

## **ESMA Consultation on guidelines on standardised procedures and messaging protocols used between investment firms and their professional clients under Article 6(2) of CSDR**

### **AMAFI and AFTI's contribution**

The Association Française des Professionnels des Titres (AFTI), is the leading association representing post-trade businesses in France and Europe. AFTI has over 80 members covering a wide range of activities, including market infrastructures, custodians, account holders and depositaries, issuer services providers, as well as reporting and data providers.

Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI's members operate for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives, including commodities. Nearly one-third of members are subsidiaries or branches of non-French institutions.

**Before responding to the specific questions of the ESMA consultation document, AMAFI and AFTI would like to point out the following preliminary remarks.**

#### **I. – PRELIMINARY REMARK**

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As a preamble to our answer, we would like to share our understanding of the notion of confirmation in the proposed guidelines.

We understand that it refers to the confirmation of the allocation and of all information which will facilitate the settlement on the transaction on the intended settlement date. Therefore it doesn't refer to the confirmation by the professional client of the acceptance of the terms of the transaction that follows the confirmation of the execution of the order, the latter being required under MiFID II (article 59 of Delegated regulation 2017/565). Indeed, such acceptance should not be given only when the broker has not received the necessary information in advance and doesn't hold the client's assets.

Our following answers will therefore be in line with this understanding.

## II. – RESPONSES TO THE ESMA SPECIFIC QUESTIONS.

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**Q1: Do you have any additional comments or suggestions regarding the proposed guideline? Please provide arguments supporting your comments and suggestions.**

We agree on the principle that the parties will exchange the information required under Article 6 of Regulation (EU) No 909/2014 depending on their role in each transaction.

**Q2: Do you have any additional comments or suggestions regarding the proposed guideline? Please provide arguments supporting your comments and suggestions.**

We expect the rules described in Article 7(10) of the REGULATION (EU) No 909/2014 specifying the scope of financial instruments to apply to all CSDR requirements in a harmonised way. This does not seem to be the case, especially when looking at paragraph 14 of the final Guidelines on Internalised Settlement Reporting, which has a different definition.

**Q3: Do you agree with the workflow described here? Should other steps be recommended? If so, please specify.**

We understand and share the requirement of exchanging a written allocation and confirming its terms within the defined timeline.

We consider that the proposed workflow complies with the requirement of obtaining a written allocation with all required information and confirming within the defined timeline. But as there is not so far a standardized sequence of steps, we believe that it is possible to have a process where all the suggested steps can occur in a different way.

The written confirmation of the terms can be included in the written allocation of cash/securities  
In some cases, the allocation information is provided with the acceptance of the execution, reducing the number of steps, as outlined in Figure 2 below.

The acceptance of the execution usually comes with the communication allocation.

To be noted that the acceptance or rejection of the execution is a missing step, should the Figure 1 reflect exactly the article 2 of the delegated regulation 2018/1229 (see below)

Figure 1

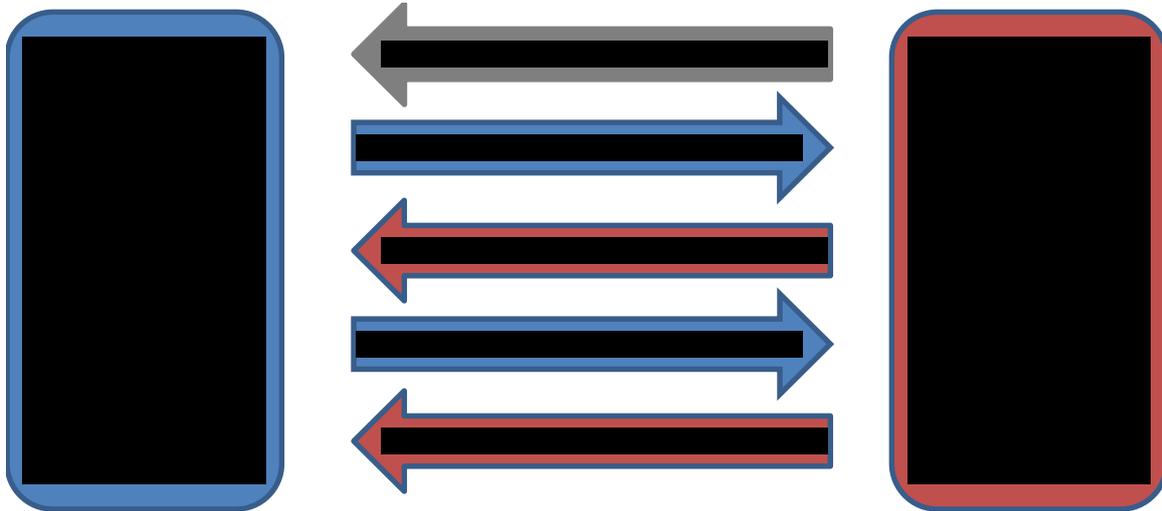
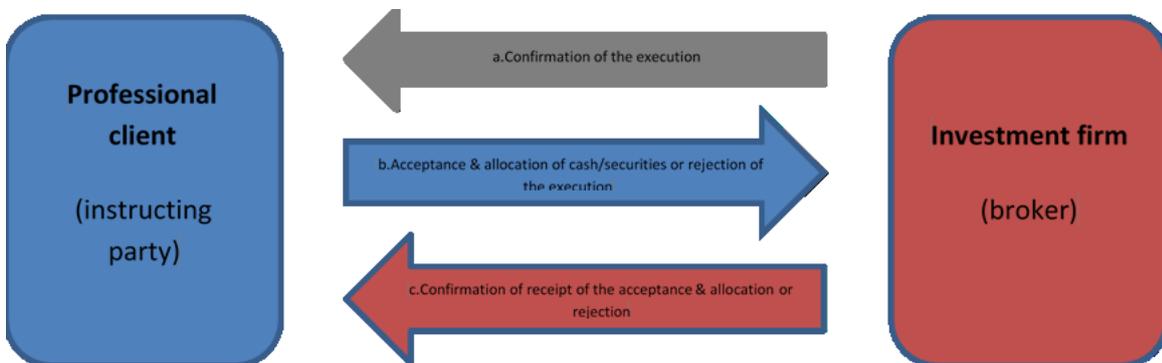


Figure 2



**Q4: (a) Do you have any additional comments or suggestions regarding the proposed guideline? Please provide arguments supporting your comments and suggestions.**

We don't have any additional comment

**(b) Do you see a need to develop a template for written allocation and confirmations not sent electronically?**

We consider that a template proposed by ESMA for written allocation and confirmations not sent electronically could be useful, as it would provide for a standardized way to provide the confirmation in such a case.

**Q5: : Is any clarification needed in respect of the content of certain items? If so, please indicate. For instance, should the information to be communicated under fields (f) “trade price of the financial instrument” or (i) “total amount of cash that is to be delivered or received”, or any other field be further specified?**

Data required as per MiFID II in the confirmation of the execution should be directly kept as such in the allocation sent by the professional client to the investment firm.

Regarding the fields related to entities:

(j) the identifier of the entity where the securities are held;

(k) the identifier of the entity where the cash is held;

(l) the names and numbers of the securities or cash accounts to be credited or debited.

We consider that a certain level of flexibility should apply to the contents of these fields in view of local market practices which, in some cases, require a more detailed level than the entity only.

**Q6: Do you believe any additional information should be required by the investment firm for facilitating the settlement of the transaction? If so, please specify.**

We consider that the Place of Settlement (PSET) would be useful additional information to secure the settlement.

**Q7: : Do you have any additional comments or suggestions regarding the proposed guideline? Please provide arguments supporting your comments and suggestions.**

We fully agree with the need for a professional client to have available the final price. However we would like to recall that with regards to MiFID II obligations on the confirmation of the terms of execution (article 59 of the delegated regulation 2017/565) an investment firm is already required to provide its client with all the details of the transaction including a sum of commissions and expenses charged. Thus, we do not see the need for this guideline.

**Q8: : Do you have any additional comments or suggestions regarding the proposed guideline? Please provide arguments supporting your comments and suggestions.**

To facilitate the settlement of transaction at intended settlement date, we recommend the usage of SSIs instead of being obliged to confirm the settlement details for each individual transaction.