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Computershare Limited
PO Box 82
The Pavilions
Bridgwater Road
Bristol
BS13 8AE
Telephone 0870 702 0000
Facsimile 0870 703 6137
DX 78139 Bristol
Textphone users please call 0870 702 0005
www.computershare.com

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Comments on ESMA Consultation on Technical Standards under the CSD Regulation

Computershare appreciates the opportunity to provide ESMA with our comments on the Technical Standards under the CSD Regulation. Computershare (ASX: CPU) is a global market leader in transfer agency and share registration, employee equity plans, proxy solicitation and stakeholder communications. We also specialise in corporate trust, mortgage, bankruptcy, class action, utility and tax voucher administration, and a range of other diversified financial and governance services.

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Views on the proposed draft RTS on CSD record keeping (Chapter IV of Annex III) and draft ITS on CSD record keeping (Annex VII) (Question 23)

With regard to the ITS on CSD record keeping (Annex VII) we note the requirement to include Legal Entity Identifier and National Identifier of CSD Participants' clients within the Transaction/Settlement instruction (flow) records (Table 1, Fields 15 &16). It is not clear whether there will be additional rules in terms of populating this level of detail i.e. whether it is mandatory or optional but if mandatory we believe this could have a significant operational impact without any visible benefit.

Member States are already obliged to operate reporting mechanisms for this level of data under MiFID and this information is currently passed outside the CSD. Any additional requirement to also pass this data within CSD transactional information would impose an unnecessary duplication in terms of reporting. Additionally, settlement instruction message sizes would increase considerably if this detail has to be included for all transactions e.g. a single purchase for a Dividend Reinvestment Plan might be representing many thousands of underlying beneficial holders, and we are concerned that the efficiency of CSD settlement systems would suffer as a result.

We therefore believe that these fields should either be removed from the ITS, or alternatively the field descriptions should be reworded such that this information should only be provided where Member State requirements dictate that transaction reporting is passed via the CSD.

Views on the proposed draft RTS on reconciliation measures included in Chapter V of Annex III? (Question 25)

We agree that the proposals are broadly adequate although we feel the standards would benefit from some additional clarification regarding the scope of reconciliation – see our additional responses to questions 26 and 27 below.

However, we are concerned that issuers and their agents in many regards have been disenfranchised from the proposals in relation the reconciliation of the issuer's securities. In particular, the Issuer and any Issuer Agent (e.g. registrar) should be added to the list of parties to be communicated with in the event of any problem related to reconciliation (Article 17, paragraphs 2, 3 & 4). While this is particularly of concern in markets where other entities such as registrars are involved in the reconciliation process, issuers in all markets should be made aware of any undue creation or deletion of their securities and of the suspension of the securities from settlement. Issuers should also be added to the list of other entities defined in Article 4, paragraph 2 (Risk management and internal control mechanisms).

We are also concerned about the proposed Article 17(2) of the draft RTS which states that: "Where the reconciliation process reveals an undue creation or deletion of securities, the CSD **shall** suspend the securities issue for settlement until the undue creation or deletion of securities has been remedied." (our emphasis added) Whilst suspension may be appropriate in the event of major reconciliation problems i.e. if a large number of securities holdings are affected or if a few holders are affected in a substantial way, it may be counter-productive in the event of minor issues i.e. if it affects a small fraction of the entire issue and/or very few securities holders. In this scenario, suspension may unnecessarily damage the interests of investors and issuers. We would recommend that the article should be amended to allow exercise of a form of supervised discretion in the event that suspension is appropriate, as follows:

"Where the reconciliation process reveals an undue creation or deletion of securities, the CSD **may, after having consulted with the competent authority** suspend the securities issue for settlement until the undue creation or deletion of securities has been remedied."

Adequacy of the proposed reconciliation measures where other entities are involved in the reconciliation process for a certain securities issue within the meaning of Article 37(2) of CSDR. Explanation of views where we think that any of the proposed measures would not be applicable in the case of a specific entity. (Question 26)

In general we believe that the measures specified in Article 16 are adequate and sufficient to ensure integrity between parties on a day to day basis. This also includes situations where Corporate Action calculations are performed by another entity where the CSD has insufficient information to verify the calculations. In these instances reconciliation is assured by the following process: -

- The other entity will have reconciled any existing securities on the previous day – this will minimally include the reconciliations described in Article 16 1(a) and (b), and will also include a full reconciliation as outlined in (c) if a record date applies.
- On payment date the other entity will instruct the resultant securities that are to be credited to CSD securities accounts.
- At the end of payment date the other entity will perform the reconciliations described in Article 16 1(a) and (b). Any securities account that has received Corporate Action proceeds will be reconciled in (b) above.

With regard to the proposal in paragraph 1(c) that a full reconciliation is carried out weekly we believe the proposed frequency is an unnecessary burden and has potential to impede critical events such as infrastructure projects (CSD upgrades), market changes (e.g. dematerialisation) and large Corporate Actions. Member States should have flexibility to prioritise such events over any full reconciliation requirement which is essentially a secondary integrity check to guard against record keeping differences that have not already been highlighted in the daily reconciliation. In the UK and Ireland the existing arrangement is for a full reconciliation between the Registrar and CSD to be undertaken quarterly and we do not recall any reconciliation failures identified via this arrangement since inauguration of the CREST system in 1996. Consequently, if the frequency of such reconciliations is to be increased we believe that a monthly or fortnightly obligation gives sufficient scope to ensure preservation of integrity without a substantial overhead in terms of scheduling and administering key events.

Views on the proposed reconciliation measures for corporate actions under Article 15 of the draft RTS included in Chapter V of Annex III (Question 27)

Article 15, paragraph 2 specifies that the CSD shall perform an additional reconciliation ensuring that all securities accounts maintained by the CSD are updated correctly following a Corporate Action. However it is unclear as to whether this requires the CSD to check that the entitlement has been calculated correctly. Note that where a third party such as a registrar or other Issuer Agent has calculated the entitlements they will often be doing so using information that is not disclosed to the CSD e.g. elections outside the CSD, tax status, conversion rates, allocation policy etc.

We recommend that ESMA adopt more specific wording to clarify that the CSD is only responsible for reconciling entitlement calculations performed by themselves e.g. "When a corporate action has been processed by a CSD, they shall perform an additional reconciliation ensuring that all securities accounts maintained by the CSD are updated correctly."

As indicated in our response to Question 26 above, the reconciliation obligations referred to in Article 16, 1(a) and (b) already ensure integrity where another entity is calculating/instructing Corporate Action entitlements.

Views on the proposed draft RTS on CSD links as included in Chapter IV of Annex IV (Question 31)

We question the definition of 'investor CSD' in chapter I. It is defined as 'a CSD which has a link with an issuer CSD either directly or via an intermediary allowing its participants to hold securities in its securities settlement system which were issued through the issuer CSD'. However in many instances the investor CSD will be recording some form of entitlements to the immobilised security held through custody at the Issuer CSD, rather than

the securities per se. This is relevant to ensure that the total issued capital is not inflated by inclusion of the investor CSD positions, and to facilitate proper reconciliation, and the administration of shareholder voting and other shareholder rights. The entitlements held at the investor CSD are not fungible with the Issuer CSD assets.

Where there is a reconciliation issue between the positions recorded in the Investor CSD and the records of securities held in the Issuer CSD, the Issuer CSD will hold the definitive record which is reconciled to total securities issue as provided in chapter V of the proposed draft RTS. Resolving the imbalance should therefore be the responsibility of the Investor CSD.

We do not agree that a reconciliation issue between issuer and investor CSDs should result in the suspension of settlement of the issuer's securities at the Issuer CSD, where the issuer CSD is otherwise reconciled to the total securities issue. However we agree that suspension at the investor CSD may be appropriate if the imbalance cannot be remedied.

Further, as per our response to Question 25 the Issuer and Issuer Agent (if relevant) should be added to the list of parties to be communicated with in the event of any problem related to reconciliation or suspension from settlement.

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