

Circular C-VRF-04/2024

Management of the Settlement System's penalties in
the Fixed Income Segment

BME CLEARING

20 June 2024

Segment: Fixed Income Securities
Effective Date: 2 September 2024
Replaces: C-VRF-05/2023

It establishes the procedures related to the management of penalties calculated by the Settlement System due to regulatory changes established by the Settlement Discipline Regime and subsequent amendment of Article 19.

This Circular regulates the debits and credits of penalties calculated by the Settlement System for transactions cleared by BME CLEARING in accordance with the provisions of the Delegated Regulation (EU) 2018/1229 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline ("SDR") and the subsequent amendment of Article 19.

The SDR provides that the Central Securities Depository ("CSD") shall be responsible for the calculation, collection and distribution of the penalties to be applied to defaulting entities including the compensated instructions.

In accordance with the above, the Settlement System shall inform BME CLEARING on a daily basis of the penalties calculated for the transactions to which it is the counterparty. Likewise, the Settlement System shall inform the Participating Entities on a daily basis of the penalties applied to Settlement Instructions of the transactions cleared in BME CLEARING.

BME CLEARING will not communicate or manage the collection and distribution of these penalties calculated by the Settlement System, which will be carried out by the CSD.

Since the penalties are generated on the basis of the Settlement Instructions of the entities participating in the CSD, it is the latter that must make the claims to the relevant CSD regarding the penalties that may be applicable.

EXCEPTIONAL CASES OF MISMATCHES BETWEEN THE PENALTIES

BME CLEARING may have mismatches between the penalties reported due to the uncleared instructions.

When the reason for the mismatch results from the application of penalties to securities delivery settlement instructions by BME CLEARING, due to the impossibility of delivering the securities received for reasons beyond the control of the CCP itself, and if this mismatch represents a significant loss for BME CLEARING, the latter shall pass on the amounts in the manner described in the following paragraph.

The amount of the penalty shall be passed on to the Member who, having delivered so close to the cut-off of the settlement period against payment, makes it impossible to deliver the securities from BME CLEARING's account.

BME CLEARING shall inform the affected Member of the penalty.

The criteria for determining the threshold above which BME CLEARING shall pass on the amounts corresponding to the penalties may be established by Instruction.

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