

Consultation Paper on Technical Advice on CSDR Penalty Mechanism

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1. – Target participants

This consultation paper is of interest to all interested stakeholders, in particular, ESMA invites CSDs and CSD participants, as well as other stakeholders that may be impacted by the CSDR cash penalties regime to respond to this consultation paper.

2. - Information Note

The aim of this Consultation Paper (CP) is to collect views, comments and opinions, as well as data and evidence from stakeholders and market participants on the effectiveness of the current penalty mechanism in discouraging settlement fails and incentivising their rapid resolution, and on ESMA's preliminary proposals on the following topics:

- a) alternative parameters, when the official interest rate for overnight credit charged by the central bank issuing the settlement currency is not available;
- b) the treatment of historical reference data for the calculation of late matching fail penalties;
- c) alternative methods for calculating cash penalties, including progressive penalty rates.

ESMA will consider the feedback received to this consultation and expect to publish a final report and submit its technical advice to the European Commission by 30 September 2024.

ESMA will finalise the impact assessment regarding the proposed measures, which will be included in the Final Report to be submitted to the EC. One essential element in the development of technical advice is the analysis of the costs and benefits that the proposed measures would imply. The limited information available did not allow ESMA to produce a quantitative impact study for the purpose of this CP. The input from stakeholders will help ESMA in finalising the technical advice and the relevant impact assessment. Therefore, respondents to this consultation are encouraged to provide the relevant data to support their arguments or proposals.

3. - Submission of comments

The deadline for submitting comments is **29 February 2024**.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. Both the discussion paper and the response form are available on [ESMA's website](#) (place the cursor on the word to obtain the link).

Likewise, please send a copy of your answers to the CNMV to the following email address: documentosinternacional@cnmv.es

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