



European Securities and
Markets Authority

Response Form to the Consultation Paper

**Procedural rules for penalties imposed on Data Reporting Services Providers
(DRSPs)**



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:

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

ESMA will consider all comments received by **23 January 2021**.

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_CP_DRPE_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_DRPE_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_ DRPE _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" → "CP on Procedural rules for penalties imposed on Data Reporting Services Providers (DRSPs)").

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?

This consultation is looking for feedback from Approved Publication Arrangements (APAs), Authorised Reporting Mechanisms (ARMs) and Consolidated Tape Providers (CTPs) and from investment firms or market operators operating a trading venue to provide the data reporting services of an APA, ARM or CTP.

General information about respondent

Name of the company / organisation	Finance Denmark
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Denmark

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_CP_DRPE_1>

TYPE YOUR TEXT HERE

<ESMA_COMMENT_CP_DRPE_1>

Questions

Q1 : Do you agree with the proposal regarding the right to be heard and the procedure at the stage of the investigation conducted by the investigation officer? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_1>

We agree on the process that describes how rights to be heard by the investigation officer are described. It allows the person under investigation to present his case before the case is submitted to ESMA

It is important that the person under investigation is given a reasonable amount of time to produce material and answers to the investigation officer

<ESMA_QUESTION_DRPE_1>

Q2 : Do you agree with the proposal regarding the file to be submitted by the investigation officer to ESMA? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_2>

We agree with the proposal for file to be submitted by the investigation officer. It seems that there is the necessary opportunity for the person under investigation to be heard and get relevant material presented.

It also makes sense with a process that is similar to the process from EMIR, CRA and TC-CCP regulation. This will apply for more than this question

<ESMA_QUESTION_DRPE_2>

Q3 : Do you agree with the proposal regarding the procedure before ESMA with regards to fines and supervisory measures, including the right to be heard? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_3>

We agree with the proposal. regarding the procedure before ESMA with regards to fines and supervisory measures, including the right to be heard. It seems that there is the necessary opportunity for the person under investigation to be heard and get his case presented for ESMA.

Again - it is important that the person under investigation is given a reasonable amount of time to produce material and answers to ESMA

<ESMA_QUESTION_DRPE_3>

**Q4 : Do you agree with the proposal regarding the periodic penalty payments?
Please elaborate on the reasons for your answer.**

<ESMA_QUESTION_DRPE_4>

We agree with the proposal regarding the periodic penalty payments. It seems that there is the necessary opportunity for the person under investigation to be heard and get his case presented for ESMA.

Again - it is important that the person under investigation is given a reasonable amount of time to produce material and answers to ESMA

<ESMA_QUESTION_DRPE_4>

Q5 : Do you agree with the proposal regarding the access to the file? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_5>

We agree with the proposal regarding the access to the file. For processing, it's necessary that the parties relevant to processing have access to the file, and it's only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) No 600/2014

<ESMA_QUESTION_DRPE_5>

**Q6 : Do you agree with the proposal regarding the adoption of interim decisions?
Please elaborate on the reasons for your answer.**

<ESMA_QUESTION_DRPE_6>

We don't agree with the proposal regarding the adoption of interim decisions,

It doesn't seem reasonable that the person subject to investigation doesn't have the opportunity to make submissions.

<ESMA_QUESTION_DRPE_6>

Q7 : Do you agree with the proposal regarding the limitation periods for the imposition of penalties? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_7>

In Denmark there is currently a three years limitation period but since five years are in line with other regulations as described in the CP we have no objection to a five year period.

<ESMA_QUESTION_DRPE_7>

Q8 : Do you agree with the proposal regarding the limitation periods for the enforcement of penalties? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_8>

In Denmark there is currently a three years limitation period but since five years are in line with other regulations as described in the CP we have no objection to a five year period.

<ESMA_QUESTION_DRPE_8>

Q9 : Do you agree with the proposed collection of fines and periodic penalty payments? Please elaborate on the reasons for your answer.

<ESMA_QUESTION_DRPE_9>

N/A

<ESMA_QUESTION_DRPE_9>

**Q10 : Do you agree with the proposed calculation of periods, dates and time limits?
Please elaborate on the reasons for your answer.**

<ESMA_QUESTION_DRPE_10>

We agree with the proposed calculation of periods, dates and time limits. It makes sense to follow the same approach that is used in the EU legislation and is in line with other technical advises

<ESMA_QUESTION_DRPE_10>