Svensk Värdepappersmarknad
Swedish Securities Markets Association

9 April 2025

The Swedish Securities Markets Association's (SSMA) response to the ESMA Consultation Paper on the Amendments to the RTS on Settlement Discipline

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

Yes, the Swedish Securities Markets Association (SSMA) agrees that the deadline needs to be brought forward in line with the proposed amendments in articles 2 and 3 of CDR 2018/1229 on page 13 in the consultation document.

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?

In general, there is already best practice to do so for large professional clients. Nevertheless, there are smaller professional clients that are not able to communicate in an automated way. An introduction of such an obligation would require technical development not only at the level of the investment firm but also at the buy side firms. The cost for such technical development will be more difficult to absorb for the small buy-side firms and all changes that imply large costs for the buy-side will possibly raise entry barriers for new firms. Therefore, the SSMA is not in favour of 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 the long run the consequences of a shorter settlement cycle will likely lead to the introduction of more straight through processing among all market participants, including among the smaller firms.

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?

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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?

No, there is no need for regulation as regards the specification of the term "close of business" in CDR 2018/1229. It should instead be left to each investment firm and their clients to bilaterally agree on the relevant definition of "close of business".

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?

There is no need to bring the proposed 10:00 CET deadline forward to 07:00 CET. 10:00 CET is a suitable deadline.

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

No, we do not have another suggestion.

As affirmations are mentioned in this section of the consultation document, we would like to underline that the use of affirmations, as on the US market, should not be applied to the EU market, where the procedure of bilateral matching of settlement instructions is used instead.

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

No, the SSMA does not agree to make the use of electronic and machine-readable format that allow for STP mandatory. On the Swedish market, electronic communication means are already largely used by professional clients. Nevertheless, there are several smaller professional clients that, for the time being, do not use electronic communication means. We believe that making a machine-readable format mandatory for written allocations for all professional clients, even the smaller ones, could have a negative impact on securities markets as the development costs would be more difficult to absorb for smaller clients and thereby lead to a higher entry barrier for smaller clients.

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?

This optionality already exists under the current version of the regulation and should, in our opinion, not be further regulated as it is a question for the bilateral business relation between the investment firm and its client.

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

On the Swedish market, electronic communication means are already largely used by professional clients. Nevertheless, there is a significant number of smaller professional clients that do not currently use electronic communication means.

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

No, for the same reason as in answers to questions 8 and 9.

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

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

The SSMA believes that standardisation of processes generally is a good thing. Nevertheless, we do not agree regarding the proposed amendment to article 2 of CDR 2018/1229. The consequence of such a requirement would imply that investment firms will no longer be able to decide to which clients they want to offer their services, as the proposed amendment would likely exclude some of the smaller professional clients from the market. For those smaller professional clients such a requirement would require costly technical development that could be difficult to absorb. The exclusion of the smaller firms would also have negative consequences for the securities market. It should instead be left to the investments firms to decide on which possible incentive structure to use to ensure that written allocations and written confirmations are received on time.

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?

The SSMA does not agree with the statement. ISO 15022 remains the industry standard for settlement messages, with ISO 20022 settlement messages primarily used only in the context of CSD participant to CSD / T2S communication. The two standards can and do co-exist, with very few issues of non-compatibility between the two standards with regards to settlement. We are not aware of any analysis that show that this co-existence has a negative impact on settlement efficiency, nor that CSDs and markets that currently do not use ISO 20022 settlement messages have a lower settlement rate than CSDs that have switched to ISO 20022. Failure to achieve matching in time for settlement on the intended settlement date, or to have the securities in place in the agreed CSD on the intended settlement date, is caused by incorrect content of allocations and settlement instructions – not the format.

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)?

No, unfortunately we do not see how it would be possible to provide those figures for any stakeholder in the market.

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.

This question is up for discussion in the EUT1 Matching workstream. The workstream is working on a draft template that will then be sent to the EUT1 Settlement workstream. As these industry led groups are already spending time on this issue it is important that ESMA respects the outcome of that work.

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

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.

Yes

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

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

The suggested addition in Article 10 of CDR 2018/1229 only reflects what is already implemented in EU CSDs that provide partial settlement. Hence, we believe that the suggested amendment would not have any impact on settlement efficiency.

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

No, the SSMA does not agree with the deletion. We do not believe that forcing the few CSDs that have made use of the exemption provided by article 12 to implement partial settlement or a hold & release mechanism, will have a noticeable effect on settlement efficiency, but the costs of such an implementation may very well be very high.

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

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?

We do not see any need for this to be regulated in CDR 2018/1229. It is important that the parties involved in a transaction have the possibility to determine if the transaction should be subject to partial settlement, independent of which type of transaction it is. If both parties wish to engage in partial settlement for any transaction, their CSD or custodian can facilitate this. Conversely, if a party prefers not to allow partial settlement for specific trades, they can use the

NPAR tag to indicate this preference. There are certain types of transactions where non-partial settlement is often preferred such as in Securities Lending and collateral transactions, but the current system already supports this flexibility.

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.

No, the SSMA does not agree. The introduction of such a facility must rely on a demonstration that receiving CSD participants' lack of liquidity is a common cause of settlement fails. We do not believe this to be the case. To require all CSDs and central banks to offer this would be time consuming and result in high costs for the market. Also, in the case an obligation is introduced, CSDs aiming at joining T2S should be exempted.

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

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.

No, the SSMA does not believe that a requirement for all CSDs to offer RTGS should be introduced without first making a thorough analysis of the benefits vs. cost. Forcing CSDs that perform settlement in batch mode to increase the minimum number of batches is in our opinion a much more cost-efficient way of achieving similar results. Our preference is for continuous settlement, whether gross or net, but we also note that there are CSDs with higher than European average settlement rates that only use batch settlement.

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.

As mentioned above, the SSMA does not think there should be a requirement for CSDs to offer RTGS. Amending the minimum number of settlement batches to 4 or 5 per day seems reasonable.

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

elaborate.

Please see our answers to questions 25 and 26.

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

The SSMA doubts that such an amendment would increase settlement efficiency. Also, it would not be aligned with the EU's simplification agenda, described i.a. in the communication "Savings and Investments Union, A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU" from the Commission, the European Council, the Council, the ECB, the ECON and the Committee of the regions.

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)?

We doubt that such an amendment would increase settlement efficiency. Also, it would in our opinion not be consistent with the EU's simplification agenda, described i.a. in the communication "Savings and Investments Union, A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU" from the Commission, the European Council, the Council. The ECB, the ECON and the Committee of the regions.

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.

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?

No, the SSMA does not agree. We do not see how this can be implemented, even when a participant has the information in its own system. Firstly, the number of settlement instructions in European CSDs is very high every day. Secondly, it would not be feasible for CSDs to simply ask participants for this information. Even if they did, the participants need to ask their clients why they have put the settlement instruction on hold. Hence, the proposed amendment would lead to a substantial increase in the operational work by the participants. This process would be even more complex if the participant is acting as settlement agent/sub custodian of another intermediary, when the information resides in yet another system. Thirdly, to be feasible, the proposed amendment would require a new type of automated messaging/information exchange between CSDs and their participants that would be very costly and complex to implement. Even if such a solution were designed and implemented, the primary causes of settlement fails,

meaning late matching (either caused by mismatching or late instructions) or lack of sufficient securities of the delivering participant or (most common) its client, would remain unchanged by the reporting. Lastly, this proposal contradicts the SIU simplification agenda where EC has set quantified targets for reducing the costs for all administrative burdens, including reporting requirements with at least 25% for all entities.

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".

The primary cause of settlement fails is the delivering party lacking sufficient securities on its custody or CSD account. Lack of cash could also be a cause but happens very rarely. This applies both to CSD and internalised settlement. If a client using omnibus custody accounts does not have the ability to use hold and release, the client may send delivery settlement instructions to its custodian only once the underlying client has delivery capacity. A client using segregated custody accounts will be more likely to send delivery settlement instructions to the custodian, even though the underlying client lacks delivery capacity. The first will have 'late instruction' as the cause of fail, whilst the other will have 'lack of securities' as the cause of fail. In both cases the actual cause would be lack of securities. Thus, some late matching fail penalties are also caused by lack of securities, though this may not be transparent to the CSD or custodian – one of the instructions could have been cancelled and replaced due to a matching issue (e.g. incorrect SSIs) instead of lack of securities, but the CSD/custodian can only identify that matching took place only after end of settlement on ISD.

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?

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.

The SSMA doubts that such an amendment would increase settlement efficiency. Also, it would in our opinion not be consistent with the EU's simplification agenda, described i.a. in the communication "Savings and Investments Union, A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU" from the Commission, the European Council, the

Council, the ECB, the ECON and the Committee of the regions. If the proposed amendments nonetheless were to be implemented, the information should be consistent across CSDs.

Q35: Do you think that CSDs should publish additional information on settlement fails?

If yes, please specify.

The SSMA doubts that such an amendment would increase settlement efficiency. Also, it would in our opinion not be consistent with the EU's simplification agenda, described i.a. in the communication "Savings and Investments Union, A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU" from the Commission, the European Council, the Council, the ECB, the ECON and the Committee of the regions.

Q36: Should the frequency of publication of settlement fails data by CSDs increase?

Which should be the right frequency?

The SSMA doubts that such an amendment would increase settlement efficiency. Also, it would in our opinion not be consistent with the EU's simplification agenda, described i.a. in the communication "Savings and Investments Union, A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU" from the Commission, the European Council, the Council, the ECB, the ECON and the Committee of the regions.

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

Yes, the SSMA agrees that it should not be made mandatory through a regulatory change.

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

The SSMA agrees that the use of UTI should be encouraged for settlement of OTC instructions. We find it of limited or no benefit for settlement transactions involving CCPs.

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?

The SSMA believes that it should be left to the industry and does not see any need for this to be regulated in CDR 2018/1229.

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.

PSET is the counterparty's place of settlement and is a mandatory field in ISO 15022 / 20022 settlement instructions. The SSMA supports that professional trading counterparties inform each other of their respective place of safekeeping, to ensure that settlement instructions are created and sent with the correct counterparty details.

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.

Yes, the SSMA agrees that it should not be made a mandatory field of written allocations. Hence, we do not see any need for this to be regulated in CDR 2018/1229.

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

Yes, the SSMA agrees, and we do not see any need for this to be regulated in CDR 2018/1229.

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?

As mentioned above, the counterparty's place of settlement is a mandatory field. For most settlement instructions sent to European CSDs, the counterparty's place of settlement is the same CSD as that of the party's place of safekeeping – and vice versa.

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

Yes, the SSMA agrees, and does not see any need for this to be regulated in CDR 2018/1229.

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.

The SSMA thinks that the items in the lists are sufficient and does not see any need for a review. The CSDs and settlement internalisers have already mapped all SETR codes to the "groups" in CDR and we see no benefit in doing so again.

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?

The SSMA considers sending settlement instructions intra-day to be best practice and does not believe a regulatory amendment would be advisable without a thorough analysis.

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.

The SSMA does not believe that it is necessary to introduce a deadline for the submission of settlement instructions through a regulatory amendment to CDR 2018/1229. Late matching fail penalties should be sufficient deterrents.

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

Yes, the SSMA fully agrees and does not see any need for this to be regulated in CDR 2018/1229.

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.

The SSMA believes that it would be difficult to find and agree on an ideal business day for CSDs as this is very much dependent on local market specificities.

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.

No, the SSMA does not agree that shaping should be adopted as best practice. Nor should it be adopted as a regulatory change but rather left to participants in the transaction as a possible alternative to partial settlement.

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

No, the SSMA does not see the need for regulatory action in this area.

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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.

The transition to T+1 is a huge project for the industry and naturally, as with any implementation, there will be issues during the initial phase. One measure that has been advocated and proposed by the market is a temporary suspension of penalties. The SSMA supports this and wants to take the opportunity to provide input on what needs to be taken into account when defining the details of such a temporary suspension in Level 2 CDR 2018/1229 (under the existing mandate provided in Level 1);

- Penalties should be suspended from not only payment but also from calculation and reporting. The reason for this is that the ISO 15022 / ISO 20022 messages for penalties reporting do not support a status of "only for information/not for payment". Requiring T2S, CSDs and intermediaries to "mix" such informational penalties with "actual" penalties reporting would substantially increase the administrative burden and complexity with limited value. It would very likely lead to confusion and uncertainty. It should suffice both from a market and supervisory perspective to just monitor the settlement fails during the suspension period. Monitoring the settlement fail rate could aid ESMA in its efforts to follow the development to improve the settlement ratio and to decide when or if it should lift or extend the suspension period.
- We also propose that the suspension is made effective for full calendar months as penalties are paid at aggregate, monthly level. It will likely be much more complicated for T2S and CSDs to "turn off" penalties in the middle of a month (and vice versa).
- Finally, it may be suggested to instead of suspending penalties, ESMA (or another body) could state that CSDs are to remove penalties for certain days. As removal of penalties require substantial intervention by T2S, CSDs and intermediaries, we strongly recommend to not do so – even without raising any risk of legal uncertainty.

According to the current wording of Article 42, Entry into force and application, of the CDR, the settlement discipline measures set out in Articles 21 to 38 shall begin to apply 2 November 2025. This date was set to allow for the review of the level 2 provisions regarding mandatory buy-ins following the review of the level 1 provisions in CSDR refit. The deadline for ESMA to submit those draft regulatory technical standards to the Commission was originally 17 January 2025 (CSDR Article 7 a (15)). In the letter on Prioritisation of 2025 ESMA deliverables, dated 3 March 2025, a proposed action is to delay the RTS on buy-ins until the T+1 implementation is complete. The SSMA agrees with ESMA's proposed action to delay the review of the buy-in provisions until the T+1 implementation is complete and would like to highlight that this delay should also be reflected in Article 42 of the CDR. To give the market participant enough time to prepare and revise the client agreements, the draft regulatory technical standards should be submitted to the Commission sufficient time, preferably at least 12 months, before the relevant provisions are to be applied.

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		