

Response Form to the Consultation Paper

Draft Technical advice to the European Commission on fees charged to Tier 1 Third-Country CCPs under EMIR

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. 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 **10 November 2023**.

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_CCPFEES_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: ESMA_CCPFEES_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_CCPFEES_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website (www.esma.europa.eu under the relevant consultation).

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 '[Data protection](#)'.

Who should read this paper?

This consultation is looking for feedback from third-country CCPs, market participants and authorities.

General information about respondent

Name of the company / organisation	New Zealand Clearing Limited
Activity	Central Counterparty Clearing House and Securities Depository
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	New Zealand

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_CCPFEES_00>

New Zealand Clearing Limited (**NZX Clearing**) is a wholly owned subsidiary of New Zealand Clearing and Depository Corporation Limited (**NZCDC**). NZCDC's parent company is NZX Limited (**NZX**), which operates New Zealand's exchange.

Should ESMA's proposed new fee structure be adopted, NZX Clearing would be considered a Group 1 Tier 1 CCP as its annual global revenue in 2022 was approximately €3,930 Mn EUR (based on Table 1 of the consultation paper).

<ESMA_COMMENT_CCPFEES_00>

Questions

Q1 Do you agree with the proposal to introduce different annual fees levels based on the Tier 1 CCPs global turnover?

<ESMA_QUESTION_CCPFEES_01>

NZX Clearing supports the proposed changes to annual fees for Tier 1 CCPs. We agree with ESMA's view that the current flat fee structure is not fit for purpose and results in unfair outcomes for smaller Tier 1 CCPs.

The proposed new approach appropriately reflects the considerable discrepancy across Tier 1 CCPs in terms of size, and resources required by ESMA to regulate their EU activities.

<ESMA_QUESTION_CCPFEES_01>

Q2 Do you agree that the relevant turnover should be based on audited figures of the Tier 1 CCP's worldwide revenues from clearing services for the financial year n-2?

<ESMA_QUESTION_CCPFEES_02>

NZX Clearing supports the way in which relevant turnover would be calculated under the amended Article 4 of Delegated Regulation (EU) 2020/1302. The requirement to provide ESMA with audited figures on an annual basis is appropriate and a proportionate compliance requirement.

NZX Clearing's fiscal year is aligned with the calendar year. While NZX Clearing will be able to provide ESMA with the requested audited figures before September 30 annually, we note that these will be for the period ended 31 December in the prior year.

<ESMA_QUESTION_CCPFEES_02>

Q3 Do you agree with the proposed thresholds and weighting factors to calculate Tier 1 CCPs annual fees?

<ESMA_QUESTION_CCPFEES_03>

NZX Clearing supports the weighting factors to calculate Tier 1 CCPs annual fees. The weighting factors ensure that the fee gap between different groups remains constant irrespective of the number of CCPs per group, which we believe is a fair approach.

However, we propose that ESMA consider introducing a new group below Group 1 with a smaller flat fee, to accommodate smaller or newly established CCPs. NZX Clearing's audited 2022 financial statements show that total clearing and settlement revenue for the year was approximately \$7,089 Mn NZD, which equates to approximately €3,930 Mn EUR, which is well below the €100 Mn EUR Group 1 threshold.

Given NZX Clearing's very small global turnover relative to the proposed Group 1 threshold, we believe that a new group with a smaller fee would result in smaller CCPs such as NZX Clearing paying a fairer fee relative to their size. An alternative option would be for ESMA to reduce the Group 1 minimum fee, which we discuss in response to Q5.

<ESMA_QUESTION_CCPFEES_03>

Q4 Do you agree that the Tier 1 CCPs annual fee framework should include a maximum and a minimum amount?

<ESMA_QUESTION_CCPFEES_04>

NZX Clearing agrees that the fee framework should include a maximum and minimum fee. Please see our comments in response to Q5 on the proposed minimum annual fee amount.

<ESMA_QUESTION_CCPFEES_04>

Q5 Do you agree with the proposed amounts for the maximum and minimum annual fees for Tier 1 CCPs?

<ESMA_QUESTION_CCPFEES_05>

NZX Clearing considers that the estimated EUR 50 000 minimum fee is a disproportionately high starting point for Group 1 CCPs, particularly for small or newly established CCPs. As mentioned in our comments in response to Q3, NZX Clearing's annual global revenue is well below the proposed €100 Mn EUR Group 1 threshold.

In addition, NZX Clearing's activities require very little monitoring from ESMA. As of November 2023, NZX Clearing has 1 EU participant (which is domiciled in Singapore) and conducts no clearing or settlement activity in the EU. In our view, a EUR 50 000 fee does not reflect the true costs of monitoring NZX Clearing's EU activity, nor does it align with ESMA's intentions of introducing a proportionate fee structure. Therefore, we propose that ESMA either reduce the Group 1 minimum fee or create a new group with a smaller minimum fee.

<ESMA_QUESTION_CCPFEES_05>

Q6 Do you agree that an incentive mechanism should be implemented to ensure that ESMA is able to compute the fees for a given year?

<ESMA_QUESTION_CCPFEES_06>

NZX Clearing acknowledges that an incentive mechanism is likely necessary to ensure that ESMA receives the audited figures required to compute the fees for a given year.

<ESMA_QUESTION_CCPFEES_06>