

# Consultation Paper

on Amendments to the Guidelines on standardised procedures and messaging protocols used between investment firms and their professional clients under Article 6(2) of CSDR

## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **7 July 2026**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the relevant consultation page.

### **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading '[Legal notice and Data protection](#)'.

### **Who should read this paper?**

This consultation paper is primarily addressed to investment firms, credit institutions, their professional clients, central securities depositories (CSDs) and CSD participants.

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## Legislative references and abbreviations

CDR 2017/565	Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive
CP	Consultation Paper
CSDR	Central Securities Depositories Regulation. Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012
CSDR Refit	Regulation (EU) No 2023/2845 of the European Parliament and of the Council of 13 December 2023 amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third country central securities depositories and amending Regulation (EU) No 236/2012, OJ L, 2023/2845
DORA	Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011
EU	European Union
FR on the RTS on Settlement Discipline	Final Report on the amendments to the RTS on Settlement Discipline
Guidelines on allocations and confirmations	Guidelines on standardised procedures and messaging protocols used between investment firms and their professional clients under Article 6(2) of CSDR.
GUI	Graphical User Interfaces

MiFID II

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

Regulation 2025/2075

Regulation (EU) 2025/2075 of the European Parliament and of the Council of 8 October 2025 amending Regulation (EU) No 909/2014 as regards a shorter settlement cycle in the Union

RTS

Regulatory Technical Standards

RTS on Settlement Discipline

Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline.

## Executive Summary

### Reasons for publication

Article 6(2) of Regulation (EU) No 909/2014 requires investment firms to establish arrangements with their professional clients to ensure the timely settlement of securities transactions, which mostly concern arrangements for the communication of allocations and confirmations and are further developed by Articles 2 and 3 of Commission Delegated Regulation (EU) 2018/1229 on settlement discipline<sup>1</sup> (RTS on Settlement Discipline).

In compliance with the mandate under Article 6(2)(iii) of CSDR, in October 2019 ESMA published its guidelines on the standardised procedures and messaging protocols to be used between investment firms and their professional clients in the communication of allocations and confirmations published<sup>2</sup> (hereinafter, the Guidelines on allocations and confirmations).

ESMA proposes to review these Guidelines on allocations and confirmations in light of the amendments to Articles 2 and 3 of the RTS on Settlement Discipline, as set out in the Final Report on the RTS on Settlement Discipline<sup>3</sup>. These amendments are designed to enhance settlement efficiency and support a smooth transition to T+1.

Additionally, ESMA further clarifies the discretion available to investment firms and professional clients when documenting their contractual arrangements and seeks stakeholders' views on potential amendments to the existing Guidelines that could support the overall objective of simplification and burden reduction.

ESMA launches this public consultation using the proposed amendments included in the FR on the RTS on Settlement Discipline, without waiting for the EC's endorsement. ESMA considers that it is a sound basis for this purpose and that such early publication ensures that stakeholders can actively contribute to the finalisation of the Guidelines. ESMA will reassess that this is still the case at the time of the endorsement of the RTS.

ESMA takes this occasion to remind market participants of the importance to continue with their timely preparations for the T+1 transition, which will take effect on 11 October 2027.

These preparations should account for the regulatory amendments outlined in ESMA's Final Report on the RTS on Settlement Discipline. Without prejudice to the ongoing approval process for these technical standards, the amendments are expected to enter into application as planned, including the requirements for allocations and confirmations, from 7 December 2026.

### Contents

Section 1 of this Consultation Paper (CP) provides the background and rationale for ESMA's review of the Guidelines on allocations and confirmations.

Sections 2 to 9 contain an assessment of the current Guidelines on allocations and confirmations in light of the new regulatory framework and outline ESMA's proposal for each of them.

First, ESMA proposes that the contractual arrangements covered by these Guidelines may be documented in any form, provided that they remain valid and binding. In line with that, ESMA proposes to remove the term "contractual" from the subsequent guidelines.

Second, ESMA proposes to maintain Guideline 2 in its current form.

Third, ESMA proposes to review Guideline 3 to reflect the new regulatory requirement to use electronic standardised communications methods and international open communication procedures and standards for messaging and reference data referred to in Article 2(1)(34) of CSDR. Moreover, it is proposed (i) to remove the reference to the possibility of communicating confirmations and allocations orally, and (ii) to specify that emails and graphical user interfaces (GUIs) may be compliant with the new framework under certain conditions.

Fourth, ESMA proposes to repurpose Guideline 4 to specify that only in the exceptional case of temporary technical unavailability or service disruption, alternative non-electronic communication methods such as mail, faxes, or recorded phone calls may be accepted.

Moreover, ESMA proposes to remove the reference to "where electronic means are used" from paragraph 20 of Guideline 4, to reflect the requirement for investment firms to ensure that their professional clients use the international open communication procedures and standards for messaging and reference data.

Finally, ESMA proposes to delete paragraph 21 of Guideline 4, as the use of internal or domestic messaging standards is incompatible with the new regulatory framework.

Section 10 proposes 7 December 2026 as date of entry into application of the revised Guidelines on allocation and confirmations, in line with the corresponding amendments to the RTS on Settlement Discipline. This alignment is intended to give market participants greater certainty regarding the operational standards and procedures to be applied during the transitional period to T+1 and to support settlement efficiency in EU financial markets.

Section 11 includes three annexes. Annex I includes the summary of the questions, Annex II presents the proposed draft Guidelines on allocations and confirmations, and Annex III

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<sup>1</sup> [EUR-Lex - 02018R1229-20240902 - EN - EUR-Lex](#)

<sup>2</sup> [Guidelines on standardised procedures and messaging protocols under Article 6\(2\) of Regulation \(EU\) No 909/2014](#)

<sup>3</sup> [ESMA74-2119945926-3430 Final Report on Amendments to the RTS on Settlement Discipline](#)

includes a preliminary analysis of the impact that the review of the guidelines will have on costs and benefits.

**Next Steps**

ESMA will take the feedback received on this CP into account with a view to finalising the GLs by October 2026.

## 1 Background and rationale

1. Article 6 of CSDR envisages certain measures that market participants and financial market infrastructures are to implement to prevent settlement fails.
2. Specifically, the second subparagraph of Article 6(2) of CSDR establishes the obligation for investment firms to set up arrangements with their professional clients to ensure (i) the prompt communication of an allocation of securities to the transaction, (ii) the confirmation of that allocation and (iii) the confirmation of the acceptance or rejection of the terms in good time before the intended settlement date. These requirements were further developed by Articles 2 and 3 of the RTS on Settlement Discipline.
3. The third subparagraph of Article 6(2) of CSDR mandates ESMA to develop guidelines on the standardised procedures and messaging protocols to be used between investment firms and their professional clients, finally published in October 2019<sup>4</sup>.
4. Two main factors prompt a revision of this framework in 2026.
  - First, CSDR Refit mandated ESMA to assess the appropriateness of shortening the settlement cycle and to evaluate the potential impact of such a change on CSDs, trading venues, and other market participants. In its Final Report<sup>5</sup>, ESMA concluded that shortening the settlement cycle in the EU will provide benefits in terms of risk reduction, margin savings and the reduction of costs linked to the misalignment with other major jurisdictions. Subsequently, the date of 11 October 2027 has been adopted by the European Parliament and the Council in Regulation 2025/20756 for a transition to T+1 in the EU.
  - Second, in its Final Report on Shortening the Securities Settlement Cycle<sup>7</sup>, ESMA already anticipated that the envisaged amendments to Article 2 of the RTS on Settlement Discipline would require a review of the Guidelines on allocations and confirmations to ensure consistency with the new provision. The analysis carried out for this CP confirms the need for adjusting the current guidelines.
5. CSDR Refit introduced targeted amendments to Article 6(5) of CSDR, requiring ESMA to develop draft RTS specifying the measures to prevent settlement fails in relation to the arrangements between investment firms and their professional clients, including the above-mentioned Articles 2 and 3. ESMA published its FR on the RTS on Settlement Discipline on 13 October 2025<sup>8</sup>.

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<sup>4</sup> [esma70-151-2461\\_final\\_report\\_on\\_csd\\_r\\_art\\_6\\_gl.pdf](#)

<sup>5</sup> [ESMA74-2119945925-1969 Report on ESMA assessment of the shortening of the settlement cycle in the European Union](#)

<sup>6</sup> [Regulation - EU - 2025/2075 - EN - EUR-Lex](#)

<sup>7</sup> [ESMA74-2119945925-1969 Report on ESMA assessment of the shortening of the settlement cycle in the European Union](#), paragraphs 200 and 201.

<sup>8</sup> [ESMA74-2119945926-3430 Final Report on Amendments to the RTS on Settlement Discipline](#)

6. Additionally, one of the proposals included in the FR on the RTS on Settlement Discipline referred to a phased-in entry into application of its articles<sup>9</sup>. The amendments to Article 2 and 3, that directly or indirectly support the transition to T+1, will enter into application on 7 December 2026<sup>10</sup>.
7. Aligning the entry into application of the amended Guidelines with the application date of Articles 2 and 3 of the RTS on Settlement Discipline is also intended to promote the widest possible knowledge and understanding of the new regulatory framework and to reduce uncertainty regarding the application of those provisions.
8. The timely review of these Guidelines seems particularly important to support market participants in their preparations to a shorter settlement cycle. The findings of the first readiness survey conducted by the EU T+1 Industry Committee<sup>11</sup> indicate that a significant part of the industry has not yet undertaken the adaptations required for the transition to T+1, particularly in relation to allocations and confirmations.
9. Namely, according to the survey results, most respondents (56%) could be late in issuing allocations and confirmations on T+0 by the end 2026<sup>12</sup>. In addition, whereas 51% of respondents will adopt electronic exchange of allocations and confirmations by the end of 2026<sup>13</sup>, it seems that a substantial proportion of them (42%) would be late in implementing this measure.
10. ESMA reminds stakeholders of the following:
  - CSDR has been amended to specify that the transactions covered by Article 5(2) of CSDR shall settle on a T+1 basis<sup>14</sup> from 11 October 2027 onwards.
  - As outlined in the FR on the RTS on Settlement Discipline, the proposed amendments to Articles 2 and 3 of the RTS on Settlement Discipline are expected to enter into application on 7 December 2026. Without prejudice to the standard review and endorsement process of this RTS by the Commission, which is still ongoing, it should be noted that at the time of finalising this CP, ESMA has not received any indication suggesting that such proposal will not apply then.

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• Timing of allocations and confirmations; means for sending allocations and confirmations; use of international open communication procedures and standards for allocations and confirmations; provision of professional clients' reference data; alignment of allocations with SI's fields, PSET as mandatory field in allocations and the amendments related to the transaction type in the allocations and settlement instructions transaction type should enter into application on 7 December 2026.

• Amendments related to the reporting and publication of settlement fails data by CSDs should enter into application on 1 July 2027.

• Timing for sending SIs to SSS; hold and release; auto-partial settlement; auto-collateralisation; RTGS and/or batches should enter into application on 11 October 2027.

<sup>10</sup> Proposed Article 2(1) of FR on the RTS on Settlement Discipline.

<sup>11</sup> Available at [EU T+1 Industry Committee Readiness Survey - ValueExchange Key Findings](#).

<sup>12</sup> In accordance with the EU T+1 Industry Committee recommendation MC-02 [https://www.esma.europa.eu/sites/default/files/2025-06/High-level\\_Roadmap\\_to\\_T\\_1\\_Securities\\_Settlement\\_in\\_the\\_EU.pdf](https://www.esma.europa.eu/sites/default/files/2025-06/High-level_Roadmap_to_T_1_Securities_Settlement_in_the_EU.pdf)

<sup>13</sup> In accordance with the EU T+1 Industry Committee recommendation MC-01 [https://www.esma.europa.eu/sites/default/files/2025-06/High-level\\_Roadmap\\_to\\_T\\_1\\_Securities\\_Settlement\\_in\\_the\\_EU.pdf](https://www.esma.europa.eu/sites/default/files/2025-06/High-level_Roadmap_to_T_1_Securities_Settlement_in_the_EU.pdf)

<sup>14</sup> Regulation (EU) 2025/2075 of the European Parliament and of the Council of 8 October 2025 amending Regulation (EU) No 909/2014 as regards a shorter settlement cycle in the Union. Available at [Regulation - EU - 2025/2075 - EN - EUR-Lex](#)

11. In other words, the Level 1 (CSDR) requirement is set and there are no indications suggesting that the Level 2 (RTS) requirements will not apply as planned. Whereas it would have been standard practice to wait for the endorsement of the RTS on Settlement Discipline by the Commission before consulting on related Level 3 measures, ESMA has decided to launch this public consultation considering that the proposed amendments included in the FR on the RTS on Settlement Discipline is a good basis for this purpose. ESMA will reassess that this is still the case at the time of the endorsement of the RTS.
12. Additionally, this early publication approach is designed to achieve the following objectives:
- Sufficient implementation period: ESMA recognises the importance of providing market participants with adequate time to prepare for the revised regulatory framework governing the exchange of allocations and confirmations. As the proposals in this CP align with the FR on the RTS on Settlement Discipline, this consultation serves as an early reminder of the upcoming regulatory changes. This should enable market participants to adapt their systems and processes without awaiting the publication of the final Guidelines.
  - Stakeholder engagement: an early consultation ensures that affected market participants can actively contribute to the finalisation of the Guidelines, thereby helping to identify and address any potential operational challenges.
13. In line with this approach, ESMA refers to the proposed Articles as set out in the FR on the RTS on Settlement Discipline.

## 2 Guideline 1 – Documentation of the arrangements between investment firms and professional clients

### 2.1 Pre-existing guideline

**Guideline 1:** Investment firms should ensure that, where applicable, the requirements set out under Article 6(2) of Regulation (EU) No 909/2014 are complied with by them and their professional clients considering their roles in each securities transaction.

14. When two entities licensed as investment firms are facing each other in a transaction on financial instruments referred to in Article 5(1) of Regulation (EU) No 909/2014, the respective roles of each entity in the concerned transaction should be analysed in order to identify which entity should be considered as the investment firm and as the client for the purposes of applying these requirements.

15. The requirements set out under Article 6(2) of Regulation (EU) No 909/2014 should apply only to relationships involving an investment firm and a professional client within the scope of Directive 2014/65/EU. This means that when Directive 2014/65/EU does not apply to certain

persons (e.g. persons exempted under Article 2 of Directive 2014/65/EU), such requirements should not apply either.

16. For the avoidance of doubt, an entity which belongs to the list provided for by Section I of Annex II to Directive 2014/65/EU should be considered a professional client for the purposes of Article 6(2) of Regulation (EU) No 909/2014, irrespective of the fact that the investment firm might have, generally or for some specific transactions or services, categorized it as an eligible counterparty, within the meaning of article 30(2) of Directive 2014/65/EU, or a non-professional client.

19. The arrangements agreed between the investment firm and its professional client could be included in any contractual agreement, including in the framework agreement governing their relationship such as the document referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.

## 2.2 Analysis

14. Guideline 1 essentially reiterates that investment firms must comply with, and ensure compliance with, the requirements set out in Article 6(2) of the CSDR and in Articles 2 and 3 of the RTS on Settlement Discipline<sup>15</sup>. The arrangements agreed between investment firms and their professional clients constitute a critical element for settlement efficiency, particularly in the context of the upcoming transition to T+1<sup>16</sup>.
15. Current paragraph 19 of the Guidelines on allocations and confirmations determines that the communication arrangements identified in paragraph 17 (i.e. sending of both a written confirmation and a written allocation; sending of only a written affirmation or no sending of neither a written allocation nor of a written confirmation) and agreed between the investment firm and its professional clients can be included in any contractual agreement.

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<sup>15</sup> Guideline 1 requires investment firms to ensure compliance with Level 1 only “*where applicable*”, in line with the text in Article 6(2) of CSDR (“...investment firms authorised pursuant to Article 5 of Directive 2014/65/EU shall, **where applicable**, take measures to limit the number of settlement fails...”).

ESMA recalls that there are two additional types of circumstances in which professional clients do not have to send allocations and confirmations to the investment firm:

- When the professional client holds at the same investment firm the securities relevant for the settlement (Article 2(4) of the RTS on Settlement Discipline).
- Where investment firms receive the necessary settlement information referred to in Article 2(1) of the RTS on Settlement Discipline in advance of the timeframes referred to in Article 2(2), they may agree in writing with their professional clients that the relevant written allocations and written confirmations are not to be sent (Article 2(3) of the RTS on Settlement Discipline).

<sup>16</sup> See Recommendation MC-01 of the [High-Level roadmap to T+1 securities settlement I the EU](#): Promote the Standardised Electronic Exchange of Trade Allocations and Confirmations Firms are strongly encouraged to adopt electronic standardised communication methods for the exchange of allocations and confirmations to support straight-through processing (STP). Rationale - To ensure timely and efficient processing in a T+1 settlement environment, minimising manual interventions and reducing the risk of delays or errors in post-trade communications is crucial. The broader adoption of standardised electronic messaging for the exchange of trade allocations and confirmations significantly enhances STP. It enables faster, more accurate communication between counterparties, reduces operational risk, and facilitates early matching on Trade Date. This is particularly critical under compressed timelines, where reliance on non-automated methods may result in unmatched trades and settlement fails.

16. ESMA also notes that the proposed Article 2(1) of the RTS on Settlement Discipline<sup>17</sup>, requires investment firms to ensure through contractual arrangements that professional clients confirm the transactions:
- In writing; and
  - Using an electronic standardised machine-readable format.
17. This requirement is largely covered by these Guidelines on allocations and confirmations.
18. Given the relevance of these arrangements for settlement efficiency, ESMA proposes to bring paragraph 19 forward to clarify that the contractual agreements between investment firms and professional clients should encompass all arrangements between investment firms and professional clients on allocations and confirmations.
19. At the same time, ESMA also proposes reviewing the pre-existing wording of paragraph 19 considering the broader objectives of simplification and burden reduction.
20. Investment firms and professional clients are currently facing several regulatory and structural changes, largely but not exclusively, driven by the transition to T+1. As a result, these firms will need to undertake a substantial and burdensome review of their contractual arrangements.
21. Therefore, ESMA seeks to reduce the cost and operational burden that would arise from documenting these arrangements. Accordingly, the wording of the different Guidelines should be revised to further clarify the discretion of investment firms and professional clients as regards how these arrangements are documented.
22. As a consequence, the agreements between investment firms and professional clients concerning the different arrangements referred to across the GLs may be documented in any form, provided they remain valid and legally binding, thereby ensuring compliance with Article 6(2) of CSDR and Article 2 of the RTS on Settlement Discipline. For example, the arrangements could be added to the framework agreement governing their relationship referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.
23. In line with this, ESMA proposes to delete the references to “contractual” agreement in current Guideline 3 and paragraph 18 of the Guidelines on allocations and confirmations. This approach would notably come in support of the broader simplification and burden reduction objectives.
24. The remainder of GL1 (paragraphs 14–16) should remain unchanged.

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<sup>17</sup> Investment firms that have received confirmation of the execution of a transaction order placed by a professional client shall ensure through contractual arrangements that the professional client confirms its acceptance of the terms of the transaction in writing, using an electronic standardized communication method structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure, within the timeframes set out in paragraph 2.

## 2.3 Proposal

**Guideline 1:** Investment firms should ensure that, where applicable, the requirements set out under Article 6(2) of Regulation (EU) No 909/2014 are complied with by them and their professional clients considering their roles in each securities transaction.

Investment firms and professional clients should contractually agree on the arrangements referred to in these Guidelines. However, these arrangements may be documented in any legally binding form, for example by adding them to the framework agreement governing their relationship referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.

14. When two entities licensed as investment firms are facing each other in a transaction on financial instruments referred to in Article 5(1) of Regulation (EU) No 909/2014, the respective roles of each entity in the concerned transaction should be analysed in order to identify which entity should be considered as the investment firm and as the client for the purposes of applying these requirements.

15. The requirements set out under Article 6(2) of Regulation (EU) No 909/2014 should apply only to relationships involving an investment firm and a professional client within the scope of Directive 2014/65/EU. This means that when Directive 2014/65/EU does not apply to certain persons (e.g. persons exempted under Article 2 of Directive 2014/65/EU), such requirements should not apply either.

16. For the avoidance of doubt, an entity which belongs to the list provided for by Section I of Annex II to Directive 2014/65/EU should be considered a professional client for the purposes of Article 6(2) of Regulation (EU) No 909/2014, irrespective of the fact that the investment firm might have, generally or for some specific transactions or services, categorized it as an eligible counterparty, within the meaning of article 30(2) of Directive 2014/65/EU, or a non-professional client.

**Q1: Do you agree with the proposed amendment? If not, please elaborate.**

**Q2: In particular, do you see any alternative/additional ways to reduce the administrative burden created by documenting the arrangements between investment firms and professional clients?**

## 3 Guideline 2 – Scope of application

### 3.1 Pre-existing guideline

**Guideline 2:** The requirements set out in Article 6(2) of Regulation (EU) No 909/2014 should apply in respect of transactions in financial instruments referred to in Article 5(1) of Regulation (EU) No 909/2014, i.e.:

- a. transferable securities, as defined in point 35 of Article 2(1) of Regulation (EU) No 909/2014;
- b. money-market instruments, as defined in point 37 of Article 2(1) of Regulation (EU) No 909/2014,
- c. units in collective undertakings, as defined in point 38 of Article 2(1) of Regulation (EU) No 909/2014, and
- d. emission allowances, as defined in point 39 of Article 2(1) of Regulation (EU) No 909/2014.

### 3.2 Analysis

- 25. Guideline 2 further clarifies the scope of application of the requirements under Article 6(2) of CSDR by specifying the categories of financial instruments to which the measures envisaged therein should apply. In particular, Guideline 2 refers to the type of financial instruments listed in Article 5(1) of CSDR, which has not been affected by the above-mentioned amendments to the regulatory framework.
- 26. ESMA does not identify any conflict between Guideline 2 in its current drafting and the revised regulatory framework.

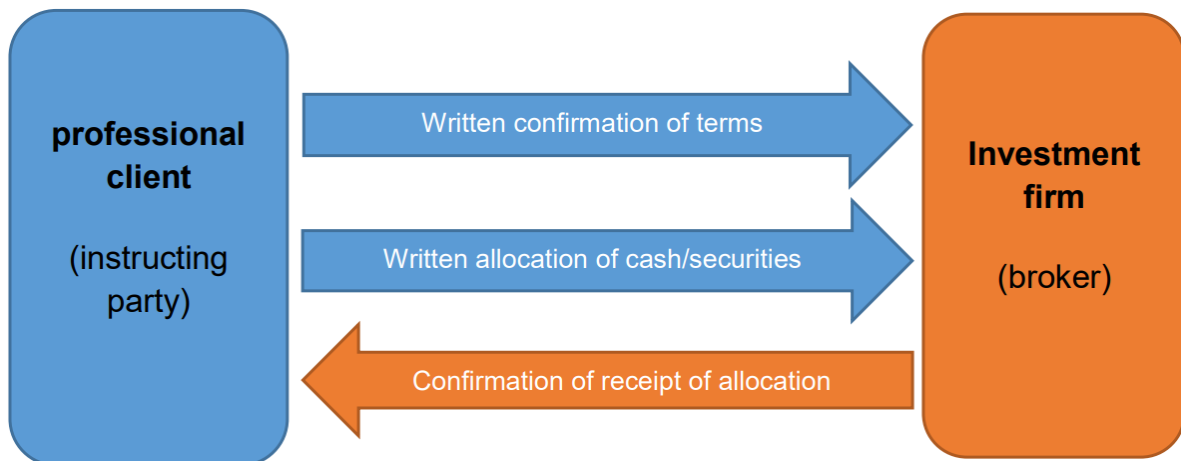
### 3.3 Proposal

- 27. ESMA proposes to maintain Guideline 2 in its current form.

## 4 Guideline 3 – Agreement on communication procedures and messaging protocols

### 4.1 Pre-existing guideline

**Guideline 3:** An investment firm should contractually agree with its professional client on the communication procedures and messaging protocols to be used between them to implement the measures aiming at limiting settlement fails described in Article 6(2) of Regulation (EU) No 909/2014, which measures could be illustrated as follows:



## 4.2 Analysis

28. The current Article 2(1) of the RTS on Settlement Discipline is not prescriptive regarding the means to be used for the written communication of allocations and confirmations. It merely requires investment firms to offer professional clients with the option to send settlement information electronically through the international open communication procedures and standards for messaging and reference data referred to in Article 35 of CSDR.
29. However, the FR on the RTS on Settlement Discipline proposes to change this provision to fasten the processing of written allocations and confirmations and to support the automation of post-trade processes. Specifically, investment firms shall require their professional clients to send their written allocations and confirmations by means of *“an electronic standardised communication method structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure<sup>18</sup>”*.
30. Therefore, sending written allocations and confirmations using international open communication procedures and standards for messaging and reference data referred to in Article 2(1)(34) of CSDR<sup>19</sup> is no longer just an option to be offered by investment firms but becomes a mandatory requirement when interacting with professional clients.
31. While ESMA does not identify any conflict between Guideline 3 and the revised regulatory framework on settlement discipline, it considers it necessary to align the wording of Guideline 3 with the new Level 2 requirements. This alignment should clarify that the obligation to send allocations in an electronic, machine-readable format applies by default, except where exceptional circumstances arise (as discussed in another section of this CP).

<sup>18</sup> Proposed Article 2(1) of the FR on Settlement Discipline

<sup>19</sup> The proposed Article 2(1), subparagraph 6 of the FR on Settlement Discipline has replaced the reference to Article 35 of CSDR, with a reference to Article 2(1)(34) of CSDR.

32. One of the main novelties that the proposed Article 2(1) of the RTS on Settlement Discipline introduces refers to the obligation to send allocations and confirmations in a machine-readable format. The revised Article 2(1) of the RTS on Settlement Discipline is consistent with the other provisions in other EU legislation that further specify the characteristics of machine-readable files. For instance, Article 7(2) of Commission Implementing Regulation (EU) 2025/1339<sup>20</sup> establishes that *“XML, XBRL, XBRL-csv, XBRL-xml and Inline XBRL formats shall be deemed to constitute machine-readable formats, where those formats are structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure contained therein”*.
33. This approach has implications for exchanges carried out by means of emails and for exchanges carried out by means of graphical user interfaces (GUIs).
34. As regards emails, ESMA noted in the Final Report on the RTS on Settlement Discipline<sup>21</sup> that *“all means, including exchanging by email information that is formatted in a machine-readable way, fulfilling requirements equivalent to those set out in Article 2(13)20 of Directive (EU) 2019/1024 should be considered as compliant with the new provisions in Article 2 of the RTS on Settlement Discipline. This approach should address, at least to a certain extent, the concerns expressed by certain market participants regarding the costs of implementing the proposal”*.
35. ESMA remains of the view that the exchange of settlement information that is formatted in a machine-readable way (e.g. XML, XBRL) by email should be considered compliant with the proposed Article 2 of the RTS on Settlement Discipline.
36. Moreover, ESMA considers it necessary to address interfaces designed for human interaction, such as GUIs, where a person manually inputs or views data that can be used for these purposes. ESMA acknowledges that GUIs are widely used across financial market infrastructures and may serve as a practical interface for the exchange of structured data.
37. ESMA’s preliminary view is that the same principle used for the transmission by email of information that is formatted in a machine-readable way should be applicable to GUIs. However, it is necessary to distinguish two different scenarios.
38. The first one refers to the case where a person manually enters data into a GUI. While this method may be common in certain operational setups, it entails a higher risk of human errors and operational inefficiencies. As a result, ESMA considers this practice inconsistent with the objectives of the proposed Article 2(1), subparagraph 6 to support automation and discontinue manual processes as a regular practice.
39. The second scenario refers to the use of a GUI to transmit data that is already structured in a machine-readable format, such as XML or XBRL. ESMA’s preliminary view is that this method may be compliant with the new regulatory framework on

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<sup>20</sup> Commission Implementing Regulation (EU) 2025/1339 of 10 July 2025 laying down implementing technical standards for the application of Regulation (EU) 2023/2859 of the European Parliament and of the Council with regard to certain tasks of the collection bodies. Available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32025R1339>

<sup>21</sup> Paragraph 61 of the Final Report.

settlement discipline. Nevertheless, it is essential that the GUI facilitates the transmission of data in a format that software applications “*can easily identify, recognise, and extract*” that data in accordance with the new technical requirements proposed in Article 2(1).

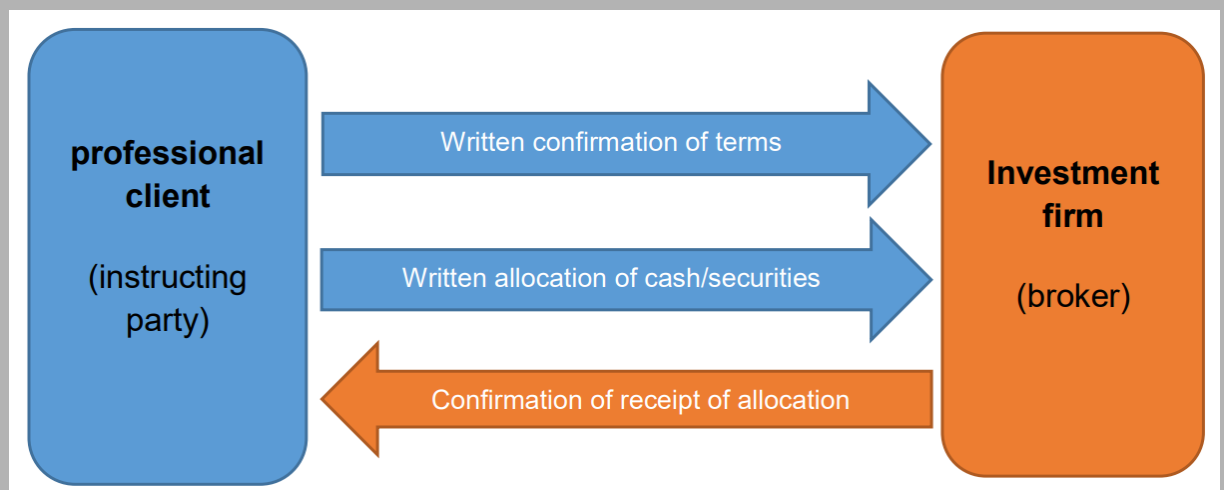
40. However, ESMA strongly recommends that professional clients engaging in frequent transactions use international open communication procedures and standards by default, rather than relying on emails or GUIs as described in paragraphs 36, 37 and 41 above. Automated messaging and information flows are essential for an efficient post-trade system and are better suited to a shorter settlement cycle.

### 4.3 Proposal

**Guideline 3:** An investment firm should ~~contractually~~ agree with its professional client on the ~~electronic standardised communication methods procedures~~ and ~~international open communication procedures and standards for messaging and reference data referred to in Article 2(1)(34) of Regulation (EU) No 909/2014 messaging protocols~~ to be used between them as a regular practice, to implement the measures aiming at preventing or limiting settlement fails described in Article 6(2) of Regulation (EU) No 909/2014 ~~, which measures could be illustrated as follows~~ and Article 2 of the Commission Delegated Regulation (EU) 2018/1229.

Investment firms may agree with their professional clients on the submission of allocations and confirmations by email or graphical user interfaces, provided that the content of the allocations and confirmations is structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure.

These measures could be illustrated as follows:



**Q3: Do you agree with the proposed amendment? If not, please elaborate.**

**Q4: Should interfaces designed for human interaction i.e. GUIs, be considered appropriate for communication between investment firms and their professional clients? Please explain your reasoning.**

## **5 Guideline 3 – Submission of allocations and confirmations jointly or no submission of allocations and/or confirmations**

### **5.1 Pre-existing guideline**

17. The investment firm and its professional client may arrange for the prompt communication of this information in various ways:

a. Sending of both a written confirmation and a written allocation by the professional client to its investment firm, as specified in Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229; or

b. No sending of a written confirmation: Where the written confirmation is included in the written allocation in accordance with Article 2(1), third subparagraph, of the Commission Delegated Regulation (EU) 2018/1229, the investment firm and the professional client may agree that the written confirmation of the terms of the transaction could be provided in an additional field included in the written allocation, or implied in the sending of the written allocation corresponding to that transaction; or

c. No sending of written confirmation nor written allocation: Where no written confirmation or allocation is sent in accordance with Article 2(3) of the Commission Delegated Regulation (EU) 2018/1229, the investment firm should ensure that it is provided with the necessary settlement information referred to in Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229 in respect of that transaction in advance of the timeframes referred to in Article 2(2) thereof, including orally or through systems granting to the investment firm access to the relevant information (such as through the access to a centralised database).

### **5.2 Analysis**

41. In line with Article 6(2) of CSDR, paragraph 17 of Guideline 3 does not provide a definition of ‘prompt communication’. However, ESMA does not deem it necessary to specify this element as the proposed Article 2(2) of the RTS on Settlement Discipline already requires professional clients to send written allocations and confirmations as soon as possible, and no later than 23:00 CET on trade date.

42. ESMA also notes that the pre-existing guideline remains broadly in line with the proposed Article 2 of the RTS on Settlement Discipline. First, proposed Article 2(1)

enables professional clients to include their written confirmations within the written allocation of a transaction. Second, proposed Article 2(3) exempts professional clients from sending written allocations and confirmations altogether, provided that (i) the investment firm has received all necessary settlement information by the deadline specified in proposed Article 2(2) and (ii) the investment firm has agreed to this arrangement in writing<sup>22</sup>.

43. However, ESMA notes that the remaining reference to the capacity of professional clients to communicate allocations and confirmations orally<sup>23</sup> is not consistent with the new regulatory framework.

### 5.3 Proposal

17. The investment firm and its professional client may arrange for the prompt communication of this information in various ways:

a. **Sending of both a written confirmation and a written allocation** by the professional client to its investment firm;

b. **No sending of a written confirmation:** Where the written confirmation is included in the written allocation in accordance with Article 2(1), third subparagraph, of the Commission Delegated Regulation (EU) 2018/1229, the investment firm and the professional client may agree that the written confirmation of the terms of the transaction could be provided in an additional field included in the written allocation, or implied in the sending of the written allocation corresponding to that transaction;

c. **No sending of written confirmation nor written allocation:** Where no written confirmation or allocation is sent in accordance with Article 2(3) of the Commission Delegated Regulation (EU) 2018/1229, the investment firm should ensure that it is provided with the necessary settlement information referred to in Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229 in respect of that transaction in advance of the timeframes referred to in Article 2(2) thereof, including ~~orally or~~ through systems granting to the investment firm access to the relevant information (such as through the access to a centralised database).

**Q5: Do you agree with the proposed amendment? If not, please elaborate.**

<sup>22</sup> Finally, proposed Article 2(4) establishes that “Paragraphs 1, 2 and 3 shall not apply to professional clients holding, at the same investment firm, the securities and cash relevant for the settlement”.

<sup>23</sup> This reference was further explained in paragraph 20 of the Final Report of the Guidelines on allocations and confirmations: “some respondents also indicated that in practice, for bonds markets, voice (on a recorded line which parties can refer to in the event of a dispute) is widely used to provide initial allocation, followed or not by electronic confirmation and that it would be good to allow for oral communication of the allocation”. Available at [esma70-151-2461 final report on csdr art 6 gl.pdf](#)

## 6 Guideline 3 – Consequences of late or no communication of allocations and confirmations

### 6.1 Pre-existing guideline

18. The consequences of the late communication of, or failure to communicate, the written allocation and confirmation (or of part of the information requested therein) to the investment firm are not addressed in Regulation (EU) No 909/2014, nor in the Commission Delegated Regulation (EU) 2018/1229. The consequences of such delay or failure could be addressed by the investment firm and the professional client in their contractual agreement.

### 6.2 Analysis

44. Since neither Regulation (EU) 2025/2075 nor the proposed amendments in the FR on the RTS on Settlement Discipline introduced any changes in this area, ESMA does not identify any conflict between the new regulatory framework and this guidance.
45. Therefore, ESMA does not propose any amendment to paragraph 18 of the Guidelines other than deleting “contractual” from the text.

### 6.3 Proposal

18. The consequences of the late communication of, or failure to communicate, the written allocation and confirmation (or of part of the information requested therein) to the investment firm are not addressed in Regulation (EU) No 909/2014, nor in the Commission Delegated Regulation (EU) 2018/1229. The consequences of such delay or failure could be addressed by the investment firm and the professional client in their ~~contractual~~ agreement.

**Q6: Do you agree with the proposed amendment? If not, please elaborate.**

## 7 Guideline 4 – Non-electronic means to submit allocations and confirmations

### 7.1 Pre-existing guideline

**Guideline 4:** Where the investment firm and the professional client agree that the professional client should send a written confirmation and/or allocation in accordance with Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229, any communication procedure allowing for written communication through mail, faxes or electronic means should be accepted.

## 7.2 Analysis

46. Article 2(1) of the RTS on Settlement Discipline has been significantly revised in this area. As mentioned above, written allocations and/or confirmations shall be communicated in a standardised, electronic, machine-readable format.
47. The proposed changes to Guideline 3 already address the need for changes in existing market practices to ensure compliance with the new regulatory requirements.
48. However, the proposed paragraph four of Article 2(1) of the RTS on Settlement Discipline allows that, under exceptional and temporary circumstances, professional clients can use alternative, non-electronic communication methods, provided that such circumstances are duly “*documented and resolved without undue delay*”<sup>24</sup>.
49. As a consequence, ESMA considers that this guidance could be “recycled” to address the case of “temporary technical unavailability or service disruption”, where the use of electronic standardised communication methods in a machine-readable format is not required.
50. Consequently, ESMA proposes that any communication procedure allowing for written communication of the allocations and confirmations should be accepted, including through mail, faxes or other non-machine-readable electronic means.
51. ESMA also considers that the transmission of allocations and confirmations by telephone should be permitted during these exceptional situations, provided that the phone calls are adequately recorded<sup>25</sup>. This last condition would ensure that allocations and confirmations are recorded in a durable medium, safeguarding the interests of both professional clients and investment firms.
52. ESMA reiterates that such situations should remain exceptional, as investment firms and professional clients are required under their respective regulatory frameworks to maintain effective business continuity and disaster recovery plans<sup>26</sup>. Non-electronic means of sending allocations and confirmations should therefore be used only when the duly documented temporary technical unavailability or service disruption affecting either party makes it impossible to use communication procedure referred to in Article 2(1)(34) of Regulation (EU) No 909/2014.

## 7.3 Proposal

**Guideline 4:** ~~Where t~~The investment firm and its professional client should also agree that the professional client should send a written confirmation and/or allocation in accordance with Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229 that, in case of duly documented temporary technical unavailability or service disruption affecting either party that makes it impossible to use communication procedures referred to in Article 2(1)(34) of

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<sup>24</sup> Proposed paragraph four of Article 2(1) of the RTS on Settlement Discipline

<sup>25</sup> Article 16(7) of MiFID II and Article 76 of CDR 2017/565

<sup>26</sup> Article 16(2) of MiFID II and Article 21 of CDR 2017/565 and Articles 10 and 11 of DORA

Regulation (EU) No 909/2014, any communication procedure allowing for written communication of the ~~written~~ allocations and confirmations should be accepted, including through mail, faxes or other non-machine readable electronic means.

In such situations of technical unavailability or service disruption, the investment firm and its professional client may also agree on the use of phone calls provided that they are recorded in accordance with Article 16(7) of Directive 2014/65/EU and Article 76 of Commission Delegated Regulation (EU) 2017/565.

**Q7: Do you agree with the proposed amendment? If not, please elaborate.**

## **8 Guideline 4 – Mandatory use of international open communication procedures and standards**

### **8.1 Pre-existing guideline**

20. Where electronic means are used, the investment firm should offer to its professional clients the option of using the international open communication procedures and standards for messaging and reference data as defined in Article 2(1)(34) of Regulation (EU) No 909/2014, except in the following two cases:

a. where such internationally accepted standards are not “available on a fair, open and non-discriminatory basis to any interested party” or do not exist, until international standards become available; and

b. where the use of internationally accepted standards does not allow to “limit the settlement fails” for an investment firm and its professional clients, as long as such lack of efficiency can be evidenced.

### **8.2 Analysis**

53. As specified above, the proposed Article 2(1) of the RTS on Settlement Discipline determines that written allocations and/or confirmations shall be communicated in a standardised, electronic, machine-readable, format.

54. Additionally, the use of international open communication procedures and standards for messaging and reference data referred to in Article 2(1)(34) of Regulation (EU) No 909/2014 is compulsory for investment firms and professional clients.

55. These amendments have two main consequences on the text of this Guideline.

56. First, it is necessary to remove “*where electronic means are used*” in line with the new requirements in proposed paragraphs 3 and 4 of Article 2(1) of the RTS on Settlement Discipline<sup>27</sup>.
57. Second, the optionality offered by the original Guideline 4, which merely encouraged investment firms to “offer the option” of using international open communication standards, unless such internationally accepted standards are not “*available on a fair, open and non-discriminatory basis to any interested party*” or do not exist, and where it does not allow to “*limit the settlement fails*” is no longer applicable.
58. Moreover, ESMA also identifies the need to align paragraph 20 of Guideline 4 with the new regulatory requirement to use electronic communications in a machine-readable format.

## 8.3 Proposals

20. ~~Where electronic means are used, the~~ Investment firms should ~~offer~~ ensure that their to its professional clients ~~the option of using the use~~ international open communication procedures and standards for messaging and reference data as defined in Article 2(1)(34) of Regulation (EU) No 909/2014, ~~except in the following two cases:~~

- ~~a. where such internationally accepted standards are not “available on a fair, open and non-discriminatory basis to any interested party” or do not exist, until international standards become available; and~~
- ~~b. where the use of internationally accepted standards does not allow to “limit the settlement fails” for an investment firm and its professional clients, as long as such lack of efficiency can be evidenced.~~

**Q8: Do you agree with the proposed amendment? If not, please elaborate.**

## 9 Guideline 4 – Optionality of the messaging standard

### 9.1 Pre-existing guideline

21. If the investment firm offers to use both international and internal (or domestic) messaging standards, the professional client can decide to use either of them.

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<sup>27</sup> “Written allocations shall be sent using an electronic standardised communication method structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure. Investment firms that have received confirmation of the execution of a transaction order placed by a professional client shall ensure through contractual arrangements that the professional client confirms its acceptance of the terms of the transaction in writing, using an electronic standardised communication method structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure, within the timeframes set out in paragraph 2. That written confirmation may also be included in the written allocation”.

## 9.2 Analysis

59. The proposed paragraph 6 of Article 2(1) of the RTS on Settlement Discipline mandates investment firms to require professional clients the use of international open communication procedures and standards for messaging and reference data, as defined in Article 2(1)(34) of CSDR.
60. Therefore, the flexibility granted by the original paragraph 21 of Guideline 4 is no longer compatible with the proposed amendments to the RTS on Settlement Discipline and ESMA proposes to delete it.

## 9.3 Proposal

~~21. If the investment firm offers to use both international and internal (or domestic) messaging standards, the professional client can decide to use either of them.~~

**Q9: Do you agree with the proposed amendment? If not, please elaborate**

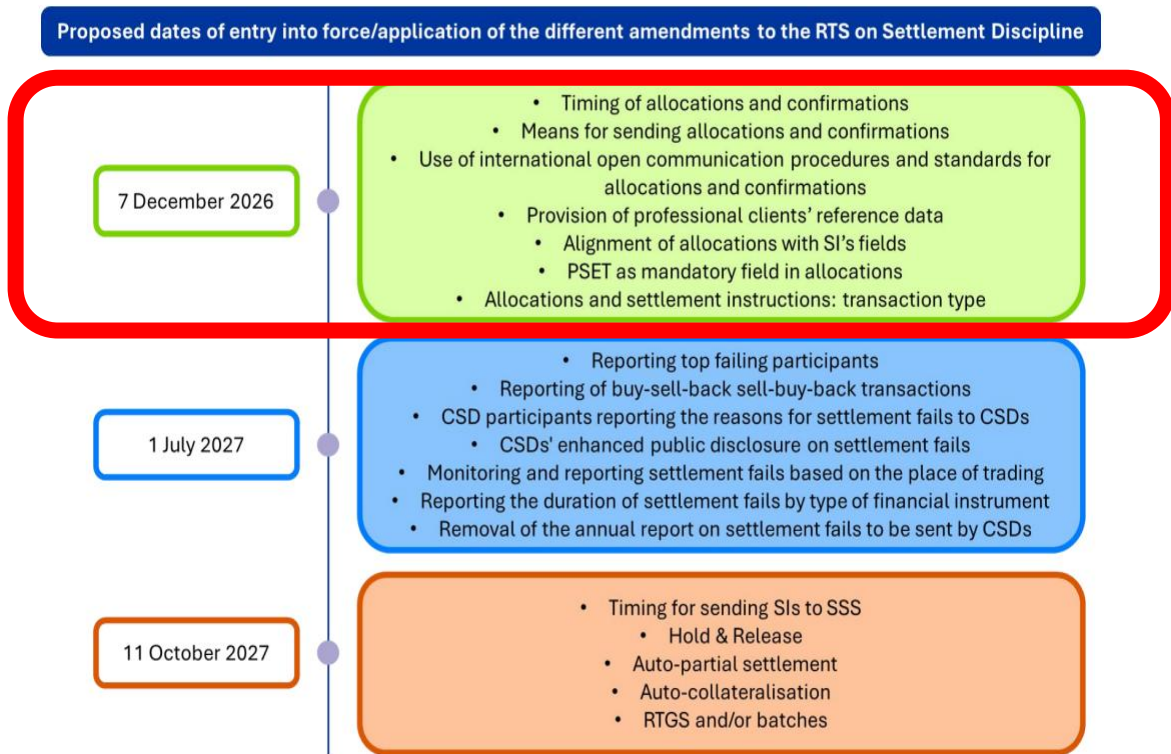
# 10 Date of entry into application of the revised Guidelines

## 10.1 Analysis

61. The FR on the RTS on Settlement Discipline introduces a phased implementation timeline.
62. Specifically, the amendments to the requirements on allocations and confirmations set out in Article 1(2) of the RTS on Settlement Discipline will enter into force on 7 December 2026<sup>28</sup>.

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<sup>28</sup> Article 2 of the proposed RTS.



63. Since these guidelines are closely linked to the optimisation of settlement processes and, indirectly, to the successful transition to T+1, ESMA considers that their date of application should be aligned with that of the relevant amendments to the RTS on Settlement Discipline. Setting an application date for the guidelines that is different from that of the corresponding RTS requirements could create uncertainty for market participants as to which operational standards and procedures apply during the transition period, potentially undermining the objective of improving settlement efficiency.

64. Nonetheless, nothing prevents market participants from applying the practices described in the guidelines ahead of the formal application date, provided they have the necessary operational capacity. Early adoption may support proactive preparation for the new regulatory environment. Aligning the dates, while also providing for some level of flexibility in implementing earlier, would come in support of the broader simplification and burden reduction objectives.

## 10.2 Proposal

**Entry into application:** These guidelines apply from the date of entry into application of Article 1(2) of the Delegated Act amending Commission Delegated Regulation (EU) 2018/1229 of 25

May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline.

**Q10: Do you agree with the proposed date of application of the Guidelines? If not, please elaborate.**

**Q11: Do you agree with the envisaged costs and benefits as identified in Annex III (section 11.3) of this CP? Do you envisage any additional costs and benefits associated with ESMA's proposals in this CP? Please elaborate.**

**Q12: Beyond the proposals set out in this CP, are there any additional measures you would recommend to further simplify processes and reduce administrative burdens?**

## 11 Annexes

### 11.1. Annex I - Summary of questions.

**Q1: Do you agree with the proposed amendment? If not, please elaborate.**

**Q2: In particular, do you see any alternative/additional ways to reduce the administrative burden created by documenting the arrangements between investment firms and professional clients?**

**Q3: Do you agree with the proposed amendment? If not, please elaborate.**

**Q4: Should interfaces designed for human interaction i.e. GUIs, be considered appropriate for communication between investment firms and their professional clients? Please explain your reasoning.**

**Q5: Do you agree with the proposed amendment? If not, please elaborate.**

**Q6: Do you agree with the proposed amendment? If not, please elaborate.**

**Q7: Do you agree with the proposed amendment? If not, please elaborate.**

**Q8: Do you agree with the proposed amendment? If not, please elaborate.**

**Q9: Do you agree with the proposed amendment? If not, please elaborate.**

**Q10: Do you agree with the proposed date of application of the Guidelines? If not, please elaborate.**

**Q11: Do you agree with the envisaged costs and benefits as identified in Annex III (section 11.3) of this CP? Do you envisage any additional costs and benefits associated with ESMA's proposals in this CP? Please elaborate.**

**Q12: Beyond the proposals set out in this CP, are there any additional measures you would recommend to further simplify processes and reduce administrative burdens?**

## **11.2. Annex II – Draft Guidelines**

### **1 Scope**

#### **Who?**

1. These guidelines apply to investment firms and to competent authorities of investment firms.

#### **What?**

2. These guidelines apply in relation to the requirements under Article 6(2) and in particular to the standardised procedures and messaging standards to be used for complying with the second subparagraph of Article 6(2) of Regulation (EU) No 909/2014.

#### **When?**

3. These guidelines apply from the date of entry into force of ~~the Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline.~~ Article 1(2) of the Delegated Act amending Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline.

## **2 Legislative references and abbreviations**

### **2.1 Legislative references**

*Regulation (EU) No 909/2014*

Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directive 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012<sup>29</sup> (CSDR)

*Commission Delegated Regulation (EU) 2018/1229*

Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline

*Regulation (EU) No 1095/2010*

Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC<sup>30</sup>

*Directive 2014/65/EU*

Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MIFID II)

*Commission Delegated Regulation (EU) 2017/565*

Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive

## 2.2 Abbreviations

<i>EC</i>	European Commission
<i>ESFS</i>	European System of Financial Supervision
<i>ESMA</i>	European Securities and Markets Authority

<sup>29</sup> OJ L 257, 28.8.2014, p. 1-72

<sup>30</sup> OJ L 331, 15.12.2010, p. 84.

### 3 Purpose

4. These guidelines are based on Article 6(2) of Regulation (EU) No 909/2014. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the second subparagraph of Article 6(2) of Regulation (EU) No 909/2014 as supplemented by Article 2 of Commission Delegated Regulation (EU) 2018/1229.

5. The requirement laid down in Article 6(2) of Regulation (EU) No 909/2014 and further specified in Article 2 of Commission Delegated Regulation (EU) 2018/1229 as amended by [placeholder for reference CDR amending RTS] is focused on the preparation of the settlement process: investment firms should ensure that they have all the necessary settlement details as much as possible on the business day on which the transaction takes place. To achieve this, investment firms that do not already have the necessary settlement information should communicate with their clients in order to obtain the respective information, which should include standardised data useful for the settlement process.

6. In particular, under Article 6(2) of Regulation (EU) No 909/2014, investment firms are expected, where applicable, to take measures to limit the number of settlement fails. Pursuant to this article, ESMA has developed regulatory technical standards to specify inter alia the details of the allocation and confirmation measures and of the procedures between investment firms and their professional clients facilitating settlement, which have been included in Article 2 of the Commission Delegated Regulation (EU) 2018/1229. This provision has been revised by [placeholder for reference CDR amending RTS].

7. To complement this, ESMA is also expected pursuant to the same article to develop guidelines on the standardised procedures and messaging protocols to be used to comply with this requirement.

8. These guidelines therefore aim to clarify the scope of the requirement contained in Article 6(2) of Regulation (EU) No 909/2014 and provide guidance on the standardised procedures and messaging standards used for the purposes of compliance with such requirement.

## 4 Compliance and reporting obligations

### 4.1 Status of the guidelines

9. In accordance with Article 16(3) of the Regulation (EU) No 1095/2010, competent authorities and financial market participants must make every effort to comply with these guidelines.

10. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case,

competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

## 4.2 Reporting requirements

11. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

12. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.

13. Financial market participants are not required to report whether they comply with these guidelines.

## 5 Guidelines

### 5.1 Scope

**Guideline 1:** Investment firms should ensure that, where applicable, the requirements set out under Article 6(2) of Regulation (EU) No 909/2014 are complied with by them and their professional clients considering their roles in each securities transaction.

Investment firms and professional clients should contractually agree the arrangements referred to in these Guidelines. However, these agreements may be documented in any legally binding form, for example by adding them to the framework agreement governing their relationship referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.

14. When two entities licensed as investment firms are facing each other in a transaction on financial instruments referred to in Article 5(1) of Regulation (EU) No 909/2014, the respective roles of each entity in the concerned transaction should be analysed in order to identify which entity should be considered as the investment firm and as the client for the purposes of applying these requirements.

15. The requirements set out under Article 6(2) of Regulation (EU) No 909/2014 should apply only to relationships involving an investment firm and a professional client within the scope of Directive 2014/65/EU. This means that when Directive 2014/65/EU does not apply to certain persons (e.g. persons exempted under Article 2 of Directive 2014/65/EU), such requirements should not apply either.

16. For the avoidance of doubt, an entity which belongs to the list provided for by Section I of Annex II to Directive 2014/65/EU should be considered a professional client for the purposes of Article 6(2) of Regulation (EU) No 909/2014, irrespective of the fact that the investment firm might have, generally or for some specific transactions or services, categorized it as an eligible

counterparty, within the meaning of article 30(2) of Directive 2014/65/EU, or a non-professional client.

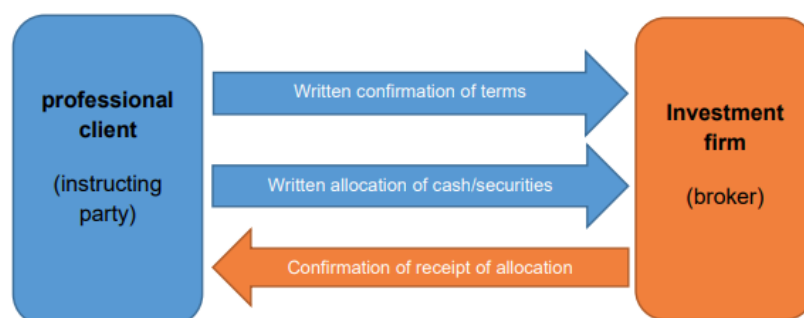
**Guideline 2:** The requirements set out in Article 6(2) of Regulation (EU) No 909/2014 should apply in respect of transactions in financial instruments referred to in Article 5(1) of Regulation (EU) No 909/2014, i.e.:

- a. transferable securities, as defined in point 35 of Article 2(1) of Regulation (EU) No 909/2014;
- b. money-market instruments, as defined in point 37 of Article 2(1) of Regulation (EU) No 909/2014,
- c. units in collective undertakings, as defined in point 38 of Article 2(1) of Regulation (EU) No 909/2014, and
- d. emission allowances, as defined in point 39 of Article 2(1) of Regulation (EU) No 909/2014.

### 5.1 Scope

**Guideline 3:** An investment firm should ~~contractually~~ agree with its professional client on the ~~electronic standardised communication methods procedures and international open communication procedures and standards for messaging and reference data referred to in Article 2(1)(34) of Regulation (EU) No 909/2014 messaging protocols~~ to be used between them as a regular practice, to implement the measures aiming at preventing or limiting settlement fails described in Article 6(2) of Regulation (EU) No 909/2014 ~~, which measures could be illustrated as follows~~ and Article 2 of the Commission Delegated Regulation (EU) 2018/1229.

Investment firms may agree with their professional clients the submission of allocations and confirmations by email or graphical user interfaces, provided that the content of the allocations and confirmations is structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure.



17. The investment firm and its professional client may arrange for the prompt communication of this information in various ways:

a. **Sending of both a written confirmation and a written allocation** by the professional client to its investment firm;

b. **No sending of a written confirmation:** Where the written confirmation is included in the written allocation in accordance with Article 2(1), third subparagraph, of the Commission Delegated Regulation (EU) 2018/1229, the investment firm and the professional client may agree that the written confirmation of the terms of the transaction could be provided in an additional field included in the written allocation, or implied in the sending of the written allocation corresponding to that transaction;

c. **No sending of written confirmation nor written allocation:** Where no written confirmation or allocation is sent in accordance with Article 2(3) of the Commission Delegated Regulation (EU) 2018/1229, the investment firm should ensure that it is provided with the necessary settlement information referred to in Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229 in respect of that transaction in advance of the timeframes referred to in Article 2(2) thereof, including ~~orally or~~ through systems granting to the investment firm access to the relevant information (such as through the access to a centralised database).

18. The consequences of the late communication of, or failure to communicate, the written allocation and confirmation (or of part of the information requested therein) to the investment firm are not addressed in Regulation (EU) No 909/2014, nor in the Commission Delegated Regulation (EU) 2018/1229. The consequences of such delay or failure could be addressed by the investment firm and the professional client in their [placeholder] agreement.

19. The arrangements agreed between the investment firm and its professional client could be included in any ~~contractual~~ agreement, including in the framework agreement governing their relationship such as the document referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.

**Guideline 4:** ~~Where t~~The investment firm and its professional client **should also** agree that the professional client should send a written confirmation and/or allocation in accordance with Article 2(1) of the Commission Delegated Regulation (EU) 2018/1229 **that, in case of duly documented temporary technical unavailability or service disruption affecting either party that makes it impossible to use communication procedure referred to in Article 2(1)(34) of Regulation (EU) No 909/2014, any communication procedure allowing for written communication of the ~~written~~ allocations and confirmations should be accepted, including through mail, faxes or other non-machine readable electronic means.**

**In addition, the investment firm and its professional client may also agree the use of phone calls in case of duly documented temporary technical unavailability or service disruption affecting either party, provided that, they are recorded in accordance with Article 16(7) of Directive 2014/65/EU and Article 76 of Commission Delegated Regulation (EU) 2017/565.**

~~20. Where electronic means are used, the Investment firms should offer should ensure that their to its professional clients the option of using the use international open communication procedures and standards for messaging and reference data as defined in Article 2(1)(34) of Regulation (EU) No 909/2014, except in the following two cases:~~

~~a. where such internationally accepted standards are not “available on a fair, open and non-discriminatory basis to any interested party” or do not exist, until international standards become available; and~~

~~b. where the use of internationally accepted standards does not allow to “limit the settlement fails” for an investment firm and its professional clients, as long as such lack of efficiency can be evidenced.~~

~~21. If the investment firm offers to use both international and internal (or domestic) messaging standards, the professional client can decide to use either of them.~~

### **11.3. Annex III – Preliminary high-level cost-benefit analysis**

This section provides a preliminary cost-benefit analysis (CBA) of the proposed amendments to the Guidelines on allocation and confirmations, in light of the regulatory amendments introduced by the FR on the RTS on Settlement Discipline.

The proposed amendments to the Guidelines on allocations and confirmations consider the most recent developments in settlement discipline, including ESMA’s Final Report on Shortening the Settlement Cycle, which recommended a move to T+1, the adoption of Regulation 2025/2075 which amends CSDR to shorten the settlement cycle and the EU T+1 Industry Committee’s recommendations aimed at facilitating this transition within the EU<sup>31</sup>. Accordingly, the adoption of ESMA’s proposed amendments to the Guidelines on allocations and confirmations are expected to support the shift to T+1 while enhancing settlement efficiency in this context.

A broad range of stakeholders are invited to provide input on the proposed measures through a public consultation, and their responses will be considered in a Final Report, and its CBA.

ESMA provides below a preliminary analysis of the relevant costs and benefits compared to the baseline, i.e. the current Guidelines on allocations and confirmations without any amendments or additional measures in the context of the transition to a shorter settlement cycle.

#### **Review of the current Guidelines on allocations and confirmations**

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<sup>31</sup> High-level Roadmap to T+1 Securities Settlement in the EU, p.31. Available at [High-level-Roadmap-to-T1-Securities-Settlement-in-the-EU50.pdf](#)

<b>Policy Objective</b>	The policy objective is to facilitate compliance with the new requirements introduced in CSDR and the RTS on Settlement Discipline, in the context of the transition to a T+1 settlement cycle.
<b>Technical Proposal</b>	To amend the Guidelines on allocations and confirmations to ensure their alignment with the revised regulatory framework on settlement discipline by reviewing (i) <b>Guideline 1 on the documentation of arrangements between investment firms and professional clients</b> , (ii) <b>Guideline 3 on agreement on communication procedures and messaging protocols</b> , (iii) <b>Guideline 3 on the joint submission of allocations and confirmations or non-submission of confirmations and/or allocations</b> , (iv) <b>Guideline 4 on non-electronic means to submit allocations and confirmations</b> and (v) <b>Guideline 4 on the mandatory use of international open communication procedures and standards; deleting Guideline 4 on the optionality of the messaging standard</b> ; and aligning the entry into application of the reviewed guidelines with that of Article 2 of the revised RTS on Settlement Discipline.
<b>Benefits</b>	<p>The proposed revisions to the Guidelines on allocations and confirmations are expected to enhance settlement efficiency and support the EU's upcoming transition to a T+1 settlement cycle.</p> <p>Amending the Guidelines on allocations and confirmations would ensure consistency between the Guidelines, CSDR and the revised version of the RTS on Settlement Discipline.</p> <p>It would also support the overall objective of the RTS on Settlement Discipline to enhance settlement discipline by reducing delays in the pre-matching process and mitigating the risk of settlement fails in a compressed T+1 environment.</p> <p>This objective would be achieved by contributing to promote the automation in the transmission of allocation and confirmation details, supporting operational efficiency and resiliency of market participants by (i) reducing the risk of discrepancies and errors that manual processes and interventions may result in and (ii) allowing for a prompt detection and resolution of any discrepancies or errors that might still occur, and ensuring the widespread adoption of electronic format as well as harmonisation across all market participants.</p>
<b>Costs to regulator</b>	Moderate costs for NCAs, since they will need to adapt their supervision to the amended RTS on Settlement Discipline. However, most of this cost should be allocated to level 2, since the revised Guidelines on

	allocations and confirmations are only expected to clarify those provisions.
<i>Compliance costs</i>	<p>ESMA understands that investment firms and their professional clients would face one-off costs when adapting their communication procedures, systems and messaging protocols to adhere to the new regulatory requirements for the sending of allocations and confirmations.</p> <p>However, the revised Guidelines do not introduce new obligations beyond the regulatory requirements in CSDR and the RTS on Settlement Discipline. The envisaged costs should be allocated to the provisions in Level 1 and level 2 amending the regulatory framework for the sending of allocations and confirmations in a T+1 environment.</p> <p>Moreover, the proposed amendments to the Guidelines are not prescriptive regarding how to document the contractual agreement between investment firms and professional clients. In practical terms, there are limited changes with respect to the previous Guidelines, which also foresaw flexible contractual arrangements between investment firms and professional clients (see paragraph 19 of the original Guidelines<sup>32</sup>).</p> <p>ESMA's preliminary conclusion is that the costs directly associated with the revision of the Guidelines are limited, and that the indirect benefits of complying with these guidelines should outweigh the costs in the mid- to long-term.</p>
<i>Costs to other stakeholders</i>	None identified.

<sup>32</sup> The arrangements agreed between the investment firm and its professional client could be included in any contractual agreement, including in the framework agreement governing their relationship such as the document referred to in Article 25(5) of Directive 2014/65/EU and specified in Article 58 of Commission Delegated Regulation (EU) 2017/565.