

## Introductory comments

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the ESMA Discussion Paper on Guidelines on Internalised Settlement Reporting under Article 9 of CSDR. AFME's intention is to work together with ESMA in an attempt to fulfil the intended regulatory objective, while at the same time ensuring an effective and efficient implementation for the industry as a whole.

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. We advocate 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. AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

AFME would like to highlight at this stage, that given the required time to implement the reporting requirement, it would be highly appreciated if the Guidelines could be finalised as early as possible and ahead of Q1 2018 to give Settlement Internalisers sufficient time and clarity to finalise their projects ahead of the reporting deadlines. Furthermore, the industry would need to have clarity on required fields and formats much in advance to accommodate own development, test and release cycles. A proposed XML Schema will not only help SI but also National Competent Authorities (NCA) with their preparations towards the reporting deadline.

Considering that the spirit of Settlement Internalisation reporting aims to give a complementary view of the CSDR Settlement Discipline Regime, it shall be highlighted that the "Place of Settlement" concept ("PSET") should be considered as one of the main triggers to determine if securities/a financial instrument is in or out of scope of the reporting. As the PSET indicates the CSD where an instrument should settle, it permits to detect if this CSD is in or out of scope of the CSDR application.

### **Q1: Do you have any comments or suggestions regarding the scope of the data to be reported by settlement internalisers? Please provide arguments supporting your comments and suggestions.**

AFME broadly agrees with ESMA on the scope of the data to be reported by Settlement Internalisers, however AFME members believe that certain areas require additional clarity.

With respect to the actual definition of a Settlement Internalisation, CSDR already provides a definition of what constitutes settlement internalisation and consequently any scenario of internalised settlement ESMA suggests in the Guideline would have to be tested against this definition.

Article 1 of CSD Regulation 2017/391 (RTS on Internalised Settlements) defines an internalised transaction as *"an instruction by a client of the settlement internaliser to place at the disposal of the recipient an amount of money or to transfer the title to, or interest in, a security or securities"*

*by means of a book entry on a register, or otherwise, which is settled by the settlement internaliser in its own books and not through a securities settlement system."*

As a result, AFME believes that all of the following attributes need to be present for a settlement instruction to be in-scope for settlement internalisation under CSDR:

- A Settlement Internaliser is an EU institution or MiFID authorised firm including their EU Branches or EU subsidiary
- The Settlement Internaliser receives a direct instruction from a client with regards to securities settlement
- The securities transactions settle on the books of the settlement internaliser (i.e. the debit and credit of securities takes place on the books of the entity reporting internal settlement, and there is no movement of securities higher up in the custody chain)
- Securities settlement results in a transfer of securities on the books of the settlement internaliser in the context of transfer of securities from one securities account to another, and
- Settlement instructions have not been sent to an institution further down the chain of custody, i.e. a CCP for clearing or a CSD

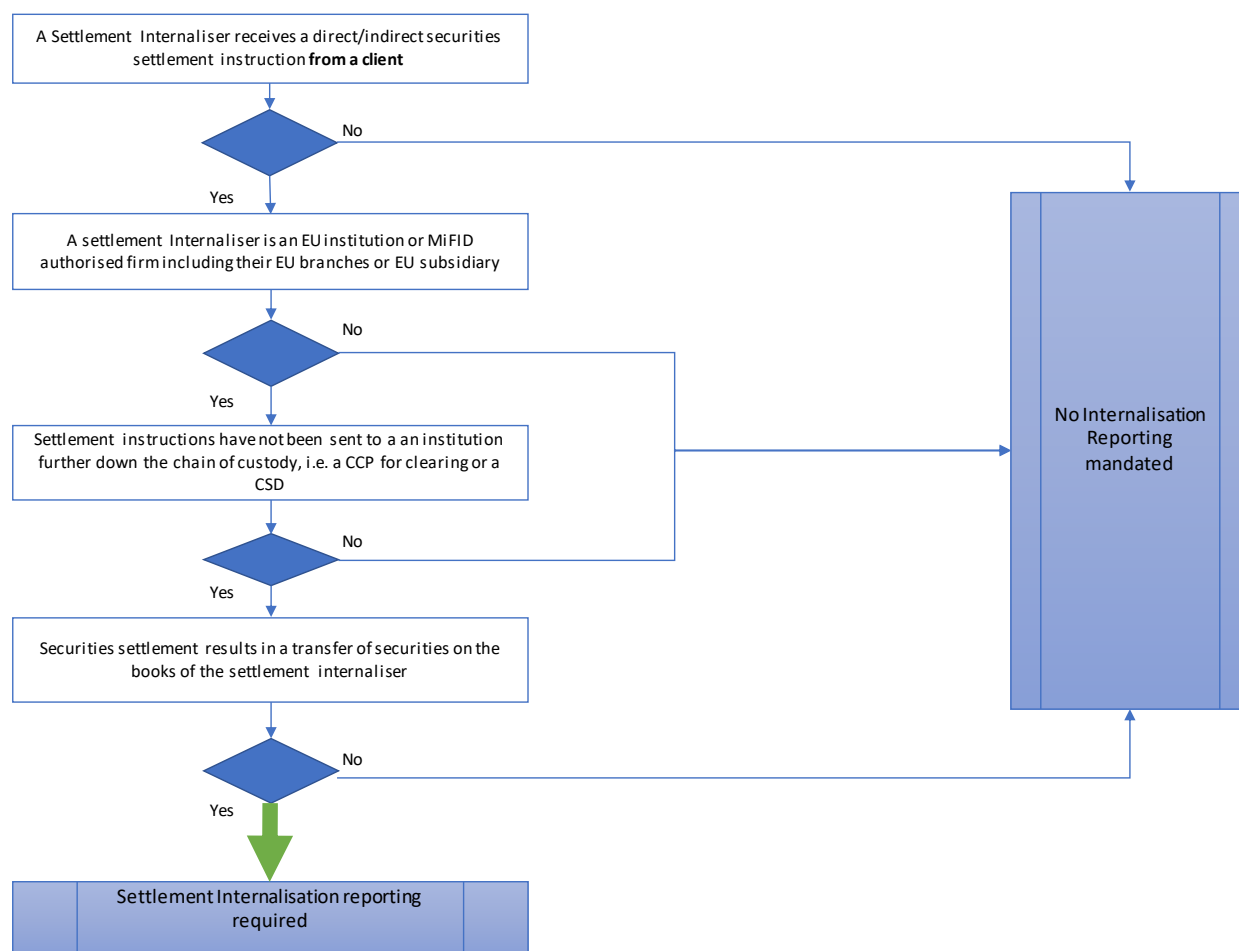


Figure 1: Settlement Internalisation process flow

AFME would urge ESMA to consider adding such generic definition in the Guideline to cater for a harmonised interpretation of the regulatory requirements stemming from this Regulation.

Furthermore, the last criterion in the above-mentioned list will be essential to determine who will have to be the “reporting entity” in a given internalised settlement. In our understanding, this could only be the entity which has received an instruction and has not forwarded it down the custody chain. If the instruction has been forwarded, then no reporting obligation should exist. This also means that the underlying securities positions would have to be safekept in a separate account at the next level of the custody chain. Should these securities be kept at different accounts, then the entity is not able to internalise but can only forward the instructions. Failing to do so would result in settlement and position breaks with the next-level custodian /CSD.

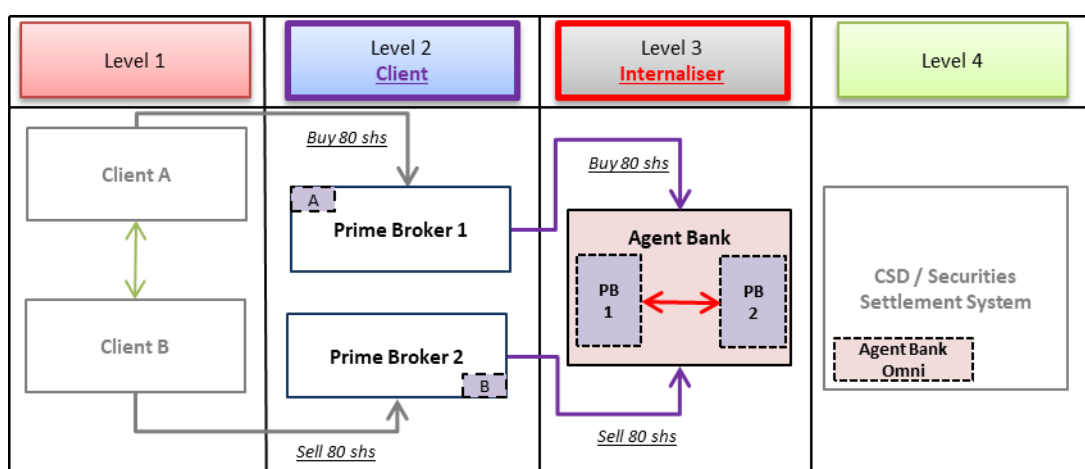


Figure 2: Agent Bank Internalisation

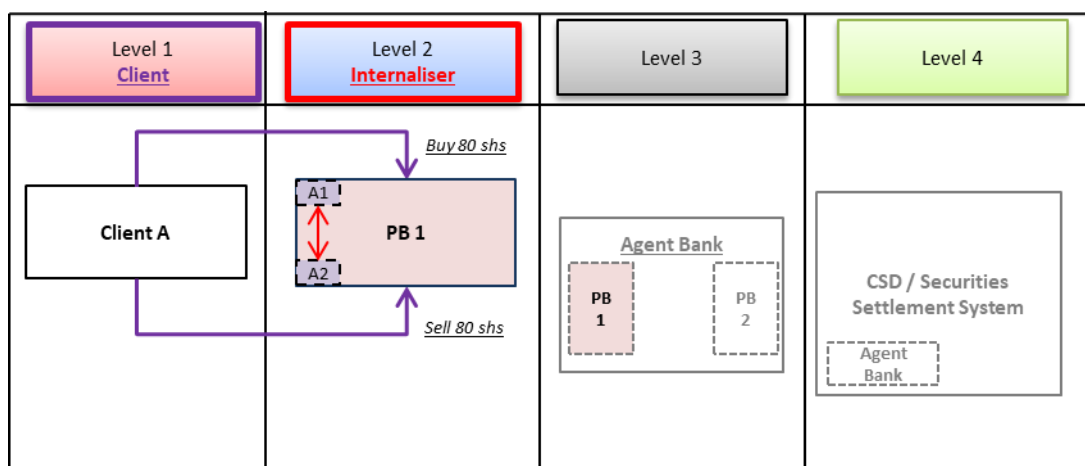


Figure 3: Custodian Bank Internalisation

There are however some cases where the Settlement Internaliser receives an instruction from at least one client to receive or deliver instruments and in some instances this instruction may have to be settled against the Settlement Internaliser (i.e. the Settlement Internaliser is the cpty). In this scenario, the client’s instruction could be seen as the trigger to internalise and require respective reporting.

Additionally, Settlement Internalisers have to rely on the content of the settlement instructions they receive from their clients to determine whether there is a need to internalise settlement or not. To that extent, Settlement Internalisers can only know the nature of the received instructions when the client provides some form of clarification in the actual message. With most communication happening via ISO messages (in the settlement space) the ISO Transaction-Identifier (SETR) will have to be provided in the instruction using one of the available values (table 1 in the Annex section). Only based on that identifier Settlement Internalisers could classify the instruction and sort it into the respective category. The available values can be found in the existing standard for Transaction Types in ISO compliant messages and we have classified them as per our understanding into the respective category outlined in Regulation 2017/391.

AFME would welcome ESMA's guidance on the classification as enclosed in table 1 of the Annex section.

In addition, AFME would like to highlight, that not all settlement instructions received by a settlement Internaliser arrive in an ISO compliant format or as an STP delivery instruction. Some clients instruct their bank to transfer securities (i.e a gift, or the move of portfolios from one account to another) in a free format instruction which could be SWIFT based, but very often is a paper based instruction. As these transactions, usually would not fit into any of the transaction types listed in regulation 2017/391 Article 2 (1) h i-iv, the category to be used in such cases would be "other securities transactions".

Other clients only deliver transaction files in a csv or similar format, where only the direction of delivery (deliver or receive) and the respective cash amounts are communicated. In such cases Settlement Internalisers would report these transactions as "other securities transactions", unless clients in their files mark the transaction in a way that the transaction type can be recognised.

#### AFME's feedback to individual paragraphs in the Consultation Paper

##### Paragraph 11

a-d: AFME understands that those classifications are distinguished based on the text and the template of the Regulatory Technical Standards (Regulation 2017/391). In this context, an Internaliser can only report based on the instructions that have been received which are to be marked with the respective ISO Transaction-Identifier (SETR).

With regards to paragraph 11(a) and 12(c) we would urge ESMA to clarify whether the purchase of securities on the primary market is considered as in scope (if internalised) however the creation or redemption of securities out of scope. Furthermore, AFME would like to know if "Grey markets" instruction that settled internally would be in scope of this reporting.

It should be noted as well for paragraph 11(b), that some collateral management activities generate high volumes of intra-day movements, which raises the question of whether the reporting of gross intra-day movements is useful. We suggest that ESMA clarifies in the Guidelines for collateral and similar type of activity (i.e. Triparty) that not only daily net movements should be reported but also all intra-day movements.

Paragraph 11 (e) and 12(g)

AFME would suggest the removal of all references to netted trades for Settlement Internalisation reporting purposes. As per the above suggested criteria, the scope is to report transfer orders between accounts on the books of a provider, which are settled outside a securities settlement system. That also implies that trades which result in a settlement at a CSD are excluded from SI reporting. Counterparties have today the possibility to aggregate trades between themselves into a reduced number of settlements through a process of pair off or netting. Shaping is another example where trades are being settled in standard amounts. These processes reduce transaction costs, promote efficiency and reduce counterparty risk. This points to the fact that there is no one-to-one relationship between trades and settlements. As long as the actual settlement is settled on the books of a CSD (even if the settlement instruction itself is the result of different trades being offset, shaped or netted), it should not fall into the scope of the SI reporting. In many cases, the custodian does not even know whether the settlement instruction it receives is the result of a single trade or several trades, so could not even report. Of course, if the net settlement happens between accounts on the books of the custodian, it should fall into the scope of the SI reporting.

With regards to 12 (g) AFME disagrees with this interpretation and would rather point out that this is done to reduce the actual settlement risk. The process ESMA describes is better named “technical netting” or “pair-off” rather than “netting”. The actual settlement risk (that the Regulation tries to get transparency on) is handled externally at the CSD. Some market participants in order to protect their clients’ assets would have to prevent instructions from settling unless the client has the required number of securities available in the account already. With clients usually buying and selling at the same time, this could create frictions in the settlement space unless this is resolved by the above process, which is done in agreement with the counterparty of the client accordingly, so that all parties of that transaction are aware.

In addition, the extraction of the information may be problematic, due to the manual handling of the transactions from CSD participants. Usually the external transaction would be instructed manually, whereby the client instructions would be confirmed in fully to the client.

AFME would urge ESMA to reconsider and leave technical netting and pair-offs out of the scope of internalisation reporting, as long as the risk element of the transaction is actually settled at the CSD.

Paragraph 11 (f)

AFME assumes that in 11(f) ESMA refers to funds regulated under the UCITS/AIFMD regime and the different accounts, depositories maintain for funds. However, if securities are to be moved between those accounts then this could be in scope of internalisation reporting provided that the other criteria of an internalised settlement instruction are fulfilled, i.e. there needs to be an instruction from the fund to move those securities.

Paragraph 11 (g)

AFME believes that the term intra-group transactions is somewhat unclear and requires additional clarification. In particular, it would be beneficial to clarify that transactions which are to be executed between different entities of that group, i.e. Intra-entity transactions between two trading desks of the same legal entity would not be in scope or reporting.

Moreover, AFME believes that any such entity would be required to verify whether a given transaction would actually fall into the scope of internalised settlements reporting following the logic described above. In that sense internalisation would only be considered possible, if a Settlement Internaliser receives a settlement instruction from a client. Such scenario would typically occur if a bank offers custody services to clients and some of those clients are actually other entities of that bank. However, such transactions could only be settled internally if the settlement instructions point to the same external account further down the chain. Should the custody function then settle these instructions internally, this would give rise to internalisation reporting. If however, on the other side the banking entities book transfers between several trading books of the same entity, then this should only be considered book-keeping and not fall into scope of internalised reporting.

AFME would suggest rewording 11(g) with the following:

*Intragroup transactions, to the extent that the subsequent instructions between different entities are settled internally*

*Paragraph 11 (h)*

AFME would welcome additional clarity by ESMA on the execution of transfer orders by a Settlement Internaliser on its own account. AFME assumes that those are to cover transactions where an Internaliser sells securities to a client against its own holdings. In such cases, these transfers would then have to be reported in the “purchase & sale” category of the report, however the Settlement Internaliser might also operate fails lending programmes where clients can sign-up to, allowing the Internaliser to provide clients with securities from its own positions, should a client be insufficient for some of its deliveries. Such transactions would then have to be reported in the securities borrowing category. At all times, it would have to be checked whether there is an actual client instruction upon which the Settlement Internaliser does settle the transaction internally.

*Paragraph 11 (i) & (j)*

AFME believes that in principle these transactions could be considered in scope as long as the criteria for the generic scope of internalisation are fulfilled. Similarly, to triparty collateral arrangements, our position is that anything not triggered by a direct client instruction, which is the case of PB rehypothecation arrangements, does not fall into the scope defined in the level 1 text.

*Paragraph 11 (k)*

AFME believes that most of those movements would be instructed by clients in a non-standard, probably, paper based instruction. The actual account movement would usually be classified as account transfers (there is no particular ISO Code in securities settlement messages) and should be reported under “other transactions”.

*Paragraph 11 (m)*

AFME disagrees with this provision, and would suggest that preferably the resulting transactions from the transformation should be reportable instead. Currently there is no detailed Transaction Code for such an instruction to be instructed by the client. Typically, transformations are executed by CSDs on pending transactions, Custodians based on information received by CSDs would cancel the pending instruction in the old ISIN and replace it with a new instruction in the new ISIN which would then settle internally and be reported under the respective category depending on the ISO transaction code received by the client for



the original transactions. However, if it's the intermediary who performs the transformation then in that case AFME members agree that the transformation would be reportable.

Paragraph 12 (a)

AFME agrees with this classification. The Settlement Internaliser would in this scenario only allocate bookings based on the booking that the CSD (or a part of the chain further up) has already effected. This will be needed to keep the books of banks aligned to the external positions.

Paragraph 12 (b)

AFME agrees with this classification.

Paragraph 12 (c)

AFME agrees with this classification.

Paragraph 12 (d)

AFME disagrees with this classification. Such transfers should be within scope of the reporting obligation. AFME would like to bring to ESMA's attention that in some markets clients may maintain several accounts at a Settlement Internaliser and it may not always be fully transparent whether there is a change at Underlying Beneficial Ownership level or not. Technically those transactions could be settled at a CSD if the respective CSD would cater for such functionality. AFME believes that it would be simpler, more efficient and prudent to report on account by account basis. i.e. in case the Settlement Internaliser receives an instruction from the client to move securities from one account to another, and this movement is not executed through an SSS this should be in scope of the reporting requirements.

AFME would like to bring to ESMA's attention the requirement, set out in paragraph 12 (d) and paragraph 15. In cases of transfers in the books of an account provider between two accounts of the same account holder, the account holder – and not, as in all other cases, the account provider – should report. However, this could be a very complex process.

AFME believes that an account provider would need to report if there is a movement between two securities accounts provided by the account provider. In this case the account holder should not be required to report. However, ESMA's Guidelines put the reporting obligation onto the account holder (if it is an intermediary). As a consequence, this means that (i) the securities account provider has to be able to distinguish between standard transfers, and transfers between two securities accounts of the same holder, and (ii) the securities account holder has to be able to distinguish between standard settlement (where it sends a settlement instruction up the chain) and reportable settlement (where it sends a settlement instruction up the chain, and where the settlement occurs between two accounts that it holds).

This proposal is more complex, and generates many conceptual and practical issues and questions.

AFME urges ESMA to reconsider this point, and propose that only account providers should report based on bookings in the books of the account provider. Account holders should be exempted from the reporting obligation.

Paragraph 12 (e)

AFME agrees with this exemption and would like to highlight, that a Settlement Internaliser may indeed process internal cash payments which have some relation to a securities transaction. These however cannot be recognised by the SI unless the instructing parties actually use a securities related settlement instruction. Other Cash settlement instructions would purely be processed within cash systems and not systematically checked against a potential securities background.

Paragraph 12 (f)

AFME agrees with this classification

Paragraph 12 (h)

AFME agrees with this classification and would like to add that this exemption applies to transactions, where only the status of an account is related, but the securities remain in the same account.

Paragraph 12 (i)

AFME would welcome ESMA's clarifications on this topic. It is our understanding that this would also apply to the internal booking of CCP settled transactions which are then allocated to the respective clients of the General Clearing members, based on the information received from the Trading Venue / CCP.

Paragraph 13

AFME's read of the draft Guidelines indicates ESMA's intention to apply reporting requirements to transactions in both European and non-EU financial instruments that can be settled in a EU CSD. Furthermore, with regards to Settlement Internalisation, CSD Regulation only makes reference to transaction that are settled outside Securities Settlement Systems (SSS) without specifying place of settlement of those securities.

AFME believes that ESMA's interpretation broadens the scope of the reporting significantly, which we believe not to be the intention of the Regulation as the scope covers only European CSDs and European financial instruments.

AFME would therefore suggest the following alternative wording as outlined below:

- a) Financial instruments that are initially recorded or centrally maintained in CSDs authorised in the EU and would have been settled in a CSD authorized in the EU if not settled internally;
- b) Financial instruments initially recorded and/or centrally maintained outside of CSDs authorised in the EU but would have been settled in an EU CSD if not settled internally;

In most cases clients' settlement instructions would indicate in a message field the intended Place of Settlement (PSET), i.e. the CSD where the instruction could settle. Based on this client order, instructions could then only be settled internally, if both instructions were intended to settle at the same place of settlement. Contrary, Settlement Internalisers would be forced to forward these instructions to the next part in the chain. It is worth noting however, that not all client instructions provide information on the PSET. In such cases, the PSET is determined by the custodian after contacting its client.



The following example illustrates how the information of PSET can be used by Settlement Internalisers once received.

Example

In this example two counterparties trade on a US Treasury Bond that can settle at both Fedwire New York and Euroclear Bank. The following set of instructions depict information received through the use of PSET and how this can be used by the Settlement Internaliser.

a)

Client X: PSET Euroclear Bank

Client Y: PSET Fedwire New York

➔ No internalisation- would settle externally through link between Euroclear and Fedwire

b)

Client X: PSET Euroclear Bank

Client Y: PSET Euroclear Bank

➔ Internalisation possible and reportable

c)

Client X: PSET Fedwire New York

Client Y: PSET Fedwire New York

➔ Internalisation possible: booking location Fedwire New York – no internalisation reporting as no European security and no European CSD

Custodians do perform validation checks, if a certain instrument could be settled in a given CSD and would reject impossible combinations. Given the global nature of securities market, some securities could also be settled outside of the EU in third country CSDs and hence these instructions would contain a PSET indicating a CSD in a third country. We believe that such instructions would not be in scope for the Internalisation Reporting Requirement.

From a practicability perspective, Settlement Internalisers maintain specific depots for each account that they operate at a CSD or sub-custodian. To obtain the list of “in scope” depots would be a significantly less complex exercise than obtain a list of all instruments which are potentially in scope of the internalisation reporting. With ICSDs being part of CSDR practically every financial instrument in the world could be settled in one of the two ICSDs (even though they are likely not). This would then multiply the scope significantly and create reports on markets where CSDR has no direct mandate.

Paragraph 14

AFME agrees with ESMA’s suggestion provided that the Place of Settlement indication as described above can be applied. AFME understands that this is meant as an additional clarification, to be included in scope of internalisation reporting if a financial instrument is CSD eligible.

**Q2: Do you have any comments or suggestions regarding the entities responsible for reporting to competent authorities? Please provide arguments supporting your comments and suggestions.**

Paragraph 15

AFME agrees with /paragraph 15 with the following caveat.

In the example ESMA assumes that A maintains at B an Omnibus account as well as two technical sub-accounts, which represent a sub-structure of the Omnibus account. If A now wants to move instruments between those two accounts at B, A will have to instruct B to do so, otherwise B cannot be “aware” of the intended security movements. Moreover, B will then, based on the instruction of A, move the securities between the sub-accounts and not forward the instruction to a further member of the chain (e.g. Sub-custodian or CSD).

In general, AFME would suggest ESMA clarifying that if an entity A received a settlement instruction and this instruction is forwarded to the next level entity B in the custody chain, then A should not be considered to have internalised settlement. If, however the next level entity B, rejects the instruction (can be due to the security not being eligible or the settlement of instructions in the same account is not possible) then A has no choice but to internalise and report accordingly. If B accepts the instruction and settles the instruction internally (with a matching instruction from another client), then B would be internalising and should report accordingly

In addition, AFME would like to highlight that there may be scenarios where accounts maintained at a CSD are operated by a different party than the account owner. The account operator in such a scenario would only receive the instructions to update the internal records, however the account owner will make the choice of internalisation or not. We agree that in the case of account operator set ups the account operator should be formally encouraged to provide information to the account owner to complete its legal obligation, on reasonable commercial terms.

The following scenarios describe settlement internalisation that takes place when a Broker is a direct participant in a CSD, but uses an Agent Bank in its capacity as an Account Operator. In the first scenario, instructions received from two different clients are reflected within the records of the Agent Bank. In the second example, there is no record of the movement in the books of the Agent Bank.

AFME’s view is that although the reporting obligation is in both cases with the Direct Participant, the Account Operator would need to provide where appropriate - necessary data to facilitate reporting.

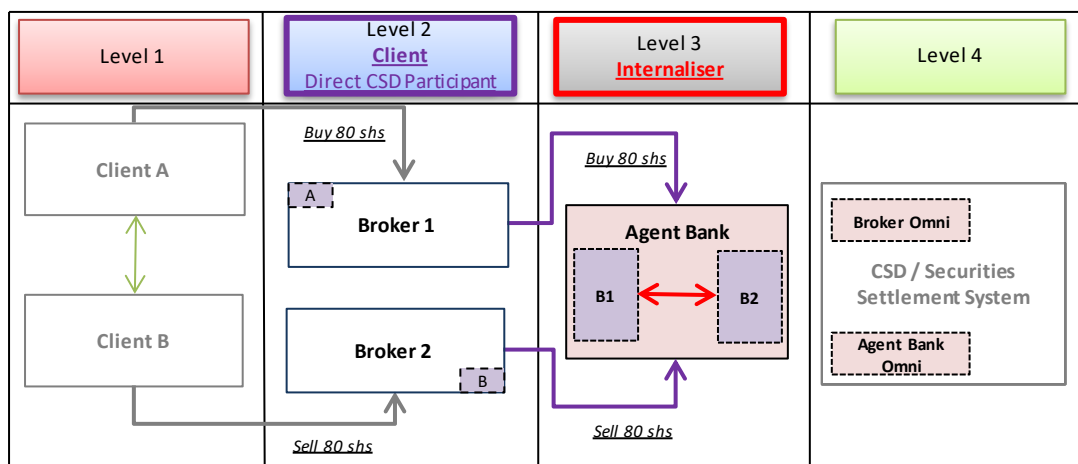


Figure 4: Agent Bank Internalisation – Account Operator scenario

Furthermore, AFME believes that there are still open questions regarding obligations on issuer agents to report.

AFME believes that the proposed Guidelines make it clear that issuer agents acting as depositories and common depositories for securities positions that are recorded in CSDs are not obliged to report for their activity relating to these positions.

However, the current Guidelines do not provide clarity on the obligation to report for positions that are CSD-eligible, but that are not recorded in a CSD. An example of such a case is a transfer agent for an investment fund that is eligible in a CSD but that can also be held by an investor directly with the transfer agent. In such a scenario, subscriptions and redemptions are not reportable, but there is the possibility that on rare occasions an investor may change the registration details for a position in a fund. The question is whether the issuer agent (i.e. the transfer agent) is obliged to report.

AFME believes that there should be no reporting obligation in such a scenario and would welcome additional clarity from ESMA on this. AFME would like to point out that in such scenarios, transfer agents are not acting as intermediaries; they are acting as issuer agents i.e. they do not offer a custody service, and they do not offer a settlement service; they record positions only in securities that are issued by the issuer.

#### Paragraph 16

AFME agrees with ESMA's views and interpret the "competent authority" as the one referred to in Article 11 of CSDR and published on ESMA's website.<sup>1</sup>

#### Paragraph 17

AFME shares ESMA's view that that no settlement internalisation reporting is required for transactions which are internalised in Third Country branches irrespective of the underlying instrument.

<sup>1</sup> [https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-159\\_csd\\_r\\_list\\_of\\_competent\\_authorities\\_art\\_11.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-159_csd_r_list_of_competent_authorities_art_11.pdf)

**Q3: Do you have any comments or suggestions regarding the proposed data reporting parameters? Please provide arguments supporting your comments and suggestions.**

Paragraph 20

AFME assumes that by Country Code ESMA means the location of the respective branch for which the report is generated, hence for letter (a) it would be the country code of Member State A, for (b) it would be the country code of Member State B and for (c) it would be the country code of Member State C.

Paragraph 21

AFME would like to highlight that Clients usually instruct their custodians with a place of settlement indicator (PSET). PSET provides an indication as to where an instruction would be settling if it was not internalised. In the example of an International CSD (Euroclear Bank, Clearstream Luxembourg) but also in the scenario of a CSD link, securities could often be settled in different CSDs. The PSET however represents the agreement of the trading parties as part of the confirmation process. Settlement internaliser would then only internalise if both instructions received from clients maintained the same Place of Settlement in their instruction.

AFME believes that the PSET or the underlying booking location, where the Settlement Internaliser settles these transactions internally would provide ESMA and the NCAs with more relevant information. Otherwise NCAs and ESMA would receive reports split by Issuer CSD (CBF for instance) but receive no information, if the internalisation was actually for a transaction due to settle in Euroclear Bank or in Clearstream Banking Frankfurt or Clearstream Luxembourg.

AFME believes that, with regards to paragraph 34 and particularly with the data that a competent authority can access, the characteristics determining other jurisdictions could be misleading. AFME believes that the characteristic "Issuer CSD" i.e. US, Brazil, Canada, Europe irrespective of the underlying CSD would probably not help ESMA or the competent authorities to determine the actual risk a Settlement Internaliser maintains, as a security could either be settled in Clearstream Frankfurt or Clearstream Luxembourg, depending on the suggested PSET in the client instruction

Paragraph 22

AFME agrees to have the distinction between XS and EU ISINs, however a similar issue could arise for any EU or Non-EU security. Please also refer to our comments on paragraph 21.

Paragraph 23

AFME agrees with ESMA.

Paragraph 24

AFME agrees with ESMA.

Paragraph 25

AFME would welcome additional clarity as to why ESMA wants to receive this type of information through Settlement Internalisation reporting as well as clarity on the term "several days" that is used in this paragraph.

Article 1 of Regulation 2017/391 defines failed transaction as “means non-occurrence of settlement, or partial settlement, of a securities transaction at the date agreed by the parties concerned due to a lack of securities or cash, regardless of the underlying cause.”

The definition also includes situations where instructions settle at a later time but no longer at the intended settlement date.

AFME believes if a settlement transaction has failed during a quarter but settles soon after reporting is submitted to NCAs, then the transaction should be considered “settled” in the reporting of the following quarter but would no longer need to report the amount of days for which a particular instruction has remained unsettled.

There are multiple ways to report respective transactions. AFME believes that the Regulation requires that only transactions settled (i.e. two instructions per transaction) in the previous quarter should be counted. For reporting purposes, AFME believes that Settlement Internalisers could use of the actual settlement date of a settlement instruction and compare this to the intended settlement date of the instruction. If the ASD > ISD, then the instruction is considered a fail, if ASD=ISD then the instruction is considered settled.

Moreover, it appears that the example given by ESMA in paragraph 25 is contradicting the statement made in paragraph 23 asking for the reporting of both sides of a transaction. To be able to internalise settlement, the Settlement Internaliser always has to process two instructions at the same time. ESMA’s example would multiply the transactions to be considered under the internalisation reporting and significantly distort the view on settlement efficiency SI’s maintain.

Furthermore, referring to the template which is included in the RTS, Settlement Internalisers are asked to provide aggregate figures for settled, failed, total transactions as well as a ratio of the failed overall transactions. The RTS prescribes that “*The rate of failed internalised settlement instructions compared to the aggregated total volume of internalised settlement instructions settled by the settlement internaliser and failed internalised settlement instructions during the period covered by the report.*” AFME’s interpretation of the RTS is that if an instruction has failed once, then it should be considered as a failed.

#### Paragraph 26

AFME agrees with ESMA.

#### Paragraph 27

AFME agrees with ESMA.

AFME would like to stress, that this type of reporting is new and it would be desirable to cater for a testing period between competent authorities and Settlement Internalisers to ensure, that (i) data can be received in the requested form and (ii) the data is complete and matches the expectations of the authorities. Also, while not specifically mentioned in the draft Guidelines, AFME assumes that in order for a report to be successfully transmitted to the NCA, it will be sufficient if it has been submitted before end of the day.

Moreover, given the fact that implementation of new reporting requirements at banks is a lengthy process, it would be highly appreciated if the Guidelines could be finalised as early as

possible and ahead of Q1 2018 to give Settlement Internalisers sufficient time and clarity to finalise their projects ahead of the reporting deadlines.

In addition, AFME would like to highlight that the period ESMA refers to in this paragraph should be interpreted as the “actual settlement” date (i.e. when the transaction has settled in the books of the Settlement Internaliser). Otherwise, this could give rise to potentially required corrections if Settlement Internaliser receive backdated instructions, which should have settled in the previous quarter. At the current stage, the Technical Standards do not foresee the possibility to send corrections but only “settled” transactions.

**Q4: What are your views regarding the proposed requirement according to which settlement internalisers should use an XML format based on the ISO-20022 compliant XSD schema?**

*Paragraph 19*

AFME believes that in order to comment on this, we would need to see the suggested XSD schema and encourage ESMA to publish the draft schema as early as possible. This would help Settlement Internalisers to start working on their own database and identify the data fields required for the reporting. AFME would like to highlight that banks already are in the process of fixing their IT budgets for the following year and would need to have reliable estimations for the required work.

As a general remark, AFME believes that a machine-readable format would be supported. There is broad agreement, that this reporting should be implemented in a future proof standard to avoid later adjustments.

**Q5: Do you have any comments or suggestions regarding the proposed process for submission of internalised settlement reports? Please provide arguments supporting your comments and suggestions.**

AFME believes it would be beneficial if ESMA would include a similar section describing the process for the submission of internalised settlements report by Settlement Internalisers to the competent authority. In this section, similar steps should be applied by the Settlement internalisers so that the same details of reporting requirements apply to NCAs as for Settlement Internalisers. This will help to maintain consistency between the data submitted by Settlement Internaliser and the data forwarded by NCAs. As a consequence, the validation rules should be the same between SI-NCA and NCA-ESMA.

At the same time, it would be beneficial for reporting entities if ESMA could consider in its Guidelines a testing period prior to the first reporting cycle in order to ensure, that the quarterly reports can be received by NCA's and ESMA without problems. Such testing period could probably be foreseen three months prior to the first report being due.

Furthermore, AFME would encourage a dialogue between ESMA and NCAs to explore the possibility of developing a single IT platform that could facilitate the exchange of information between relevant parties. Although, AFME understands that this might not be mandated under CSDR, other regulatory initiatives have been provided with the option to report to a central repository, which NCAs and ESMA could access to obtain the information they require to



perform their risk assessments. AFME believes that this option should also be available for Settlement Internalisation reporting.

**Q6: Do you have any additional comments or suggestions regarding the proposed guidelines? Please provide arguments supporting your comments and suggestions.**

AFME believes that for the determination/calculation of market value of free of payment transactions, the RTS (Article 2, paragraph 3) set out detailed requirements with respect to how to source or calculate the price. AFME would like to raise concerns on the feasibility of implementing such a solution in an automated manner. The determination of the price for each ISIN based on liquidity or higher turnover or pre-determined methodology from a different market or venue is not something that each Settlement Internaliser will be able to support in a consistent manner. Financial Institutions already use approved service providers to source price feeds which are used for other purposes like portfolio valuation and billing. Different service providers may use different sources (different market or venue) for the same ISIN. This will result in the use of a different price from each Settlement Internaliser for the calculation of the value of free of payment internalised settlement instructions.

Differences in the prices used by vendors will not substantially alter the total values included in the report but still they will not be fully compliant with the price determination/source provided in the RTS.

AFME would appreciate ESMA's guidance on whether this is acceptable or whether in order to facilitate consistent implementation EMSA considers the appointment/creation of a public source from where Settlement Internalisers will be able to extract the price per ISIN based on the RTS requirements in an agreed XML format.

**ANNEX**

<b>TransType</b>	<b>Description</b>	<b>Long Description</b>	<b>Relevant Category of RTS</b>
BSBK	Buy Sell Back	Relates to a buy sell back transaction.	Repurchase transactions
CLAI	Market Claim	Transaction resulting from a market claim.	Not in scope of SI reporting
CNCB	Central Bank Collateral Operation	Relates to a collateral delivery/receipt to a National Central Bank for central bank credit operations.	Collateral management operations
COLI	Collateral In	Relates to a collateral transaction, from the point of view of the collateral taker or its agent.	Collateral management operations
COLO	Collateral Out	Relates to a collateral transaction, from the point of view of the collateral giver or its agent.	Collateral management operations
CONV	DR Conversion	Relates to a depository receipt conversion.	Other securities transaction
ETFT	Exchange Traded Funds	Relates to an exchange traded fund (ETF) creation or redemption.	Not in scope of SI reporting
FCTA	Factor Update	Relates to a factor update.	Not in scope of SI reporting
INSP	Move of Stock	Relates to a movement of shares into or out of a pooled account.	Other securities transaction
ISSU	Issuance	Relates to the issuance of a security such as an equity or a depository receipt.	Not in scope of SI reporting
MKDW	Mark-Down	Relates to the decrease of positions held by an ICSD at the common depository due to custody operations (repurchase, pre-release, proceed of corp. event realigned).	Not in scope of SI reporting
MKUP	Mark-Up	Relates to the increase of positions held by an ICSD at the common depository due to custody operations (repurchase, pre-release, proceed of corporate event realigned).	Not in scope of SI reporting
NETT	Netting	Relates to the netting of settlement instructions.	Other securities transactions
NSYN	Non Syndicated	Relates to the issue of medium and short-term paper (CP, CD, MTN, notes ...) under a program and without syndication arrangement.	Not in scope of SI reporting

<b>TransType</b>	<b>Description</b>	<b>Long Description</b>	<b>Relevant Category of RTS</b>
OWNE	External Account Transfer	Relates to an account transfer involving more than one instructing party (messages sender) and/or account servicer (messages receiver).	Other securities transaction
OWNI	Internal Account Transfer	Relates to an account transfer involving one instructing party (messages sender) at one account servicer (messages receiver).	Other securities transaction
PAIR	Pair-Off	Relates to a pair-off: the transaction is paired off and netted against one or more previous transactions.	Other securities transaction
PLAC	Placement	Relates to the placement/new issue of a financial instrument.	Purchase or Sale of securities
PORT	Portfolio Move	Relates to a portfolio move from one investment manager to another and/or from an account servicer to another. It is generally charged differently than another account transfer (OWNE, OWNI, INSP), hence the need to identify this type of transfer as such.	Other securities transaction
REAL	Realignment	Relates to a realignment of positions.	Other securities transaction
REDI	Withdrawal	Relates to the withdrawal of specified amounts from specified sub-accounts.	Other securities transaction
REDM	Redemption (Funds)	Relates to a redemption of Funds (Funds Industry ONLY).	Not in scope of SI reporting
RELE	DR Release/Cancellation	Relates to a release (into/from local) of Depository Receipt operation.	Other securities transaction
REPU	Repo	Relates to a repurchase agreement transaction.	Repurchase Transaction
RODE	Return of Delivery	Without Matching Relates to the return of financial instruments resulting from a rejected delivery without matching operation.	Other securities transaction
RVPO	Reverse Repo	Relates to a reverse repurchase agreement transaction.	Repurchase transaction
SBBK	Sell Buy Back	Relates to a sell buy back transaction.	Repurchase transaction
SBRE	Borrowing Reallocation	Internal reallocation of a borrowed holding from one safekeeping account to another.	Securities lending or borrowing
SECB	Securities Borrowing	Relates to a securities borrowing operation.	Securities lending or borrowing

<b>TransType</b>	<b>Description</b>	<b>Long Description</b>	<b>Relevant Category of RTS</b>
SECL	Securities Lending	Relates to a securities lending operation.	Securities lending or borrowing
SLRE	Lending Reallocation	Internal reallocation of a holding on loan from one safekeeping account to another.	Securities lending or borrowing
SUBS	Subscription (Funds)	Relates to a subscription to funds (Funds Industry ONLY).	Not in scope of SI reporting
SYND	Syndicate of Underwriters	Relates to the issue of financial instruments through a syndicate of underwriters and a Lead Manager.	Not in scope of SI reporting
TBAC	TBA Closing	Relates to a To Be Announced (TBA) closing trade.	Purchase or sale of securities
TRAD	Trade	Relates to the settlement of a trade.	Purchase or sale of securities
TRPO	Triparty Repo	Relates to a triparty repurchase agreement.	Repurchase transaction
TRVO	Triparty Reverse Repo	Relates to a triparty reverse repurchase agreement.	Repurchase transaction
TURN	Turnaround	Relates to a turnaround: the same security is bought and sold to settle the same day, to or from different brokers.	Purchase or Sale of securities

*Table 1: Transaction Types*