

	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 a penalty due by the Clearing Member to LCH SA.

Article 2

As soon as a Net Fail is detected in the Securities depository or Securities settlement system, LCH SA calculates the penalty owed by the Clearing Member based on a fix fee as well as on the valuation of the Net Fail, as set out in this Instruction.

The amount of this penalty on Net Fail will be increased, as the case may be, by any cost, including any penalty amount, charged to LCH SA by the Securities depository or Securities settlement system in relation to the said Net Fail.

CHAPTER 2 NET FAILS DUE TO A LACK OF PAYMENT

Article 3

The provisions set out hereafter are related to the penalties due by the Clearing Member which does not fulfil its payment obligation on the intended Settlement Date.

Article 4

The penalty related to the lack of payment is calculated per Clearing Day and cumulated on a calendar month period, as follows:

$$[\text{Amount of the Net Fail} \times (\text{EONIA} + 2\%)] \text{ divided by } 360.$$

Article 5

At the end of each month an invoice is sent to the Clearing Member and the corresponding amount is debited on its account.

CHAPTER 3 NET FAILS DUE TO A LACK OF DELIVERY

Article 6

The provisions set out hereafter are related to the penalties due by the Clearing Member, which does not fulfil its delivery obligation on the intended Settlement Date.

Article 7

The penalty related to the lack of Securities delivery is calculated as follows:

- (i) A fixed fee of 15 euros per selling Net Fail, per Clearing Day, and;

- (ii) A Net Fail fee which is variable and equal to the rate as defined hereafter divided by 360 X Net Fail amount.

The rate referred to here above and that will apply during the calendar semester, is equal to EONIA rate as published the first day of such semester, +1% and rounded to the first decimal.

The penalty is calculated per Clearing Day and cumulated on a calendar month period.

The rate referred to here above will be revised the first day of each semester, except in case of significant variations, based on the EONIA performance. In case of significant variations, a written notification will be sent to Clearing Members detailing the amount and the applicable date of the new rate.

Article 8

For rights resulting from corporate events on Securities listed on Euronext Amsterdam and settled in Euroclear Netherland or Euroclear Bank, LCH SA will pass-on the penalties for Net Fails on rights as stipulated by the official issuer's publication, and in the conditions described in a Notice.

CHAPTER 4 REIMBURSEMENT

Article 9

The variable Net Fails fees paid by the Clearing Member will be subject to reimbursement under the conditions hereafter defined.

Article 10

The fixed fees and the penalties related to Net-Fails on Dutch subscription rights described in Article 8 above will not be subject to any reimbursement.

Article 11

LCH SA calculates, on a monthly basis, the reimbursement owed to the Clearing Member, by taking into account the following criteria:

- Criterion related to the Clearing Member: the amount of fees related to the Posting hereinafter referred "Registration Fees" paid by the Clearing Member per Clearing Segment;
- General criterion: the total amount of variable Net Fail fees of the same Clearing Segment and the global amount of Registration Fees, paid by all Clearing Members of the same Clearing Segment.

The monthly reimbursement made by LCH SA will not be higher than the monthly penalties paid by the Clearing Member per Clearing Segment.

Article 12

The reimbursement (iii) is determined by LCH SA per Clearing Member per month as follows:

Reimbursement = minimum amount between :

- Either the penalties related to the lack of delivery due by the Clearing Member per Clearing Segment,
- Or the total of the variable Net Fail fees due by all Clearing Members X [Amount of the Registration Fees paid by the Clearing Member per Clearing Segment / Total amount of registration fees paid by all Clearing Members per Clearing Segment].

Article 13

An invoice is sent to the Clearing Member related to the previous month reimbursement calculation. The net amount is debited on its account on the 15th business day following the month of the invoice.

Such net amount is equal to (i) the monthly fixed fees of the month of the invoice plus (ii) the monthly variable fees of the month of the invoice minus (iii) the reimbursement amount.