Memo

DACSI 21-1007

From : DACSI

Re : **Reply to the European Commission consultation on the review of the CSDR**
version 1.0 (as submitted) 2 Feb 2021

What follows is the text of DACSI's response to the European Commission's "targeted consultation document" titled "Review of Regulation on improving securities settlement in the European Union and on Central Securities Depositories" (DACSI 20-2293), as submitted on 3 February.

Section 1 – CSD authorisation & review and evaluation processes

Q 5 Are there specific aspects of the review and evaluation process, other than its frequency and the content of the information and statistical data to be provided by CSDs, that should be examined in the CSDR review?

None from a CSD participant perspective.

Q 6 Do you think that the cooperation among all authorities (NCAs and Relevant Authorities) involved in the authorisation, review and evaluation of CSDs could be enhanced (e.g. through colleges)?

- Yes

The application of CSD rules differs per jurisdiction; this impacts the cross-border provision of services directly and ultimately constitutes a barrier to the Union's single market ambitions. Current CSD passporting arrangements require approval from the relevant NCA for the market where the CSD would like to provide its services. A CSD wishing to provide services in multiple markets will need multiple approvals, which may differ in criteria. A **college of supervisors** would provide consistency, avoid regulatory arbitrage and promote competition.

Q 7 How do you think ESMA's role could be enhanced in order to ensure supervisory convergence in the supervision of CSDs (for example with possible further empowerments for regulatory technical standards and/or guidelines, or an enhanced role in supervisory colleges, or direct supervisory responsibilities)?

DACSI supports Recommendation 16 of the CMU Action Plan, which pleads for the continued 'strengthening' of ESMA's scope and for the development of a 'single rulebook'. Supervisory convergence across the member states will not only reduce the administrative burden on CSDs, but will also enable equivalence and will help to further develop harmonised EU level supervision and risk management of national and regional infrastructures.

Section 2 – Cross-border provision of services in the EU

Q 13 Do you think that the cooperation amongst NCAs would be improved if colleges were established for [or cooperative arrangements were always involved in] the Article 23 process?

- Don't know / no opinion

Current CSD passporting arrangements require approval from the relevant NCA for the market where the CSD intends to provide its services. The diverging application of CSD rules constitutes a barrier for the provision of cross-border services. This is especially relevant where a CSD wishes to provide services in multiple markets; it will need to obtain multiple approvals that may differ in criteria. A college of supervisors has the potential of stimulating cooperation and coordination and hence could provide consistency, avoid regulatory arbitrage and promote competition. In order to ensure a fair and competitive level playing field we view single supervision as a prerequisite for more integrated EU capital markets.

Q 14 How do you think ESMA's role could be enhanced in order to ensure supervisory convergence in the supervision of CSDs that provide their services on a cross-border basis within the EU?

We believe that ESMA's role could be enhanced to ensure supervisory convergence. A more inclusive and transparent approach to supervisory convergence, including mechanisms for consultation with market participants, would also help to ensure a better understanding and stronger support for the harmonisation of supervisory practices, and to minimise undue outcomes. The CMU's aim to promote an enhanced single rulebook is critical in order to prevent regulatory arbitrage and a 'race to the bottom' when it comes to supervision.

Section 3 – Internalised settlement

Q 15 Article 2 of Commission Delegated Regulation (EU) 2017/391 establishes the data which internalised settlement reports should contain. Do you consider this data meets the objectives of relevance, effectiveness, EU added value, coherence and efficiency?

- Yes

Compared to the original level 1 objective of SI reporting (i.e. to get an overview of the internalised settlement activities on an aggregated basis) the actual level 2 and level 3 requirements are complex and overly granular. We do not challenge the effectiveness and coherence of this data, but we are convinced that they exceed what is necessary. This implies that they are not fully relevant and are adding value at EU level to a limited extent.

If you are an entity falling under the definition of "settlement internaliser", what have been the costs you have incurred to comply with the internalised settlement reporting regime? Where possible, please compare those costs to the volumes of your average annual activity of internalised settlement.

Setting up the mechanisms for this reporting has been demanding for settlement internalisers (SIs). Actual cost levels varied highly amongst individual institutions, depending on their systems and data structure.

Now these initial set-up costs have been made, it is in the reporting SIs' interest that the requirements remain unchanged.

Q 16 Do you think that a threshold for a minimum level of settlement internalisation activity should be set for entities to be subject to the obligation to report internalised settlement?

- No

Please indicate:

- **whether you consider that the introduction of such a threshold could endanger the capacity of NCAs to exercise their supervisory powers efficiently;**
- **the cost implications of complying or monitoring compliance with such a threshold**

Now the mechanisms for reporting are built and the substantial set-up costs have been made, the introduction of thresholds would not be of any help. Monitoring the necessity of reporting periodically and maintaining the ability to report – should the threshold be exceeded – would be at least as demanding as providing the reporting without thresholds.

Hence, those of our members who qualify as SI see no benefit in the introduction of thresholds.

Section 4 – CSDR and technological innovation

Q 17 Do you consider that certain changes to the rules are necessary to facilitate the use of new technologies, such as DLT, in the framework of CSDR, while increasing the safety and improving settlement efficiency?

- The pilot regime is sufficient at this stage

Q 18 Would you see any particular issue (legal, operational, technical) with applying the following requirements of the CSDR in a DLT environment?

0 No opinion, 1 (not a concern) 2 (rather not a concern) 3 (neutral) 4 (rather a concern) 5 (strong concern)	
1. Definition of 'central securities depository' and whether platforms can be authorised as a CSD operating a SSS which is designated under the Settlement Finality Directive (SFD)	5
2. Definition of 'securities settlement system' and whether a blockchain/DLT platform can be qualified as a SSS under the SFD	5
3. Whether and under which conditions records on a DLT platform can fulfil the functions of securities accounts and what can be qualified as credits and debits to such an account;	5
4. Whether records on a DLT platform can be qualified as securities account in a CSD as required for securities traded on a venue within the meaning of MiFID II	5
5. Definition of 'book entry form' and 'dematerialised form'	0
6. Definition of "settlement" which according to the CSDR means the completion of a securities transaction where it is concluded with the aim of discharging the obligations of the parties to that transaction through the transfer of cash or securities, or both; clarification of what could qualify as such a transfer of cash or securities on a DLT network/ clarification what constitutes an obligation and what would qualify as a discharge of the obligation in a DLT environment	3
7. What could constitute delivery versus payment (DVP) in a DLT network, considering that the cash leg is not processed in the network/ what could constitute delivery versus delivery (DVD) or payment versus payment (PVP) in case one of the legs of the transaction is processed in another system (e.g. a traditional system or another DLT network)	5
8. What entity could qualify as a settlement internaliser, that executes transfer orders other than through an SSS	5

General considerations

The financial services industry in general and the securities domain in particular are firmly regulated, and for good reasons. The principles behind regulation include investor protection, legal certainty, operational robustness, and lead to concepts like finality and DvP. The choice (individual of collective) of players in the industry for a particular technology should never compromise the higher regulatory objectives. In other words: same service, same rules. The anticipated length of the pilot project is a testament to its expected complexity

There seems to be a misconception of what a DLT platform is: according to common understanding, a DLT platform would work as a decentralized, distributed ledger. It would therefore be operated by more than just one party which can have different functions (such as software provider, node and participant with different writing and reading rights). The technology behind DLT, or the application of DLT, could however also be used by one entity alone, for example by CSDs, involving separate locations or units within that entity serving as nodes.

Ad 2 – Definition of 'Securities Settlement system'

Article 39 of the CSDR sets out obligations on the CSD in the context of the Securities Settlement System.

In the context of applied DLT technologies, like as of any other technology, DACSI members support a **"same services, same risks same rules"** approach.

A DLT platform could work in a way that the entry of a new owner of DLT securities is comparable to the settlement of transactions in the conventional securities world. But such a platform would not per se be a securities settlement system (SSS), especially where the DLT securities are not listed. Although we agree that a DLT platform could potentially fulfil the definition of an SSS under certain circumstances, it would not automatically be a CSD. Likewise, internalised settlement of DLT securities would not take place, because no settlement chain exists in a (pure) DLT platform. In a DLT platform rather all participants have direct access to/knowledge of the ultimate beneficial owner without any intermediaries in between.

A CSD, in contrast, is a legal entity which operates an SSS. Furthermore, registering the new owner of a DLT security and deleting the former owner at the same time would only take place in one ledger. Therefore, the entry in the distributed ledger cannot be compared to the debit and credit of two (or more) accounts within a custody chain.

We therefore welcome the EC's proposal of a pilot regime under which all questions in the table will be adequately addressed and experience will be gained for future amendments needed as regards existing regulation.

Ad 7 - What could constitute delivery versus payment in a DLT network, considering that the cash leg is not processed in the network?

Delivery versus Payment (DvP) is achieved today in systems such as TARGET2-Securities (T2S), where the Eurosystem operates the cash and securities entries on behalf of all parties in Central Bank money, or it can be realised via a licensed commercial bank, which operates cash accounts in commercial bank money such as Euroclear Bank.

In the context of a DLT-based security token settlement, technical/operational solutions might be utilised to achieve DvP, or something similar. We are not aware of a restriction whereby a DLT-based SSS or CSD could not link to an RTGS system to the same effect

The link between a RTGS and a distributed ledger in which tokenised securities are administered will probably be part of the pilot project. We are not aware yet of an example which has already solved this matter. We are convinced there will be technical solutions to solve this important cornerstone of the financial market .

Do you consider that any other changes need to be made, either in CSDR or the delegated acts to ensure that CSDR is technologically neutral and could enable and/or facilitate the use of DLT?

- Don't know / no opinion

The regulatory obligations under the CSDR should continue to apply in respect of all securities, including digital forms of such securities. This is to ensure that the regulatory landscape remains technology neutral and does not treat those settling securities on a DLT platform in a more/less advantageous manner than those settling traditional securities.

Hence, we do not believe that any changes in the CSDR are necessary except for purposes of the pilot regime. Art. 3(2) CSDR stipulates that all where a transaction in transferable securities takes place on a trading venue the relevant securities shall be recorded in book-entry form in a CSD on or before the intended settlement date, unless they have already been so recorded.

In order to set up pilot operations for transactions in DLT securities which are traded on DLT MTFs or other DLT "trading venues", there needs to be an exception to Art. 3(2) CSDR: DLT securities do not have to be recorded in a CSD but in an entity permitted under the pilot regime.

Furthermore, clarification is needed that DLT trading/execution venues permitted under the pilot regime are not regarded as trading venues in the sense of Art. 3(2) CSDR. Otherwise, issuers who wish to issue DLT securities which are to be traded on DLT trading/execution venues under the pilot regime would remain obliged to record the DLT securities in a CSD although the DLT trading/execution venue itself is exempt from this requirement

Q 19 Do you consider that the book-entry requirements under CSDR are compatible with crypto-assets that qualify as financial instruments?

- Yes

The concept of book-entry form under CSDR appears to be workable in the context of security token settlement on a DLT.

Article 3(1) of the CSDR provides that "any issuer established in the Union that issues or has issued transferable securities, which are admitted to trading or traded on trading venues, shall arrange for such securities to be represented in book-entry form as immobilisation or subsequent to a direct issuance in dematerialised form". Security tokens are (typically) inherently dematerialised and should thus meet this book-entry requirement. However, it would be helpful if European regulators produced guidance to confirm that securities recorded on a DLT ledger fall within the meaning of securities issued in "dematerialised form" that fulfil the book-entry requirements.

Article 3(2) requires that where a "transaction in transferable securities takes place on a trading venue, the relevant securities must be recorded in book-entry form in a CSD on or before the intended settlement date, unless they have been so recorded". The requirement to record the security tokens in book-entry form does not appear to be inconsistent with DLT based records.

In light of Recital 11 according to which the Regulation does not intend to "impose one particular method for the initial book-entry recording, which should be able to take the form of immobilisation or of immediate dematerialisation", the only constraint imposed by the regulation is that this recording on an account should take place via an authorised central depository.

CSDR therefore does not oppose the recording of security tokens in the central depository taking place via a DLT network and not via an account as understood from an accounting viewpoint. However, routing via the intermediary represented by the CSD remains an obligation. As things stand at present, a platform listing security tokens should therefore perform settlement and delivery either via another market participant authorised as CSD or by being itself authorised as CSD.

Although some Member States have considered CSDR book-entry requirements equivalent to the holding chain of a block of security tokens, what a book-entry system really means in a DLT environment needs some clarification.

Q 20 Would you see any particular issue (legal, operational, technical) with applying the current rules in a DLT environment?

0 No opinion, 1 not a concern 2 rather not a concern 3 neutral 4 rather a concern 5 strong concern	
a. Rules on settlement periods for the settlement of certain types of financial instruments in a SSS	2
b. Rules on measures to prevent settlement fails	5
c. Organisational requirements for CSDs	5
d. Rules on outsourcing of services or activities to a third party	5

e. Rules on communication procedures with market participants and other market infrastructures	2
f. Rules on the protection of securities of participants and those of their clients	4
g. Rules regarding the integrity of the issue and appropriate reconciliation measures	5
h. Rules on cash settlement	4
i. Rules on requirements for participation	2
j. Rules on requirements for CSD links	4
k. Rules on access between CSDs and access between a CSD and another market infrastructure	4
l. Rules on legal risks, in particular as regards enforceability	5

The principles set out in CSDR are conceptually workable in the context of a CSD operating in a DLT environment. However, interpretative clarifications may be needed on the following:

Ad b Settlement discipline - settlement fails

Whilst DLT can drive settlement efficiency, we underline that settlement fails could still arise in a DLT context, for similar reasons to traditional CSDs. E.g.:

- Technology issues,
- 'Fat-finger' error,
- Lack of credit or prefunding,
- Mismatching,
- Lack of security tokens.

In a DLT context, it is conceivable that the entity performing the operator role would be able to monitor settlement fails.

Ad d Rules on outsourcing of services or activities to a third party

In a DLT environment, it is possible that some functions are not performed by a central entity (traditionally a CSD), but are performed by other actors, either alone or in collaboration. This is especially relevant where the mining or recording of transactions and the establishment of a consensus to validate a transaction can be performed by different processes and actors. In this context, clear guidelines must be established on the parameters and criteria for the outsourcing of such functions, and what roles the CSD must retain.

Ad e Rules on communication procedures with market participants and other market infrastructures

Platforms should be interoperable. Further consideration should be given to promote common standards that could enable interoperability between different DLT implementations and existing systems and financial infrastructures.

Ad h Rules on cash settlement

Most CSDs offer settlement in central bank money, in accordance with the relevant IOSCO principles. Article 40 of CSDR requires CSDs, for transactions denominated in the currency of the country where the settlement takes place, to settle the cash payments of its securities settlement system through accounts opened with a central bank, where practical and available. In a decentralised construct, it may be practically difficult to identify the country where the settlement takes place. Therefore, we find that settlement is deemed to have taken place in the jurisdiction where the DLT operator is authorised and governed, as today.

Where the cash payment is executed on a DLT network, the provision of settlement in central bank money in a DLT environment will be an important aspect for consideration. Presently, central bank money is not directly issued on DLT, however some central banks are revamping their RTGS systems to allow connection to DLT infrastructures.

Regulators and central banks should ensure that a DLT-based CSD could have the same level of central bank access and same access requirements as an equivalent traditional CSD, and that the rules applying to credit institutions providing banking services to current traditional CSDs also apply to DLT based CSDs.

Ad j/k Rules on requirements for CSD links, access between CSDs and other market infrastructures

While the principles behind the detailed rules on CSD links in terms of access are relevant in a context of DLT platforms connecting to each other and to traditional CSD platforms, there may be a need to review how all these rules apply in practice and whether they can all be fully implemented as such. Given that the technical platforms may be very different, any links may be complex to establish or create unnecessary risks. Interoperability between FMIs should also apply in the context of DLT platforms.

Ad l Settlement finality

Article 39 of CSDR sets out obligations of the CSD relating to settlement finality, including to:

- Ensure that its securities settlement system offers adequate protection to participants;
- Ensure that its securities settlement system defines the moments of entry and irrevocability of transfer orders in that securities settlement system;
- Disclose the rules governing the finality of transfers of securities and cash in a securities settlement system;
- Take all reasonable steps to ensure that finality of transfers of securities and cash is achieved either in real time or intra-day and in any case no later than by the end of the business day of the actual settlement date; and
- Settle all securities transactions against cash between direct participants in a securities settlement system operated by the CSD and settled in the securities settlement system on a DvP basis.

For security tokens, we would consider 'settlement' to occur at the point when consensus has been reached according to a predefined methodology. Accordingly, we see no inherent challenges with the concept of settlement finality in a DLT security settlement environment.

If you consider that there are legal, operational or technical issues with applying other rules regarding CSD services in a DLT environment (including other provisions of CSDR, national rules regarding CSDs implementing the EU acquis, supervisory practices, interpretation,), please indicate them and explain your reasoning.

We do not yet have answers to the question to what extent and under what circumstances digital substitutes can be treated as equivalent to paper-based documents. This would require protective mechanisms to be put in place for the use of digital substitutes that are equivalent to those under the current legal regime to ensure that consumers, investors, business counterparties and the public in general are sufficiently protected and legal arbitrage avoided.

In the area of securities, the requirement to have physical bond or share certificates being deposited with a central depository as a requirement for a listing on a stock exchange would have to be amended. Also, civil law rules for the transfer of title to dematerialized securities would have to be introduced. Currently the transfer of title of securities is based on the concept of a fictional transfer of possession of physical certificates – which would conceptually not work for merely digital securities.

Section 5 – Authorisation to provide banking-type ancillary services

Questions for CSDs

No observations.

Questions for all stakeholders

Q 27 In your view, are the thresholds foreseen in Article 54(5) set at an adequate level?

- Don't know / no opinion

Q 28 Do you think that the conditions set out in Article 54(4) for the provision of banking-type ancillary services by a designated credit institution are proportionate and help cover the additional risks that these activities imply?

- Don't know / no opinion

Q 29 Why do you think there are so few, if any, credit institutions with limited license to provide banking-type ancillary services to CSDs?
Please explain in particular if this is so due to obstacles created by the regulatory framework.

….

Q 30 Are there requirements within Title IV of CSDR which should be specifically reviewed in order to improve the efficiency of the provision of banking-type ancillary services to and/or by CSDs while ensuring financial stability?

- Don't know / no opinion

We do not have any particular views with regard to Title IV of CSDR. However, we would like to highlight the need to ensure that any changes to the current rules should not result in a relaxation of the prudential requirements for CSDs providing banking-type ancillary services. We believe that the CSDs' critical role as central market infrastructures for core functions should remain adequately protected from any additional risks, such as credit risks or market risks, which are typically associated with the provision of banking services.

Section 6 – Scope

Q 31 Do you consider that certain requirements in CSDR would benefit from targeted measures in order to provide further legal certainty on their scope of application?

- Yes

The scope of the Settlement discipline regime in general:

- market claims in cash; penalties for late payment, late settlement of buy-in transactions: should be explicitly excluded to prevent cumulative effects;
- processing of corporate actions and primary issuance settlements: should be explicitly excluded – not part of the Regulation's objectives;
- Instruments for which the main/principal place of trading is outside the EU:
    - shares that meet this criterion are explicitly excluded, but the logic of the Regulation implies that the exception applies to any instrument meeting the criterion;

- as determining the actual principal place of trading is dynamic, markets would strongly benefit from a mandate to ESMA to build and operate a database containing all in-scope instruments (Article 7(13) CSDR).

Q 32 Do you consider that the scope of certain requirements, even where it is clear, could lead to unintended consequences on the efficiency of market operations?

- Yes

We see the applicability of (mandatory) buy-in rules on non-EU parties as an issue: extraterritorial enforcement will be problematic.
In our view, calculation and offsetting/charging of penalties for cleared transactions should be entirely done by the CSD, in line with the intention expressed in the RTS to limit the number of cash transfers. This would result in an interpretation in accordance with regard to Art. 19 of Delegated Regulation 2018/1229.

Section 7 – Settlement discipline

Q 33 Do you consider that a revision of the settlement discipline regime of CSDR is necessary?

- Yes

If you answered yes, please indicate which elements of the settlement discipline regime should be reviewed (you may choose more than one option):

- Rules relating to the buy-in
- Rules on penalties
- Rules on the reporting of settlement fails
- Other: ……..

In previous consultation(s) ample critical notes have been made with regard to the buy-in regime rules. We appreciate that the Commission echoes these notes in its detailed questions 1-7 in the below table. In large, we concur with the multiple concerns about the impact of the regime in its current design, as elaborated by major trade associations at several occasions, including their responses to this consultation.

However, DACSI does not think that all suggestions for change should each be translated into amendments. Cumulation of all suggestions for changes does not necessarily lead to an effective and coherent buy-in regime, as several of them address the same concern.
We also anticipate that the implementation of the penalty regime may have a significant effect on settlement discipline and may reduce the number of "long outstanding non-settlements" significantly. If this expectation materialises, the cases potentially requiring buy-in will be much smaller in number and may have specific characteristics.

There is also another reason for approaching the penalty regime differently from the buy-in regime. The implementation of the penalty regime is broadly prepared throughout the infrastructure and concerns about the effects are modest (if not minor) compared to the disadvantages of eventual changes (that would be confirmed only close to the February 2022 implementation date). We would therefore plea for "no changes at all" to the penalty regime, safe for the scope clarifications as referred to in Q31.

On the other hand, suggestions for changes in the buy-in regime are multiple, complex and far-reaching, while preparations for implementation are lagging seriously, partly as a result of the uncertainty itself.

We think the most viable approach is keeping the penalty regime as it is and implementing it by February 2022, while postponing the implementation of the buy-in regime and reviewing it at a later stage, when the effects of the penalty regime on settlement efficiency are visible, when the necessity and potential scope of buy-in can be assessed, and when a choice can be made from the multiple suggestions for amendment.

Q 34 The Commission has received input from various stakeholders concerning the settlement discipline framework. Please indicate whether you agree with the statements below

0 No opinion, 1 disagree 2 rather disagree 3 neutral 4 rather agree 5 agree	
1. Buy-ins should be mandatory	2
2. Buy-ins should be voluntary	4
3. Rules on buy-ins should be differentiated, taking into account different markets, instruments and transaction types	5
4. A pass-on mechanism should be introduced	5
5. The rules on the use of buy-in agents should be amended	5
6. The scope of the buy-in regime and the exemptions applicable should be clarified	5
7. The asymmetry in the reimbursement for changes in market prices should be eliminated	5
8. The CSDR penalties framework can have procyclical effects	0
9. The penalty rates should be revised	3
10. The penalty regime should not apply to certain types of transactions (e.g. market claims in cash)	4

Ad 1-7 See our / same as answer to Q 33: suggested measures for repair are complex and far-reaching and cannot be successfully designed and built in time for a successful implementation by February 2022; we propose postponing the implementation of the buy-in regime and reviewing it at a later stage.
Existing buy-in rules set by CCPs for transactions they clear, should stay intact.

Ad 8 We do not have observations suggesting pro-cyclical effects from penalties.

Ad 9 We would not propose penalty rate changes at his stage; any change other than a mere change to the parameter values is likely to have a detrimental effect on preparations and operations. On the other hand, we suggest that applicable rates are put under a constant review, monitoring the effects of the penalty regime once implemented.

Ad 10 The scope of the penalty regime should be restricted to financial instruments with a country of issuance within the EU. As it stands only when "the principal venue for the trading of shares is located in a third country" are considered out of scope. All non-EU securities that can settle at an EU (I)CSD should also be exempt.
Rationale: current regulation creates significant challenges when it comes to failing chains that go cross-border to third countries.

Q 35 Would the application of the settlement discipline regime during the market turmoil provoked by COVID-19 in March and April 2020 have had a significant impact on the market?

- Don't know / no opinion

As demonstrated in publicly available figures, the market turmoil in March / April 2020 led to increased volumes of activity, and lower settlement rates.

If the CSDR settlement discipline regime had been applicable in its current design, and if market activity remained unchanged, then there would have been greater amounts of penalties, and a significantly higher number of buy-ins.

The penalty process, to a limited extent, and the buy-in regime, to a very great extent, would have generated much higher levels of manual processing. This would have been especially burdensome and difficult in the context of most staff of most market participants working from home.

It is reasonable to expect that the CSDR settlement regime – and in particular the buy-in regime - would have had a significant impact on market activity. The costs, risks, and operational complexity of the buy-in regime, as well as the market disruption caused by multiple, duplicative buy-ins would have pushed market makers, and liquidity providers, to scale down their activity.

Q 36 Which suggestions do you have for the improvement of the settlement discipline framework in CSDR? Where possible, for each suggestion indicate which costs and benefits you and other market participants would incur.

The role of collecting and distributing penalties – even when relating to CCP-cleared transactions - is to be fully assigned to CSDs, rather than partly to CCPs. The envisaged process of split responsibilities (CCP for CCP-cleared transactions and CSD for other) would substantially increase the complexity and technology development required by all parties involved. This would create an additional layer of actors to the collection/distribution process and would lead to less harmonisation and standardisation of the penalties process. Simplification of the process for market participants, eliminates the need for additional technology building by CCPs, clearing members and other parties in the chain.

This would imply the removal of Article 19 of level 2.

Section 8 – Framework for third-country CSDs

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Section 9 – Other areas to be potentially considered in the CSDR review

What other topics not covered by the questions above do you consider should be addressed in the CSDR review (e.g. are there other substantive barriers to competition in relation to CSD services which are not referred to in the above sections? Is there a need for further measures to limit the impact on taxpayers of the failure of CSDs)?

Timeline of settlement discipline (SD)

DACSI members are actively involved in ensuring full and timely compliance with the SD regime expected to go live in February 2022.

In this respect, our members believe that the EC should pay special attention to the timing of the adoption, entry into force and operation of the amendments to SD which will be proposed after of this consultation. This timing should be carefully synchronised and made compatible with the activities already ongoing and carried out by market operators in next months in order to meet the February 2022 deadline. Appropriate transitional provisions should be eventually introduced in order to i) give market participants sufficient time to adapt themselves to the amendments following this consultation and ii) to limit the extra activities and related costs that market participants will incur to comply with the above-mentioned amendments.

Specifically, we anticipate that - should the buy-in regime not be carved out or changed fundamentally – markets will not be ready for its implementation by February 2022, and would request and strongly recommend a further postponement of the entire settlement discipline regime.