ASSOCIATION FRANÇAISE DES MARCHÉS FINANCIERS

SETTLEMENT DISCIPLINE – DRAFT RTS

ESMA'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

In the context of the CSDR Refit[1], ESMA has been mandated to develop draft Regulatory Technical Standards (RTS) in relation to settlement discipline measures and tools to improve settlement efficiency. ESMA is seeking input on its proposed RTS through this consultation.

These proposals are closely tied to the implementation of T+1 settlement in the EU, scheduled for October 2027, for which a legislative proposal was recently made by the European Commission[2].

AMAFI welcomes this consultation and thanks ESMA for the opportunity to contribute to its work on enhancing settlement discipline. Given the nature and scope of activities represented by the Association, our responses focus on the sections of the consultation relating to trading or those with potential impacts on trading. For post-trading matters, AMAFI collaborates closely with France Post Marché and refers to their response.

Before addressing the specific questions of the consultation, we would like to make the general comments set hereafter.

[1] Regulation (EU) 2023/2845.
[2] Proposal for a Regulation of the European parliament and of the Council amending Regulation (EU) No 909/2014 as regards a shorter settlement cycle in the Union.

I. GENERAL OBSERVATIONS

- **Taking into account the work of the T+1 Industry Tasforce.** Given the timing of this consultation, which comes ahead of the European T+1 Industry conclusions, AMAFI strongly encourages ESMA to take into account the work of the technical workstreams, which are addressing settlement efficiency and related operational matters in parallel. Ensuring consistency between the consultation conclusions and the outcomes of those workstreams will support a more effective transition to T+1.

- **Introducing mandatory requirements only in the cases where necessary, while relying on market practices otherwise**. In the context of the planned move to T+1, we acknowledge the need to move towards a mandatory approach on two specific aspects: a shortened deadline for the exchange of allocations and confirmations by the end of the trading day and the obligation to send confirmations in an electronic, machine-readable format to support STP.

  However, while certain procedural aspects warrant regulatory intervention to ensure standardisation across participants, others are adequately harmonised through market practices. Regulation should be limited to what is strictly necessary for the smooth functioning of markets. Should market practices not prove effective within a defined period after T+1 implementation, regulatory reinforcement may then be considered, but first, reliance should be placed on the ability of the market to adapt in a timely manner. Such approach would be fully consistent with the European Commission's stated objective of simplifying the regulatory framework, notably through reality checks measures.

- **Allowing sufficient time for implementation.** It is essential that the industry be granted adequate time to adapt to the new requirements, particularly smaller market participants who may face greater challenges in making the necessary adjustments. A transitional period should therefore be introduced between the entry into force of the RTS — potentially as early as January 2026 — and the date of application.

II. ANSWERS TO THE QUESTIONS

3.1 Proposed amendments to CDR 2018/1229 on settlement discipline

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?

AMAFI does not fully agree with the proposed amendments. We believe the deadline for participants to send written allocations and confirmations should be clearly defined, fixed and commonly agreed and understood, with no exemption. This position is based on the following considerations:

- **Ensuring consistency across the industry**: a fixed deadline would maximise the probability of settlement at T+1 while preventing the operational complexity and risks associated with managing multiple timelines.
- **Preserving the benefits of the Night-Time Settlement (NTS) process**: deferring volumes to the following day would reduce the effectiveness of the NTS process, which is designed to optimise settlement flows by netting all instructions received. This would ultimately undermine the efficiency gains expected from the transition to T+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?

AMAFI does not support the introduction of an obligation for investment firms to notify professional clients "*immediately*" upon order execution. While we understand the willingness to reduce delays, we believe it would be more appropriate to address this through best market practices rather than through a rigid regulatory requirement.

More specifically, in relation to the STP obligation, it is worth noticing that while many clients already have the necessary infrastructure in place to receive execution information electronically as soon as an order is executed, introducing an STP obligation could create unnecessary commercial and compliance burdens. This would be particularly true for investment firms dealing with small sized clients who still lack STP-compatible infrastructure. A more flexible, proportionate approach would better support the diversity of market participants and avoid creating unnecessary operational pressure.

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?

As mentioned in its response to Q2, AMAFI does not support the obligation for investment firms to notify clients "*as soon as*" orders are fulfilled. Similarly, and for the same reasons, a symmetrical obligation for clients to provide allocations and confirmations "*from the moment*" of notification by investment firms of the execution is not appropriate.

Such a legal obligation, if adopted, would create commercial and compliance burdens with clients not having the infrastructure to handle such a time-sensitive requirement. This could result in investment firms being forced to stop working with these clients. Moreover, the expression "*as soon as*" is inherently ambiguous and open to differing interpretations between parties, thereby increasing the risk of legal disputes.

Rather than an obligation to notify "*as soon as possible*" or to confirm "*from the moment*" of notification, it would be more appropriate to set fixed deadlines for sending allocations and

confirmations, as they cannot be subject to interpretation (please refer to our answer to Q1). This approach would provide legal certainty, facilitate operational alignment across the market, and avoid the risk of inconsistent application.

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?

AMAFI considers that CDR 2018/1229 should not specify the terms "*close of business*" for the purpose of Article 2(2). Given the variety of business models and different close-of-business times across markets, a single fixed definition would create challenges.

It is crucial to prevent any overlap between the trading day and the settlement day that could arise from the implementation of T+1, as this may cause confusion, particularly in relation to corporate actions. In this regard, a clear, fixed and commonly agreed and understood deadline should be sufficient.

Regarding the business day at CSD level, it is essential not to impose a rigid, one-size-fits-all definition through regulation. Flexibility is needed to adjust to evolving market hours and business practices.

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 seems to be confusion between the allocation/confirmation deadline and the CREST settlement instruction deadline. While the CREST deadline by 5:59 UK time is the one after which the netting cycle starts and therefore impacts costs if settlement instructions are not sent by then, it does not prevent instructions from being sent later. Missing the CREST deadline results in additional charges due to the disadvantage of not benefitting from netting, but transactions can still be processed afterwards. Therefore, this proposal is not relevant in this context.

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

We recommend referring to the ongoing work of the EU T+1 Task Force, through its relevant technical workstreams.

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 and confirmations?

We agree that making mandatory the use of electronic and machine-readable formats for written allocations and confirmations would help drive progress in settlement efficiency, especially useful in the context of T+1 settlement. While the market has been slow to adopt this approach voluntarily, particularly for smaller market participants, mandating electronic confirmations would likely

accelerate the shift towards more automated processes and facilitate compliance with the T+1 settlement cycle.

However, there are open questions regarding certain asset classes. For example, in the case of Repos, confirmations by email work well and do not require machine-readable formats. Forcing electronic formats in these cases could create unnecessary challenges and adaptation costs, as the current process is already effective. The industry may need further discussion to determine how these specific cases should be handled.

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?

As mentioned in Q1 and Q3, AMAFI agrees on a common, unique and fixed market deadline for sending allocations and confirmations, regardless of their format, whether electronic, machine-readable or otherwise.

Allowing investment firms to set their own deadlines (which may vary between firms) would lead to a fragmented and inconsistent situation. This issue should be addressed through market practices rather than through rigid legal obligations, thereby ensuring both flexibility and convergence.

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

N/A

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

N/A

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

N/A

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?

AMAFI understands the intention behind the proposed amendment, which is to encourage the use of electronic means of communication. This should indeed be the goal, keeping in mind that the transition should happen through market practices and not through a legal requirement.

In addition, AMAFI considers that imposing a specific standard would hinder innovation and flexibility. While using internationally recognised formats such as ISO 20022 is beneficial in some contexts, the choice of format should remain between investment firms and their clients. For example, the current SBI system ("Sociétés de Bourse - Intermédiaires", the protocol used by French brokers for confirmation and settlement) is efficient, even though if it does not comply with ISO 20022. The focus should be on automating manual processes and improving settlement efficiency, not on enforcing a particular protocol.

Q13: Do you agree that settlement efficiency would improve if all parties in the transaction and settlement chain used a single set of standards based on 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?

Please refer to our answer to Q12.

AMAFI does not support the imposition of a set of standards, as these go through frequent changes, which would be detrimental to system stability and would trigger significant costs on market participants to adapt accordingly.

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

N/A

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

N/A

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

N/A

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.

AMAFI supports the general objective of maintaining up-to-date Standard Settlement Instructions (SSIs), because these are absolutely key for timely settlement. However, it is essential to carefully consider the process by which these SSIs are collected and maintained.

In practice, investment firms have two main options for ensuring SSIs remain up to date:

1. **Collect SSIs at client onboarding**, store them, and rely on clients (who are professional ones) to notify the firm of any changes.
2. **Use an external database** where professional clients would be responsible for updating their SSIs whenever a change occurs.

We consider the first method inefficient and not fit for purpose. While collection at onboarding may be done correctly, clients may fail to communicate updates to all the investment firms they work with. This not only increases operational workload for each firm but also increases the risk of errors in maintaining accurate SSI records and of erroneous information being used in settlements.

We therefore strongly advocate for the second approach: the use of an external, centralised database similar to **Omgeo Alert**, a web-based global platform for the maintenance and dissemination of SSIs. Such a system would be accessible to both professional clients and investment firms, ensuring that up-to-date SSIs are maintained and widely shared. Under this model, the responsibility to maintain accurate data lies with professional clients, while investment firms benefit from immediate, reliable, and streamlined access to accurate SSI information.

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

Please refer to our answer to Q17.

3.1.5 Hold & Release

3.1.6 Partial settlement

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

N/A

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

N/A

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

N/A

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

N/A

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.

N/A

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

N/A

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.

N/A

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

N/A

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

N/A

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.

AMAFI believes that these proposed amendments should primarily be addressed by CSDs toward their clients.

However, we emphasise that participants are typically not directly responsible for settlement fails, as they often result from clients' actions. We therefore advocate for a clear disclosure in the "naming and shaming" reports, indicating that participants should not be held accountable for issues beyond their control.