

Circular nº 15/2017, of 4 September

SETTLEMENT PROCEDURE OF TRADES INVOLVING CENTRAL COUNTERPARTIES

Please note that only the Spanish version of this Circular produces legal effect. Any translation is provided for commercial purposes only.

Title V of the Regulation of Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A.U. (hereinafter, IBERCLEAR) sets out general provisions for the Securities Registration and Settlement System (hereinafter, the ARCO System) applicable to the settlement of securities and cash in the system.

Based on these general provisions, article 32.1 of the said Regulation provides for various forms of communication, acceptance and execution of transfer orders, depending on whether they come from transactions communicated directly by participants, executed in trading venues centres or involving a central counterparty.

As a result of the second phase of the Reform of the Securities Clearing, Settlement and Registration System, settlement has now been included in the ARCO System of those securities which until now were part of the Clearing and Settlement System for transactions carried out in the Book-Entry Public Debt Market and the AIAF Fixed Income Market (CADE System), and the connection of IBERCLEAR to the TARGET2-Securities technical support (hereinafter, T2S), managed by the European Central Bank and the group of euro area Central Banks, will now proceed.

This Circular implements the provisions of article 32.2 of the IBERCLEAR Regulation, as part of the second phase of Reform framework, establishing the general procedure for communication, acceptance and execution of transfer orders for transactions involving a central counterparty with which IBERCLEAR has signed an Agreement for access to its settlement services.

Therefore, the Board of Directors of IBERCLEAR has approved the following Circular:

Rule 1. Scope of application

1. The general procedure for the communication, acceptance and execution of transfer orders for transactions involving a central counterparty is applicable to the settlement of such transactions when the central counterparty has signed an Agreement with IBERCLEAR for access to its settlement services, pursuant to Circular regarding Agreements with markets, multilateral trading facilities, central counterparties and other entities.

2. In order to be involved in the settlement of the transfer orders covered by this Circular, participants must have authorised the central counterparty to notify transfer orders on their behalf. The form and conditions for this authorisation to be effective for IBERCLEAR shall be governed by the rules agreed by IBERCLEAR and the corresponding central counterparty in the relevant Agreement.

Rule 2. Communication of settlement instructions

1. The central counterparty, in exercise of the authorisation conferred upon it by the participants, will send settlement instructions in their name resulting from its calculations of the securities and cash positions arising from its interposition and clearing functions. This communication shall be made at all times in accordance with the provisions of the Procedures Manual and through the communication means of the central counterparty, depending on their choice of connection.

2. Pursuant to Article 31 of IBERCLEAR Regulation, the settlement instructions sent by the central counterparty, as envisaged in the section above, constitute transfer orders and shall be considered to be received and accepted by the ARCO System as of the moment that T2S states that they meet its validation requirements. The transfer orders may only be revoked before the moment in which these orders are matched in T2S with those other orders that constitute their respective counterparties. If these transfer orders are received already matched because they are accompanied by their corresponding opposite transfer order, they shall be irrevocable as of the moment that T2S states they meet its validation requirements.

3. Participants cannot reject the credits and debits resulting from these settlement instructions.

4. The central counterparty and the participants on whose behalf the transfer orders may have been communicated, shall receive, either from T2S or IBERCLEAR, depending on the type of connection each of them has, confirmation of the receipt and validation of the corresponding settlement instructions.

Rule 3. Settlement

1. Securities transfer orders resulting from the settlement instructions sent by the central counterparty are settled through the credit and correlating debit of securities in the Central Register accounts, either in real time or in the T2S overnight settlement period. When applicable, participants must simultaneously make the corresponding entry in their Second-Tier Register.
2. In the settlement of transfer orders, the processes of provision, optimisation and recycling of transactions, as defined at any moment in T2S, shall be applied. These processes may provide for partial settlement of the orders. IBERCLEAR shall include a description of these processes in its Procedures Manual for participants' awareness.
3. Cash transfer orders resulting from settlement instructions sent by the central counterparty are settled through the corresponding credits and debits in the accounts designated for cash settlements by participants and the corresponding central counterparty.
4. The central counterparty and the participants shall receive from either T2S or IBERCLEAR, depending on the type of connection each of them has, communication of the result of the settlement, indicating, where appropriate, any incidents that may have occurred. If an incident is generated in the entry at the level of the Second-Tier Register, the participant that keeps the Second-tier Register must notify IBERCLEAR of this situation through the Information, transmission and storage System provided for in Title VI of the IBERCLEAR Regulation (hereinafter, the Information System), in those cases established in the Information System Manual, providing such information as might be required in the determined time period and format. As soon as the failure is resolved, the participant will update the information for IBERCLEAR.

Rule 4. Incidents, fail managements

The Agreement referred to in Rule 1 of this Circular will set out the information and procedures required for both IBERCLEAR and the central counterparty to comply with their obligations under the Central Securities Depositories Regulations.

REPEALING PROVISION

Circular 13/2016, of 29 January, on settlement procedures for trades involving central counterparties and optional procedure for financial intermediaries is repealed.



FINAL PROVISIONS

1. This Circular shall enter into force on the day following its publication.
2. The ARCO Securities Registration and Settlement System Procedures Manual sets out the operating procedures, communication formats, time frames and other technical aspects set down by IBERCLEAR for implementation of the provisions of this Circular. Compliance with this manual is mandatory for all participants.

Madrid, 4 September 2017

Jesús Benito Naveira
Consejero Delegado