

FESE response to the ESMA consultation on settlement discipline

Brussels, 14th April 2025

Q1: Do you agree with the proposed amendments to Articles 2(2) and 3 of CDR 2018/1229?

Yes, FESE agrees with the proposal. This would also ensure the necessary flexibility for retail clients, who more and more tend to trade late during the day.

Q2: Would you see merit in introducing an obligation for investment firms to notify their professional clients the execution details of their orders as soon as these orders are fulfilled (in a way that allows STP)? If yes, should it be cumulative to the proposed amendments to Articles 2(2) and 3 of CDR 2018/1229?

N/A

Q3: If you support an obligation for investment firms to notify their professional clients the execution as soon as the orders are fulfilled, do you think that clients should be allowed a maximum number of business hours for the allocations and confirmations from the moment of notification by investment firms, instead of having fixed deadlines? If yes, how many hours would be necessary for that?

N/A

Q4: Should CDR 2018/1229 further specify the term 'close of business' for the purpose of Article 2(2)? If yes, how should this take into account the business day at CSD level?

N/A

Q5: Should the 10:00 CET deadline for professional clients in different time zones and retail clients be brought forward to 07:00 CET on T+1, to be aligned with the UK deadline?

N/A

Q6: Can you suggest any other means to achieve the same objective? If yes, please elaborate

N/A

Q7: Do you agree to make the use of electronic and machine-readable format that allow for STP mandatory for written allocations?

N/A

Q8: Would you see merit in introducing optionality for investment firms to set deadlines based on whether an electronic, machine-readable format of the communication is used? In

such case, do you agree that an earlier deadline could be set for non-machine readable formats, so clients are disincentivised to use them? Which should be such deadline?

N/A

Q9: Please provide quantitative evidence regarding the use of non-machine readable formats for written allocations and confirmations.

N/A

Q10: Would it be necessary to introduce a similar obligation in other steps of the settlement chain? If yes, please elaborate.

N/A

Q11: Can you suggest any other means to achieve the same objective? If yes, please elaborate.

N/A

Q12: Do you agree with the proposed amendment to Article 2 of CDR 2018/1229?

N/A

Q13: Do you agree that settlement efficiency would improve if all parties in the transaction and settlement chain used the latest international standards, such as the ISO 20022 messaging standards, in particular whenever A2A messages and data are exchanged? If not, please elaborate. How long would it take for all parties to adapt to ISO20022?

N/A

Q14: Can you provide figures (by number and type of financial entities, jurisdictions) regarding the current use of international open communication procedures and standards such as: a) ISO 20022, b) ISO 15022, c) others (please specify)?

N/A

Q15: Do you agree with the proposal of the EU Industry Task Force whereby allocation requirements should be aligned with CSD-level matching requirements? If not, please elaborate.

N/A

Q16: Can you suggest any other means to achieve the same objective? If yes, please elaborate.

N/A

Q17: Do you agree with the proposed regulatory change to introduce an obligation for investment firms to collect the data necessary to settle a trade from professional clients during their onboarding and to keep it updated? If not, please explain.

N/A

Q18: Can you suggest any other means to achieve the same objective? If yes, please elaborate.

N/A

Q19: Do you agree with the proposed amendment to Article 10 of CDR 2018/1229? If not, please elaborate.

N/A

Q20: Do you agree with the deletion of Article 12 of CDR 2018/1229? If not, please elaborate.

N/A

Q21: Do you have other suggestions to incentivise partial settlement? If yes, please elaborate.

N/A

Q22: Do you think that some types of transactions should not be subject to partial settlement? If yes, could you provide a list and the supporting reasoning?

N/A

Q23: Do you agree with the introduction of an obligation for CSDs to facilitate the provision of intraday cash credit secured with collateral via an auto-collateralisation facility? If not, please elaborate.

N/A

Q24: Can you suggest any other means to achieve the same objective? If yes, please elaborate.

N/A

Q25: Should CDR 2018/1229 be amended to require all CSDs to offer real-time gross settlement for a minimum window of time of each business day as well as a minimum number of settlement batches? Please provide arguments to justify your answer.

N/A

Q26: What should be the length of the minimum window of time of each business day for real-time gross settlement and the minimum number of settlement batches that should be offered, per business day? Please provide arguments to justify your answer.

N/A

Q27: Can you suggest any other means to achieve the same objective? If yes, please elaborate.

N/A

Q28: Do you agree with the proposed amendments to Table 1 of Annex I of CDR 2018/1229? If not, please elaborate.

N/A

Q29: Should top 10 failing participants be reported both in absolute terms (current approach) and in relative terms (according to the proposed amendments to Table 1 of Annex I of CDR 2018/1229)?

N/A

Q30: Do you have additional suggestions regarding the requirements for CSDs to report settlement fails data specified in Annex I and Annex II of CDR 2018/1229? If yes, please elaborate.

N/A

Q31: Do you agree with the proposed amendments to Article 13(1)(a) of CDR 2018/1229? Or can you suggest alternative options so that CSDs have visibility of the root causes of settlement fails at participants level?

N/A

Q32: Based on the experience since the implementation of the settlement discipline regime under CSDR, please describe the main root causes of settlement fails identified so far. Please specify the relevant categories in more granular terms, going beyond “lack of securities”, “lack of cash” and “instructions put on hold”.

N/A

Q33: According to Article 13(2) of the CDR, CSDs shall establish working arrangements with their top failing participants to analyse the main reasons for settlement fails. Do you believe that this provision has proven useful in analysing the root causes of fails and in preventing them? Do you have suggestions on other actions which CSDs could take with respect to top failing participants?

N/A

Q34: Do you agree with the proposed amendments to Table 1 of Annex III of CDR 2018/1229 to include information on the breakdown of the settlement fails per asset class? If not, please elaborate.

N/A

Q35: Do you think that CSDs should publish additional information on settlement fails? If yes, please specify.

N/A

Q36: Should the frequency of publication of settlement fails data by CSDs increase? Which should be the right frequency?

N/A

Q37: Do you agree that the use of UTI should not be made mandatory through a regulatory change?

FESE agrees with ESMA that the use of UTI should not be mandated by the legislation. The UTI is currently used by some FMIs, including some exchanges. As business practices continue to evolve, some exchanges are currently weighing UTI's benefits and costs considering that most FMIs have developed in-house solutions. Should there be a clear business case for the adoption of the UTI, exchanges and other FMIs will start adopting it more frequently. However, this change should be market-driven and not mandated by regulation.

Q38: What are your views on the use of UTI in general and in the case of netted transactions specifically?

See Q37.

Q39: Should the market standards for the storage and exchange of SSIs be left to the industry or is regulatory action at EU level necessary?

N/A

Q40: How can the PSET contribute to improve settlement efficiency and reduce settlement fails? Do you have suggestions on how to make the use of PSET more consistent across the market? If yes, please elaborate.

N/A

Q41: Do you agree that the PSET should not be made a mandatory field of written allocations under Article 2(1) of CDR 2018/1229? If you have a different view, please elaborate.

N/A

Q42: Do you agree that the decision to use the PSAF and the PSET in the settlement instructions should be left to the industry?

N/A

Q43: What are the current market practices regarding the use of PSAF and PSET, in particular in the case of netting along the trading and settlement chain?

N/A

Q44: Do you agree that the transaction type should not become a mandatory matching field under Article 5(4) of CDR 2018/1229?

N/A

Q45: Do you think the lists mentioned in Article 2(1)(a) and Article 5(4) of CDR 2018/1229 should be updated? If yes, please specify.

N/A

Q46: What are your views on whether market participants should send settlement instructions intra-day rather than in bulk at the end of the day?

N/A

Q47: Do you consider it necessary to introduce a deadline for the submission of settlement instructions through a regulatory amendment to CDR 2018/1229? If yes, what should be such a deadline? Please provide arguments to justify your answers.

FESE agrees with ESMA's analysis that introducing a deadline for the submission of settlement instructions is unnecessary. Exchanges send trading information to CCPs and CSDs in either continuous format or single/multiple batches throughout the day. FESE does not see concrete benefits for using either ongoing transmission of data or batches. These market practices vary depending on the jurisdiction, conventions between FMIs, and the trading cut-off times. A strict cut-off time for sending settlement instructions would most likely not cater for late trading. For example, the UK proposal to establish a cut-off at 21:00 on T is unfit for certain trading venues in the EU that run trading until 22:00 or even midnight in some cases.

Q48: Do you agree that CSDs' business day schedule should be left to the industry? If not, please elaborate.

Yes, FESE agrees. While it is out of scope of FESE to comment on the specificities of CSDs' operating needs, it should be noted that their opening times are strongly correlated with operational times from trading venues and CCPs. These FMIs, in turn, and specifically for the trading side, follow national market practices and needs. FMIs active in the post-trade industry need to remain flexible to adapt their operations based, in part, on trading activity cut-offs. Trading venues' opening and closing hours depend on the trading needs of local ecosystems, which may evolve over time.

Therefore, it would be highly detrimental to harmonise business day schedules for CSDs across the EU as it would ignore local market specificities from a trading venue perspective.

Furthermore, FESE stands with the outcome of the EU industry Task Force, namely that T2S should consider the feasibility of a delay to the start/closing of NTS cycles and/or introduce a third batch in the early morning.

Q49: What would be, in your view, the ideal business day schedule for CSDs taking also into account real-time settlement, night-time settlement and cut-off times? Should they be aligned? Please provide arguments.

From an exchange perspective, operational times for trading activity need to take into account a variety of complex factors, including:

- the needs of end investors
- the interactions between different markets during the length of the trading day
- the potential threat to liquidity
- the cross-jurisdictional impact across markets and linked products, and
- the competitiveness of the markets.

Given the move to T+1, the "daily" operational timetable should continue to accommodate late trading cut-offs currently in place, which align well with the business needs of various market participants and are designed according to local market needs. Further enhancement of post-trade processes might be required to accommodate late trading activities.

The goal is that all on-exchange trades of day T are included in the first T2S night-time settlement cycle to prioritise settlement efficiency for those trades, leveraging the benefits of netting optimization and liquidity.

Q50: Do you agree that shaping should be adopted as best practice? If you do not agree and believe that it should be adopted as regulatory change, please indicate which should be the most adequate size to shape transactions per type of financial instrument.

N/A

Q51: Do you see the need for a regulatory action in this area? If yes, please elaborate.

N/A

Q52: Do you have other proposals regarding settlement discipline measures and tools to improve settlement efficiency in areas not covered in the previous sections? Please give examples and provide arguments and data where available. If relevant, please also include the specific proposed amendments to CDR 2018/1229.

N/A

Q53: For all the topics covered in this CP please provide your input on the envisaged costs and benefits using the table below. Please include any operational challenges and the time it may take to implement the proposed requirements. Where relevant, additional tables, graphs and information may be included in order to support the arguments or calculations presented in the table below.

ESMA or respondent's proposal	Qualitative description	Quantitative description/ Data
Benefits		
Compliance costs: - One-off - On-going		
Costs to other stakeholders		
Indirect costs		