



EUROPEAN CENTRAL BANK

EUROSYSTEM

T2S CHANGE REQUEST FORM		
General Information (Origin of Request)		
<input checked="" type="checkbox"/> User Requirements (URD) or GUI Business Functionality Document (BFD) <input type="checkbox"/> Other User Functional or Technical Documentation (SYS)		
Request raised by: CSDR Task Force	Institute: ECB	Date raised: 13/12/2021
Request title: Identification of penalties related to a CCP participating in a CSD outside T2S		Request No.: T2S 0780 URD
Request type: Common	Classification: Regulatory compliance	Urgency:
1. Legal/business importance parameter¹: n/a	2. Market implementation efforts parameter²: n/a	
3. Operational/Technical risk parameter³: n/a	4. Financial impact parameter⁴: TBD	
Requestor Category: CSDR TF	Status: Withdrawn	

Reason for change and expected benefits/business motivation:

The T2S CSDR Task Force was established by the T2S Steering level, in order to identify the necessary changes to the T2S platform resulting from the CSD Regulation (CSDR), with the objective to facilitate T2S CSDs' timely compliance to CSDR.

The core of the work of the T2S CSDR Task Force is reflected in the T2S Penalty Mechanism's user requirements (CR654): it focuses on the daily calculation and reporting of cash penalties for settlement fails, a monthly reporting of the aggregated amounts of cash penalties computed for a given month as well as the operational tools which are necessary for T2S Actors.

As per CSDR requirements, Article 19 of Commission Delegated Regulation (EU) 2018/1229 "Penalty mechanism where the participant is a CCP", CSDs have to provide a facility to help CCPs identifying the penalties in which they are the failing or non-failing party, as CCPs shall perform the collection and redistribution of cash penalties involving their clearing members.

To support this regulatory requirement, the T2S penalty mechanism identifies and flags in the daily, modified, and monthly penalty reports the T2S Parties or the counterparties of the penalty(ies) that are CCPs, as per the user requirement T2S.13.490 "Reporting of cash penalties involving a CCP".

The CSDR TF has identified a specific scenario in which the underlying transaction involves a CCP but, according to the above mentioned requirement, the penalty mechanism does not flag in the penalty reports the T2S Parties or the counterparties of the penalty(ies) that are CCPs because they are not T2S Parties.

This scenario is related to a CCP acting as direct participant of a CSD outside T2S, such as an ICSD, which is defined as a participant of a T2S CSD. In this scenario, when computing a penalty for instructions failing in T2S, for example for a transaction related to a delivery of securities from the CCP participating in an ICSD to a participant of a T2S CSD, T2S will consider the ICSD as the failing party or the non-failing party (as per user requirements T2S.22.090 and T2S.22.180), and it will not be recognized in the list of CCP BICs (as the ICSD is not a CCP and hence not in the T2S cash penalties CCP list).

While this is in line with the user requirements and T2S penalty mechanism design principles, it does not consider that the ICSD's underlying participant is a CCP.

Pending regulatory clarification, the CSDR TF considers that it is necessary to be ready, in case it is confirmed that the Article 19 and specific treatment of CCP applies in this scenario, to implement a solution allowing the identification of those penalties whose underlying transaction relates to a CCP participating in a CSD outside T2S (when this external CSD is defined as a participant of a T2S CSD).

¹ The legal/business importance parameter was set to [High/Medium/Low] because [...]

² The market implementation effort parameter was set to [High/Medium/Low] because [...]

³ The operational/technical risk parameter was set to [High/Medium/Low] because [...]

⁴ Low < 100kEUR < Low-Medium < 200 kEUR < Medium < 400kEUR < High < 700kEUR < Very high

Description of requested change:

Considering that the identification of penalties being related to a CCP is performed by T2S at the level of the T2S Parties of the penalties (i.e. the failing and non-failing party imposed with or entitled to receive the penalty), it is necessary to substitute the applicable parties with a “BIC of substitute party”, which will be a BIC defined ad-hoc in T2S for this purpose, and will allow to report in a separate block the penalties related to a CCP.

In order to do so, it is necessary to:

- Define in Static Data a new “List of CSDs operating with external CSDs with CCP participants” with the following fields:
 - o BIC of the CSD: BIC of the T2S CSD;
 - o Party BIC: BIC of the external CSD, defined as a participant of the T2S CSD;
 - o Party 2 Safekeeping account: account - defined ad-hoc and otherwise unknown in T2S - of the CCP, outside T2S, that is client of the external CSD defined as participant of the T2S CSD;
 - o BIC of substitute Party: BIC - defined ad-hoc and otherwise unknown in T2S - of the CCP, outside T2S, that is client of the external CSD defined as participant of the T2S CSD.
- CSDs affected by the scenario at stake will provide, for their external CSDs defined as CSD participants in T2S, and with CCP participants of their own outside T2S, the data necessary to fill-in this list. In case that the external CSD defined as CSD participant in T2S, has more than one CCP participant of its own outside T2S, it is necessary to fill-in as many records as CCP participants: the BIC of the CSD and the Party BIC will be common to all the records, while the Party 2 safekeeping account and the BIC of substitute Party will be different for each record.
- The penalty eligibility process to get penalty data will be enhanced to retrieve and store, together with other data from the underlying Settlement Instruction, the Party 2 account (fields SctiesSttlmTxInstr/DlvrgSttlmPties/Pty2/SfkpgAcct or SctiesSttlmTxInstr/RcvgSttlmPties/Pty2/SfkpgAcct in sese.023)
 - The penalty eligibility process to get and store applicable party data will be enhanced to substitute the applicable parties in the required cases, as follows:
 - o After identifying the failing and the non-failing party of the penalty, T2S will check if the Party 2 account retrieved in the previous step is filled-in:
 - o In case it is filled in, T2S will check whether the combination of the applicable party CSD BIC, Party BIC and Party 2 account has been defined by the CSD in the “List of CSDs operating with external CSDs with CCP participants”:
 - If the combination of the applicable party CSD BIC, Party BIC and Party 2 account is in the list, then T2S will substitute in the penalty the corresponding party (originally identified as failing or non-failing party of the penalty) for the “BIC of substitute party”, and flag it as a CCP. With this substitution penalties, whose underlying transaction relates to a CCP participating in a CSD outside T2S, are identified by T2S and they will be reported for an ad-hoc CSD participant (defined for the purpose of this reporting with “BIC of substitute party”) as the failing or non-failing party of the penalty;
 - If the combination of the applicable party CSD BIC, Party BIC and Party 2 account is not in the list, then the parties originally identified as failing or non-failing party of the penalty are not updated.

A similar procedure will be implemented in the penalty re-allocation process, which, as per user requirement T2S.22.370, re-allocates the penalty to the delivering party and the receiving party of the instruction. In this scenario, the delivering party and the receiving party of the instruction would be a participant of a T2S CSD and the external CSD defined as participant of a T2S CSD. After identifying the new failing and non-failing party of the penalty re-allocated, T2S will perform the checks detailed above and substitute the corresponding party with the “BIC of substitute party” when necessary.

13.5.2.7 Reporting of cash penalties involving a CCP**Reporting of cash penalties involving a CCP**

Reference ID	T2S.13.490
--------------	------------

For the Daily Cash Penalty List, the Modified List of Penalties, and the monthly reporting of aggregated amounts, T2S shall identify and flag in the report the T2S Parties or the counterparties of the penalty(ies) that are:

- Aa Central Counterparty (CCP) based on the Cash Penalties CCP List; or

- A Central Counterparty (CCP) outside T2S, who is a participant of an external CSD that is defined as participant of a T2S CSD, based on the "List of CSDs operating with external CSDs with CCP participants" (as described in T2S.22.105 and T2S.22.195).

16.9.10 List of CSDs operating with external CSDs with CCP participants

Definition

Reference ID	T2S.16.11XX
---------------------	-------------

T2S shall use a list that defines the CSDs operating with external CSDs that are defined in T2S as participants, that may have, outside T2S, CCP participants of their own.

Each item of this list includes the following attributes:

- BIC of the CSD: BIC of the T2S CSD that operates with external CSDs with CCP participants of their own;
- BIC of the party: BIC of the external CSD, defined as a participant of the T2S CSD, with CCP participants of its own;
- Party 2 Safekeeping account: account - defined ad-hoc and otherwise unknown in T2S - of the CCP, outside T2S, that is client of the external CSD defined as participant of the T2S CSD;
- BIC of substitute Party: BIC - defined ad-hoc and otherwise unknown in T2S - of the CCP, outside T2S, that is client of the external CSD defined as participant of the T2S CSD.

Maintaining the List of CSDs operating with external CSDs with CCP participants

Reference ID	T2S.16.11XX
---------------------	-------------

The List of CSDs operating with external CSDs with CCP participants is maintained by the T2S operator.

Note: The content of this list is managed by the T2S Operational Managers Group (OMG) based on input from T2S CSDs having a link with the CSD outside T2S.

Summary of the various static data updates that the responsible T2S Actor can perform

Responsible T2S Actor	Class of Information	Attribute	Updatable
CSD (acting as SME)	Securities Subject to Penalties	ISIN	No
		Financial Instrument Type	Yes
		Liquidity	Yes
		Valid From	No
		Valid To	Yes
CSD (acting as SME)	Daily Price	ISIN	No
		Price Date	No
		Currency Code	Yes
		Price	Yes
T2S Operator	SME Growth Markets	MIC Identifier	Yes
T2S Operator	Securities Penalty Rate	Asset Type	No
		Daily Flat Penalty Rate	Yes
		Valid From	No
T2S Operator	Cash Discount Penalty Rate	Currency Code	No
		Daily Flat Penalty Rate	Yes
		Valid From	No

Responsible T2S Actor	Class of Information	Attribute	Updatable
ECB	Euro Exchange Reference Data ⁵	Currency Code	No
		Daily Exchange Rate	Yes
		Exchange Rate Date	No
T2S Operator	Cash Penalties CCP List	BIC	Yes
<u>T2S Operator/CSD</u>	<u>List of CSDs operating with external CSDs with CCP participants</u>	<u>BIC of the CSD</u>	<u>Yes</u>
		<u>BIC of the party</u>	<u>Yes</u>
		<u>Party 2 Safekeeping account</u>	<u>Yes</u>
		<u>BIC of substitute Party</u>	<u>Yes</u>

22.4.1 Settlement Fail Penalty (SEFP)

...

T2S substitution of the failing and/or non-failing party of a SEFP

Reference ID	T2S.22.105
---------------------	------------

After identifying the failing and the non-failing party of the SEFP, i.e. respectively the party imposed with the penalty and the party credited with the penalty, T2S shall check for each of them, in case the underlying settlement instruction informed Party 2 Safekeeping Account, whether its BIC is defined in the List of CSDs operating with external CSDs with CCP participants (described in T2S.16.11XX) together with the Party 2 Safekeeping Account.

If so, it means that the corresponding party (the failing or the non-failing party) is a CSD outside T2S and that is operating on behalf of a CCP participant of its own. Then T2S will substitute in the penalty the corresponding party (originally identified as failing or non-failing party of the penalty) for the "BIC of substitute party" defined in the List of CSDs operating with external CSDs with CCP participants.

Note: With this substitution, penalties whose underlying transaction relates to a CCP participating in a CSD outside T2S are identified by T2S as they will be reported for an ad-hoc CSD participant (defined for the purpose of this reporting with BIC "BIC of substitute party") as the failing or non-failing party of the penalty

22.4.2 Late Matching Fail Penalty (LMFP)

....

T2S substitution of the failing and/or non-failing party of a LMFP

Reference ID	T2S.22.195
---------------------	------------

After identifying the failing and the non-failing party of the LMFP, i.e. respectively the party imposed with the penalty and the party credited with the penalty, T2S shall check for each of them, in case the underlying settlement instruction informed Party 2 Safekeeping Account, whether their BIC is defined in the List of CSDs operating with external CSDs with CCP participants (described in T2S.16.11XX) together with the Party 2 Safekeeping Account.

If so, it means that the corresponding party (the failing or the non-failing party) is a CSD outside T2S and that is operating on behalf of a CCP participant of its own. Then T2S will substitute in the penalty the corresponding party (originally identified as failing or non-failing party of the penalty) for the "BIC of substitute party" defined in the List of CSDs operating with external CSDs with CCP participants.

Note: With this substitution, penalties whose underlying transaction relates to a CCP participating in a CSD outside

⁵ A specific Data Migration Tool (DMT) file will be made available to the ECB as requested in CR718 to support the daily Euro Foreign Exchange Rate data loading process.

T2S are identified by T2S as they will be reported for an ad-hoc CSD participant (defined for the purpose of this reporting with BIC "BIC of substitute party") as the failing or non-failing party of the penalty

T2S substitution of the failing and/or non-failing party of a LMFP after its re-allocation

Reference ID	T2S.22.375
---------------------	------------

After the re-allocation of the cash penalty to the delivering party and the receiving party of the instruction, T2S shall check for each of them, in case the underlying settlement instruction informed Party 2 Safekeeping Account, whether their BIC is defined in the List of CSDs operating with external CSDs with CCP participants (described in T2S.16.11XX) together with the Party 2 Safekeeping Account.

If so, it means that the corresponding party (the failing or the non-failing party) is a CSD outside T2S and that is operating on behalf of a CCP participant of its own. Then T2S will substitute in the penalty the corresponding party (originally identified as failing or non-failing party of the penalty) for the "BIC of substitute party" defined in the List of CSDs operating with external CSDs with CCP participants.

Note: With this substitution, penalties whose underlying transaction relates to a CCP participating in a CSD outside T2S are identified by T2S as they will be reported for an ad-hoc CSD participant (defined for the purpose of this reporting with BIC "BIC of substitute party") as the failing or non-failing party of the penalty

Submitted annexes / related documents:

Proposed wording for the Change request:

High level description of Impact:

Outcome/Decisions:

*CRG on 17 October 2023: the CR initiator withdrew CR-780 and no CRG member agreed to take full ownership.

Documentation to be updated:

URD: As defined in "Description of requested change" section above