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| Response Form to the Consultation Paper on the amendement of Article 19 of CSDR RTS on Settlement Discipline |
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**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. 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 **9 September 2022**

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA\_QUESTION \_SETD\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
5. When you have drafted your response, name your response form according to the following convention: ESMA\_SETD\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_SETD\_ABCD\_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open Consultations” -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition”).

**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 publically 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](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation paper. In particular, this paper may be specifically of interest to CCPs, CSDs and their clients.

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**General information about respondent**

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| Name of the company / organisation | Retail investor |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Europe |

**Questions**

1. Do market participants support removing the special process of collection and distribution of penalties by CCPs for cleared transactions? Please provide justifications, if possible supported by quantitative data.

<ESMA\_QUESTION\_SETD\_1>

As a market participant, I do not support removing the special process of collection distribution of penalties. Cash penalties became a cost of business for many businesses running on daily FTD’s (Failure To Deliver) that market participants expected to receive. Removing penalties is like allowing the seller not to deliver goods paid by a market participant. Not being able to meet one’s trading obligations and getting no penalty for that, is a terrible idea. For more data, look at what happened in 2008 where FTD’s increased.

<ESMA\_QUESTION\_SETD\_1>

1. Do market participants support amending Article 19 of the CDR on Settlement Discipline as suggested in Annex IV? Please provide justifications, if possible supported by quantitative data.

<ESMA\_QUESTION\_SETD\_2>

As a market participant, I do not support amending Article 19 of the CDR on Settlement Discipline as suggested in Annex IV. As stated in the Consultation Paper: Preliminary discussions with market participants showed that imbalances may appear when the delivery of securities by a clearing member to the CCP is too close to the CSD cut-off time for the Delivery versus Payment (DvP) settlement instructions. In short, the time CCP and CSD have is long, but they still often fail to deliver a share in a timely manner.<ESMA\_QUESTION\_SETD\_2>

1. Do market participants support delaying the application of the envisaged amendment by six months after the publication of the amending RTS in the Official Journal of the EU? If not, what would be appropriate implementation period in your view? Please provide explanations.

<ESMA\_QUESTION\_SETD\_3>

As a market participant, I do not support delaying the application of the envisaged amendment by six months after the publication of the amending RTS in the official journal of the EU.<ESMA\_QUESTION\_SETD\_3>