



Industry Approach to CSDR Settlement Discipline Regime

The Joint Associations¹ welcome clarification from ESMA that national competent authorities are expected not to prioritise supervisory actions in relation to the application of the CSDR buy-in regime.²

We support the political agreement by the EU legislators on changes to Regulation (EU) No 909/2014 (“CSDR”) that allow for a delay to the implementation of mandatory buy-ins. The Joint Associations advocated for a reassessment of this aspect of the settlement discipline regime as part of the broader CSDR Review. The Joint Associations support a result that achieves the regulatory objectives in an effective and proportionate way, and that avoids significant negative consequences for market liquidity and stability.

While further formal steps need to be taken for the changes in the political agreement to be put into effect and formally adopted and published as EU law, the political agreement reflects the intent of EU legislators that mandatory buy-in requirements in the current CSDR should not go live on 1 February 2022.

The Joint Associations therefore believe that EU legislators do not expect market participants to take further action towards implementation of the mandatory buy-in requirements, due to come into effect on 1 February 2022, including but not limited to the contractual obligations of Article 25 of RTS (EU) 2018/1229 on Settlement Discipline (“CSDR RTS”).

On this basis, those associations that were intending to publish industry standard documentation to facilitate compliance with the mandatory buy-in requirements, will no longer be proceeding with publication.

With respect to all other CSDR settlement discipline measures (i.e., Articles 1 – 20 and 39 – 42 of the CSDR RTS) it is expected that market participants will proceed with implementation in accordance with the relevant regulatory deadline of 1 February 2022. These requirements include rules relating to cash penalties for settlement fails, and requirements relating to the allocation and confirmation process.

The Joint Associations encourage all national competent authorities in the EU to follow the guidance provided by ESMA on 17 December 2021. We stress the importance of ensuring full consistency with ESMA’s guidance to avoid a risk of uncertainty for market participants in any EU jurisdiction.

The Joint Associations welcome the opportunity for further engagement with the regulatory authorities on the important topic of increasing settlement efficiency in European capital markets.

¹ The Joint Associations are: AFME, AGC, EAPB, EBF, EDMA, EFAMA, FIA, ICMA, ISDA, ISLA

² https://www.esma.europa.eu/sites/default/files/library/esma70-156-5153_public_statement_on_buy-in.pdf

Annex – Information about signatory organisations

About AFME:

The Association for Financial Markets in Europe (AFME) is the voice of all Europe’s wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent the leading global and European banks and other significant capital market players. We advocate for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. We aim to act as a bridge between market participants and policy makers across Europe, drawing on our strong and long-standing relationships, our technical knowledge and fact-based work.

About AGC:

Established in 1996, the Association of Global Custodians (the “AGC”) is a group of 12 global financial institutions that each provides securities custody and asset-servicing functions primarily to institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members’ common interests on regulatory matters and market structure. The member banks are competitors, and the Association does not involve itself in member commercial activities or take positions concerning how members should conduct their custody and related businesses. The members of the Association of Global Custodians are: BNP Paribas; BNY Mellon; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company.

About EAPB:

The European Association of Public Banks (EAPB) gathers member organisations (financial institutions, funding agencies, public banks, associations of public banks and banks with similar interests) from 15 European Member States and countries, representing directly and indirectly the interests of over 90 financial institutions towards the EU and other European stakeholders. With a combined balance sheet total of about EUR 3,500 billion and a market share of around 15%, EAPB members constitute an essential part of the European financial sector.

About EBF:

The European Banking Federation is the voice of the European banking sector, bringing together 32 national banking associations in Europe that together represent a significant majority of all banking assets in Europe, with 3,500 banks - large and small, wholesale and retail, local and international – while employing approximately two million people. EBF members represent banks that make available loans to the European economy in excess of €20 trillion and that reliably handle more than 400 million payment transactions per day. Launched in 1960, the EBF is committed to a single market for financial services in the European Union and to supporting policies that foster economic growth.

About EDMA:

Electronic Debt Markets Association represents the common interests of companies whose primary business is the operation of regulated electronic fixed income trading venues (multilateral trading facilities and regulated markets) in Europe. EDMA seeks to foster and promote liquid, transparent, safe and fair markets and act as the voice and a source of consultation between the members in their roles as operators of such venues. EDMA projects collective views on regulatory matters and market structure topics to governments, policy makers and regulators for the benefit of the electronic fixed income markets. Our 7 members are: BGC Fenics, Bloomberg, BrokerTec, Liquidnet, MarketAxess, MTS and Tradeweb. More information at www.edmae.org

About EFAMA:

EFAMA, the voice of the European investment management industry, represents 28 Member Associations, 57 Corporate Members and 23 Associate Members. At end Q4 2020, total net assets of European investment funds reached EUR 18.8 trillion. These assets were managed by more than 34,350 UCITS (Undertakings for Collective Investments in Transferable Securities) and almost 29,650 AIFs (Alternative Investment Funds). At the end of Q2 2020, assets managed by European asset managers as investment funds and discretionary mandates amounted to an estimated EUR 24.9 trillion. More information is available at www.efama.org

About FIA:

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s membership includes clearing firms,

exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA's mission is to:

- support open, transparent and competitive markets,
- protect and enhance the integrity of the financial system, and
- promote high standards of professional conduct.

As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets.

About ICI Global:

[ICI Global](#) carries out the international work of the [Investment Company Institute](#), the leading association representing regulated funds globally. ICI's membership includes regulated funds publicly offered to investors in jurisdictions worldwide, with total assets of US\$40.7 trillion. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of regulated investment funds, their managers, and investors. ICI Global has offices in London, Brussels, Hong Kong, and Washington, DC.

About ICMA:

ICMA promotes well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association with offices in Zurich, London, Paris, Brussels and Hong Kong, serving more than 610 member firms in 65 jurisdictions. Among its members are private and official sector issuers, banks, broker-dealers, asset managers, pension funds, insurance companies, market infrastructure providers, central banks and law firms. It provides industry-driven standards and recommendations, prioritising four core fixed income market areas: primary, secondary, repo and collateral and sustainable finance. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

www.icmagroup.org

About ISDA:

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 925 member institutions from 75 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

About ISLA:

International Securities Lending Association (ISLA) is a leading industry association, representing the common interests of securities lending and financing market participants across Europe, Middle East and Africa. Its geographically diverse membership of over 160 firms, includes institutional investors, asset managers, custodial banks, prime brokers and service providers. Working closely with the global industry as well as regulators and policymakers, ISLA advocates the importance of securities lending to the broader financial services industry. ISLA supports the development of a safe and efficient framework for the industry, by playing a pivotal role in promoting market best practice, amongst other things. ISLA sponsors the Global Market Securities Lending Agreement (GMSLA) and the annual enforceability review in over 60 jurisdictions globally. Through member working groups, industry guidance, consultations and first-class events and education, ISLA helps to steer the direction of the industry and is one of its most influential voices on the European and global stage.

<https://www.islaemea.org/>