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C. Significance Criteria

C.1 Introduction

This paper sets out the Presidency's proposed way forward on the significance criteria for determining which trading venues (Trading Venues), Central Securities Depositories (CSDs), Central Counterparties (CCPs) and Crypto-Asset Service Providers (CASPs) should be subject to direct ESMA supervision under the Market Integration and Supervision Package (MISP).

The Presidency has carefully considered the written comments submitted by Member States following the Council Working Parties, as well as the interventions made during the 28 May and 2 June Council Working Parties, and at ECOFIN on 12 June 2026. Accordingly, the Presidency understands that the significance criteria for each sector must balance proportionality and legal certainty by ensuring that only genuinely significant entities with substantial cross-border impact mandatorily fall under ESMA supervision through clear, objective, and measurable criteria that can be applied transparently. The framework must also ensure supervisory efficiency by capturing entities where EU-level supervision adds value compared to national supervision, while supporting the development of integrated EU capital markets and respecting the principle of subsidiarity. This paper sets out what the Presidency assesses to have been agreed by most delegations and proposes compromises for the key outstanding issues.

C.2 Trading Venues

(Relevant Articles: Article 38fa and 38fb MiFIR)

Article 38fa of the Commission proposal provides for direct ESMA supervision over market operators and investment firms operating trading venues that meet the significance criteria set out in Article 38fb. The Article combines quantitative criteria (market share thresholds and cross-border activity indicators) with certain structural criteria relating to cross-border group structures (See '**Commission proposal'** in Table A.2 below). These criteria could be technically and procedurally supplemented by the Commission empowerments under Article 38fb(7)-(9). The Commission has identified 12 Trading Venues that would likely meet those significance criteria.

Member States feedback on "*Supervision: Presidency note on the significance criteria*," discussed at Council Working Party on 28 May and (in substance) at ECOFIN on 12 June, suggests that a majority of Member States support the removal of the FMI Group criterion from the criteria applying to Trading Venues, CCPs and CSDs. This cross-sectoral aspect is therefore removed from the significance criteria for Trading Venues, leaving a Trading Venue group criterion. The removal of this cross-sectoral aspect would not reduce the number of Trading Venues identified as significant. The other significance criteria proposed by the Commission seem to be broadly supported by Member States.

Table A.2 Significance Criteria for Trading Venues	
Commission (EC) Proposal	**Presidency Proposal**
Significant if both (1 + any one of 2 a, b or c) are met or 3 alone is met	***Significant if both (1 + any one of 2 a, b or c) are met or 3 alone is met***
1. Quantitative threshold;	**1.Quantitative threshold;**
5% EU market share (by asset class) assessed at Group level	Per EC proposal
2. Cross-border dimension	**2. Cross-border dimension**
a. In group with TV/CSD/CCP in another Member States	a. An entity that operates TVs in at least two Member States
b. For shares, ETFs and bonds, >50% trading volume in most relevant market for same instrument class	b. Per EC proposal
c. For derivatives, >50% of transactions in same instrument class with counterparty in another Member States	c. Per EC proposal
3. Group Criterion	**3.Group Criterion**
Trading volume in any class of financial instrument at entity/group level >50% of EU volume	Per EC proposal

Q1:	**Do Member States agree to the Presidency Proposal for Significance Criteria for Trading Venues, set out in the right-hand column of Table A.2?**
Q2:	**Do Member States agree that to fall within direct ESMA supervision, the Same Sector Group Criterion should apply?**

C.3 Central Securities Depositaries (CSDs)

(Relevant Articles: Article 11 and 11a CSDR, Recital 50)

Under the Commission's proposal, EU CSDs would be categorised by ESMA as either significant or less significant based on annual assessment of a set of criteria and thresholds set out in the Level 1 text. Significant CSDs would fall under ESMA supervision, following a six-month adaptation period, while less significant CSDs would remain under the supervision of their NCAs. Four non-cumulative criteria would be used to assess whether a CSD is significant and would therefore be supervised by ESMA, with a CSD being considered significant if it meets any one of the criteria (shown under '**Commission proposal'** in Table A.3 below and to be further developed by ESMA under an RTS mandate in Article 11a(5)). The Commission estimates that 15 CSDs would be captured as significant under these criteria. Where a CSD previously categorised as significant no longer meets one of the criteria for a 36-month period, ESMA shall deem it no longer significant.

Member States have indicated that the FMI Group criterion should be replaced with a CSD Group criterion and that the Securities Settlement System criterion (where a CSD operates an SSS under the law of another Member States) should be deleted. These amendments would likely reduce the number of significant CSDs by two to 13. Member States were unsupportive of the proposed additional passporting criterion[1] proposed by the Cyprus Presidency. A few Member States also raised

[1] Under this proposal, a CSD that provides its services to issuers established in five or more Member States different from the Member States of authorisation of the CSD (host Member States), for the

concerns about the asymmetry in assessment periods applied to the quantitative significance criteria determining CSDs transferring in (12 months) and out (36 months) of ESMA direct supervision. These Member States sought a 36-month assessment period for both. The Presidency suggests a compromise whereby the CSD must be consistently over the minimum thresholds or under all thresholds respectively for a period of 24 months before supervision is transferred.

Table A.3 Significance Criteria for CSDs		
Commission (EC) Proposal	**CY Presidency Proposal**	**IE Presidency Proposal**
Significant if it meets one of {1, 2, 3 or 4}	***Significant if it meets one of {1, 2, 3 or 4}***	***Significant if it means one of {1, 2 or 4}***
1. Quantitative threshold; Must meet both 1.1 and 1.2	**1. Per EC Proposal**	**1. Per EC Proposal**
1.1 Operates SS which settles 5% annual EU value of settlement instructions	Per EC proposal	Per EC proposal
1.2 Cross-border dimension; CSD must meet one of a. to e. in at least 3 host Member States	Per EC proposal	Per EC proposal
a. ≥15% aggregate market value of financial instruments issued in host Member States and initially recorded or centrally maintained in securities accounts by EU CSDs	Per EC proposal	Per EC proposal
b. ≥15% aggregate market value of financial instruments centrally maintained in securities accounts for entities in host Member States by EU CSDs	Per EC proposal	Per EC proposal
c. ≥15% total annual value of financial instrument settlement instructions issued from host Member States and settled by EU CSDs	Per EC proposal	Per EC proposal
d. ≥15% total annual value of EU CSD financial instrument settlement instructions issued from host Member States settled by EU CSDs	Per EC proposal	Per EC proposal
e. CSD operates SSS under law of another Member States and is a designated system under Article 3 SFR	Delete	Delete
2. Group Criterion - CSD belongs to the same group as a (i) a CSD in another Member State or (ii) a CSD, TV or CCP for which ESMA is CA.	**2.Group Criterion - CSD belongs to the same group as a CSD in another Member State.**	**2. Per CY Presidency proposal**
3. CSD operates SSS under law of another Member State and is a designated system under Article 3 SFR	**3.** Delete	**3.** Delete
N/A	**3a. CSD with 5+ passports under CSDR Article 23**	**3a.** Delete
4. Member State has designated ESMA as competent authority for CSD	**4.Per EC Proposal**	**4. Per EC Proposal**

Q2: Do Member States agree to the Presidency Proposal for Significance Criteria for CSDs, set out in the right-hand column ('IE Presidency Proposal) of Table A.3?

issuance of financial instruments /under the law of a host Member States ("cross-border criteria"), including through setting up a branch to provide such services, would be considered significant.

Q3: Do Member States agree that any quantitative criterion determining transfer in and out of ESMA direct supervision should be consistently met for a 24-month period before redesignation of the CSD occurs.

C.4 Central Counterparties (CCPs)

Relevant Articles: Articles 22 and 22a

Under the Commission's proposal, EU CCPs would be categorised by ESMA as either significant or less significant based on a set of criteria and thresholds set out in the Level 1 text. Significant CCPs would fall under ESMA supervision. Less significant CCPs would remain under the supervision of their NCAs.

The Commission's proposal introduces a new Article 22a in EMIR that sets out the criteria for determining whether an EU CCP is significant or less significant. The five criteria are non-cumulative; therefore, a CCP would be considered significant if it meets any one of the criteria as mentioned in the proposal. These are listed under '**Commission Proposal**' in Table A.4 below for reference and were chosen largely for consistency with the existing third-country CCP framework under EMIR, albeit the thresholds are lower. The Commission estimates that nine CCPs would be identified as significant CCPs using these significance criteria.

Member States seem to be broadly supportive of the Commission's criteria once the FMI Group Criterion is narrowed to the CCP being part of a CCP group including EU CCPs or Tier 2 Third Country CCPs. The amendment to this criterion would likely reduce the number of significant CCPs from nine to six. Member States did not broadly support the introduction of an interoperability criterion[2]. A few Member States raised concerns about the asymmetry in assessment periods applied to

[2] Under this proposed criterion, CCPs that enter into interoperability arrangements with any other CCPs (either EU or TC CCPs), in accordance with Article 51 of EMIR, would be considered significant.

quantitative significance criteria determining a CCP transferring in (12 months) and out of ESMA direct supervision (36 months), seeking a 36-month assessment period for both. In broad alignment with the proposal for CSDs, the Presidency suggests a compromise whereby the CCP must be consistently over at least one threshold or under all threshold(s) for 24 months respectively before supervision is transferred.

Table A.4 Significance Criteria for CCPs		
Commission (EC) Proposal	**CY Presidency Proposal**	**IE Presidency Proposal**
CCP is significant if any of the following criteria are met	***CCP is significant if any of the following criteria are met***	***CCP is significant if any of the following criteria are met***
1. **≥€100bn Securities Transactions** (average open interest) cleared over year prior to assessment	**Per EC proposal**	**Per EC proposal**
2. **≥€500bn OTC derivatives** (average gross notional outstanding) cleared over year prior to assessment	**Per EC proposal**	**Per EC proposal**
3. **Aggregate Initial margin/default fund €25bn** (net basis in accounts held by clearing members over 12 months	**Per EC proposal**	**Per EC proposal**
4. In group with EU CCP/TC Tier 2 CCP or TV/CSD supervised by ESMA	**In group with EU CCP or Tier 2 TC CCP**	**In group with EU CCP or Tier 2 TC CCP**
5. Member State has **designated** ESMA as competent authority for this CCP	**Per EC proposal**	**Per EC proposal**
N/A	**6. Interoperability criterion per EMIR Article 51**	Delete

Q4: Do Member States agree to the Presidency Proposal for Significance Criteria for CCPs, set out in the right-hand column of Table A.4?

Q5: Do Member States agree that any quantitative criterion determining transfer in or out of ESMA direct supervision should be consistently met for a 24-month period before redesignation of the CCP occurs?

C.5 Crypto-Asset Service Providers (CASPs)

Relevant Articles: Articles 60, 63 and 138a

The Council Working Parties on 30 March 2026 and 28 May 2026, and ECOFIN on 12 June 2026, provided Member States with the opportunity to express their views on

the proposed amendments of Regulation (EU) 2023/1114 on Markets in Crypto Assets ('MiCAR').

Article 63 CASPs

The majority of Member States do not support granting ESMA direct supervisory powers over all Article 63 CASPs, as had been proposed by the Commission under MiCAR Article 138a. The predominant view of Member States is that any transfer of supervisory responsibilities to ESMA should be limited to CASPs that are considered "significant", while smaller and primarily domestically-oriented entities should remain under the supervision of NCAs.

For the identification of Article 63 CASPs to be placed under direct ESMA supervision, the Cyprus Presidency proposed five criteria per Table A.5 below, of which at least two would need to be met over two consecutive years. Member States broadly agreed with the proposal but were divided over whether two out of five criteria was the right proportion, with some arguing for three out of five, others for just one out of five. Many Member States agreed that if a significant CASP does not meet the significance criteria for two consecutive years, it should return to NCA supervision.

The Commission has carried out an initial analysis of possible criteria for identifying the largest CASPs. Complete data for all of the criteria is not currently available. However, based on preliminary data for selected criteria, the Commission has identified the following ranges:

- If the total number of active users is used as a proxy for the number of clients:
    - only 12 CASPs have more than 1 million active users;
    - 5 CASPs have more than 5 million active users; and
    - only 2 CASPs have more than 10 million active users.

- Approximately 6 CASPs have more than €5 billion in crypto-assets under custody, while 2 CASPs have more than €10 billion in crypto-assets under custody.
- The Presidency is also considering adding a sixth criterion: the volume of transactions concluded on behalf of active users in the Union. If this criterion were set at a threshold of more than 5 billion transactions on behalf of EU clients, it would capture 13 CASPs. This criterion would complement the assets-under-custody criterion by covering a wider range of CASP services. However, we do not at this time have information on how many CASPs would be captured by this criterion if calibrated differently.

On the basis of the preliminary data, only 10 CASPs would meet at least two of the following three criteria:

- more than 1 million active users in the Union;
- more than €5 billion in crypto-assets under custody; and
- more than 5 billion transactions concluded on behalf of EU clients.

The Presidency considers that if a sixth criterion is added, the requirement should be calibrated so that CASPs are required to meet three of the six criteria. This would ensure that the framework remains proportionate and appropriately targeted, particularly given the broader set of indicators being assessed.

However, the current analysis is based on limited preliminary data. More comprehensive data will therefore be required to establish and calibrate the relevant thresholds under a “three out of six” approach.

On that basis, the Presidency proposes to return to the CWP in September 2026 with more developed and calibrated criteria, supported by additional data and analysis.

Table A.5.1 Scope of ESMA Direct Supervision		
Commission (EC) Proposal	**CY Presidency Proposal**	**IE Presidency Proposal**
All CASPs meeting criteria under Article 63	**Article 63 CASPs meeting Significance Criteria**	
N/A	***Significant if any 2 out of 5 of the following criteria are met for Article 63 CASPs***	***Significance determined on the basis of 3 of the following criteria being met for Article 63 CASPs***
N/A	**a. Total number of active users irrespective of their location:**	**a.** The number of active users in the Union, on average, in one calendar year, where the average is calculated as the average of the daily number of active users throughout the previous calendar year, is larger than **[X million]**
N/A	**b. Total number of active users (absolute number) located in a Member State other than its home Member State:**	b. Total number of active users (absolute number) located in a Member State other than its home Member State:
N/A	**c. Total value of crypto-assets under custody for CASPs that provide custody services:**	**c.** The value of crypto-assets under custody on average, in one calendar year, is higher than EUR **[X billion]**
N/A	**d. interconnectedness of the CASP with other CASPs.**	d. interconnectedness of the CASP with other CASPs.
N/A	**e. interconnectedness of the CASP with other financial institutions/infrastructures**	e. interconnectedness of the CASP with other financial institutions/ infrastructures
N/A	N/A	**f.** The volume of transactions concluded on behalf of active users in the Union is larger than **X billion.**

Member States are divided over whether the market abuse monitoring and enforcement of all CASPs should be centralised in ESMA or whether responsibility should follow the supervisor of crypto-asset services activity (i.e., ESMA if significant, NCA if not). The Presidency proposes split supervision on the grounds that most Member States want smaller domestic CASPs to remain supervised by their NCA. Similarly, the Presidency proposes that authorisation of CASPs remain an NCA responsibility unless assessment of the CASP's business plan at authorisation suggests that it will scale up to being a significant CASP within two years. In such cases, the NCA would be required to consult with ESMA.

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Q6: Do Member States agree to the Presidency Proposal for Significance Criteria for Article 63 CASPs, set out at a high-level in the right-hand column of Table A.5, including the addition of the sixth criterion – the volume of transactions concluded on behalf of active users in the Union?

Q7: Could Member States agree to the Presidency's proposals for supervision of market abuse and authorisation of CASPs?

Article 60 Entities

For level-playing field reasons, the Commission proposed that when crypto-asset services become the 'main activity' of an Article 60 entity, ESMA would assume supervision under MiCAR. 'Main activity' is described as greater than 50% of an entity's total annual turnover according to the last available financial statements approved by the management body, is generated from the provision of crypto-asset services, for at least two consecutive years. The Commission also proposed that ESMA would supervise those entities under applicable sectoral legislation (MiFID II, UCITS Directive, AIFMD, EMD2).

Some Member States would prefer Article 60 entities to remain under NCA supervision for all activities. Some Member States have called for the supervision of Article 60(2)-(6) entities in respect of MiCAR alone to be transferred to ESMA but only where those entities meet the 'main activity' threshold **and** the same thresholds for significance as Article 63 CASPs. A few Member States are critical of the 'main activity' metric given it does not reflect the size, risk profile or systemic relevance of the entity, and could be volatile.

The Presidency considers that the advantage of the Commission's 'main activity' metric is that it is simple and transparent. The Presidency suggests that a

compromise might be found in increasing the required annual turnover percentage for 'main activity' from greater than 50% of an entity's total annual turnover to greater than 65% of an entity's total annual turnover, combined with the significance criteria having to be met by Article 60 entities. Furthermore, the Presidency proposes that supervisory responsibilities arising under other sectoral Union legislation would remain with the NCAs, including AML and DORA.

Table A.5.2 Article 60 Entities		
Commission (EC) Proposal	**CY Presidency Proposal**	**IE Presidency Proposal**
Are supervised by ESMA where at least 50% of total annual turnover of hybrid firm is generated by crypto-asset services	CY Presidency asks whether Article 60 **Significant** CASPs should be supervised by NCA or ESMA	IE Presidency suggests that, where at least **65%** of a hybrid firm's total annual turnover is generated by crypto-asset services, the crypto-asset service activities of those entities should be subject to direct ESMA supervision, **provided they also qualify as significant CASPs in accordance with the Article 63 criteria**.

Q9: Do Member States agree that Article 60 entities should be subject to direct ESMA supervision in respect of their crypto-asset service activities where those activities constitute their main activity, defined as greater than 65% of total annual turnover, and where the entity also meets the same significance criteria as those applicable to Article 63 CASPs?