

AFM procedure for simplified settlement of administrative fine cases

1. Introductory provisions

1.1. The AFM may apply simplified settlement to cases involving administrative fines. The aim of simplified settlement is to provide a procedure for both parties to finally resolve a decision to impose an administrative fine (the primary decision) in an efficient manner.

1.2. In a simplified settlement, the AFM and the party concerned agree that:

the party concerned:

- acknowledges the offence(s) alleged by the AFM; and
- accepts the administrative fine imposed by the AFM;

the AFM:

- imposes an administrative fine on the party concerned in an abridged decision; and
- reduces the amount of the administrative fine by 15%.

1.3. The initiative for starting the simplified settlement procedure (hereinafter: the simplified procedure) lies with the AFM. The AFM will take this initiative only in cases in which it expects a simplified procedure to deliver adequate efficiency benefits.

2. Principles for a simplified procedure

2.1. In its notice of intention to impose an administrative fine, the AFM informs the party concerned of the existence of the simplified procedure.

2.2. As stated in article 1.3, the initiative for starting a simplified procedure lies with the AFM, without prejudice to the possibility for the party concerned – for example, in its statement of position – to state its interest in a simplified procedure.

2.3. If the AFM decides to impose an administrative fine on the party concerned, it will also assess whether a simplified settlement would in principle be appropriate in the case in question.

2.4. If the AFM does not consider that a simplified settlement would be appropriate in the case in question, it will send a regular decision to impose an administrative fine to the party concerned (possibly preceded by notice to the party concerned if this party has indicated its interest in a simplified procedure).

2.5. If the AFM considers that a simplified settlement would in principle be appropriate in the case in question, the procedure to be followed will be as described in this paragraph.

2.5.1. To the extent that this is not clear, the AFM will ascertain if the party concerned is prepared to accept a simplified settlement. If this is confirmed, and in cases in which the party concerned has already indicated its interest, the AFM will send the following to the party concerned:

1) a draft decision to impose an administrative fine, stating:

- that the party concerned acknowledges the offence(s);
- a brief description of the facts and the AFM's assessment thereof;
- that a reduction of 15% has been applied to the fine established in accordance with the AFM's Fine-Setting Policy 2021; and
- that the enclosed draft press release states that the party concerned acknowledges the offence(s) and accepts the administrative fine;

2) a 'declaration in respect of simplified settlement', in which the party concerned confirms that:

- it acknowledges the offence as described in the abridged decision to impose an administrative fine and accepts the administrative fine to be imposed;
- it has had adequate access to the case file and that it has had sufficient opportunity to submit its oral and written views; and
- the case is thereby settled finally with the taking of the initial decision (it waives its rights to object or appeal).

2.5.2. When sending the documents, the AFM will request the party concerned to state whether it accepts the offer of a simplified settlement, and if so, to sign and return the declaration in respect of simplified settlement.

If the party concerned believes that the draft abridged decision to impose an administrative fine contains factual inaccuracies, it may on one occasion request the AFM to make the necessary adjustments. When sending the documents, the AFM allows a brief period for the party concerned to reply. If the AFM subsequently receives comments that lead to adjustments having to be made, it will send an amended version to the party concerned as quickly as possible, again with a brief period in which to respond (stating agreement or non-agreement).

2.5.3. If the party concerned accepts the simplified settlement, the AFM will send it the final abridged decision to impose an administrative fine and will initiate publication of the decision as required by law. The case will then be closed with payment of the administrative fine.

2.5.4. If the party concerned does not accept the simplified settlement, the simplified procedure will be ended. The AFM will then send the party concerned a regular decision to impose an administrative fine, to which the option of objection or appeal will be available.