Reply Form

**to the Consultation Paper on Technical Advice on CSDR Penalty Mechanism**

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annex 1. 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 **29 February 2024.**

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

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:

• Insert your responses to the questions in the Consultation Paper in this reply form.

• Please do not remove tags of the type < ESMA\_QUESTION\_CSDR\_0>. Your response to each question has to be framed by the two tags corresponding to the question.

• 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.

• When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP1\_CSDR \_nameofrespondent.

 For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_CSDR \_ABCD.

• Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at *www.esma.europa.eu* under the heading *‘Your input - Consultations’.*

**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 ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

All interested stakeholders are invited to respond to this consultation paper. In particular, ESMA invites market infrastructures (CSDs, CCPs, trading venues), their members and participants, other investment firms, credit institutions, issuers, fund managers, retail and wholesale investors, and their representatives to provide their views to the questions asked in this paper.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Euroclear GroupEuroclear Bank / Euroclear Belgium / Euroclear France / Euroclear Nederland / Euroclear Finland / Euroclear Sweden |
| Activity | CSDs  |
| Are you representing an association? |[ ]
| Country / Region | Belgium, France, Nederland, Finland, Sweden  |

# Questions

1. Do you agree with ESMA’s proposal? Which Option is preferable in your view? Please also state the reasons for your answer.

<ESMA\_QUESTION\_CSDR\_1>

As a preamble, Euroclear Group would like to underline that we are committed to improve settlement efficiency and that any amendment of the penalties mechanism to reach this objective is welcome to the extent that there is a fair balance between the costs and the benefits (i.e., proportionality).

Option 1 would have a structural impact on our penalties mechanism as we would need to implement a new methodology for the currencies for which there is no official interest rate for overnight credit. In addition, the proposal to convert to Euro, use the ECB marginal lending facility interest rate and convert back to Euro does not make any sense from our perspective. While the number of penalties calculated with a non-Euro cash rate by EB is around 3.5%, the Danish and Bulgarian currencies only represent 0.02% of these penalties (around 9 penalties / day). Considering the low volumes of penalties failing into this specific category, and that Bulgaria would join the Euro zone in 2024-2025, we do not see a balance between the costs and the benefits of such option.

Options 2 & 3 do not seem to have a technical impact but more an operational one, which would require a change in our static data. These options are feasible but would require a consistent implementation across CSDs, thus, we are urging ESMA (or any other stakeholder) to provide the rates to be used by all EEA CSDs to ensure a single source of data.

Option 4 is adding another layer of complexity (with the progressive rates) and is impacting all currencies. It would mean a complete review of current methodology, with the introduction of a new criterion of duration, thus a significant cost. As per our statistics, the cash discount rate is used to calculate around 10% of our penalties which are mostly Receipt versus payments (RVP) being matched late (LMFP). The high cost of introducing progressive rates to tackle only 10% of the total number of penalties does not seem a fair balance between costs and benefits, all the more so as, there is already a proportionality when it comes to the usage of the cash discount rate to calculate penalties (shown with the increase of the interest rates).

As a conclusion, Euroclear Group favours any option which would allow to keep current methodology and only change the static data used. We are willing to apply any rate which would be provided by ESMA but urge ESMA to carefully consider the rates to be applied to limit the impacts on the liquidity and to maintain a competitive European market.

<ESMA\_QUESTION\_CSDR\_1>

1. Do you have other suggestions? If yes, please specify and provide arguments.

<ESMA\_QUESTION\_CSDR\_2>

Euroclear Group favours any option which would allow to keep current methodology (no progressive rates) and only change the static data used. We are willing to apply any rate which would be provided by ESMA but urge ESMA to carefully consider the rates to be applied to limit the impacts on the liquidity and to maintain a competitive European market.

<ESMA\_QUESTION\_CSDR\_2>

1. Do you agree with the approach followed for the Option you support to incorporate proportionality in the Technical Advice? If not, please provide an indication of further proportionality considerations, detailed justifications and alternative wording as needed.

<ESMA\_QUESTION\_CSDR\_3>

Only options 2 & 3 are proportionate as they avoid structural impacts on our penalties’ mechanisms. As the penalties calculated with the Danish rate only represent 0.02% of our penalties (0 for the Bulgarian rate), any impact on our methodology would not represent a fair balance between costs and benefits.

Option 4 would lead to an increase from \*10 to \*30 of the penalties amounts based on the cash discount rates. It seems counterintuitive to apply so huge penalties (not obvious that they would indeed improve the global settlement efficiency) and on top of hugely impacting the liquidity, it would also jeopardise European CSDs competitivity.

<ESMA\_QUESTION\_CSDR\_3>

1. What costs and benefits do you envisage related to the implementation of each Option? Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_4>

|  |  |
| --- | --- |
| **Option**  |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  We do not know if any of these options would benefit the global settlement efficiency. On the other hand, we fear that applying so huge penalties would make European CSDs not competitive.  |  10% of the penalties are using a cash discount rate. 0.02% of the penalties are on Danish currency. 0% of the penalties are on Bulgarian currency. |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  Option 1: Small to medium one-off costsOption 2 & 3: Low one-off costsOption 4: Very high one-off costs |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE | A similar magnitude of one-off costs is to be planned on T2S side, each CSD side and participants’ side.  |
| **Indirect costs** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_4>

1. As a CSD, do you face the issue of accumulation of reference data related to Late Matching Fail Penalties (LMFPs), that may degrade the functioning of the securities settlement system you operate? If yes, please provide details, including data where available, in particular regarding the number and value of late matching instructions, as well as for how many business days they go in the past from the moment they are entered into the securities settlement system, and the percentage they represent compared to the overall number and value of settlement fails on a monthly basis (please use as a reference the period June 2022 – June 2023).

<ESMA\_QUESTION\_CSDR\_5>

Euroclear Group penalties engines **do not face any issue with the accumulation of reference data** used to calculate LMFPs. All our own engines use a retention period of 92 days in the past (as mentioned in ECSDA penalties framework).

For ESES CSDs & Euroclear Finland, which are using T2S penalties mechanism, the issue and data are already provided in the consultation paper and further detailed in ECB answers on this consultation.

<ESMA\_QUESTION\_CSDR\_5>

1. What are the causes of late matching? How can you explain that there are so many late matching instructions? What measures could be envisaged in order to reduce the number of late matching instructions?

<ESMA\_QUESTION\_CSDR\_6>

As a group of CSDs, we do not have a view on the underlying reason for late matching which lies with our participants and / or their final clients.

For reference, ECSDA published its settlement efficiency considerations in November 2023, where a section covers the case of late matching. “*Based on a survey sent to the CSDs participants, the causes of late matching are:*

* The need for correction of an instruction that is necessary to match the counterparty instruction or wrong SSIs sent by their underlying client,
* Missing information from the client to submit the instruction,
* Missing information from the counterparty,
* Dependencies on the internal processes, including ensuring the availability of securities, credit controls and approvals or other checks,
* Finally, in some cases, operational errors were also reported to be behind the late matching fails.

*Regarding the possible improvements, participants highlighted that in some cases, further use of partial release/settlement could help to avoid re-instructing a previous settlement instruction and hence avoid late matching.*

<ESMA\_QUESTION\_CSDR\_6>

1. Do you agree with ESMA’s proposal to establish a threshold beyond which more recent reference data shall be used for the calculation of the related cash penalties to prevent the degradation of the performance of the systems used by CSDs? Please also state the reasons for your answer.

<ESMA\_QUESTION\_CSDR\_7>

We agree for a threshold to be defined, beyond which more recent reference data shall be used.

We currently have various retention periods depending on the penalties calculating engines: 40 days for T2S platform and 92 days for Euroclear penalties engines. We haven’t faced any issue, due to this non-harmonised approach, in our penalties management.

Several factors can justify that it is not an issue to have different retention periods across CSDs / penalties engines:

* There is a single CSD / engine calculating the penalty for a fail;
* The number of LMFPs going beyond 40 days is low (0.02%) and marginal going beyond 92 days (0.004%);
* The daily prices used for the penalty’s calculation do not change drastically from one day to the other.

We support the definition of a threshold which could be set to either 40 or 92 days, depending on the capacity constraints of the system used by the CSD.

<ESMA\_QUESTION\_CSDR\_7>

1. Do you agree with the threshold of 92 business days or 40 business days in order to prevent the degradation of the performance of the systems used by CSDs? Please specify which threshold would be more relevant in your view:

**a)92 business days;**

**b)40 business days;**

**c)other (please specify).**

**Please also state the reasons for your answer and provide data where available, in particular regarding the number and value of late matching instructions that go beyond 92 business days, 40 business days in the past or another threshold you think would be more relevant, and the percentage they represent compared to the overall number and value of settlement fails on a monthly basis (please use as a reference the period June 2022 – December 2023).**

<ESMA\_QUESTION\_CSDR\_8>

While we agree with the principle to define a threshold beyond which more recent reference data shall be used, we consider that this threshold could have **various values**:

* **92 days** (as defined in ECSDA penalties framework) for the CSDs which do not face any issue with the accumulation of data – it would be unfair for these CSDs to have to adapt to T2S constraints while they can cope with current volumes of data.
For Euroclear Bank and Euroclear Sweden, it would mean impacts on several penalties’ programs (including the re-calculation tool) which would amount to several hundreds of mandays, to only cover 0.01% of the penalties (LMFP between 40 & 92 days). EB statistics show that 0.003% of the LMFP go beyond 92 days.

AND

* **40 days** (to tackle the specific case of T2S platform). T2S CSDs do not have any business case to approve the change request on the extended retention period in T2S (to 92 days). Considering the low volumes of penalties at stake (0.03%) and the very high cost to implement & maintain a 92 days retention period (nearly 1M€ of one-off costs), it is not worth to invest in this change, all the more so as, we have various other priorities to tackle in T2S platform (for instance, ECMS project).

Euroclear Group CSDs consider that while it is mandatory to calculate a penalty for any day of fail (even going beyond 40 or 92 days), the reference data used for this calculation can be set to any earlier date.

<ESMA\_QUESTION\_CSDR\_8>

1. Do you agree that the issuer CSD for each financial instrument shall be responsible for confirming the relevant reference data to be used for the related penalties calculation? Please also state the reasons for your answer.

<ESMA\_QUESTION\_CSDR\_9>

The concept of a single CSD per financial instrument is only valid when a common settlement platform is used (i.e., for T2S platform).

When there is no common settlement platform, each CSD is using its own data. Which means that within the EU it is possible that different prices might be used for a single ISIN (i.e., a price for CBL, another one for T2S and another one for EB).

Having a single price used by all CSDs could only be achieved if a golden source is made available to all CSDs.

<ESMA\_QUESTION\_CSDR\_9>

1. In your view, where settlement instructions have been matched after the intended settlement date, and that intended settlement date is beyond the agreed number of business days in the past, the use of more recent reference data (last available data) for the calculation of the related cash penalties should be optional or compulsory? Please also state the reasons for your answer.

<ESMA\_QUESTION\_CSDR\_10>

The use of the oldest data stored should be used to calculate any penalty going beyond this date in the past.

<ESMA\_QUESTION\_CSDR\_10>

1. Do you have other suggestions? If yes, please specify, provide drafting suggestions and provide arguments including data where available.

<ESMA\_QUESTION\_CSDR\_11>

Another solution to avoid 'old' fails could be to reject, from the settlement system, any intended settlement date going too far in the past (difference between current date and the intended settlement date above a defined threshold). This option is already implemented by some CSDs.

<ESMA\_QUESTION\_CSDR\_11>

1. Do you agree with the approach followed to incorporate proportionality in the Technical Advice? If not, please provide an indication of further proportionality considerations, detailed justifications and alternative wording as needed.

<ESMA\_QUESTION\_CSDR\_12>

We agree that there should be proportionality between the data needed to calculate penalties while maintaining an efficient settlement system and a simple penalties mechanism. <ESMA\_QUESTION\_CSDR\_12>

1. What costs and benefits do you envisage related to the implementation of the approach proposed by ESMA? Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_13>

|  |  |
| --- | --- |
| **Approach proposed by ESMA** |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  Euroclear penalties engines do not face any issue with the accumulation of data, thus any change would come with a cost without bringing any benefit.  |  LMFPs going beyond 40 days = 0.02%LMFPs going beyond 92 days = 0.004% |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_13>

1. If applicable (if you have suggested a different approach than the one proposed by ESMA), please specify the costs and benefits you envisage related to the implementation of the respective approach. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_14>

|  |  |
| --- | --- |
| **Approach proposed by respondent** (if applicable) |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_14>

1. Based on your experience, what has been the impact of CSDR cash penalties on reducing settlement fails (by type of asset as foreseen in the Annex to Commission Delegated Regulation (EU) 2017/389 since the application of the regime in February 2022? Please provide data and arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_15>

While we have seen an improvement in efficiency since 2023, we cannot say whether or not it is linked to the implementation of CSDR penalties.

Several Euroclear CSDs faced significant changes in the past years: The penalty regime of Euroclear France was replaced by CSDR one, Euroclear Sweden implemented various optimisation tools during 2021 and beginning of 2022 (improve partial functionality, partial settlement on omnibus accounts and extension of DVP settlement window) and Euroclear Finland joined T2S platform in September 2023.

**For ESES CSDs,** based on legacy settlement efficiency data, we notice the following inefficiency rates since 2019:

Efficiency is improving since 2022 but still above 2019 rates in volume.

**For Euroclear Bank**, based on legacy settlement efficiency data, we notice the following efficiency rates in volume & value since 2019:



Efficiency has improved since 2022, reaching higher levels than in 2019.

**For Euroclear Finland**, based on legacy settlement efficiency data, we notice the following inefficiency rates since 2019:



Efficiency is improving since 2022. However, there was additional market turbulence during 2021-2022, so part of the improvement could result from market returning back to normal.

**For Euroclear Sweden**, based on legacy settlement efficiency data, we notice the following inefficiency rates since 2019:

 Efficiency is improving since 2019 in volume and since 2021 in value.

<ESMA\_QUESTION\_CSDR\_15>

1. In your view, is the current CSDR penalty mechanism deterrent and proportionate? Does it effectively discourage settlement fails and incentivise their rapid resolution? Please provide data and arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_16>

CSDR penalties mechanisms require for the failing participant to pay the penalties to the one suffering the fail. Since entry into force, figures show that most clients are benefiting from a netting effect, meaning that they pay and receive penalties (the gross value of penalties is not what is actually paid by the participants). While this netting effect is fair (as allows the ones in the middle of the chain to be flat), it might reduce the appetite of participants to reduce their settlement fails. To have a more targeted mechanism, it could be considered to exclude, at least, the intra-company movements from the penalties scope.

If one is receiving penalties, it might not be incentivised to use the optimisation tools available to solve the fail (i.e., partial). Moving to a mandatory partial settlement (the receiver not being allowed to opt out) could help in reducing the fails.

In case of higher interest rates, the total cost of a fail is also higher, thus participants are incentivised to use optimisation tools such as the borrowing of securities.

<ESMA\_QUESTION\_CSDR\_16>

1. What are the main reasons for settlement fails, going beyond the high level categories: “fail to deliver securities”, “fail to deliver cash” or “settlement instructions on hold”? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_17>

Euroclear CSDs do not know the underlying reasons for fails apart from fail to deliver securities and fail to deliver cash or on hold. Underlying reason for fail stands on the participants’ and their clients’ side.

ECSDA published its settlement efficiency considerations in November 2023, where a section covers the causes of settlement fails.

*Based on a survey sent to the CSDs participants, the causes of settlement fails are:*

*◼ Lack of securities = awaited delivery of corresponding securities through a related transaction or a realignment in another market / securities lending not possible / internal position management needed / internal booking action needed.*

*◼ Lack of cash = marginal occurrences*

*◼ On hold = set by default at an account or a transaction level / no sufficient provision / management of the underlying customer positions*

<ESMA\_QUESTION\_CSDR\_17>

1. What tools should be used in order to improve settlement efficiency? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_18>

Euroclear Group is of the opinion that partial settlement and partial release are efficient tools to limit the settlement fails (as shown by Euroclear Sweden data).

We could also consider introducing shaping, but a deeper analysis might be needed to check the balance between costs and benefits.

<ESMA\_QUESTION\_CSDR\_18>

1. What are your views on the appropriate level(s) of settlement efficiency at CSD/SSS level, as well as by asset type? Please provide data and arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_19>

One aspect of efficiency is linked to the liquidity of the underlying instrument. If an instrument is illiquid, it can fail for several days as neither borrowing nor partial can solve the fail.

On top of that, some instruments are structurally different thus their efficiency cannot be compared to others – it is the case for the ETFS which are different from DEBT or SHRS.

As efficiency can differ from one asset type to another, it would make sense to have different penalties rates for them. We thus agree to have a dedicated penalty rate for ETFS.

<ESMA\_QUESTION\_CSDR\_19>

1. Do you think the penalty rates by asset type as foreseen in the Annex to Commission Delegated Regulation (EU) 2017/389 are proportionate? Please provide data and arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_20>

Euroclear Group considers that the penalty rates by asset type could be changed. It might help to improve efficiency, without structurally changing current methodology used in the penalties’ mechanisms.

A specific rate for ETFS could be introduced using current methodology in place (i.e., specific CFI code of ETFS to be linked to a dedicated penalty rate).

<ESMA\_QUESTION\_CSDR\_20>

1. Regarding the proportionality of the penalty rates by asset type as foreseen in the Annex to Commission Delegated Regulation (EU) 2017/389, ESMA does not have data on the breakdown of cash penalties (by number and value) applied by CSDs by asset type. Therefore, ESMA would like to use this CP to ask for data from all EEA CSDs on this breakdown, including on the duration of settlement fails by asset type.

<ESMA\_QUESTION\_CSDR\_21>

**Breakdown of penalties by asset type**

**Euroclear Bank – 2023:**

* Volume = 59% DEBT + 16% SOVR + 16% ETFS + 9% SHRS – SECU & MMKT are marginal
* Value = 46% SOVR + 40% DEBT + 8% SHRS + 6% ETFS – SECU & MMKT are marginal

**ESES CSDs – 2023:**

* Volume = 61% SHRS + 18% ETFS + 11% DEBT + 6% SOVR + 3% SECU + 1% UCIT
* Value = 49% SHRS + 18% DEBT + 17% SOVR + 9% UCIT + 7% ETFS

**Euroclear Finland – 2023:**

* Volume = 91% SHRS + 4.5% SOVR + 3.5% DEBT + 1% ETF + 0,3% CERT
* Value = 55% SHRS + 35% SOVR + 5,7% DEBT + 4% CERT + 0,3% ETF

**Euroclear Sweden – December 2023:**

* Volume = 89% SHRS + 6% DEBT + 2% SECU + 2% ETFS + 1% SOVR
* Value = 92% SHRS + 4% SOVR + 2% ETFS + 1% SECU + 1% DEBT

**Average duration of fails (as mentioned in ESMA reporting) for December 2023:**

* Euroclear Bank= 3 days
* Euroclear Belgium = 1.3 days
* Euroclear France = 1.7 days
* Euroclear Nederland = 2 days
* Euroclear Finland = 1,2 days
* Euroclear Sweden = 1.8 days

<ESMA\_QUESTION\_CSDR\_21>

1. In your view, would progressive penalty rates that increase with the length of the settlement fail be justified? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_22>

We do not know if introducing progressive penalty rates that increase with the length of the fail would actually help to improve efficiency.

<ESMA\_QUESTION\_CSDR\_22>

1. What are your views regarding the introduction of convexity in penalty rates as per the ESMA proposed Option 2 (settlement fails caused by a lack of liquid financial instruments)? Please justify your answer by providing quantitative examples and data if possible.

<ESMA\_QUESTION\_CSDR\_23>

Convexity would bring another layer of complexity in the penalties’ mechanisms, for unknown benefits.

<ESMA\_QUESTION\_CSDR\_23>

1. Would it be appropriate to apply the convexity criterion to settlement fails due to a lack of illiquid financial instruments as well? Please justify your answer by providing quantitative examples and data if possible.

<ESMA\_QUESTION\_CSDR\_24>

Convexity would bring another layer of complexity in the penalties’ mechanisms, for unknown benefits. Fails on illiquid financial instruments would not be solved with higher penalty rates if the securities are not available on the market.

<ESMA\_QUESTION\_CSDR\_24>

1. What are your views regarding the level of progressive penalty rates:

**a) as proposed under Option 1?**

**b) as proposed under Option 2?**

<ESMA\_QUESTION\_CSDR\_25>

We do not see what the benefit would be and fear it would be counterproductive and move settlement away from the CSDs.

<ESMA\_QUESTION\_CSDR\_25>

1. If you disagree with ESMA’s proposal regarding the penalty rates, please specify which rates you believe would be more appropriate (i.e. deterrent and proportionate, with the potential to effectively discourage settlement fails, incentivise their rapid resolution and improve settlement efficiency). Please provide examples and data, as well as arguments to justify your answer. If relevant, please provide an indication of further proportionality considerations, detailed justifications and alternative proposals as needed.

<ESMA\_QUESTION\_CSDR\_26>

From a technical perspective, a change of the penalties rates could be done in the short term (within 6 months), to the extent that there is no change in current methodology. We are flexible in changing the penalty rates.

<ESMA\_QUESTION\_CSDR\_26>

1. What are your views regarding the categorisation of types of fails:

**a) as proposed under Option 1?**

**b) as proposed under Option 2?**

**Do you believe that less/further granularity is needed in terms of the types of fails (asset classes) subject to cash penalties? Please justify your answer by providing quantitative examples and data if possible.**

<ESMA\_QUESTION\_CSDR\_27>

Option 1 is based on current rules to define the penalty rate to be applied (i.e., based on the CFI code of the financial instrument) to which an ETFS category could be added with a small-medium impact.

Option 2, while streamlining the number of categories (only 3), would require a full review of current methodology with significant costs.

When it comes to the introduction of the progressive rates (on both options), the impact on current methodology is even more significant as adding a new criterion to define a penalty rate. It would bring complexity in the technical systems and also in educating the Industry without any clear view on the benefits to be brought.

Euroclear Group is of the opinion that a simple and lean penalties mechanism is the main principle to be followed and consider that current methodology is as easy as it can be when fulfilling all SDR requirements.

<ESMA\_QUESTION\_CSDR\_27>

1. What costs and benefits do you envisage related to the implementation of progressive penalty rates by asset type (according to ESMA’s proposed Options 1 and 2)? Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_28>

|  |  |
| --- | --- |
| **Progressive penalty rates (by asset type) - ESMA’s proposal Option 1** |   **Please see ESMA’s proposed Option 1 in Section 5.3 of this CP.** |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  Small to medium one-off costs to add a new category for ETFSHigh one-off costs to add a criterion for progressive rates |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  Similar size of impacts would be faced by T2S, other market infrastructures (i.e., CCPs…) and by our participants.  |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **Progressive penalty rates (by asset type) - ESMA’s proposal Option 2** |   **Please see ESMA’s proposed Option 2 in Section 5.3 of this CP.** |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  Very high one-off costs to add the criterion for progressive rates and introduce the convexity. |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  Similar size of impacts would be faced by T2S, other market infrastructures (i.e., CCPs…) and by our participants. |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_28>

1. Alternatively, do you think that progressive cash penalties rates should take into account a different breakdown than the one included in ESMA’s proposal above for any or all of the following categories:

**(a) asset type;**

**(b) liquidity of the financial instrument;**

**(c) type of transaction;**

**(d) duration of the settlement fail.**

**If you have answered yes to the question above, what costs and benefits do you envisage related to the implementation of progressive penalty rates according to your proposal? Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.**

<ESMA\_QUESTION\_CSDR\_29>

We already have a specific penalty rate for most asset types (based on the CFI codes) and are also checking the liquidity indicator for shares. Adding more granularity or changing the breakdown would be complex, hard to understand and there is no evidence that it will reach the objective of improving efficiency.

For shares, the liquidity indicator is retrieved from ESMA database (FITRS). For debt instruments, the liquidity is closely linked to the asset type: SOVR is liquid, while DEBT is illiquid. We do not see the need to add any additional criteria to define the liquidity of bond instruments.

While the transaction type is a key element to differentiate the transactions specificities (for instance, traded vs not traded), it does not seem adequate to use it to define a penalty rate. The transaction type is not a matching criterion, and we already notice inconsistencies in its current usage by our participants. A dedicated penalty rate for each of them could worsen the situation (also negatively impacting the regulatory reporting we are providing to our NCAs).

We suggest seeing if a change of rates could have a positive effect before changing structurally the penalties mechanisms.

|  |  |
| --- | --- |
| **Progressive penalty rates – respondent's proposal** *(if applicable)* |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_29>

1. Another potential approach to progressive penalty rates could be based not only on the length of the settlement fail but also on the value of the settlement fail. Settlement fails based on instructions with a lower value could be charged a higher penalty rate than those with a higher value, thus potentially creating an incentive for participants in settling smaller value instructions at their intended settlement date (ISD). Alternatively, settlement fails based on instructions with a higher value could be charged a higher penalty rate than those with a lower value. In your view, would such an approach be justified? Please provide arguments and examples in support of your answer, including data where available. What costs and benefits do you envisage related to the implementation of this approach? Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_30>

This approach is adding another layer of complexity which is not acceptable for Euroclear Group. In addition, we have no evidence whatsoever that this proposal would improve current situation.

|  |  |  |
| --- | --- | --- |
| **Progressive penalty rates – based on the length and value of the settlement fail** | **Settlement fails based on lower value settlement instructions could be charged a higher penalty rate than those based on higher value settlement instructions** | **Settlement fails based on higher value settlement instructions could be charged a higher penalty rate than those based on lower value settlement instructions** |
|   | **Qualitative description** | **Quantitative description/ Data** | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_30>

1. Besides the criteria already listed, i.e. type of asset, liquidity of the financial instruments, duration and value of the settlement fail, what additional criteria should be considered when setting proportionate and effective cash penalty rates? Please provide examples and justify your answer.

<ESMA\_QUESTION\_CSDR\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_31>

1. Would you be in favour of the use of the market value of the financial instruments on the first day of the settlement fail as a basis for the calculation of penalties for the entire duration of the fail? ESMA would like to ask for the stakeholders’ views on the costs and benefits of such a measure. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_32>

This proposal would have been more than welcome before implementation of current mechanisms as it would have simplified the process. Now that the methodology is already in place, any change to it (even a simplification) would come with a significant cost.

|  |  |
| --- | --- |
| **Use the market value of the financial instruments on the first day of the settlement fail as a basis for the calculation of penalties for the entire duration of the fail** |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_32>

1. How should free of payment (FoP) instructions be valued for the purpose of the application of cash penalties? Please justify your answer and provide examples and data where available.

<ESMA\_QUESTION\_CSDR\_33>

Penalties on Free of payment (FOP) instructions are currently based on the value of the security. The formula used is Security Penalty Rate\*Reference Price\*Quantity (which is the same formula than the one used to calculate penalties on deliveries versus payment). FOP & DPV are valued in the same way. This logic is consistent and must not be changed.

<ESMA\_QUESTION\_CSDR\_33>

1. Do you think there is a risk that higher penalty rates may lead to participants using less DvP and more FoP settlement instructions? Please justify your answer and provide examples and data where available.

<ESMA\_QUESTION\_CSDR\_34>

The formula to calculate penalties on DVP and FOP is the same, thus we do not see any risk on participants using less DVP. In addition, a DVP allows for a simultaneous exchange of securities and cash thus is an efficient risk management tool which will not be challenged with penalties.

<ESMA\_QUESTION\_CSDR\_34>

1. ESMA is considering the feasibility of identifying another asset class subject to lower penalty rates: “bonds for which there is not a liquid market in accordance with the methodology specified in Article 13(1), point (b) of Commission Delegated Regulation (EU) 2017/583 (RTS 2)”. The information on the assessment of bonds’ liquidity is published by ESMA on a quarterly basis and further updated on FITRS. However, ESMA is also aware that this may add to the operational burden for CSDs that would need to check the liquidity of bonds before applying cash penalties. As such, ESMA would like to ask for the stakeholders’ views on the costs and benefits of such a measure. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_35>

|  |  |
| --- | --- |
| **Applying lower penalty rates for illiquid bonds** |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

For bonds, the liquidity is closely linked to the asset type itself: SOVR is liquid, while DEBT is illiquid. We do not see the need to add any additional criterion to define the liquidity of bond instruments.

If a liquidity indicator would be introduced for bonds, we urge ESMA to use the existing FITRS databased (already used for shares) to derive the liquidity indicator. Any other feed to derive the liquidity indicator would be a significant change for CSDs.

<ESMA\_QUESTION\_CSDR\_35>

1. Do you have other suggestions for further flexibility with regards to penalties for settlement fails imposed on illiquid financial instruments? Please justify your answer and provide examples and data where available.

<ESMA\_QUESTION\_CSDR\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_36>

1. How likely is it that underlying parties that end up with “net long” cash payments may not have incentives to manage their fails or bilaterally cancel failing instructions as they may “earn” cash from penalties? How could this risk be addressed? Please justify your answer and provide examples and data where available.

<ESMA\_QUESTION\_CSDR\_37>

Parties that end up with net long cash positions are not incentivised to do partial settlement. One solution might be to make partial settlement mandatory.

Another option could be to incentivise bilateral cancellation, but more discussion would be needed around it.

<ESMA\_QUESTION\_CSDR\_37>

1. How could the parameters for the calculation of cash penalties take into account the effect that low or negative interest rates could have on the incentives of counterparties and on settlement fails? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_38>

We are flexible in changing the penalty rates.

<ESMA\_QUESTION\_CSDR\_38>

1. To ensure a proportionate approach, do you think the penalty mechanism should be applied only at the level of those CSDs with higher settlement fail rates? Please provide examples and data, as well as arguments to justify your answer. If your answer is yes, please specify where the threshold should be set and if it should take into account the settlement efficiency at:

**a) CSD/SSS level (please specify the settlement efficiency target);**

**b) at asset type level (please specify the settlement efficiency target); or**

**c) other (please specify, including the settlement efficiency target).**

<ESMA\_QUESTION\_CSDR\_39>

Applying the penalty mechanism only at the level of the CSDs with higher settlement fail rates would create an unlevel playing field across European CSDs which should not be ESMA’s intention.

It is important to note that some securities flow across different CSDs, thus the penalties mechanisms need to distribute the penalties across all mechanisms and all participants.

<ESMA\_QUESTION\_CSDR\_39>

1. Please specify what costs and benefits you envisage regarding the application of the penalty mechanism only at the level of the CSDs with higher settlement fail rates. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_40>

|  |  |
| --- | --- |
| **Application of the penalty mechanism only at the level of CSDs with lower settlement fail rates** |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Costs to other stakeholders** | TYPE YOUR TEXT HERE  |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_40>

1. Do you think penalty rates should vary according to the transaction type? If yes, please specify the transaction types and include proposals regarding the related penalty rates. Please justify your answer and provide examples and data where available. Please specify what costs and benefits you envisage related to the implementation of your proposal. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_41>

While the transaction type is a key element to differentiate the transactions specificities (for instance, traded vs not traded), it does not seem adequate to use it to define a penalty rate as it is not a matching criterion. It would really be disruptive for the transaction type to be a matching criterion.

|  |  |
| --- | --- |
| **Applying penalty rates by transaction types** |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Costs to other stakeholders** |  TYPE YOUR TEXT HERE |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_41>

1. Do you think that penalty rates should depend on stock borrowing fees? If yes, do you believe that the data provided by data vendors is of sufficient good quality that it can be relied upon? Please provide the average borrowing fees for the 8 categories of asset class depicted in Option 1. (i.e. liquid shares, illiquid shares, SME shares, ETFs, sovereign bonds, SME bonds, other corporate bonds, other financial instruments).

<ESMA\_QUESTION\_CSDR\_42>

As a reminder, not all CSDs offer lending programs. Applying higher penalty rates to incentivise borrowing would make sense, but comparing both is not practically feasible. Establishing a reference level of borrowing fees is too complex in addition to the fact that the fees are only a part of the total costs for a borrower.

<ESMA\_QUESTION\_CSDR\_42>

1. Do you have other suggestions to simplify the cash penalty mechanism, while ensuring it is deterrent and proportionate, and effectively discourages settlement fails, incentivises their rapid resolution and improves settlement efficiency? Please justify your answer and provide examples and data where available. Please specify what costs and benefits you envisage related to the implementation of your proposal. Please use the table below. Where relevant, additional tables, graphs and information may be included in order to support some of the arguments or calculations presented in the table below.

<ESMA\_QUESTION\_CSDR\_43>

TYPE YOUR TEXT HERE

|  |  |
| --- | --- |
| **Respondent’s proposal** (if applicable) |    |
|   | **Qualitative description** | **Quantitative description/ Data** |
| **Benefits** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Compliance costs:****- One-off****- On-going** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE  |
| **Costs to other stakeholders** | TYPE YOUR TEXT HERE  |  TYPE YOUR TEXT HERE |
| **Indirect costs** |  TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_43>

1. Based on your experience, are settlement fails lower in other markets (i.e USA, UK)? If so, which are in your opinion the main reasons for that? Please also specify the scope and methodology used for measuring settlement efficiency in the respective third-country jurisdictions.

<ESMA\_QUESTION\_CSDR\_44>

As per ESMA meeting held in September 2023 on settlement efficiency, it was made clear that we cannot compare the methodologies across CSDs (for instance, the US only provide efficiency on the cleared activity).

<ESMA\_QUESTION\_CSDR\_44>

1. Do CSD participants pass on the penalties to their clients? Please provide information about the current market practices as well as data, examples and reasons, if any, which may impede the passing on of penalties to clients.

<ESMA\_QUESTION\_CSDR\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDR\_45>

1. Do you consider that introducing a minimum penalty across all types of fails would improve settlement efficiency? Is yes, what would be the amount of this minimum penalty and how should it apply? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_46>

Euroclear often hears from its participants that some penalties amounts are so low that they create more costs (workload) in reconciling them than the benefit they bring. This statement is confirmed with Euroclear Group CSDs data which show that most of the penalties are below 100€ (see hereunder our data of December 2023).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Euroclear Bank** | **ESES CSDs** | **Euroclear Finland** | **Euroclear Sweden** |
| < 10€ | 23.7% | 24.8% | 67,5 % | 34.7% |
| 10€ - 100€ | 66.9% | 48.5% | 22,1 % | 64% |
| 100€ - 1k€ | 8.4% | 26.3% | 9,4 % | 1.3% |
| 1k€ - 10k€ | 0.9% | 0.3% | 0,9 % | 0.01% |
| 10k€ - 100k€ | 0.0% | 0.0% | 0,1 % | 0.0% |
| Average amount / penalty | 66.76€ | 80.17€ |  | 18.6€ |

While introducing a minimum penalty is a sensible idea, it would require a structural review of our current methodology (introduction of a new rule to apply a minimum penalty in case the calculated amount is below a specific threshold). This change would come with a cost with unknown benefits on the settlement efficiency.

<ESMA\_QUESTION\_CSDR\_46>

1. What would be the time needed for CSDs and market participants to implement changes to the penalty mechanism (depending on the extent of the changes)? Please provide arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_47>

For a light change, such as the sole amendment of current penalties rates (static data change), we could consider an implementation within 6 months (including draft the requirements, make the changes and perform testing).

For a medium impact change which, while impacting current methodology, would not drastically change the principles in place, we could consider an implementation within 2 years once the requirements are clearly defined. It would be the case, for instance, of adding a new category for ETFS (to the extent that the same rule is used – based on a CFI code). On top of the actions needed mentioned for a light change, it would also require planning for budget (and potentially make arbitrage with other priorities) and to ensure our markets readiness.

For a structural change impacting current methodology, such as setting progressive rates, introducing a convexity, or amending current categories used, we would need 3 to 4 years to perform the change. On top of the steps defined for a medium change, we would also need to assess the impacts on Euroclear strategy (arbitrage amongst all initiatives); create an internal program to follow closely the progress; review our contractual documentation; review the recharged costs to our participants; train our participants and perform a dry run / testing for a longer period.

<ESMA\_QUESTION\_CSDR\_47>

1. Since the application of the RTS on Settlement Discipline, how many participants have been detected as failing consistently and systematically within the meaning of Article 7(9) of CSDR? How many of them, if any, have been suspended pursuant to same Article?

<ESMA\_QUESTION\_CSDR\_48>

While a few participants have been detected as failing consistently and systematically, they do not have a significant impact on our SSS.

<ESMA\_QUESTION\_CSDR\_48>

1. In your view, would special penalties (either additional penalties or more severe penalty rates) applied to participants with high settlement fail rates be justified? Should such participants be identified using the same thresholds as in Article 39 of the RTS on Settlement Discipline, but within a shorter timeframe (e.g. 2 months instead of 12 months)? If not, what criteria/methodology should be used for defining participants with high settlement fail rates? Please provide examples and data, as well as arguments to justify your answer.

<ESMA\_QUESTION\_CSDR\_49>

Euroclear Group is of the opinion that additional penalties or more severe penalty rates are not justified as they would not bring any benefit. The participants with high settlement fail rates do not systematically impact our SSS.

If additional penalties would be considered, the formula used to apply those would need to be carefully considered, taking into account the size of the CSD, in order to ensure a level playing field across European CSDs.

<ESMA\_QUESTION\_CSDR\_49>

1. How have CSDs implemented working arrangements with participants in accordance with article 13(2) of the RTS on Settlement Discipline? How many participants have been targeted?

<ESMA\_QUESTION\_CSDR\_50>

For EB, we haven’t implemented working arrangements as our top 10 participants are small clients failing due to sanctions. On the other hand, we implemented a working group with our biggest clients to work on improving efficiency.

For ESES CSDs, we started the process of contacting our participants to identify if we must establish working arrangements. In any case, these working arrangements would apply to a very limited number of participants and most probably to participants having a very limited activity in amount / volume.

For Euroclear Finland, we have regular surveillance meetings with our participants where one of the agenda topics is to focus on settlement efficiency and if any additional actions are required. Note that at the movement there is zero EFi participants that are consistently and systematically failing as per article 39 RTS 2018/1229.

For Euroclear Sweden, we have regular meetings with one of our participants that is consistently and systematically failing to deliver as per article 39 RTS 2018/1229. This participant has a very limited activity in amount / volume and does not impact our SSS.

<ESMA\_QUESTION\_CSDR\_50>

1. Should the topic of settlement efficiency be discussed at the CSDs’ User Committees to better identify any market circumstances and particular context of participant(s) explaining an increase or decrease of the fail rates? Please justify your answer.

<ESMA\_QUESTION\_CSDR\_51>

Yes, settlement efficiency needs to be discussed at the CSDs’ User Committees.

Euroclear Bank is already providing data on efficiency and penalties during its User Committee. A dedicated settlement efficiency working group was also implemented to share CSDR fails rates and dig into various relevant topics amongst which: matching issues; fails due to lack of securities and usage of partial settlement. Our intention is to align on market practices and a joint approach with our communities.

ESES CSDs have provided settlement efficiency data to their User Committees for several years (even before CSDR entry into force). They are also discussing settlement efficiency in their ESES Users Forum, on a quarterly basis, to highlight potential areas of improvement.

ESES CSDs also attend and provide data on efficiency to some national Associations, such as France Post Marché and Febelfin, both having set up a settlement efficiency working group.

On top of their User Committees, EB & ESES CSDs also attend various working groups tackling the settlement efficiency topic, such as the ECB Market Settlement Efficiency (MSE) working group.

Euroclear Sweden is providing settlement efficiency data to its User Committee and has done it for several years (even before CSDR entry into force).

Euroclear Sweden also attends various working groups and is participating to meetings at the Swedish Securities Market Association (SSMA) and provides data on settlement efficiency (SSMA used to have a dedicated working group for settlement efficiency).

Euroclear Finland is already providing data on efficiency and penalties during its User Committee, this topic is one of the repeating agenda points on all UC meetings. In addition, the settlement efficiency topic is covered also in other Participant meetings/forums on ad-hoc basis.

<ESMA\_QUESTION\_CSDR\_51>