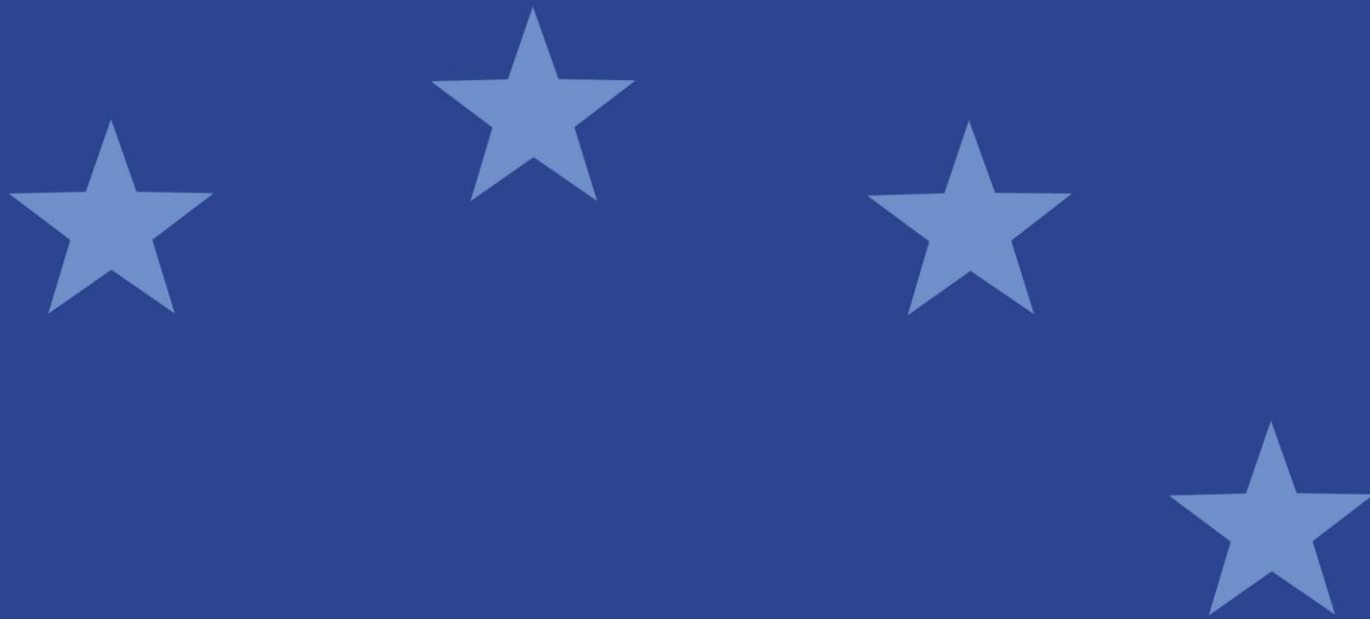


Response Form to the Consultation Paper on the amendment of Article 19 of CSDR RTS on Settlement Discipline



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 under the heading [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.

General information about respondent

| | |
|--------------------------------------|--|
| Name of the company / organisation | Associazione Intermediari Mercati Finanziari - ASSOSIM |
| Activity | Investment Services |
| Are you representing an association? | <input checked="" type="checkbox"/> |
| Country/Region | Italy |

Questions

Q1 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>

Preliminarily, please note that all the responses were drafted in cooperation with the Italian Banking Association – ABI.

We ought to underline that the Proposal set out in the CP is presented by ESMA 6 months after the entry into force and application of the relevant discipline. Industry already made significant efforts to have the settlement complying with new specific procedures and processes provided by the current Settlement Discipline. Indeed, ESMA itself acknowledges (par. 9 of the CP) that the amendments envisaged were suggested by many stakeholders, including financial industry Associations, well before the entry into force of the current provisions.

Therefore, we hope that the final proposals and the specific interventions suggested by ESMA will be balanced and well detailed in terms of contents and timelines and take into consideration i) the actual needs of the different market operators involved across the settlement chain and ii) their actual capability of complying with such proposals and interventions.

<ESMA_QUESTION_SETD_1>

Q2 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>

Please, refer to the considerations set out under Q1 above

<ESMA_QUESTION_SETD_2>

Q3 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>

Consistently with our considerations under Q1, a six-month delay between the publication of the amending RTS and its actual application is deemed not sufficient to the goal.

This is due to:

- the track-record of the CSDR implementations, since 2014 and particularly since the 1st of February 2022, which proved that some former implementations' timelines were defined on paper and not in line with the industry needs as it revealed *ex post*; and, more realistically,
- the absence (as of today) of sufficient details on specific operational aspects regarding the change proposed in the collection and distribution of penalties by CCPs for cleared

transactions that would allow the industry to be more specific in providing feedback to this (welcomed) question.

Indeed, in this regard, it is important that all the operational aspects pertaining to the actual implementation of the proposed changes should be better clarified *ex ante*. In particular, the following three aspects should be better detailed in order to be in the position to properly answer the question:

- as far as **Tests** are concerned, and specifically their deployments, it would make a significant difference to understand whether they would be run in a so-called “test environment” or in a so-called “dry-run” period (i.e. within the “production environment”) with concurrent suspension in the application of penalties;
- as far as **Reports on Collected Penalties** are concerned, based on the Draft RTS in consultation, it is unclear whether CCPs will continue to send such Reports (consistently to the current practice) based on MT537 messages received from CSDs/ICSDs, or (conversely) CCPs will cease producing and sending such Reports, aside from specific operations (so-called box positions, strange nets, etc.); finally,
- as it regards **SWIFT messages**, it is not clear whether the changes provided for in the Draft RTS will also imply some changes in the content of specific fields within the MT537 messages compared to the format currently used.

Further to the above, and still within the scope of the “implementation timeline”, ESMA should also be aware of any knock-on effects that might occur where one of the actors along the settlement chain should have any implementing issues, as the industry observed during the first phase of the settlement discipline RTS after 1st February 2022, when some delays by CSDs had implications for CCPs and, consequently, for the Participants to the Clearing and Settlement System.

In the lack of sufficient details regarding Test, Reports, Swift messages issues mentioned above, we find it challenging, at the current stage:

- to quantify how long the implementation period should ideally last and, consequently;
- to suggest a specific proposal in this respect.

That said, we deem it important to highlight two drivers or criteria on the approach we would hope for the implementation. Namely:

- 1) the new timeline should be calibrated in a way that allows every operator sufficient time span to get prepared with due advance (this point is the most important and critical since all the operational details have not been clarified so far) and, more specifically;
- 2) the delay period should start from the time when i) CSDs will declare themselves to be ready to implement the proposed changes and ii) both CSDs and CCPs will be in the condition to adopt a common approach, so as to avoid any hybrid and temporary reporting and penalties’ settlement solution(s).

<ESMA_QUESTION_SETD_3>