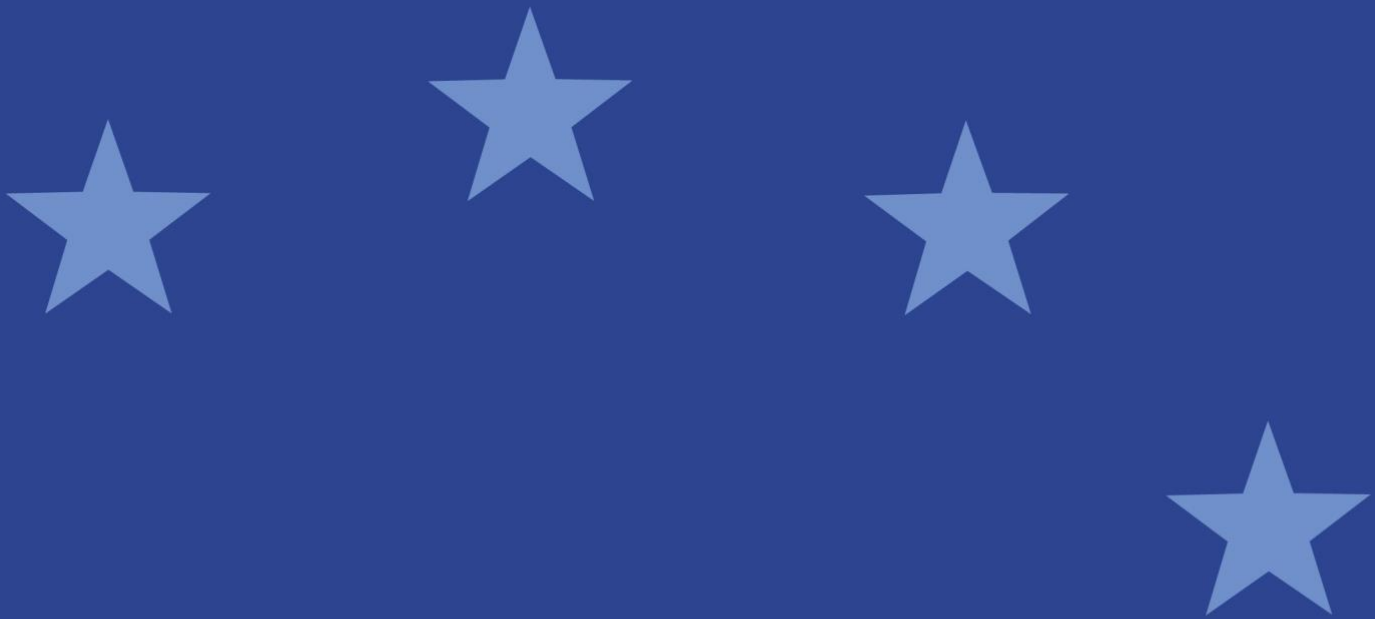




European Securities and
Markets Authority

Response Form to the Consultation Paper

Draft RTS on resolution colleges (Article 4(7) of the CCPRRR)



Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **24 January 2022**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input - Consultations’.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_CLLG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: . For example, for a respondent named ABCD, the response form would be entitled ESMA_CLLG_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open consultations” → “Consultation on Resolution Colleges”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading [Legal Notice](#).

Who should read this paper?

All interested stakeholders are invited to respond to this consultation. In particular, this paper may be specifically of interest for EU central counterparties, clearing members and clients of clearing members.

General information about respondent

Name of the company / organisation	Futures Industry Association and International Swaps and Derivatives Association
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	International

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_CLLG_00>

The Futures Industry Association (FIA) and the International Swaps and Derivatives Association (ISDA), together the Associations, represent the largest number of global and national participants in clearing, banking and financial markets. The Associations appreciate this opportunity to comment on this consultation.

We applaud ESMA for its enormous efforts and impressive work it has delivered on the consultations on CCP resolution, providing a thorough and comprehensive analysis for each of them.

This RTS affects mostly public authorities, and we have limited feedback, but ask for the resolution authority (RA) to consult with clearing participants when drafting a resolution plan and to share a summary of the resolution plan with clearing participants.

In order for the resolution objectives to be met, it is important that all stakeholders, including market participants have sufficient information about the goals and the tools utilized in the resolution plan to enable them to adapt their actions accordingly. If market participants do not have the required visibility, they may develop worst case scenarios and enact mitigation actions to cover all potential resolution actions, even if those were never part of the resolution plan. Some of these mitigation actions by clearing participants might run counter to resolution actions employed by the resolution authority.

This consultation response covers the positions of our members that are clearing members and their clients. The paper does not reflect the views of many CCPs, and many of the CCPs are in disagreement with the views expressed herein.

About FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. Our membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers.

Our mission: To support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 960 member institutions from 78 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

<ESMA_COMMENT_CLLG_00>

Questions

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges? If not, please explain why and how you would suggest proceeding?

<ESMA_QUESTION_CLLG_01>

We agree with the approach, as long as different composition of CCP resolution colleges and the specific challenges in CCP resolution are taken into account.

Paragraph 18 d) states that the amount of information on the resolution plan that the CCP can obtain from the RA is limited to a summary of the key elements of the plan. We note that clearing participants, whose participation and cooperation will be crucial during resolution, will not receive any information.

This summary should also be shared with clearing participants (clearing members and their clients). In order for the resolution objectives to be met, it is important that all stakeholders, including market participants, have information about the goals and the tools utilised in resolution to enable them to adapt their activity accordingly. If market participants do not have the required visibility, they may develop worst case scenarios and enact mitigation actions to cover all potential RA actions, even if these scenarios were never part of the resolution plan. Some of these mitigating actions by clearing participants may have the potential run counter to resolution actions employed by the RA.

<ESMA_QUESTION_CLLG_01>

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges except for the points described in section 4.1 on General considerations as well as the specification regarding point (f) and (g)? If not, please explain why and which modification you would suggest deleting or adding?

<ESMA_QUESTION_CLLG_02>

Overall, we agree with the proposed approach.

In terms of the communication policy, we refer to our response under question 1. It is crucial for a successful resolution that clearing participants are well informed about the resolution plan to enable the alignment of firm's risk mitigation actions and that these do not run counter to resolution actions. More information can be found above under question 1.

<ESMA_QUESTION_CLLG_02>

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges except for the points described in section 4.1 on General considerations? If not, please explain why and which and which modification you would suggest deleting or adding?

<ESMA_QUESTION_CLLG_03>

Overall, we agree with the proposed approach.

The process for drawing up a resolution plan includes discussion of the draft joint decision and the summary of the resolution plan to the CCP. We recommend the inclusion of clearing participants in these discussions, ideally in a hearing that allows as many participants as possible to voice their views. As laid out under questions 1 and 2, the summary of the resolution plan should also be communicated to clearing participants.

<ESMA_QUESTION_CLLG_03>

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges except for the points described in section 4.1 on General considerations? If not, please explain why and which and which modification you would suggest deleting or adding?

<ESMA_QUESTION_CLLG_04>

We have no comments to this question.

<ESMA_QUESTION_CLLG_04>

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges except for the points described in section 4.1 on General considerations? If not, please explain why and which and which modification you would suggest deleting or adding?

<ESMA_QUESTION_CLLG_05>

Yes, we do agree.

<ESMA_QUESTION_CLLG_05>

: Do you agree with the proposed approach to rely as much as possible on the work performed in the context of the CCP supervisory colleges and the BRRD resolution colleges except for the points described in section 4.1 on General considerations? If not, please explain why and which and which modification you would suggest deleting or adding?

<ESMA_QUESTION_CLLG_06>

We have no comments to this question.

<ESMA_QUESTION_CLLG_06>

Do you agree with the Option 1, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 1)?

<ESMA_QUESTION_CLLG_07>

We agree with Option 1.<ESMA_QUESTION_CLLG_07>

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

<ESMA_QUESTION_CLLG_08>

We do not advocate for a different approach.

<ESMA_QUESTION_CLLG_08>