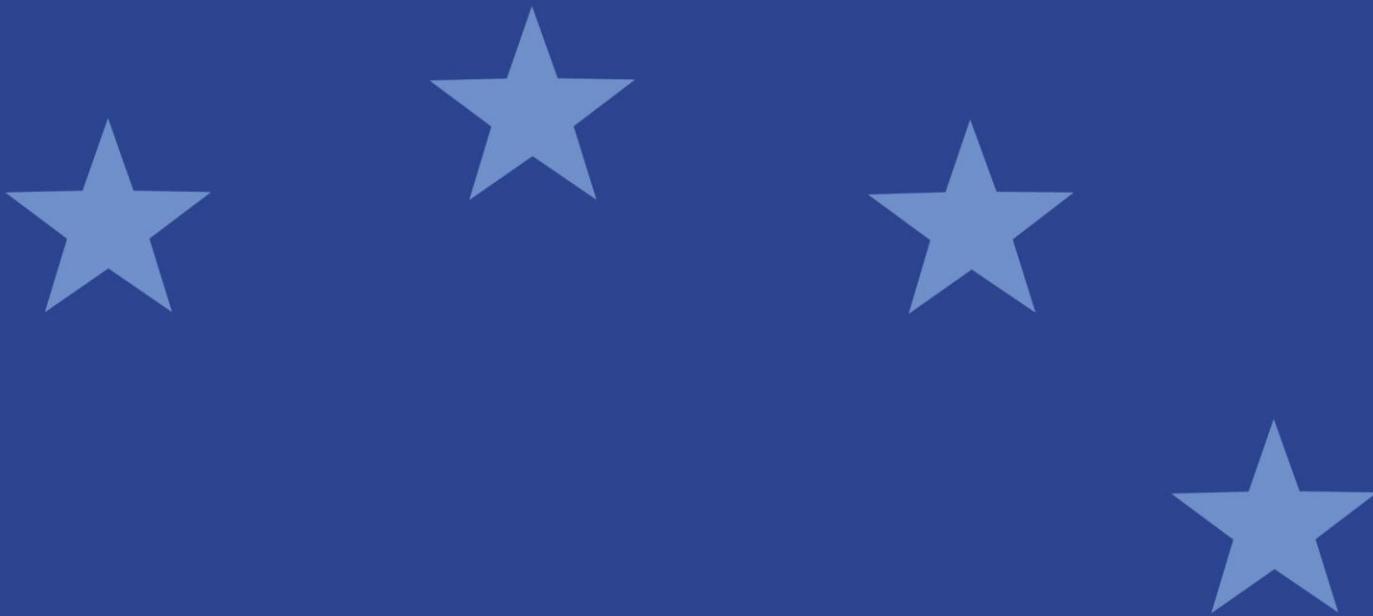




European Securities and
Markets Authority

Response Form to the Consultation Paper

ESMA advice on the criteria for DRSP



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 **4 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_DRRCR_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_DRRCR_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_ DRRCR _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 DRSP criteria for derogation").

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 data reporting services providers, market participants and authorities.

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_DRCCR_1>

Generally, regard should be given to smaller ARM/APA that only provide services locally in one country as a part of bigger package of services provided to small local banks that only operate nationally. In such a setup we find that reporting should be done to the NCA while if the ARM/APA provide services in several countries it should report to ESMA

This setup also makes it challenging with the specific model with calculation of annual fees for DRSP's since the ARM service with ancillary services, which are offered in Denmark to smaller banks, is not an independent priced service, but the ARM service is part of an overall service and pricing, which delivered in the role of data center for smaller banks.

<ESMA_COMMENT_CP_DRCCR_1>



Questions

Q1: Do you agree with the proposed method to determine if the APA or ARM services are provided to investment firms authorised in one Member State only?

<ESMA_QUESTION_DRCR_1>

Yes - it seems like a sensible method to assess whether an ARM or an APA should be under supervisory of the national competent authorities or ESMA

<ESMA_QUESTION_DRCR_1>

Q2: Do you agree with the need for a periodic (e.g. annual) reassessment of adherence to this specific criterion?

<ESMA_QUESTION_DRCR_2>

Yes - it makes sense with an assessment, and an annual frequency makes good sense

<ESMA_QUESTION_DRCR_2>

Q3: Do you have a view if a minimum threshold should be applied to a number of investment firms to which services are provided in a given Member State? If yes, please specify.

<ESMA_QUESTION_DRCR_3>

There should not be a minimum threshold for the number of investment firms that the service is provided to in a Member State. It should be based on the ARM or APA services provided to investment firms authorized in one member state only.

<ESMA_QUESTION_DRCR_3>

Q4: Do you think another method for determination of the first criterion should be considered? If yes, please specify.

<ESMA_QUESTION_DRCR_4>

No

<ESMA_QUESTION_DRCR_4>

Q5: Do you agree that the proposed method should rely on the information to be provided APAs and ARMs?

<ESMA_QUESTION_DRCR_5>

Yes

<ESMA_QUESTION_DRCR_5>

Q6: Do you agree with the proposed calculation method for APA and ARM?

<ESMA_QUESTION_DRCR_6>

Yes - it seems like a sensible calculation method for ARM's or an APA's.

<ESMA_QUESTION_DRCR_6>

Q7: Do you agree that consideration should be given not only to the number of trade reports or transaction, but also overall volumes made public by/reported within the trade reports/transactions?

<ESMA_QUESTION_DRCR_7>

It should only be an assessment based on the number of transactions and not volumes

<ESMA_QUESTION_DRCR_7>

Q8: Do you have a view below what threshold (both, in terms of number of trade reports/transactions and their volumes) an APA or an ARM should be considered to be of limited relevance for the internal market?

<ESMA_QUESTION_DRCR_8>

Is an ARM's reporting of relevance to the internal market if the ARM is only operating in one member state? In this situation the ARM will be of relevance for the national competent authority. Relevant information to the internal market will then go through the national competent authority.

If there should be a threshold, an entity with a threshold of less than 15 percent market share will have limited relevance to the market

<ESMA_QUESTION_DRCR_8>

Q9: Do you agree that calculation for APA would be carried out based on transparency quantitative data submitted to FIRDS Transparency system (FITRS)?

<ESMA_QUESTION_DRCR_9>

Yes

<ESMA_QUESTION_DRCR_9>

Q10: Do you agree that calculations for ARM would be carried out based on transactions reported under Article 26(1) of MiFIR?

<ESMA_QUESTION_DRCR_10>

Yes

<ESMA_QUESTION_DRCR_10>

Q11: Do you agree with the need for a periodic (e.g. annual) reassessment of initial calculations in order to confirm their ongoing relevance?

<ESMA_QUESTION_DRCR_11>

Yes - it makes sense with an assessment on an yearly basis

<ESMA_QUESTION_DRCR_11>

Q12: Do you think another method for determination of the second criterion should be considered? Please specify?

<ESMA_QUESTION_DRCR_12>

Why having this second criterion for ARM's? Why not base it on the number of jurisdictions for the ARM is reporting to. If more than one jurisdiction the ARM should report to ESMA

<ESMA_QUESTION_DRCR_12>

Q13: Do you agree with the proposed method?

<ESMA_QUESTION_DRCR_13>

In Denmark, there are data centers that operate exclusively locally in Denmark, and which are associations owned by smaller banks. These data centers typically handle the IT tasks for these smaller banks, including, among other things, reports to authorities on behalf of the banks that use the data center. The local affiliation of these banks, their size and the number of transactions to the authorities that they generate should allow for local supervision of their ARM, which is part of the data center

<ESMA_QUESTION_DRCR_13>

Q14: Do you think another method for determination of the third criterion should be considered? Please specify?

<ESMA_QUESTION_DRCR_14>

Yes - it should open up for local data centers to be part for local supervision.

<ESMA_QUESTION_DRCR_14>

Q15: Do you agree with this additional criterion for ARMs? If not, please explain why.

<ESMA_QUESTION_DRCR_15>

No - other setup may be established according to which transactions can be routed before they are updated at an ARM

<ESMA_QUESTION_DRCR_15>

Q16: Do you think another additional criterion should be considered for APAs? If yes, please specify.

<ESMA_QUESTION_DRCR_16>

No

<ESMA_QUESTION_DRCR_16>

Q17: Do you agree that criteria to determine upfront which data reporting services providers are derogated from ESMA supervision should be the same as those, to be applied for possible future applicants? If no, please explain why and propose alternative criteria.

<ESMA_QUESTION_DRCR_17>

Yes

<ESMA_QUESTION_DRCR_17>

Q18: How do you think the elements to determine if an ARM or APA have a derogation should apply: cumulatively or not? Please explain why.

<ESMA_QUESTION_DRCR_18>

A cumulative approach would mean that even a minor matter would preclude local supervision, which may seem very restrictive and completely prevent local supervision.

<ESMA_QUESTION_DRCR_18>

Q19: If the elements are not to be applied cumulatively, should a combination of several elements apply instead? If yes, combination of which ones and why?

<ESMA_QUESTION_DRCR_19>

Could be a possibility, but if you are a local ARM it should be possible to be based only on the basis of local presence

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<ESMA_QUESTION_DRRCR_19>