Council of the
European Union

Brussels, 16 March 2023
(OR. en)

7523/23

EF 74
ECOFIN 250
DELACT 41

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	14 March 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 1594 final
Subject:	COMMISSION DELEGATED REGULATION (EU) …/... of 14.3.2023 supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of the written arrangements and procedures for the functioning of the resolution colleges

Delegations will find attached document C(2023) 1594 final.

Encl.: C(2023) 1594 final

EUROPEAN
COMMISSION

Brussels, 14.3.2023
C(2023) 1594 final

COMMISSION DELEGATED REGULATION (EU) …/...

of 14.3.2023

supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of the written arrangements and procedures for the functioning of the resolution colleges

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 4(7) of Regulation (EU) No 2021/23 ('the Regulation') empowers the Commission to adopt, following the submission of draft regulatory technical standards by the European Securities and Markets Authority (ESMA), and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010, a delegated act specifying the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in Article 4(1) of the Regulation in order to ensure the consistent and coherent functioning of resolution colleges across the Union. For the purposes of preparing this draft regulatory technical standard, ESMA has taken into account the relevant provisions of the delegated acts adopted on the basis of Article 88(7) of Directive 2014/59/EU.

In accordance with Article 10(1) of Regulation (EU) No 1095/2010 establishing ESMA, the Commission must decide within 3 months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1095/2010, ESMA carried out a public consultation on the draft regulatory technical standard submitted to the Commission in accordance with Article 4(7) of the Regulation. A consultation paper was published on the ESMA internet site on 18 November 2021, and the consultation closed on 24 January 2022. ESMA also invited ESMA's Securities and Markets Stakeholder Group set up in accordance with Article 37 of Regulation (EU) No 1095/2010 to provide advice on the draft regulatory technical standard. Together with the draft regulatory technical standard, ESMA submitted an explanation of how the outcome of these consultations was taken into account in the development of the final draft regulatory technical standard submitted to the Commission.

Together with the draft regulatory technical standard and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1095/2010, ESMA submitted its impact assessment, including its analysis of the costs and benefits, for the draft regulatory technical standard submitted to the Commission. An analysis is available on the ESMA website[1].

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act sets out the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in Article 4(1) of the Regulation in order to ensure the consistent and coherent functioning of resolution colleges across the Union.

[1] https://www.esma.europa.eu/press-news/esma-news/esma-publishes-final-reports-ccp-resolution-regime

Article 1 of the draft regulatory technical standard sets out the requirement for the resolution authority of the central counterparty clearing house (CCP) to identify the resolution college members and potential observers.

Article 2 of the draft regulatory technical standard sets out the procedure on how the third-country authorities can join and participate in the resolution college as potential observers.

Article 3 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to regularly interact and communicate with the CCP.

Article 4 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to establish and update the contact details of persons appointed by each member of the resolution college.

Article 5 of the draft regulatory technical standard sets out the elements of written arrangements and procedures for the functioning of the resolution college.

Article 6 of the draft regulatory technical standard sets out the procedure for the establishment and update of written arrangements and procedures for the functioning of the resolution college.

Article 7 of the draft regulatory technical standard sets out the provisions for resolution college meetings and other activities.

Article 8 of the draft regulatory technical standard sets out the provisions for exchanges of information within the resolution college.

Article 9 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to be the authority responsible for communication with the CCP and with the competent authority of the CCP.

Article 10 of the draft regulatory technical standard sets out the provisions for organisation of the external communication.

Article 11 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to establish and regularly test operational procedures for the functioning of the resolution college in emergency situations.

Article 12 of the draft regulatory technical standard sets out the requirement for the resolution college to agree on a joint decision timetable regarding the resolution plan and the resolvability assessment and on the steps to be implemented in a sequence during the joint decision process.

Article 13 of the draft regulatory technical standard sets out the requirement for the authorities involved or the resolution authority of the CCP to take into account the need for simultaneous assessment of resolvability and suspension of the process to address substantive impediments and to ensure that the relevant deadlines provided in the joint decision timetable for resolution plan are adjusted accordingly.

Article 14 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to organise a preliminary dialogue with the relevant resolution college members and observers on the resolution strategy.

Article 15 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to request from the CCP all the necessary information.

Article 16 of the draft regulatory technical standard sets out the procedure on how the resolution authority of the CCP should transmit information received from the CCP to the resolution college members and how the resolution college members and observers can exchange additional information necessary to facilitate the drawing up of the resolution plan and the performance of the resolvability assessment.

Article 17 of the draft regulatory technical standard sets out the procedure on the development and circulation of the draft resolution plan and the draft resolvability assessment.

Article 18 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to organise a discussion with the CCP on the key elements of the draft resolution plan, based on the opinion received from the CCP, and the draft resolvability assessment of the CCP.

Article 19 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to organise a dialogue on the draft resolution plan and the draft resolvability assessment with the resolution college members.

Article 20 of the draft regulatory technical standard sets out the content of the draft joint decision on the resolution plan and the resolvability assessment of the CCP.

Article 21 of the draft regulatory technical standard sets out procedure on how the joint decision on the resolution plan and the resolvability assessment is reached.

Article 22 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to communicate the joint decision and a summary of the key elements of the resolution plan, including of the resolvability assessment, to the management body of the CCP.

Article 23 of the draft regulatory technical standard sets out the content of the communication to the resolution college on the decision taken by the resolution authority of the CCP on the resolution plan and the resolvability assessment, in the absence of a joint decision.

Article 24 of the draft regulatory technical standard sets out the procedure for suspension of the joint decision process on the resolution plan and the resolvability assessment when the resolution authority of the CCP identifies substantive impediments to resolvability or assents to an opinion on identified substantive impediments expressed by any resolution college member or observer on the resolution plan and the resolvability assessment.

Article 25 of the draft regulatory technical standard sets out the requirement for the resolution college to agree on a joint decision timetable regarding identification of substantive impediments to resolvability and measures to address or remove them.

Article 26 of the draft regulatory technical standard sets out the procedure for the consultation and communication of the report on substantive impediments to resolvability to the CCP.

Article 27 of the draft regulatory technical standard sets out the procedure for proposing alternative measures to remedy the substantive impediments to resolvability by the CCP and for consultation with resolution college members.

Article 28 of the draft regulatory technical standard sets out the content of the draft joint decisions on the identification of substantive impediments to resolvability and measures to address or remove them.

Article 29 of the draft regulatory technical standard sets out procedure on how the joint decisions on the identification of the material impediments to resolvability and on the measures to address substantive impediments to resolvability are reached.

Article 30 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP to communicate to the CCP the joint decisions on the identification of the material impediments to resolvability and on the measures to address substantive impediments to resolvability.

Article 31 of the draft regulatory technical standard sets out the requirement for the resolution authority of the CCP, and where relevant resolution college members, to monitor the application of the joint decisions on the identification of the material impediments to resolvability and on measures to address substantive impediments to resolvability.

Article 32 of the draft regulatory technical standard sets out the content of the communication to the resolution college on the decision taken by the resolution authority of the CCP on measures to address substantive impediments to resolvability, in the absence of a joint decision.

Article 33 of the draft regulatory technical standard sets out the entry into force and application-related provisions.

COMMISSION DELEGATED REGULATION (EU) …/...

of 14.3.2023

supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of the written arrangements and procedures for the functioning of the resolution colleges

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132[2], and in particular Article 4(7), fourth subparagraph, thereof,

Whereas:

(1) In order to ensure the homogeneous governance of the resolution of CCPs across the Union, resolution colleges established pursuant to Article 4 of Regulation (EU) 2021/23 should rely on a commonly shared set of functioning rules.

(2) The resolution colleges are to facilitate cooperation among competent authorities and resolution authorities, notably at the preparatory stages of recovery and resolution, by gathering all relevant competent authorities, the relevant members of the European System of Central Banks, central banks of issue of the relevant Union currencies of the financial instruments cleared, the relevant ministry, the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA).

(3) In order to ensure efficient and effective decision making, information exchange processes and cooperation among the authorities, the written arrangements and procedures of the resolution college should include the necessary organisational provisions. In particular, the resolution college should recognise the need for the establishment of flexible substructures within the resolution college to carry out its functions and ensure that members are able to contribute in an appropriate manner in relation to the various activities of the college.

[2] OJ L 22, 22.1.2021, p.1

(4) The written arrangements and procedures of the resolution college should also include the necessary operational provisions. Those operational provisions should enable the resolution authorities to coordinate their input to the supervisory college established pursuant to Article 18 of Regulation (EU) No 648/2012 of the European Parliament and of the Council[3] which is covering the day-to-day operation of the CCP. Furthermore, those operational provisions should facilitate the resolution authorities' task of organising the analysis, consideration and evaluation of the input that they receive from the supervisory college. Written arrangements and procedures should, therefore, include a process of communication between the supervisory college and the resolution college.

(5) To ensure the robustness of the resolution college, the efficiency of its inner processes, and efficient coordination with the supervisory college, the resolution college should rely on a set of operational rules governing the functioning of college meetings, the exchange of information within the resolution college and the communication arrangements.

(6) To ensure that operational procedures are effective to address an emergency, the resolution authority of the CCP should undertake appropriate tests for the readiness of the resolution college to act and respond in such a scenario.

(7) Timely and realistic planning for all joint decision processes is necessary to ensure smooth and efficient decision taking. Every authority involved in those processes should provide the resolution authority of the CCP with its contribution in relation to the respective joint decision in a timely and efficient way and in accordance with the timetables agreed for the respective joint decision.

(8) It is necessary to ensure that joint decisions are taken swiftly and in a timely manner. This is particularly important for decisions on resolution but is also relevant for resolution planning and resolvability assessment. At the same time, authorities involved in the joint decision-making process should be provided with sufficient time to express their views. The steps for reaching any joint decision should be set out, recognising that some of these steps may be performed in parallel and others sequentially.

(9) In order to ensure comparability of processes and outcomes, and therefore achieve convergence across different resolution colleges, it is necessary to set out uniform rules on the process and documentation required for the joint decision-making within the resolution colleges.

(10) It is furthermore necessary to set out the procedural framework for the resolution authority, authorities that are members of the resolution college and, where appropriate, third-party competent authorities and resolution authorities to strive for efficient and workable resolution planning even in the absence of joint decisions.

(11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by ESMA.

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[3] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

(12) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[4],

HAS ADOPTED THIS REGULATION:

Chapter 1

Operational organisation of resolution colleges

Article 1

Identification of resolution college members and potential observers

1. The resolution authority of the CCP shall identify the resolution college members referred to in Article 4(2) of Regulation (EU) 2021/23 and shall identify the potential observers referred to in Article 4(4) of Regulation (EU) 2021/23 in accordance with the procedure set out in Article 2 of this Regulation.

2. The resolution authority of the CCP shall communicate the list of members and potential observers and any subsequent changes thereto to the resolution college.

3. The resolution authority of the CCP shall review and update the list of members and potential observers at least annually and in any case whenever there is any change in that list.

Article 2

Third-country authorities as observers in the resolution college

1. Upon receipt of a relevant request to participate in the resolution college from the competent authority or resolution authority of clearing members established in third countries or the competent authority or resolution authority of third-country CCPs with which the CCP has established interoperability arrangements as referred to in Article 4(4) of Regulation (EU) 2021/23, or when the resolution authority of the CCP intends to invite them to participate in the resolution college, the resolution authority of the CCP shall communicate the request or the intention to invite to the resolution college.

[4] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p.84).

2. The communication shall be accompanied by all of the following:

(a) the opinion of the resolution authority of the CCP, also having regard to paragraph 2, point (b) and (c), on the equivalence of the confidentiality requirements applicable to the potential observer;

(b) the terms and conditions for the participation of observers in the resolution college referred to in Article 5(2), point (f);

(c) the opinion of the resolution authority of the CCP as to the significance of the exposure of the relevant third-country clearing members or interoperable CCPs;

(d) the setting of a deadline for the resolution college to take a decision on the request or the intention to invite to participate in the resolution college, upon the expiration of which consent of the resolution college is to be assumed. Within the deadline set out in this paragraph, point (d), any disagreeing authorities referred to in Article 4(2), points (b) and (c), of Regulation (EU) 2021/23 may express its fully reasoned objection to the opinion of the resolution authority of the CCP referred to in point (a). When an objection is expressed, the resolution authority of the CCP shall take it into account before making its final decision. The final decision of the resolution authority of the CCP on the request or the intention to invite to participate shall be fully reasoned and communicated to all resolution college members and shall, if relevant, reflect the reasons for not taking into account diverging views.

3. When the resolution authority of the CCP makes the decision to invite an authority of a third country to participate in the resolution college, as foreseen in Article 4(4) of Regulation (EU) 2021/23, it shall send an invitation to potential observers. The invitation shall be accompanied by the terms and conditions for the participation of observers in the resolution college referred to in Article 5(2), point (f). The potential observer receiving the invitation shall be considered an observer upon acceptance of the invitation, which shall be deemed as acceptance of the terms and conditions for the participation of observers referred to in Article 5(2), point (f).

4. Following acceptance of the invitation, the resolution authority of the CCP shall transmit an updated version of the list referred to in Article 1 to the resolution college.

Article 3

Communication with the CCP

1. The resolution authority of the CCP shall ensure regular interaction with the CCP to enhance the efficient and effective functioning of the resolution college.

2. The resolution authority of the CCP shall communicate to the CCP the establishment of the resolution college and a list of its members and observers, if any, as well as any change to that list.

Article 4

Establishment and update of contact details

1. The resolution authority of the CCP shall maintain and share with the resolution college members and observers the contact details of persons appointed by each member for the purpose of performing resolution college tasks as well as the contact details of persons appointed by the observers.

   The contact details referred to in the first subparagraph shall also include out-of-hours contact details for emergency situations.

2. All resolution college members and observers shall ensure that the resolution authority of the CCP receives all contact details of the relevant contact persons and is informed, without undue delay, of all relevant changes.

Article 5

Content of written arrangements and procedures for the functioning of the resolution college

1. The written arrangements and procedures referred to in Article 4(5), point (a), of Regulation (EU) 2021/23 shall include at least the identification of the resolution college members and observers pursuant to Articles 1 and 2 of this Regulation and shall set out a framework for cooperation between resolution college members and for coordination of activities and tasks of the resolution college.

2. The framework for cooperation and coordination shall include all of the following:

   (a) the rules on resolution college governance, its working language and voting procedures;

   (b) the tasks and decisions to be undertaken by the resolution college, including the right of the resolution college to form committees and the procedures to obtain agreement on the formation of such committees and the delegation of tasks to them, together with any applicable conditions;

   (c) the responsibilities of the resolution authority of the CCP as the chair of the resolution college referred to in Article 4(5) of Regulation (EU) 2021/23 and in relation to the tasks and decisions referred to in point (b) of this paragraph;

   (d) the structure of the resolution college, in particular any committees formed under point (b) and the identification of the resolution college members participating in such committees and observers admitted to such committees;

   (e) the terms and conditions for the participation of members of the resolution college, including their involvement in the tasks and decisions identified in point (b);

   (f) the terms and conditions for the participation of observers in the resolution college, including their involvement in the dialogues and activities of the

resolution college, as well as their rights and obligations regarding exchange of information, having regard to Articles 4, 8 and 80 of Regulation (EU) 2021/23. For this purpose, the resolution authority of the CCP shall ensure that the terms and conditions for the participation of observers are not more favourable than terms and conditions set out for resolution college members;

(g) day-to-day, as well as emergency-situation, communication, cooperation and coordination arrangements, such as regular updates on the corporate structure and business activities of the CCP, including the type of services it provides, the products, asset classes and types of transactions it clears, the CCPs, trading venues, payment systems and central securities depositories and securities settlement systems to which it is linked and the geographical mix of direct and significant indirect participants known to the CCP;

(h) procedures for the adoption of joint decisions as far as this is not covered by Regulation (EU) 2021/23 and procedures to reach a common understanding where a joint decision is not required but such a common understanding within the resolution college, or within any of its committees, appears necessary to the resolution authority of the CCP;

(i) arrangements for exchanging confidential and non-confidential information as set out in Article 8, including the relevant scope and frequency of such exchange and the communication channels to be used, having regard to Articles 8, 73 and 80 of Regulation (EU) 2021/23 and to the role of the resolution authority of the CCP as the coordinator for collecting and disseminating information amongst the resolution college members and observers, where applicable;

(j) a description of relevant information to be shared with resolution college members and observers, in particular in relation to resolution planning, resolvability assessment and other tasks referred to in Article 4 of Regulation (EU) 2021/23, having regard to Articles 8, 73 and 80 of that Regulation and to the role of the resolution authority of the CCP;

(k) arrangements for the treatment of confidential information having regard to Articles 8, 73 and 80 of Regulation (EU) 2021/23;

(l) procedures for convening and holding regular and ad-hoc meetings referred to in Article 7;

(m) arrangements relating to the interaction between the resolution college and the supervisory college referred to in Article 2, point (24), of Regulation (EU) 2021/23, including the coordination of inputs from resolution college members and the communication of such input to that supervisory college where required for the purposes of exercising their tasks under that Regulation;

(n) procedures in relation to the communication policy referred to in Article 9;

(o) any other agreement concerning the functioning of the resolution college;

(p) any provisions covering amendment and discontinuance arrangements.

Article 6

Establishment and update of written arrangements and procedures for the functioning of the resolution college

1. The resolution authority of the CCP shall prepare its proposal for the written arrangements and procedures for the functioning of the resolution college in accordance with Article 5.

2. The resolution authority of the CCP shall communicate its proposal to the resolution college for consultation, inviting the members to provide their opinion and indicating the deadline for the submission of such opinions.

3. Where the members of the resolution college referred to in paragraph 2 do not submit any opinions within the deadline, the resolution authority of the CCP shall proceed with the adoption of the written arrangements and procedures by the resolution college.

   Where the members of the resolution college submit opinions regarding the proposal for the written arrangements and procedures pursuant to paragraph 2, they shall submit those opinions, together with a thorough explanation of the comments and suggestions provided to the resolution authority of the CCP within the deadline.

4. The resolution authority of the CCP shall consider the opinions of the members of the resolution college and reason its decision when it does not take those opinions into account; and it shall proceed with the adoption of the written arrangements and procedures.

5. Upon finalisation, the resolution authority of the CCP shall communicate the written arrangements and procedures for the functioning of the resolution college to the members of the resolution college.

6. The resolution authority of the CCP shall review and update the written arrangements and procedures for the functioning of the resolution college at least annually and after any substantive changes in the composition of the resolution college.

7. While updating the written arrangements and procedures for the functioning of the resolution college, the resolution authority of the CCP and the other members of the resolution college shall follow the procedure set out in paragraphs 1 to 6.

8. All resolution college members and observers shall be bound by the written arrangements and procedures adopted in accordance with this Article.

Article 7

Resolution college meetings and other activities

1. The resolution college shall convene at least one meeting per year. The resolution authority of the CCP, with the consent of all members of the resolution college,

taking into account the specificities of the CCP, may determine a higher frequency of meetings of the resolution college having regard to the CCP's size, nature, scale and complexity, the systemic implications of the CCP across jurisdictions and currencies, the potential impact of the activities of the CCP, external circumstances and potential requests by the resolution college members.

2. The resolution authority of the CCP shall organise ad hoc meetings, or other forms of activities between resolution college members and observers, in particular where dialogue between resolution college members and observers is required.

3. The resolution authority of the CCP shall prepare the agenda and objectives of planned meetings and other activities. The resolution authority of the CCP shall communicate the draft agenda to the members and observers of the resolution college for consultation in advance of the meeting, invite them to contribute to it, and add points within an indicated timeline.

4. All resolution college members and observers shall ensure that appropriate representatives from their respective institutions, in view of the objectives of the meeting and other activities of the resolution college, participate in the resolution college meetings and other activities. Those members and observers shall also ensure that those representatives are empowered to commit, to the maximum extent possible, their authorities to decisions taken in those meetings or other activities.

5. The resolution authority of the CCP shall ensure that relevant documents are circulated at least 5 working days in advance before a particular meeting or activity of the resolution college, or within any other time frame agreed by the resolution college. Outcomes and decisions of resolution college meetings or other activities shall be documented in writing and the resolution authority of the CCP shall ensure that they are communicated to resolution college members and observers, to the extent relevant to their participation in the meeting, within 15 working days after the meeting or activity, or within any other time frame agreed by the resolution college.

   The resolution authority of the CCP shall at least ensure that:

   (a) the annual resolution college meetings decide on the resolution plan of the CCP for the preceding resolution cycle and discuss the progress made towards resolvability of the CCP;

   (b) the resolution college meetings or activities remain effective, while ensuring that all resolution college members and observers are fully informed of the resolution college activities that are relevant to them;

   (c) the activities of the resolution college are regularly reviewed and remedial action is taken if the resolution college is not operating effectively.

6. The resolution authority of the CCP shall act as a central point of contact for any matter related to the practical organisation of the resolution college.

Article 8

Exchange of information

1. Subject to Articles 8, 73 and 80 of Regulation (EU) 2021/23, the resolution authority of the CCP and the resolution college members and observers shall ensure that they exchange all essential information received from any source and relevant to the activities of the resolution college.

2. The essential information referred to in paragraph 1 shall be appropriate and accurate, and shared in a timely manner.

3. Subject to Articles 8, 73 and 80 of Regulation (EU) 2021/23, the resolution authority of the CCP and the competent authority referred to in Article 2, point (7), of Regulation (EU) 2021/23 shall exchange all information required to ensure that both colleges fulfil their role as set out in Article 18 of Regulation (EU) No 648/2012 and Article 4 of Regulation (EU) 2021/23.

4. When the resolution authority of the CCP receives information as referred to in paragraphs 1 and 2 of this Article, it shall transmit it to the resolution college members and observers, subject to Articles 8, 73 and 80 of Regulation (EU) 2021/23.

5. Where the resolution college is organised in different committees, the resolution authority of the CCP shall keep all resolution college members and observers fully informed, in a timely manner, of actions taken, or measures carried out, in those committees.

6. Unless otherwise provided, the resolution college may use any means of communication with its members and observers to exchange the information referred to in paragraphs 1 and 2. Confidential and sensitive information shall be communicated using secure means as far as possible. Regarding publicly available information, it shall be sufficient that the resolution authority of the CCP provides the reference to such information.

7. Where a secure resolution college website exists, the use of this website shall be the main means of communication.

8. This Regulation shall not affect the information gathering powers of the competent authority of the CCP or resolution authority of the CCP.

Article 9

Communication policy

The resolution authority of the CCP shall be the authority responsible for communication with the CCP, and with the competent authority referred to in Article 2, point (7), of Regulation (EU) 2021/23, where the latter is different from the resolution authority of the CCP.

Article 10

External communication

As far as practicable, the resolution authority of the CCP shall inform the resolution college at least on the following:

(a) the coordination of external communication and public statements during a going concern situation, in a situation where the CCP is considered as failing or likely to fail pursuant to Article 22, paragraph 3, of Regulation (EU) 2021/23;

(b) the level of information to be disclosed.

Article 11

Emergency situations

1. The resolution authority of the CCP shall establish and regularly, at least annually, test operational procedures for the functioning of the resolution college in emergency situations, in particular systemic ones which may pose threats to the viability of the CCP.

2. The operational procedures referred to in paragraph 1 shall cover at least the following elements:

   (a) secure means of communication to be used;

   (b) set of information to be exchanged;

   (c) relevant persons to be contacted;

   (d) communication procedures to be followed by the relevant resolution college members and observers.

Chapter 2

Resolution planning and resolvability joint decisions

SECTION 1

JOINT DECISION PROCESS ON THE RESOLUTION PLAN AND THE RESOLVABILITY ASSESSMENT

Article 12

Planning of the steps of the joint decision process on the resolution plan and the resolvability assessment

1. Prior to the start of the joint decision process on the resolution plan in accordance with Article 14(2) of Regulation (EU) 2021/23, the resolution college members shall agree on a timetable of steps to be followed in that process ('joint decision timetable for a resolution plan').

   In case of a failure to agree on the joint decision timetable for a resolution plan, the resolution authority of the CCP shall set that timetable after considering the views and reservations expressed by the resolution college members.

2. The joint decision timetable for a resolution plan shall be updated at least annually by the resolution college members and shall include all of the following steps, to be implemented in a sequence that is agreed by the resolution college or set by the resolution authority of the CCP as set out in paragraph 1, second subparagraph:

   (a) preliminary dialogue at the resolution college on the resolution strategy of the CCP, in preparation of the joint decision on the resolution plan and the resolvability assessment;

   (b) request to the CCP for the information necessary for the drawing up of the resolution plan in accordance with Article 12 of Regulation (EU) 2021/23 and the performance of the resolvability assessment in accordance with Article 15 of that Regulation;

   (c) submission by the CCP of the information requested in point (b) directly to the resolution authority of the CCP;

   (d) transmission of the information that the resolution authority of the CCP receives from the CCP to the resolution college and indication of a deadline for any additional information requests;

(e) submission of contributions for the development of the resolution plan and the resolvability assessment by the resolution college members and observers to the resolution authority of the CCP;

(f) submission of the draft resolution plan and draft resolvability assessment from the resolution authority of the CCP to the resolution college members and observers;

(g) submission of possible comments on the draft resolution plan and on the draft resolvability assessment from the resolution college members to the resolution authority of the CCP;

(h) discussion with the CCP on the draft resolution plan and resolvability assessment, where it is deemed appropriate by the resolution authority of the CCP;

(i) dialogue at the resolution college on the draft resolution plan and resolvability assessment;

(j) circulation of the draft joint decision on the resolution plan by the resolution authority of the CCP to the resolution college;

(k) dialogue on the draft joint decision on the resolution plan and on the resolvability assessment where it is deemed necessary by the resolution authority of the CCP;

(l) reaching of the joint decision on the resolution plan and the resolvability assessment;

(m) communication of the conclusion of the joint decision to the CCP along with a summary of the key elements of the resolution plan.

3. The joint decision timetable for a resolution plan shall:

(a) reflect the scope and complexity of each step of the joint decision process;

(b) take into account the timetable of other joint decisions to be reached by the resolution college;

(c) take into account, to the extent possible, the timetable of other joint decisions to be reached by the relevant supervisory college, in particular the timetable for the joint decision on the review and assessment of the recovery plan in accordance with Article 10 of Regulation (EU) 2021/23.

Article 13

Elements of a joint decision timetable for resolution plan

1. When drafting the joint decision timetable for a resolution plan, the authorities involved, or the resolution authority of the CCP when acting alone, shall take into account Article 16(2) of Regulation (EU) 2021/23 on the need for simultaneous

assessment of resolvability and suspension of the process to address material impediments and shall ensure that the relevant deadlines provided in the joint decision timetable for a resolution plan are adjusted accordingly.

2. When drafting the joint decision timetable for a resolution plan, the resolution authority of the CCP shall have regard to the terms and conditions for the participation of observers as set out in the resolution college written arrangements and procedures referred to in Article 4(4) and in Article 5 of Regulation (EU) 2021/23.

3. The following aspects of the joint decision timetable for a resolution plan shall be communicated from the resolution authority of the CCP to the CCP:

   (a) an estimated date when the request for the information necessary for drawing up the resolution plan and performing the resolvability assessment is expected to be made in accordance with Article 12(2), point (b), and the deadline for submission of that information in accordance with Article 12(2), point (c);

   (b) an estimated date for the organisation of the discussion referred to in Article 12(2), point (h), where relevant;

   (c) an estimated date for the communication referred to in Article 12(2), point (m).

Article 14

Preliminary dialogue on the resolution strategy

The resolution authority of the CCP shall organise a preliminary dialogue with the relevant resolution college members and observers to perform all of the following:

(a) discuss a preliminary proposal on the resolution strategy for the CCP;

(b) check whether any of the information necessary for the development of the resolution plan and resolvability assessment is already available to any of the competent authorities, and share this information in accordance with Article 14 of Regulation (EU) 2021/23;

(c) determine the additional information to be requested from the CCP;

(d) agree on any contributions needed from the relevant authorities, whether resolution authorities or not, by the resolution authority of the CCP for the development of the resolution plan and the performance of the resolvability assessment.

Article 15

Information from the CCP

1. The resolution authority of the CCP shall request to the CCP all the necessary information in accordance with Article 13 of Regulation (EU) 2021/23, taking into account the outcome of the dialogue provided for in Article 14 of this Regulation.

2. The resolution authority of the CCP shall clearly communicate to the CCP the deadline for the provision of such information.

3. The CCP shall provide the information requested to the resolution authority of the CCP in a timely manner, but no later than by the deadline set under paragraph 2.

Article 16

Transmission of information from the resolution authority

1. The resolution authority of the CCP shall, without undue delay, transmit information received in accordance with Article 15, and subject to Article 8, to the resolution college members and shall invite them to provide comments on whether additional information is required within a specific time frame.

2. Any resolution college member receiving information may request additional information from the resolution authority of the CCP within the time frame specified under paragraph 1 of this Article, where the receiving authority deems the additional information to be relevant to the development and maintenance of the resolution plan of the CCP or to the performance of the resolvability assessment. In such case, the relevant provisions of Article 15 shall apply accordingly.

3. The transmission of information from the resolution authority of the CCP to the resolution college members referred to in paragraph 2 shall not be deemed complete until the actual transmission of both the initial and the subsequent information.

4. The resolution authority of the CCP shall, taking into account paragraph 3 of this Article, communicate to the resolution college the starting date of the four-month period for reaching the joint decision on the resolution plan and the resolvability assessment in accordance with Article 14(2) of Regulation (EU) 2021/23.

5. The resolution college members shall exchange additional information necessary to facilitate the drawing up of the resolution plan and the performance of the resolvability assessment, subject to the confidentiality requirements laid down in Articles 8, 73 and 80 of Regulation (EU) 2021/23.

Article 17

Development and circulation of the draft resolution plan and the draft resolvability assessment

1. All resolution college members and observers shall provide the resolution authority of the CCP with their contributions to the resolution plan of the CCP and the resolvability assessment in a timely manner and in any event by the deadline set in the joint decision timetable for a resolution plan pursuant to Article 12(2), point (e).

2. The resolution authority of the CCP shall develop the draft resolution plan in accordance with Article 12 of Regulation (EU) 2021/23, taking into account any contributions submitted by the relevant resolution college members and observers.

3. The resolution authority of the CCP shall circulate the contributions referred to in paragraph 1, the draft resolution plan and the draft resolvability assessment to the resolution college members and observers in a timely manner, however no later than the deadline set in Article 12(2), point (j).

Article 18

Discussion with the CCP

When the resolution authority of the CCP organises a discussion with the CCP on the key elements of the draft resolution plan, based on the opinion received from the CCP in accordance with Article 12(8) of Regulation (EU) 2021/23, and the resolvability assessment of the CCP pursuant to Article 12(2), point (h), of this Regulation, it shall do so in a timely manner and in any event within the deadlines set in the relevant step of the joint decision timetable for a resolution plan. The resolution authority of the CCP shall communicate to the resolution college any observations submitted by the CCP regarding the key elements of the resolution plan, including the resolvability assessment, during this consultation.

Article 19

Dialogue on the draft resolution plan and the draft resolvability assessment

1. The resolution authority of the CCP shall organise a dialogue on the draft resolution plan and the draft resolvability assessment with the resolution college members in a timely manner pursuant to Article 12(2), point (i), however no later than within the deadlines set in the joint decision timetable for a resolution plan.

   When the CCP is part of a corporate group which contains (an)other CCP(s), the resolution authorities of the CCPs shall organise among themselves a discussion on the draft resolution plans and the draft resolvability assessments.

2. Based on the dialogue referred to in paragraph 1, the resolution authority of the CCP shall finalise the corresponding CCP resolution plan and the performance of the resolvability assessment.

3. Where material impediments to resolvability are identified, Article 24(1) shall apply.

Article 20

Drafting of the joint decision on the resolution plan and the resolvability assessment

The resolution authority of the CCP shall prepare a draft joint decision on the resolution plan and the resolvability assessment of the CCP. The draft joint decision shall set out all of the following:

(a) the names of the resolution authority of the CCP and the resolution college members reaching the joint decision on the resolution plan and the resolvability assessment of the CCP;

(b) the names of the observers where those observers were involved in accordance with the terms and conditions for the participation of observers as set out in the written arrangements and procedures referred to in Article 5;

(c) a summary of the views expressed by the authorities consulted in the joint decision process on the resolution plan and the resolvability assessment;

(d) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision on the resolution plan and the resolvability assessment;

(e) the date of the adoption of the joint decision on the resolution plan and the resolvability assessment, and of any relevant update thereof;

(f) the resolution plan and the resolvability assessment, including any measures to address or remove material impediments to resolvability in accordance with Articles 15 and 16 of Regulation (EU) 2021/23, subject to which the joint decision is taken. Where the CCP is in the process of implementing those measures, information on the timeline for their implementation shall also be provided.

Article 21

Reaching joint decision on the resolution plan and the resolvability assessment

1. The resolution authority of the CCP shall send the draft joint decision on the resolution plan and the resolvability assessment to the resolution college members without undue delay, setting a deadline for the resolution college members with voting rights to provide their written agreement to that joint decision, in accordance with Article 8(6).

2. Upon receipt of the draft joint decision, the resolution college members with voting rights who do not disagree shall transmit their written agreement to the resolution authority of the CCP within the deadline set under paragraph 1.

3. The final joint decision shall consist of the joint decision document drafted in accordance with Article 20, the written agreements referred to in paragraph 2 of this Article, and the agreement of the resolution authority of the CCP.

4. The resolution authority of the CCP shall communicate the joint decision on the resolution plan and the resolvability assessment to the resolution college members and observers.

Article 22

Communication of joint decision on and summary of resolution plan to CCP

1. The resolution authority of the CCP shall communicate the joint decision on the resolution plan, and a summary of the key elements of the resolution plan, including of the resolvability assessment, to the management body of the CCP in a timely manner and in any event by the deadline set in the joint decision timetable for a resolution plan.

2. The resolution authority of the CCP shall inform the resolution college members and observers about that communication.

3. The resolution authority of the CCP shall explain the key elements of the joint decision on the resolution plan and the resolvability assessment to the CCP.

Article 23

Process in the absence of joint decision on the resolution plan and the resolvability assessment

In the absence of a joint decision between the resolution college members within 4 months from the date of transmission of the draft resolution plan in accordance with Article 14(2) of Regulation (EU) 2021/23, the resolution authority of the CCP shall take the decision on the resolution plan and the resolvability assessment, which shall be communicated in writing without undue delay to the resolution college by means of a document containing all of the following items:

(a) the name of the resolution authority of the CCP;

(b) the name of the CCP;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the resolution plan and the resolvability assessment, including any measures to address or remove material impediments to resolvability in accordance with Articles 15 and 16 of Regulation (EU) 2021/23, subject to which the decision is taken. Where the CCP is in the process of implementing those measures, the timeline for their implementation shall also be provided;

(f) the names of the resolution college members involved in the joint decision process on the resolution plan and the resolvability assessment, along with a summary of the views expressed by those members and information on the issues leading to disagreement;

(g) comments of the resolution authority of the CCP on the views expressed by the resolution college members, in particular on the issues leading to disagreement and the possibility for any of the resolution college members with voting rights to refer those issues to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

SECTION 2

JOINT DECISIONS ON IDENTIFICATION OF MATERIAL IMPEDIMENTS TO RESOLVABILITY AND ON MEASURES TO ADDRESS OR REMOVE SUCH IMPEDIMENTS

Article 24

Suspension of the joint decision process on the resolution plan and the resolvability assessment

1. When the resolution authority of the CCP, in cooperation with the resolution college, identifies material impediments to resolvability, or assents to an opinion on identified material impediments expressed by any resolution college members or observers on the resolution plan and the resolvability assessment, it shall submit a report to the resolution college members and observers in accordance with Article 16(1) of Regulation (EU) 2021/23. The resolution authority of the CCP shall thereby indicate the suspension of the joint decision process in accordance with Article 16(2) of that Regulation.

2. The resolution authority of the CCP shall recommence the joint decision process on the resolution plan, including the performance of the resolvability assessment, upon completion of the joint decision processes referred to in Article 17(3) and (4) of Regulation (EU) 2021/23 on measures to address or remove material impediments to resolvability either proposed by the CCP in accordance with Article 16(3) of that Regulation or on alternative measures from the resolution authority pursuant to Article 16(4) of that Regulation.

Article 25

Planning of the steps of joint decision processes on identification of material impediments to resolvability and on measures to address or remove such impediments

1. Prior to the start of the joint decision processes on the identification of material impediments to resolvability, and measures to address or remove such impediments

in accordance with Article 17(2), (3) and (4) of Regulation (EU) 2021/23, the resolution college members shall agree on a timetable of steps to be followed in that process ('joint decision timetable for the identification of material impediments').

In case of a failure to agree on the joint decision timetable for the identification of material impediments, the resolution authority of the CCP shall set that timetable after considering the views and any reservations expressed by the resolution college members.

2. The joint decision timetable for the identification of material impediments shall include the following steps:

(a) preparation and circulation of the report on the material impediments identified in accordance with Article 16(1) of Regulation (EU) 2021/23 by the resolution authority of the CCP in consultation with the competent authority of the CCP;

(b) submission of the report pursuant to Article 16(1) of Regulation (EU) 2021/23 from the resolution authority of the CCP to the CCP and the resolution college;

(c) the date when the CCP submits to the resolution authority of the CCP its observations and alternative measures to remedy the material impediments, if any, in accordance with Article 16(3) of Regulation (EU) 2021/23;

(d) dialogue between the resolution authority of the CCP and the resolution college members and observers on any relevant observations or alternative measures to remedy the material impediments proposed by the CCP pursuant to Article 16(3) of Regulation (EU) 2021/23;

(e) development of the draft joint decisions on the identification of material impediments to resolvability and measures to address or remove such impediments pursuant to Article 17(1), points (a), (b) and (c), of Regulation (EU) 2021/23;

(f) finalisation of the joint decisions on the identification of material impediments to resolvability and measures to address or remove such impediments pursuant to Article 17(1), points (a), (b) and (c), of Regulation (EU) 2021/23;

(g) communication to the CCP of the joint decisions on the identification of material impediments to resolvability and measures to address or remove such impediments pursuant to Article 17(1), points (a), (b) and (c), of Regulation (EU) 2021/23.

3. The joint decision timetable for the identification of material impediments shall be reviewed and updated by the resolution authority of the CCP in order to reflect the extension of the joint decision process where the CCP submits observations and proposes any alternative measures to address or remove material impediments to resolvability in accordance with Article 16(3) of Regulation (EU) 2021/23.

4. When drafting the joint decision timetable for the identification of material impediments, the resolution authority of the CCP shall have regard to the terms and conditions for the participation of observers as set out in the resolution college written arrangements and procedures and in Article 4(4) of Regulation (EU) 2021/23.

5. The resolution authority of the CCP shall communicate to the CCP those aspects of the joint decision timetable for the identification of material impediments that envisage the involvement of the CCP.

Article 26

Consultation and communication of report to CCP

1. The resolution authority of the CCP shall prepare a draft report on material impediments to resolvability in accordance with Article 16(1) of Regulation (EU) 2021/23 and shall transmit it to the competent authority of the CCP and to ESMA.

2. Comments and views received on the draft report shall be considered by the resolution authority of the CCP for the purposes of the finalisation of the report.

3. Upon finalisation, the report shall be provided to the CCP and to the resolution college.

4. The resolution authority of the CCP shall communicate to the resolution college the start of the four-month period pursuant to Article 16(3) of Regulation (EU) 2021/23 for the CCP to propose measures to address material impediments to resolvability.

Article 27

Submission of observations of the CCP and consultation with the authorities

1. Where the CCP proposes to the resolution authority of the CCP, within 4 months of the date of receipt of the report in accordance with Article 16(3) of Regulation (EU) 2021/23, alternative measures to remedy the material impediments to resolvability, the resolution authority of the CCP shall forward those measures to the other resolution college members and observers without undue delay and, in any case, within 10 working days.

2. When circulating the alternative measures submitted by the CCP, the resolution authority of the CCP shall set a deadline for the submission of comments by the resolution college members.

3. Where resolution college members do not provide their comments by the deadline referred to in paragraph 2, the resolution authority of the CCP shall presume that those members do not have any comments on the alternative measures submitted by the CCP and shall proceed accordingly.

4. The resolution authority of the CCP shall circulate, without undue delay, any comments submitted by a resolution college member to all the other resolution college members and shall discuss with them the proposed measures submitted by the CCP to address material impediments to resolvability.

5. The resolution authority of the CCP and resolution college members shall duly discuss and consider the potential impact of the proposed measures on the CCP, on all the Member States where the CCP operates, and on the Union as a whole.

Article 28

Drafting joint decisions on identification of material impediments to resolvability and measures to address or remove such impediments

1. The resolution authority of the CCP shall, taking into account the outcome of the dialogue referred to in Article 27(5), prepare draft joint decisions on the identification of material impediments to resolvability and measures to address or remove such impediments.

2. Each draft joint decision shall set out all of the following items:

   (a) the name of the CCP to which the joint decision relates and applies;

   (b) the names of the resolution authority of the CCP and the resolution college members reaching the joint decision;

   (c) the names of the observers where those observers were involved in the joint decision process in accordance with the terms and conditions for the participation of observers as set out in the written arrangements and procedures of the resolution college;

   (d) a summary of views expressed by the authorities consulted in the joint decision process;

   (e) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision;

   (f) the date of the joint decision;

   (g) the identification of the material impediments to resolvability;

   (h) the assessment of the measures proposed by the CCP pursuant to Article 16(3) of Regulation (EU) 2021/23;

   (i) the measures identified pursuant to Article 16(4) of Regulation (EU) 2021/23, and listed in Article 16(7) of that Regulation agreed by the resolution authority of the CCP and the resolution college members and the time period within which the respective entities are to address those measures;

   (j) where the measures proposed by the CCP are not accepted or are partially accepted by the resolution authority of the CCP, an explanation of how the measures proposed by the CCP are assessed as not fit to remove the material impediments to resolvability and how the measures referred to in point (i) would effectively reduce or remove such impediments.

Article 29

Reaching joint decisions on the identification of the material impediments to resolvability and on the measures to address or remove such impediments

1. The resolution authority of the CCP shall send draft joint decisions on the identification of the material impediments to resolvability and on the measures to address or remove such impediments described in Article 17(1), points (a), (b) and (c), of Regulation (EU) 2021/23 to the resolution college members and observers without undue delay, setting a deadline for the resolution college members with voting rights to provide their written agreement to those joint decisions, in accordance with Article 8(6) of this Regulation.

2. Upon receipt of the draft joint decisions, resolution college members with voting rights who do not disagree with them shall transmit their written agreement to the resolution authority of the CCP within the deadline referred to in paragraph 1.

3. Each final joint decision shall consist of the joint decision document drafted in accordance with Article 28, the written agreements referred to in paragraph 2 of this Article and the agreement of the resolution authority of the CCP. It shall be provided to all resolution college members.

4. The resolution authority of the CCP shall communicate the joint decisions on the identification of the material impediments to resolvability and on measures to address or remove such impediments to the resolution college members.

Article 30

Communication of the joint decisions on the identification of the material impediments to resolvability and on measures to address or remove such impediments to the CCP

1. The resolution authority of the CCP shall communicate the joint decisions on the identification of the material impediments to resolvability and on measures to address or remove such impediments to the management body of the CCP in a timely manner and, in any event, by the deadline set in the joint decision timetable for the identification of material impediments. The resolution authority of the CCP shall inform the resolution college members and observers of the communication.

2. Where some of the measures taken in accordance with Article 16(7) of Regulation (EU) 2021/23 are addressed to entities other than the CCP, the resolution authority of the CCP shall ensure that it, or the competent authorities of those entities, provide the management bodies of those entities under their jurisdiction with the respective parts of the joint decision on measures to address material impediments to resolvability, in a timely manner and, in any event, by the deadline set in the joint decision timetable for the identification of material impediments.

3. Where necessary, the resolution authority of the CCP may discuss with the CCP details of the content and the application of the joint decisions on the identification of the material impediments to resolvability and on measures to address or remove such

impediments described in Article 17(1), points (a), (b) and (c), of Regulation (EU) 2021/23.

Article 31

Monitoring the application of the joint decisions

1. The resolution authority of the CCP shall communicate the outcome of the discussion, if any, referred to in Article 30(3) to the resolution college.

2. The resolution authority of the CCP shall communicate the outcome of the discussion, if any, referred to in Article 30(2) to the resolution authority of any other CCP, central securities depositaries or credit institutions which is part of the same group or with which the CCP has an interoperability link.

3. The resolution authority of the CCP and, where relevant, resolution college members, shall monitor the application of the joint decisions on the identification of the material impediments to resolvability and on measures to address or remove such impediments that are relevant to each of the entities referred to in paragraph 2 for which they are respectively responsible, as the case may be.

Article 32

Process in the absence of a joint decision on measures to address material impediments to resolvability

In the absence of a joint decision on measures to address material impediments to resolvability as referred to in Article 17(8) of Regulation (EU) 2021/23, the decision taken by the resolution authority of the CCP shall be communicated in writing without undue delay to the resolution college by means of a document containing all of the following:

(a) the name of the resolution authority of the CCP taking the decision;

(b) the name of the CCP and entities to which the decision relates and applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the identification of the material impediments to resolvability;

(f) the measures identified pursuant to Article 16(7) of Regulation (EU) 2021/23 decided by the resolution authority of the CCP and the deadline within which those measures are to be addressed;

(g) where the measures proposed by the CCP are not accepted, or are partially accepted, by the resolution authority of the CCP, an explanation as to how the measures proposed by the CCP are assessed as not fit to remove the material impediments to

resolvability and how the measures set out in point (f) of this paragraph would effectively reduce or remove the material impediments to resolvability;

(h) the names of the resolution college members involved in the joint decision process on the identification of the material impediments to resolvability and on measures to address or remove such impediments, along with a summary of the views expressed by those members and information on the issues leading to disagreement;

(i) comments of the resolution authority of the CCP on the views expressed by the resolution college members, in particular on issues leading to disagreement;

(j) the possibility for any of the resolution college members with voting rights to refer those issues to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010.

Article 33

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14.3.2023

For the Commission
The President
Ursula VON DER LEYEN