

**AMENDMENT TO CC&G REGULATIONS AND RELATED INSTRUCTIONS
IMPLEMENTATION OF EUROPEAN RULES CONCERNING “SETTLEMENT DISCIPLINE” –
SETTLEMENT PENALTIES**

In view of the entry into force of the European provisions on penalty mechanism set forth in Regulation (EU) 909/2014 (CSDR), as implemented by the Commission Regulation (EU) 122/2018 (“Settlement Discipline Regulation”), the Regulations of Cassa e Copensazione e Granzia Sytem of CC&G are amended as follows.

In implementation of the provisions of Article 19 (b) and (c)) of Delegated Regulation (EU) 2018/2019, the CC&G Rules and Instructions are supplemented through the inclusion of specific provisions describing the procedure for the collection and distribution of penalties by the Central Counterparty, including the obligations of participants arising from the operation of the new penalty mechanism.

In this context it is specified, in particular, that CC&G will distribute the amounts resulting from the penalty mechanism only within the limits of what it has actually collected and that in case of non-payment of penalties by a participant will reduce proportionally the amounts subject to redistribution.

The amendments relating to penalty collection and redistribution will become effective on the **1st of February 2022**.

With reference to the changes relating to the buy-in procedure, taking into account the ESMA statement of the 17th December 2021 (<https://www.esma.europa.eu/press-news/esma-news/esma-calls-deprioritise-buy-in-supervision>) the application of the regulatory changes for the implementation of the relevant EU regulations is suspended pending the finalization of the regulatory framework. Specific information will be provided as soon as the regulatory framework will be updated.

The amendments to the Service Regulations and relating Instructions are described below.

REGULATIONS

Article A.1.1.1 Definitions

1 The following definitions shall apply to these *Regulations*:
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"Central Depository": shall mean the entity authorised pursuant to European Regulation No. 909/2014 to manage settlement and centralised bookkeeping services.

"Centralised maintenance of accounts –~~Central Depository Service~~": shall mean the **highest level of the accounts central maintenance referred to in Section A(b) of the Annex to Regulation No. 909/2014** ~~central depository service for *Financial Instruments* managed by a centralised depository company pursuant to article 80 of the *CLF* or by a *Foreign Entity* that offers services equivalent to the central depository services that are subject to regulatory measures equivalent to those set out in Italian law.~~

"Settlement Services": shall mean **the management of a settlement system referred to in Section A(c) of the Annex to Regulation No. 909/2014** ~~services of clearing and settlement (*Net settlement*) and/or settlement on a gross basis (*Gross settlement*) managed by a company authorized by Bank of Italy, in agreement with Consob, pursuant to article 69, paragraph 1, of the *CLF* or by a *Foreign Entity* indicated in the *Instructions*.~~

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Article B.2.1.2 Requirements for membership of the System

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8. Clearing Members must:

- a) be the holders of a PM account in *Target2 System* for the execution, through the procedures provided for *Ancillary Systems*, except for special cases indicated in the *Instructions*, of obligations, denominated in euros, arising from membership of the *System*,

- b) join a **Centralised maintenance Service** ~~Central Depository Service~~ indicated in the *Instructions* for the purpose of handling the *Margins* in Financial Instruments,
 - c) join the *Settlement Services* for the final settlement of contracts guaranteed by the *System*, exclusively in the cases of admission to the *Cash Sections* and/or the *Equity Derivatives Section*,
9. For the requirements referred to in paragraph 8, letters a) and b), *Clearing Members* may use the services of a *Settlement Agent*, permanently and by way of replacement. For those requirements, different *Settlement Agents* may be appointed for different *Sections*, in accordance with the requirements set out in the *Instructions*.
10. For the requirements referred to in paragraph 8, letter c), *Clearing Members* may use the services of a *Settlement Agent*, in compliance with the provisions set out under the *Instructions*.

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Article B.5.3.7 Collection and Distribution of Penalties related to Failed Contractual Positions

1. Pursuant to Article 19(1)(b) and (c) Delegated Regulation (EU) 1229/2018 (SDR), CC&G shall collect and redistribute the penalties applied to *Failed Contractual Positions*, based on the information sent from the Central depository that manages the Settlement Service where the *Failed Contractual Positions* are settled.
2. CC&G shall notify the *Clearing Members* and the *Settlement Agents* of the debit and credit penalty amounts through daily reports.
3. The penalty collection and redistribution procedures shall be carried out on a monthly basis within the time indicated in the *Instructions*. To that end, CC&G shall inform the Members of the amounts of the debit and credit penalties applied in the previous month, aggregated into net balances.
4. The settlement of the debit and credit penalty amounts shall take place in the manner set out in the *Instructions*.
5. CC&G shall redistribute the penalties only up to the amount actually collected from the *Clearing Members*. In the event of non-payment of penalties by a *Clearing Member*, CC&G shall redistribute the collected penalties by proportionately reducing the credit amounts of the Members *in bonis*, except for the penalties associated with the *Contractual Positions* of the *Special Clearing Members*.

INSTRUCTIONS

Article B.1.1.1 Requirements For Clearing Members

1. Legal persons that intend to join one or more *Sections* or modify or obtain a new membership qualification within the same *Section* of the *System* as *Clearing Members* or that intend to request to distinguish the operations of their own *Organizational Unit* must submit to CC&G:

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- d) concerning obligations that must be fulfilled in Euros, **including the settlement of the amounts due as a penalty pursuant to Article B.5.3.7 of the Regulations:**

- *a notification of the pre-selected methods of fulfilment, directly or through a Settlement Agent;*
- *any agreement with a Settlement Agent for cash, compliant with the contractual form available through the CCG's website;*
- *the "TARGET2 form for collection of Static Data-Debit mandate for AS settlement" of the European Central Bank, available from the www.ecb.eu website that allows CC&G to debit the PM Account in Target2 System of the Clearing Member or its Settlement Agent;*

Article B.7.1.5 Penalty collection and distribution procedure

1. **Based on the information sent from the Central depositories, by the fifteenth (15th) open CC&G day of each month, C&CG shall notify each *Clearing Member* and the *Settlement Agents* of the amount of the penalties by means of Reports, *Payment Notice*.**

The amounts of the penalties applied in the previous month shall be aggregated into net balances.

2. **The *Members* or the *Settlement Agents* must pay the cash penalty amounts by the 17th (seventeenth) open CC&G day of the month of payment. The collection of the debit penalties shall be made by direct debit from the PM Account in the Target2 System in the manner set out in the Annexes.**
3. **CC&G shall credit the penalties to the corresponding PM accounts in the *Target2 System* of the *Clearing Members* or the *Settlement Agents* in the manner set forth in the Annexes.**