CSDR– Settlement penalties non-T2S scenarios

October 2018

CSDR SD Penalties regime

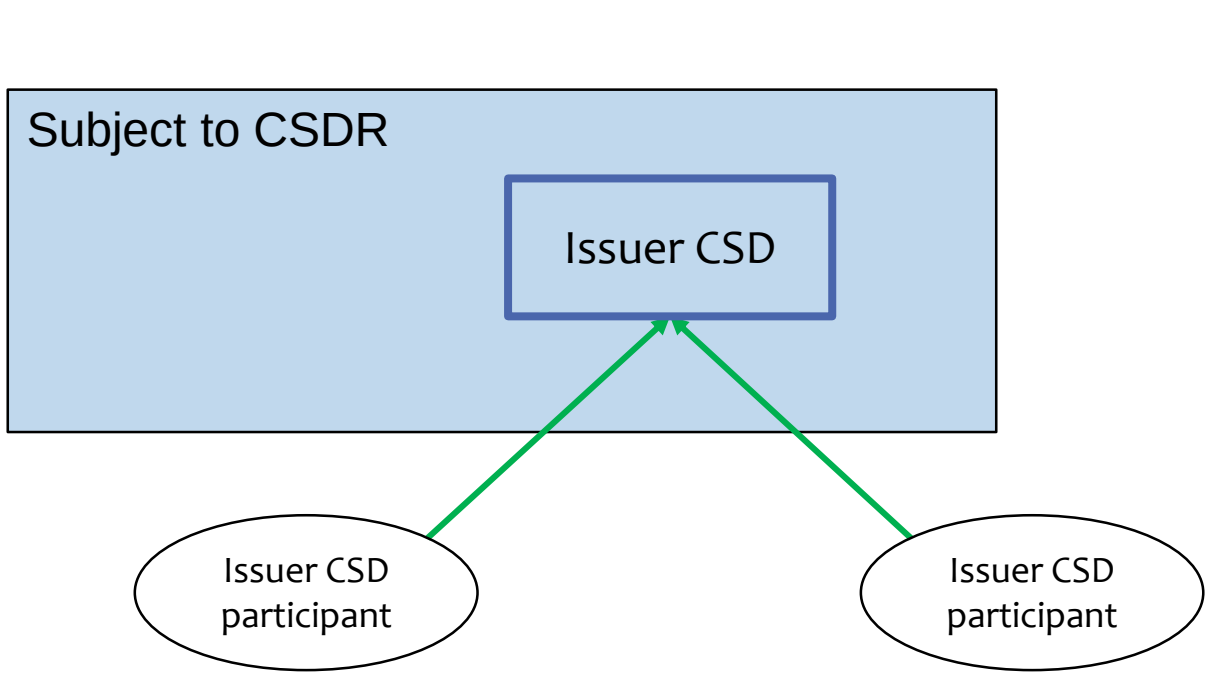
Applicability of penalties to settlement scenarios

Part I: securities issued in (I)CSD subject to CSDR

- Application of penalties can be enforced as settlement takes place in (I)CSD that is subject to CSDR
- Exception: settlement in the books of an (I)CSD that is not subject to CSDR (case 3) – no penalty can be charged as CSDs subject to CSDR are not involved in settlement flow

Issuer CSD subject to CSDR – case 1

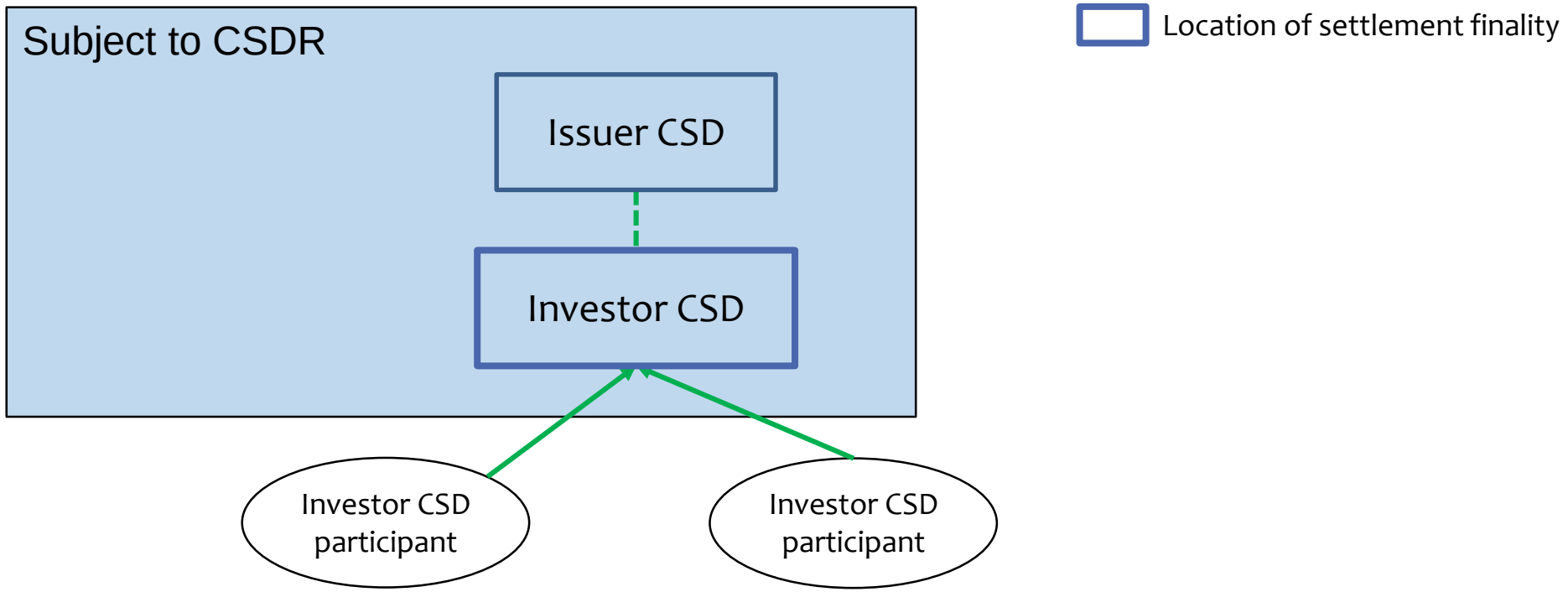
Settlement in the books of issuer CSD



- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties

EU issuer CSD – case 2

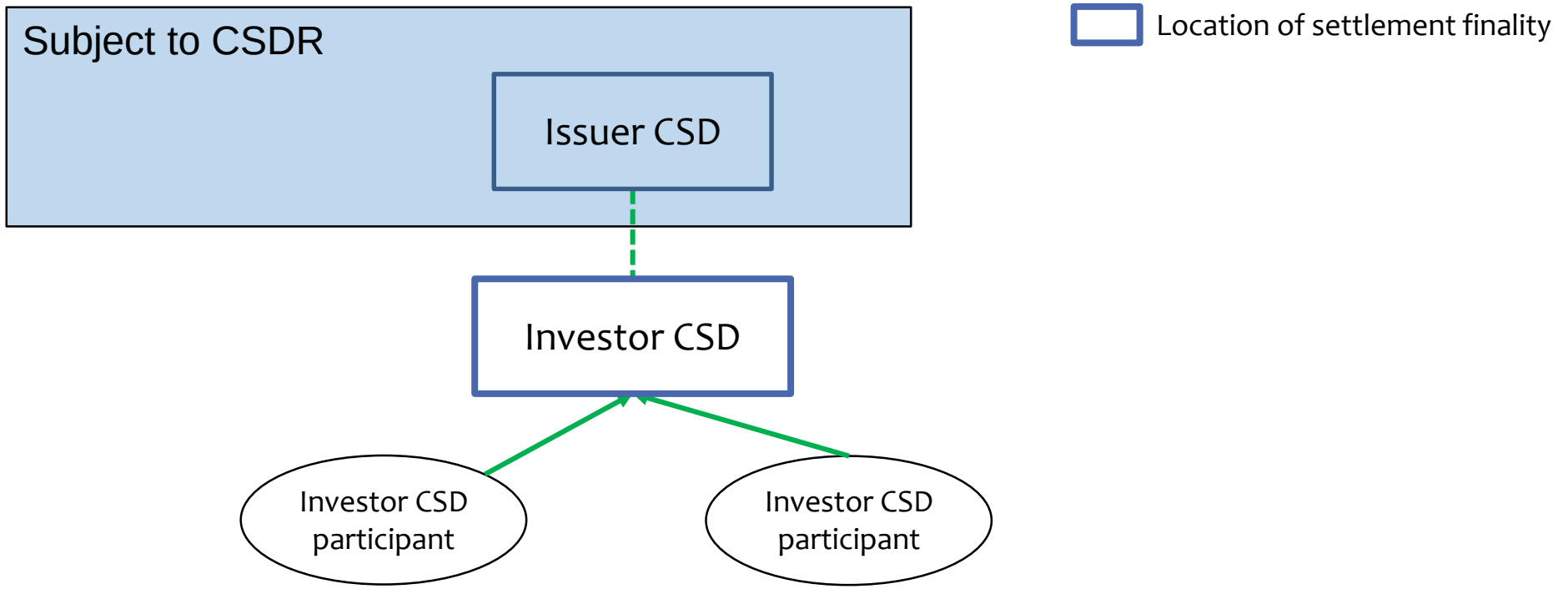
Settlement in the books of EU investor CSD



- Transaction subject to late matching and settlement penalties
- Investor CSD to calculate, report and collect/distribute penalties

Issuer CSD subject to CSDR – case 3

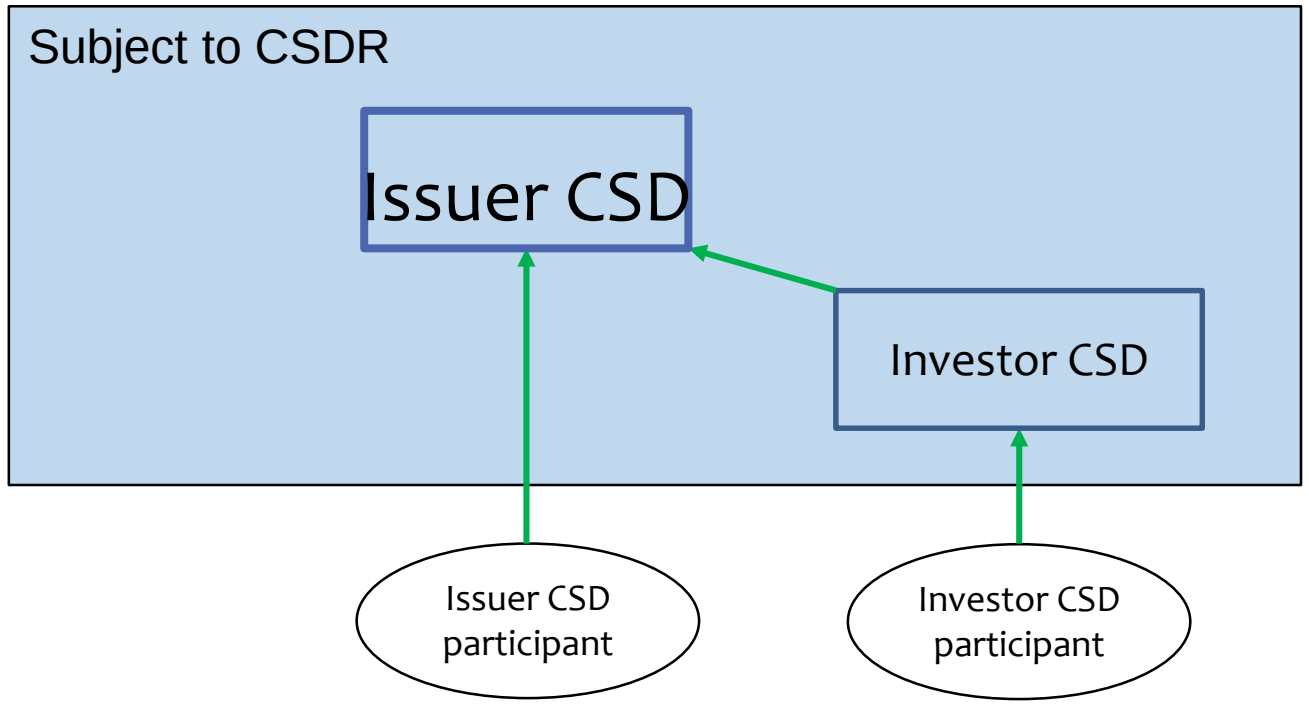
Settlement in the books of investor CSD not subject to CSDR



No late matching or settlement penalties

Issuer CSD subject to CSDR –case 4 (equivalent of ESMA scenario 1c)

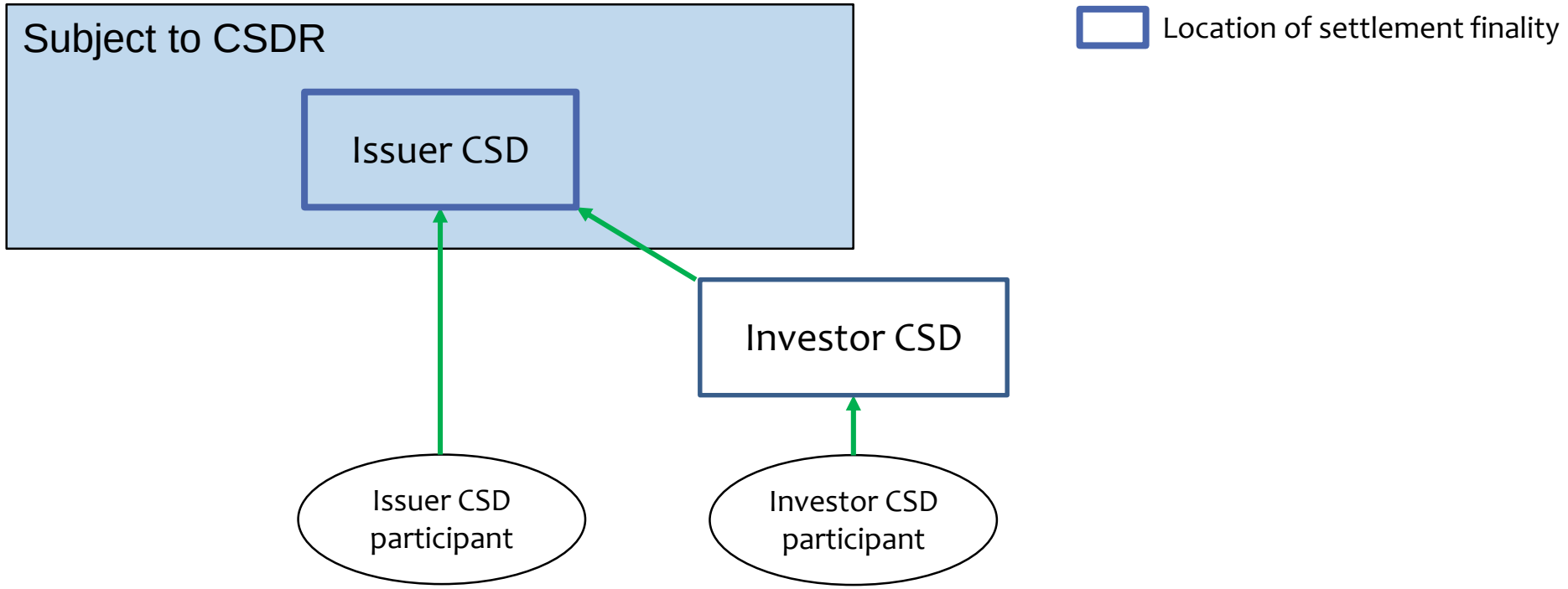
Settlement through one investor CSD subject to CSDR



Location of settler

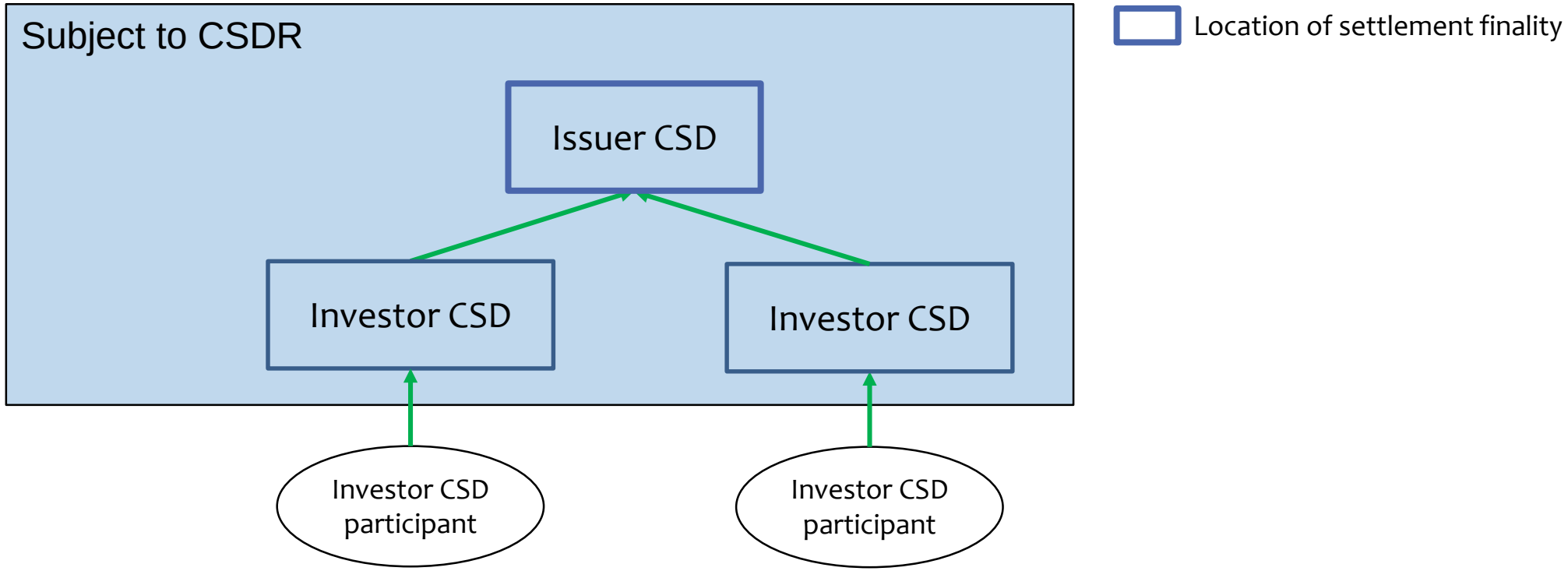
- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties
- Investor CSD to report and collect/distribute

Issuer CSD subject to CSDR– case 5 (equivalent of ESMA scenario 1a)
Settlement through one investor CSD not subject to CSDR



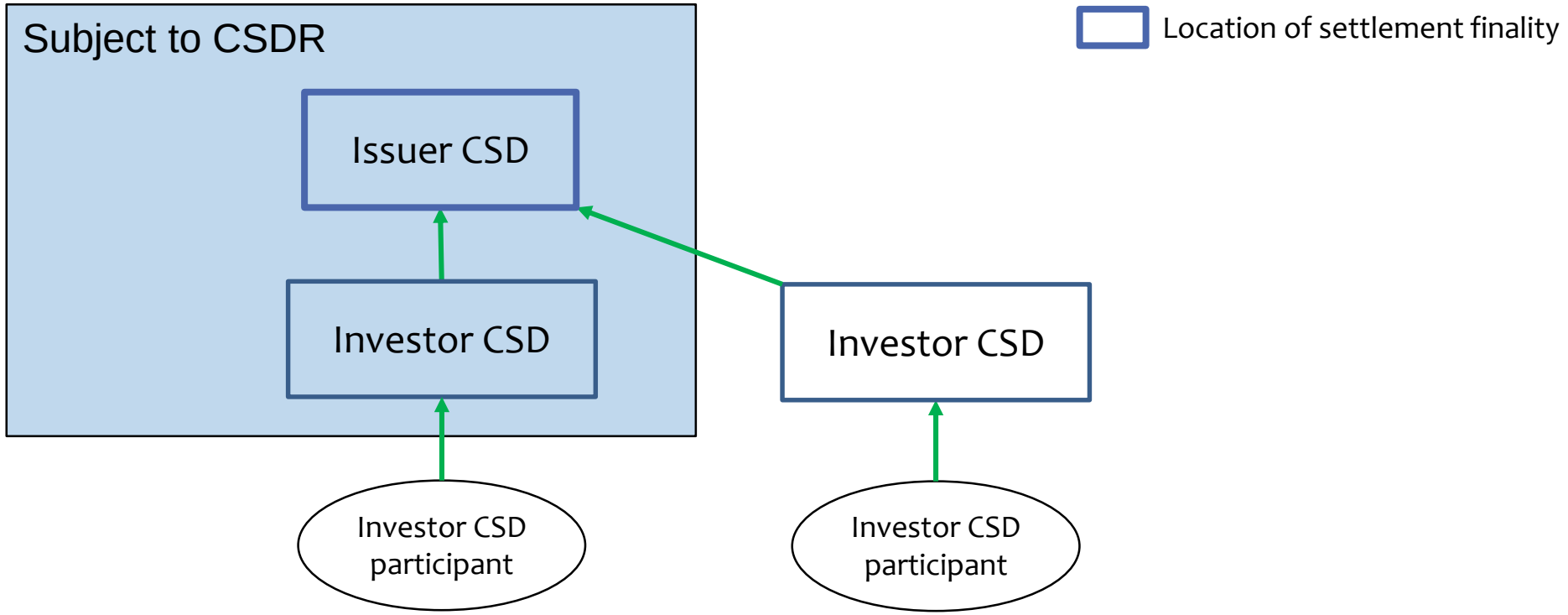
- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties
- Investor CSD to reflect penalties to its participant

Issuer CSD subject to CSDR – case 6 (equivalent of ESMA scenario 2c)
Settlement through 2 investor CSDs subject to CSDR



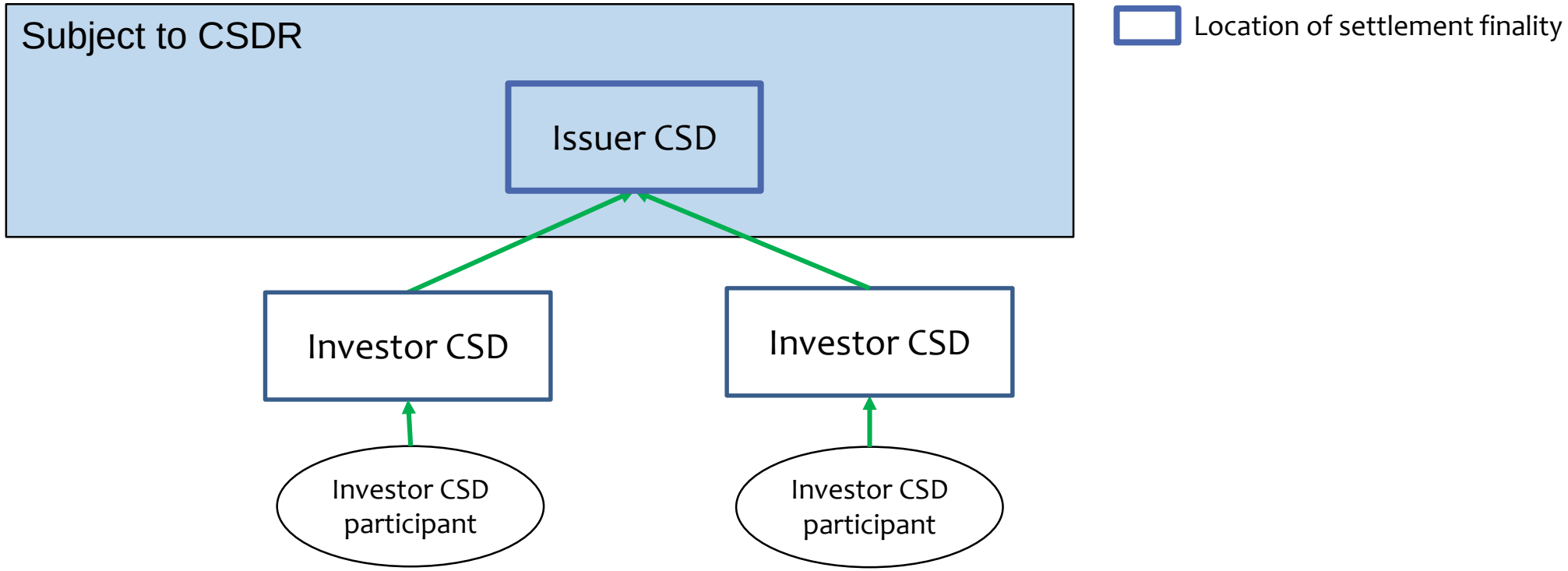
- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties
- Investor CSD to report and collect/distribute penalties

Issuer CSD subject to CSDR – case 7 (equivalent of ESMA scenario 2a)
Settlement through one EU and one investor CSD not subject o CSDR



- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties
- Investor CSD subject to CSDR to report and collect/distribute penalties
- Investor CSD not subject to CSDR to reflect penalties to its participant

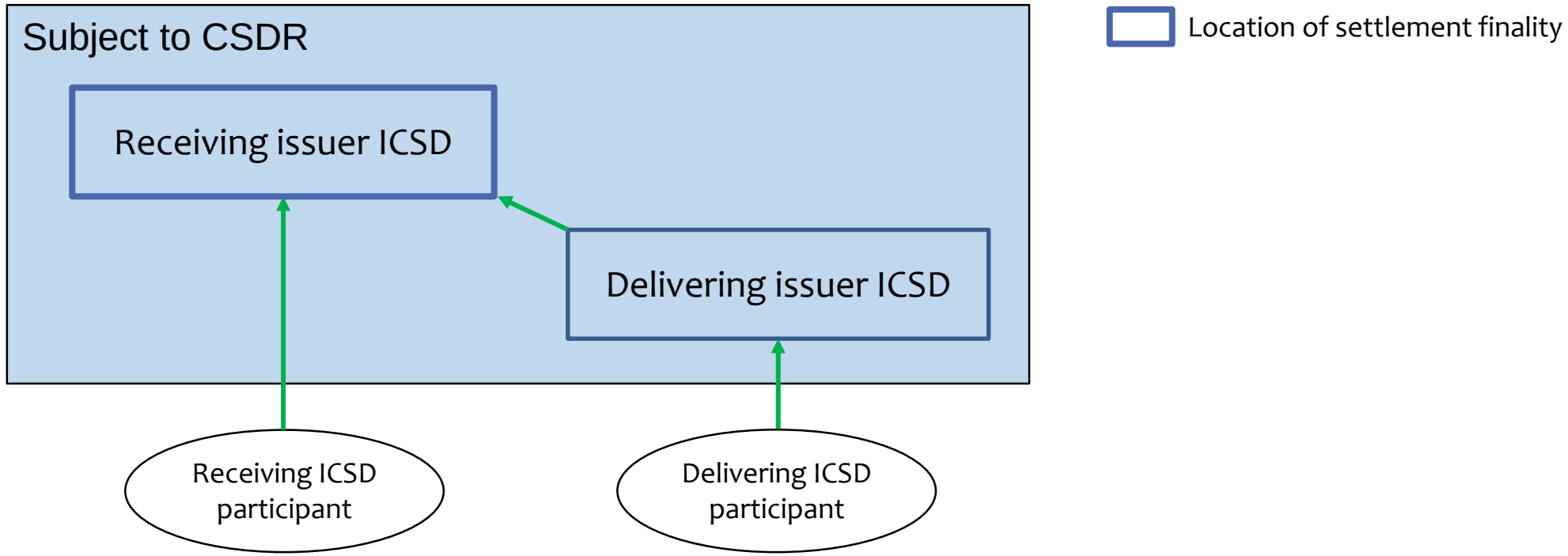
Issuer CSD subject to CSDR– case 8 (equivalent of ESMA scenario 2e)
Settlement through two investor CSDs not subject to CSDR



- Transaction subject to late matching and settlement penalties
- Issuer CSD to calculate, report and collect/distribute penalties
- Investor CSDs to reflect penalties to their participants

Issuer CSD subject to CSDR – case 9: ICSDs are joint issuer CSD

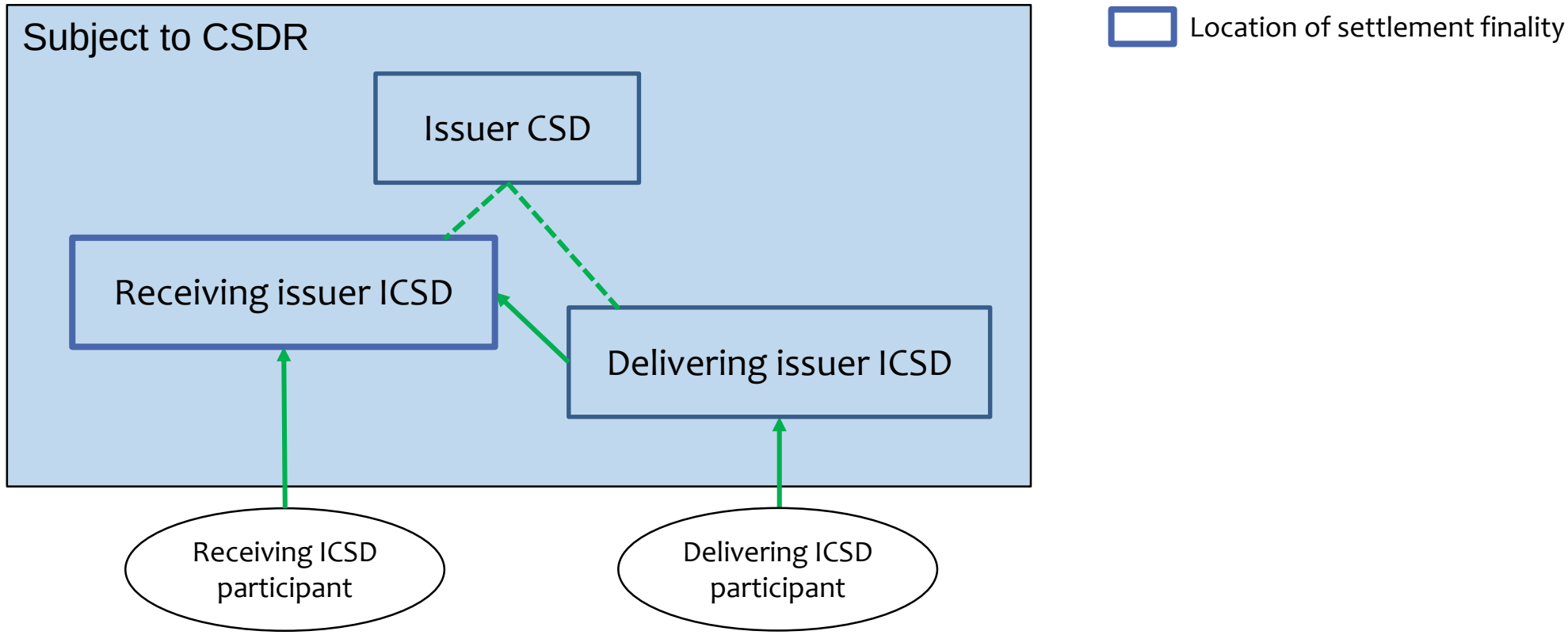
Settlement between Euroclear Bank and Clearstream Banking Luxembourg



- One ICSD to calculate penalties
- Both ICSDs to report penalties to their participants and regulators
- Both ICSDs to collect/distribute penalties from/to their participants

Issuer CSD subject to CSDR – case 10: ICSDs are investor CSD

Settlement between Euroclear Bank and Clearstream Banking Luxembourg



- Settlement taking place between both ICSDs, no movement in issuer CSD
- One ICSD to calculate penalties
- Both ICSDs to report penalties to their participants and regulators
- Both ICSDs to collect/distribute penalties from/to their participants

CSDR SD Penalties regime

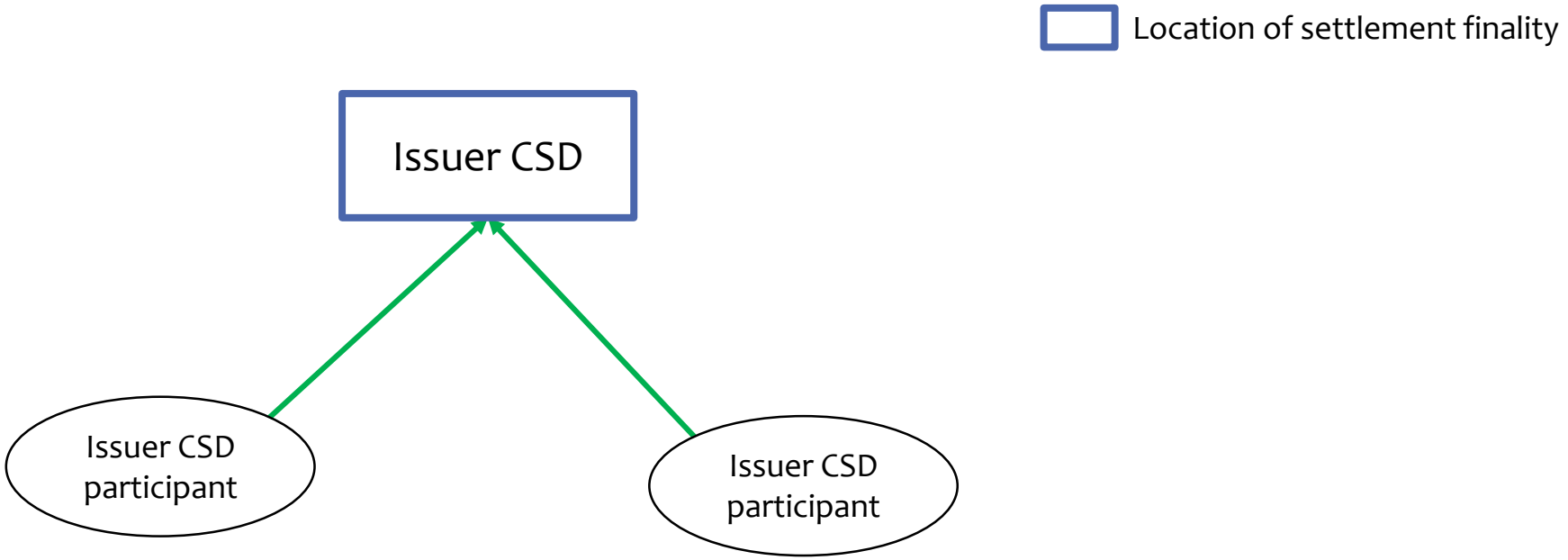
Applicability of penalties to settlement scenarios

Part II: securities issued in (I)CSD NOT subject to CSDR

- Application of penalties cannot be enforced systematically
- Penalties can only be enforced in case finality is reached in investor (I)CSD that is subject to CSDR, which is dependent on:
  - (I)CSD used by counterparty
  - Holding structure of investor CSD subject to CSDR (e.g. when 2 EU investor (I)CSDs are involved)
- This leads to:
  - Complexity to anticipate penalties for participants
  - Absence of level playing field between investor CSDs subject and not subject to CSDR

Issuer CSD not subject to CSDR– case 11

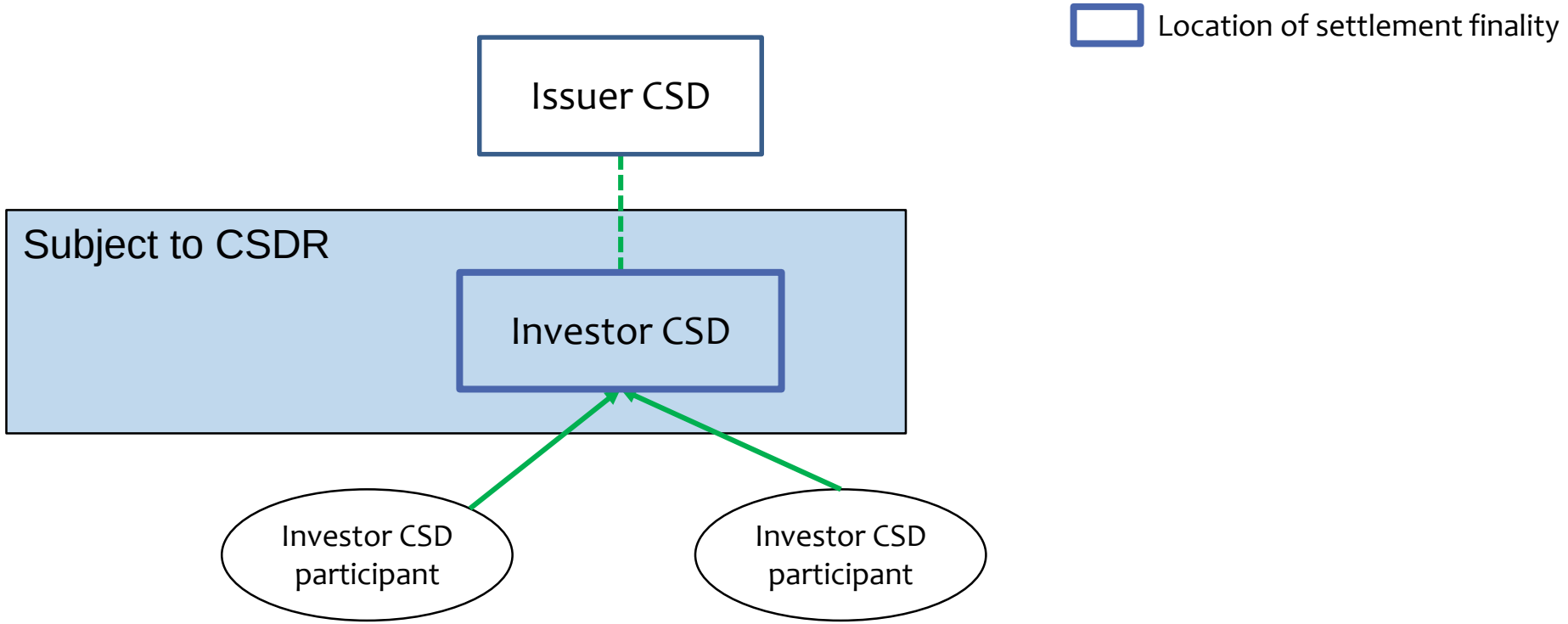
Settlement in the books of issuer CSD



No late matching and settlement penalties

Issuer CSD not subject to CSDR – case 12

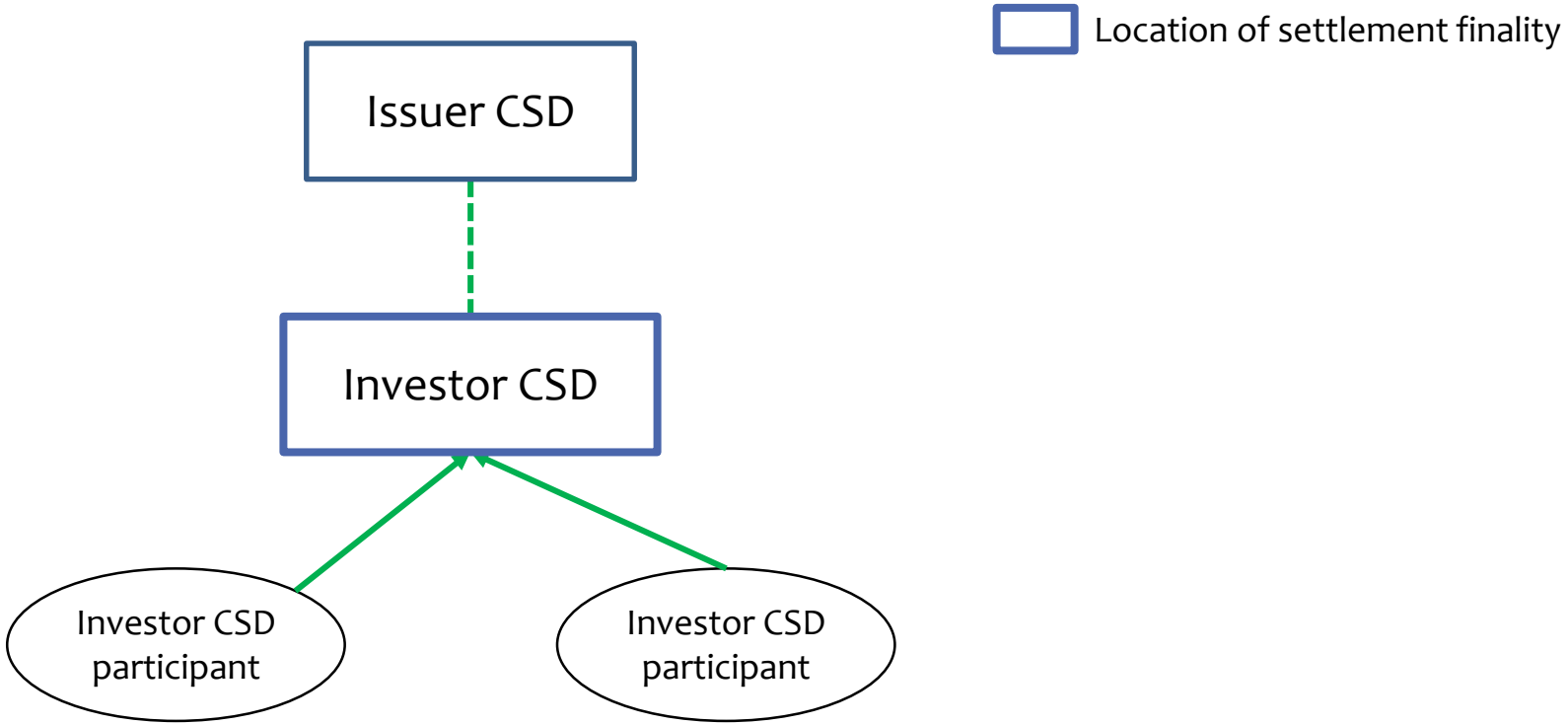
Settlement in the books of investor CSD subject to CSDR



- **Transaction subject to late matching and settlement penalties**
- Investor CSD to calculate, report and collect/distribute penalties

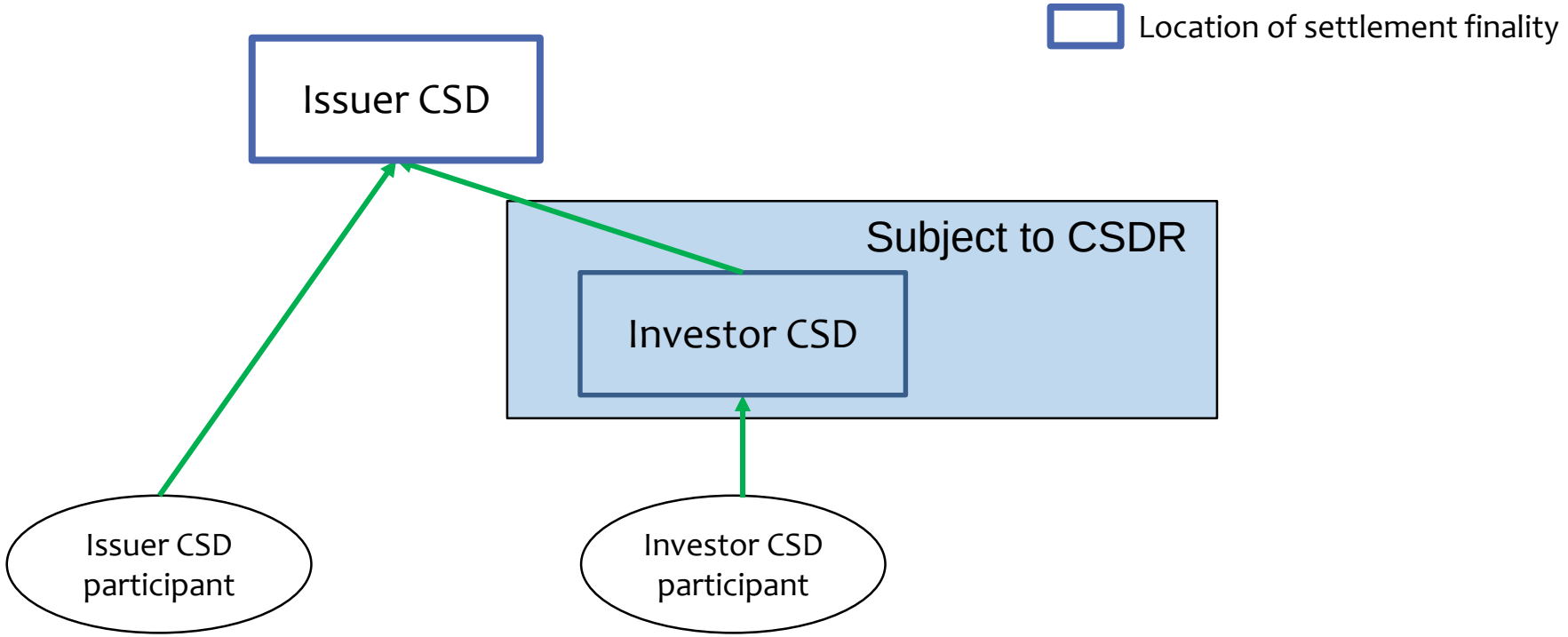
Issuer CSD not subject to CSDR– case 13

Settlement in the books of EU investor CSD not subject to CSDR



No late matching and settlement penalties

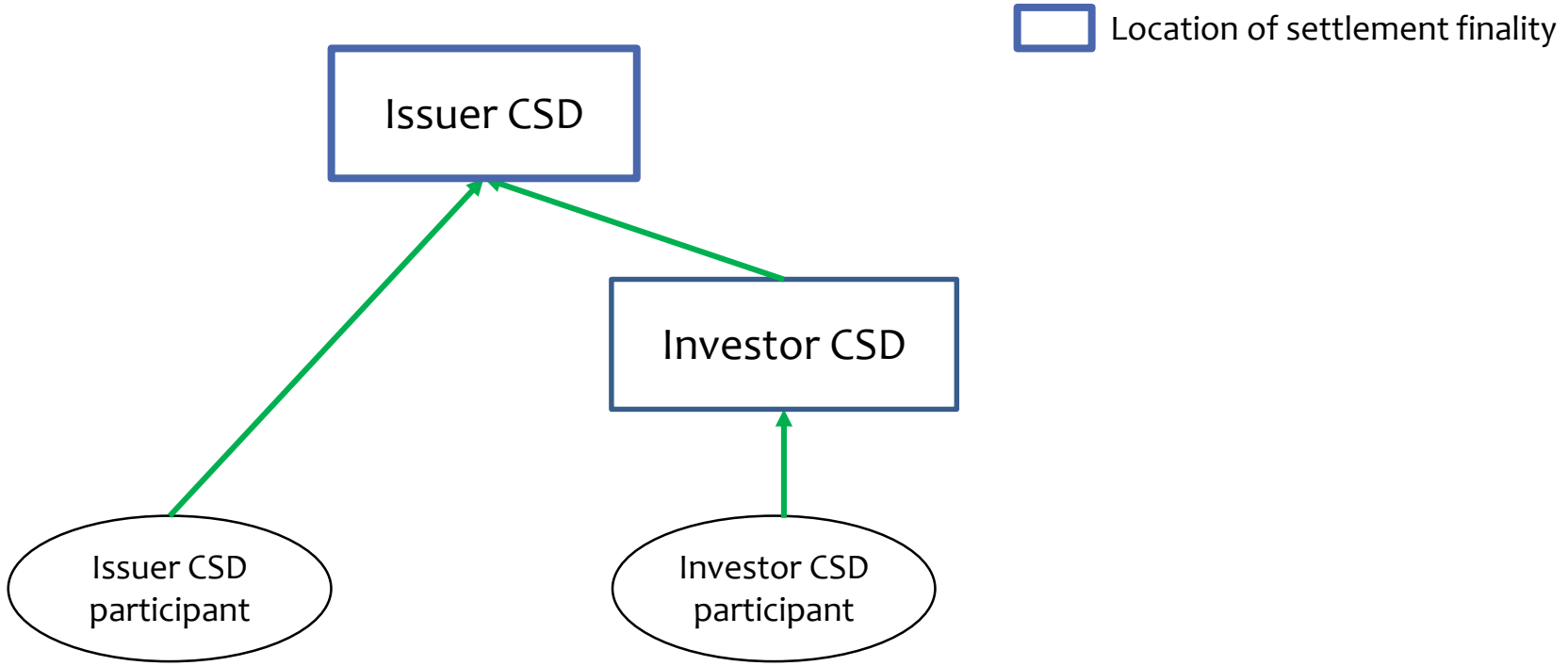
Issuer CSD not subject to CSDR – case 14 (equivalent of ESMA scenario 1b)
Settlement through one investor CSD subject to CSDR



No late matching and settlement penalties

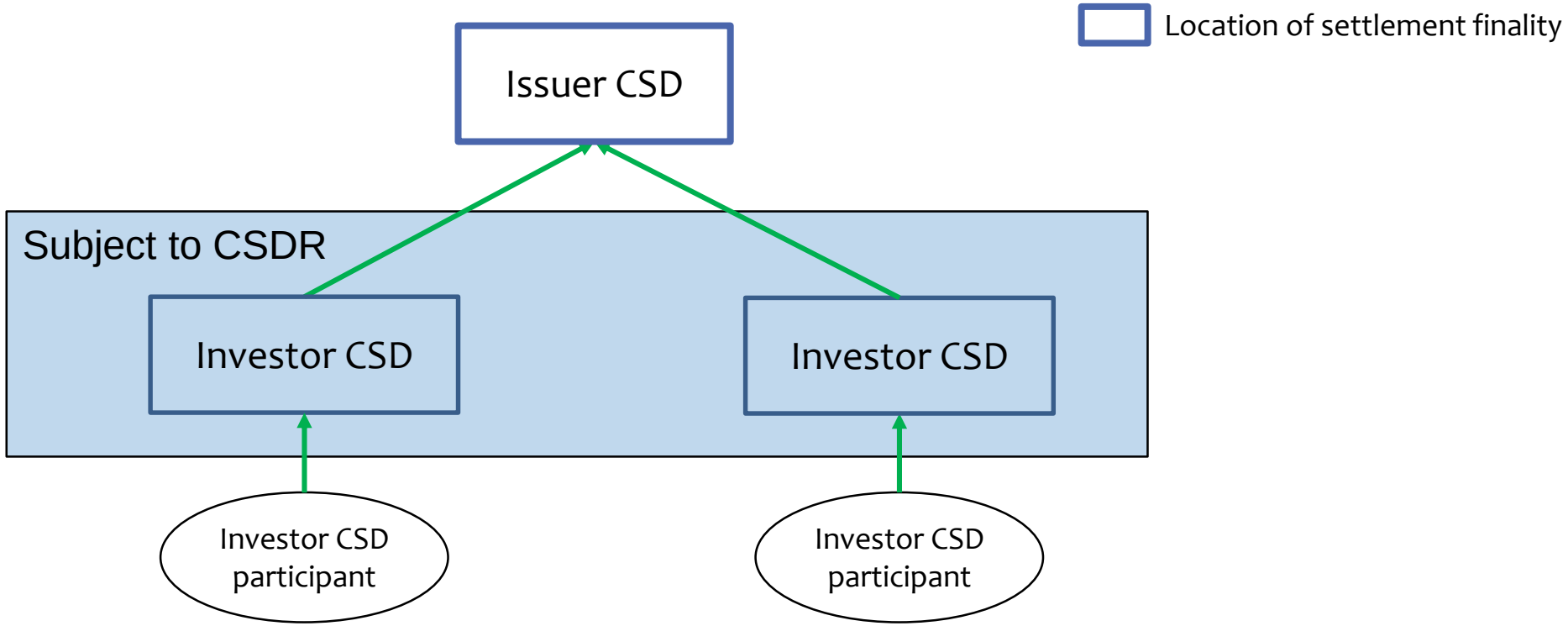
Issuer CSD not subject to CSDR– case 15

Settlement through one investor CSD not subject to CSDR



No late matching and settlement penalties

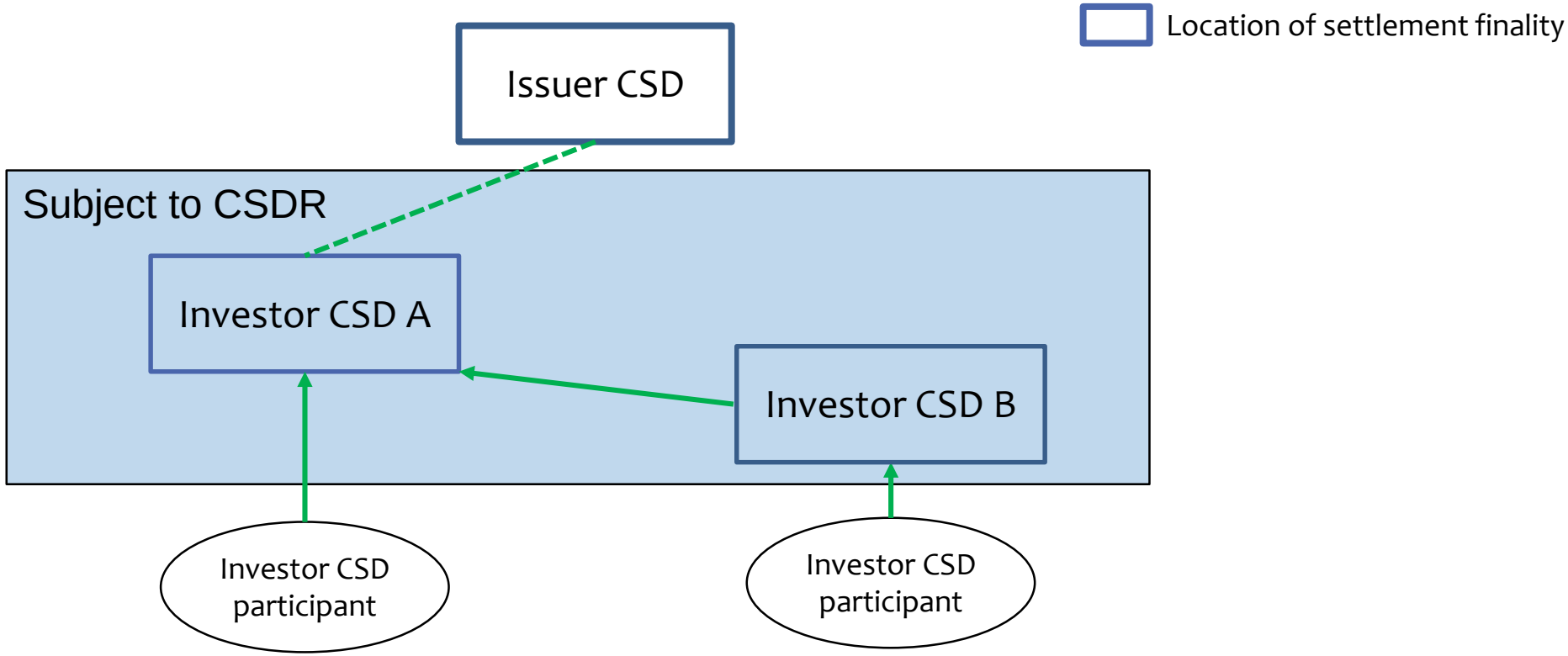
Issuer CSD not subject to CSDR– case 16 (equivalent of ESMA scenario 2d)
Settlement through two investor CSDs subject to CSDR



No late matching and settlement penalties

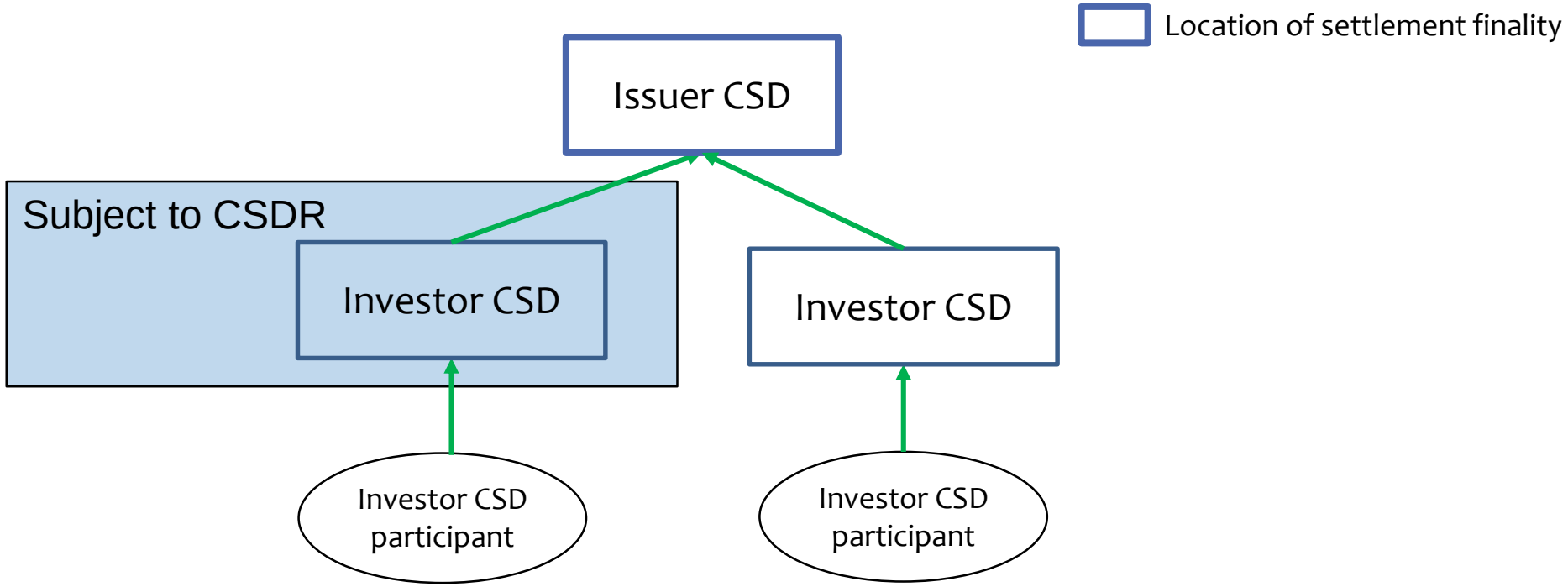
Issuer CSD not subject to CSDR CSD – case 17

Settlement through two CSDs subject to CSDR (with indirect link)



- **Transaction subject to late matching and settlement penalties**
- Investor CSD A to calculate, report and collect/distribute penalties
- Investor CSD B to report and collect/distribute penalties

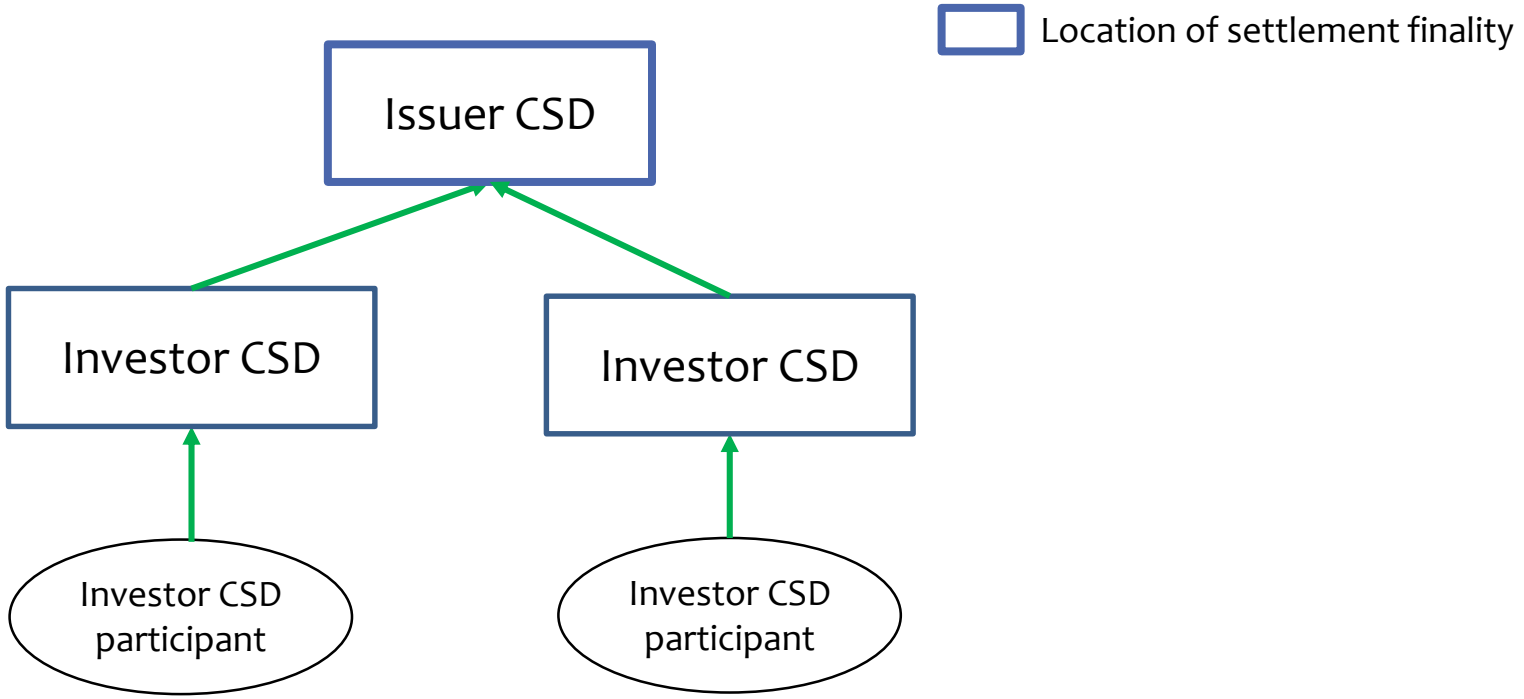
Issuer CSD not subject to CSDR – case 18 (equivalent of ESMA scenario 2b)
Settlement through one subject and one not subject to CSDR investor CSD



No late matching and settlement penalties

Issuer CSD not subject to CSDR– case 19

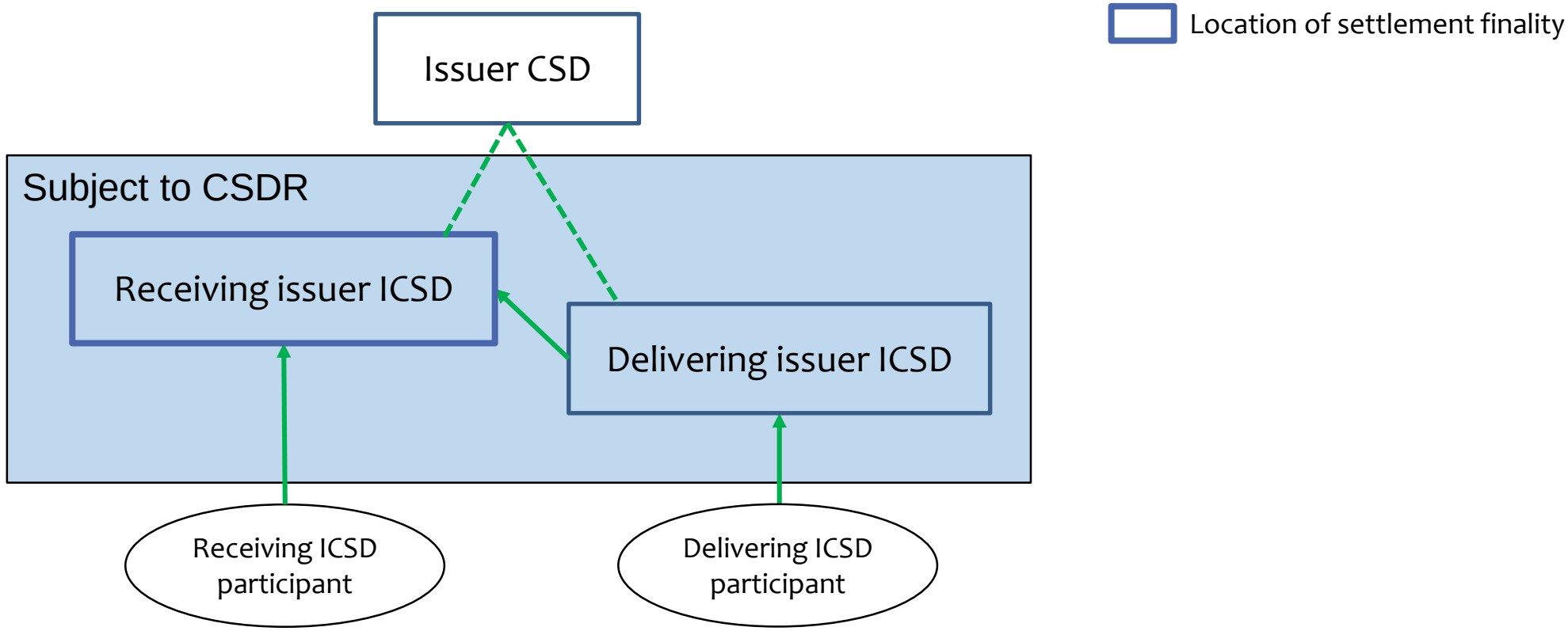
Settlement through two investor CSDs not subject to CSDR



No late matching and settlement penalties

Issuer CSD not subject to CSDR– case 20: ICSDs are investor CSD

Settlement between Euroclear Bank and Clearstream Banking Luxembourg



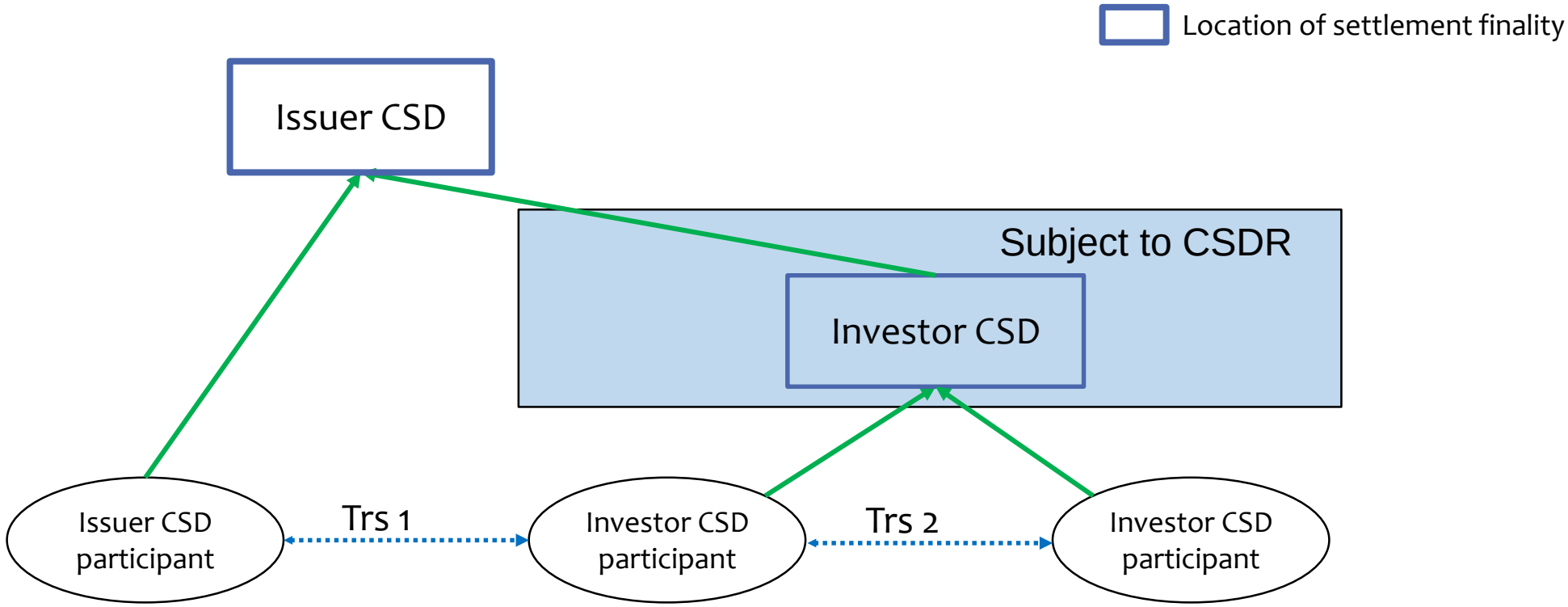
- Settlement taking place between both ICSDs, no movement in issuer CSD
- One ICSD to calculate penalties
- Both ICSDs to report penalties to their participants and regulators
- Both ICSDs to collect/distribute penalties from/to their participants

Part III: settlement chains

- Settlement chains result in combinations of cases covered before
- As for stand-alone transactions for securities issued in (I)CSD not subject to CSDR, this leads to:
  - Complexity to anticipate penalties for participants
  - Absence of level playing field between CSDs subject and not to the CSDR (e.g. EU and non-EU investor CSDs), leading to potential loss of business by (I)CSD subject to CSDR
- On top of this, participants may be subject to penalties while they are not at fault for delay in matching or settlement

Issuer CSD not subject to CSDR– case 21 (combination of cases 14 and 12)

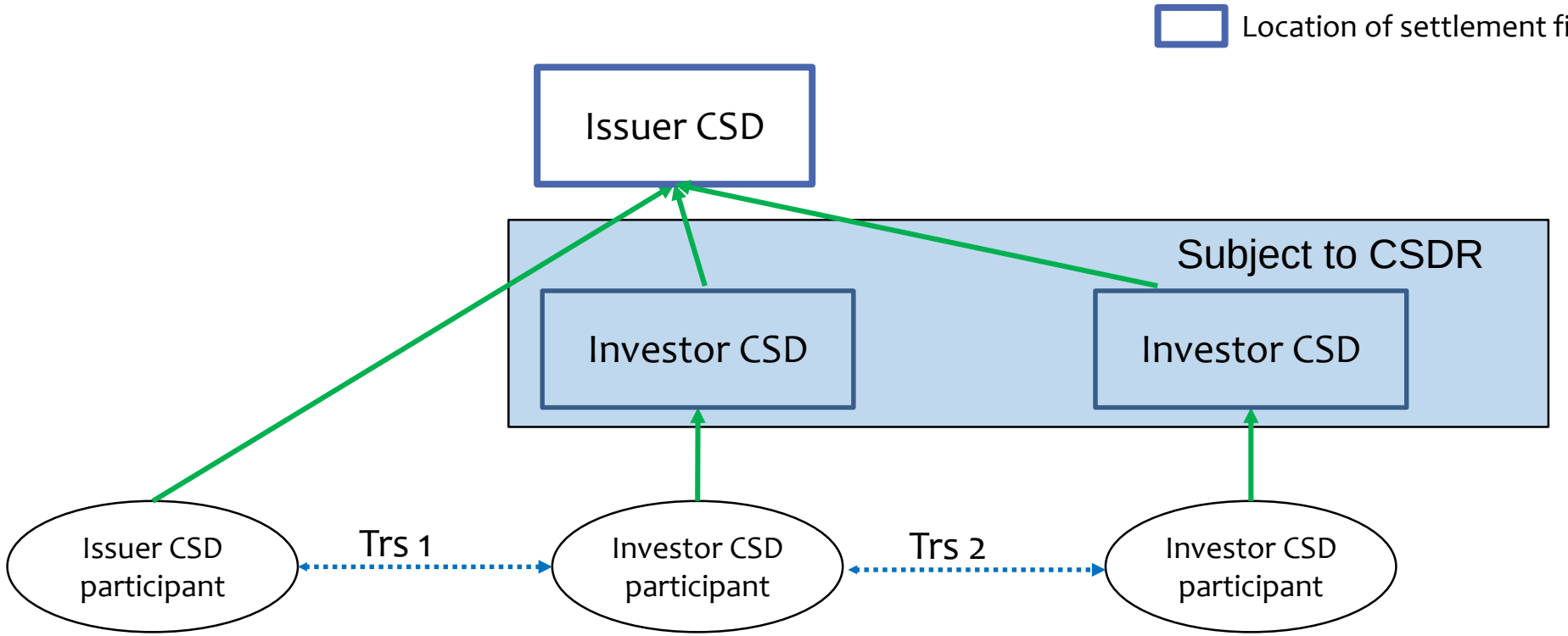
Settlement chain with investor CSD subject to CSDR involved in part of chain



Transaction 1 settles in issuer CSD -> no penalty
Transaction 2 settles in investor CSD -> penalty
If transaction 1 matches or settles late, transaction 2 will settle late. Intermediary participant will be charged with penalty while not at fault for late settlement

Issuer CSD not subject to CSDR – case 22 (combination of cases 14 and 16)

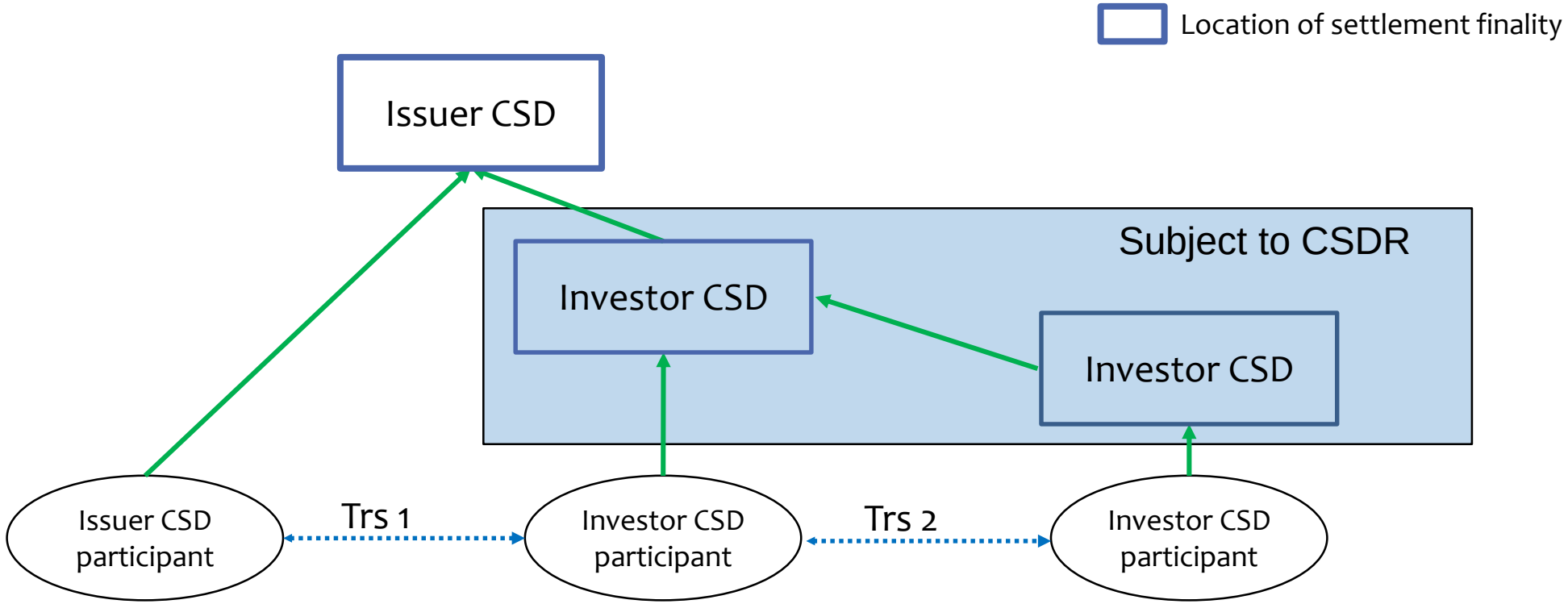
Settlement chain with two investor CSDs subject to CSDR involved in part of chain



Both transactions settle in issuer CSD -> no late matching and settlement penalties

Issuer CSD not subject to CSDR – case 23 (combination of cases 14 and 17)

Settlement chain with two investor CSDs subject to CSDR involved in part of chain



Transaction 1 settles in issuer CSD -> no penalty
Transaction 2 settles in investor CSD -> penalty
If transaction 1 matches or settles late, transaction 2 will settle late. Intermediary participant will be charged with penalty while not at fault for late settlement