

CSDR Settlement Discipline Framework

Cboe Clear Europe - Information and Q&A

Priority - Normal

Impact - For Your Information

Contact – Change and Business Management

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Document history:

Version:	Date:	Chapter / Field:	Information:
1.0	2020-07-08	First version	
1.1	2021-10-15	Updated version	Updated live date, Buy-in, cash, Comp, general info, updates from EACH consultation
1.2	2021-12-20	Updated version	Updated information on the later start date for the CSDR Buy-in regime
1.3	2021-12-30	Updated version	Changed distribution method to become TXT-format only
1.4	2022-02-17	Updated version	CSDR eligible securities / SME Growth markets
1.5	2023-02-14	Updated version	Amended Collection date CSDR penalties

1. Introduction

This CSDR Settlement Discipline Framework living document will be updated on a regular basis to provide the current and latest updates on the Settlement Discipline Regime that was effective 1 February 2022.

ESMA confirmed the delay of the mandatory buy-in regime (MBI), which was scheduled 1 February 2022, with just the penalty reporting going live. In addition, EACH and ECSDA are working with ESMA considering the removal of SDR Article 19 later in 2022/early 2023. If successful, this could result in Cboe Clear Europe's current CSDR penalty reporting being removed at a later date. The short-selling regulation Cboe Clear Europe currently has in place will be continued and more information on the implementation of the mandatory buy-in schedule will be shared when it becomes available.

2. Main changes

As part of the new CSDR regulations the following key processes will be impacted:

- Settlement instructions,
- Cash Penalties – Collection and Distribution of late matching or late settlement penalties,
- Buy-In process and timelines (tbc),
- Cash compensation processes and timelines,

The specifics of these changes will be further detailed in this document.

3. Settlement Instruction impact

3.1. Impact on sending settlement instructions

CSDs have announced several changes in the way certain fields in SWIFT settlement instructions are validated or processed. In general, the CSDs have a harmonized approach but there are some small deviations per market to keep in mind within the CSDR set up.

3.2.SME Growth markets - Place of Trade (94B)

CSDs need to derive the actual place of trade from the settlement instruction to be able to calculate the applicable penalty rate for transactions completed on SME Growth markets. A CSD will only apply the lower penalty rate when both the delivering and receiving instructions contain the same Segment MIC of the SME Growth market. This is only applicable for the markets subject to CSDR so excluding the UK and the Swiss market (Norway “MERK” pending approval).

CSDs have announced the following measures to address this requirement:

- Validate the Place of Trade against ISO 10383 standards
- Make Place of Trade a mandatory field

To prevent rejections of instructions from CSDs and to make sure that instructions will get the reduced applicable penalty rate, Cboe Clear Europe will implement the following measures for populating the Place of Trade in the settlement instructions:

- CCP Cleared instructions which contain trades from 1 Segment MIC will contain the Segment MIC in the place of trade field (this is important for instructions on SME Growth markets which are already separately netted by Cboe Clear Europe using the same SSI's.
Example: **94B:TRAD//EXCH/XSTO**
- CCP Cleared instructions which contain trades from multiple venues (cross exchange netted) will contain the value ‘VARI’ as place of trade.
Example: **:94B:TRAD//VARI**
- Cboe Clear Europe will only use ISO 10383 compliant.

It will be client’s responsibility to ensure the non-matching 94b field is correctly formatted as detailed above otherwise clients could be charged back any imbalance/loss that Cboe Clear Europe incurs resulting from the higher penalty rate being applied.

SME Growth market MICs detailed below:

Country	Venue	SME Segment MIC	Original Sender MIC
BELGIUM	Euronext	ALXB	ALXB
DENMARK	Nasdaq	DSME	XCSE
IRELAND	Euronext	XESM	XESM
FINLAND	Nasdaq	FSME	XHEL
GERMANY	Xetra	XETS / XETW	XETR
PORTUGAL	Euronext	ALXL	ALXL
NORWAY	Euronext	MERK	MERK
FRANCE	Euronext	ALXP	ALXP
SWEDEN	Nasdaq	SSME	XSTO

3.3.Trade date (98a)

Trade date already has already become a mandatory field for multiple CSDs. It is recommended to always populate the trade date in your settlement instructions as early as possible to ensure timely matching.

3.4.Cross-exchange netting

The netting across exchanges will be impacted due to the deviating penalty rates and buy-in timelines for SME Growth markets. This will result in a default setting where Cboe Clear Europe will exclude the trades executed on SME Growth markets from the cross-exchange netting. A separate settlement instruction will then be created for the netted trades executed on each SME Growth market including their applicable SME MIC code for the CSD to calculate the correct penalty rate if the SME indicator is included in both legs.

4. Cash Penalties

As of February 2022, Cboe Clear Europe is collecting and redistributing the cash penalties to clearing members. As mentioned in the introduction, the likelihood is that Article 19 will be removed at a later stage in 2022 / 2023 and clients should make plans to ensure this change can be managed within a short period resulting in CSDs collecting all penalties using one systemic process, as supported by various market associations. Several other topics are still under discussion with Authorities and being tracked with the various Market Associations.

Table below details Penalty Fail rates:

Type of Fail	Rate
Settlement fail due to a lack of shares that have a liquid market	1.0 basis point
Settlement fail due a lack of shares that do not have a liquid market	0.5 basis point
Settlement fail due a lack of financial instruments traded on SME growth markets	0.25 basis point
Settlement fail due a lack of debt instruments issued or guaranteed by: (a) a sovereign issuer as defined in Article 4(1)(60) of Directive 2014/65/EU; (b) a third country sovereign issuer; (c) a local government authority; (d) a central bank; (e) any multilateral development bank referred to in the second subparagraph of Article 117(1) and in Article 117(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (1);(f) the European Financial Stability Facility or the European Stability Mechanism.	0.1 basis point
Settlement fail due to a lack of debt instruments other	0.2 basis point
Settlement fail due to a lack of debt instruments traded on SME growth markets	0.15 basis point
Settlement fail due to a lack of other financial instruments not covered in points 1 to 6	0.5 basis point
Settlement fail due to a lack of cash	Official interest rate for overnight credit charged by the central bank issuing the settlement currency with a floor of 0 (zero)

4.1. Collection and distribution of penalties

CSDR outlines the requirement for penalties on settlement instructions that fail to match and / or fail to settle on the Intended Settlement Day (ISD). The CSDs will be responsible for the calculation, collection, and distribution of these penalties (non CCP cleared instructions). For CCP cleared instructions the CCPs are responsible for the collection and distribution of penalties (Article 19).

Cboe Clear Europe's monthly collection and distribution billing process is very similar to the process at the CSDs mirroring their payment date where possible.

The model is described below:

- The CSD is responsible for the daily calculation and reporting of penalties to all CSD members.
- Cboe Clear Europe will only provide cumulative Daily Fail fee File penalty reports (DFF) to its clearing members on receipts of applicable penalties received from the CSDs, empty reports will not be generated. These reports will be very similar to the format of the Monthly Fee Invoice File (MFF). The information on the penalties can also be retrieved from the CSD (or agent/custodian), as CCP activity will also be included in the CSD daily reporting.
- Appeals of penalties must be applied at the CSD, not through the CCP (Cboe Clear Europe is only responsible for collecting and redistributing of the CSD reported penalties). We expect clients to reconcile these through their daily reporting from the CSD or their settlement agent depending on the account set up and appeal if they see any discrepancies. Only in exceptional circumstances, like technical issues, or position breaks between Cboe Clear Europe and the CSD.
- Cboe Clear Europe will appeal at its own discretion directly with the CSDs.

The monthly process contains the following steps:

- Ultimately on the 15th penalty business day Cboe Clear Europe will receive the final penalty reports from the CSDs.
- As soon as Cboe Clear Europe has received all penalty reports from the CSDs, Cboe Clear Europe will process and report all penalties via the MFF file;
- The netted penalty amount to pay or receive from each Clearing Member (per currency) will be determined, whereby the distribution of invoices to the clearing members is similar to the existing monthly invoice with the amounts to be paid/received per clearing member (1 invoice per currency). This will be a separate process for the penalties due to the timelines being different to the current monthly billing cycle (Current billing distributed in Euro within 10 business days);
- In case an CSD is too late with its reporting, Cboe Clear Europe has the option to run a 2nd penalty report batch;
- Cboe Clear Europe will generate payment instructions per clearing member per currency on the 18th penalty business day. Confirmation of the collection and distribution of penalties will be reported back to each CSD by Cboe Clear Europe.
- The mandatory payment model will be Direct Debit and Direct Credit payments to clearing members. For this purpose, Direct Debit arrangements are required in the local currencies EUR, SEK, DKK and NOK. Multi-currency settlements in Euroclear and Clearstream are reported and charged in Euro.
- In markets where Cboe Clear Europe uses a Custodian bank (Czech, Hungary & Poland) the CSD will process all penalties under Article 17 due to the CCP not being the account owner at the CSD.

Cash penalties will be levied as follows:

- There are Late Matching Fail Penalties (LMFP), which will be charged to the party who has sent or last touched the instruction in case matching occurs after ISD. Cboe Clear Europe will always allocate these to the respective client, except for the Spanish market where Cboe Clear Europe's process of instructing CSD settlement according to the Hold and Release mechanism would not justify late matching fines from the CSD.
- There are late Settlement Fail Penalties (SEFP), which are charged to the party responsible for not settling this instruction. Settlement failure can be because of lack of cash, lack of shares or if the party has put their instruction on Hold (this also applies to receiving parties) If both parties have their instructions on hold, both parties will be charged.

4.2. Penalty reporting Cboe Clear Europe

Each month, Cboe Clear Europe will run a new separate CSDR penalty process with the below 3 existing fail fee components for Communication & Reporting to clients, to debit and credit in 4 different currencies (EUR, NOK, SEK, DKK) for CSDR eligible securities:

- **FAI:** fail penalty collection, charged to clients failing to deliver to Cboe Clear Europe (majority will be a debit, but some could be a credit),
- **FAC:** penalty distribution, compensate clients failing to receive from Cboe Clear Europe (majority will be a credit, but some could be a debit).
- **FAO:** third party fail penalty collection, covering the CSDR fines Cboe Clear Europe could not allocate to a single client.

OUTPUT and TIMELINES:

- Daily report of gross CSDR fail fees, both FAI + FAC in a report – **DFF (Daily Fail fee File)**
- Monthly report, distributed on the 15th penalty business day of the month – **MFF (Monthly Fail fee File):**
 1. Records of the gross CSDR fail fee details; FAI, FAC
 2. Records of the gross FAO fees at FAI reporting level
 3. Records of the net fees at individual currency level
- **Monthly PDF invoice** via email of net CSDR fees per individual currency, distributed via email on the 15th penalty business day of the month where possible.
- **Cash booking** Direct Debit or Direct Credit of each individual currency with value date the 18th penalty business day of the month.

4.3. Penalty Mismatch scenarios

There are several circumstances which can create mismatches in penalties which can result in a potential loss/profit on CCP level as follows:

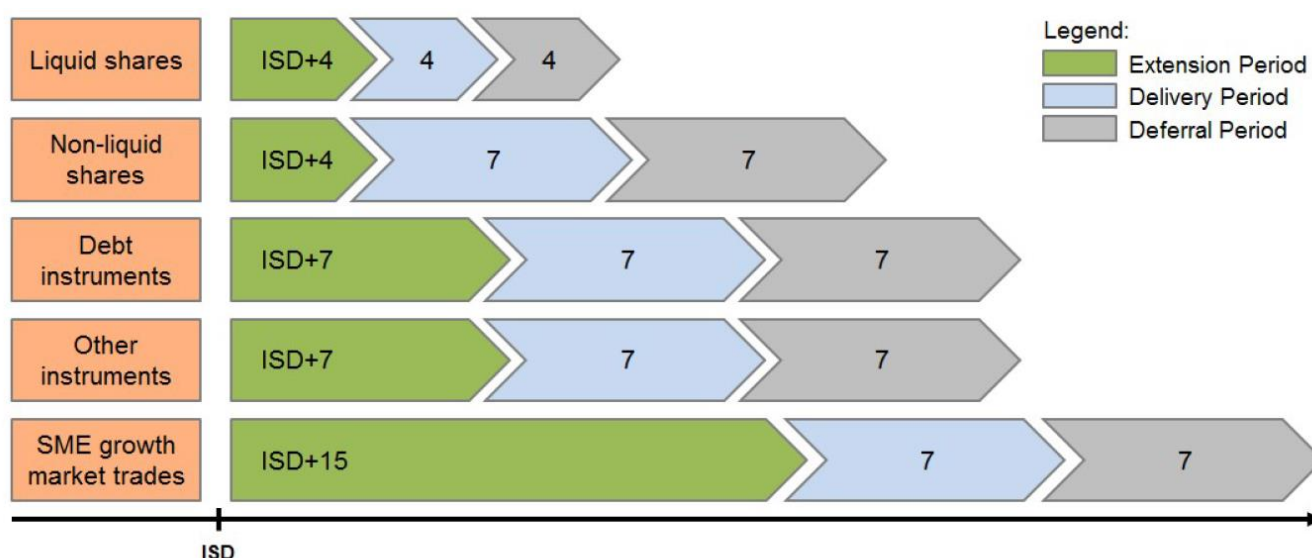
- Late delivery from clearing members just prior to the CSD market cut-off time, without the ability to onward deliver and thus causing an overnight securities position with the CCP. We are working with T2S and the CSDs to minimise this where possible.
- The receiving clearing member does not have partial settlement enabled (PARQ is mandatory) – Cboe Clear Europe to allocate the respective fail fine to the receiving clearing member.
- Difference in penalty between SME Growth Market penalty and non-SME Growth Market penalty (same ISIN).
- Strange nets.
- Once receiving participants block Cboe Clear Europe's deliveries, resulting in penalties for Cboe Clear Europe, these penalties will be passed on to the receiving participants.
- This is not a limitative list, multiple other scenarios will be possible, however Cboe Clear Europe will try to allocate the exact penalty to the respective failing clearing member.

Cboe Clear Europe will mutualise all penalty mismatches at CSD level, amongst all clearing members fail volumes in the applicable CSD if they cannot be allocated to an individual member.

5. Buy-In process

The Buy-In aspects of CSDR have been decoupled from the penalty process, which is still under review with the relevant authorities. Cboe Clear Europe continues to use the short selling regulation (SSR) buy in process currently in place today. CSDR changes the timelines for the buy-in. In the new Settlement Discipline Regime, the type of instrument in combination with the type of market (SME Growth or not) will determine the number of days allowed before the buy-in has to start.

The following table shows the allowed buy-in timelines (see remarks below the table for deviations):



Note: All periods are measured in business days except the SME growth market extension period, where calendar days are noted.

- SME buy in period could be reduced from ISD+15 if the SME venue requests a shorter timeline otherwise Cboe Clear Europe we use the full 15 days
- For CCP-cleared transactions the 7-day delivery and deferral period is not applicable (this is the same as liquid shares)

- The number of days mentioned for the extension period for SME Growth markets is in Calendar days (This is under review with the authorities to confirm business days will be used).

Important timings from Cboe Clear Europe:

- Cboe Clear Europe will send a buy-in notification depending on the local market timing.
- A clearing member will be able to settle transactions until DVP close on the 1st day of the delivery period.
- A buy-in execution notice will be sent at DVP close on the first day of the delivery period.

6. Cash Compensation functionality

This will be linked to the Buy-In process and Cboe Clear Europe will publish more information when available.

7. Rule / Regulation changes

Cboe Clear Europe implemented changes to the below regulations:

- Regulation Buy-in procedure
- Regulation Settlements
- Regulation Fees and penalties

Questions & Answers

Article 19

Currently CCPs are responsible for collecting and distributing under Article 19. This is under review with the relevant authorities to amend this legislation resulting in one systemic process managed by the CSDs.

Daily reporting

At what level will you report the penalties?

Specifications have been released whereby Cboe Clear Europe validates the settlement instruction references stated in the daily CSD reports against Cboe Clear Europe's internal systems and settlement instructions. The reporting level will be at; Settlement Instruction reference, Quantity, ISIN-code, Clearing Participant, Currency, safekeeping and (netting) Account level. We want to use the existing billing process and FIF reporting in order for us to compute the penalties charged and distributed on a monthly basis, a daily recon with the penalty reporting we are receiving from the CSD's is required. The CSDR fail fees will be based on existing fail fee record types;

- **FAI (Penalty collection for failing client deliveries),**
- **FAC (Penalty distribution for failing client receipts), and**
- **FAO (mutualisation of fail fees among the failing trades per market).**

Do you intend to provide participants with the daily penalties report?

Cboe Clear Europe will report the fails in a new report on a daily basis, called the Daily Fail Fee report (DFF), which is a fixed length TXT file, whereby the distribution method and set-up will be similar to our current CIF and FIF files. Cboe Clear Europe relies on the CSD timings to process their reports and expect to be distributing our reports around 20.00 CET. These reports will contain the penalty from the day before and will be cumulatively reported until billing has taken place. If CSDs encounter any delays reporting penalties, then Cboe Clear Europe will report these when received.

If there is no penalty to be paid for a day, will we receive an empty file?

Cboe Clear Europe will not provide empty reports.

If yes, if a penalty gets amended by the CSD (e.g. due to incorrect rate), how will this be represented on the daily penalty reports? What code will we see this as?

The initially incorrectly reported fail fine will be replaced by a new cumulative number.

Can other fields be added to the daily/monthly reporting?

Certain information is only provided and reported on Trade level by Cboe Clear Europe. FAI/FAC/FAO are on Instruction level. Cboe Clear Europe will not provide any addition fields than the ones in the technical specification as these are only applicable for CSDs to report to its members.

Can Cboe Clear Europe use the current technical connection for market instructions, or should clients create a new one?

Using the current setup is possible, as well as creating a new one.

Monthly reporting (MFF)

Do you have sample monthly reports covering New/Amend/Cancel (Please provide samples if available)?

Please see the technical specifications for the DFF on our website. The MFF will be an accumulated file, containing all DFF data.

Can you confirm daily and monthly reports will be sent by 12 PM CET (on either the following business day for the daily reports or on the 14th/15th & 18th business day of the following month of the monthly reports)?

Cboe Clear Europe aims to replicate the CSD timings where possible providing reports on the 15th and payment on the 18th penalty business day.

The monthly report is a fixed length TXT file, whereby the distribution method and set-up will be similar to our current CIF and FIF files, having different record codes:

- **the details of all fails during the month**
- **netting result per account, per currency, per fail type**
- **netted per currency to be debited or credited**

Invoicing

Will Cboe Clear Europe reuse the current FIF file for reporting in order to reduce the build for clients, who are already automated receiving this format?

Cboe Clear Europe is reusing where possible the current FIF file formatting and processing. Cboe Clear Europe is sending a daily file (DFF) which is comparable to the FIF file which entails all the accumulated information on the penalties. The monthly invoice will then entail the Net result per currency.

Provide in the FIF breakdown of the penalties per NCM so we can use this figure to charge our NCM clients. Can you please confirm?

Breakdown of penalties is completed per account, allowing Clearing Members to easily recognise and pass on costs to their clients.

What will be the exact netting rule? Per NCM per settlement currency? Can you please confirm?

Netting will be done at Cboe Clear Europe's client level, i.e. the (General) Clearing Member level per settlement currency.

Will VAT be included in the invoice?

VAT is not expected to be populated.

Eligibility

Will you be making your own eligibility determination for CSDR penalties or relying on the CSD's?

Yes, Cboe Clear Europe will reconcile the daily failing settlements reported by the CSD against our internal outstanding settlements. The penalties and rates will not be determined within Cboe Clear Europe's system, but onward reported. Once there is a mismatch between our internal outstanding settlements and the failing settlements reported by the CSDs, Cboe Clear Europe will appeal.

Will you be reconciling any of the CSD's penalty calculations?

Cboe Clear Europe will not reconcile the calculations/amount of the penalty itself and only reconciles whether the reported failing settlement is indeed a failing settlement in our system. The daily amounts will be processed in Cboe Clear Europe's system and reconciled against the monthly report distributed by the CSDs. Cboe Clear Europe will not validate the actual calculation of the penalty itself.

Collection and Distribution

At what level will you apply the 'party' concept for the purposes of collecting and distributing penalties? (level of the entity, LEI, BIC, participant securities account, or other).

Penalties are collected and distributed at Clearing Participant level.

What method will you use to collect penalties?

Cboe Clear Europe has mandated Direct Debit for the collection of penalties.

What method will you use to distribute penalties?

Cboe Clear Europe will credit its members via a Direct Credit functionality.

Will you use existing invoices to advise of the monthly penalties or create new ones?

No, the CSDR fail fines will not be part of Cboe Clear Europe's invoice process but distributed and collected separately in a separate CSDR billing cycle each month.

In which currency is Cboe Clear Europe going to charge the penalties?

Penalties will be collected in EUR, SEK, DKK & NOK – Clients must have Direct Debit in place and tested for each applicable currency.

In the case that you receive partial payment of the penalty, will you further distribute the penalties partially? And if so how will its recipients be determined?

No, Cboe Clear Europe does not expect to receive partial payments from our clients, as Cboe Clear Europe processes the payments as one net cash movement either via a Direct Debit or a Direct Credit per currency.

Are participants required to set up dedicated cash accounts for paying/receiving penalties?

No.

How will you prevent duplicate penalties for the same failed obligation? This would be the case if a fail has been charged penalties and that fail is then deleted and replaced by new settlement instructions which represent the same failed obligation. This point is recognised in RTS Article 16(3) paragraph 3 sub-paragraph 2 for partial buy-ins where the reinstructed unbought-in fail is only charged penalty from the date the instruction is entered and not from the intended settlement date. This same

situation can arise in other cases, such as splitting a fail into two shapes such that different corporate action elections can be applied to each shape.

EACH is suggesting where a fail on which penalties have already been calculated is deleted and replaced by new equivalent settlement instructions, cash penalties shall apply to the new settlement instructions from the day those instructions are entered into the securities settlement system. Still under review.

Will there be an Appeal process and if so, how will that work?

Appeals of penalties must be applied at the CSD, not through the CCP.

Asset Servicing

Our understanding is that for Claim or Transformation Asset Servicing events: where an auto stock outcome is created, the CSDs will exclude the outcome from LMFP but include for SEFP. Can you confirm that where the CCP creates a Claim or Transformation stock outcome it is clearly indicated to the CSD as such?

All LMFP and SEFP's received from CSDs will be passed on to members.

Penalty mutualisation

As per the EACH framework, where a CCP ends up holding securities that they are unable to deliver, they will either mutualise the cost among their clearing members on a fair basis or establish clear rules to assign the costs. In such an event, how will you charge CCP members for these costs?

Cboe Clear Europe will always try to determine the root cause of the holdings and assign the costs where possible. If Cboe Clear Europe is not able to assign the penalty, the costs will be mutualised per market amongst the number of failing client delivery settlements for that month.

Will the debit of the penalty mutualisation process be included in the monthly penalty charge or will they be charged separately?

The debit of the penalty mutualisation will be included in the monthly penalty collection/distribution process. This process will not be part of the current monthly billing process.

Eligibility

What databases will you use to determine whether the instrument is in scope and the calculations that should be applied? Will these be FIRDS: Financial Instruments Reference Database and FITRS: Liquidity Database?

There is no database required as we rely on the CSD reporting.

SWIFT format (from CSDR framework)

Place of clearing - we have understood you will provide BIC code EMCFNL2A. Can you please confirm?

Yes.

Place of trade - double check the netting rule for SME markets. We noted your confirmation it will be option 1 from the EACH document, i.e. "Deny their Clearing Members the option of netting multiple SME growth markets (i.e. one separate net per SME growth market);"

Cboe Clear Europe will net all activity traded on an SME Growth market separate and report the MIC in the settlement instruction 94B field (94B:TRAD//EXCH/<SME MIC>. After liaising with the SME venues Cboe Clear Europe sees a minimal overlap of the same SME ISIN-codes on different SME venues.

Transaction type - Any visibility on when we can have complete feeding rule for this field? Can you please double confirm it will always be "NETT"?

Cboe Clear Europe's default value is NETT, unless a CSD would require a different qualifier. For the markets identified so far, we can state the following; Spain SETR/NETT, other CSD's SETR/TRAD or none. Norway also TRAD//EXCH/VARI.

Are participants required to identify the transaction type in settlement instruction in the field 22F::SETR? Is it a matching criterion?

It is recommended to use the correct Transaction type as it can have consequences for the buy-in penalty. It is not a matching criterion. Any special treatment with regards to SDR can only happen if both parties supply same transaction type.

Buy-in process - Fails Reporting

Do you currently send CCP members a daily fails trade report?

Daily fails are visible in Cboe Clear Europe's CIF reporting, and Cboe Clear Europe also offer to send Daily Fails (BIR-report) in XLS format via e-mail. The specifications of the BIR report will be enhanced to include SME buy-in timeframes and excluded the SDR fines (Once the Mandatory Buy In (MBI) changes have been confirmed).

Pre-Notification

In addition to the fails trade report, will you inform CCP members of failing trades eligible for buy-in before the end of the buy-in extension period?

To be reviewed once the MBI changes have been confirmed

If yes, can you confirm the pre-notification mechanism (timing, method, content, ack / nack)

To be reviewed once the MBI changes have been confirmed

Partials

Will there be functionality to opt out of auto-partialing service for CCP cleared transactions?

No

Will there be any changes in the execution of pair-offs or netting requests?

There will not be any changes to pair-offs or netting requests, any charges as a result of these requests will be passed on to the clients. Any charges as a result of late matching will also be passed on to the client, as this deviates from our normal processes.

SME Venues

As per the EACH framework, will you create separate netted instructions for SME growth markets?

Yes, for the venues:

Country	Venue	SME Segment MIC	Original Sender MIC
BELGIUM	Euronext	ALXB	ALXB
DENMARK	Nasdaq	DSME	XCSE
IRELAND	Euronext	XESM	XESM
FINLAND	Nasdaq	FSME	XHEL
GERMANY	Xetra	XETS / XETW	XETR
PORTUGAL	Euronext	ALXL	ALXL
FRANCE	Euronext	ALXP	ALXP
SWEDEN	Nasdaq	SSME	XSTO

MERK is expected to go live later in 2022 once approval has been received as an SME market

For Cboe Clear Europe members, will you continue to send daily nets in the same mechanism that you do today, and will the only difference be that there will be an additional net included in the messaging?

Yes

Is your expectation that CCP members need to split their instructions to settle with Cboe Clear Europe between SME and non-SME nets?

Cboe Clear Europe will separately net the trades at the SME Market MIC-code level as executed on the specific SME Growth Market. This allows our clients and CSDs to recognise the SME qualifier in the settlement instructions to process and report the fails accordingly.

If yes: where there is a product traded on multiple SME venues, which MIC would you expect us to populate.

The segregation will be at each SME Growth market's MIC code level.

Extension Period+1

What will be your deadline for the final opportunity/timings to settle original trade on the day after the extension period?

ISD+5 at DVP cut-off mirroring today's timings for buy ins.

Buy in related questions to be reviewed once the MBI changes have been confirmed – See **

****Notification (Article 27)**

Where the CCP member is the failing to deliver clearing member, can you confirm if you will notify the CCP member of the initiation of the buy-in?

Yes

If yes, can you detail the mechanism (timing, method, content, ack / nack etc.).

As explained above we intend to use the existing Buy in notification warning on ISD+3 at 09.00 CET and execute the Buy in if still failing on ISD+5 directly after DVP cut-off.

Where the CCP member is the failing to receive clearing member, can you confirm if you will notify the CCP member of the initiation of the buy-in?

No

****Buy-in Initiation**

Can a buy in be passed on to a CCP?

As is currently the process, a buy in cannot be initiated against a CCP.

Can you confirm that you will always appoint a Buy In Agent (BIA) or launch an auction or a combination of both?

Cboe Clear Europe will continue to use its existing process to execute buy-ins via brokers.

Can you confirm which changes will apply to the current buy-in regime after CSDR?

Early buy-ins will be removed after CSDR comes into place aligning with the other CCP's and for Spain there will not be any more cash compensations at 120% and we will start with buy-ins for this market.

If the price of the securities agreed at the time of the trade is higher than the price paid for the execution of the buy-in, the corresponding difference shall be deemed paid to the delivering Clearing participant by Cboe Clear Europe. Currently the failing delivery party would be credited, after CSDR this would no longer be the case.

If CSDR buy in is introduced, clients will have the responsibility to put CCP activity on hold (Timeframe under review but expected to be within 30-60minutes after DVP cut-off. Penalty fee will be charged if the client fails to put the trade on hold and it settles in the next cycle requiring manual effort to reverse.

Reports – We expect to send clients a new automated report of all Buy Ins daily that have been executed (Timeframe to be advised) / Current fails report sent daily detailing fails and Buy ins will remain the same.

Can you confirm which buy-in processes will remain the same after CSDR?

For the Swiss and UK market there will be no changes with regards to the Market Makers and ETF buy-in Regime.

What is the process of providing settlement instructions in order to settle a buy-in?

Cboe Clear Europe will instruct a settlement instruction with the buy-in broker as counterparty. A special indicator :22F::RPOR//BYIY will be used to indicate that this concerns a buy-in settlement. The instruction with the failing recipient will remain in place and as soon as the stock from the buy-in broker is received, this will be used to settle the existing instruction.

The failing delivering party will be asked to cancel the original failing instruction which was initially placed on hold. Fees, charges, and commissions from the buy-in process will be charged to the Failing party, as well as the cash compensation, if any.

When the buy in is partially successful, new settlements instructions for the remaining quantity will be sent using the same ISD as the original settlement instruction between Cboe Clear Europe and the failing party. This needs to include value code BSSP to ensure no additional late matching fail penalties are incurred with an ISD in the past. When this is sourced, the same process applies.

****Buy-in Failed**

Where you have successfully sourced the stock for a buy-in, will you allow that buy-in transaction to settle during both the first buy-in period and also the deferral period? Or will you cancel that buy-in at the end of the first buy-in period and re-source the stock for the deferral period?

Even though still under review and subject to client consultation, Cboe Clear Europe will allow settlement during both the first Buy-In period and Deferral period. Securities are sourced on a T+0, T+1 or T+2 basis. If the Stock Supplier has difficulties to settle during the agreed timelines, we will most likely use the Deferral period for final settlement.

If you are unable to settle the buy in within the prescribed first buy in period (4 days for shares and 7 days for other), will you inform the CCP member?

We will inform the failing delivering clearing member of the status of the buy in trade and settlement.

If you are unable to settle the buy in within the prescribed deferral buy in period, will you inform the CCP member?

We will inform the failing delivering clearing member of the status of the buy in trade and settlement.

****Hold and Release**

Where the CCP member is not using PARQ in its settlement instructions, will it be additional penalised in case of splitting?

Yes, Cboe Clear Europe has been mandating the use of PARQ by all CPs where possible. Use of PARQ is maximising settlement efficiency and minimising Cboe Clear Europe's overnight positions. If CPs are not using PARQ, and settlement instructions end-up to be split, shaped or manually partialled, additional Late Matching fines will be the result and allocated to the non-PARQ client.

Where the CCP member is the failing to deliver clearing member, will you offer functionality to automatically put instructions on hold?

Only in the Spanish market, Cboe Clear Europe has the functionality to put clients delivery instructions automatically on hold.

When (at time and date) will you put our instruction on hold?

In case Cboe Clear Europe communicates the hold request via Already Matched or Settlement Agent PoA, which will take place directly after the DVP cut-off on ISD +5, the status update should be informed directly from the CSD or the Settlement Agent.

Is Cboe Clear Europe prepared for the Partial release? And does it offer the Hold and Release possibility

Cboe Clear Europe offers the Hold and Release functionality for the Spanish market only.

****Buy in settlement**

Will you deliver the bought in securities to the failing delivering clearing member's depot and allow the original instruction to settle or will you bilaterally cancel the transaction?

No, Cboe Clear Europe and the failing delivering clearing member will bilaterally cancel the original instruction.

****Bilaterally Cancel**

Can you confirm how the payment of the price difference in accordance to Article 35 will be settled? Detailing information to be provided to the CCP member and mechanism.

Cboe Clear Europe will notify its members via an email report BIE, whereby the cash amount is settled via a Direct Debit or Direct Credit in the original currency.

If price of bought in financial instruments is lower than that original paid for, will you credit the delivering clearing member or retain price difference?

Cboe Clear Europe will retain the price difference and not credit the failing receiving member.

Where the CCP member is the failing to receive clearing member, will you deliver the bought in securities using the original instruction?

Yes

****Buy In Results**

Will you inform CSD of the buy in results?

Yes

****Cash compensation**

Can you confirm that you will calculate the required cash compensation amount in accordance to Article 33?

Yes. The basis for a cash settlement is article 33 to Article 7(7) of Regulation (EU) No 909/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on SDR. Article 33, 1. For transactions cleared by a CCP, the CCP shall collect the cash compensation from the failing clearing members and pay the cash compensation to the receiving clearing members in case of any cash shortfall”.

Can you confirm that you will collect the cash compensation from the failing clearing member, and pay the cash compensation amount to the receiving clearing member in accordance to Article 33, regardless of our relationship with you (direct or indirect)?

Yes

If yes, what price source will you use to calculate cash compensation?

We will use the market value of the instrument on the business day prior to the cash compensation day as reported by Reuters if the market price is higher than the original price of the failed settlement. If the cash settlement price is lower (based on the business date prior to the cash compensation) we will deem the contract with the receiving CP as paid. The delivering CP will be debited for the full Cboe Clear Europe cash shortfall (the difference between the original failed settlement and the original failed settlement towards the receiving member),. The cash compensation amounts will be at 100% in the new situation, eliminating the 20% penalty. These changes will be highlighted in the new regulations.

As per the EACH framework, will you establish any additional rules to levy additional penalties on the failing delivery member for causing a cash compensation?

No.

****Bilateral cancellations**

If you will bilaterally cancel our transaction, do you require the CCP member to send a cancellation request, or will you automatically cancel, regardless of our relationship with you (direct or indirect)?

Yes both sides need to send a cancellation request to cancel a trade unless CSD or Settlement Agent PoA is used, in which case Cboe Clear Europe will send the cancellation request directly to the CSD or the Settlement Agent of the CCP Member.

****Asset Servicing**

For instruments subject to a voluntary corporate action with a market deadline within 10 days, will you consider impacted transactions as out of scope for buy ins? If so, how will you inform the CCP member?

This is under review within the Market / Working Groups, but currently Rights are included in the buy in timelines. EACH is challenging all corporate actions subject to buyer protection to be excluded from the buy-in scope.

If yes, where will you source asset servicing events (source data)?

Cboe Clear Europe will source the asset servicing events directly from the CSDs and data vendors.

Where a transaction is open over the key dates of a transformation event, will you transfer the obligation to buy-in to the new transformed trade? Or, would you expect the obligation to remain on the original and therefore proceed to cash compensation?

Normally the buy in would continue to the transformed line. EACH is challenging all corporate actions subject to buyer protection to be excluded from the buy-in scope.

Where there is a stock compensation event do you expect the new compensation transaction to be eligible for buy-in? And if yes, would you consider the original ISD or payment date of the event to be the date you track for extension period?

Yes, Cboe Clear Europe relies on the CSDs to process original ISDs for compensation transactions.

Collateral transactions

Will transactions resulting from treasury or providing Collateral also be in scope for the penalties?

Although not cleared by Cboe Clear Europe, these will also be in scope if matched late or settle late. As Cboe Clear Europe always cancels these instructions as they have not settled at the end of the day, this should not pose any issue.

Appendix Penalty Fail rates:

4. Penalty Fail Rates

Type of Fail	Rate
• Settlement fail due to a lack of shares that have a liquid market	1,0 basis point
• Settlement fail due to a lack of shares that do not have a liquid market	0,5 basis point
• Settlement fail due to a lack of financial instruments traded on SME growth markets	0,25 basis point
• Settlement fail due to a lack of debt instruments issued or guaranteed by: (a) a sovereign issuer as defined in Article 4(1)(60) of Directive 2014/65/EU; (b) a third country sovereign issuer; (c) a local government authority; (d) a central bank; (e) any multilateral development bank referred to in the second subparagraph of Article 117(1) and in Article 117(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (1);(f) the European Financial Stability Facility or the European Stability Mechanism.	0,10 basis point
• Settlement fail due to a lack of debt instruments other	0,20 basis point
• Settlement fail due to a lack of debt instruments traded on SME growth markets	0,15 basis point
• Settlement fail due to a lack of other financial instruments not covered in points 1 to 6	0,5 basis point
• Settlement fail due to a lack of cash	Official interest rate for overnight credit charged by the central bank issuing the settlement currency with a floor of 0 (zero)

****Processing timelines using a Buy-in Broker**

Extension Period				Delivery Period				Deferral Period				
ISD+1	ISD+2	ISD+3	ISD+4	ISD+5	ISD+6	ISD+7	ISD+8	ISD+9	ISD+10	ISD+11	ISD+12	
Settlement recycles of Cboe Clear Europe's failing RVP settlements												
Settlement recycles of Cboe Clear Europe's failing DVP settlements and cancel upon settlement of Buy-in order or execution of Cash Settlement												
				DVP cut-off - Selling party's DVP on Hold				09.00 CET: If no execution has taken place: Cash Compensation				DVP cut-off: Cancel RVP of Failing Buy-in settlement and process Cash Compensation
				DVP Cut-off: Cboe Clear Europe to submit Buy-in Order T+0, T+1 or T+2				If execution has taken place, but settlement fails, use maximum Deferral period				
								If execution has not taken place, Cboe Clear Europe cancels the buy-in order				

Please note, the above is still under review and will be part of client consultation. If members and Co-CCPs are using the full Deferral Period prior to cash compensating, Cboe Clear Europe will extend the buy-in order into the Deferral period as well.

**Client communication / Interaction - Failing Delivering Clearing Member

Extension Period				Delivery Period				Deferral Period			
ISD+1	ISD+2	ISD+3	ISD+4	ISD+5	ISD+6	ISD+7	ISD+8	ISD+9	ISD+10	ISD+11	ISD+12
Daily Fail Fee reporting (fixed length TXT file in format similar to CIF/FIF file) - CSD reporting pre-reconciliation (daily)											
Monthly Fail Fee reporting (fixed length TXT file in format similar to CIF/FIF file) - Reconciled detailed CSD data (1* pm)											
Monthly Consolidated Fail fee notice per currency (netted sum of the Monthly Fail fee reporting) (1* pm)											
		09.00 CET Buy-in Warning (BIW) EMAIL		DVP Cut-off: Inform start of Buy-in process Buy-in Notification (BIN) and request to put DVP on Hold EMAIL				09.00 CET: If no execution (full or partial) has taken place: Cash Compensation (PDF statement is Cash Compensation Debit - CCD) Request for Payment + Request to Cancel original DVP + Cancel Cboe Clear Europe RVP EMAIL (via PDF)			(CCD) Cash Compensation Request for Payment + Request to Cancel original DVP EMAIL
				Upon Full Execution: Send Buy-in Execution (BIE) message + Cash Difference + Request to Cancel original DVP EMAIL							

**Client communication / Interaction - Failing Receiving Clearing Member

Extension Period				Delivery Period				Deferral Period			
ISD+1	ISD+2	ISD+3	ISD+4	ISD+5	ISD+6	ISD+7	ISD+8	ISD+9	ISD+10	ISD+11	ISD+12
Daily Fail Fee reporting (fixed length TXT file in format similar to CIF/FIF file) - CSD reporting pre-reconciliation (daily)											
Monthly Fail Fee reporting (fixed length TXT file in format similar to CIF/FIF file) - Reconciled detailed CSD data (1* pm)											
Monthly Consolidated Fail fee notice per currency (netted sum of the Monthly Fail fee reporting) (1* pm)											
				Upon Full Execution and position received in Cboe Clear Europe's main account, Cboe Clear Europe will settle its delivery to failing buyer: Confirm Cash Difference via Direct Credit EMAIL	Partial: Upon Execution of the Partial and position received in Cboe Clear Europe's main account, Cboe Clear Europe will settle its delivery automatically (due to PARQ) to failing receiver: Cash Difference via Direct Credit EMAIL			09.00 CET: If no execution has taken place: (CCC) Cash Compensation Direct Credit + Request to Cancel original RVP EMAIL (via PDF)			DVP Cut-off at 09.00 CET: If no settlement has taken place: Cash Compensation Direct Credit + Request to Cancel original RVP EMAIL

**Buy-in / Cash Compensation Example

Example of different price movements between original traded prices and Buy-in / Cash Compensation prices, and Cboe Clear Europe's actions:

Type	Price fluctuation	Receiving clearing member	Delivering clearing member	Buyer settlement	Buyer cash amount difference	ECCP	Seller settlement	Seller cash amount difference	Cboe Clear Europe
Buy-in	Original executed price < Buy-in price (Higher)	Settle original inx	Cancel Original inx + Debit difference	100		Buy-in price = 125	100	-25	Cboe Clear Europe to debit Seller
Buy-in	Original executed price > Buy-in price (Lower)	Settle original inx	Cancel original inx	100		Buy-in price = 75	100		Deemed paid
Type	Price fluctuation	Receiving clearing member	Delivering clearing member	Buyer settlement	Buyer cash amount	ECCP	Seller settlement	Seller cash amount	Cboe Clear Europe
Cash Compensation	Original executed price < (Lower) previous COB closing price	Cancel original inx	Cancel Original inx + Debit difference	100	25	Previous COB closing price = 125	100	-25	Cboe Clear Europe to debit Seller and credit Buyer
Cash Compensation	Original executed price > (Higher) previous COB closing price	Cancel original inx	Cancel original inx	100		Previous COB closing price = 75	100		No action
Cash Compensation	Original executed delivering party price < (Lower) previous COB closing price AND	Cancel original	Cancel Original inx + Debit difference Cboe Clear Europe balance (failing clearing member pays difference seller – buyer)	135		Previous COB closing price = 125	100	-25 price diff -10 balance = -35 Total	Cboe Clear Europe to debit Seller (incl. 10 balance is to recover earlier Sellers)

Cboe Clear Europe CSDR Settlement Discipline Framework

Cash Compensation	failing receiving party price > (Higher) previous COB closing price	Cancel original instruction + Credit difference Cboe Clear Europe balance (difference between buyer and seller settlements)	Cancel Original inx	100	+25 price diff +10 balance = + 35 Total	Previous COB closing price = 125	135		Cboe Clear Europe to credit Buyer (incl. 10 balance received from earlier Buyers)
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Cboe Clear Europe N.V. (Cboe Clear Europe), incorporated in the Netherlands, and having its registered office at Strawinskylaan 1847, 1077 XX Amsterdam, The Netherlands, is registered in the Dutch commercial register under number 34268194. Cboe Clear Europe is a Limited Liability Company with share capital of EUR 7,500,000. Cboe Clear Europe has a branch office in London that is registered in the UK, as a UK Establishment with Company No. FC031747 and UK Establishment No. BR016817.