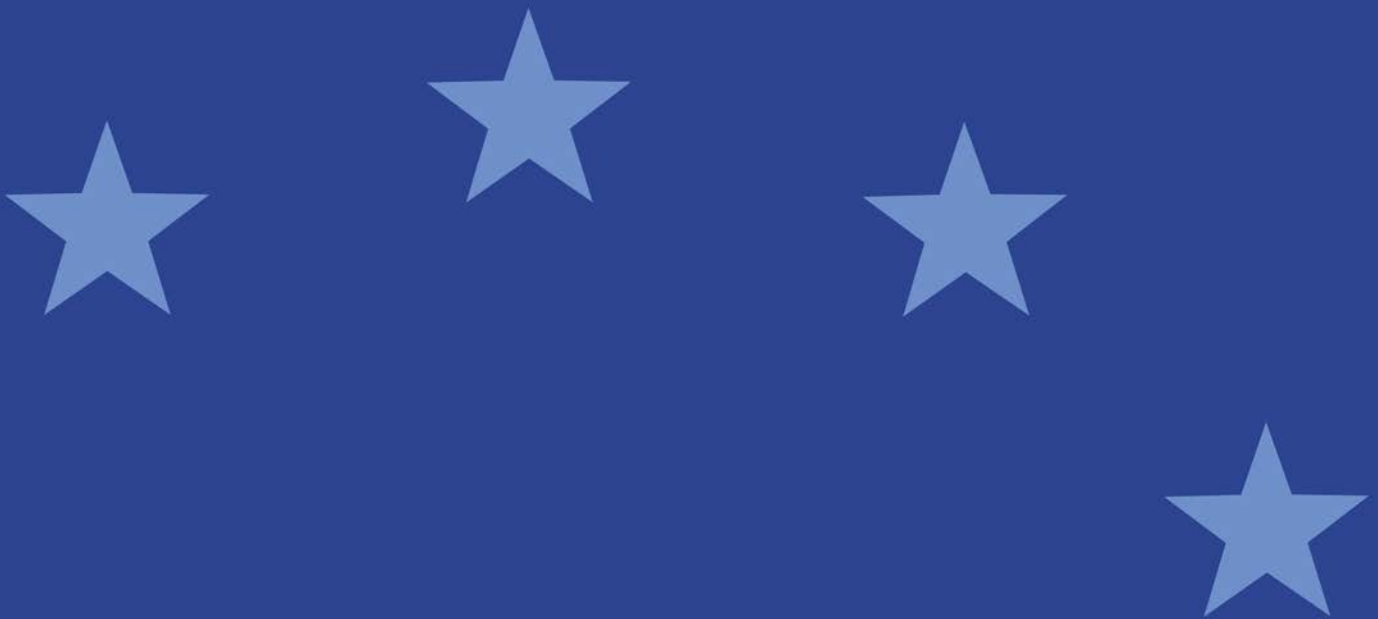




European Securities and
Markets Authority

Reply form for the Technical Standards under the CSD Regulation





European Securities and
Markets Authority

Date: 18 December 2014



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper - Technical Standards under the CSD Regulation, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, please follow the instructions described below:

- i. use this form and send your responses in **Word format**;
- ii. do not remove the tags of type <ESMA_QUESTION_TS_CSDR_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- iii. if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

- i. if they respond to the question stated;
- ii. contain a clear rationale, including on any related costs and benefits; and
- iii. describe any alternatives that ESMA should consider

Naming protocol:

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_TA_CSDR_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were ESMA, the name of the reply form would be ES-MA_TS_CSDR_AIXX_REPLYFORM or ESMA_CE_TS_CSDR_AIXX_ANNEX1

Responses must reach us by **19 February 2015**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input/Consultations'.

Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 'Disclaimer'.



General information about respondent

Are you representing an association?	No
Activity:	Government, Regulatory and Enforcement
Country/Region	Sweden



Q1: Do you think the proposed timeframes for allocations and confirmations under Article 2 of the RTS on Settlement Discipline are adequate?

If not, what would be feasible timeframes in your opinion?

Please provide details and arguments in case you envisage any technical difficulties in complying with the proposed timeframes.

<ESMA_QUESTION_TS_CSDR_1>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TS_CSDR_1>

Q2: Do you agree with the cases when matching would not be necessary, as specified under Article 3(2) of the draft RTS?

Should other cases be included? Please provide details and evidence for any proposed case.

<ESMA_QUESTION_TS_CSDR_2>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TS_CSDR_2>

Q3: What are your views on the proposed approach under Article 3(11) of the draft RTS included in Chapter II of Annex I?

Do you think that the 0.5% settlement fails threshold (i.e. 99.5% settlement efficiency rate) is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

Do you think that the 2,5 billion EUR/year in terms of the value of settlement fails for a securities settlement system operated by a CSD is adequate? If not, what would be an adequate threshold? Please provide details and arguments.

<ESMA_QUESTION_TS_CSDR_3>
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Q4: What are your views on the proposed draft RTS included in Chapter II of Annex I?

<ESMA_QUESTION_TS_CSDR_4>
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Q5: What are your views on the proposed draft RTS on the monitoring of settlement fails as included in Section 1 of Chapter III of Annex I?

<ESMA_QUESTION_TS_CSDR_5>
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Q6: What are your views on the proposed draft RTS related to the penalty mechanism? Do you agree that when CSDs use a common settlement infrastructure, the procedures for cash penalties should be jointly managed?

<ESMA_QUESTION_TS_CSDR_6>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TS_CSDR_6>

Q7: What are your views on the proposed draft RTS related to the buy-in process?

In particular, what are your views on applying partial settlement at the end of the extension period? Do you consider that the partialling of the settlement instruction would impact the rights and obligations of the participants?

What do you think about the proposed approach for limiting multiple buy-in and the timing for the participant to provide the information to the CSD?

<ESMA_QUESTION_TS_CSDR_7>
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Q8: What are your views on the proposed draft RTS related to the buy-in timeframe and extension period?

<ESMA_QUESTION_TS_CSDR_8>
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<ESMA_QUESTION_TS_CSDR_8>

Q9: What are your views on the proposed draft RTS related to the type of operations and their timeframe that render buy-in ineffective?

<ESMA_QUESTION_TS_CSDR_9>
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Q10: What are your views on the proposed draft RTS related to the calculation of the cash compensation?

<ESMA_QUESTION_TS_CSDR_10>
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Q11: What are your views on the proposed draft RTS related to the conditions for a participant to consistently and systematically fail?

<ESMA_QUESTION_TS_CSDR_11>
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Q12: What are your views on the proposed draft RTS related to the settlement information for CCPs and trading venues?

<ESMA_QUESTION_TS_CSDR_12>



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<ESMA_QUESTION_TS_CSDR_12>

Q13: What are your views on the proposed draft RTS related to anti-avoidance rules for cash penalties and buy-in?

<ESMA_QUESTION_TS_CSDR_13>

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Q14: Do you agree that 18 months would be an appropriate timeframe for the implementation of the settlement discipline regime under CSDR? If not, what would be an appropriate timeframe in your opinion? Please provide concrete data and evidence justifying a phase-in for the settlement discipline measures and supporting your proposals.

<ESMA_QUESTION_TS_CSDR_14>

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Q15: What are your views on the proposed draft RTS on CSD authorisation (Chapter II of Annex II) and draft ITS on CSD authorisation (Chapter I of Annex VI)?

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Q16: What are your views on the proposed draft RTS on CSD review and evaluation (Chapter III of Annex II) and draft ITS (Chapter II of Annex VI)?

<ESMA_QUESTION_TS_CSDR_16>

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Q17: What are your views on the proposed draft ITS on cooperation arrangements as included in Chapter III of Annex VI?

<ESMA_QUESTION_TS_CSDR_17>

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Q18: What are your views on the proposed draft RTS on CSD recognition (Chapter IV of Annex II)?

<ESMA_QUESTION_TS_CSDR_18>

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Q19: What are your views on the proposed approach regarding the determination of the most relevant currencies?

<ESMA_QUESTION_TS_CSDR_19>

Sveriges Riksbank welcomes the opportunity to comment on the proposed technical standards under the CSD Regulation (CSDR).

The role of central banks in CSDR is determined by the definition of relevant authority in Article 2.1 (18) CSDR, i.e. any authority referred to in Article 12. The *most relevant currencies* are linked to one of three criteria for determining relevant authority in Article 12 of CSDR. Our view is that ESMA's proposal on the criteria for determining the most relevant currencies which says: "the most relevant currencies should be the three largest currencies settled delivery versus payment in a CSD in one year, provided that the settled value exceeds 5 percent of the total settled value in the CSD in one year" is too strict. As a consequence, some central banks whose operations depend on the well-functioning of a CSD and therefore have a legitimate interest in the operation of that CSD will be excluded from the right to share information and be consulted in the supervision and authorization of that CSD, as described in CSDR.

Sveriges Riksbank suggests that ESMA's proposal is amended by *increasing the number of relevant currencies from three to five* and by *deleting the proposed threshold of 5% of settled value*. We also propose to *add a **review clause*** to the criteria defining relevant currency to enable a future amendment of the criteria, should this prove necessary. More specifically, we propose the following wording for the determination of the most relevant currencies:

1. *The most relevant Union currencies shall be identified on the basis of the relative share of each currency in the CSD's total value of securities settled on a delivery versus payment basis, calculated over a period of one year.*
2. *The most relevant Union currencies shall be the **five** currencies with the highest relative share calculated in accordance with paragraph 1.*
3. *The relative share of the currencies shall be calculated on an annual basis.*
4. *The criteria in paragraphs 1-3 should be reviewed within three years after entry into force, and if necessary amended.*

To allow for a proper functioning of the internal European market, the criteria for determining the most relevant currencies, and hence relevant authority, need to take several aspects into consideration: the central banks' interests in well-functioning securities settlement in their currencies; the relative importance of a currency for a CSD; and practical matters like manageable cooperation arrangements among authorities.

The interest of central banks in CSDs operations is connected to central banks' mandate to work for price stability and financial stability. Both monetary policy implementation and safeguarding financial stability require that the settlement of securities transactions, repos and the pledging of collateral in securities in the central bank's own currency are safe and efficient. To assure safe and efficient securities settlement, central banks need information about the CSDs and a forum for addressing any concerns regarding the CSDs.

Regarding the interest of central banks in CSDs operations it is also necessary to consider a possible consolidation of the CSD market in the Union that CSDR is opening for. The new legislation has to cater for both the current market situation with mainly national CSDs settling in central bank money and two ICSDs settling in commercial bank money, as well as for a potentially new situation where consolidation of CSDs will have taken place. In such a situation the central bank issuing the currency in which settlement takes place will have an interest in accessing information regarding that CSD, irrespective of its location in the Union.

The importance for central banks of safe and efficient securities settlement in their currency justifies a broad definition of relevant currency, implying that central banks that issue a currency in which settlement takes place in a CSD should be considered a relevant authority.

On the other hand, for a CSD that settles multiple currencies and large amounts, a relatively low settlement amount of total value in a currency might not be considered relevant for the CSDs operations. From this perspective one could argue that only a limited amount of currencies should be considered relevant and that there should be a threshold on settled amount at a certain level. One should also consider that the size of the cooperative arrangements remains proportionate and manageable, and therefore the number of relevant authorities should be limited.

However, since the type of cooperation arrangements envisaged under CSDR are about exchange of information and consultation only and no specific voting power is granted to the relevant authorities, we believe that it is very important to be relatively generous when defining the criteria, i.e. favouring the interest of the central banks of issue over other considerations such as the competent authorities interest in having fewer participants in the cooperation arrangements. Hence, we propose to increase the number of relevant currencies from three to five.

The reasoning behind our proposal to delete the threshold on settled value from the criteria is that since the total settled value can vary a lot between CSDs it is not possible to set a percentage that is appropriate for every CSD. A small percentage in a large CSD can represent substantial amounts in a currency which is considered relevant to monitor by the central bank of issue. If settlement in such a CSD is done in commercial bank money, relevant currency will be the only criterion for a central bank of issue to be considered a relevant authority for that CSD. A threshold which is set too high would lead to the exclusion of the central bank from the right to information and the right to participate in cooperation arrangements among authorities. By removing the threshold on settled value, it is assured that a central bank of issue that meets the relevant currency condition is not disqualified on the basis of settled value.

Finally, we propose a review clause since the criteria determining relevant authority, including our proposal, is to a degree arbitrary and mainly informed by qualitative arguments due to a lack of quantitative information. Additionally, the implications of CSDR on the CSD market are, as mentioned above, uncertain which further strengthens the merits of a review clause.

<ESMA_QUESTION_TS_CSDR_19>

Q20: What are your views on the proposed draft RTS on banking type of ancillary services (Chapter VI of Annex II) and draft ITS on banking type of ancillary services (Chapter IV of Annex VI)?

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Q21: What are your views on the proposed draft RTS on CSD participations (Chapter II of Annex III)?

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Q22: What are your views on the proposed draft RTS on CSD risk monitoring tools (Chapter III of Annex III)?

<ESMA_QUESTION_TS_CSDR_22>
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Q23: What are your views on the proposed draft RTS on CSD record keeping (Chapter IV of Annex III) and draft ITS on CSD record keeping (Annex VII)?

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Q24: What are your views on the types of records to be retained by CSDs in relation to ancillary services as included in the Annex to the draft RTS on CSD Requirements (Annex III)? Please provide examples regarding the formats of the records to be retained by CSDs in relation to ancillary services.

<ESMA_QUESTION_TS_CSDR_25>
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Q25: What are your views on the proposed draft RTS on reconciliation measures included in Chapter V of Annex III?

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Q26: Do you believe that the proposed reconciliation measures where other entities are involved in the reconciliation process for a certain securities issue within the meaning of Article 37(2) of CSDR are adequate? Please explain if you think that any of the proposed measures would not be applicable in the case of a specific entity. Please provide examples of any additional measures that would be relevant in the case of specific entities.

<ESMA_QUESTION_TS_CSDR_26>
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Q27: What are your views on the proposed reconciliation measures for corporate actions under Article 15 of the draft RTS included in Chapter V of Annex III?

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Q28: What are your views on the proposed draft RTS on CSD operational risks included in Chapter VI of Annex III?

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Q29: What are your views on the proposed draft RTS on CSD investment policy (Chapter VII of Annex III)?

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Q30: What are your views on the proposed draft RTS on access (Chapters I-III of Annex IV) and draft ITS on access (Annex VIII)?

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Q31: What are your views on the proposed draft RTS on CSD links as included in Chapter IV of Annex IV?

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Q32: What are your views on the proposed draft RTS on internalised settlement (Annex V) and draft ITS on internalised settlement (Annex IX)?

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