted.
- 29. ESMA will set a deadline for the additional information to be provided by the applicant TC-CSD. The standard deadline is 30 working days, extended to 90 working days if necessary due to the complexity or volume of the requested information.
- 30. The applicant TC-CSD can provide its response to a request for additional information in paper version or by email to CSDR.Notifications@esma.europa.eu.
- 31. ESMA will acknowledge the receipt of the additional information within five working days of its receipt.
- 32. Where an applicant TC-CSD does not provide the additional information requested by ESMA within the required timeframe, and does not receive prior agreement from ESMA to extend the deadline, then ESMA may consider the application to have been withdrawn.

⁵ <https://www.esma.europa.eu/about-esma/esma-in-short/contact-info>

33. When the requested information is received, ESMA will assess whether the additional information is sufficient for the application to be complete. When the application is considered complete, ESMA will send a letter of completeness to the applicant TC-CSD.
34. A letter of completeness does not imply that ESMA considers that recognition will be granted.

8 Examination of the application

35. If need be, requests for additional information may be sent by ESMA during the examination phase of the application. Deadlines for receiving a response from the applicant TC-CSD may be shorter during the examination phase. In principle, the standard deadline will be 3 working days.

9 Decision on the registration application

36. Pursuant to Article 25(6) of CSDR, a decision on recognition will be adopted within six months from notification by ESMA that a TC-CSD's application is considered to be complete.
37. The decision on the TC-CSD's application will be adopted by ESMA's Board of Supervisors after consultation with the authorities and entities referred to in Article 25(5) of CSDR.

10 Publication on ESMA's website

38. Pursuant to Article 21(3) of CSDR, ESMA publishes on its website the list of recognised TC-CSDs.
39. ESMA also published on its website a list of TC-CSDs that have applied for recognition⁶. This list includes only those TC-CSDs which have applied for recognition under Article 25 of CSDR and which expressly agreed to have their name mentioned publicly. In the application for recognition as a TC-CSD under CSDR, please indicate whether you consent to being included in the list to be published on ESMA's website.

⁶ This list is not necessarily exhaustive and it remains subject to further updates. The list is provided for information purposes only and it is without prejudice to any future ESMA decision of the recognition of the applicant CSDs.