



SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

September 2021



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Q&A CSDR Settlement Discipline Regime

Table of contents

1.0	General	4
1.1	Question 1 – Impact of CSDR’s Settlement Discipline Regime on SIX x-clear	4
1.2	Question 2 – Affected products	4
1.3	Question 3 – EACH CSDR Settlement Discipline Framework	4
1.4	Question 4 – SIX x-clear CSDR Settlement Discipline Framework	5
1.5	Question 5 – Timeline	5
1.5.1	Question 5a – Date of entry into effect	5
1.5.2	Question 5b – Implementation	5
1.5.3	Question 5c – Testing	6
1.5.4	Question 5d – Message specifications	6
1.6	Question 6 – Amendment to internal rules and regulations	6
1.7	Question 7 – Clarifications in the market	7
1.8	Question 8 – Delegation of CCP obligations under Article 19 RTS to CSDs	7
2.0	Penalties	8
2.1	Question 1 – Collection and distribution of penalties	8
2.2	Question 2 – Level of application	8
2.3	Question 3 – Eligibility	8
2.4	Question 4 – Payment of penalties (collection and distribution)	9
2.4.1	Question 4a – Payment method	9
2.4.2	Question 4b – Non-feasibility of direct debit	9
2.4.3	Question 4c – Dedicated cash accounts	9
2.4.4	Question 4d – Identification of penalty payments	10
2.4.5	Question 4e – Payment instructions	10
2.4.6	Question 4f – Partial distribution payment	10
2.4.7	Question 4g – Non-payment of a penalty not considered as a default case	11
2.4.8	Question 4h – Timing	11
2.5	Question 5 – Currency	11
2.6	Question 6 – Overnight positions	12
2.7	Question 7 – Penalty mutualization	12
2.8	Question 8 – Penalties reporting	13
2.8.1	Question 8a – Application of Article 7(11) CSDR and impact on calculation of penalties	13
2.8.2	Question 8b – Daily penalties reporting	14
2.8.3	Question 8c – Monthly aggregated penalties report	14
2.8.4	Question 8d – Monthly pre-advice penalty report	15
2.9	Question 9 – Additional tariffs/fees	16
2.10	Question 10 – SME growth market trades	17
2.10.1	Question 10a – General	17
2.10.2	Question 10b – Netting rules	17
2.11	Question 11 – Population of settlement instructions	18
2.11.1	Question 11a – Place of Trade	18
2.11.2	Question 11b – Transaction (instruction) type	18
2.11.3	Question 11c – Place of Clearing	19

SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

2.12	Question 12 – Strange nets	19
2.13	Question 13 – Trade date netting	19
2.14	Question 14 – Appeals	20
2.14.1	Question 14a – Submission of appeals	20
2.14.2	Question 14b – Notification of a successful appeal	20
3.0	Buy-in	20
3.1	Question 1 – Harmonization of the buy-in processing across Europe	20
3.2	Question 2 – Details on the buy-in process	21
3.2.1	Question 2a – General	21
3.2.2	Question 2b – Buy-in pre-information	21
3.2.3	Question 2c – Notification of initiation of buy-in process	22
3.2.4	Question 2d – Final delivery window	22
3.2.5	Question 2e – Launching of the buy-in process	22
3.2.6	Question 2f – Delivery using the original instruction	22
3.2.7	Question 2g – Cancellation of the failing transaction after a successful buy-in	23
3.2.8	Question 2h – Hold and release	23
3.2.9	Question 2i – Recourse if an instruction is not put on hold	23
3.2.10	Question 2j – Communication of the results of the buy-in	24
3.3	Question 3 – Notification of the Member that a buy-in is not possible	24
3.4	Question 4 – SME growth market trades	24
3.4.1	Question 4a - SME growth market trades settling on different SME growth markets	24
3.4.2	Question 4b – SME growth market trades settling against non-SME growth market trades	25
3.5	Question 5 – Partial buy-In	25
3.5.1	Question 5a – Mandatory application of partial settlement	25
3.5.2	Question 5b – Penalties due to a successful partial buy-in	25
3.5.3	Question 5c – Cancelling original settlement instructions in case of a partial buy-in	26
3.6	Question 6 – Buy-in in the Swiss market	26
3.7	Question 7 – Buy-in in the UK market	26
3.8	Question 8 – Potential removal of CSDR’s mandatory buy-in	27

SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

1.0 General

1.1 Question 1 – Impact of CSDR’s Settlement Discipline Regime on SIX x-clear

What is the impact of the SD RTS on SIX x-clear?

Answer:

As a CCP, SIX x-clear clears a range of trading venues for Members whose trades will settle in the EU/EEA area. For all trades settling in the EU/EEA area, SIX x-clear aims to fully comply with its duties as a clearing service provider under CSDR and support the EU and EEA CSDs in which it participates to fulfil their legal obligations under CSDR, thereby ensuring the highest degree of settlement efficiency for its Members.

SIX x-clear also aims to align its solution with interoperating Co-CCPs in order to maintain efficiency and a high settlement service level for our clients in EU/EEA interoperating markets.

For all settlements taking place at SIX SIS (place of settlement) as well as settlements taking place at Euroclear UK, SIX x-clear will continue to adhere to the current Settlement Discipline Regime.

1.2 Question 2 – Affected products

Which products are affected by the regulation?

Answer:

According to CSDR, the following instruments are in scope:

- a. CSD-eligible MiFID II/MiFIR financial instruments admitted to trading or traded on an EU trading venue; or
- b. Instruments cleared (or eligible for clearing) by an EU CCP.

Shares whose principal trading venue is located in a third country are excluded.

1.3 Question 3 – EACH CSDR Settlement Discipline Framework

Does SIX x-clear intend to follow all aspects of the European Association of CCP Clearing Houses (EACH) CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR””).

Answer:

SIX x-clear has been heavily involved in the drafting of the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes

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Q&A CSDR Settlement Discipline Regime

updated version of the “EACH Framework on CSDR SDR”) and aims to comply with its recommendations for trades settling in the EU/EEA area.

1.4 **Question 4 – SIX x-clear CSDR Settlement Discipline Framework**

Does SIX x-clear intend to publish its own Settlement Discipline Framework?

Answer:

Wherever possible, SIX x-clear refers to the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR”). For questions applying only to SIX x-clear, clients are informed via our usual channels i.e. FrontLines and Business Partner Specifications. SIX x-clear has also published a Red Paper “The Impact of CSDR Settlement Discipline on SIX x-clear” to summarize SIX x-clear’s position. These Q&As supplement the Red Paper and are updated on a regular basis to reflect the current state of knowledge.

1.5 **Question 5 – Timeline**

1.5.1 **Question 5a – Date of entry into effect**

Will any changes to SIX x-clear’s current penalty / buy-in process be effective prior to the implementation date of CSDR?

Answer:

No changes with respect to the buy-in process will be effective prior to the implementation date of CSDR.

However, some markets (CSDs) will activate or have activated parts of the CSDR penalty mechanism in the production environment before the actual go-live date. This “dry run” phase involves identifying settlement fails as well as calculating and reporting penalties. The penalties are not charged, however.

SIX x-clear will support the dry run and provide daily and monthly penalty reporting to Members as soon as they have activated the report in the production environment. Participation in any “dry run” testing is not mandatory.

1.5.2 **Question 5b – Implementation**

Will any changes be effective prior to the implementation date of the SD RTS?

Answer:

Some markets (CSDs) will activate or have activated parts of the CSDR penalty mechanism in the production environment before the actual go-live date. This “dry run”

SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

phase involves identifying settlement fails as well as calculating and reporting penalties. The penalties are not charged, however.

SIX x-clear will support the dry run and provide daily reporting to Members as soon as they have activated the report in the production environment. Participation in any “dry run” testing is not mandatory.

The activation of the other changes in production prior to the implementation date of the SD RTS is not foreseen.

1.5.3 **Question 5c – Testing**

Can you share any details SIX x-clear has regarding the testing phase for any changes SIX x-clear will implement in accordance with the SD RTS?

Answer:

Please refer to our FrontLine published on 26 August 2021.

1.5.4 **Question 5d – Message specifications**

When will the message specifications be published?

Answer:

The specifications of the messages and reports related to CSDR have been published in the Business Partner specifications available at the SIX SIS Private Site > Business Partner Specifications > Volume 5.

1.6 **Question 6 – Amendment to internal rules and regulations**

Each CCP will need to amend its rules and regulations. What is their planned publication date?

Answer:

The changes in the Contractual Relationship of SIX x-clear with its Members (i.e. Rulebook and Operational Manual) will be published in due course before the final provisions of CSDR with regard to Settlement Discipline become effective. CSDR-related updates to the internal rules and regulations are planned for the end of the year 2021.

SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

1.7 **Question 7 – Clarifications in the market**

Some topics are still under clarification among EACH, ECSDA and ESMA. How is SIX x-clear dealing with this uncertainty?

Answer:

A few points are still being discussed among market participants and within the industry associations. In addition, there are still certain Q&As pending with ESMA with the objective of reducing uncertainty and minimizing room for different interpretations regarding the detailed implementation of the SD RTS.

SIX x-clear is in dialog with CCPs and CSDs in order to align any differing interpretations and outstanding points.

Additionally, wherever possible, SIX x-clear refers to the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > "EACH publishes updated version of the "EACH Framework on CSDR SDR""). For questions applying only to SIX x-clear, clients are informed via our usual channels, i.e. FrontLines and Business Partner Specifications. SIX x-clear has also published a Red Paper titled "The Impact of CSDR Settlement Discipline on SIX x-clear" to summarize SIX x-clear's position. These Q&As supplement the Red Paper and are updated on a regular basis to reflect the current state of knowledge.

1.8 **Question 8 – Delegation of CCP obligations under Article 19 RTS to CSDs**

Where does the discussion on the Delegation of CCP obligations under Article 19 RTS to CSDs currently stand?

Answer:

Although SIX x-clear is still in favor of a unified process as it would be beneficial for the whole market, the EU authorities were unable to give CSDs and CCPs sufficient legal comfort in time for the delegation to be feasible for the implementation by 1 February 2022. CSDs and CCPs have therefore agreed to implement Articles 17 and 19 SD RTS as specified by the law. Should the EU authorities remove Article 19 SD RTS (e.g. as part of the CSDR Review), SIX x-clear will be very happy to adapt the process accordingly.

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Q&A CSDR Settlement Discipline Regime

2.0 Penalties

2.1 Question 1 – Collection and distribution of penalties

Does SIX x-clear intend to operate in accordance with Articles 19(b) and 19(c) RTS in respect of SIX x-clear's Members?

Answer:

According to Article 7(11) CSDR, cash penalties shall not apply to CSD participants which are a CCP. In these cases, Article 19 SD RTS will apply. Therefore, whenever SIX x-clear is a direct participant of the CSD, Article 19 SD RTS will apply and SIX x-clear will be responsible for the collection and distribution of CSDR-related penalties. SIX x-clear will collect from and distribute penalties to the Members who caused and are affected by the settlement fails, respectively, as detailed in Articles 19(b) and (c) of the SD RTS.

Please also refer to section 2.8.1 for more details on the application of Article 7(11) CSDR and Article 19 SD RTS.

2.2 Question 2 – Level of application

At what level will SIX x-clear apply the penalties? To SIX x-clear's Member, or, where applicable, their clearing client? At level of the entity, LEI, BIC, participant securities account, or other?

Answer:

For transactions that fall under Article 19 of the SD RTS, SIX x-clear will collect from and distribute penalties to the General Clearing Members (GCM) and Individual Clearing Members (ICM). Please also refer to section 2.8.1 for more details on the application of Article 7(11) CSDR and Article 19 SD RTS.

For reporting purposes, a breakdown for each Non-Clearing Member (NCM) will be provided to GCMs.

2.3 Question 3 – Eligibility

Will SIX x-clear be making its own eligibility determination for CSDR penalties or relying on the CSD's? Will SIX x-clear be reconciling any of the CSD's penalty calculations?

Answer:

The calculation and the reporting of penalties is the CSD's responsibility. SIX x-clear will not actively reconcile these penalty calculations.

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Q&A CSDR Settlement Discipline Regime

2.4 **Question 4 – Payment of penalties (collection and distribution)**

2.4.1 **Question 4a – Payment method**

What payment method does SIX x-clear foresee for the distribution of penalties? What payment method does SIX x-clear foresee for the collection of penalties?

Answer:

For the distribution of penalties, SIX x-clear will directly credit a Member's SIX SIS cash account.

For the collection of penalties, SIX x-clear will directly debit a Member's SIX SIS cash account.

For Members currently connected to the CLARA platform, the collection and distribution of CSDR-related cash penalties will be performed manually via invoice (debit) or credit note (credit).

2.4.2 **Question 4b – Non-feasibility of direct debit**

CSDR states that when 'no direct debit is feasible' for the monthly penalty fees, the CCP participants must credit the CCP's dedicated cash account at the latest by 10:00 (CET) on the 17th business day of the month. Are there any scenarios that SIX x-clear anticipates where SIX x-clear would not be able to direct debit the Member's account?

Answer:

If the Member does not have an account in the currency in which the penalty is calculated by the CSDs, then SIX x-clear will not be able to use a direct debit or credit method. The member must therefore set up an account in each of the currencies for which they will receive a penalty in.

For Clearing Members currently connected to the CLARA platform, direct debits and credits will not be applied. The collection and distribution of CSDR-related cash penalties will be performed manually via invoice (debit) or credit note (credit).

2.4.3 **Question 4c – Dedicated cash accounts**

Are Members required to set up dedicated cash accounts for managing the direct debit and credit of penalties?

Answer:

Where Members already have cash accounts in the penalty currency with SIX SIS, Members are free to use their existing accounts or they can open up dedicated cash

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Q&A CSDR Settlement Discipline Regime

accounts for this purpose. This is up to each Member. Members are invited to request such a setup in due time if this is the preferred option.

For Clearing Members currently connected to the CLARA platform, direct debits and credits will not be applied. The collection and distribution of CSDR-related cash penalties will be performed manually via invoice (debit) or credit note (credit).

2.4.4 **Question 4d – Identification of penalty payments**

How can Members identify penalty payments? Will there be a specific reference?

Answer:

There is a reference linking the MT537 PENA pre-advise transaction to the respective MT900/910 or MT950 statement. The SEME reference of the MT537 PENA pre-advise message as well as the monthly aggregated message in field :20C::CPRF// (or the corresponding field in the RVX0525 pre-advise report) will also be stated in the cash transaction reporting MT900/910/950.

Additionally, in the MT900/910 messages, there is a specific keyword (“/CSDRPENAXCL/”) used in tag 72 for payments related to CSDR penalties. The details can be found in the Business Partner specifications available at the SIX SIS Private Site > Business Partner Specifications > Volume 5.

2.4.5 **Question 4e – Payment instructions**

According to Question 4a above, SIX x-clear will distribute the penalties via direct debit. Will SIX x-clear use the PFOD instruction?

Answer:

No. Participants’ cash accounts at SIX SIS will be booked directly.

For Clearing Members currently connected to the CLARA platform, direct debits and credits will not be applied. The collection and distribution of CSDR-related cash penalties will be performed manually via invoice (debit) or credit note (credit).

2.4.6 **Question 4f – Partial distribution payment**

Will SIX x-clear only pay the full amount or is there an intention for partial distribution of the penalties?

Answer:

SIX x-clear will always fulfil its penalty obligations towards its Members, irrespective of the fulfilment of any penalty obligations of failing Members towards SIX x-clear.

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Q&A CSDR Settlement Discipline Regime

2.4.7 **Question 4g – Non-payment of a penalty not considered as a default case**

Will the non-payment of a penalty by a Member be considered under the default rules of the CCP?

Answer:

SIX x-clear will consider any non-payment of penalties as a potential Event of Default indicating a Member's inability to fulfill its financial obligations as a Member. In addition, Members' penalty obligations to SIX x-clear will continuously be added to the Members' margin requirements based on the daily penalty statements throughout the month. The margin requirement based on penalties will be set back after the due penalties are settled.

2.4.8 **Question 4h – Timing**

By when will Members be informed of the aggregated penalty amounts? By when must the payments be made? By when will the credit payments be made?

Answer:

SIX x-clear is planning to use the calendar agreed upon between the interoperable CCPs. The credit or debit of penalty amounts must be made on the 17th business day of the following month. Clearing Members will receive aggregated penalty amounts for each market and currency on the 14th business day.

The settlement Holiday Calendar can be found at www.six-group.com > The Swiss Stock Exchange > Post-Trade > CCP Clearing > Info Center > Existing Members > Settlement Information > Market Holiday Calendar.

2.5 **Question 5 – Currency**

In which currency will SIX x-clear book the penalties?

Answer:

SIX x-clear will credit and debit the penalties in the same currency that the penalty was reported from the CSD.

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Q&A CSDR Settlement Discipline Regime

2.6 **Question 6 – Overnight positions**

In the event that SIX x-clear is left holding securities overnight resulting in a mismatch of penalties incurred vs due, what approach will SIX x-clear adopt to remedy any cash penalty costs incurred?

Answer:

Please refer to chapter 4.4.2.1 “CCP holding securities overnight” of the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR””).

SIX x-clear reserves the right to cover the deficit arising from such a scenario by mutualizing the cost among our Members on the basis of the settlement efficiency of each Member in the respective market. In order to derive the settlement efficiency for each Member per market and currency, SIX x-clear will take the ICM’s or GCM’s total amount of all intended settlements of a given calendar month into account and compare this to the amount of failing settlements in this month as reported by the CSDs for which the Member is reportedly the source of the failing settlement. Upon request, SIX x-clear can provide the calculation of the settlement efficiency to its Members (including a breakdown for each NCM per market and currency if applicable).

2.7 **Question 7 – Penalty mutualization**

As per the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR””<https://www.eachccp.eu/wp-content/uploads/2020/07/EACH-CSDR-Settlement-Discipline-Framework-Updated-Version-20200708.pdf>), where a CCP ends up holding securities that they are unable to deliver, they will either mutualize the cost among their Members on a fair basis or establish clear rules to assign the costs. In such an event, how will SIX x-clear distribute these costs? Will the debit of the penalty mutualization process be included in the monthly penalty charge or will they be charged separately?

Answer:

See answer to question 6 above. This will not be included in the CSDR penalty amounts. In case any mutualization is applied, these amounts will be charged separately.

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Q&A CSDR Settlement Discipline Regime

2.8 Question 8 –Penalties reporting

2.8.1 Question 8a – Application of Article 7(11) CSDR and impact on calculation of penalties

What is the impact of Article 7(11) CSDR on the calculation and reporting of penalties?

Answer:

According to Article 7(11) CSDR, cash penalties shall not apply to CSD participants which are a CCP. In these cases, Article 19 SD RTS will apply. Therefore, whenever SIX x-clear is a direct participant of the CSD, Article 19 SD RTS will apply and SIX x-clear will be responsible for the collection and distribution of CSDR-related penalties. Please find below a table specifying in which settlement markets SIX x-clear is a direct participant and Article 19 SD RTS applies and markets where SIX x-clear is an indirect participant and Article 17 SD RTS will apply. Any updates to this list will be published via the usual channels, i.e. FrontLines.

Market	Connectivity	CSD / Settlement agent	Article 19 or 17 SD RTS	Entity responsible for collection/distribution of CSDR-related cash penalties
Austria	Indirect	Settlement agent	17	CSD
Belgium	Indirect	Settlement agent	17	CSD
Czech Republic	Indirect	Settlement agent	17	CSD
Denmark	Direct	VP Denmark	19	CCP (SIX x-clear)
Spain	Direct	Iberclear	19	CCP (SIX x-clear)
Finland	Direct	Euroclear Finland	19	CCP (SIX x-clear)
France	Indirect	Settlement agent	17	CSD
Germany	Indirect	Settlement agent	17	CSD
Hungary	Indirect	Settlement agent	17	CSD
Ireland	Indirect	Settlement agent	17	CSD
Italy	Direct	Monte Titoli	19	CCP (SIX x-clear)
Netherlands	Indirect	Settlement agent	17	CSD
Norway	Direct	Euronext VPS Norway	19	CCP (SIX x-clear)
Portugal	Indirect	Settlement agent	17	CSD
Sweden	Direct	Euroclear Sweden	19	CCP (SIX x-clear)
Euroclear Bank	Indirect	Settlement agent	17	CSD

Please note that SIX x-clear is continuously striving to improve the service quality and performance in each settlement market. Various factors are taken into account when deciding how to access a market, such as transaction price, settlement liquidity and asset servicing quality. SIX x-clear believes that the current setup is generating the most benefit for Clearing Members. Should a regular review of the setups reveal that an adjustment to the model is appropriate, we will initiate it accordingly and inform Clearing Members via the usual channels.

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Q&A CSDR Settlement Discipline Regime

2.8.2 **Question 8b – Daily penalties reporting**

Does SIX x-clear intend to provide participants with a daily penalties report? If so, by what method/format will SIX x-clear provide Members with the daily penalties report?

Answer:

It is SIX x-clear's understanding that the daily reporting from CSDs to the participants will include all cleared and non-cleared transactions. SIX x-clear envisages that the CSD account holder will reconcile their penalties using the daily reports received from the CSD covering all penalties, including CCP-cleared transactions.

Additionally, SIX x-clear will provide Members with daily penalty reporting. The daily penalty reports will be available in MT537 format as well as in *.csv format with similar content. The SWIFT format report will be at the GCM/ICM level; however, the basic information on penalty levels and on the involved NCMs (if any) will be present in the report, including instruction references. The *.csv format report will be limited to the most important penalty attributes, such as penalty amount, date, reference and instrument ID.

The daily penalty reports sent from SIX x-clear will contain all active penalties, both those charged by the CSDs (reported with :17B::CMPU//N or with the corresponding aggregation indicator in the *.csv report, respectively) as well as those managed by the CCP (reported with :17B::CMPU//Y or with the corresponding aggregation indicator in the *.csv report, respectively).

Clearing Members currently connected to the CLARA platform will not be provided with daily penalties reporting.

2.8.3 **Question 8c – Monthly aggregated penalties report**

By what method does SIX x-clear intend to provide Members with the monthly aggregated penalty reports? And when will the monthly summary of penalties be provided?

Answer:

SIX x-clear will be providing Members with an aggregated penalty report for each market and currency as received from the CSDs on the 14th business day of the month following the penalty period. The aggregated amounts shown in this report are considered final and will be subject to reconciliation and monitoring. Members are able to choose between receiving the penalty reports in either MT537 format (standard SWIFT format) or *.csv format (or both).

There will be two versions of the monthly report. The monthly aggregated penalty report will contain the penalty statements for the month with the cumulative net amount of all the active penalties received in the penalty period. The monthly pre-

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Q&A CSDR Settlement Discipline Regime

advice report will contain the pre-advice statements with the net penalty amounts for each market and currency for the penalty bookings. The pre-advice, however, will not contain any individual penalty or transaction details. The "Net Penalty Amount per currency per market" will be booked on the reported "Due Payment date" (in MT537 98A qualifier PAYD: Payment Date). This is the 17th business day of the month following the penalty period.

The monthly aggregated penalty statement will be offered in MT537 as well as *.csv format. The report will be at the GCM/ICM level and will indicate the net penalty amount (Global Net Amount) for each penalty currency and market. The report will also contain all the individual active penalty transactions, indicating the respective NCM (if any) as well as the transaction reference and net reference of the underlying transaction as bilaterally known between the Clearing Member and SIX x-clear (and not a reference known in the market). The SWIFT format report will additionally contain the aggregated net penalty amount for each NCM and penalty currency per market in the underlying repeating sub-blocks of the message. The *.csv format reports will be limited to the most important attributes, such as penalty amount, date, reference and instrument details.

The monthly aggregated penalty reports sent from SIX x-clear will contain all active penalties, both those charged by the CSDs (reported with :17B::CMPU//N or with the corresponding aggregation indicator in the *.csv report, respectively) as well as those managed by the CCP (reported with :17B::CMPU//Y or with the corresponding aggregation indicator in the *.csv report, respectively). As opposed to the daily MT537, the monthly aggregated MT537 will neither have the penalty calculation details nor the transaction details blocks. It will, however, carry the individual penalty common reference assigned by the CSD and the reference to the underlying failed transaction as bilaterally known to the Member and SIX x-clear.

If there are no penalties, SIX x-clear will be offering to send a monthly report with amounts equal to zero.

Clearing Members currently connected to the CLARA platform can subscribe to the monthly aggregated report in *.csv format. No other options are available for Clearing Members currently connected to the CLARA platform.

2.8.4 **Question 8d – Monthly pre-advice penalty report**

Will there be an invoice informing Clearing Members of the penalty amounts due for payment at the end of the month?

Answer:

No, there will not be an invoice sent out by SIX x-clear for CSDR-related penalty payments. Instead, SIX x-clear will send the monthly penalty "pre-advice" report, which will be shared on the 14th business day of the month. The monthly penalty "pre-advice" report will be offered in MT537 as well as *.csv format. The report will be at the

SIX x-clear AG

Q&A CSDR Settlement Discipline Regime

GCM/ICM level and will contain the aggregated net penalty amounts at the GCM/ICM level for each penalty currency and market that will be credited or debited to the Member. If applicable, the *.csv format report will additionally contain the net penalty amounts per NCM and for a GCM's own transactions (if any) for each penalty currency and market. These values are for information only; the aggregated amounts will be the amounts to be credited or debited on the 17th business day of the month following the previous penalty period. The "Global Net Amount", which is the amount for each market and currency due for payment, will also be present in the monthly aggregated report as the "GBNT – Global Net Amount". Compared to the monthly aggregated report, the pre-advice report will not contain any individual penalty references.

The pre-advice amounts do not include the penalties charged by the CSD directly (:17B::CMPU//N on the report options 1/daily and 2/monthly aggregated or with the corresponding aggregation indicator in the *.csv report respectively).

For Clearing Members currently connected to the CLARA platform, there will be an invoice sent out for debit payments in addition to the monthly aggregated penalties report.

2.9 **Question 9 – Additional tariffs/fees**

Will there be any additional charges/fees on top of the penalties outlined in the CSD regulation for administration of the CSDR process?

Answer:

Yes. SIX x-clear's current CCP late/failed settlement regime will remain in place.

SIX x-clear supports the goal of CSDR's Settlement Discipline Regime to reduce the number of settlement fails. To this aim, SIX x-clear currently has no plans to abandon the late settlement regime in place today.

The operational burden to monitor, provide information and handle the impact on corporate action issues due to late/failed settlements has increased over recent years and CCPs need to be reimbursed for their efforts and related costs due to failed transactions. Therefore, failing selling Members will continue to be charged with the current CCP late/failed settlement fees to cover the costs and push for optimization in settlement efficiency. In this way, SIX x-clear intends to set an incentive at CCP level to increase high settlement efficiency in the respective settlement markets.

Such compensation will form an additional fee and must be distinguished from the penalty required by CSDR. The CSDR-based penalty is set to compensate the non-failing party and will be redistributed by the respective CSD or CCP.

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Q&A CSDR Settlement Discipline Regime

2.10 **Question 10 – SME growth market trades**

2.10.1 **Question 10a – General**

Is SIX x-clear providing clearing services on any such markets? If so, please list the ones SIX x-clear serves.

Answer:

Yes. SIX x-clear is planning on offering clearing services for First North Denmark SME Growth Market (Segment DSME), First North Sweden SME Growth Market (Segment SSME) and First North Finland SME Growth Market (Segment FSME). SIX x-clear currently has no plans to offer cross-venue netting for SME growth market transactions. For transactions in SME growth markets, the Place of Trade will always carry the actual SME Segment MIC, i.e. the segment the original transaction actually took place on (e.g. DSME).

Please note that even though LSE AIM MTF (AIMX) may be considered an SME growth market, the CSDR-related provisions for SME growth market transactions will not apply for AIMX, as the UK has decided not to implement the CSDR Settlement Discipline Regime. SIX x-clear will continue to apply its current late settlement regime for settlements in the UK.

2.10.2 **Question 10b – Netting rules**

Which of the three solutions outlined in the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > "EACH publishes updated version of the "EACH Framework on CSDR SDR"") will SIX x-clear apply in the event of:

- Trades settling in the same SME growth market;
- Trades settling in different SME growth markets; and
- Trades settling in both an SME growth and non-SME growth market?

Answer:

SIX x-clear (in cooperation with our interoperable Co-CCPs) is envisaging the use of the actual Segment MIC as the Place of Trade for SME growth market transactions. This means that no cross-venue netting will be applicable for SME growth market transactions.

SIX x-clear is planning on covering the potential deficit arising from such a scenario by mutualizing the cost among our Members on the basis of the settlement efficiency of each Member in the respective market. In order to derive the settlement efficiency for each Member per market and currency, SIX x-clear will take the ICM's or GCM's total amount of all intended settlements into account and compare this to the amount of failing settlements as reported by the CSDs for which the Member is reportedly the source of the failing settlement. Upon request, SIX x-clear can provide the calculation of

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Q&A CSDR Settlement Discipline Regime

the settlement efficiency to its Members (including a breakdown for each NCM per market and currency if applicable).

2.11 Question 11 – Population of settlement instructions

2.11.1 Question 11a – Place of Trade

How will SIX x-clear populate the Place of Trade field in its settlement instructions to the CSDs?

Answer:

For transactions in SME growth markets, the Place of Trade will always carry the actual SME Segment MIC, i.e. the segment the original transaction actually took place on (e.g. DSME). For non-SME growth market transactions, the population of the Place of Trade towards CSDs will remain unchanged from the existing process, e.g. “VARI” in case of cross-venue netted transactions.

2.11.2 Question 11b – Transaction (instruction) type

The transaction (instruction) type is not a matching field. Can SIX x-clear list all indicators (list of values) they intend to use if any?

Answer:

The list of indicators used as transaction type (qualifier SETR) is limited to TRAD and NETT towards SIX x-clear’s Members. A third indicator (NETE) is only used for transactions between CCPs. For the full list of qualifiers and indicators is provided in the Business Partner specifications available at the SIX SIS Private Site > Business Partner Specifications > Volume 5.

SETR	M	This field will identify the type of transaction.		
		Data Source Scheme	Indicator	Description
		--	TRAD	This field relates the transaction to the settlement of trade.
		--	NETT	For Spanish market instructions against members, SETR//NETT will be sent.
IBRC	NETE	For Spanish market instructions against Co-CCPs, SETR/IBRC/NETE will be sent.		

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2.11.3 **Question 11c – Place of Clearing**

Is Place of Clearing a mandatory field? If so, should Members use the BIC code or the LEI code?

Answer:

SIX x-clear understands that the Place of Clearing is not a mandatory field. However, SIX x-clear will include its BIC (CLRXCHZZXXX) in the Place of Clearing field for all cleared transactions in all markets that support this field.

It is SIX x-clear's understanding that this field is required by CSDR; however, not all CSDs will support or use the Place of Clearing field. SIX x-clear will populate the Place of Clearing with the BIC in their own instructions as well as in Members' instructions that are created by SIX x-clear under a Power of Attorney (PoA) agreement. For Members that do not have a PoA in place with SIX x-clear, the Member itself or the Member's settlement agent shall be responsible for populating the Place of Clearing.

2.12 **Question 12 – Strange nets**

How will SIX x-clear apply penalties in the event of a strange net?

Answer:

Please refer to chapter 4.4.2.3 "Strange nets and resulting penalties" of the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > "EACH publishes updated version of the "EACH Framework on CSDR SDR"").

SIX x-clear is planning on covering any deficits arising from such scenarios by mutualizing the cost among our Members on the basis of the settlement efficiency of each Member in the respective market. In order to derive the settlement efficiency for each Member per market and currency, SIX x-clear will take the ICM's or GCM's total amount of all intended settlements into account and compare this to the amount of failing settlements as reported by the CSDs for which the Member is reportedly the source of the failing settlement. Upon request, SIX x-clear can provide the calculation of the settlement efficiency to its Members (including a breakdown for each NCM per market currency if applicable).

2.13 **Question 13 – Trade date netting**

Will SIX x-clear support trade date netting (TDN) or settlement date netting (SDN)?

Answer:

SIX x-clear will continue to apply TDN.

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Q&A CSDR Settlement Discipline Regime

2.14 **Question 14 – Appeals**

2.14.1 **Question 14a – Submission of appeals**

How does a Member submit an appeal to dispute a penalty, and what information should be included?

Answer:

Appeals are to be directed by the affected Member directly to the relevant CSD if they are a direct participant, or to their settlement agent if they are not.

The relevant CSDs should be able to provide their participants with this information.

2.14.2 **Question 14b – Notification of a successful appeal**

How will Members be notified of a successful appeal?

Answer:

The relevant CSDs should be able to provide their participants with this information.

3.0 **Buy-in**

3.1 **Question 1 – Harmonization of the buy-in processing across Europe**

Please outline the activities the CCP community is undertaking to harmonize the buy-in processing across Europe.

Answer:

Within its industry association, SIX x-clear is strongly involved in the Securities Operations Working Group of EACH, which is striving to harmonize the buy-in process among all market participants. Furthermore, SIX x-clear is in constant dialogue with interoperable CCPs in order to harmonize buy-in processing rules within the interoperable markets.

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Q&A CSDR Settlement Discipline Regime

3.2 Question 2 – Details on the buy-in process

3.2.1 Question 2a – General

Can SIX x-clear provide details of the buy-in process for the following scenarios including timing and the protocol for the failing Member to deliver securities to the buy-in agent

- a. via a buy-in agent; and
- b. via auction?

Answer:

SIX x-clear will continue to use a buy-in agent. SIX x-clear already has a functioning buy-in process. However, the new buy-in process introduced by CSDR requires amendments to SIX x-clear's current buy-in process in order to be compliant with the regulation.

CSDR provides a detailed buy-in process for CCP-cleared transactions. After the intended settlement date, Members are granted an extension period in which to fulfill their obligation and during which they are charged penalties. After the expiry of the extension period of 4, 7 or 15 days, depending on the type of instrument, the buy-in is initiated by the CCP. The initiation of the buy-in triggers the delivery period of 4 to 7 days depending on the type of instrument. Should the buy-in continue to fail, the non-failing Member may choose to continue with the buy-in over a deferral period of 4 to 7 days or opt for cash compensation. Should the buy-in become impossible or not have been successful until the end of the deferral period, the mandatory cash compensation process is triggered. Cash penalties are raised until the finalization of a successful buy-in or until the payment of the cash compensation.

There is also a section related to buy-ins in SIX x-clear's Red Paper titled "The Impact of CSDR Settlement Discipline on SIX x-clear".

3.2.2 Question 2b – Buy-in pre-information

In addition to the fails trade report, will SIX x-clear inform Members of failing trades eligible for buy-in before the end of the buy-in extension period?

Answer:

Yes. SIX x-clear will continue to provide the Member with a buy-in pre-information notice on the last day of the buy-in extension period (e.g. ISD+4 for liquid shares).

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Q&A CSDR Settlement Discipline Regime

3.2.3 **Question 2c – Notification of initiation of buy-in process**

How will SIX x-clear notify its Members of each step in the buy-in process?

Answer:

In addition to the current process, in accordance with Art. 27 SD RTS, Members will be notified via e-mail that a buy-in has been initiated. The buy-in will be initiated at 15:00 (CET) on the business day following the expiry of the extension period, as is the case today under SIX x-clear's current practice. The failing Member shall ensure that any relevant settlement instruction relating to the settlement fail is put on hold.

3.2.4 **Question 2d – Final delivery window**

Please advise the timing for the window the failing Member has to deliver the financial instruments to SIX x-clear at the latest?

Answer:

The financial instruments need to be delivered by 15:00 (CET) on the business day following the expiry of the extension period.

3.2.5 **Question 2e – Launching of the buy-in process**

What time of day on the day following the expiry of the extension period will SIX x-clear launch an auction or appoint a buy-in agent?

Answer:

The buy-in will be initiated via a buy-in agent at 15:00 (CET) on the business day following the expiry of the extension period, as is the case today under SIX x-clear's current practice.

3.2.6 **Question 2f – Delivery using the original instruction**

Where a Member of SIX x-clear is the non-failing Member, will SIX x-clear deliver the bought-in securities using the original instruction?

Answer:

Yes.

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Q&A CSDR Settlement Discipline Regime

3.2.7 **Question 2g – Cancellation of the failing transaction after a successful buy-in**

Where a Member of SIX x-clear is the failing Member, will SIX x-clear allow the original instruction to settle or will SIX x-clear and the failing Member have to bilaterally cancel the instruction?

Answer:

SIX x-clear will no longer deliver the bought-in securities to the failing Member nor allow the original failing instruction to settle. SIX x-clear will deliver the bought-in securities directly to the receiving Member and will advise the failing Member to cancel the original instruction once the bought securities have been delivered to the receiving Member.

3.2.8 **Question 2h – Hold and release**

Where a Member of SIX x-clear is the failing Member, will SIX x-clear offer the functionality to automatically put instructions on hold?

Answer:

SIX x-clear is analyzing together with relevant Members and their settlement agents whether this functionality can be offered to Members with a PoA agreement in place with SIX x-clear. For Members that do not have a PoA agreement in place with SIX x-clear, the Member itself or the Member's settlement agent will be responsible for setting the instruction on hold.

3.2.9 **Question 2i – Recourse if an instruction is not put on hold**

What recourse will SIX x-clear take in the event a failing instruction is not put on hold as per 5.5.1 "Placing the failing instruction on hold" of the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > "EACH publishes updated version of the "EACH Framework on CSDR SDR"")?

Answer:

Should a Member fail to put their instruction on hold on time and should that fail incorrectly settle, SIX x-clear will require the failing Member to buy back any bought-in shares from SIX x-clear. The failing Member will be required to compensate SIX x-clear for any charges incurred in this process. SIX x-clear is also considering charging an additional fee to compensate for the manual effort arising from the Member failing to put the transaction on hold. SIX x-clear will amend its rules and regulations accordingly before the implementation of the SD RTS.

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Q&A CSDR Settlement Discipline Regime

3.2.10 **Question 2j – Communication of the results of the buy-in**

Please advise how the results of the buy-in will be communicated to the failing and receiving Members.

Answer:

SIX x-clear already has a buy-in process in place. The communication process will remain unchanged. Please refer to the pertinent chapter of the Operational Manual for more details.

3.3 **Question 3 – Notification of the Member that a buy-in is not possible**

In accordance with Article 26.2 of the SD RTS, how does SIX x-clear intend to notify Members if a buy-in is not possible?

Answer:

If a buy-in is not possible, SIX x-clear will initiate a cash compensation and notify all relevant Members following the existing communication process.

3.4 **Question 4 – SME growth market trades**

3.4.1 **Question 4a - SME growth market trades settling on different SME growth markets**

As per the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > "EACH publishes updated version of the "EACH Framework on CSDR SDR"<https://www.eachccp.eu/wp-content/uploads/2020/07/EACH-CSDR-Settlement-Discipline-Framework-Updated-Version-20200708.pdf>), we understand that SIX x-clear will create separate netted instructions for SME growth markets. Can SIX x-clear confirm that where there is a product traded on multiple SME venues, will SIX x-clear net these together (as long as the SME venues have the same extension period)?

Answer:

No, for SME growth market transactions, SIX x-clear will not be offering cross-venue netting.

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Q&A CSDR Settlement Discipline Regime

3.4.2 **Question 4b – SME growth market trades settling against non-SME growth market trades**

What is the buy-in flow with regards to ISINs which are tradeable on SME growth markets and regular ones? Is there anything specific which we need to consider in that regard, such as delays due to inter-CCP settlements because of the different buy-in periods?

Answer:

As outlined above, SIX x-clear will not be netting SME growth market transactions with non-SME growth market transactions. SIX x-clear (as well as the other interoperable CCPs) will apply the buy-in regime as foreseen in the regulation on every transaction.

3.5 **Question 5 – Partial buy-In**

3.5.1 **Question 5a – Mandatory application of partial settlement**

How will Article 23 (Mandatory application of partial settlement) of the SD RTS be supported on the business day following the end of the extension period?

Answer:

SIX x-clear will accept partial deliveries up until the Member is instructed by SIX x-clear to put the failing transaction on hold.

3.5.2 **Question 5b – Penalties due to a successful partial buy-in**

How are new instructions from partially successful buy-ins going to be shielded from back-dated cash penalties?

Answer:

Please refer to chapter 4.4.1 “Re-instructions of settlement transactions placed after ISD” in the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR””).

SIX x-clear will make sure that in the described scenario, SIX x-clear’s own settlement instruction carries the correct indicator in each market. Additionally, for Members with a PoA agreement in place, SIX x-clear will make sure that in the described scenario, the Member leg of the settlement instruction carries the correct indicator in each market covered by the PoA agreement.

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Q&A CSDR Settlement Discipline Regime

3.5.3 **Question 5c – Cancelling original settlement instructions in case of a partial buy-in**

Under 5.5.2 “Cancelling the failed instruction and new settlement instructions in case of partial buy-in” of the EACH CSDR Settlement Discipline Framework (available at eachccp.eu > News & Publications > “EACH publishes updated version of the “EACH Framework on CSDR SDR””), in the event of a partial buy-in execution, how are Members required to enter a new on-hold settlement instruction and cancel the original instruction? Will the Member be required to perform this manually themselves or will SIX x-clear manage this process on the Member’s behalf for Members that have a PoA agreement in place with SIX x-clear?

Answer:

SIX x-clear will cancel the Clearing Member’s original settlement instruction in case of a partial buy-in on behalf of Members with a PoA agreement in place with SIX x-clear.

Clearing Members which do not have a PoA agreement in place with SIX x-clear are required to enter a new on-hold settlement instruction and cancel the original instruction manually themselves.

3.6 **Question 6 – Buy-in in the Swiss market**

What changes are foreseen with regard to buy-ins where the PSET is at SIX SIS?

Answer:

Currently, no changes to SIX x-clear’s existing buy-in process in the Swiss market are foreseen.

3.7 **Question 7 – Buy-in in the UK market**

What changes are expected with regard to buy-ins where the PSET is at Euroclear UK?

Answer:

Currently, no changes to SIX x-clear’s existing buy-in process in the UK market are expected.

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Q&A CSDR Settlement Discipline Regime

3.8 Question 8 – Potential removal of CSDR’s mandatory buy-in

Certain market participants are calling for a removal of mandatory buy-ins in the context of CSDR. What is SIX x-clear’s plan if Article 7(3) CSDR and Sections 3 and 4 SD RTS are removed before 1 February 2022?

Answer:

Should this decision be taken before 1 February 2022, the current assumption is that SIX x-clear will not implement changes to SIX x-clear’s existing buy-in process in the EU markets.

In this context, SIX x-clear AG draws the Members’ attention to **clause 7.1 and chapter 16.0** (liability) of the Rulebook of SIX x-clear AG stipulating that the Member is responsible for compliance with the applicable laws (in particular domestic and foreign tax, foreign exchange and stock market regulations as well as with company law and articles of association) with respect to the Clearing services obtained from SIX x-clear AG.

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