



## **Consultation Paper on Procedural rules for penalties imposed on Third-Country CCPs, TRs and CRAs.**

**Link to the paper: [Consultation Paper on Procedural rules for penalties imposed on Third-Country CCPs, TRs and CRAs](#)**

### **1.- Target audience (potential stakeholders)**

This paper is mainly of interest to third-country central counterparties (hereinafter, CCPs), trade repositories (hereinafter, TRs), credit rating agencies (hereinafter, CRAs), market participants and authorities.

### **2.- Information Note**

In September 2019, ESMA received a request from the European Commission to provide technical advice to assist the Commission in formulating procedural rules for penalties imposed on third-country CCPs and TRs. The aim of this paper is to seek the opinion of stakeholders.

The paper contains the options proposed by ESMA as procedural rules on penalties applicable to third-country CCPs and TRs. In order to ensure alignment, it also sets out amendments to the existing rules in this regard for CRAs.

The consultation paper is comprised of 13 sections and two annexes:

- **Section 1** includes a summary of the background of the paper.
- **Section 2** concerns the scope of the proposed rules.
- **Section 3** relates to the right to be heard by the investigation officer.
- **Section 4** concerns the rules on the content of the information obtained during the inspections which must be submitted to ESMA by the investigation officer.
- **Section 5** relates to the procedure for the imposition of fines and supervisory measures, as well as the rights of the person subject to investigation.
- **Section 6** covers the procedure proposed for the imposition of periodic penalty payments.
- **Section 7** refers to the right of the persons subject to investigation to access the file.
- **Section 8** concerns the procedure for the imposition of interim decisions if urgent action is needed.

- **Section 9** covers the limitation periods for the imposition of penalties.
- **Section 10** concerns the limitation periods for the enforcement of penalties.
- **Section 11** relates to the methods for the collection of penalties, including periodic penalty payments.
- **Section 12** concerns the calculation of periods, dates and time limits to be set in the implementing rules.
- **Section 13** concerns the consistency of the proposed rules with the procedural rules for penalties imposed on credit rating agencies.
- Finally, **Section 14** includes Annexes I and II, which contain the summary of the consultation questions and the European Commission's provisional mandate to provide the technical advice, respectively.

### **3.- Submission of comments**

The deadline for submitting comments is 18 January 2020.

Respondents may send their comments through ESMA's website: [www.esma.europa.eu](http://www.esma.europa.eu). The paper of this consultation (ESMA43-370-12) and the response form are available in the section [\*Consultation\*](#).

Likewise, please send a copy of your answers to the CNMV to the following email address: [documentosinternacional@cnmv.es](mailto:documentosinternacional@cnmv.es)

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