

## EACH Response to the European Commission Inception Impact Assessment on CSDR Review

The European Association of Clearing Houses (EACH) has represented the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 19 Members from 15 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

EACH appreciates the opportunity to provide comments to the European Commission's [inception impact assessment](#) on the review of the central securities depositories regulation (CSDR).

EACH Members welcome the CSDR review process as a way to ensure that the objectives of the CSDR are met in a more proportionate, effective and efficient manner. In line with what is indicated in the inception impact assessment, we believe that a fully considered review of CSDR would lead to simplification and increased transparency of legislation and a reduction of unnecessary administrative burden.

As indicated in our CSDR Review [consultation response](#) (See table 1 on page 2), there are several provisions in the CSDR Settlement Discipline Regime (SDR) which are inaccurate, redundant and unnecessarily burdensome. A number of them are just not implementable because of their technical inaccuracy and some would also increase operational risk within the EU CSDR SDR.

EACH, in line with many other market associations as indicated in their responses to the CSDR public consultations, agrees that the current implementation date of the CSDR SDR of 01 February 2022 will not give the market any time to implement the changes that are needed from the CSDR Review considering the legislative review and approval timeline will most probably extend past or close to this date.

Consequently, and considering the objectives of the CSDR review, EACH urges the European Commission to:

- Agree with ESMA to further delay the implementation of CSDR SDR beyond February 2022; and,
- Review the current CSDR SDR in line with stakeholder comments; ensuring that SDR is also implemented as one legislation.

We strongly request the European Commission to consider that any other alternative to the above, such as clarification through Q&As, would from our point of view not address the

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concerns expressed in this document and would fail to ensure a more efficient and robust CSDR SDR.

**Table 1 – Concrete suggestions to reduce inaccuracies, redundancies and unnecessary burdens in the CSDR SDR**

<b>Issue</b>	<b>Legal Basis</b>
Removing the unnecessary duplicative penalties collection and distribution system <sup>1</sup>	CSDR SDR RTS Article 19
Classifying CCPs, rather than Clearing Members, as Receiving Parties	Article 7(11)
Clarification of CSDR provisions to ensure CCPs can continue providing the crucial function of netting to continue having efficient and safer markets	CSDR RTS Articles 5(3) and 5(4), (a), (b), (c) and (e)
Clarifying the definition of 'Shares' in the context of CSDR to ensure consistency.	(ESMA document 'FIRDS CFI validations' [Reference ESMA70-145-1090], available at: <a href="https://www.esma.europa.eu/document/firds-cfi-validations">https://www.esma.europa.eu/document/firds-cfi-validations</a> ).
Clarifying CSDR provisions to ensure correct treatment of instruments traded on SME Markets	CSDR SDR RTS Article 7(3) second paragraph)
Clarifying the treatment of triparty transactions	CSDR SDR RTS Article 13(1)(d)
Clarifying the rules of applying buy-in rules by ensuring a level playing field between the cleared and the uncleared space	CSDR Article 7(5)
Avoiding double charging of penalties	Commission Delegated Regulation (EU) 2018/1229 – RTS Article 16
Addressing the impact of penalty rates for Bonds in the context of negative interest rates	CSDR Article 7(14)

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<sup>1</sup> Please refer to annex 1: Visualised – the problem of and solution to CSDR SDR RTS Article 19.

**Annex 1: Visualised – the problem of and solution to CSDR SDR RTS Article 19**

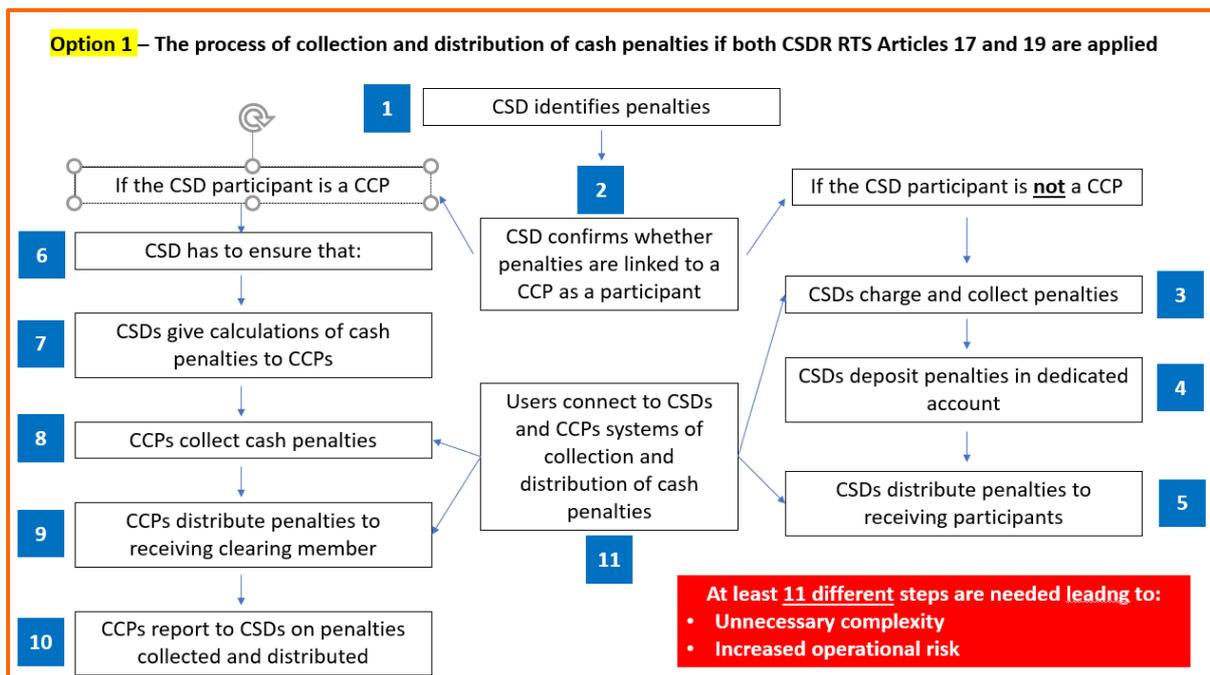


Figure 1 - SDR RTS with articles 17 & 19 – unnecessarily burdensome

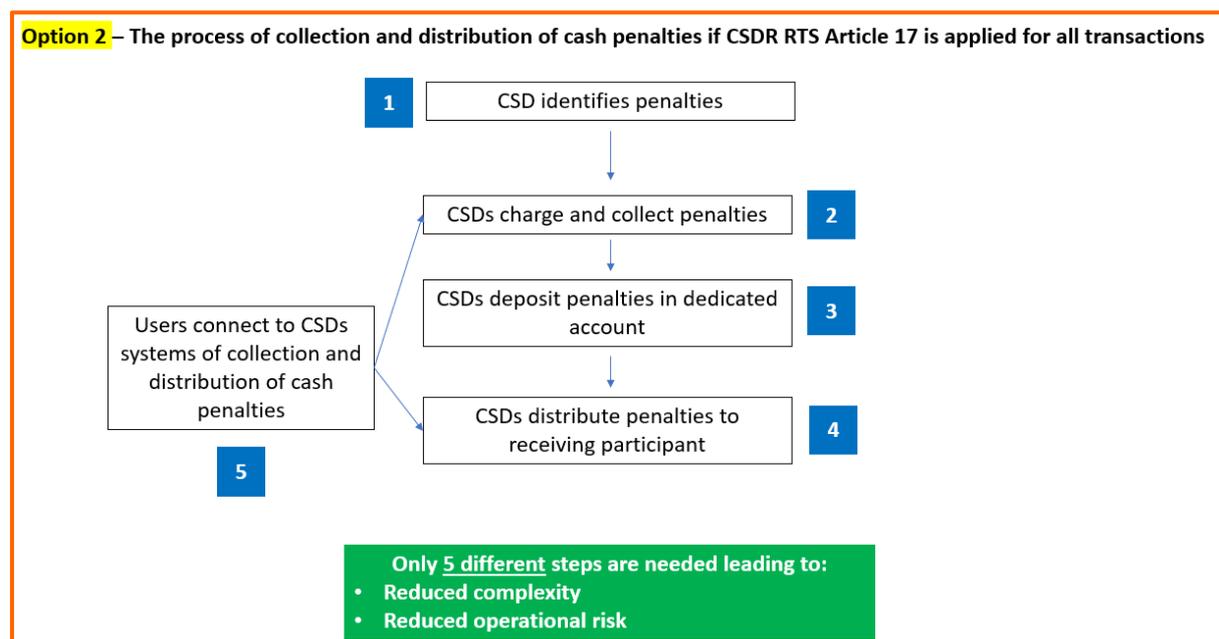


Figure 2 - SDR with article 19 removed, and article 17 is applied for all transactions – a simpler more proportionate, effective and efficient alternative.

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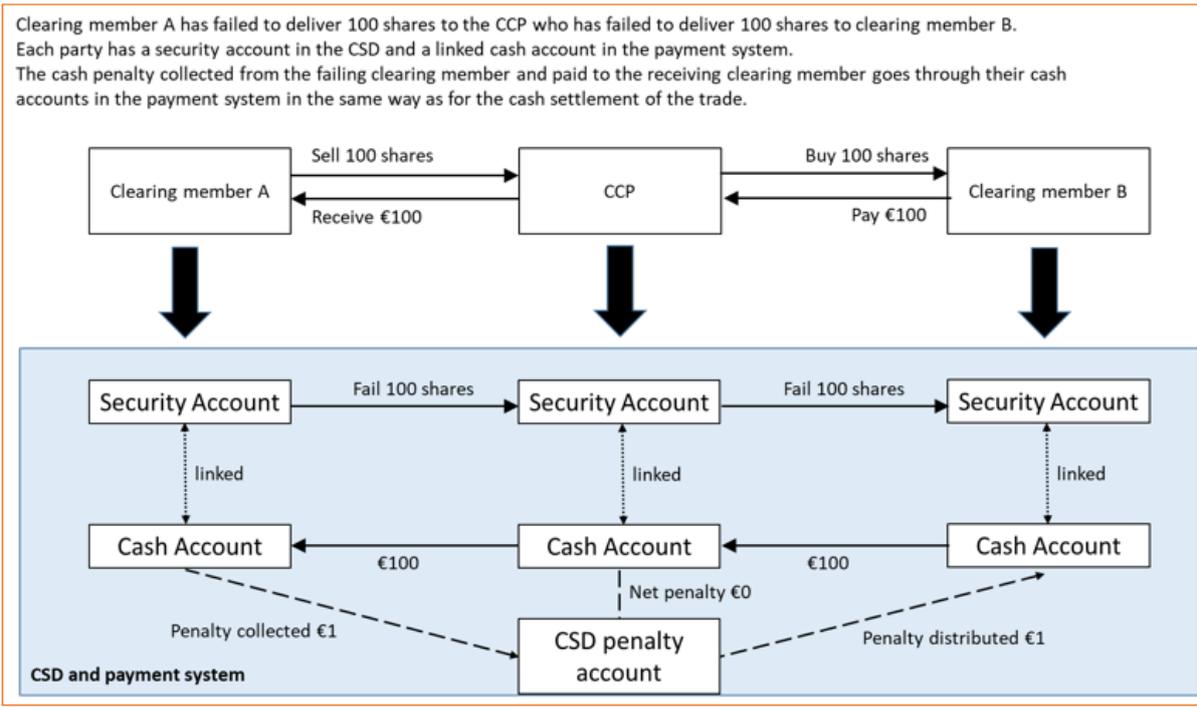


Figure 3 - how a comprehensive penalties system under article 17 would work - explained

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