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| 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) 1595 final   |
| Subject:         | ANNEX to the COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2021/23 of the European Parliament and of the Council with regard to regulatory technical standards specifying the contents of the resolution plan |

Delegations will find attached document C(2023) 1595 final.

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EUROPEAN  
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Brussels, 14.3.2023  
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ANNEX

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**to the**

**COMMISSION DELEGATED REGULATION (EU) .../...**

**supplementing Regulation (EU) 2021/23 of the European Parliament and of the  
Council with regard to regulatory technical standards specifying the contents of the  
resolution plan**

## ANNEX

### **On the scenarios to include in the CCP resolution plan**

| Types of scenarios<br><br>(Article 12(3), point (a), and 12(7), point (j))   | Factors to describe type of scenarios<br><br>(Article 12(3), point (a), and 12(7), point (j))  |
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| <b>Default Scenario</b> – Unsuccessful recovery where the CCP does not have sufficient resources and tools for a successful recovery   | Establish scenario where a CCP has not fully addressed liquidity shortfalls or established loss allocation arrangements that fully address uncovered credit losses. As a result, recovery resources and tools are insufficient to absorb losses and replenish financial resources to minimum regulatory requirements.  |
| <b>Default Scenario</b> - Failure of loss allocation arrangements  | Establish scenario where the CCP's loss allocation arrangements set out in the recovery plan do not operate as intended and as a result, the planned resources or tools are not, or not sufficiently, available at the time of recovery.   |
| <b>Default Scenario</b> - Multiple clearing members do not meet their obligations under the CCP's recovery actions   | Establish scenario where the multiple clearing members do not meet their obligations under the CCP's recovery actions. If the group of non-performing clearing members is sufficiently large or if their failure to meet obligations leads to a general loss of confidence in the CCP, the CCP may become unable to continue operations.   |
| <b>Default Scenario</b> – Timing of resolution actions   | Establish scenario where the relevant authorities determine that resolution should be initiated before some of the arrangements or tools under the CCP's recovery plan are applied. In this scenario, the relevant authorities have determined that applying recovery arrangements or tools in the prevailing market conditions may threaten financial stability and/or the continuity of critical functions.  |
| <b>Non-default Scenario</b> - Investment risks   | Establish scenario where losses on investments of initial margin or default fund assets could arise for example if an investment counterparty fails. A CCP may need to bear such losses, if the loss allocation tools in the CCP's rules do not cover them in another manner. Losses could also occur from the investment of a CCP's own financial resources including SITG and SSITG. Investment losses could materialise suddenly.   |
| <b>Non-default Scenario</b> - Failure of service providers   | Establish scenario where, as a result of a failure of a custodian, depository, a payment or settlement bank, a payment system, a securities settlement system or other entity providing similar services, the CCP could lose timely access to its assets, become unable to collect margins or become unable to transform non-cash collateral or investments into cash. This could cause liquidity and/or solvency challenges to a CCP, depending on the nature or consequences of the failure and the time it takes to regain access to the assets.  |
| <b>Non-Default Scenario</b> - Operational risk events  | Establish scenario where financial losses or liquidity challenges arise from a range of operational failures, such as human error, information technology failure, fraud, cyber incident, or non-performance of vendors or service providers. A CCP can incur operational losses directly (primary losses) or due to the legal actions taken by others affected by the event (secondary losses). Operational risk events can happen suddenly, but certain losses, particularly secondary losses can take years to fully materialise.   |
| <b>Non-Default Scenario</b> - Financial losses (Comprehensive loss allocation arrangements for custody and investment losses the CCP incurs as a result of its clearing and settlement activity) | Establish scenario where the CCP does not have sufficient financial resources or tools to cover non-default losses (including losses deriving from legal risks, including legal, regulatory, enforcement or contractual penalties that could lead to significant losses or uncertainty for the CCP and that can take a long time to materialise). In this scenario, the non-default losses would be larger than the CCP's capital and contingent resources (e.g. insurance, parental guarantees). Alternatively, in a scenario where the CCP's clearing members would also be required to bear losses, the aggregate resources available would be insufficient to cover the losses and/or to replenish capital back to the required minimum. |

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|   | Establish scenario where the CCP's arrangements to cover (specific) non-default losses set out in the recovery plan cannot be used or do not operate as intended. As a result, the planned resources or tools are not, or not sufficiently, available at the time of recovery.   |
|   | Establish scenario where the CCP's clearing members do not meet their obligations under the CCP's recovery actions. In this scenario, clearing members do not meet the applicable loss allocation or replenishment obligations.  |
|   | Establish scenario where the CCP's shareholders do not support the CCP's recovery actions. In this scenario, the CCP's parent company or other shareholders do not cover the CCP's non-default losses that are not allocated elsewhere and/or are unwilling to recapitalise the CCP, irrespective of whether there is a contractual commitment, parental guarantee, or similar arrangement to provide financial resources or not.  |
|   | Establish scenario where the relevant authorities determine that resolution should be initiated before some of the recovery arrangements or tools are applied or the CCP is wound down. In this scenario, the CCP's recovery and wind-down arrangements are consistent with the PFMI, but the relevant authorities have determined that applying them in the prevailing market conditions may threaten financial stability and/or the continuity of critical functions.  |
| <b>Event(s) causing simultaneous default and non-default losses</b> - This scenario addresses the situation in which there are concurrent default and non-default losses as a result of a single event or as a result of multiple events that occur in a reduced time span. | <p>Establish scenario where there are specific entities that are material sources of both default and non-default losses, specific scenarios analysing the effects of default events affecting these entities may be relevant.</p> <p>Considering where non-default losses would be borne by clearing members affecting the path of loss propagation and where there are material differences between different combinations of default and non-default events with respect to the available tools, usage of tools, paths of losses or impact on stakeholders.</p> |