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## **AFME and AGC letter to ESMA consultation on the review of CSDR Regulatory Technical Standards**

**14 April 2025**

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### **Introduction**

The Association for Financial Markets in Europe (AFME) and The European Focus Committee of the Association of Global Custodians (“AGC-EFC”) welcome the opportunity to comment on ESMA’s public consultation on the review of CSDR Regulatory Technical Standards

AFME represents a broad array of European and global participants in the wholesale financial markets. Its Members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors, and other financial market participants.

AFME advocates stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is the European member of the Global Financial Markets Association (GFMA), a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

The Association of Global Custodians is a group of 12 global financial institutions that each provides securities custody and asset-servicing functions primarily to institutional cross border investors worldwide.

As a non-partisan advocacy organisation, the Association represents members’<sup>1</sup> common interests on regulatory and market structure. The member banks are competitors, and the Association does not involve itself in member commercial activities or take positions concerning how members should conduct their custody and related businesses.

### **General considerations**

We appreciate the opportunity to provide feedback on the proposed revisions to the Settlement Discipline Regulatory Technical Standards under CSDR. In this letter, we outline some of considerations that we believe will advance the shared objectives of a more efficient, harmonised, and resilient settlement ecosystem within the European financial markets.

The alignment of processes and timelines across all stakeholders post execution through the chain of custody to settlement is critical to reduce complexities and ensure seamless cross-border transactions. . With this in

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<sup>1</sup> The members of the Association are: BNP Paribas; BNY; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company.

mind, we consider the harmonisation of deadlines and operational schedules among CSDs to be essential to reduce settlement risks and foster a more integrated financial ecosystem.

Moreover, greater adoption of automation and Straight-Through Processing (STP) mechanisms throughout post trade is pivotal to reducing settlement fails, enhancing operational resilience, and aligning with T+1 settlement frameworks.

We believe it would be beneficial for ESMA to consider the challenges inherent in transitioning to T+1 and the associated amendments to operational timelines when reviewing the feedback received. We also recommend that any timeline for implementing changes resulting from the outcome of the review process should not cause frictions with the EU move to T+1 but should, however, complement these efforts whilst allowing adequate time for market participants to adjust their processes and systems.

## **Proposed amendments to CDR 2018/1229 on settlement discipline**

### **• Deadline for sending written allocations and confirmations**

We believe the EU should adopt a similar approach to the US and the UK by implementing a single unified deadline for sending allocations and confirmations at the end of the trade date. We therefore support ESMA's proposal that orders executed after 16:00 CET should no longer be exempted from this requirement. We also propose to remove the existing exemption for transactions involving a timezone difference of more than two hours between the investment firm and the professional client.

Further, we propose that the requirement should specify sending allocations and confirmations "*...by close of business on the trade date*". We consider that this reference to the Trade Date will offer a more streamlined and standardised approach.

Moreover, it is worth noting that both the US and Canada –which operate night-time settlement processes– have established deadlines for allocations and confirmations before the commencement of settlement, a practice that the UK is also adopting. We strongly advocate that the EU follow this same approach, whilst also noting that the US and UK operate very differently to the EU markets with regards to market convention and CSD-processing protocols respectively.

### **• Means for sending allocations and confirmations**

We strongly support mandating the use of electronic and machine-readable formats for written allocations to enable Straight-Through Processing (STP), in alignment with the EU T+1 Industry Task Force's recommendations.

Ensuring a standardised electronic communication of allocations and confirmations can offer significant benefits:

- Speed and efficiency, which will be essential in a T+1 environment for all actors involved in post trade, including FMIs.
- Reducing settlement fails: Minimising manual intervention and trade discrepancies enhances settlement efficiency; as such, we consider it to be essential that alignment between allocation/confirmation processes and settlement instructions is ensured.

- Improving operational resilience: Automation reduces errors and delays, bolstering market stability and lowering costs tied to manual reconciliation and exception handling. It also provides a timestamped audit trail, critical for fail investigations and cash penalty disputes.
- T+1 readiness: As EU markets transition to T+1, fully automated post-trade processes will be indispensable for meeting tighter settlement timelines.

## • Partial settlement

Partial settlement can enhance settlement efficiency by enabling timely transaction completion while alleviating operational pressures on market infrastructures, clearing houses, and intermediaries. For cross-border EU securities transactions, this mechanism proves particularly valuable as it accelerates settlements across different markets, fostering both integration and liquidity.

We support introducing a regulatory mandate requiring all CSDs to offer partial settlement and partial release functionality, and market participants to accept partial deliveries within defined parameters.

CSDs should default to apply T2S thresholds for automated partial settlement:

- Cash values: €10,000 for equities / €100,000 for non-equities.
- Quantity: Based on the ISIN's Minimum Settlement Unit.

We consider that the current optional approach under CSDR has proven ineffective in practice. Therefore, we propose that the flexibility to opt-out of partial settlement should only apply only when both parties explicitly introduce the 'NPAR' flag in the Partial Settlement Indicator field. However, this field should not serve as a matching criterion, as doing so could increase unmatched trades.

## • Real-time gross settlement (RTGS) and batches

We strongly support incorporating regulatory measures requiring all CSDs to implement real-time gross settlement (RTGS) systems operating for a defined minimum period each business day, complemented by a standardised number of settlement batches. This dual approach would enable market participants to process high-priority transactions in real-time while maintaining efficient batch processing capabilities, thereby reducing both liquidity exposures and counterparty risks. The combination of RTGS and batch settlement cycles creates a balanced framework that can minimise potential bottlenecks during peak activity periods, ultimately contributing to greater overall market stability.

For optimal effectiveness, we recommend full harmonisation across T2S-affiliated CSDs, with identical RTGS operating windows and batch schedules. This principle should extend to non-T2S CSDs as well, requiring them to implement RTGS capabilities and batch processing cycles that maintain interoperability with T2S timings. Such alignment would be particularly crucial for cross-border settlements, where synchronised processing windows – to the possible extent – would ensure seamless inventory movement and minimise operational delays.

The importance of this synchronised approach will become particularly acute in a T+1 environment, where compressed settlement timelines could amplify operational risks. Harmonised cut-off times across CSDs would provide significant benefits for cross-border transactions, reducing settlement fails and improving overall market efficiency.

- **Public disclosure of settlement fails**

We support mandating that CSDs expand their public disclosure of settlement fail data, whilst we emphasise on the importance of having high-quality, granular data for the reporting of settlement efficiency rates.

Increasing the frequency of these disclosure reports to at least monthly would significantly improve market transparency. The recent T2S outage on 27 February –which disrupted settlements across multiple markets– demonstrates the critical need for timely data to assess operational impacts and strengthen resilience. Monthly reporting of public data would also align with cash penalty cycles, enabling more effective monitoring of settlement trends and early detection of systemic issues before they escalate.

## Additional tools to improve settlement efficiency

- **UTIs**

We believe the adoption of UTIs should be driven by industry best practices rather than regulatory mandates. Introducing a mandatory UTI framework could create unnecessary complexity and potentially compromise settlement efficiency, particularly if UTIs were to become a matching requirement.

That said, we strongly encourage ESMA to play an active role in promoting voluntary UTI adoption by convening industry discussions and establishing a dedicated working group. We propose setting an implementation target of two years post-T+1 go-live.

The widespread adoption of UTIs represents a substantial operational challenge that demands coordinated international effort. Success will depend on:

- Universal support across vendor platforms
- Seamless interoperability between all systems, both internal and external.
- Full participation by all market participants (including CCPs and CSDs)

We note that without comprehensive, end-to-end adoption throughout the transaction chain, the utility and commercial viability of UTIs would be significantly diminished.

- **Format for storage and exchanging of SSIs**

We support establishing a regulatory framework requiring Standing Settlement Instructions (SSIs) to be stored and exchanged electronically in machine-readable formats. This baseline requirement should be complemented by industry-developed best practices that facilitate practical implementation.

Such best practices should provide essential guidance through:

- Standardised data formats and interoperable protocols
- Secure automated communication channels for SSI validation
- Governance frameworks to ensure consistent adoption
- Certification mechanisms to maintain compliance standards

We consider that this combined regulatory and industry approach would promote automation while minimising implementation inconsistencies across market participants.

- **PSAF and PSET**

We strongly support mandating the inclusion of Place of Settlement (PSET) as a required field in written allocations under Article 2(1). Consistent and accurate use of PSET is critical to enhancing settlement efficiency and reducing fails, particularly in a T+1 environment where timely resolution of mismatches will be essential. This requirement would ensure that trade instructions contain precise settlement location details from the outset, mitigating processing delays –especially for cross-border transactions where discrepancies in settlement locations frequently cause operational issues.

However, we do not support making PSET or Place of Safekeeping (PSAF) mandatory fields within settlement instructions themselves. Instead, their use should be guided by industry best practices, including a requirement for Custodians to report the Place of Safekeeping in statement of holding reporting to their clients (e.g. ISO 15022 MT535).

We consider that this approach would ensure standardisation early in the trade lifecycle, while allowing market-driven solutions to optimise operational workflows.

- **Timing for sending settlement instructions**

We do not support establishing a regulatory deadline for settlement instruction submissions via amendments to Commission Delegated Regulation (EU)2018/1229. Incorporating such prescriptive measures would introduce unwarranted rigidity into settlement processes, potentially hindering market participants' ability to adapt to evolving operational requirements. Market participants require the flexibility to input and amend instructions as required.

We note that the existing CSDR framework already ensures settlement discipline through the requirements for timely and efficient settlement and the penalties for late matching and settlement fails.

Adding another regulatory deadline would create unnecessary complexity without demonstrable benefits to settlement efficiency. Entry of an instruction in the settlement system before an arbitrarily imposed deadline on settlement date would not guarantee settlement, and likewise entry after that deadline would not guarantee that the transaction would fail. Instead, we consider that industry-developed best practices should provide guidance on instruction submission timelines, and emphasise that this is the approach adopted in the UK market, where there is no intention to impose a regulatory deadline for settlement instruction submission..