

	N°	Title
	III.4-3	PENALTIES ON NET FAILS FOR TRANSACTIONS REGISTERED IN CASH AND DERIVATIVES CLEARING SYSTEM

Pursuant to the Clearing Rule Book Section 3.4.3 Settlement Failure.

CHAPTER 1 PENALTIES ON NET FAILS

Article 1

The Net Fails are related to a lack of payment and or a lack of delivery from the Clearing Member. All Net Fails are subject to penalties due by the Clearing Member to LCH SA when the latter is acting in its capacity as CCP ("**CCP Penalty**"), and/or acting on behalf of a CSD of Reference or ICSD in accordance with CSDR ("**CSDR Penalty**").

Article 2

As soon as a Net Fail is detected in the CSD of Reference, ICSD or Securities settlement system, LCH SA calculates the CCP Penalty owed by the Clearing Member pursuant to the fee published in LCH SA's fee grid. At the end of each month an invoice is sent to the Clearing Member and the corresponding amount is debited on its account.

The amount of this CCP Penalty on Net Fail will be increased, as the case may be, by any cost, including any CSDR Penalty amount, charged by LCH SA on behalf of the relevant CSD of Reference, ICSD or Securities settlement system in relation to the said Net Fail. The CSDR Penalty amount shall be calculated by each relevant CSD of Reference or ICSD, and charged by LCH SA on the strict basis of such calculation, as described in Chapter 2 of this Instruction.

CHAPTER 2 CSDR PENALTIES

Article 3

The provisions set out hereafter are related to the CSDR Penalties due by the failing Clearing Member, which does not fulfil its delivery obligation on the Intended Settlement Date, within a CSD of Reference or ICSD subject to CSDR.

Article 4

In addition to any CCP Penalties that may be imposed by LCH SA, each relevant CSD of Reference or ICSD calculates daily CSDR Penalties on Net Fails in accordance with CSDR and reports these penalties to their participants. For cleared Transactions, LCH SA shall collect and distribute such CSDR Penalties from and to its relevant Clearing Members, following the instructions of each such CSD of reference/ ICSD.

Article 5 - Daily process

LCH shall, on a daily basis, match and reconcile each CSDR Penalty calculation against its record of Net Fails. At the end of each day, LCH SA provides each Clearing Member with a report giving all the CSDR penalty calculation records for all relevant CSDs of Reference/ ICSDs.

Clearing Members shall raise queries in relation to the calculated CSDR Penalties, including any request for deletion or correction, directly with the appropriate CSD of Reference, ICSD or Settlement Agent as applicable, and follow the process described in their own applicable rules.

LCH SA, acting strictly on behalf of each relevant CSD of Reference/ ICSD and upon its instructions, shall not be responsible for the accuracy and completeness of the calculations of CSDR Penalties by such CSDs.

Article 6 - Monthly process

Following the month end penalty processing timetable of each relevant CSD of Reference/ ICSD, LCH SA shall provide each Clearing Member with a report including all the final corrected records for all relevant CSDs for the previous month.

Penalty collection and distribution will be processed through Target 2 payments for EUR currency, with a value date following each relevant CSD of Reference/ ICSD calendar for CSDR Penalty regime. All other non-EUR currencies shall be processed in accordance with the relevant ICSD or central bank applicable rules and terms.