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Additional Information

Level 1 Regulation
Central Securities Depositories Regulation (CSDR) Regulation (EU) No 909/2014- PTR-CSDR

Topic
General questions - Settlement periods

Subject Matter
Cash penalties: costs and process

Question
According to Article 18 of the RTS on Settlement Discipline, the costs of the penalty mechanism that are charged to participants by a CSD should not be allocated on the basis of the number or value of penalties applied to participants, as it could result in a concentration of the cost allocation to a limited number of participants and be seen as a shadow penalty.

Other related services, such as additional reports that may be requested by participants, can be charged separately to the respective participants.

ESMA Answer

18-10-2022

Original language

[ESMA70-156-4448 CSD Settlement Discipline Q&A 5]

Answer provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation

Insofar as those incentives do not impede the effective application of requirements set out in CSDR and Commission Delegated Regulation (EU) 2018/1229, CSDs can put in place such measures to limit the occurrence of payment delays leading to partial collection and distribution of cash penalties.

Disclaimer in relation to the answers provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation: these answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.