

## Circular no. 03/2018, of 24<sup>th</sup> July

### **APPLICATION OF GENERAL DATA PROTECTION REGULATION TO COMPLIANCE WITH PROVISIONS ON STORAGE OF DATA RELATING TO SETTLEMENT OF TRANSACTIONS BY SOCIEDAD DE GESTIÓN DE LOS SISTEMAS DE REGISTRO COMPENSACIÓN Y LIQUIDACIÓN DE VALORES**

In the financial markets, Regulation (EU) No 909/2014, of the European Parliament and Council of 23 July 2014, on improving securities settlement in the European Union and on central securities depositories (hereinafter the "CSDR") provides, as a general rule, that securities settlement systems managed by central securities depositories are of a systemic importance for the functioning of securities markets, with a view to ensuring proper, efficient and secure settlement of transactions made with marketable securities, and contributing to ensuring the integrity of securities issues and to reducing and managing risks related to the custody of securities.

To enable national and European competent authorities to effectively supervise the activities carried out by the central securities depository, records related to the services provided and the activities carried out, including ancillary services, must be kept at the disposal of these authorities. For the purposes of specifying the terms of compliance with the obligation to keep records, the European Commission approved several Delegated Regulations laying down different technical standards on the content of the information and the registration formats. Of these, Delegated Regulation (EU) 2017/392, of 11 November 2016 lays down technical standards regulating the operating, authorisation and supervisory requirements applicable to central securities depositories, and it has the purpose of defining uniform standards and formats to be used by such depositories so that their registers may be used, at least, as a faithful source of supervisions.

Pursuant to this regulation, central securities depositories receive information from their settlement participants, trading venues, other central depositories and central counterparties and must keep information on transactions, settlement instructions and orders relating to settlement restrictions, in addition to information on all securities accounts they hold and information received in relation to the provision of ancillary services. To comply with the obligation to store that information, the depository shall create and keep up to date the register with all the data to be reported under the rules on discipline in settlement envisaged in the CSDR.



In addition, the Spanish Central Securities Depository, Sociedad de Gestión de los Sistemas de Registro Compensación y Liquidación de Valores, S.A., pursuant to the consolidated text of the Securities Market Act approved by Royal Legislative Decree 4/2015, of 23 October (hereinafter "LMV"), established a system of reporting, transmission and storage of data, for the exchange and processing of information for the performance of activities of clearing, settlement and registration of securities admitted to trading in an official secondary market and supervision of the proper management of the securities register.

Pursuant to articles 114 to 116 of the LMV, this reporting system will be fed by information to be provided by the participants, trading venues, central counterparties, other central securities depositories and their respective members or participants, where all shall be responsible for ownership of the information, its integrity and veracity.

On 25 May 2018 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter, the "GDPR") became applicable, replacing previous regulations concerning this issue.

The GDPR establishes rules for the protection of natural persons with regard to the processing of their personal data and rules concerning the free circulation of these data, and is applicable to total or partial automated processing of data, and non-automated processing of personal data in or to be added to a file, when this processing is carried out within the context of the activities of an establishment of the data controller or the data processor within the European Union.

Pursuant to the GDPR, and specifically the provisions of Article 28 of same, this Company is using this Circular to stipulate the terms in which the obligations laid down in CSDR, its Delegated Regulation and national provisions shall be met pursuant to the provisions of the GDPR and national legislative, regulatory or administrative provisions concerning the protection of natural persons in the processing of their personal data.

To this end, the Board of Directors of Sociedad de Gestión de los Sistemas de Registro Compensación y Liquidación de Valores, S.A. (hereinafter "Iberclear") has approved this Circular setting out the terms and conditions in which the GDPR and its implementing rules shall be applied to compliance with its obligations on the storage of information relating to the services provided by Iberclear as the central securities depository.



### **Regulation 1. Communication of personal data**

Pursuant to the regulatory provisions referred to in the recitals of this Circular, Iberclear receives from settlement participants, trading venues, central counterparties and other central depositories and their respective members and participants information on the trading, settlement instructions, settlement restriction orders, securities accounts it holds, and information necessary for the provision of ancillary services.

The information received by Iberclear includes the identification of the clients of the members and participants. Such client identification is information owned by such members and participants, and they are the owners of the files in which such identification must be contained, where it is personal data.

The communication of these data to Iberclear and their processing by BME CLEARING are carried out in its capacity as a central securities depository and in compliance with the provisions referred to above.

### **Regulation 2. Purpose of the information**

Iberclear shall process the personal data supplied by its members, by trading venues, central counterparties, other central depositories and the members and participants in the same in relation to their securities settlement and registration activities and management of the information system for the sole purpose of furnishing the data to the competent authorities for the supervision of central securities depositories and their activities.

### **Regulation 3. Transfer of information**

In order to comply with its obligations of settlement and registration of securities and, as the case may be, clearing of transactions, Iberclear will report the information on such transactions to infrastructures responsible for clearing, settlement and registration, and to their respective members and participants, and to the issuers of securities.

### **Regulation 4. Storage of the information**

Pursuant to the regulatory provisions referred to in the recitals of this Circular, Iberclear must register the information it receives from its settlement participants, trading venues, central counterparties, other central depositories and their members and participants, in the format and detail stipulated in such provisions, and keep this at the disposal of the competent authorities for



at least ten years for the purposes of supervision of activities of securities settlement and registration.

#### **FINAL PROVISION**

This Circular shall come into force on the day following its publication.

Madrid, 24th July 2018

Ana Ibáñez Díaz-Bustamante  
Deputy Manager