

# Reply Form

Consultation Paper on the Amendments to the RTS on Settlement Discipline

## 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 **14 April 2025**.

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\_CSDC\_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\_ CSDC\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ CSDC\_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](http://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](#)'.

## **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.

## 1 General information about respondent

Name of the company / organisation	International Capital Market Association (ICMA)
Activity	Other
Are you representing an association?	<input checked="" type="checkbox"/>
Country / Region	International

## 2 Questions

### 3.1.1 Timing of allocations and confirmations

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

<ESMA\_QUESTION\_CSDC\_1>

A general point that applies to Q1 but also more broadly to the proposed requirements relates to the implementation timeline. As some of the requirements are directly connected to the EU's upcoming move to T+1 scheduled for October 2027, there is a question whether the implementation dates of the RTS requirements should also be directly linked to the T+1 timeline.

There is no reference in the CP that would indicate that ESMA plans to link the application date to the go-live date of T+1. This makes sense as a general rule as many of the proposed RTS changes will help to drive post-trade efficiency more broadly, irrespective of the move to T+1, especially considering that the scope extends beyond transactions that are strictly in scope of article 5(2).

However, there are some requirements that have a more direct dependency on T+1, which may have to be carved out in terms of their implementation date. For instance, it would probably make sense for the regulatory deadlines for the allocation and confirmation of trades to only become binding once T+1 is in force, especially if a stricter single deadline is adopted.

As regards Q1, ICMA generally supports the amendments proposed by ESMA to art.2(2) and 3, in particular the deletion of the exemption for orders executed after 16:00 CET, which are in line with the proposals of the EU cross-industry taskforce.

However, we note that in its final report, the UK's AST proposed a single deadline of 23:59 on T for allocations and confirmations. A similar approach has been adopted in the US based on a single deadline on T. We believe that the EU should follow a similar approach, as a bifurcated deadline is more difficult to manage and monitor. We therefore recommend a single deadline at the end of trade date for written allocations and confirmations which is deemed more appropriate in a T+1 environment.

As noted above, this requirement should enter into force on the same day as the T+1 requirement itself.

<ESMA\_QUESTION\_CSDC\_1>

**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?**

<ESMA\_QUESTION\_CSDC\_2>

We note that article 59 in MiFID II DR 2017/565 seems to already address this point. An additional requirement in CSDR RTS would duplicate this rule and would therefore seem unnecessary.

In our view the combination of the MiFID requirements and the deadlines for allocations and confirmations proposed by ESMA are sufficient.

<ESMA\_QUESTION\_CSDC\_2>

**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?**

<ESMA\_QUESTION\_CSDC\_3>

As noted above, in our view the combination of the MiFID II requirement and the proposed deadlines under CSDR is sufficient. Specifying a time period depending on the moment of notification would be much more complicated to manage.

<ESMA\_QUESTION\_CSDC\_3>

**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?**

<ESMA\_QUESTION\_CSDC\_4>

In our view it is not necessary to specify ‘close of business’ in article 2(2). In fact, some flexibility in this regard might be helpful and should be retained.

We note that not having this specification in the RTS would not prevent the EUT1 IC to come up with related proposals and recommendations in terms of best practice which may have to be more tailored to specific markets and products.

<ESMA\_QUESTION\_CSDC\_4>

**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?**

<ESMA\_QUESTION\_CSDC\_5>

In its final report the UK AST suggests a single deadline for processing of allocations and confirmations at 23:59 on T. The deadline that ESMA seems to refer to is the deadline for settlement instructions which is 5:59 UK time.

Therefore, we note that bringing forward the deadline to 7am CET would not directly achieve alignment with the UK.

That said, as noted in our response to Q1, ICMA would support a single deadline for allocations and confirmations at 23:59 on T. If based on feedback, ESMA decides to maintain the proposal for a split deadline we would support the earlier deadline at 7am.

<ESMA\_QUESTION\_CSDC\_5>

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

<ESMA\_QUESTION\_CSDC\_6>

We do not have any additional suggestions in terms of regulatory requirements. However, in this context we would again refer to the important ongoing work of the EUT1-IC which will lead to more granular recommendations and best practices that will complement the RTS.

<ESMA\_QUESTION\_CSDC\_6>

### **3.1.2 Means for sending allocations and confirmations**

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

<ESMA\_QUESTION\_CSDC\_7>

ICMA is fully supportive of the proposed requirement to use “electronic, machine-readable” formats for written allocations and confirmations, which is an important pre-requisite for STP.

We note that “machine-readable” is defined at a high-level in Directive 2019/2024. We understand that this definition is relatively wide and does not exclude emails, for example. In our view, this flexibility is warranted. We understand that in certain markets, such as repo or other money markets, emails (or vcons) are still relatively common for confirmations. While this is not ideal, we also note that this does not per se prevent STP as “low tech” or AI solutions can be employed to automate this process and ensure STP.

<ESMA\_QUESTION\_CSDC\_7>

**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?**

<ESMA\_QUESTION\_CSDC\_8>

No. Introducing such optionality would go against the principle of allowing full STP across the board and such a distinction with separate deadlines would be very difficult to manage.

<ESMA\_QUESTION\_CSDC\_8>

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

<ESMA\_QUESTION\_CSDC\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_9>



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

<ESMA\_QUESTION\_CSDC\_10>

No. We believe that other parts of the post-trade process are already largely automated or will be addressed more appropriately in the recommendations of the EUT1-IC.

<ESMA\_QUESTION\_CSDC\_10>

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

<ESMA\_QUESTION\_CSDC\_11>

No suggestions in terms of additional regulatory requirements from an ICMA perspective.

That said, there will be scope for extensive additional recommendations and best practices outside of the RTS which are currently being developed by the EUT1-IC. While those are expected to be strong recommendations rather than regulatory requirements, maintaining a degree of flexibility, it will still be important that regulators, particularly ESMA are actively involved in the discussion and support the outcome of the EUT1-IC.

<ESMA\_QUESTION\_CSDC\_11>

### **3.1.3 The use of international open communication procedures and standards for messaging and reference data to exchange allocations and confirmations**

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

<ESMA\_QUESTION\_CSDC\_12>

ICMA supports the proposal to require electronic allocations and confirmations.

However, we note that it would be too early to prescribe any specific standard, such as ISO20022, and there should be sufficient flexibility for investment firms and their clients to agree the most efficient tools and formats to be used, provided they facilitate full STP.

At this stage and given the key focus on the transition to T+1, the main objective behind the requirements needs to be to drive/facilitate automation and STP. The requirements should not disrupt any existing efficient solutions that have been established.

While we support the use of international standards and think that the proposed wording is broadly appropriate, we suggest adding “where feasible” in order to make sure this captures cases where there is potentially a more efficient or appropriate solution in place. We would also caution against further specifying what “international open communication procedures and standards” exactly covers (beyond existing definitions). A broad understanding/interpretation of the concept is important in order to make sure that efficient solutions that are already in place can be maintained, and emerging solutions are not constrained. In other words, a broad interpretation is important in order to future proof the rules and encourage rather than restrict innovative solutions that help establish full STP.

<ESMA\_QUESTION\_CSDC\_12>

**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?**

<ESMA\_QUESTION\_CSDC\_13>

While we are in principle supportive of ISO20022 and agree that a single standard would ultimately be beneficial in terms of wider post-trade efficiency, we agree with ESMA that this should not be mandated at this point in time. Moving to ISO20022 across the board will require a significant implementation effort from market participants.

Given that a move to ISO20022 is not considered critical in terms of facilitating the upcoming EU move to T+1, we believe that this should be de-prioritised at this point time in order to favour investment in aspects/requirements that are critical to support the move to T+1.

That said, given the wider benefits of ISO20022, we would also support a wider discussion on further standardisation post-T+1 and ICMA stands ready to actively contribute to this important debate.

At this stage, more important than imposing a single standard would be to achieve alignment with regards to key data fields and to ensure that existing standards are used correctly.

More specifically related to the exchange of allocations and confirmations, we also note that currently widely adopted tools to automate the process are not necessarily based on ISO20022, so this would be less relevant in this specific context.

Again, the key principle behind RTS requirements related to messaging should be to facilitate automation and STP. Hence, it would be important to ensure that there is sufficient flexibility to make sure that efficient existing solutions can be maintained, especially in light of the upcoming transition to T+1 and the very ambitious timelines involved. Referring specifically to the “latest international standard” also raises questions in terms of future proofing of the rules.

<ESMA\_QUESTION\_CSDC\_13>

**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)?**

<ESMA\_QUESTION\_CSDC\_14>

We would refer ESMA to the substantial work on this topic undertaken in the context of the ECB’s AMI-SeCo and its subgroups, which have been considering in detail the impacts of a wider move to ISO20022 and this continues to be an important focus area.

<ESMA\_QUESTION\_CSDC\_14>

**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.**

<ESMA\_QUESTION\_CSDC\_15>

Yes, we are supportive of this proposal and would also refer ESMA to the related amendment proposal put forward in the industry roadmap.

<ESMA\_QUESTION\_CSDC\_15>

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

<ESMA\_QUESTION\_CSDC\_16>

Beyond any regulatory requirements, we would also point out the importance of multiple ongoing industry initiatives to drive the use of market standards to increase market efficiency and facilitate the digital transformation of capital markets while also working against the risk of further fragmentation.

In this context, we would highlight ICMA's ongoing work with ISDA and ISLA to develop and encourage implementation of the "Common Domain Model" for bonds, SFTs and derivatives. In addition, we would also note ICMA's work with members on a Bond Data Taxonomy which was published in March 2023 providing an agreed language to promote automation and reduce the risk of fragmentation across bond issuance, trading, settlement and distribution.

It is important that regulators support and embrace industry initiatives such as these to make sure that regulation is supportive and doesn't restrict industry-led standardisation. One concrete example for such collaboration would be in the area of transaction reporting where the CDM can play an important role.

<ESMA\_QUESTION\_CSDC\_16>

#### **3.1.4 Onboarding of new clients**

**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.**

<ESMA\_QUESTION\_CSDC\_17>

While we agree with the objective to ensure that this data is continuously kept up to date in order to avoid friction in the settlement process, we would note that this should be a shared responsibility between investment firms and their clients.

Whether this can be achieved depends on both sides and this should be reflected in the rules. Rather than imposing this requirement on investment firms only, we would suggest turning this into a mutual obligation. For example, the rules could require investment firms and their clients

to have arrangements in place to ensure that the related data is collected and kept up to date. Adopting one of the automated solutions that exist would moreover allow clients to satisfy this rule for all their counterparts at the same time.

Alternatively, we would note that the same outcome could probably also be achieved through best practices which could specify the respective responsibilities in more detail.

<ESMA\_QUESTION\_CSDC\_17>

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

<ESMA\_QUESTION\_CSDC\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_18>

### **3.1.6 Partial settlement**

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

<ESMA\_QUESTION\_CSDC\_19>

ICMA strongly supports the deletion of art.12 and therefore mandating all CSDs to provide H/R and partial settlement functionality which are both important tools to support settlement efficiency.

In order to avoid confusion, it should be clarified that partial settlement in the context of article 10 refers to automatic partial settlement functionality (auto-partialling) provided and applied by CSDs, ie not partial settlement agreed bilaterally between the trading counterparties. While manual partial settlement is best practice whenever auto-partialling is not available, it is far less efficient as it needs to be bilaterally agreed and therefore does not have the same benefits in terms of settlement efficiency and systemic risk reduction.

As regards the use of auto-partialling, we would support a stronger mandate than proposed by ESMA, removing the current optionality as a default. We note that the current proposal merely replicates what is already the case in T2S. In order to maintain a degree of flexibility in cases where auto-partialling might not be appropriate, there could be a possibility for both parties to bilaterally agree to opt-out (on a transaction-by-transaction basis), but this should not be a unilateral process as it is the case today.

As noted for instance in ICMA's 2022 paper [Optimising Settlement Efficiency](#), auto-partialling is one of the key tools to support settlement efficiency and its real benefits arise when it is used across the board by all market participants (avoiding disruption in settlement chains), so that settlement efficiency is optimised at a system level. This will be even more critical in a T+1 environment which will put great pressure on current processes and will introduce significant risks in terms of settlement efficiency.

In this context, the introduction of partial release functionality has been critical as it removes one of the key barriers to a comprehensive use of auto-partialling, specifically where omnibus accounts are involved. Consequently, we would support an explicit mandate for all CSDs to also offer Partial Release functionality. Article 12 should be extended accordingly.

In summary, ICMA would support mandating the use of auto-partialling as a default. There may be very limited cases where such a mandate is not appropriate, but these could be addressed by allowing parties to bilaterally agree to opt-out.

<ESMA\_QUESTION\_CSDC\_19>

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

<ESMA\_QUESTION\_CSDC\_20>

ICMA strongly supports the deletion of art.12 and therefore mandating all CSDs to provide H/R and partial settlement functionality.

<ESMA\_QUESTION\_CSDC\_20>

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

<ESMA\_QUESTION\_CSDC\_21>

Whether mandated or not, it is important to further encourage and incentivise the use of auto-partialling, including in terms of pricing. We would support a review by CSDs of existing fee structures in order to make sure that the appropriate incentives are in place for the use of auto-partialling, making sure that any additional fees are minimal and not a cost factor for firms in terms of deciding whether to use the functionality or not (where there is a choice).

Beyond economic incentives, it will be important to drive further best practice and standardisation of auto-partialling facilities. We would highlight that ICMA already adopted relevant best practices on the use of auto-partialling, both in the repo and the cash bond market, along with best practices on other settlement optimisation tools that we comment on below (including shaping and auto-borrowing). On the repo side, the related considerations and recommendations are included in the [ERCC Guide to Best Practice in the European Repo Market](#). On the secondary market side, [similar recommendations](#) have been incorporated into ICMA's Secondary Market Rules and Recommendations.

Beyond usage, we would also support more granular recommendations in relation to the key features of the (I)CSDs' auto-partialling functionalities, including applicable thresholds, transparency on usage as well as other operational aspects. We note that the EUT1-IC, working closely with the CSDs, is probably best placed to develop and agree such additional recommendations.

<ESMA\_QUESTION\_CSDC\_21>

**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?**

<ESMA\_QUESTION\_CSDC\_22>

Provided that H/R and partial release functionality is available, we believe that auto-partialling can be applied across all scenarios and transaction types, including intra-CSD, cross-CSD and conditional settlement. The proposal above to give parties, where necessary, the option to bilaterally agree an opt-out on a trade-by-trade basis would address any potential scenarios where auto-partialling might not be appropriate. However, this should not be a unilateral decision and only applied where necessary.

<ESMA\_QUESTION\_CSDC\_22>

### 3.1.7. Auto-collateralisation

**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.**

<ESMA\_QUESTION\_CSDC\_23>

ICMA is supportive of ESMA's proposal to mandate CSDs to offer auto-collateralisation functionality.

However, we note that there is an important distinction between commercial bank money settlement (e.g. in the ICSDs) and central bank money (e.g. in T2S). The concept of auto-collateralisation as described in the CP seems to refer specifically to T2S auto-collateralisation. It should be clarified that this also applies to similar tools used outside of T2S as long as these achieve a similar objective. There may be a need for some additional distinctions, but we would refer to the relevant CSDs in terms of providing additional clarification.

<ESMA\_QUESTION\_CSDC\_23>

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

<ESMA\_QUESTION\_CSDC\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_24>

### **3.1.8 Real-time gross settlement versus batches**

**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.**

<ESMA\_QUESTION\_CSDC\_25>



In principle, ICMA is supportive of real-time settlement being available in all CSDs for a certain window, as this generally helps to identify (and resolve) settlement issues earlier in the day and is often more efficient.

That said, an important task for the EUT1-IC will be to establish the optimal settlement setup in terms of timings as well as the ideal combination between RTGS and net settlement batches that optimizes settlement efficiency in a T+1 environment at a minimum cost in terms of firms' intraday liquidity exposure.

The EUT1-IC is best placed to undertake this analysis and to put forward related recommendations that can be implemented at the level of CSDs in a harmonized way.

Given the technical nature of the question, we do not believe that this needs to be specified by ESMA in the RTS. However, it would be important for ESMA to support any related recommendations by the EUT1-IC and help enforcing these at the level of FMIs.

<ESMA\_QUESTION\_CSDC\_25>

**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.**

<ESMA\_QUESTION\_CSDC\_26>

As noted above, this should be left to the EUT1-IC to specify.

<ESMA\_QUESTION\_CSDC\_26>

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

<ESMA\_QUESTION\_CSDC\_27>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_27>

### 3.1.9 Reporting top failing participants

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

<ESMA\_QUESTION\_CSDC\_28>

ICMA is supportive of the proposed amendments.

<ESMA\_QUESTION\_CSDC\_28>

**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)?**

<ESMA\_QUESTION\_CSDC\_29>

ICMA would be supportive of reporting both alternatives, given that the relevance of each option will differ across CSDs.

<ESMA\_QUESTION\_CSDC\_29>

**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.**

<ESMA\_QUESTION\_CSDC\_30>

There is currently clearly a lack of transparency in relation to settlement efficiency with only very limited data being disclosed publicly. Providing more regular and more granular information would help the industry's efforts to improve settlement efficiency.

This also includes information made available by public authorities. In particular, we note that ESMA's TRV report is currently the only regular source of information regarding the level of settlement efficiency (based on CSDR date) and this is usually limited to a single chart in the publication.

<ESMA\_QUESTION\_CSDC\_30>

### 3.1.10 Reporting the reasons for settlement fails

**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?**

<ESMA\_QUESTION\_CSDC\_31>

We understand the rationale for the proposal, but we do not think that it is useful or necessary to put an explicit obligation on participants to provide this information. This is unlikely to add much value as participants also often won't be aware of specific root causes for settlement fails as those will often depend on their direct (or indirect) clients. This requirement will therefore impose a significant additional burden on CSD participants for only very limited benefits. Moreover, we would note that NCAs can already request further information from the relevant participants if they are not satisfied by the CSD reports. This seems sufficient to achieve the objective.

<ESMA\_QUESTION\_CSDC\_31>

**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”.**

<ESMA\_QUESTION\_CSDC\_32>

Refer to our previous ERCC survey on this question which is included in ICMA's 2022 paper [Optimising Settlement Efficiency](#) (see p.9)

<ESMA\_QUESTION\_CSDC\_32>

**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?**

<ESMA\_QUESTION\_CSDC\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_33>

### **3.1.11 CSDs' public disclosure on settlement fails**

**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.**

<ESMA\_QUESTION\_CSDC\_34>

ICMA is fully supportive of the proposal to publish information per asset class.

As further explained below, we note the limitation in terms of data per transaction type, as SFTs are not currently identified systematically at settlement instruction level.

<ESMA\_QUESTION\_CSDC\_34>

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

<ESMA\_QUESTION\_CSDC\_35>

Yes, ICMA would be very supportive of additional public data points. As mentioned above, the current level of transparency regarding settlement fails is not sufficient and granular, high-quality data on settlement efficiency would be important to support the ongoing industry efforts to improve settlement efficiency.

In addition to increasing the number of public data points, we would also highlight the importance of improving the quality and consistency of data reported by CSDs to make sure this is meaningful and comparable.

In addition to the breakdown by asset class, here are some suggestions for data points (reported to authorities) that would be useful to include in the public information:

- Settlement instructions and fail rates by transaction type (despite the fact that this is currently not particularly meaningful, until we achieve a more consistent usage of the transaction type identifier – see below)
- Total number and value of penalties
- Fail rates domestic versus cross-border settlement
- Fail reasons
- Average duration of fails

<ESMA\_QUESTION\_CSDC\_35>

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

<ESMA\_QUESTION\_CSDC\_36>

Yes, we would suggest that the frequency publication should be increased to monthly reports, in line with reporting to authorities.

<ESMA\_QUESTION\_CSDC\_36>

### **3.2.1    Unique transaction identifier (UTI)**

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

<ESMA\_QUESTION\_CSDC\_37>

In general, ICMA is supportive of the use of standardised global identifiers, such as the UTI, which is already mandated in various EU reporting regimes. In this context we would highlight specifically ICMA's work with the industry in the context of the implementation of SFTR

reporting, as we agreed detailed standards and recommendations related to the generation and sharing of UTIs (see [ICMA Recommendations for SFTR Reporting](#) – see section 3 on pp.54 ff). In our view the use of UTIs should be further encouraged as an industry best practice.

That said, we agree with ESMA that the UTI is not yet at a stage where its use can be mandated more broadly beyond reporting. We note the significant industry work in this area driven for example by SWIFT in order to understand current limitations and increase the wider usability of this identifier. This should continue as an industry-led process.

We would also encourage a discussion post-T+1 implementation including with ESMA and other public authorities on UTIs, including to explore use cases, current limitations, possible solutions and potential additional regulatory measures to further drive the usage of UTIs and other global identifiers. ICMA would be keen to play an active part in this discussion and is well placed to do so based on our extensive work on related best practices.

<ESMA\_QUESTION\_CSDC\_37>

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

<ESMA\_QUESTION\_CSDC\_38>

As noted above, ICMA is in principle very supportive of global identifiers, including the UTI, and we have done extensive work on related best practices in the context of SFTR reporting. However, based on the current setup there are clearly practical challenges and obstacles to applying UTIs more broadly, including at settlement level.

As mentioned by ESMA, netting (by CCPs as well as bilaterally) is one key challenge for the usage of UTIs at the level of settlement instructions, as this combines multiple trades into one or two settlement instructions.

In the case of SFTs more specifically, we would also note a number of additional challenges which are all related to the primary issue that the UTI as defined for SFTR is effectively a reference to the contract which has a fairly poor relation to what is sent for settlement. There are several reasons for this but most of them are by design and linked to important tools that are intended to improve settlement, such as:

- Shaping of instructions (1 UTI linked to multiple different settlements)

- Bilateral netting or 'Pair-offs' (X UTIs will be condensed down to a smaller number of settlements)
- Partial returns (only 1 UTI will have been created but will potentially be multiple different settlements)
- Agency trades (where there will be X UTIs for each settlement)

That said, as noted above, we are aware that SWIFT and other industry stakeholders are engaged in more detailed work related to the UTI and are looking at the related challenges and limitations as well as potential solutions.

<ESMA\_QUESTION\_CSDC\_38>

### 3.2.2 SSIs format

**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?**

<ESMA\_QUESTION\_CSDC\_39>

ICMA would agree with ESMA that regulatory change related to the SSI is currently not needed. We would highlight the focused industry work in this area, undertaken by the FMSB and others. This will also be an important area within the EUT1-IC discussions, which is indeed best placed to come up with related recommendations.

<ESMA\_QUESTION\_CSDC\_39>

### 3.2.3 Place of settlement (PSET) as mandatory field of written allocations

**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.**

<ESMA\_QUESTION\_CSDC\_40>

Based on feedback from members the lack of a consistent use of PSET was identified as a major impediment currently which leads to unnecessary delays in the settlement fails that can result in settlement fails, especially when it comes to cross-border settlement.

<ESMA\_QUESTION\_CSDC\_40>

**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.**

<ESMA\_QUESTION\_CSDC\_41>

ICMA would support a requirement to make PSET to a mandatory field in allocations (as per art.2(1)).

<ESMA\_QUESTION\_CSDC\_41>

### **3.2.4 Place of safe keeping (PSAF) and place of settlement (PSET) as mandatory fields of settlement instructions**

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

<ESMA\_QUESTION\_CSDC\_42>

In addition to mandating PSET in allocations, we would also support a more mandated use in settlement instructions. We note that this is already included in many of the existing pre-matching tools and needs to be used consistently to optimise settlement efficiency.

As regards PSAF, we understand from members that the field is equally important and should be mandated. However, there are scenarios where this information is not available that will have to be catered for. More specifically, one challenge is related to CCP clearing, as the CCP sends POA instructions on behalf of clients, often without knowing the ultimate place of safekeeping for those instruments.

There is a need for consistent best practice on the usage of both fields. Especially if either of the fields (or both) become mandatory in allocations/instructions, it would be important to



ensure that these fields are being used consistently. It would be helpful if ESMA could provide further guidance on the use of those fields as part of the relevant Level 3 measures.

<ESMA\_QUESTION\_CSDC\_42>

**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?**

<ESMA\_QUESTION\_CSDC\_43>

See our response to Q42 in terms of PSAF and related challenges for CCPs.

<ESMA\_QUESTION\_CSDC\_43>

### **3.2.5 Transaction type**

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

<ESMA\_QUESTION\_CSDC\_44>

The inconsistent use of the transaction type identifier has been highlighted by ICMA as a key impediment to transparency, specifically in relation to SFTs. This has been pointed out repeatedly in the past, including in the context of the CSDR settlement discipline discussions, but also more recently in the context of T+1. We would highlight again that based on current data it is not possible to distinguish in CSDs' settlement data between cash transactions and SFTs.

Given the current inconsistencies in the usage of the field, making this a mandatory matching field is probably not helpful as this would risk undermining settlement efficiency.

However, ICMA will continue to advocate for a more consistent use of the transaction type identifier through relevant best practice. We also note the ongoing focus in the AMI-SeCo on this topic, specifically the Collateral Management Group (CMG), which is probably best placed to drive a more consistent usage of the field, working closely with the SMPG.

More directly related to ESMA's remit, we would point out that the transaction type taxonomy used for settlement fail reporting under CSDR is not fully aligned with the relevant ISO taxonomy for the transaction types (field 22F). Based on a mapping between the two, ESMA

should amend the transaction type categories in CSDR, which would already be an important step towards more consistency.

<ESMA\_QUESTION\_CSDC\_44>

**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.**

<ESMA\_QUESTION\_CSDC\_45>

As noted above, the lists should be fully aligned with the relevant ISO taxonomy. A full mapping and further guidance would be helpful, particularly regarding “other transactions”.

<ESMA\_QUESTION\_CSDC\_45>

### **3.2.6 Timing for sending settlement instructions to the securities settlement system (SSS)**

**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?**

<ESMA\_QUESTION\_CSDC\_46>

We support the recommendation in the industry roadmap that participants need to ensure submission throughout the day (as close to real-time as possible) rather than bulk submission at end of day.

However, we also acknowledge that this does not make sense in all scenarios. In particular, this would be the case for CCPs given that instructions are submitted after netting, which is generally performed at the end of the trading day. This is already reflected in the industry roadmap which recommends sending instructions intraday “where possible and efficient to do so”.

<ESMA\_QUESTION\_CSDC\_46>

**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.**

<ESMA\_QUESTION\_CSDC\_47>

While this will be an important element in the EUT1-IC discussions and we expect clear related recommendations, we believe that an industry-led approach through best practice is preferable to a more rigid regulatory requirement, which may be counterproductive if it prevents firms from sending settlement instructions after a specified time (in case of errors for instance).

We would also note that the RTS also apply to transactions that are not subject to the T+1 rule (e.g. OTC), so a single deadline is clearly not feasible.

<ESMA\_QUESTION\_CSDC\_47>

### **3.2.7 Alignment of CSDs' opening hours, real-time/night-time settlement and cut-off times**

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

<ESMA\_QUESTION\_CSDC\_48>

The elements mentioned in the relevant section of the CP related to the CSDs' business day will be important elements in the ongoing EUT1-IC work to prepare for the EU transition to T+1. We expect these discussions to lead to clear recommendations in terms of changing the current operating timetable to accommodate T+1 and ensure a smooth transition.

That said, these discussions are ongoing, and we do not think that it is necessary or appropriate to specify these technical matters in legally binding RTS.

<ESMA\_QUESTION\_CSDC\_48>

**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.**

<ESMA\_QUESTION\_CSDC\_49>

For the details, we would refer to the ongoing discussions in the EUT1-IC.

One useful principle that could be adopted as a general rule is for CSDs to ensure that there is a net settlement window (technical netting) at the start of the settlement day (as is the case in T2S with the NTS batches), given the additional efficiencies involved.

<ESMA\_QUESTION\_CSDC\_49>

### 3.2.8 Shaping

**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.**

<ESMA\_QUESTION\_CSDC\_50>

Shaping has been highlighted by ICMA repeatedly as a key tool to further optimise settlement efficiency, especially in the absence of a comprehensive use of auto-partialling. Further background on the use and usefulness of shaping can be found, for instance, in ICMA's 2022 paper [Optimising Settlement Efficiency](#).

Given the larger instruction sizes, shaping is most relevant in fixed income and repo markets. ICMA has adopted relevant best practices related to shaping which apply to both cash markets and repo markets. On the repo side, these are set out in the [ERCC Guide to Best Practice](#) (see paragraph 2.70).

We also note that both Eurex Clearing and LCH already apply shaping on an automated basis (in line with ICMA's best practice recommendations).

We will continue to push for a wider adoption of those best practices on a bilateral basis. However, we would also highlight that an automatic application of shaping at the level of trading

venues or the CSD would be desirable, and we strongly support the findings and recommendations of the UK AST report in this regard.

At this stage, we agree with ESMA that there is probably no need for a specific mandate as part of the RTS, but we will advocate for strong related recommendations at the level of the EUT1-IC and would welcome ESMA's support.

<ESMA\_QUESTION\_CSDC\_50>

### **3.2.9 Automated securities lending**

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

<ESMA\_QUESTION\_CSDC\_51>

As pointed out in previous ICMA analysis, specifically the [paper](#) referenced above, we believe that the (I)CSDs' auto-borrowing facilities are an important and extremely effective tool to support settlement efficiency.

There should be a strong push for broader availability of auto-borrowing facilities beyond the ICSDs and ICMA will continue to push for this as a matter of best practice. In this context, we note that related best practices have already been adopted in relation to repo and secondary markets. On the repo side, we would refer to the [ERCC's Guide to Best Practice](#) (see paragraph 2.80).

That said we acknowledge the technical and legal obstacles that would have to be overcome to allow all CSDs to offer similar facilities and would agree with ESMA that a regulatory requirement at this stage is probably not appropriate. That said and considering the potential positive impacts of auto-borrowing, we would very much welcome further analysis on those obstacles and how to overcome them. It would also be important to closely monitor the usage of these tools and encourage increased take-up from both borrowers and lenders.

<ESMA\_QUESTION\_CSDC\_51>

### **3.2.10 Other proposals regarding settlement discipline measures and tools to improve settlement efficiency**

**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.**

<ESMA\_QUESTION\_CSDC\_52>

The proposed regulatory measures, complemented by more detailed best practices that are being developed by the EUT1-IC should be important steps to further improve settlement efficiency and prepare the market for the upcoming transition to T+1.

As proposed as part of the industry roadmap to T+1, in our view a temporary suspension of cash penalties in the aftermath of the transition to T+1 would be important to avoid any distortions and make sure that the market returns to business as usual before applying penalties again.

In the longer term, ESMA should continue to monitor the proportionality and effectiveness of cash penalties as a tool to improve settlement efficiency. Given the operational costs and complexities involved in the penalty regime and the fact that such a regime is unique to Europe, this should be an ongoing consideration.

Needless to say that in the context of T+1 the application of MBIs would be even more disastrous than in normal market conditions. We strongly believe that MBIs as a potential settlement discipline tool should be shelved permanently. For further details on this topic, we would refer to the extensive ICMA publications and comments related to MBIs.

<ESMA\_QUESTION\_CSDC\_52>

### **3.2.11 Costs and Benefits**

**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.**

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

<ESMA\_QUESTION\_CSDC\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CSDC\_53>

