

Commission Delegated Regulation (EU) 2018/1229 of 25 May  
2018 supplementing Regulation (EU) No 909/2014 of the European  
Parliament and of the Council with regard to regulatory technical  
standards on settlement discipline (Text with EEA relevance)

*CHAPTER III*

*Measures to address settlement fails*

*Section 2*

*Cash penalties*

*Article 16*

**Calculation and application of cash penalties**

1 The cash penalties referred to in Article 7(2) of Regulation (EU) No 909/2014 shall be calculated and applied by CSDs for each settlement instruction that fails to settle.

The calculation referred to in the first subparagraph shall include settlement instructions that have been put on hold by a participant.

Where matching is required pursuant to Article 5(2), cash penalties shall only be applied to matched settlement instructions.

2 Cash penalties shall be calculated and applied at the end of each business day where the settlement instruction fails to settle.

3 Where a settlement instruction has been entered into the securities settlement system or has been matched after the intended settlement date, cash penalties shall be calculated and applied as from the intended settlement date.

Where new settlement instructions are entered into the securities settlement system for any non-delivered financial instruments in accordance with Article 27(10), Article 29(11) or Article 31(11), cash penalties shall apply to the new settlement instructions from the day those instructions are entered into the securities settlement system.

Where settlement instructions have been matched after the intended settlement date, cash penalties for the period between the intended settlement date and the business day prior to the day on which matching has taken place shall be paid by the last participant who has entered or modified the relevant settlement instruction in the securities settlement system.

4 CSDs shall provide each relevant participant with the details of the calculation of the penalties for each failed settlement instruction on a daily basis, including details on the account to which each failed settlement instruction refers.

---

**Changes to legislation:** Commission Delegated Regulation (EU) 2018/1229, Section 2 is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

### Article 17

#### Collection and distribution of cash penalties

1 CSDs shall charge and collect on at least a monthly basis the net amount of cash penalties to be paid by each failing participant.

Cash penalties shall be deposited into a dedicated cash account.

2 CSDs shall distribute on at least a monthly basis the net amount of cash penalties referred to in paragraph 1 to receiving participants affected by settlement fails.

### Article 18

#### Costs of the penalty mechanism

1 CSDs shall not use cash penalties to cover costs related to the penalty mechanism.

2 CSDs shall disclose, in detail, the amount of the costs referred to in paragraph 1 to participants.

3 CSDs shall charge participants separately for the costs of the penalty mechanism. Those costs shall not be charged on the basis of gross penalties applied to each participant.

### Article 19

#### Penalty mechanism where the participant is a CCP

Where the failing or the receiving participant is a CCP, CSDs shall ensure the following:

- (a) that CCPs are provided with the calculation of the cash penalties for the failed settlement instructions submitted by those CCPs;
- (b) that CCPs collect the cash penalties referred to in point (a) from the clearing members that caused the settlement fails;
- (c) that CCPs distributes the cash penalties referred to in point (b) to the clearing members that are affected by the settlement fails;
- (d) that CCPs report to the CSD on the penalties that they have collected and distributed, on a monthly basis.

### Article 20

#### CSDs that use a common settlement infrastructure

CSDs that use a common settlement infrastructure, including where some of their services or activities have been outsourced as referred to in Article 30(5) of Regulation (EU) No 909/2014, shall jointly establish the penalty mechanism referred to in Article 7(2) of Regulation (EU) No 909/2014 and jointly manage the modalities for the calculation, application, collection and distribution of cash penalties in accordance with this Regulation.

**Changes to legislation:**

Commission Delegated Regulation (EU) 2018/1229, Section 2 is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- [Regulation revoked by 2023 c. 29 Sch. 1 Pt. 13](#)