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# NASDAQ CSD

# SERVICE DESCRIPTION

SHAREHOLDER DISCLOSURE PROCESS IN  
ACCORDANCE WITH SHAREHOLDERS  
RIGHTS DIRECTIVE (EU) 2017/828

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**Disclaimer**

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Capitalised words have the meaning provided in the Shareholders Rights Directive (EU) 2017/828 and Implementing Regulation (EU) 2018/1212.

## Document Revisions

| Version | Date       | Version history         |
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| Version | Date of amendments | Owner of the document                         | Modifier/ involved stakeholders                     | Brief description of the main changes and their justification   | Approved date |
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# 1 Introduction

## 1.1 Purpose of the document

The amended Shareholders Rights Directive (EU) 2017/828 (hereinafter “SRD II”) and Implementing Regulation (EU) 2018/1212 (hereinafter “SRD II IR”) regulates the right of EU/EEA issuers of shares traded on regulated markets to identify their shareholders. The purpose of this document is to provide the general principles of shareholder disclosure processing for the SRD II securities registered in the Nasdaq CSD (the CSD).

## 1.2 Target audience

This service description is mainly applicable to:

- CSD participants and the intermediaries holding SRD II securities
- Directly linked Investor CSDs
- Issuers and issuer agents
- Other interested parties

## 1.3 Transposition of SRD II

Transposition of the directive has already commenced across member states. National governments were allowed a degree of latitude in some of the areas of the SRDII and all market participants should monitor these variations. The table below contains information on the national laws in all three Baltic countries which were amended due to SRD II.

| Country                               | Law Implementing SRD II   |                                       |                                       |            |                     |            |  |            |                    |
|---------------------------------------|---|---------------------------------------|---------------------------------------|------------|---------------------|------------|--|------------|--------------------|
| Estonia                               | <p>Securities Register Maintenance Act (SRMA)<br/><a href="https://www.riigiteataja.ee/akt/104122019019">https://www.riigiteataja.ee/akt/104122019019</a> (in Estonian, entails SRD II provisions);<br/><a href="https://www.riigiteataja.ee/en/eli/517122019003/consolide">https://www.riigiteataja.ee/en/eli/517122019003/consolide</a> (English version does not yet entail SRD II at the moment)<br/>Entry into force – September 10, 2020<br/>Securities Market Act (SMA)<br/><a href="https://www.riigiteataja.ee/en/eli/523122019001/consolide">https://www.riigiteataja.ee/en/eli/523122019001/consolide</a> Commercial Code (CC)<br/><a href="https://www.riigiteataja.ee/en/eli/516122019001/consolide">https://www.riigiteataja.ee/en/eli/516122019001/consolide</a></p> <table border="1"><thead><tr><th>Shareholders Rights Directive article</th><th>Corresponding section in Estonian law</th></tr></thead><tbody><tr><td>Article 3a</td><td>SRMA § 6 (92), § 19</td></tr><tr><td>Article 3b</td><td>CC § 294 (1), SMA § 127 (2), § 1876, SRMA § 19</td></tr><tr><td>Article 3c</td><td>SRMA § 6 (7), § 19</td></tr></tbody></table> | Shareholders Rights Directive article | Corresponding section in Estonian law | Article 3a | SRMA § 6 (92), § 19 | Article 3b | CC § 294 (1), SMA § 127 (2), § 1876, SRMA § 19 | Article 3c | SRMA § 6 (7), § 19 |
| Shareholders Rights Directive article | Corresponding section in Estonian law   |                                       |                                       |            |                     |            |  |            |                    |
| Article 3a                            | SRMA § 6 (92), § 19   |                                       |                                       |            |                     |            |  |            |                    |
| Article 3b                            | CC § 294 (1), SMA § 127 (2), § 1876, SRMA § 19  |                                       |                                       |            |                     |            |  |            |                    |
| Article 3c                            | SRMA § 6 (7), § 19  |                                       |                                       |            |                     |            |  |            |                    |
| Latvia                                | <p>Financial instruments market Law<br/><a href="https://likumi.lv/ta/id/81995-finansu-instrumentu-tirgus-likums">https://likumi.lv/ta/id/81995-finansu-instrumentu-tirgus-likums</a> (in Latvian only),<br/>Articles 59.<sup>6</sup>, 59.<sup>7</sup>, 59.<sup>8</sup>, 59.<sup>9</sup> un 59.<sup>10</sup><br/>Date in force – September 1, 2020 (amendments related to the Article 3a, 3b and 3c of the SRD II)</p>  |                                       |                                       |            |                     |            |  |            |                    |
| Lithuania                             | <p>Law On Companies<br/><a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/ff1acfd29cbd11e9aab6d8dd69c6da66">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/ff1acfd29cbd11e9aab6d8dd69c6da66</a><br/>Law on Markets in Financial Instruments<br/><a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/cfbb67129cc011e9aab6d8dd69c6da66">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/cfbb67129cc011e9aab6d8dd69c6da66</a><br/>Law of the Republic of Lithuania on Financial Reporting by Undertakings<br/><a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/78bccff29cbe11e9aab6d8dd69c6da66">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/78bccff29cbe11e9aab6d8dd69c6da66</a></p>   |                                       |                                       |            |                     |            |  |            |                    |

|  |   |
|--|---|
|  | Code of Administrative Offences<br><a href="https://www.e-tar.lt/portal/lt/legalAct/3e7ba0209efb11e9878fc525390407ce">https://www.e-tar.lt/portal/lt/legalAct/3e7ba0209efb11e9878fc525390407ce</a><br>Come into force September 3, 2020 |
|--|---|

## 1.4 Main principles

The following principles are applicable to shareholder disclosure processing for the SRD II securities:

- The process is in line with the SRD II and SRD II IR requirements, the national transposition specificities in the Baltic countries and the market practice established by the Shareholder Identification Task Force.
- The process described in this document applies to the securities in scope of SRD II – companies which have their registered office in a Latvia, Lithuania and Estonia and the shares of which are registered with Nasdaq CSD as Issuer CSD and admitted to trading on a Nasdaq Riga, Nasdaq Vilnius, and Nasdaq Tallinn or any other regulated market operating or situated in the Member State of the European Union.
- The Nasdaq CSD service of identification of shareholders is available to listed companies on the Baltic Main or Baltic Secondary list as well as companies whose shares are registered with Nasdaq CSD as Issuer CSD and admitted to trading in regulated market operating or situated in the Member State.
- Nasdaq CSD in its role as Investor CSD will ensure, upon receipt of the shareholder identification request, that this request is transmitted to the next intermediaries in the custody chain without undue delay. A response to the shareholder identification disclosure request shall be sent by every Intermediary in the custody chain directly to the recipient's address defined in the request and without undue delay. Nasdaq CSD will generate a response with information on the shareholder's identity limited to the records in the Nasdaq CSD only.
- If a threshold quantity limiting the request applies, Nasdaq CSD will indicate threshold quantity in the request.

## 2 General overview

### 2.1 Actors affected by shareholder disclosure process

The main roles involved in this process:

#### **Issuer**

The party that has issued the shares and is requesting the identity of its Shareholders. Nasdaq CSD provides full service (sends the requests and receives responses to the requests) only to the issuers whose shares are registered with the Nasdaq CSD in a role of an Issuer CSD and are listed on the regulated market situated or operating in the Member State (hereinafter - local issuers).

#### **Third party/issuer agent**

The third party that the issuer has delegated responsibility for receiving responses to the request. This is an optional role; the issuer may elect to receive responses itself. The issuer CSD can also act as the third party.

Local issuers and issuer agents can use the service provided by Nasdaq CSD.

#### **Issuer CSD**

The issuer CSD is the CSD in which the shares have been issued. The issuer CSD is the primary register for the issuance, unless this function is performed by another party such as a registrar. The issuer CSD is in many markets the First Intermediary, and it may also be the Last Intermediary, i.e. for a CSD member's proprietary account or for various types of end investors, in direct-holding markets.

In the SRD II IR, the definition of issuer CSD is: the central securities depository which provides the core service as defined in points 1 or 2 of Section A of the Annex to Regulation (EU) No 909/2014 of the European Parliament and of the Council with respect to the shares traded on a regulated market.

In the SRD II IR, the definition of First Intermediary is: the issuer CSD or other intermediary nominated by the issuer, who maintains the share records of the issuer by book-entry at top tier level with respect to the shares traded on a regulated market, or holds those shares at top tier level on behalf of the shareholders of the issuer.

#### **Intermediary - local custodian**

The party that acts as a CSD participant, holding assets on behalf of clients in one or more securities accounts in the books and records of the issuer CSD. The local custodian may be the Last Intermediary, i.e. a client may be the end investor/shareholder.

Nasdaq CSD participants per each securities settlement system are listed [on the Nasdaq CSD website](#).

#### **Intermediary - global custodian**

The party that acts as a client of the CSD participant, in turn holding assets on behalf of clients in one or more securities accounts in the books and records of the local custodian. The global custodian may be the Last Intermediary, i.e. a client may be the end investor/shareholder.

**NB!** Nasdaq CSD participant who is holding Baltic instruments indirectly – in a securities account operated by another Nasdaq CSD participant - from SRD II process is regarded as an Intermediary – global custodian. If that is the case the data exchange between Nasdaq CSD and such Nasdaq CSD participant follows the data exchange between Nasdaq CSD and an Intermediary – global custodian.

### 3 Shareholder identification processing framework

This section applies to the process for identification of the shareholders of the companies whose shares are listed on the Baltic Main list and Baltic Secondary list or any other regulated market operating or situated in the Member State of the European Union and Nasdaq CSD is the Issuer CSD.

This section includes requirements on identification of shareholders and transmission of information.

#### 3.1 Request to disclose information regarding shareholder identity

Local issuer or its agent submits a request to disclose information on the shareholder identity via Nasdaq CSD shareholders disclosure system ESIS. The following information must be provided in the request:

- ISIN
- Record Date
- Issuer deadline.

The Record Date is the date set by a local issuer, on which the shareholder identity shall be determined, based on the settled positions struck in the books of the Nasdaq CSD by book-entry at the close of its business day. The Record Date shall not be more than 12 months in the past or 30 calendar days in the future.

Issuer Deadline is the date by which a local issuer wishes to have the list. The date cannot be set earlier than following business day of the Record Date or in case Record Date is in the past – not earlier than following business day when the request is initiated. Issuer Deadline time is defaulted to close of business day.

Local issuer optionally may choose to request a share held date. If the local issuer chooses to include in its request the date from which the shares have been held, it shall indicate in its request how this date is to be determined – FIFO (first in first out) or LIFO (last in first out) method<sup>1</sup>. If the local issuer includes a 'Date from which the shares have been held', it will affect the straight through processing of the request and therefore, the (First) Intermediary's may not be able to respect the deadlines. For some scenarios it may be extremely difficult to determine the initial date of the shareholding, for example, shareholder has moved his portfolio from one custodian to another custodian, differences in accounting treatments between different intermediaries or in some markets there is no requirement to record a date to date securities accounting.

Therefore, Nasdaq CSD recommends the local issuers not to include this field in the identification requests so as not to slow down the process.

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<sup>1</sup> See ANNEX 1 for an example.



In case an issuer requests the date from which the shares have been held, for all shareholders who are reported by Nasdaq CSD (as an extract information from the CSD core system) the date from which shares are continuously held is date part from T2S settlement timestamp. Therefore, the date represents the calendar date when the shares were credited in the shareholder’s securities account and not a CSD business day. For example, the settlement of T2S business day of August 31, 2020 starts on August 28, 2020 at 21:00 EET. In case shares were settled in the shareholder’s account on August 28 for business day August 31, the reported date from which shares are continuously held by this shareholder is August 28.

Estonia, Latvia and Lithuania have provided for companies having a registered office on their territory to be only allowed to request the identification of shareholders holding more than a certain percentage of shares or voting rights. Threshold of 0.5% is determined by the law in Estonia and it will be applied automatically. In this case a threshold quantity limiting the request applies, therefore Nasdaq CSD system will automatically calculate a threshold - the number of shares – and add to the request. In Latvia and Lithuania the threshold is not determined, i.e. it is 0%.

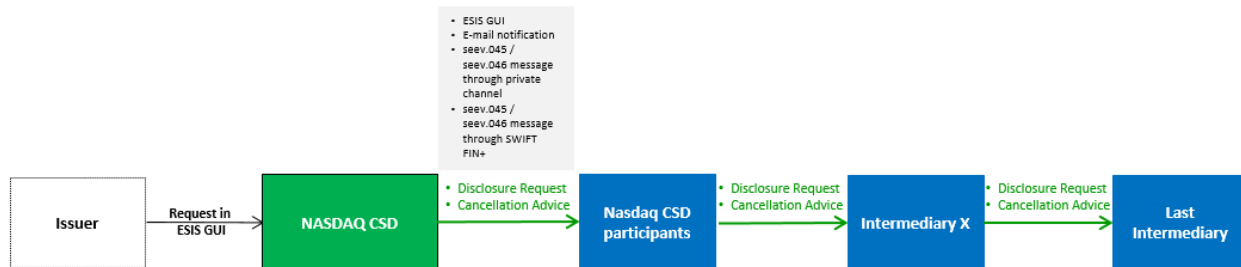
A local issuer can change only its issuer deadline (extend it). Any other update / change of the shareholder identification (SI) request is not possible. In this case, a local issuer is required to cancel the original request and to create a new request.

### 3.2 Request to disclose information from the CSD to CSD participants

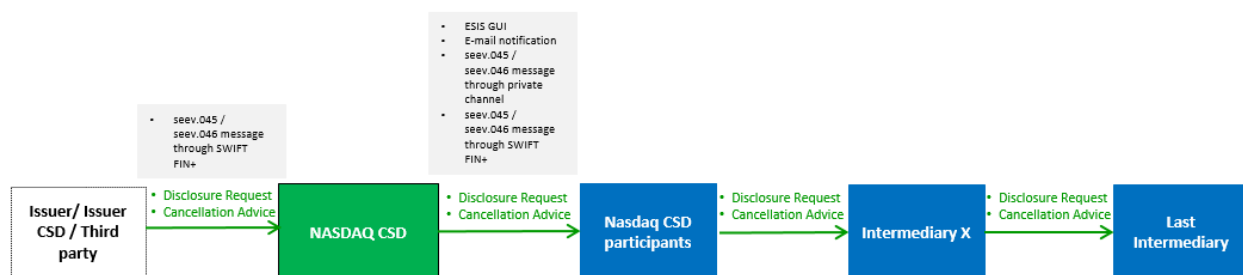
In case the Record Date is in the past, Nasdaq CSD will, without undue delay, transmit the request to disclose information regarding shareholder identity to the CSD participants who had a holding on the Record Date in the underlying security. Each CSD Participant that has received the request to disclose information regarding shareholder identity shall, without undue delay, transmit the request to its clients – global custodians.

In case the Record Date is in the future, Nasdaq CSD will, without undue delay, transmit the request to disclose information regarding shareholder identity to the CSD participants who, at the time of the request, have a direct holding or pending settlement instructions in the underlying security. In between the request date and the record date Nasdaq CSD will also notify those CSD participants that have obtained a holding in the underlying security or are subject to a new transaction in the underlying security and have not received the request yet.

**Figure 1.** Visualization of data exchange when a request originates from an issuer who is using Nasdaq CSD shareholder disclosure service.



**Figure 2.** Visualization of data exchange when a request originates from an issuer who is not using Nasdaq CSD shareholder disclosure service.



Please see section 3.4 in this document for more information on how Nasdaq CSD notifies its participants about the disclosure requests.

### 3.3 Shareholder identification response

As a rule, the response to the request to disclose shareholder identity shall be provided and transmitted by each Intermediary to the address defined in the request, i.e. the response is sent directly by each Intermediary and it is not transmitted through the Intermediary chain. In case local issuer uses the Nasdaq CSD service to identify its shareholders the receiver of a response is Nasdaq CSD.

Therefore, Nasdaq CSD expects to receive a response from every CSD participant as well as Intermediary–global custodian who has a holding on the Record date in the underlying security.

Nasdaq CSD expects a response from every CSD participant who has a holding on the Record Date in the underlying security in the securities accounts of the following account types:

- Omnibus securities account
- Segregated nominee account
- Nominee account
- CSD Omnibus account (applicable to the directly linked Investor CSDs).

The response from the CSD participant includes the total number of shares held by the responder in the securities accounts with Nasdaq CSD (only holdings in the above listed types of securities accounts shall be reported) as well as the breakdown by type of shareholding.

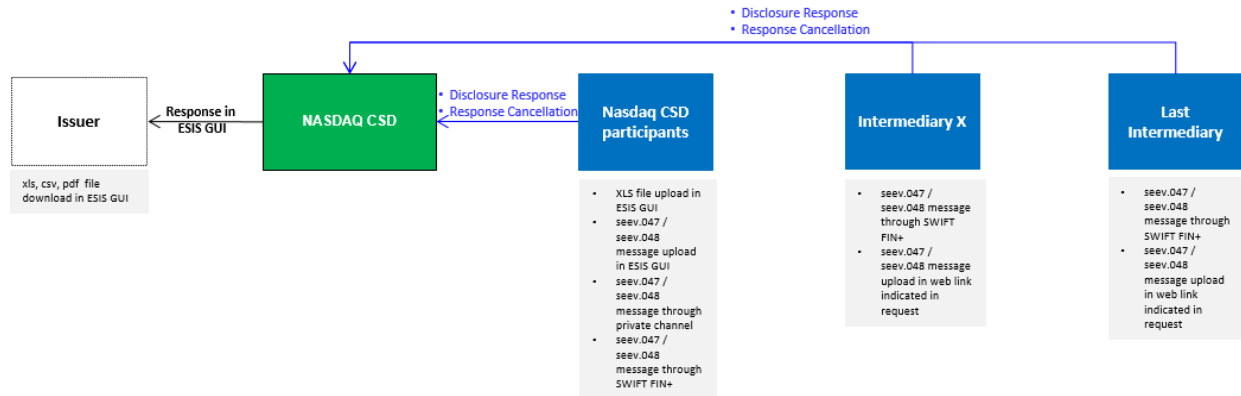
The response from Intermediaries – global custodians includes the total number of shares held by the responding Intermediary as well as the breakdown by type of shareholding and the unique identifier of the securities account operator, i.e. the Intermediary up the chain with whom the responding Intermediary has a securities account. This should allow Nasdaq CSD to follow up on missing responses and consolidate the shareholdings reported by all Intermediaries.

Please note that threshold of 0.5% is determined by the law in Estonia and must be taken into account when responding to disclosure request. In this case when a threshold quantity limiting the request applies and the total number of shareholdings is below such threshold quantity, the Intermediary shall nevertheless transmit the request to the next Intermediary in the chain. However, in the response all shareholdings below the threshold quantity shall be aggregated by the Intermediary into a single total

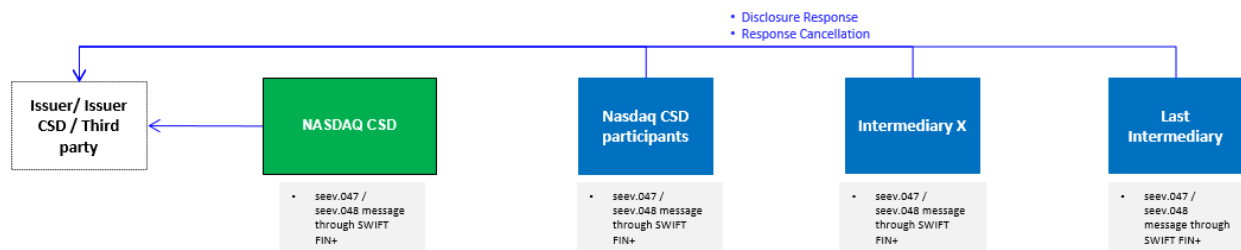
number of shares without disclosing shareholder identity information.

Nasdaq CSD informs the responding Intermediary about the acceptance status of the response received.

**Figure 3.** Visualization of data exchange when a request originates from an issuer who is using Nasdaq CSD shareholder disclosure service and Nasdaq CSD is collecting responses.



**Figure 4.** Visualization of data exchange when a request originates from an issuer who is not using Nasdaq CSD shareholder disclosure service.



**NB!** if a response must be sent to the third party / issuer / issuer CSD the standard way is to send ISO 20022 standard message (seev.047) however the exact instructions are defined in the request which should be followed.

Please see section 3.4 in this document for more information on how Nasdaq CSD expects to receive responses from its participants and intermediaries – global custodians.

### 3.3.1 Response content

Response to a request to disclose information regarding shareholder identity shall contain all required information as set in Table 2 of the SRD IR<sup>2</sup>.

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1212>

### 3.3.2 The response deadlines

When responding to the request all the intermediaries shall respect the deadlines set in the Article 9 of the SRD IR<sup>3</sup>. The response is expected without delay but no later than the set deadline.

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<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1212>

## 3.4 Formats and interoperability

This section describes formats and procedures for receiving and responding to the shareholder identity disclosure requests.

### 3.4.1 Available options to respond for Nasdaq CSD participants

Following options are available to the Nasdaq CSD participants to receive shareholder disclosure request:

- In an email as a notification about new request in ESIS;
- In an ISO 20022 standard message through private channel;
- In an ISO 20022 standard message through SWIFT FINplus;
- In an ISO standard message downloaded through ESIS GUI.

Following options are available to the Nasdaq CSD participants to respond to the received shareholder disclosure request if the receiver of the response is Nasdaq CSD:

- Excel, csv file upload through ESIS GUI;
- To enter shareholder identity details in the ESIS GUI;
- To upload an ISO 20022 standard message in xml format in the ESIS GUI;
- To send an ISO 20022 standard message through private channel;
- To send an ISO 20022 standard message through SWIFT FINplus.

The participants who opt to exchange information using ISO standard messages shall be an A2A participant with established connection to Nasdaq CSD and shall configure subscriptions in the Nasdaq CSD core system.

### 3.4.2 Available options to respond for intermediaries - global custodians

Following options are available to the intermediaries – global custodians (including those Intermediaries who are Nasdaq CSD participants but holding a specific ISIN, for which a request to disclose is applicable, via another Nasdaq CSD participant) to respond to the received shareholder disclosure request if the receiver of the response is Nasdaq CSD:

- To send an ISO 20022 standard Shareholder identification disclosure response message (seev.047) through SWIFT FINplus;
- To upload an ISO 20022 standard Shareholder identification disclosure response message (seev.047) in xml format in the specific for the request ESIS weblink.

In case an Intermediary would like to communicate with Nasdaq CSD through SWIFT network before sending a message for the first time it has to ensure an authorization process (RMA) is established between an Intermediary and Nasdaq CSD. Nasdaq CSD has to grant RMA authorization to the senders of the shareholders disclosure responses in order to receive the messages from them.

Nasdaq CSD participants are advised to inform their clients – Intermediaries - global custodians and their clients, which are Intermediaries, to secure RMA authorization with Nasdaq CSD beforehand (before the Intermediaries send the response to the SI request). Nasdaq CSD's BIC code is LCDELV22XXX. An Intermediary shall take into account that RMA granting process may take several days<sup>4</sup>.

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<sup>4</sup> Detailed process description on RMA granting process is described in a separate document <https://nasdaqcsd.com/about-us/compliance/srd-ii/>.

### 3.4.3 Shareholder disclosure messages

The following table lists the ISO 20022 messages that Nasdaq CSD uses to request and respond shareholder details. Exact rules and content of each message is available in the Nasdaq CSD Shareholder disclosure Message Usage Guidelines.

| Business function  | Message Identifier | Direction   |
|--|--------------------|---|
| Shareholder identification disclosure request                      | seev.045.001.02    | <ul style="list-style-type: none"> <li>▪ Issuer /agent / Issuer CSD → Nasdaq CSD</li> <li>▪ Nasdaq CSD → Nasdaq CSD participant</li> </ul>  |
| Shareholder identification disclosure request cancellation advice  | seev.046.001.01    | <ul style="list-style-type: none"> <li>▪ Issuer /agent / Issuer CSD → Nasdaq CSD</li> <li>▪ Nasdaq CSD → Nasdaq CSD participant</li> </ul>  |
| Shareholder identification disclosure response                     | seev.047.001.01    | <ul style="list-style-type: none"> <li>▪ Nasdaq CSD → Issuer /agent / Issuer CSD</li> <li>▪ Nasdaq CSD participants → Nasdaq CSD</li> <li>▪ Nasdaq CSD participants → Issuer /agent / Issuer CSD</li> <li>▪ Global custodians → Nasdaq CSD</li> </ul> |
| Shareholder identification disclosure response cancellation advice | seev.048.001.01    | <ul style="list-style-type: none"> <li>▪ Nasdaq CSD → Issuer /agent / Issuer CSD</li> <li>▪ Nasdaq CSD participant → Nasdaq CSD</li> <li>▪ Nasdaq CSD participants → Issuer /agent / Issuer CSD</li> <li>▪ Global custodian → Nasdaq CSD</li> </ul>   |
| Shareholder identification disclosure response status advice       | seev.049.001.01    | <ul style="list-style-type: none"> <li>▪ Issuer /agent / Issuer CSD → Nasdaq CSD</li> <li>▪ Nasdaq CSD → Nasdaq CSD participant</li> <li>▪ Issuer /agent / Issuer CSD → Nasdaq CSD participant</li> <li>▪ Nasdaq CSD → Global custodian</li> </ul>    |



## 4 Shareholder list

After the Issuer Deadline Nasdaq CSD system ESIS will automatically aggregate received information on the shareholders' identities and contact details. The full list of shareholders will be downloadable by the issuer / issuer agent in xls and csv formats.

In case there is any Intermediary, who has not provided a response to the shareholders identification disclosure request, Nasdaq CSD will contact the account servicer who is servicing the Intermediary for further details. Until missing information is received Nasdaq CSD will report the Intermediary in the full list of shareholders specifying its shareholding type – a nominee.

The list will contain following minimum information for each shareholder:

- Name (legal name of a legal person, name and surname of a natural person)
- Unique identifier
  - in case of a legal person - either registration number or LEI, if none of the previous identifiers are available - any other identification number
  - in case of a natural person – the national identifier within the meaning of Article 6 of Commission Delegated Regulation (EU) 2017/590
- Address
- Type of shareholding (for end investors - beneficial shareholding type)
- Number of shares held
- Securities account number in Nasdaq CSD in which shares are held

Optionally, the list may contain following additional information:

- E-mail
- Initial date of shareholding
- Name and identifier of third party nominated by the shareholder



## ANNEX 1 Date from which the shares have been held

If the Issuer chooses to include in its SI request a 'Date from which the shares have been held', unless otherwise specified, it shall mean the first date of shareholding. In this case the issuer must also specify the method to be used to calculate the date and the description. There are two methods available to choose from two methods:

- FIFO (first in, first out)
- LIFO (last in, first out).

Consider the following example of transactions made by client ABC in his account during period January 2020 until 16 March 2020:

|   |                            |                            |                 |
|---|----------------------------|----------------------------|-----------------|
| • On 2 January 2020, Client ABC is credited with 100 shares in its securities account.  | Securities balance<br>FIFO | Securities balance<br>LIFO | Date of holding |
|   | +100                       | +100                       | 2 January 2020  |
| • On 3 January 2020, Client ABC is debited with 100 shares in its securities account, resulting in a zero shareholding          | Securities balance<br>FIFO | Securities balance<br>LIFO | Date of holding |
|   | 0                          | 0                          | Not applicable  |
| • On 8 March 2020, Client ABC is credited with 150 shares in its securities account   | Securities balance<br>FIFO | Securities balance<br>LIFO | Date of holding |
|   | +150                       | +150                       | 8 March 2020    |
| • On 10 March 2020, Client ABC is credited with additional 60 shares in its securities account, resulting in a 210 shareholding | Securities balance<br>FIFO | Securities balance<br>LIFO | Date of holding |
|   | +150                       | +150                       | 8 March 2020    |
|   | +60                        | +60                        | 10 March 2020   |
| • On 16 March 2020, Client ABC is debited with 150 shares in its securities account, resulting in a 60 shareholding             | Securities balance<br>FIFO | Securities balance<br>LIFO | Date of holding |
|   | +0                         | +60                        | 8 March 2020    |
|   | +60                        | 0                          | 10 March 2020   |

SI request by the issuer with **Record date 17 March 2020**. Response to the SI request reports total shares: 60, and date from which the shares have been held:

- In case of FIFO method it is 10 March 2020;
- In case of LIFO method it is 8 March 2020.