

KDPW proposal for amendments to the ECB Glossary of Terms related to payment, clearing and settlement systems

Term	Definition
Clearing	<p>The process of transmitting, reconciling and, in some cases, confirming payment or transfer orders prior to settlement, possibly including the netting of orders and the establishment of final positions for settlement. Sometimes the term is used (imprecisely) to include settlement. For futures and options clearing, in particular, refers to duties encompassing the daily marking to market, the daily calculation of collateral requirements and establishing positions for final settlement once the contract has expired.</p> <p>[KDPW Comments: it is necessary to include futures and options clearing specifics into the definition]</p>
Final investor	<p>The final recipient of rights in securities (e.g. ownership, voting rights or dividends) held on a securities account – see also <i>Direct holding systems</i> and <i>Indirect holding system</i></p> <p>[KDPW Comments: we support introduction of the final investor definition as one of the most basic terms defining participants to a transaction in current multi-tiered financial market]</p>
Indirect participant	<p>A participant in a funds or securities transfer system with tiering arrangement using a direct participant as intermediary to perform some of the activities allowed in the system (particularly settlement).</p> <p>[KDPW Comments: Please note that according to the draft directive amending SFD/FCD the 'indirect participant' shall mean an institution, a central counterparty, a settlement agent, a clearing house or a system operator with a contractual relationship with a participant in a system executing transfer orders which enables the indirect participant to pass transfer orders through the system; provided, however, that the indirect participant is known to the system operator.]</p> <p>See also <i>Tiering arrangement</i>.</p>
Interoperable system	<p>[KDPW Comments: Please note that according to the draft directive amending the SFD/FCD the definition of an interoperable system has been inserted: „Two or more systems whose system operators have entered into an arrangement between themselves that involves cross-system execution of transfer orders].</p>
Issuer CSD (issuing CSD)	<p>In the context of links between CSDs, this relates to the CSD in which securities are issued (or immobilized). The issuer CSD has an omnibus account in its books in the name of the investor CSD(s) for the transfer of securities to the investor CSD(s) (or to a third party, e.g. an intermediating CSD, acting on behalf of the investor CSD and its clients).</p> <p>See also <i>Direct link</i>, <i>Investor CSD</i>, <i>relayed link</i>.</p> <p>[KDPW Comments: The word „designates” is much too formal, suggesting a notification – like meaning, so we have proposed „relates to” as more functional].</p>
Novation	<p>The replacement of one legal agreement by a new obligation, with the agreement of all the parties; in particular the process where registered trades are cancelled with the clearing members and substituted by two new ones – one between the central counterparty and the selling clearing member, the other between the central counterparty and the buying clearing member.</p> <p>See <i>Netting by novation</i>.</p> <p>[KDPW Comments: Novation, as a fundamental legal construction of securities law should be added as a separate entry in the Glossary. We realize that netting is not the only advantage resulting out of novation. Nevertheless netting should be defined as a change of the obligations arising from the transactions].</p>

Term	Definition
Participant	<p>An entity which is identified/recognised by the transfer system and which is allowed to send, and is capable of receiving, transfer orders to/from the system, either directly or indirectly. Participants may include an institution, a central counterparty, a settlement agent, a clearing house or a system operator.</p> <p>See also <i>Direct participant</i>, <i>Indirect participant</i>, <i>Remote participant</i>.</p> <p>[KDPW Comments: ensuring consistency with the EU directive 2002/47/WE on financial collateral arrangements].</p>
Physical Delivery	<p>Settlement of an option or futures contract by the delivery of the underlying securities rather than an equivalent cash settlement.</p> <p>[KDPW Comments: it has to be emphasized that the term physical delivery is specifically related to the options or futures contracts].</p>
Processing	<p>The performance of all the actions required in accordance with the rules of a system for handling a transfer order from the point of acceptance by the system to the point of discharge from the system. Processing may include clearing, sorting, netting, matching and/or settlement.</p> <p>[KDPW Comments: matching is a very important part of processing the transfer order and as such should be embraced by this definition].</p>
Security Financial Collateral Arrangement	<p>An arrangement under which a collateral provider provides financial collateral by way of security in favour of, or to, a collateral taker, and where the full or qualified ownership of, or full entitlement to, the financial collateral remains with the collateral provider when the security right is established.</p> <p>[KDPW Comments: ensuring consistency with the EU directive 2002/47/WE on financial collateral arrangements].</p>
Settlement account	<p>An account at a central bank, a central securities depository, a settlement agent or a central counterparty used to hold funds and/or securities and to settle transactions between participants in a system.</p> <p>[KDPW Comments: ensuring consistency with the EU directive 98/26/WE on settlement finality].</p>
Title Transfer Financial Collateral Arrangement	<p>An arrangement, including repurchase agreements, under which a collateral provider transfers full ownership of, or full entitlement to, financial collateral to a collateral taker for the purpose of securing or otherwise covering the performance of relevant financial obligations.</p> <p>[KDPW Comments: ensuring consistency with the EU directive 2002/47/WE on financial collateral arrangements].</p>