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| 18 December 2014 |

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| Reply form for the Technical Standards under the CSD Regulation |
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| Date: 18 December 2014 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper - Technical Standards under the CSD Regulation, published on the ESMA website.

***Instructions***

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, please follow the instructions described below:

1. use this form and send your responses in **Word format**;
2. do not remove the tags of type <ESMA\_QUESTION\_TS\_CSDR\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
3. if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

1. if they respond to the question stated;
2. contain a clear rationale, including on any related costs and benefits; and
3. describe any alternatives that ESMA should consider

**Naming protocol:**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_ TA\_CSDR \_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be ESMA\_TS\_CSDR\_AIXX\_REPLYFORM or ESMA\_CE\_TS\_CSDR\_AIXX\_ANNEX1

Responses must reach us by **19 February 2015**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 ‘Disclaimer’.

# General information about respondent

|  |  |
| --- | --- |
| Are you representing an association? | Yes |
| Activity: | Investment Firm |
| Country/Region | UK |

##### Do you think the proposed timeframes for allocations and confirmations under Article 2 of the RTS on Settlement Discipline are adequate?

##### If not, what would be feasible timeframes in your opinion?

##### Please provide details and arguments in case you envisage any technical difficulties in complying with the proposed timeframes.

<ESMA\_QUESTION\_TS\_CSDR\_1>

We agree broadly that the timeframes as proposed are appropriate, but are concerned that there is no reference to the dependency in the first instance on the investment firm itself to notify the client of the terms of the transaction. We believe, therefore that the proposed paragraph 2(b) should extend to orders where the investment firm has notified the professional client of the execution and of the relevant terms (as opposed to the execution itself) after 4pm.<ESMA\_QUESTION\_TS\_CSDR\_1>

##### Do you agree with the cases when matching would not be necessary, as specified under Article 3(2) of the draft RTS?

##### Should other cases be included? Please provide details and evidence for any proposed case.

<ESMA\_QUESTION\_TS\_CSDR\_2>

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<ESMA\_QUESTION\_TS\_CSDR\_2>

##### What are your views on the proposed approach under Article 3(11) of the draft RTS included in Chapter II of Annex I?

##### Do you think that the 0.5% settlement fails threshold (i.e. 99.5% settlement efficiency rate) is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

##### Do you think that the 2,5 billion EUR/year in terms of the value of settlement fails for a securities settlement system operated by a CSD is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

<ESMA\_QUESTION\_TS\_CSDR\_3>

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<ESMA\_QUESTION\_TS\_CSDR\_3>

##### What are your views on the proposed draft RTS included in Chapter II of Annex I?

<ESMA\_QUESTION\_TS\_CSDR\_4>

We assume that a portfolio management firm executing client orders with another investment firm would be a "professional client" in the context of this Article (as per Annex II of MiFID (Directive 2014/65/EU)). It is however also an investment firm as defined in Article 4(1) MiFID. We believe it is essential that there is clarity concerning the respective positions of different types of investment firm depending their role in a transaction; to this end we recommend that the proposed definitions in Article 1 be extended to include one for "investment firm", which for the purposes of these RTS should exclude where a firm is acting in the capacity of a professional client.

We are also concerned that the proposed Article 2 places no reciprocal obligation on the investment firm to ensure that a professional client has the firm's settlement details. For these purposes, we therefore believe provision should be made that obliges the investment firm to notify a professional client of the terms of the transaction it has executed per indents (a) to (i) of paragraph 1 and, if it has not done so in advance of the transaction, its settlement details as per indents (j) and (k).<ESMA\_QUESTION\_TS\_CSDR\_4>

#####  What are your views on the proposed draft RTS on the monitoring of settlement fails as included in Section 1 of Chapter III of Annex I?

<ESMA\_QUESTION\_TS\_CSDR\_5>

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##### What are your views on the proposed draft RTS related to the penalty mechanism? Do you agree that when CSDs use a common settlement infrastructure, the procedures for cash penalties should be jointly managed?

<ESMA\_QUESTION\_TS\_CSDR\_6>

We have no specific concerns to raise with regard to the mechanism as proposed in Article 7. We do, however, raise some concerns with regard to both the penalty rates and lack of any provision for a de minimis threshold in our separate response to consultation on the technical advice in this area (ESMA 2014/1564).

We have no comment to make concerning the procedures in the case of a common settlement infrastructure.<ESMA\_QUESTION\_TS\_CSDR\_6>

##### What are your views on the proposed draft RTS related to the buy-in process?

##### In particular, what are your views on applying partial settlement at the end of the extension period? Do you consider that the partialling of the settlement instruction would impact the rights and obligations of the participants?

#####  What do you think about the proposed approach for limiting multiple buy-in and the timing for the participant to provide the information to the CSD?

<ESMA\_QUESTION\_TS\_CSDR\_7>

We have no specific concerns to raise with regard to any of these aspects of the draft RTS.<ESMA\_QUESTION\_TS\_CSDR\_7>

##### What are your views on the proposed draft RTS related to the buy-in timeframe and extension period?

<ESMA\_QUESTION\_TS\_CSDR\_8>

We have no specific concerns to raise with regard to these aspects of the draft RTS.<ESMA\_QUESTION\_TS\_CSDR\_8>

##### What are your views on the proposed draft RTS related to the type of operations and their timeframe that render buy-in ineffective?

<ESMA\_QUESTION\_TS\_CSDR\_9>

We have no specific concerns to raise with regard to these aspects of the draft RTS.<ESMA\_QUESTION\_TS\_CSDR\_9>

##### What are your views on the proposed draft RTS related to the calculation of the cash compensation?

<ESMA\_QUESTION\_TS\_CSDR\_10>

We have no specific concerns to raise with regard to this aspect of the draft RTS.<ESMA\_QUESTION\_TS\_CSDR\_10>

##### What are your views on the proposed draft RTS related to the conditions for a participant to consistently and systematically fail?

<ESMA\_QUESTION\_TS\_CSDR\_11>

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##### What are your views on the proposed draft RTS related to the settlement information for CCPs and trading venues?

<ESMA\_QUESTION\_TS\_CSDR\_12>

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##### What are your views on the proposed draft RTS related to anti-avoidance rules for cash penalties and buy-in?

<ESMA\_QUESTION\_TS\_CSDR\_13>

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##### Do you agree that 18 months would be an appropriate timeframe for the implementation of the settlement discipline regime under CSDR? If not, what would be an appropriate timeframe in your opinion? Please provide concrete data and evidence justifying a phase-in for the settlement discipline measures and supporting your proposals.

<ESMA\_QUESTION\_TS\_CSDR\_14>

We agree that 18 months from publication of the RTS in the Official Journal would be an appropriate timeframe for the implementation of the settlement discipline regime.<ESMA\_QUESTION\_TS\_CSDR\_14>

##### What are your views on the proposed draft RTS on CSD authorisation (Chapter II of Annex II) and draft ITS on CSD authorisation (Chapter I of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_15>

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##### What are your views on the proposed draft RTS on CSD review and evaluation (Chapter III of Annex II) and draft ITS (Chapter II of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_16>

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##### What are your views on the proposed draft ITS on cooperation arrangements as included in Chapter III of Annex VI?

<ESMA\_QUESTION\_TS\_CSDR\_17>

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##### What are your views on the proposed draft RTS on CSD recognition (Chapter IV of Annex II)?

<ESMA\_QUESTION\_TS\_CSDR\_18>

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##### What are your views on the proposed approach regarding the determination of the most relevant currencies?

<ESMA\_QUESTION\_TS\_CSDR\_19>

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##### What are your views on the proposed draft RTS on banking type of ancillary services (Chapter VI of Annex II) and draft ITS on banking type of ancillary services (Chapter IV of Annex VI)?

<ESMA\_QUESTION\_TS\_CSDR\_20>

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##### What are your views on the proposed draft RTS on CSD participations (Chapter II of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_21>

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##### What are your views on the proposed draft RTS on CSD risk monitoring tools (Chapter III of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_22>

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##### What are your views on the proposed draft RTS on CSD record keeping (Chapter IV of Annex III) and draft ITS on CSD record keeping (Annex VII)?

<ESMA\_QUESTION\_TS\_CSDR\_23>

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##### What are your views on the types of records to be retained by CSDs in relation to ancillary services as included in the Annex to the draft RTS on CSD Requirements (Annex III)? Please provide examples regarding the formats of the records to be retained by CSDs in relation to ancillary services.

<ESMA\_QUESTION\_TS\_CSDR\_25>

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##### What are your views on the proposed draft RTS on reconciliation measures included in Chapter V of Annex III?

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##### Do you believe that the proposed reconciliation measures where other entities are involved in the reconciliation process for a certain securities issue within the meaning of Article 37(2) of CSDR are adequate? Please explain if you think that any of the proposed measures would not be applicable in the case of a specific entity. Please provide examples of any additional measures that would be relevant in the case of specific entities.

<ESMA\_QUESTION\_TS\_CSDR\_26>

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##### What are your views on the proposed reconciliation measures for corporate actions under Article 15 of the draft RTS included in Chapter V of Annex III?

<ESMA\_QUESTION\_TS\_CSDR\_27>

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##### What are your views on the proposed draft RTS on CSD operational risks included in Chapter VI of Annex III?

<ESMA\_QUESTION\_TS\_CSDR\_28>

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##### What are your views on the proposed draft RTS on CSD investment policy (Chapter VII of Annex III)?

<ESMA\_QUESTION\_TS\_CSDR\_29>

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##### What are your views on the proposed draft RTS on access (Chapters I-III of Annex IV) and draft ITS on access (Annex VIII)?

<ESMA\_QUESTION\_TS\_CSDR\_30>

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##### What are your views on the proposed draft RTS on CSD links as included in Chapter IV of Annex IV?

<ESMA\_QUESTION\_TS\_CSDR\_31>

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##### What are your views on the proposed draft RTS on internalised settlement (Annex V) and draft ITS on internalised settlement (Annex IX)?

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