Deutsche Bank

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ESMA

103 rue de Grenelle
75007 Paris
France

Deutsche Bank AG
Winchester House
1 Great Winchester Street
London EC2N 2DB

Tel +44 20 75458000
Direct Tel +44 20 75451903

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Dear Sir / Madam,

DB response to ESMA's consultation on guidelines on Internalised Settlement Reporting under Article 9 of CSDR

Deutsche Bank welcomes the opportunity to comment on the guidelines on internalised settlement reporting under Article 9 of the CSDR. We believe that these guidelines will provide the necessary clarity for market participants when preparing internalisation reports.

Our detailed comments on the guidelines are attached, but we would highlight the following key points:

We ask that ESMA provides further clarification on the internalisation criteria to be used in determining whether a settlement instruction is in scope of internalisation reporting.

We request confirmation that there should be a consistent application of the simple rule that, in the event of transfers between accounts in the books of an account provider, then the account provider is subject to the reporting obligation. This interpretation would then be aligned with the general approach ESMA has adopted in its introductory sentence to paragraph 15.

Reporting requirements should only apply to apply to transactions in European financial instruments and non-EU financial instruments which can be settled in an EU CSD.

Lastly we ask that ESMA considers finalising the guidelines as early as possible and ahead of Q1 2018 in order to give institutions sufficient time and clarity to finalise their projects ahead of the reporting deadlines.

Please do not hesitate to contact us if you have questions about our response or require any further information.

Yours sincerely,

Matt Holmes
Head of Regulatory Policy

Responses to the questions:

Question 1: Do you have any comments or suggestions regarding the scope of the data to be reported by settlement internalisers? Please provide arguments supporting your comments and suggestions.

We believe that CSDR already defines what constitutes settlement internalisation and therefore ESMA would have to test any alternate scenario suggested in the guidelines against this definition.

Article 1 or Regulation 2017/391 (RTS on Internalised Settlements) defines an internalised transaction as "*an instruction by a client of the settlement internaliser to place at the disposal of the recipient an amount of money or to transfer the title to, or interest in, a security or securities by means of a book entry on a register, or otherwise, which is settled by the settlement internaliser in its own books and not through a securities settlement system*."

As a result we have arrived at a number of assumptions:

a) A Settlement Internaliser is an EU institution or MiFID authorised firm including their EU Branches or EU subsidiary;
b) The Settlement Internaliser (Si) receives a securities settlement instruction directly from a client;
c) The securities transactions settle on the books of the settlement internaliser (i.e. the debit and credit of securities takes place on the books of the entity which is reporting internal settlement; there is no movement of securities higher up in the custody chain);
d) Securities settlement results in a transfer of securities on the books of the settlement internaliser between one securities account and another securities account;
e) Settlement instructions are not sent to an institution further down the chain of custody, i.e. a central counterparty (CCP) for clearing or a CSD.

We would recommend that ESMA include similar criteria on the definitions of the guidelines to facilitate implementation.

Assumption E will be essential in defining who should be the reporting entity. We understand that the reporting responsibility should lie with the entity which has received an instruction and has not forwarded it along the custody chain. If the entity is not a CSD, and has forwarded the received instruction to a further party in the custody chain (CSD, Custodian etc.), this entity should have no internalised settlement reporting obligation. Furthermore, to effect settlement internalisation, the underlying securities positions would have to be safekept in a separate "omnibus-type" account at the next level of the custody chain. Should this not be the case then the entity will not be able to internalise but only forward the instructions. Failing to do so would result in settlement and position breaks with the next level custodian /CSD.

With most communication occurring via ISO messages (in the settlement space), the ISO Transaction-Identifier (SETR) field is a mandatory field in the instructions. To ensure the internalised transactions are correctly reported, SIs rely on the content of the settlement instructions they receive from their client, and are thus dependent on their clients for the accuracy of the information. Based on the existing standard for Transaction Types in ISO compliant messages, the following values are possible which we have classified them into the respective category outlined in Regulation 2017/391as per our understanding:

TransType	**Description**	**Long Description**	**Relevant Category of RTS**
BSBK	Buy Sell Back	Relates to a buy sell back transaction.	Repurchase transactions
CLAI	Market Claim	Transaction resulting from a market claim.	Not in scope of SI reporting

TransType	Description	Long Description	Relevant Category of RTS
CNCB	Central Bank Collateral Operation	Relates to a collateral delivery/receipt to a National Central Bank for central bank credit operations.	Collateral management operations
COLI	Collateral In	Relates to a collateral transaction, from the point of view of the collateral taker or its agent.	Collateral management operations
COLO	Collateral Out	Relates to a collateral transaction, from the point of view of the collateral giver or its agent.	Collateral management operations
CONV	DR Conversion	Relates to a depository receipt conversion.	Other securities transaction
ETFT	Exchange Traded Funds	Relates to an exchange traded fund (ETF) creation or redemption.	Not in scope of SI reporting
FCTA	Factor Update	Relates to a factor update.	Other securities transactions
INSP	Move of Stock	Relates to a movement of shares into or out of a pooled account.	Other securities transaction
ISSU	Issuance	Relates to the issuance of a security such as an equity or a depository receipt.	Not in scope of SI reporting
MKDW	Mark-Down	Relates to the decrease of positions held by an ICSD at the common depository due to custody operations (repurchase, pre-release, proceed of corp. event realigned).	Other securities transaction
MKUP	Mark-Up	Relates to the increase of positions held by an ICSD at the common depository due to custody operations (repurchase, pre-release, proceed of corporate event realigned).	Other securities transaction
NETT	Netting	Relates to the netting of settlement instructions.	Other securities transactions
NSYN	Non Syndicated	Relates to the issue of medium and short term paper (CP, CD, MTN, notes ...) under a program and without syndication arrangement.	Not in scope of SI reporting
OWNE	External Account Transfer	Relates to an account transfer involving more than one instructing party (messages sender) and/or account servicer (messages receiver).	Other securities transaction
OWNI	Internal Account Transfer	Relates to an account transfer involving one instructing party (messages sender) at one account servicer (messages receiver).	Other securities transaction
PAIR	Pair-Off	Relates to a pair-off: the transaction is paired off and netted against one or more previous transactions.	Other securities transaction
PLAC	Placement	Relates to the placement/new issue of a financial instrument.	Purchase or Sale of securities

TransType	Description	Long Description	Relevant Category of RTS
PORT	Portfolio Move	Relates to a portfolio move from one investment manager to another and/or from an account servicer to another. It is generally charged differently than another account transfer (OWNE, OWNI, INSP), hence the need to identify this type of transfer as such.	Other securities transaction
REAL	Realignment	Relates to a realignment of positions.	Other securities transaction
REDI	Withdrawal	Relates to the withdrawal of specified amounts from specified sub-accounts.	Other securities transaction
REDM	Redemption (Funds)	Relates to a redemption of Funds (Funds Industry ONLY).	Not in scope of SI reporting
RELE	DR Release/Cancellation	Relates to a release (into/from local) of Depository Receipt operation.	Other securities transaction
REPU	Repo	Relates to a repurchase agreement transaction.	Repurchase Transaction
RODE	Return of Delivery	Without Matching Relates to the return of financial instruments resulting from a rejected delivery without matching operation.	Other securities transaction
RVPO	Reverse Repo	Relates to a reverse repurchase agreement transaction.	Repurchase transaction
SBBK	Sell Buy Back	Relates to a sell buy back transaction.	Repurchase transaction
SBRE	Borrowing Reallocation	Internal reallocation of a borrowed holding from one safekeeping account to another.	Securities lending or borrowing
SECB	Securities Borrowing	Relates to a securities borrowing operation.	Securities lending or borrowing
SECL	Securities Lending	Relates to a securities lending operation.	Securities lending or borrowing
SLRE	Lending Reallocation	Internal reallocation of a holding on loan from one safekeeping account to another.	Securities lending or borrowing
SUBS	Subscription (Funds)	Relates to a subscription to funds (Funds Industry ONLY).	Purchase or sale of securities
SYND	Syndicate of Underwriters	Relates to the issue of financial instruments through a syndicate of underwriters and a Lead Manager.	Not in scope of SI reporting
TBAC	TBA Closing	Relates to a To Be Announced (TBA) closing trade.	Purchase or sale of securities
TRAD	Trade	Relates to the settlement of a trade.	Purchase or sale of securities
TRPO	Triparty Repo	Relates to a triparty repurchase agreement.	Repurchase transaction
TRVO	Triparty Reverse Repo	Relates to a triparty reverse repurchase agreement.	Repurchase transaction
TURN	Turnaround	Relates to a turnaround: the same security is bought and sold to settle the same day, to or from different brokers.	Purchase or Sale of securities

We request that ESMA provides guidance on the accuracy of the classifications above.

In addition, not all settlement instructions received by an SI are in an ISO compliant format or as an STP delivery instruction. Some clients personally instruct their bank to transfer securities (the move of portfolios from one account to another) in a free format instruction which could be SWIFT based, but very often would be a paper ased instruction. As these transactions would not usually relate to any of the transaction types listed in Regulation 2017/391 Article 2 (1) h i-iv, the standard category used would be “other securities transactions”.
Other clients may only deliver transaction files in a csv or similar format, where the direction of delivery (deliver or receive) and the respective cash amounts are presented. In such cases, and where the client file does not specify another transaction type, the SIs would have to assume that those are purchases or sales and report them in the respective category.

Feedback to particular items under Para 11

a-d) We understand that those classifications are derived from the text and the template of the RTS (Regulation 2017/391). In this context, SIs can only report based on the instructions that have been received and are marked with the respective ISO Transaction-Identifier (SETR). In addition, to make those transactions eligible for Settlement Internalisation Reporting, the test criteria would have to be fulfilled.

With regards to letter 11a, we request clarification on Para 12c which states that ESMA considers the purchase / sale of securities on the primary market (i.e. initial public offering / new issuances) as in scope (if internalised) whereas the creation or redemption of securities (where these are initially created by the CSD) are considered out of scope.

e) We ask that ESMA clarifies the process around potential netting or pair offs. We agree that transactions which are settled by a CSD or cleared by a CCP, cannot be considered internalised settlements. However, we believe that a settlement instruction, where part of this has already been settled at a CSD as part of an operationally agreed pair off, should not be relevant for the internalisation reporting. In our view,the actual “risk element” that ESMA and the national competent authority (NCA) should be evaluating would have already been settled in the CSD.

Example:
Client A of a bank purchased 50 shares and holds a sale instruction of 100 shares with the same counterparty B at a different bank. Client A already holds 50 shares in his account, so technically his position is flat. B has no position, but is actually long, as he bought 100 shares to A and sold 50 of those to A. The four instructions would be issued through the respective custodians to the CSD for settlement. However, since Client A does not hold the full delivery position of 100 shares, the custodian of A would put the instruction on hold until the purchase of 50 shares is settled. On the other side, this would not occur since counterparty B holds no position. These two trades would therefore remain open.
In order to settle all four transactions, operations staff would agree between the different counterparties to only settle the excess of 50 shares against the difference in Cash amount of the 100 shares and the 50 shares. This would then be reinstructed in the CSD and subsequently settled. The clients would receive the confirmation on both their respective instructions.

We recommend that ESMA deletes para 11 e) as these transactions would typically also appear under a – d from a transaction type and SIs would “pair off” those transactions which would have settled in the CSD and settles the remaining amount in the market. Only if all of the settlement is taking place at a SI then this should be reportable.

f) We would like ESMA to clarify that this applies to funds regulated under the Undertaking for Collective Investment in Transferrable Securities (UCITS)/ Alternative Investment Fund Management Directive (AIFMD) regime and the different accounts and depositories maintained for funds. If securities are to be moved between those accounts then this could be in scope of internalisation reporting if the

other criteria of an internalised settlement instruction are fulfilled, i.e. there needs to be an instruction from the fund to move those securities.

g) Clarification on the term intra-group transactions is required to apply the test on whether a given transaction would actually fall into the scope of internalised settlements reporting. In this sense internalisation would only be considered possible, if an SI receives a settlement instruction from a client. Such a scenario would typically occur if a bank offers custody services to clients and some of those clients are actually other entities of that bank. However, such transactions would only be "internalisable" if the settlement instructions point to the same external account further down the chain. Should the custody function then settle these instructions internally, this would lead to internalisation reporting.

If the banking entities book transfers between several trading books of the same entity, then we believe that this should only be considered book-keeping and not fall into scope of internalised reporting.

We suggest to reword the guideline under 11g)
Intragroup transactions, to the extent that the subsequent instructions between different entities are settled internally

h) This section would benefit from further clarification. We assume that this describes transactions where an internaliser sells securities to a client against its own holdings. These transactions would then have to be reported in the purchase and sale category of the report.

i+j) In principle these transactions could be in scope so long as the criteria for the generic scope of internalisation are fulfilled. In a similar way to triparty collateral arrangements, we understand that any internal settlement not triggered by a direct client settlement instruction (which is the case for Prime Brokerage rehypothecation arrangements based on contractual relationships) does not fall into the scope defined in the Level 1 text (i.e. that the SI has to receive an instruction from its client to deliver or receive securities.

k) In our view, most of these movements would be instructed by our clients via a non-standard, probably, paper based instruction. The actual account movements would usually be classified as account transfers (there is no particular ISO Code in securities settlement messages) and should be reported under "other transactions". If however, these transactions are concluded by a change of name of the account, we agree that this should not be reportable, as no securities are moved between accounts.

m) We disagree, and would suggest that the resulting transactions from the transformation are reportable. There is no detailed Transaction Code for this to be instructed by the client. Typically, transformations are executed by CSDs on pending transactions. Custodians would take this on and cancel the pending instruction in the old International Security Identification Number (ISIN) and replace it with a new instruction in the new ISIN which would then settle internally and be reported under the respective category depending on the ISO transaction code received by the client.

Para 12:

a) We agree with this classification. The internaliser would in this scenario only allocate bookings based on the booking that the CSD (or a member further up the chain) has already effected. This is needed to keep the books of banks aligned to the external positions.

b) We agree with this approach.

c) We agree, please also see our comments related to para 11, letter a.

d) In some markets, clients may maintain several accounts at a settlement internaliser and therefore a change at ultimate beneficial owner (UBO) level may not always be clear. . Technically, those

transactions could also be settled at a CSD if the respective CSD is able to debit and credit the same CSD account. We believe that it would be prudent to report on an account by account basis i.e. in case where the SI receives an instruction from the client to move securities from one account to another and this movement is not executed through a CSD, this should be in scope of the reporting requirements.

e) We agree with this exemption and would like to highlight that SIs may process internal cash payments which have some relation to a securities transaction, but these cannot be recognised by the SI unless the instructing parties actually use a securities related settlement instruction. Currently the only securities settlement instructions which would effect a pure cash movement would be PFOD (Payment free of delivery). Other cash settlement instructions would purely be processed within cash systems and are not systematically checked against potential securities backgrounds.

f) We agree with this approach.

g) We would disagree with this interpretation and point out that this is intended to reduce the actual settlement risk. The process ESMA describes would be better referred to as “technical netting” or “pair-off” rather than “netting”. The actual settlement risk (that the Regulation hopes to provide transparency on) is handled externally at the CSD. In order to protect their clients’ assets, some market participants would have to prevent instructions from settling unless the client already has the full number of securities available in the account. With clients usually buying and selling at the same time, this could create frictions in the settlement space unless this is resolved by the above process, as long as this process is conducted with the agreement of the client’s counterparty.

In addition, the manual handling of the transactions from CSD participants, could pose problems to the extraction of the information. Usually the external transaction would be instructed manually, whereby the client instructions would be confirmed in full to the client.

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

Para 12 g should only state “transactions that are settled by a CSD and transactions that are cleared by a CCP”.

h) We agree and understand that this exemption applies to transactions where only the status of an account is related, but the securities remain in said account.

i) We request further clarification on whether this would also apply to the internal booking of CCP settled transactions which are then allocated to the respective clients of the General Clearing members, based on the information from the Trading Venue / CCP.

Para 13:

ESMA has indicated that the internalisation reporting requirements apply to transactions in European financial instruments and non-EU financial instruments, which can be settled in an EU CSD. However, the text of CSDR only refers to transactions that are settled outside of Securities Settlement Systems without specifying the scope of securities.

We believe that ESMA’s interpretation broadens the scope of the reporting significantly and therefore contradicts the regulation where the scope is European CSD and European financial instruments.

We suggest that ESMA uses alternative wording as outlined below:

a) Financial instruments that are initially recorded or centrally maintained in CSDs authorised in the EU, *provided that the instruments would have settled in a EU CSD had they not been internalised*

b) Financial instruments initially recorded an/or centrally maintained outside of CSDs authorised in the EU but *can be* settled in an EU CSD, *provided that the instruments would have settled in a EU CSD had they not been internalised*

Generally clients would issue settlement instructions which indicate the intended Place of Settlement (PSET) in a message field i.e. the CSD where the instruction could settle. Based on this client order, instructions could then only be settled internally if both instructions required to effect that settlement point to the same place of settlement, otherwise SIs will forward these instructions onto the next part of the chain.

Example:

US Treasury Bond – Issuer CSD = Fedwire New York
Security can be settled inter alia in Fedwire New York and Euroclear Bank

Two clients of Custodian A deal in the bond and send respective instructions to A:

a)
Client X: PSET Euroclear Bank
Client Y: PSET Fedwire New York
➔ No internalisation- would settle externally through link between Euroclear and Fedwire

b)
Client X: PSET Euroclear Bank
Client Y: PSET Euroclear Bank
➔ Internalisation possible and reportable

c)
Client X: PSET Fedwire New York
Client Y: PSET Fedwire New York
➔ Internalisation possible: booking location Fedwire New York – no internalisation reporting as no European security and no European CSD

If this CSD was an EU CSD, we believe this instruction to be in scope. Moreover, custodians do perform validation checks, if a certain instrument could be settled in a given CSD and would reject settlement instructions which suggest a PSET where the security would not be eligible for settlement. As securities markets are global, some securities could also be settled outside of the EU in third country CSDs and hence these instructions would contain a PSET indicating a CSD in a third country. We believe that such instructions would not be in scope for the Internalisation Reporting Requirement.

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

Para 14:

We agree with ESMA’s suggestion provided that the Place of Settlement indication as described above can be applied. We understand that this is meant as additional clarification, that to be in scope of internalisation reporting a financial instrument will have to be CSD eligible.

Question 2: Do you have any comments or suggestions regarding the entities responsible for reporting to competent authorities? Please provide arguments supporting your comments and suggestions.

Para 15: We agree with the first paragraph of Para 15. However, we disagree with the example as the actual internalisation may be taking place at intermediary B rather than intermediary A.

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

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

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

Para 16: We agree with ESMA's view and interpret the "competent authority" as designated by each EU Member State responsible for the authorisation and supervision of CSDs as referred to in Article 11 of CSDR and published on ESMA's website.[1]

Para 17: We share ESMA's view that that no settlement internalisation reporting is required for transactions which are internalised in Third Country branches irrespective of the underlying instrument.

Question 3: Do you have any comments or suggestions regarding the proposed data reporting parameters? Please provide arguments supporting your comments and suggestions.

Para 20 – We assume that by Country Code ESMA means the location of the respective branch for which the report is generated, hence for letter a) it would be the country code of Member State A, for b) it would be the country code of Member State B and for c) it would be the country code of Member State C.

Para 21 – We would like to highlight that clients usually instruct their custodians with a place of settlement indicator (PSET). This states where an instruction would be settling if it was not internalised. In the example of an International CSD (Euroclear Bank, Clearstream Luxembourg) but also in the scenario of a CSD link, securities could often be settled in different CSDs. The PSET however is driven by the agreement of the trading parties as part of the confirmation process. Settlement internaliser would then only internalise if both instructions received from clients maintained the same Place of Settlement in their instruction.

We believe that the PSET or the underlying booking location, where the settlement internaliser settles these transactions internally would provide ESMA and the NCAs with more relevant information. Otherwise NCAs and ESMA would receive reports split by Issuer CSD (CBF for instance) but receive

[1] https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-159_csdr_list_of_competent_authorities_art_11.pdf

no information, if the internalisation was actually for a transaction due to settle in Euroclear Bank or in Clearstream Banking Frankfurt or Clearstream Luxembourg.

We also believe that ESMA's distinction of access criteria to the data reported by other NCA in para 34 indicates that data should be reported by PSET distinguished by EU CSD
Within the scope, distinction by issuer CSD i.e. US, Brazil, Canada, Europe irrespective of the underlying CSD would probably not help ESMA or the competent authorities in determining the actual risk a settlement internaliser maintains, as a security could either be settled in Clearstream Frankfurt or Clearstream Luxembourg, depending on the suggested PSET in the client instruction

Para 22: We agree to have the distinction between XS and EU ISINs, however a similar issue could arise for any EU or Non-EU security. Please also refer to our comments on Para 21.

Para 23: We agree.

Para 24: We agree.

Para 25: We disagree with the approach taken by ESMA:
Article 2 of Regulation 2017/391 refers to "settled transactions". Article 1 of Regulation 2017/391 defines failed transaction as "means non-occurrence of settlement, or partial settlement, of a securities transaction at the date agreed by the parties concerned due to a lack of securities or cash, regardless of the underlying cause." This would also include situations where the instructions settle at a later time but no longer at the intended settlement date.

We interpret these requirements to refer to settlement instructions that have been settled in the previous quarter. This would as well include settlement instructions which have settled after the intended settlement day, but would be considered a failed transaction as per the definition of the above article.

There are multiple ways to collect the respective transactions, we believe, the regulation to require that only transactions settled (i.e. two instructions per transaction) in the previous quarter should be counted as per Article 2(1) f, g, h, i etc. of Regulation 2017/391. To achieve that, one could use of the actual settlement date of a settlement instruction and compare this to the intended settlement date of the instruction. If the ASD > ISD, then the instruction is considered a fail, if ASD=ISD then the instruction is considered settled.

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

In addition, referring to the template that is part of the RTS, internaliser are asked to provide aggregate figures for settled, failed, total transactions as well as a ratio of the failed overall transactions

Para 26: We agree.

Para 27: We agree.

We have interpret the first reporting period in the same way as ESMA have done, however we would like to stress, that this type of reporting is new and it would be desirable to cater for a testing period between competent authorities and internalisers to ensure, that (i) data can be received and (ii) the data is complete and matches the expectations of the authorities. In addition, while not specifically mentioned in the draft guidelines we assume that in order for a report to be successfully be transmitted to the NCA, it will be sufficient if it has been submitted before the end of the day.

Moreover, given the required time to programme the reports it would be essential if the Guidelines could be finalised as early as possible and ahead of Q1 2018 to give internalisers sufficient time and clarity to finalise their projects ahead of the reporting deadlines.

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

Question 4: What are your views regarding the proposed requirement according to which settlement internalisers should use an XML format based on the ISO-20022 compliant XSD schema?

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

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

Question 5: Do you have any comments or suggestions regarding the proposed process for submission of internalised settlement reports? Please provide arguments supporting your comments and suggestions.

We believe it would be beneficial if ESMA included a similar section in which the process for the submission of internalised settlements report by internaliser to the competent authority was described. In this section, in principle the similar steps should be applied by the internaliser so that the same details of reporting requirements apply to NCA as for Settlement Internalisers. This will help to maintain the consistency between the data submitted by the internaliser and the data forwarded by the NCA. As a consequence the validation rules should be the same between SI to NCA and NCA to ESMA.

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

Furthermore, we would encourage a dialogue between ESMA and NCAs to investigate a potential single IT system in order to avoid data first being sent from the SI to its NCA and then from the NCA to ESMA, following the same format. We understand that this might not be mandated under CSDR, however under other regulatory dossiers (SFT-R / EMIR) it is mandated to report to a central repository, which NCAs and ESMA could access to obtain the information they require to perform their risk assessments. It could limit also the accessibility to the data by cyber-attacks if data was to be transmitted only once.

Question 6: Do you have any additional comments or suggestions regarding the proposed guidelines? Please provide arguments supporting your comments and suggestions.

For the determination/calculation of market value of free of payment transactions, the Regulatory Technical Standards (RTS) (Article 2, paragraph 3) set out detailed requirements with respect to how to source or calculate the price. We would like to raise our concerns on the feasibility of implementing such a solution in an automated manner. The determination of the price for each ISIN based on liquidity or higher turnover or pre-determined methodology from a different market or venue is not something that each settlement internaliser will be able to support in a consistent manner. Financial Institutions already use approved service providers to source price feeds which are used for other purposes like portfolio

valuation and billing. Different service providers may use different source (different market or venue) for the same ISIN. This will result in the use of a different price from each settlement Internaliser for the calculation of the value of free of payment internalised settlement instructions.
Differences in the prices used by vendors will not substantially alter the total values included in the report but still they will not be fully compliant with the price determination/source provided in the RTS.
We would appreciate ESMA's guidance on whether this is acceptable or whether ESMA in order to facilitate consistent implementation would consider the appointment/creation of a public source from where settlement internalisers will be able to extract the price per ISIN based on the RTS requirements in an agreed XML format.