

ICMA CSDR-SD Working Group

Outstanding issues **Nov 19, 2019**

Mandatory buy-ins [General]

Issue	Regulation	Request	Status
Asymmetric payments of the buy-in/cash compensation differential	Article 7(6) RTS Article 33 RTS Article 35	Level 3 guidance that it is possible for trading parties to settle the buy-on or cash compensation differential symmetrically via contractual arrangements	Discussed with ESMA and EC at length (including provision of explanation and proposed Q&A) Waiting on Level 3 guidance
Pass-on proposal	Recital (19) RTS Recital (34)	Level 3 guidance to confirm the possibility for a pass-on mechanism (same-ISD and multi-ISD)	ICMA holding the pen on a cross-industry proposal Proposal near completion Previous discussions with ESMA have confirmed that they are supportive of a pass-on mechanism and are open to a multi-ISD solution
Appointing a buy-in agents	RTS Articles 29 & 30	The possibility for trading parties, within strict parameters, to execute the buy-in themselves, if not possible to find a buy-in agent	ESMA has confirmed verbally that there is no scope within the regulation for this possibility
Resolving buy-in / cash compensation disputes	Article 7(6)&(7) RTS Article 33 RTS Article 35	A resolution process for disputes arising from the buy-in execution price or cash compensation reference price	Not raised

<p>Updating the ICMA Buy-in Rules</p>	<p>RTS Article 25</p>		<p>The ICMA Buy-in Rules will be revised to align with the CSDR buy-in requirements to support implementation and best practice in the non-cleared bond markets</p> <p>The proposed revisions will be subject to a member/industry consultation (early 2020)</p> <p>ICMA may require an opinion on legal enforceability</p>
--	-----------------------	--	---

Mandatory buy-ins [Securities Financing Transactions]

Issue	Regulation	Request	Status
Treatment of open (and open-like) SFTs	Article 7(4)(b) RTS Article 22(2)	Level 3 confirmation that open SFTs are out of scope All SFTs where the earliest contractual termination date <30 business days should be out of scope	Discussed with ESMA and EC ESMA has requested details of the accounting treatment for open (and open-like) SFTs from a risk and regulatory capital/liquidity perspective
In scope SFTs			Proposed best practice is that contractual remedies (GMRA/GMSLA) are used before the end of the extension period (i.e. mini close-outs)
Buying-in an SFT (In the event that contractual remedies are not used, and the SFT goes to a buy-in)			ICMA to draft best practice guidelines for settling the buy-in / cash compensation differential in the event of a buy-in against a repo
Buying-in a basket trade		Exemption for basket-trades (triparty/DBV) > 30 business days on the grounds that it would be impractical	Raised with ESMA Further explanation requested
Update to GRMA	RTS Article 25		Being explored with members Also in discussion with ISLA re GMSLA

