

Information on the requirements for securities settlement discipline pursuant to the Central Securities Depository Regulation.

January 2022

What are the requirements for securities settlement discipline all about?

After the 2008 financial crisis, the European Union implemented reforms aimed at stabilising financial markets.

The reforms included inter alia Regulation (EU) No. 909/2014 – Central Securities Depository Regulation (CSDR), which the European Union issued in March 2012. The purpose of this Regulation is to create a regulatory framework for Central Securities Depositories (CSDs), and its provisions are designed to reduce the number of unsuccessful securities deliveries and securities settlements.

The CSDR regulates settlement systems in the EU and includes provisions for settlement discipline (CSDR Settlement Discipline). They comprise measures for improving settlement efficiency, such as the payment of cash penalties for settlement fails.

The requirements of the CSDR Settlement Discipline regime cover two important areas:

1. Measures aimed at ensuring that transactions are settled on the intended settlement date, and at preventing settlement fails;
2. Measures addressing settlement fails, comprising the imposition of cash penalties and a mandatory buy-in requirement.

What is a Central Securities Depository?

Central Securities Depositories (CSDs) are financial organisations that specialise in holding securities such as shares, bonds, money market instruments and investment funds in giro collective deposit. CSDs make it possible to transfer ownership of such securities by means of book entries to electronic accounting systems. This is much faster than the transfer of physical securities.

Who is affected by the CSDR requirements for settlement discipline?

All parties in the settlement chain involved in transactions in the European Economic Area (EEA), including transaction parties not domiciled in the EEA, are affected by the requirements for settlement discipline. The regulatory obligations apply to both the receiving party and the delivering party in the event of settlement fails.

What is the objective of the CSDR requirements for settlement discipline?

One of the Regulation's main objectives is to increase the safety and efficiency of securities settlement, especially in the area of cross-border transactions, through measures aimed at ensuring the punctual and risk-free receipt of securities and money for the buyer and the seller.

When will the CSDR requirements for settlement discipline take effect?

The requirements for CSDR settlement discipline, most notably the measures concerning cash penalties, will take effect on 1 February 2022.

What types of cash penalties are there?

1. Late Matching Fail Penalty (LMFP): A cash penalty that is payable because the settlement matching process forming part of a securities transaction did not take place until after the intended settlement date.
2. Settlement Fail Penalty (SEFP): A cash penalty that is payable because a matched securities transaction was not settled on or after the intended settlement date.

To what extent am I, as a Bank Austria customer, affected by this Regulation?

1. Purchase/Sales Agreement: Since a purchase or sale of securities via Bank Austria (commission business) requires the availability of sufficient cover and Bank Austria settles securities transactions on your behalf, you will not be obliged to pay any cash penalties. If there should be settlement delays due to the counterparty's handling of the securities transaction, you will be credited with any amounts which may be credited to Bank Austria as cash penalties.
2. Instructions for delivery/payment or for receipt/payment (simultaneous mutual performance): Since your purchases or sales of securities are in this case settled by Bank Austria which is dependent on you for the proper and timely transmission of instructions and for the appropriate cover, credit or debit amounts resulting from cash penalties payable by the counterparty or by you will be passed on to you.
3. Instructions for free delivery/free receipt (securities transfer): The same provisions as outlined in para. 2. above shall apply.

How do I obtain information on cash penalties?

As a matter of standard procedure you will every month receive in writing a list of all cash penalties concerning your securities transactions. You will receive this list around the tenth business day of the following month.

Alternatively, you can opt for receipt of a daily list of all cash penalties concerning your securities transactions. If you prefer this option, you can inform your Bank Austria relationship manager accordingly.

When will credit or debit entries be made to my account for cash penalty payments?

Your account will be credited or debited with the aggregate amount of cash penalties on the seventeenth business day of the following month.

What can I do if I am not in agreement with the payment of a cash penalty?

Following receipt of the daily list of cash penalties concerning your securities transactions, you can raise objection to a cash penalty until the tenth business day of the following month. You should submit the objection and the reasons for it to your relationship manager in writing.

Your Bank Austria relationship manager will be pleased to answer any queries you may have on the Central Securities Depository Regulation and the new settlement discipline requirements.