

Submission Date

11/07/2019

ESMA_QA_1225

Status: Answer Published

Additional Information

Level 1 Regulation

Central Securities Depositories Regulation (CSDR) Regulation (EU) No 909/2014- PTR-CSDR

Topic

Internalised settlement - Scope

Subject Matter

Internalised settlement - scope

Question

(a) Should a settlement internaliser include unmatched internalised settlement instructions in the reports under Article 9 of CSDR?

(b) What working days should a settlement internaliser take into account for the purpose of

the reports under Article 9 of CSDR?

(c) What financial instruments should be covered by the reporting obligation under Article 9 of CSDR?

(d) Should an investment firm report client orders where the corresponding settlement instructions are forwarded in their entirety to a custodian? What if the custodian is established outside the EEA?

(e) Should an investment firm that does not hold any client assets and that performs trade netting in order to reduce the amount of settlement instructions be considered as a settlement internaliser in the meaning of the CSDR, and therefore be required to comply with the reporting obligations pursuant to Article 9 of CSDR?

ESMA Answer

11-07-2019

Original language

[ESMA70-156-4448 CSD Internalised settlement Q&A 1]

(a) No. In the case of internalised settlement instructions that require matching, a settlement internaliser should only include matched internalised settlement instructions in the reports under Article 9 of CSDR.

(b) For the purpose of the reports under Article 9 of CSDR, a settlement internaliser should take into account the working days in the country where it is established and, if applicable, any additional days where the settlement internaliser is open for business.

(c) The scope of Article 9 of CSDR covers all financial instruments eligible for settlement in a securities settlement system operated by an EU CSD and/or designated under the law of a Member State under the Settlement Finality Directive, including financial instruments which may have been initially recorded or centrally maintained with an entity that may not

necessarily be a CSD, such as a registrar or a transfer agent.

(d) An investment firm does not need to report client orders where the investment firm does not execute the corresponding settlement instructions itself, which are forwarded in their entirety to a custodian. Even if the custodian is established outside the EEA and, as such, would not be required to report under Article 9 of CSDR, there remains no obligation for the investment firm to report as the investment firm does not execute the transfer orders itself, and, therefore, it does not fall under the definition of settlement internaliser as specified in point 11 of Article 2(1) of CSDR.

(e) No, given that, for an investment firm that does not provide safekeeping and administration of financial instruments for the account of clients, including custodianship, trade netting as such does not qualify as execution of transfer orders, and, therefore, in such a case, the investment firm does not fall under the definition of settlement internaliser as specified in point 11 of Article 2(1) of CSDR.