

FINANS  
DANMARK

# CSDR – Guidelines for reporting of internalised settlement under Article 9

As regards the legal basis for Article 9 of CSDR<sup>1</sup>, including the RTS, ITS and ESMA Guidelines, a group of Danish settlement internalisers have found it necessary to prepare this memorandum as a supplement to the ESMA's Final Report – Guidelines on Internalised Settlement Reporting under Article 9 of CSDR (hereinafter "the Guidelines") in order to achieve a better understanding of what the reporting obligation entails.

The preferred custody account structure in the Nordic region is end-investor accounts in CSDs. Here, securities transactions are settled externally 1:1 in their entirety.

In cases where settlement internalisers use omnibus accounts in CSDs or custodian banks, and hence settle externally, and where instructions are not settled 1:1 in their entirety, it is assessed that there is a need to specify which settlement instructions are comprised by the reporting obligation, cf Article 9 of CSDR.

## Interpretation of objective

The objective of the legislation is assumed to be to give national and international supervisory authorities clear and transparent insight into settlement instructions submitted by, or on behalf of, clients with accounts at the bank in question that are settled **internally** between the bank and the client. The definition of such instructions is where the settlement instruction from the client is not forwarded **in its entirety** by the bank for settlement in a CSD, custodian bank or another legal entity, cf Chapter 5.1, 10 a of the Guidelines.

The term "**in its entirety**" shall be interpreted as follow: Where a client trades in its account at the bank and the settlement instruction is forwarded directly to a CSD or custodian bank or another legal entity, cf the Guidelines, after which the instruction is settled in an external account.

## Scope of the reporting obligation:

As regards the scope of the total reporting, reference is made to Chapter 5.1, no 13 of the Guidelines:

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<sup>1</sup> REGULATION (EU) No 909/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012

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*“A settlement internaliser should report all settlement instructions which meet the conditions specified in these guidelines, regardless of any netting performed by that settlement internaliser.”*

This is further emphasised in RTS 2017/391, paragraph 2.2:

*“A settlement internaliser should only report internalised settlements where it has executed a settlement instruction by a client of the settlement internaliser in its own books. A settlement internaliser should not report subsequent alignments of book-entry positions to reflect the settlement of instructions by other entities in the holding chain of securities, as these do not qualify as internalised settlement.”*

On the basis of the above, it is assumed to be the legislator's intention that netted settlement instructions in omnibus accounts are **not** to be included in the aggregated reporting. Consequently, reporting to the competent authority – in the form of “Report and transmission of information on internalised settlement” from RTS 2017/393 – will include the aggregated figure for internal gross settlement instructions in the period in question.

To simplify reporting by the banks, reference can be made to the following reporting matrix:

- Where external settlement takes place in end-investor accounts (eg at VP), it is not internalisation, and hence the bank has no reporting obligation, cf Article 9 of CSDR. **(see Scenario 1 below)**
- Where a settlement instruction is settled internally, ie with the bank as the counterparty, it is a case of internalisation and hence the bank has a reporting obligation, cf Article 9 of CSDR. **(see Scenarios 2 and 3 below)**

This means that the values reported will be based solely on settlement instructions originally settled for, or on behalf of, clients with accounts at the bank and for which the instructions are **not** forwarded in their entirety for settlement in an external legal entity (ie an external custodian bank or CSD), cf Chapter 5.1, 10 a and b of the Guidelines.

How the bank hedges its positions in the market is irrelevant to the reporting in question.

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As regards the actual reporting obligation, no distinction is made between Danish and foreign securities, immediate transactions or stock exchange transactions, market orders with or without limits or other order types.

Reporting shall take place in accordance with the templates found in the implementing technical standards (ITS) 2017/393.<sup>2</sup> It is assessed that it will not be possible to identify cash payments related to securities transactions (Field R0260). As a main rule, this field will be blank. See also the reference in paragraph 19 of the ESMA Guidelines.

Furthermore, the working group has interpreted the definitions below as follows:

Entity = legal entity = juridisk enhed in Danish

Branch = filial in Danish

The above interpretation of the scope of the reporting obligation will ensure that the values reported are transparent for the final recipient (the Danish FSA and ESMA), which is assessed to be in accordance with the objective of the reporting obligation, cf Article 9 of CSDR.

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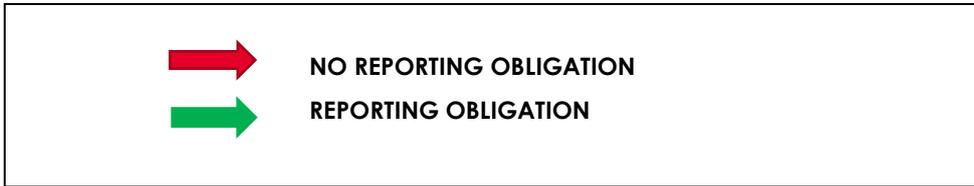
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<sup>2</sup> Commission Implementing Regulation (EU) 2017/393 of 11 November 2016 laying down implementing technical standards with regard to the templates and procedures for the reporting and transmission of information on internalised settlements in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council (ITS).



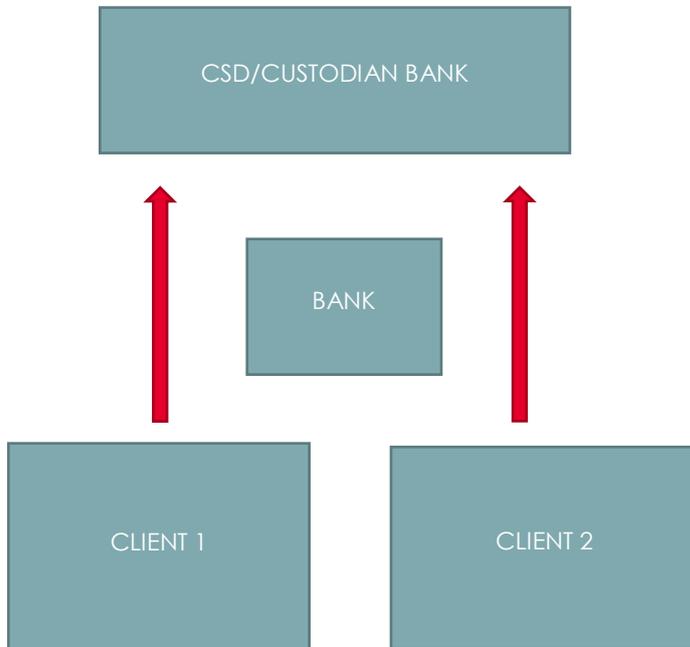
## Simplified overview – settlement instructions comprised by reporting obligation



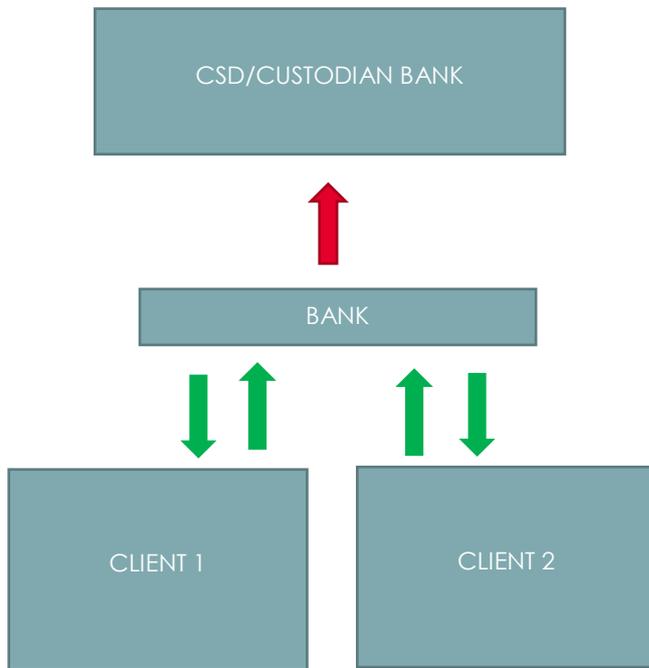
**Scenario 1:** No reporting obligation for settlement instructions settled 1-1 in external **end-investor accounts**

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**Scenario 2:** Reporting obligation for settlement instructions not forwarded **in their entirety** (ie internalised settlement instructions)



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**Scenario 3:** Reporting obligation for settlement instructions between internal accounts at the bank (**transfer between accounts**)

