Council of the European Union
General Secretariat

PUBLIC

Interinstitutional files:
2025/0382 (COD)
2025/0383 (COD)

Brussels, 07 September 2026

WK 13579/2026 INIT

LIMITE

EF
ECOFIN
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and Banking Union (MISP) Financial Services Attachés
Subject:	Working Party on Financial Services and Banking Union (MISP-Trading), 10 September 2026 - Presidency Discussion Paper – Annex

ÉIRE2026.EU
IRELAND2026.EU

MISP: Trading – Council Working Party 10 September 2026
Presidency Discussion Paper – Annex

This annex should be read in conjunction with the corresponding Discussion Paper. The Discussion Paper seeks to highlight and explain key changes to the legal drafting subsequent to the last CWP meeting on 2 July.

This Annex contains consolidated draft legal text, reflecting updates to the original Commission proposal; in accordance with the views expressed by Member States at Council Working Party meetings and through subsequent written feedback.

All amendments to the original Commission proposal are provided in **bold, underlined text** in this Annex.

DRAFT

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 1095/2010, No 648/2012, No 600/2014, No 909/2014, 2015/2365, 2019/1156, 2021/23, 2022/858, 2023/1114, No 1060/2009, 2016/1011, 2017/2402, 2023/2631 and 2024/3005 as regards the further development of capital market integration and supervision within the Union

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the European Central Bank,

Having regard to the opinion of the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Savings and Investments Union (SIU) strategy is part of the Commission strategy to provide a vision of the Union as an economic powerhouse. For that purpose, it is necessary to establish a single market for financial services by addressing market inefficiencies resulting from fragmentation and to create the truly integrated European capital markets which are accessible to all citizens and businesses across the Union. It is also important that financial markets potential of the Union is unlocked by providing access to more efficient capital-market based financing and by facilitating cross-border capital flows, which in turn should support the economy of the Union, stimulate job creation and enhance competitiveness.

(2) It is necessary to foster a seamless capital market across the EU by strengthening the supervisory framework and addressing regulatory fragmentation, thereby ensuring better integration of capital markets throughout the Union. In particular, while the integration of capital markets in the Union should ultimately be a market-driven process, certain barriers stemming notably from the Union legislative framework can obstruct progress. The Union should therefore focus on removing barriers in the sectors of trading, post-trading and asset management, and barriers hindering the uptake of new technologies. As market integration deepened, it is also crucial for the Union supervisory framework to evolve in accordance with it.

---

[1] OJ C , , p. .

PUBLIC DRAFT

(3) In the context of the political objective of simplifying financial services legislation and delivering more effective and efficient implementation of Union policies, the Commission, after having consulted the European Supervisory Authorities, AMLA, the Council and the European Parliament, sent a letter on 1 October 2025 deprioritising empowerments non-essential for the effective functioning of the Level 1 legislations. For those deprioritised empowerments where the Commission would be legally required to act ('shall + a date') legal clarity for stakeholders would be enhanced when the basic act is also amended.

(4) The development of a deeper and more integrated Union capital market, as envisaged in the Savings and Investments Union Communication, requires consistent and effective supervision across Member States. Divergent national supervisory practices create legal uncertainty, increase the cost of cross-border activity and fragment the single market for financial services, thereby hindering market integration and the efficient allocation of capital. To address those challenges, it is necessary to strengthen supervisory convergence and, where appropriate, entrust the European Securities and Markets Authority ('ESMA') with additional tasks and powers to ensure the uniform application of Union law and the effective oversight of entities with significant cross-border relevance.

(5) For that purpose, ESMA should be given additional competences and its governance and funding framework should be reinforced to promote transparent, accountable and efficient decision-making at Union level and to ensure that ESMA has sufficient resources to fulfil its expanded responsibilities. The transfer of direct supervisory powers to ESMA in relation to significant entities in the field of market infrastructure and to crypto-asset service providers (CASPs), together with enhanced supervisory convergence tools, should contribute to a more integrated, competitive and resilient capital market that delivers better outcomes for investors, firms and the broader economy.

(6) Pursuant to Article 1(2) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council([2]), ESMA is to act within the powers conferred on it by a range of Union legislative acts, including several Directives and Regulations listed therein. To ensure the full application of Union financial legislation, ESMA should apply national legislation transposing directives in a manner consistent with Union Law in a way that respects the primacy of Union Law,

(7) In addition, Article 1(2) of that Regulation further provides that ESMA is to act within the powers conferred by any other legally binding Union act which assigns tasks to ESMA. It is necessary to ensure that the scope of ESMA's responsibilities and tasks automatically extends to any subsequent Union legislation conferring powers or functions on ESMA.

(8) To reflect the progressive extension of ESMA's direct supervisory, investigatory, enforcement and other responsibilities across different sectors of the financial system, it is necessary to introduce a definition of financial market participants that are under ESMA's supervision. That definition should encompass all financial market

---

2 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, pp. *84–119*, ELI: http://data.europa.eu/eli/reg/2010/1095/oj

DRAFT

participants for which ESMA has been conferred powers. That definition should ensure consistency and clarity in the application of ESMA's supervisory powers, irrespective of the legal instrument from which those powers derive, and facilitate the establishment of common procedural and organisational arrangements for supervision and enforcement.

(9) To ensure the effective exercise of its direct supervisory responsibilities, ESMA should establish structured yet flexible cooperation arrangements with other authorities. Such cooperation should capture a range of situations, corresponding to the evolving role of ESMA. Such arrangements should cater, first, for cases where national competent authorities are still responsible for certain entities or activities but will cease to be in charge of supervision of certain entities following the assumption of direct supervisory powers by ESMA, thereby requiring transitional solutions to ensure continuity and an orderly transfer of responsibilities. Second, those cooperation arrangements should cover cases where, alongside ESMA's direct supervisory powers, other Union or national authorities, although not acting or having acted as competent authorities, hold relevant expertise or consultation rights under Union law, such as the European Central Bank in relation to central counterparties. Third, those cooperation arrangements should cover cases where tasks are not transferred to ESMA, such as market surveillance for trading venues. To address these different situations and, in particular, to ensure a smooth transition, the Authority should have the flexibility to set up cooperation arrangements adapted to the sector concerned, the nature of the tasks and the degree of involvement required. Such arrangements may range from close structural cooperation, including the establishment of joint supervisory teams or the conduct of joint inspections, to looser forms of operational coordination and, progressively, to more autonomous supervisory action by the Authority as its capacity develops. Those cooperation arrangements should also allow for their gradual adjustments over time and, where appropriate, the establishment of local presences of the Authority in Member States. Those cooperation arrangements should also promote effective and resource-efficient supervision, ensure the continuity and consistency of supervisory outcomes, and take due account of the statutory responsibilities and resources of other authorities. Cooperation should be guided by the principles of efficiency, proportionality, mutual trust and good faith, and should promote the effective use of resources while safeguarding ESMA's independence and accountability for the performance of its tasks. To reflect the progressive build-up of ESMA's supervisory capacity and to ensure the full and effective assumption of its supervisory tasks, the cooperation arrangements should be subject to regular review by ESMA.

(10) In certain circumstances, temporary exemptions or other transitional arrangements under Union financial services legislation may expire before the entry into force or full implementation of new or amended provisions introducing a permanent exemption, replacement framework, or new regulatory treatment. In addition, significant market developments may occur that render compliance with specific requirements under existing Union law temporarily disproportionate, operationally impracticable, or unduly burdensome in light of prevailing market conditions and the underlying regulatory objectives. To ensure legal certainty and regulatory continuity, and to avoid unnecessary market disruption, it is appropriate to provide that the no-action letter as set out in Article 9a of Regulation (EU) No 1095/2010 may also apply in cases where

(i) a regulatory gap arises during the phasing-in of new requirements, or (ii) exceptional market conditions lead to disproportionate compliance burdens for market participants.

(11) To support cooperation between authorities and facilitate the new collaboration platforms, the Authority should develop a corresponding technological platform to facilitate the collection, storage, access to and processing of data and information. That data platform should contribute to high-quality data governance consistent with FAIR principles (Findable, Accessible, Interoperable, Reusable) and also include the supervisory technology and other tools to enhance analysis and monitoring capabilities of the relevant authorities.

(12) In its capacity as processor of personal data, the Agency should implement appropriate technical and organisational measures to ensure the security, availability, maintenance and development of the software and IT infrastructure of the platform and that processing of personal data in the context of facilitating the access to and exchange of information on the platform in in line with Union law laying down the obligations to collect and exchange those data and in line with data protection laws. Where the Agency has the obligation to processes personal data pursuant other Union acts, the Agency should fulfil its obligations as controllers in regard to that information.

(13) In view of ESMA's powers and competence over a broad category of entities and to ensure the effective, consistent exercise of its supervisory powers across sectors, it is appropriate to rationalise and consolidate in Regulation (EU) No 1095/2010 the procedural framework for the exercise of supervisory tools necessary for the Authority to carry out its tasks. Those powers, which are currently dispersed across various sectoral Union acts should be replaced, to the extent possible, by a single horizontal framework applicable to all entities under the Authority's direct supervision. That horizontal framework should provide a coherent set of procedural rules governing ESMA's requests for information, investigations and on-site inspections, as well as the adoption of supervisory measures, fines and periodic penalty payments. Such requests for and access to information, including during investigations and on-site inspections, may encompass personal data insofar as it is relevant and necessary for the performance of the Authority's tasks, and any processing of such data should comply with the applicable Union rules on the protection of personal data, in particular the principles of necessity, proportionality and purpose limitation. Moreover, that horizontal framework should ensure full respect for the rights of defence and for legal professional privilege, and provide for appropriate judicial protection, including the review of ESMA's decisions by the Court of Justice of the European Union. By setting such a procedural framework in a coherent and uniform manner and abolishing sector-specific procedural provisions, the Union should enhance legal certainty, promote supervisory convergence and efficiency, and support the effective and accountable exercise of ESMA's direct supervisory responsibilities. To avoid regulatory overlap or inconsistency, to ensure that the Authority exercises its powers in an effective manner, to preserve the coherence of the Union acquis and respect the principle whereby specific rules take precedence over general rules, where sectoral legislation contains specific provisions tailored to the procedural powers of the Authority in particular sectors or areas, those provisions should continue to apply and, where appropriate, prevail over the general powers laid down in that Regulation.

DRAFT

(14) Effective supervision and cooperation among competent authorities in the context of cross-border provision of financial services is essential to protect investors and foster trust and confidence in the financial system within the Union. For that purpose, ESMA should be equipped with enhanced supervisory convergence tools, including mechanisms to address supervisory failures and tools to facilitate cooperation and resolve disputes between competent authorities to ensure that financial market participants are subject to high-quality supervision.

(15) To address proven supervisory failures in the approval of financial products, services or entities operating across the Union, it is necessary to enable ESMA to require a competent authority to seek its opinion before granting approval where a peer review or an investigation reveals failures in supervision which could jeopardize the integrity of financial markets, financial stability, or investor protection. The peer review or investigation process, as set out in Article 22(4) of Regulation (EU) No 1095/2010, provides a robust and transparent framework for identifying supervisory failures and for taking corrective action. ESMA's opinion should provide an additional layer of scrutiny and oversight, ensuring that financial products and services, and entities operating in the Union meet the highest standards of supervision. To prevent products, services or entities from entering the EU market without adequate supervision, it is necessary to enable ESMA to require in its opinion that competent authorities take corrective actions to address any shortcomings in supervision identified by ESMA.

(16) To facilitate regular and structured information exchange, propose solutions, and enhance cooperation to address common challenges and risks, and to support the overall goal of consistent and effective supervision, it is necessary to provide for collaboration platforms between competent authorities. Such platforms should be flexible, enabling ESMA to initiate or respond to requests from competent authorities, and should not prejudice the existing supervisory mandates and responsibilities of those competent authorities. Those collaboration platforms should also promote transparency, accountability, and a culture of compliance among financial market participants, with ESMA exercising its powers to resolve disputes and ensure compliance with Union law.

(17) Due to the lack of a mechanism for mutual recognition of administrative decisions, national competent authorities have significant difficulties in enforcing recovery of administrative fines in a cross-border context. To ensure effective enforcement of rules and the proper functioning of the single market in the area of financial services, it is necessary to introduce a mechanism for mutual recognition of decisions imposing an administrative fine and for assistance in executing requests to recover such a fine and such mechanism should be based on the principle of mutual trust. To that end, the grounds for a refusal to execute the request to recover an administrative fine should be limited to the minimum necessary.

(18) To ensure a consistent and transparent approach to the financing of ESMA's supervisory activities, it is necessary to harmonise and consolidate the principles governing the levying of fees on entities under ESMA's competence, which are currently set out separately in sectoral legislation conferring direct supervisory powers on ESMA. Establishing common principles on the scope, calculation, and transparency of such fees should promote a level playing field among entities across sectors, ensure the proportional application of supervisory costs, and provide legal certainty for both existing and new entities falling under ESMA's competence. Those fees should cover

all costs incurred by ESMA in the performance of its supervisory tasks, including, but not limited to, the costs of supervisory convergence work in the relevant sector, the development, operation and maintenance of IT tools and systems necessary for direct supervision, as well as the depreciated cost of such systems and related infrastructure. ESMA should be appropriately financed. It is therefore necessary to lay down that ESMA should be financed 50 % from Union funds and 50 % through contributions from Member States, made in accordance with the weighting of votes set out in Article 3(3) of the Protocol (No 36) on transitional provisions for the new tasks envisaged for ESMA by this Regulation that are not fee funded.

(19) In light of the future new competences of ESMA, its governance structure should be adapted accordingly. To ensure the effective and impartial functioning of ESMA it is necessary to strengthen its governance by introducing an independent Executive Board with full-time members, which should enhance its capacity to take swift and Union-oriented decisions, in particular for the supervision of financial market participants. The Executive Board, composed of the Chairperson and five independent full-time members with diverse supervisory experiences and expertise in the sectors under ESMA's supervision, should be responsible for decisions addressed to financial market participants in supervisory matters. The Executive Board should also be responsible for decisions addressed to one or a limited number of competent authorities, including dispute settlements, breaches of Union law, and peer reviews. These decisions are attributed to the Executive Board to increase the agility and reactivity of the decision-making and to ensure that the decisions take into account a common European interest. The Executive Board should also assume the competence of the current Management Board in preparing ESMA's work programmes and budget. This should ensure effective, impartial and EU-oriented decisions. To ensure transparency and democratic control, the full-time members of the Executive Board should be appointed by the Council, based on a shortlist drawn up by the Commission and a proposal by the Board of Supervisors, following approval by the European Parliament.

(20) To ensure a clear division of responsibilities and effective checks and balances, the Board of Supervisors should remain ESMA's main body for regulatory decisions and supervisory convergence. To enhance the Union dimension in the decision-making process within the Board of Supervisors its composition should be adjusted to include the full-time members of the Executive Board as voting members for supervisory decisions. To ensure a balanced approach and the consideration of national perspectives the Board of Supervisors should have the power to object to major supervisory decisions taken by the Executive Board within 10 days (or 48 hours in urgent cases), while the Executive Board should be required to report to the Board of Supervisors twice a year on its supervisory activities and should be able to request opinions on supervisory matters.

(21) It is necessary to streamline and align the review clause of the Regulation (EU) No 1095/2010 with existing evaluation requirements for the agencies, as set out in the Joint Statement and Common Approach on EU decentralised agencies from July 2012, which provide for periodic evaluations every five years instead of three years. The targeted reviews provided for in that Regulation, starting five years after the date of entry into force, replace evaluations and enable the Commission to assess the relevant aspects of ESMA's performance after an adequate period of time has elapsed. This approach is consistent with the objective of reducing regulatory burdens and promoting a more

targeted and effective regulatory framework, allowing for informed decisions on potential simplifications and improvements.

(22) Central counterparties ('CCPs') within the Union are currently authorised and supervised by the competent authorities of the Member States in which they are established, in cooperation with ESMA and CCP colleges. Despite progress achieved so far in harmonising supervisory activity for CCPs in the Union, diverging supervisory practices for CCPs amongst those national authorities across the Union persist, creating an unlevel playing field among CCPs within the Union. This increases the complexity of the Union CCP framework and places an additional burden and additional costs on CCPs within the Union, including when compared with Tier 2 CCPs directly supervised by ESMA. With the development of deeper, more liquid Union capital markets under the Savings and Investments Union, that unlevel playing field could increase the risk of, and incentives for, supervisory arbitrage which could in turn lead to financial stability issues. Therefore, to ensure that the prudential, organisational and business conduct requirements for CCPs within the Union are applied in a uniform manner, in particular for CCPs with substantial clearing activity, CCPs with a material cross-border dimension, and CCPs that are part of a group that includes other market infrastructures that are supervised by ESMA, should be supervised by ESMA, based on its expertise and experience in the application of Regulation (EU) No 648/2012 of the European Parliament and of the Council[3]. CCPs with low clearing activity and a more domestic standing, deemed less significant, should continue to benefit from the supervision of local authorities with a greater familiarity with domestic markets.[4]

(23) To determine which CCPs authorised under Regulation (EU) No 648/2012 should be deemed significant and thus subject to supervision by ESMA, it is necessary to provide clear and objective criteria, which should reflect the activities and risks of the CCPs concerned. With the aim of simplification and of avoiding unnecessary administrative burden, an existing CCP determined as significant at a later stage, should not be re-authorised.

(24) National competent authorities supervising less significant CCPs should have stronger cooperation with ESMA to ensure a consistent approach to supervision and hence ensure a level playing field for CCPs. In case they wish to do so, Member States should have the option to designate ESMA as the competent authority for less significant CCPs established in their jurisdictions. Moreover, should a previously significant CCP no longer meet the conditions to be considered as such, a sufficient transition period should be granted to the national competent authority to allow it to prepare before formally taking over supervisory responsibilities for that CCP. Alternatively, the national competent authority should be able to leave the supervision of this previously significant CCP to ESMA. In addition, to ensure consistency and a level playing field between significant and less significant CCPs, ESMA should also be the authority responsible for authorising interoperability arrangements and for chairing the colleges for less significant CCPs. The new supervisory arrangements for CCPs in the Union, in

---

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, ELI: http://data.europa.eu/eli/reg/2012/648/oj).

4 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, ELI: http://data.europa.eu/eli/reg/2012/648/oj).

particular the role of ESMA as competent authority for significant CCPs, should be reflected in Regulation (EU) 2021/23 of the European Parliament and of the Council[5].

(25) ESMA should closely cooperate with, and draw on the experience of, the bodies responsible for the oversight of CCPs authorised in the Union and with authorities experienced in the supervision of CCPs to benefit from the knowledge of those bodies. For that purpose, ESMA should develop comprehensive cooperation arrangements with those bodies and authorities, including the national competent authority in the Member State in which the CCP concerned is established, the European Central Bank, other central banks of issue of the most relevant Union currencies that the CCP processes, the competent authorities responsible for the supervision of the trading venues and the central securities depositories served by the CCP, and the competent authority responsible for the supervision of the most active clearing members. Those arrangements should set out the specific modalities and operational arrangements both in ongoing supervision and in exceptional circumstances, such as emergency situations.

(26) The new supervisory responsibilities granted to ESMA and the changes to ESMA's internal organisational structure, including the removal of the CCP Supervisory Committee, whose tasks should be assigned to the newly established Executive Board, should be reflected in Regulation (EU) No 648/2012. Due to the unique status of third-country CCPs, the provisions concerning the procedures applying to them should remain in Regulation (EU) No 648/2012 rather than shifting those provisions to Regulation (EU) No 1095/2010. Furthermore, taking into account those changes, to further simplify the future organisational structure and working arrangements, and to remove unnecessary burden, significant CCPs should not be required to have a college. Similarly, given ESMA's new supervisory responsibilities for significant CCPs, the requirements for ESMA opinions in relation to those CCPs should be removed. Supervisory arrangements for less significant CCPs should largely remain as they were as those CCPs have a more domestic scope and should benefit from the local knowledge and expertise of national authorities.

(27) Regulation (EU) 2024/791 of the European Parliament and of the Council amended Regulation (EU) No 600/2014 of the European Parliament and of the Council to remove obstacles to the emergence of consolidated tapes in bonds, shares and exchange-traded funds ('ETFs') and OTC derivatives. For a given share or ETF at any given timestamp, the provider of the consolidated tape is required to disseminate the European best bid and offer price ('EBBO') and the volume available at those prices across the Union. However, the consolidated tape would not disclose the identity of the trading venue of the EBBO, as it would not attribute the volumes that are available at the EBBO to individual trading venues, nor would it include bid and offer data beyond the EBBO and accompanying volumes. That significantly limits the value added of the consolidated tape, depriving its users of the ability to locate the volumes available at the EBBO and of a representative view of the depth of liquidity that is available for trading. Therefore, to further enhance its attractiveness, the consolidated tape for shares and ETFs should offer a more in-depth view of trading interests, covering the ~~***five***~~ ***two***

[5] 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 (OJ L 22, 22.1.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/23/oj).

best buying and selling prices, with the volumes available at those prices, and the indication of the individual trading venue on which those volumes are available.

(28) The closing price of the trading day is essential for equity markets as it provides a key reference price, typically used for the valuation of funds, ETFs and benchmarks. Most times, the closing price is derived from the closing auction that takes place on ~~***the trading venue where the securities were first admitted to trading (the 'primary exchange')***~~***the most relevant market in terms of liquidity***. The proportion of equity volumes traded at the closing auction has increased significantly over time. ~~***However, competition in the closing auction segment remains limited, with primary exchange closing auctions still capturing the largest share of closing auction trading. In addition, that***~~ ***However, that*** situation raises resilience concerns, as incidents, including outages, on the ~~***primary exchanges***~~ ***most relevant market in terms of liquidity*** may have a direct impact on the capacity of market participants to value their assets. To ~~***foster competition in the closing price segment and to***~~ ensure that market participants can rely on a closing price that is alternative to the closing auction price produced by the ~~***primary exchange***~~ ***most relevant market in terms of liquidity***, it is necessary to require the provider of the consolidated tape for shares and ETFs to disseminate a volume-weighted closing price ~~***resulting from all closing auctions operated by trading venues that are data contributors,***~~ ***when an outage prevents the most relevant market in terms of liquidity from running its closing auction***. ESMA should issue recommendations to specify the methodology that the consolidated tape should apply to determine the volume-weighted closing price.

(29) Directive 2014/65/EU of the European Parliament and of the Council[6] contains harmonised rules on the authorisation and operation of trading venues. However, the transposition of that Directive led to diverging national requirements. In addition, Member States complemented the transposed provisions with national requirements in instances where the Directive did not set out any requirements. That approach has resulted in an unlevel playing field, the fragmentation of the single market, and increased burden and costs for operators of trading venues located in several Member States and, eventually, the issuers and end-investors they serve. A more uniform framework is therefore necessary to level the playing field, avoid potential regulatory arbitrage, and support the development of activities across borders. It is therefore necessary to transfer requirements on the authorisation and operation of regulated markets and on the operation by an investment firm or a market operator of a multilateral trading facility ('MTF') or an organised trading facility ('OTF') from Directive 2014/65/EU to Regulation (EU) No 600/2014 and to further complement those provisions, notably to introduce harmonised rules in the areas that were previously subject to national legislation. ***Requirements on the authorisation and operation of trading venues in Regulation (EU) No 600/2014 should be without prejudice to the application of national laws, including company law, for relevant aspects that are not covered by those requirements or by other applicable Union law. Market operators use different governance structures across the Union, including a unitary or dual board structure. The requirements for market operators in Regulation (EU) No 600/2014 aim to cater for any governance structure and, therefore, should not***

[6] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, pp. 349–496, ELI: http://data.europa.eu/eli/dir/2014/65/oj).

interfere with the general allocation of competences within that governance structure in accordance with national company law, including for companies with State ownership. Furthermore, while the Regulation prevents Member States from including additional requirements on the aspects governed by that Regulation, a regulated market should not be prevented from applying more stringent requirements in respect of the issuers of financial instruments for which those issuers seek admission to trading than those imposed by that Regulation. In addition, competent authorities should not be prevented from establising an arrangement within their jurisdiction that involves certain tasks assigned to the competent authority being delegated to a private entity or entities, where there is recognition of such an arrangement by the regulated market(s) and other relevant market participants, and such arrangement does not result in more stringent requirements than those set out in Regulation (EU) No 600/2014 and meets the criteria set out in the second and third subparagraphs of Article 67(2) of Directive 2014/65/EU.

(29a) Market operators may wish to expand their activities beyond the operation of a regulated market, including by performing other regulated activities. The performance of additional activities should be permitted, provided that the relevant sectoral legislation is complied with and that it does not adversely affect the operation of the regulated market. This may be the case, in particular, where the performance of such activities gives rise to conflicts of interest that cannot be properly managed. Additional activities of market operators include the development and commercialisation of software, hardware and network solutions for the transmission of orders or other trading data, activities related to the promotion of the regulated market, the management and maintenance of informational flows related to the placement and visualisation of orders, and, in compliance with applicable sectoral legislation, the operation of a commodities or any other authorised exchange.

(30) The organisational requirements laid down in Article 19(3) and in Article 47 of Directive 2014/65/EU do not take into account whether a market operator or an investment firm operating a trading venue is part of a group. In particular, any intra-group arrangement for resource or function allocation between group entities is treated in the same way as an outsourcing arrangement entered into with entities outside the group. That approach fails to acknowledge the emergence of cross-border groups of trading venues and, as a result, limits the ability of those groups to enjoy group synergies and benefit from economies of scale, thus creating barriers to the cross-border allocation of resources and functions within a group. Additionally, allocating resources within a group, where all entities are subject to the same internal controls and procedures, carries a lower level of risk compared to outsourcing to external parties. The current approach, however, does not sufficiently distinguish between the risks associated with intragroup resource allocation and external outsourcing. Therefore, organisational requirements for trading venues should be simplified for trading venues that are part of a group and that intend to rely on the resources of or the performance of a function by another entity that is part of the same group and that is located in the Union. Such group arrangements should not be considered outsourcing for the purpose of Regulation No (EU) 600/2014, provided that certain conditions are met to ensure effective supervision. A trading venue that relies on the resources of or the performance of a function by another entity that is part of the same group should however remain fully responsible for the discharge of its obligations under Regulation No (EU)

600/2014. Given the increased supervisory risks, an intra-group arrangement that involves an entity located outside the Union should still be considered outsourcing.

(31) Article 53(6) of Directive 2014/65/EU sets out the right for a regulated market authorised in one Member State to provide appropriate arrangements on the territory of other Member States so as to facilitate access to and trading on that market by remote members or participants established in those other Member States. Directive 2014/65/EU does not expressly regulate other passporting rights for regulated markets, including the possibility to set up branches in other Member States. The absence of an explicit provision has led to diverging interpretations with respect to whether a regulated market may set up a branch in another Member State and with respect to the activities that a regulated market may perform under the passporting regime. It is important to enhance the clarity of the passporting regime for regulated markets by making it more explicit that regulated markets are able to seamlessly provide the activity, for which they have been authorised across the Union through the freedom to provide services or through the right of establishment. That includes, in addition to the provision of appropriate arrangements to facilitate access to and trading on that regulated market by remote members or participants established in other Member State, activities relating to the admission of members or participants on that regulated market and activities relating to the admission of financial instruments to trading on that regulated market. To ensure a level playing field between all trading venues, the same passporting regime should apply to market operators and investment firms operating an MTF or OTF.

(32) Directive 2014/65/EU currently requires that each regulated market in the Union is subject to an individual authorisation. It follows that market operators that intend to operate regulated markets in different Member States can only do so by seeking authorisation, for each individual regulated market that they intend to operate, from the competent authority of the home Member State, which is also responsible for the ongoing supervision of that market. That led to the situation where several Member States introduced national laws to require, as a condition for the authorisation of a regulated market, that the market operator is a legal entity established in the Member State where a regulated market seeks authorisation. Due to that, groups operating regulated markets in several Member States cannot streamline their organisational structure and supervisory relationships, as they are obliged to maintain several supervised entities in different Member States. That significantly increases the costs and complexity of operating regulated markets across different Member States. To remove barriers and reduce operational costs for cross-border groups, ***while ensuring effective supervision,*** it is necessary to remove the possibility for Member States to require the set-up of a separate legal entity in their territories as a condition for the authorisation of a regulated market ***with respect to market operators that are established in another Member State where they are already authorised to operate a trading venue and subject to supervision***. ***In addition, for the purposes of facilitating effective oversight by competent authorities, where a market operator is a legal person established in a Member State other than the Member State in which it intends to operate a regulated market, and where ESMA is not the competent authority, that market operator should designate a legal representative located in the Member State where a regulated market is operated. The legal representative should have the authority to act on behalf of the market operator for all matters necessary for the***

receipt of, compliance with and enforcement of decisions or requests for information issued pursuant to Regulation (EU) No 600/2014.. In addition, to further facilitate the cross-border operation of regulated markets, a new framework is introduced to allow legal persons that wish to operate more than one trading venue in more than one Member State to do so based on a single authorisation as a pan-European market operator ('PEMO') granted by ESMA. That new framework should not replace the existing authorisation and operation regime for regulated markets. Instead, it should apply on a voluntary basis to those entities that wish to operate under a single authorisation.

(33) ***Application for authorisation as PEMO may require prior changes to the corporate structure of a group or legal entity. To ensure that access to the PEMO regime remains a choice for operators that are active cross-border, or that wish to become active cross-border, only subject to their own cost-benefit analysis, and since a PEMO will only be able to start operations following authorisation by ESMA, Member States should not subject the reorganisation of a corporate structure for the purposes of seeking authorisation as PEMO to any additional direct or indirect requirements or constraints or to prior approval by the competent authority where the reorganisation becomes effective only after and is conditional upon the issuance of the authorisation of the PEMO.*** The authorisation of a PEMO should list all the trading venues that the PEMO is authorised to operate. A PEMO that intends to operate additional trading venues should seek an extension of its original authorisation. To ensure that the supervisory arrangements of a PEMO are effectively simplified, the PEMO should not be required to seek individual authorisation for the trading venues that it operates in the Member States where those trading venues are situated or operated. Similarly, when a PEMO becomes the operator of an existing trading venue, the authorisation granted to that specific regulated market, or, in the case of MTFs or OTFs, to the market operator or investment firm for the purpose of operating that trading venue, should be deemed revoked upon the entry into effect of the authorisation to the PEMO or of the extended authorisation containing the amended list of the trading venues that that PEMO operates. ***To enable national surveillance authorities to ~~perform~~ effectively perform their tasks under Regulation (EU) 600/2014, it is appropriate to require ESMA to notify relevant national surveillance authorities of any new PEMO authorisation requests, as well as of any requests to extend such authorisations. To that end, ESMA should make available to the relevant national surveillance authorities the supporting documents provided by applicants as part of the PEMO authorisation or extension requests. Relevant national surveillance authorities may provide ESMA with factual and other observations which could inform ESMA's assessment as regards the applicant's ability to comply with requirements under Title Ia of Regulation (EU) No 600/2014. In particular, national surveillance authorities should be able to share any information relating to previous authorisation applications or the fitness and probity of board members. Where ESMA intends to withdraw a PEMO's licence, or to remove one or more trading venues from the list of trading venues that a PEMO is authorised to operate, it is appropriate to require ESMA to notify relevant national surveillance authorities and the relevant national surveillance authorities may provide ESMA with factual and other observations to inform ESMA's final withdrawal decision. As ESMA should remain the sole competent authority for the authorisation or withdrawal of authorisation of the entities concerned, the submission of factual or other information by national surveillance authorities to***

ESMA should only inform ESMA's assessment and should not result in any duplicative assessment by those authorities.

(34) Under Union and national laws, the territory where a trading venue is situated or operated is often used as the criterion to determine the national law that should apply to areas not directly governed by Union law, and to identify the competent authority. That includes Directive 2004/109/EC of the European Parliament and of the Council, which establishes requirements in relation to the disclosure of periodic and ongoing information about issuers whose securities are already admitted to trading on a regulated market situated or operating within a Member State, and Regulation (EU) No 596/2014 of the European Parliament and of the Council, pursuant to which national competent authorities are required to ensure that market abuse provisions are applied on their territory regarding all actions carried out in relation to instruments admitted to trading or traded on a regulated market, an MTF or an OTF operating within their territory. A PEMO will operate, whether through the freedom to provide services or by establishing a branch, trading venues in multiple Member States on the basis of a single licence that is given to the PEMO itself and not to the trading venues that it operates. In the absence of an individual authorisation for each trading venue operated by a PEMO, and considering that the PEMO will operate all venues through one legal entity established in one Member State and operating cross-border, it is necessary that the PEMO determines, for each trading venues that it operates, the Member State in the territory of which that trading venue is to be considered to be situated or operated. This determination should depend on how the PEMO chooses to market its trading venue to companies seeking admission to trading on that trading venue or to members or participants admitted on that trading venue. ***For matters not governed by Union law, the PEMO regime should be without prejudice to national laws whose application is determined on the basis of the location or operation of a trading venue in the territory of a given Member State. It follows that, where a PEMO operates a trading venue that is considered to be situated or operated in the territory of a given Member State, for all matters where the applicable national law is determined on the basis of the location of a trading venue in the territory of that Member State, the national laws of that Member State should apply. Without prejudice to any future harmonisation in those areas, national law provisions of a given Member State that apply to issuers whose securities are admitted to trading on a trading venue authorised in that Member State or to trading in securities admitted to trading on a trading venue authorised in that Member State, should continue to apply also with respect to a trading venue operated by a PEMO that is deemed to be situated or operated in the territory of that Member State. More generally, the PEMO regime should not affect the criteria to identify the applicable law, including tax law, as determined by Union or national laws. Similarly, the PEMO regime should not modify the criteria to determine the competent authority for the scrutiny and approval of a prospectus, as determined in Regulation (EU) 2017/1129.*** ~~***The national laws of that Member State should apply to all matters relating to trading not governed by directly applicable Union law, where that application is dependent on the situation or operation of a trading venue.***~~ To ensure legal predictability, in cases where a PEMO becomes the operator of a trading venue that is already authorised, it is necessary to require that such trading venue is considered to be situated or operated in the Member State where it was initially authorised.

(35) ESMA assessed the trading activity of interest rate derivatives. It appeared from the assessment that forward rate agreements and single currency interest rate basis swaps are generally illiquid. To ensure that only the most standardised and liquid interest rate derivatives are subject to the transparency requirements, it is necessary to exclude forward rate agreements and single currency interest rate basis swaps from transparency requirements.

(36) Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers that deal in sizes of up to and including two times the standard market size to make public firm quotes on a regular and continuous basis during normal trading hours in respect of those shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, for which they are systematic internalisers and for which there is a liquid market. Article 15 of Regulation (EU) No 600/2014 requires systematic internalisers to execute orders they receive from their clients in respect of those instruments at the quoted prices at the time of reception of the order. That Article also allows systematic internalisers to execute clients' orders at a better price provided that the price falls within a public range close to market conditions. To strengthen price formation for retail orders, it is necessary to ensure that, where a systematic internaliser executes a retail client's order, specifically flagged as such, at a price that is better than the quoted price, that systematic internaliser immediately, and in any event before execution, updates the quoted price to reflect that price improvement. In addition, systematic internalisers should be obliged to transmit to the consolidated tape for shares and ETFs the data that they publish pursuant to Article 14 of Regulation (EU) No 600/2014 to allow the consolidated tape to disseminate, for a given share or ETF, in addition to the best bids and offers for continuous order books, separately, the ~~***five***~~ ***two*** best bid and offer quotes across the Union published by systematic internalisers with the indication of the individual systematic internaliser where those are offered. Those ~~***five***~~ ***two*** best bid and offer quotes should correspond to the ~~***five***~~ ***two*** best bid and offer quotes across all quotes for a given share or ETF published in the Union by different systematic internalisers.

(36a) The use of frequent batch auction trading systems in Union equity markets has increased in recent years, with growing volumes of transactions executed through such mechanisms. While those systems may provide benefits to market participants, including by improving execution certainty and reducing price slippage risks for large orders, their design and operation should not undermine the price-forming nature of the auction nor facilitate the circumvention of the single volume cap mechanism. To ensure a level playing field and promote consistent supervisory outcomes across the Union, ESMA should be entrusted with the assessment of whether the frequent batch auction trading system ensures sufficient price formation. To allow ESMA to carry out its assessment in a timely and effective manner, while minimising the administrative burden, trading venues should notify ESMA in advance of the operation of a frequent batch auction trading system or, where trading venues already operate a frequent batch auction, within 30 days following the date of application of this Regulation, providing a detailed justification as to why that system is deemed sufficiently price forming. To ensure legal certainty and avoid undue delays, trading venues that intend to operate a frequent batch auction, should be permitted to commence operations if ESMA does not raise objections within 30 days of receiving the notification. To ensure the effective flow of information between

authorities, where ESMA is not the competent authority, trading venues should also notify their competent authority.

(36b) To ensure a level playing field between systematic internalisers and trading venues and enhance execution opportunities for market participants, while safeguarding the orderly functioning of Union markets, when applying a periodic auction trading system, trading venues should apply the tick size regime only to orders.

(37) Article 21(1) of Regulation (EU) No 600/2014 requires investment firms which, either on own account or on behalf of clients, conclude transactions in OTC derivatives as referred to in Article 8a(2) of that Regulation, to make public the volume and price of those transactions and the time at which they were concluded through an Approved Publication Arrangement ('APA'). To minimise burden for investment firms and to avoid the publication of misleading information, investment firms should not be required to publish through an APA the transactions in OTC derivatives that they conclude on a third-country trading venue, provided that the third-country trading venue (i) operates a multilateral system, (ii) is subject to authorisation, ongoing supervision and enforcement in accordance with the legal and supervisory framework of the third-country, and (iii) is subject to post-trade transparency provisions under which transactions concluded on that trading venue are published as soon as possible after the transaction was executed or, in clearly defined situations, after a deferral period. To ensure legal certainty and a high degree of supervisory convergence in the Union, ESMA should publish and regularly update a list of third-country trading venues that are considered to meet all criteria. Investment firms concluding transactions in OTC derivatives on third-country trading venues that do not meet all criteria should be required to make those transactions public in the Union through an APA.

(38) Articles 57 and 58 of Directive 2014/65/EU set out rules as regards the trading of commodity derivatives, emission allowances, and derivatives of emission allowances. Some of those rules are applicable to trading venues. As rules regarding the operation of trading venues are transferred from Directive 2014/65/EU to Regulation (EU) No 600/2014, it is appropriate to amend Regulation (EU) No 600/2014 to ensure that those rules are included in that Regulation.

(39) Articles 35 and 36 of Regulation (EU) No 600/2014 provide for the conditions under which trading venues can access the services of a central counterparty ('CCP'), and under which CCPs can access the trade feeds of a trading venue. Those criteria have proven to be inappropriately framed and thus leave grounds for unjustified rejections or delays in granting access. In addition, the systematic involvement of national competent authorities renders the procedures excessively complex and burdensome. It is therefore appropriate to review those conditions for access to ensure rejections only occur in limited cases subject to the specific and justified conditions, to ensure that delays in granting access are avoided, and that ESMA is involved only in the case of conflicts between parties. In addition, trading venues may currently preclude two market participants executing a transaction on their venue from freely choosing different CCPs, even where those CCPs have established interoperability arrangements pursuant to Regulation (EU) No 648/2012, and are therefore technically able to clear efficiently those transactions. Such market practices prevent the full exploitation of synergies that can be drawn from interoperability arrangements and increase costs of trading and clearing for market participants. In order to facilitate interoperable clearing,

it is therefore necessary to prohibit trading venues from preventing access to their trade feeds for transactions involving two counterparties that have chosen to clear a transaction executed on their venue through two different CCPs that have established interoperability arrangements.

(40) Pursuant to Title VI of Directive 2014/65/EU, national competent authorities are currently responsible for the oversight of trading venues in the Union. On 20 March 2025[7], the European Council adopted conclusions where it called for the improvement of the efficiency of supervision of Union capital markets and the reduction of their fragmentation. Furthermore, the Draghi and Letta reports[8] called for a more integrated supervision at the Union level. To reduce fragmentation and foster consistency in supervisory outcomes to support the establishment of a Savings and Investment Union, it is appropriate to confer on ESMA direct supervisory powers for significant trading venues with an important cross-border dimension. ESMA should also have direct supervisory powers over PEMOs. To determine what should be understood by 'significant trading venues', it is necessary to set out specific conditions. To avoid multiple supervisors for entities within the same group, it is also necessary to ensure that all entities that operate trading venues within the same group become subject to supervision by ESMA, once any entity within that group meets the conditions to be a significant trading venue. Similarly, all entities that operate trading venues in the group, in which at least one CCP or CSD is subject to supervision by ESMA, should also become subject to supervision by ESMA.

For ESMA to ensure effective oversight over PEMOs and significant trading venues, ESMA should have the necessary supervisory powers, including the powers to conduct investigations and on-site inspections, to impose fines or periodic penalty payments to put an end to an infringement of Regulation (EU) No 600/2014, and to request the necessary information. To ensure that ESMA adequately performs its supervisory duties over PEMOs and significant trading venues, it is important that ESMA carries out such duties in close cooperation with national surveillance authorities. To avoid inefficient supervisory approaches resulting from double supervision, the involvement of national surveillance authorities should be limited to the powers and tasks explicitly conferred upon them by Regulation (EU) No 600/2014 and Directive 2014/65/EU. ***Notwithstanding this, national surveillance authorities in the Member State in which a market operator or PEMO is established or where a trading venues is operated, and where ESMA is the competent authority for the market operator, PEMO or trading venue, should be able to request information from ESMA that ESMA has access to in its capacity as competent authority of the market operator, PEMO or trading venue, that may be relevant for the purposes of national security and preparedness, such as cyber resilience reports.***

(41) Considering the geographical proximity of national supervisors with the local ecosystems, it is necessary, for significant trading venues and PEMOs, that the responsibility for the surveillance of markets and oversight of issuers, remains with authorities that are competent at national level. Therefore, while ESMA should be in charge of enforcing the rules laid down in Regulation (EU) No 600/2014 vis-à-vis

---

7 European Council meeting (20 March 2025) – Conclusions

8 The Draghi Report on Competitiveness, September 2024
Enrico Letta – Much more than a market, April 2024

DRAFT

significant trading venues and PEMOs and, where relevant, the rules laid down in Directive 2014/65/EU, including with respect to the assessment of effective systems and controls aiming to prevent and detect market abuse or the assessment of parameters for halting trading, national surveillance authorities should retain some powers to enable those authorities to perform market surveillance tasks or carry out duties necessary for the preservation of market integrity. Those powers should include the receipt of transaction data and the possibility to request order book data or the adoption of urgent measures to impose temporary trading halts in emergency situations or suspend financial instruments from trading. When exercising their powers, national surveillance authorities should cooperate closely with ESMA. ***Article 46, point (g), of Regulation (EU) 2022/2554 specifies that the allocation of supervisory competences under that Regulation should be done in accordance with the respective sectoral acts. For trading venues, this Regulation adapts the definition of competent authorities in Article 2(1), point (18), of Regulation (EU) No 600/2014. It follows that, where Regulation (EU) No 600/2014 confers supervisory competences upon ESMA and designates it as the competent authority for a trading venue, ESMA should be deemed the competent authority for ensuring compliance with the requirements set out in Regulation (EU) 2022/2554.***

(42) To ensure equal treatment as regards supervisory oversight of operators of trading venues, ESMA should become the competent authority for all relevant trading venues, including those operated by investment firms. It follows that ESMA should be entrusted with the authorisation and supervision of investment firms in case they wish to be exclusively authorised to operate relevant MTFs or OTFs. Investment firms that simultaneously operate MTFs or OTFs, that are subject to ESMA supervision, and perform other investment activities or provide other investment services should remain under national supervision for those other investment services and activities. To ensure that those investment firms maintain one point of entry and contact with a single ~~**supervising**~~ **supervisory** authority when seeking authorisation, it is necessary to introduce a specific framework for the authorisation of those investment firms. Where those investment firms wish to be initially authorised to perform other investment services together with the operation of MTFs or OTFs, the national competent authority of the Member State where those applicant investment firms are based should be entrusted with the authorisation, considering that their authorisation also covers other services that are not under ESMA supervision. Nevertheless, in those cases, to ensure ESMA can perform its duties as competent authority for relevant trading venues, it should provide the national competent authority with a binding opinion on the authorisation of the trading venues. ***To enable the relevant national authorities to ~~perform~~ effectively perform their tasks under Regulation (EU) 600/2014, it is appropriate to require ESMA to notify relevant national authorities of any new authorisation requests for trading venues for which ESMA is the competent authority. To that end, ESMA should make available to the relevant national authorities the supporting documents provided by applicants as part of the authorisation requests, and the relevant national authority should be able to share any information that is deemed relevant to inform ESMA's assessment of authorisation or withdrawal concerning a trading venue for which ESMA is the competent authority. The submission of factual or other information by relevant national authorities to ESMA should only inform ESMA's assessment and should not result in any duplicative assessment by those authorities.*** The national competent

authority concerned should not authorise the applicant investment firms to operate MTFs or OTFs in case of a negative opinion by ESMA. The same approach should be followed in case an investment firm, originally authorised to provide other investment services, wishes to extend its authorisation to the operation of MTFs or OTFs that are subject to ESMA supervision. In case of a negative opinion by ESMA, the extension of the authorisation should not be granted by the national competent authority. Lastly, where an investment firm authorised by ESMA to exclusively operate MTFs or OTFs seeks to extend its authorisation to other investment services, the national competent authority of the Member State where the investment firm is based should issue to ESMA a binding opinion on the provision of the additional investment services. In case of a negative opinion, ESMA should not extend the authorisation.

(43) To ensure that trading venues are subject to the most appropriate supervisory model, it is important to put in place a process whereby trading venues deemed significant are placed under ESMA's supervision, while introducing the possibility for trading venues that no longer meet the conditions to be 'significant' to revert to national supervision. In that context, ESMA should identify which trading venues meet the conditions to qualify as significant, and should regularly monitor whether trading venues continue to meet those conditions over time. To ensure that the change of a supervisory model occurs smoothly and without causing excessive burden for trading venues, it is important to establish an appropriate timeline and a supervisory transition plan, developed through a thorough collaboration between ESMA and the national supervisory authority concerned. To provide clarity to market participants, ESMA should also establish and regularly update a list of all significant trading venues under its supervision and publish it on its website.

[…]

HAVE ADOPTED THIS REGULATION:

[…]

Article 3

Amendments to Regulation (EU) No 600/2014

Regulation (EU) No 600/2014 is amended as follows:

(3) Article 1 is amended as follows:

(a) in paragraph 1, the following points (h) to (j) are added:

'(h) the authorisation, operation and supervision of trading venues, including significant trading venues;

(i) the authorisation and supervision of Pan-European Market Operators ('PEMO');

(j) position management controls and position reporting for trading venues.';

(b) paragraph 2 is replaced by the following:

'2. This Regulation applies to investment firms, authorised under Directive 2014/65/EU and credit institutions authorised under Directive 2013/36/EU of the European Parliament and of the Council* when providing investment services and/or performing investment activities, to market operators and to PEMOs, including any trading venues they operate.';

(c) paragraph 4 is replaced by the following:

'4. Title VI of this Regulation also applies to CSDs, CCPs, other clearing facilities and persons with proprietary rights to benchmarks.';

(d) paragraph 5b is replaced by the following:

'5b. All multilateral systems shall operate either in accordance with the provisions of Title Ia, Chapter 1, of this Regulation concerning regulated markets or in accordance with the provisions of Title Ia, Chapter 2, of this Regulation concerning MTFs or OTFs.

---

* Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338. ELI: http://data.europa.eu/eli/dir/2013/36/oj).';

(4) Article 2 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (8a) is replaced by the following:

'(8a) SME growth market' means an MTF that is registered as an SME growth market in accordance with Article 2y;';

(ii) the following point (8b) is inserted:

'(8b) 'small and medium-sized enterprises' or 'SME' means companies that had an average market capitalisation of less than EUR 200 000 000 on the basis of end-year quotes for the previous three calendar years;';

(iii) point (10) is replaced by the following:

'(10) 'market operator' means a person or persons who manages and/or operates the business of a regulated market;';

(iv) the following point (10a) is inserted:

'(10a) 'pan-European market operator' or 'PEMO' means a person or persons who manages and/or operates more than one trading venue in more than one Member State, and which is authorised and functions in accordance with Chapter 3 of Title Ia of this Regulation;';

(v) points (13) to (16) are replaced by the following:

PUBLIC DRAFT

‘(13) ‘regulated market’ means a multilateral system operated and/or managed by a market operator or a PEMO, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems;

(14) ‘multilateral trading facility’ or ‘MTF’ means a multilateral system, operated by an investment firm or a market operator or a PEMO, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract;

(15) ‘organised trading facility’ or ‘OTF’ means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract;

(16) ‘trading venue’ means a regulated market, an MTF or an OTF;’;

(vi) the following points (16b) to (16d) are inserted:

‘(16b) ‘significant trading venue’ means a trading venue considered significant in accordance with Article 38fa;

(16c) ‘group’ means a group as defined in point (34) of Article 4(1) of Directive 2014/65/EU;

(16d) ‘direct electronic access’ means direct electronic access as defined in point (41) of Article 4(1) of Directive 2014/65/EU;’;

(vii) point (18) is replaced by the following:

‘(18) ‘competent authority’ means any of the following:

(a) a competent authority as defined in Article 4(1), point (26), of Directive 2014/65/EU;

(b) ESMA, in the cases set out in Article 38fa and in Articles 2q(1), 2r(1), and 2t(1);

(c) ESMA, for the authorisation and supervision of data reporting services providers, with the exception of those approved reporting mechanisms (ARMs) and approved publication arrangements (APAs) with a derogation in accordance with paragraph 3 of this Article;’;

(viii) the following point (18a) is inserted:

‘(18a) ‘national surveillance authority’ means the authority designated pursuant to Article 67 of Directive 2014/65/EU of the Member State where a trading venue is situated or operated, and where ESMA is the competent authority pursuant to Article 38fa;’;

DRAFT

(ix) point (20) is replaced by the following:

'(20) 'branch' means a place of business other than the head office which is a part of an investment firm or a regulated market, which has no legal personality and which provides the services or activity for which the investment firm or regulated market has been authorised; all the places of business set up in the same Member State by an investment firm or a regulated market with headquarters in another Member State shall be regarded as a single branch;';

(x) the following point (20a) is inserted:

'(20a) 'qualifying holding' means a direct or indirect holding in a market operator which represents 10 % or more of the capital or of the voting rights, as set out in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council*, taking into account the conditions regarding aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the market operator in which that holding subsists;';

(xi) point (31) is replaced by the following:

'(31) 'CCP' means a CCP as defined in of Article 2, point (1), of Regulation (EU) No 648/2012;';

(xii) the following point (31a) is inserted:

'(31a) 'central securities depository' or 'CSD' means a central securities depository as defined of Article 2(1), point (1), of Regulation (EU) No 909/2014;';

(xiii) point (36b) is replaced by the following:

'(36b) 'core market data' means:

(a) all of the following data on a given share or ETF at any given timestamp:

(i) for continuous order books, the ~~***five***~~ ***two*** best bids and offers with their corresponding volume;

(ii) for auction trading systems, the price at which the trading algorithm would be best satisfied and the volume potentially executed at that price by participants in that system;

(iia) for systematic internalisers, the ~~***five***~~ ***two*** best bid and offer quotes published pursuant to Article 14 with their corresponding volume;

(iii) the transaction price and volume executed at that price;

(iiia) the volume-weighted closing price ~~***resulting from all closing auctions operated by trading***~~

~~venues that are data contributors~~, upon occurrence of an outage of the trading venue that is the most relevant market in terms of liquidity, that prevents that trading venue or that market from running a closing auction;

(iv) for transactions, the type of trading system and the applicable waivers and deferrals;

(v) the market identifier code uniquely identifying the trading venue and, for other execution venues, the identifier code identifying the type of execution venue;

(vi) the standardised instrument identifier that applies across execution venues;

(vii) the timestamp information on the following, as applicable:

(1) the execution of the transaction and any amendment thereto;

(2) the entry of the ***~~five~~ two*** best bids and offers into the order book;

(3) the indication, in an auction trading system, of the prices or volumes,

(4) the publication by the trading venues of the elements listed in points (1), (2) and (3);

(5) the entry of the ***~~five~~ two*** best bid and offer quotes by the systematic internaliser;

(6) the dissemination of core market data;

(b) all of the following data on a given bond or OTC derivative at any given timestamp:

(i) the transaction price and quantity or size executed at that price;

(ii) the market identifier code uniquely identifying the trading venue and, for other execution venues, the identifier code identifying the type of execution venue;

(iii) for bonds, the standardised instrument identifier that applies across execution venues;

(iv) for OTC derivatives, the identifying reference data as referred to in Article 27(1), second subparagraph;

(v) the timestamp information on the following:

(1) the execution of the transaction and any amendment thereto;

(2) the publication of the transaction by the trading venues;

(3) the dissemination of core market data;

(vi) the type of trading system and the applicable waivers and deferrals;';

(xiv) the following points (51) to (54) are added:

'(51) 'outsourcing' means an arrangement of any form between an entity that is an investment firm, a market operator or a PEMO operating a trading venue and a service provider by which that service provider performs a process, a service or an activity in relation to that trading venue that would otherwise be undertaken by that entity itself;

(52) 'matched principal trading' means a transaction where the facilitator interposes itself between the buyer and the seller to the transaction in such a way that it is never exposed to market risk throughout the execution of the transaction, with both sides executed simultaneously, and where the transaction is concluded at a price where the facilitator makes no profit or loss, other than a previously disclosed commission, fee or charge for the transaction;

(53) 'algorithmic trading' means algorithmic trading as defined in Article 4(1), point (39), of Directive 2014/65/EU;

(54) 'high-frequency algorithmic trading' means high-frequency algorithmic trading as defined in Article 4(1), point (40), of Directive 2014/65/EU.';

(b) the following paragraph 4 is added:

'4. ESMA shall issue recommendations to specify the methodology to calculate the volume-weighted closing price as referred to in paragraph 1, point 36b(a)(iiia), in accordance with the procedure laid down in Article 16 of Regulation (EU) No 1095/2010.

---

* Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38, ELI: http://data.europa.eu/eli/dir/2004/109/oj).';

(5) the following Title Ia is inserted:

PUBLIC DRAFT

‘TITLE Ia

TRADING VENUES

CHAPTER 1

Requirements for regulated markets

Article 2a

Authorisation of a regulated market and applicable law

1. Any system that falls within the definition of regulated market shall obtain an authorisation before commencing its activities from the competent authority of the Member State where it is situated or operated, or ESMA in the cases referred to in Article 38fa.

2. A regulated market shall be authorised by the competent authority where:

(a) both the market operator and the regulated market that the market operator intends to operate comply with the requirements laid down in this Chapter;

(b) the market operator is a legal person established ~~***in the Union***~~ ***in the Member State where it intends to operate that regulated market, or in a Member State where it already operates a trading venue and is subject to supervision***;

(c) where ESMA is not the competent authority of the regulated market, and where the market operator is a legal person established in a Member State other than the Member state where it intends to operate that regulated market, it has designated a representative located in the Member State where it intends to operate that regulated market.

The representative referred to in point (c) shall be designated by a written mandate and shall be authorised to act on the market operator’s behalf. The market operator shall mandate such designated representative for the purpose of being addressed, in addition to or on its behalf, by the competent authority of the Member State where it operates the regulated market on all matters relating to compliance with and enforcement of decisions or requests for information issued in relation to this Regulation.

3. The market operator shall perform tasks relating to the organisation and operation of the regulated market under the supervision of the competent authority of the Member State where the regulated market is situated or operated, or ESMA in the cases referred to in Article 38fa, and, where expressly provided for by this Regulation, of the national surveillance authority. The market operator may perform ***additional*** ~~***ancillary***~~ activities ~~***that are linked to the operation of a regulated market.***~~ ***in compliance with applicable sectoral legislation, provided that performance of those activities does not create conflicts of interest that adversely affect the operation of the regulated market and the ability of the market operator to comply with the provisions set out in this Regulation.***

Member States shall not impose any additional requirements on the authorisation and operation of regulated markets than those set out in this Regulation.

4. The market operator shall be responsible for ensuring that it and the regulated market that it operates comply at all times with the requirements laid down in this Regulation.

5. The market operator shall be entitled to exercise the rights that correspond to the regulated market that it operates by virtue of this Regulation.

6. A market operator shall, without undue delay, inform the competent authority of any substantive changes affecting the compliance with the conditions for authorisation laid down in this Chapter.

7. Without prejudice to any relevant provisions of Regulation (EU) No 596/2014 or of Directive 2014/57/EU, the public law governing the trading conducted under the systems of the regulated market shall be that of the Member State where the regulated market is situated or operated.

Article 2b

Procedures for granting and refusing applications for authorisation of regulated markets

1. The applicant market operator shall submit an application providing all information necessary to enable the competent authority to confirm that the market operator has put in place, at the time of initial authorisation of the regulated market, all the necessary arrangements to ensure that both the market operator and the systems of the regulated market that the market operator intends to operate meet the requirements laid down in this Chapter, including a programme of operations setting out, inter alia, the types of services envisaged and the organisational structure.

2. The competent authority shall ~~***assess whether the application for authorisation is complete within 20 working days of receipt of the application.***~~

~~***Where the application is not complete, the competent authority shall inform in writing the applicant of the additional information to be provided and set a deadline by which the market operator is to provide additional information.***~~

~~***After assessing the application as complete, the competent authority shall notify the market operator accordingly.***~~

~~***3. The competent authority shall,***~~ within ***seven months of receipt of the application*** ~~***six months of receipt of a complete application***~~, assess the compliance with this Chapter of the market operator and of the systems of the regulated market that the market operator intends to operate~~***. It shall adopt a reasoned decision granting or refusing authorisation and shall notify the applicant market operator accordingly within five working days of adoption. It shall also notify the national surveillance authority***~~ ***and adopt a reasoned decision granting or refusing authorisation. It shall notify the applicant market operator and, where ESMA is the competent authority, the national surveillance authority within 5 days of that decision.***

Where the application is not complete, the competent authority shall inform the applicant as soon as possible of the additional information to be provided, in writing, and shall specify the additional information needed. For the period between the date of request for additional information by the competent

authority and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. The competent authority may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

Where ESMA is the competent authority, ESMA shall, without undue delay following the receipt of a complete application, notify the relevant national surveillance authority, and make available to that authority all supporting documents submitted by the applicant. The relevant national surveillance authority may, within three months following the notification, provide ESMA with factual and other observations that may inform ESMA in its assessment.

Article 2c

Withdrawal of authorisation

1. The competent authority may withdraw the authorisation issued to a regulated market, where it:

(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has not operated for the preceding six months;

(a) has obtained the authorisation by making false statements or by any other irregular means;

(b) no longer meets the conditions under which authorisation was granted;

(c) has seriously and systematically infringed this Regulation.

2. Where ESMA is the competent authority ***and intends to withdraw the authorisation of a regulated market, ESMA*** ~~***, it***~~ shall, without undue delay, notify the ***relevant*** national surveillance authority of ***such intention.*** ~~***a decision to withdraw the authorisation of a regulated market.***~~ ***The relevant national surveillance authority may, within one month following the notification, provide ESMA with factual and other observations that could inform ESMA's final decision.***

Article 2d

Requirements for the management body of a market operator

1. All members of the management body of a market operator shall at all times be of sufficiently good repute, possess sufficient knowledge, skills and experience to perform their duties. The overall composition of the management body shall reflect an adequately broad range of experience.

2. Members of the management body shall fulfil the following requirements:

(a) all members of the management body shall commit sufficient time to perform their functions in the market operator. The number of directorships a member of the management body can hold, in any legal entity, at the same time shall take into account individual circumstances and the nature, scale and complexity of the market operator's activities.

Unless representing the Member State in which the market operator is established, members of the management body of market operators that are significant in terms of their size, internal organisation and the nature, the scope and the complexity of their activities shall not at the same time hold positions exceeding more than one of the following combinations:

(i) one executive directorship with two non-executive directorships;

(ii) four non-executive directorships.

Executive or non-executive directorships held within the same group or undertakings where the market operator owns a qualifying holding shall be considered to be one single directorship.

The competent authority may authorise members of the management body to hold one additional non-executive directorship. Where ESMA is not the competent authority, competent authorities shall regularly inform ESMA of such authorisations.

Directorships in organisations which do not pursue predominantly commercial objectives shall be exempt from the limitation on the number of directorships a member of a management body can hold.

(b) The management body shall possess adequate collective knowledge, skills and experience to be able to understand the market operator's activities, including the main risks.

(c) Each member of the management body shall act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor decision-making.

3. Market operators shall devote adequate human and financial resources to the induction and training of members of the management body.

4. Where, under national law, the management body has competence in the process of selection and appointment of any of its members, the competent authority shall assess whether, taking into account the size and the internal organisation of the market operator, as well as the nature, scope and complexity of its activities, the market operator shall establish a nomination committee composed of members of the management body who do not perform any executive function in the market operator concerned.

Where established, the nomination committee shall carry out the following:

(a) identify and recommend, for the approval of the management body or for approval of the general meeting, candidates to fill management body vacancies. In doing so, the nomination committee shall evaluate the balance of knowledge, skills, diversity and experience of the management body. Further, the committee shall prepare a description of the roles and capabilities for a particular appointment, and assess the time commitment expected. Furthermore, the nomination committee shall decide on a target for the representation of the underrepresented gender in the management body and prepare a policy on how to increase the number of the

DRAFT

underrepresented gender in the management body in order to meet that target;

(b) periodically, and at least annually, assess the structure, size, composition and performance of the management body, and make recommendations to the management body with regard to any changes;

(c) periodically, and at least annually, assess the knowledge, skills and experience of individual members of the management body and of the management body collectively, and report to the management body accordingly;

(d) periodically review the policy of the management body for selection and appointment of senior management and make recommendations to the management body.

In performing its duties, the nomination committee shall, to the extent possible and on an ongoing basis, take account of the need to ensure that the management body's decision making is not dominated by any one individual or small group of individuals in a manner that is detrimental to the interests of the market operator as a whole.

In performing its duties, the nomination committee shall be able to use any forms of resources it deems appropriate, including external advice.

5. Market operators and their respective nomination committees shall engage a broad set of qualities and competences when recruiting members to the management body and, for that purpose, shall put in place a policy promoting diversity on the management body.

6. The management body of a market operator shall define and oversee the implementation of the governance arrangements that ensure effective and prudent management of an organisation, including the segregation of duties in the organisation and the prevention of conflicts of interest, and in a manner that promotes the integrity of the market.

The management body shall monitor and periodically assess the effectiveness of the market operator's governance arrangements and take appropriate steps to address any deficiencies.

Members of the management body shall have adequate access to information and documents which are needed to oversee and monitor management decision-making.

7. The competent authority shall refuse authorisation where it is not satisfied that the members of the management body of the market operator are of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their functions, or where there are objective and demonstrable grounds for believing that the management body of the market operator may pose a threat to its effective, sound and prudent management and to the adequate consideration of the integrity of the market.

In the process of authorisation of a regulated market, the person or persons who effectively direct the business and the operations of another regulated market

already authorised in the Union are deemed to comply with the requirements laid down in paragraph 1.

Where the conduct of a member of the management body of a market operator is likely to be prejudicial to its effective, sound and prudent management and to the adequate consideration of the integrity of the market, the competent authority shall take appropriate measures, which may include removing that member from the management body.

8. A market operator shall notify the competent authority of the names of all members of its management body and of any changes to its membership, along with all information needed to assess whether the market operator complies with paragraphs 1 to 6.

9. ESMA shall issue guidelines on the following:

(a) the notion of sufficient time commitment of a member of the management body to perform that member's functions, in relation to the individual circumstances and the nature, scale and complexity of activities of the market operator;

(b) the notion of adequate collective knowledge, skills and experience of the management body as referred to in paragraph 2, point (b);

(c) the notions of honesty, integrity and independence of mind of a member of the management body as referred to in paragraph 2, point (c);

(d) the notion of adequate human and financial resources devoted to the induction and training of members of the management body as referred to in paragraph 3;

(e) the notion of diversity to be taken into account for the selection of members of the management body as referred to in paragraph 5.

Article 2e

Requirements relating to persons exercising significant influence over the management of the regulated market

1. The persons who are in a position to exercise, directly or indirectly, significant influence over the management of the regulated market shall be suitable.

2. The market operator of the regulated market shall:

(a) provide the competent authority with, and make public, information regarding the ownership of market operator, and, where relevant, for regulated markets authorised pursuant to Directive 2014/65/EU as applicable before [OP: please insert date of entry into application of this Regulation], the ownership of the regulated market, and in particular, the identity and scale of interests of any parties in a position to exercise significant influence over the management;

(b) inform the competent authority of and make public any transfer of ownership which gives rise to a change in the identity of the persons exercising significant influence over the operation of the regulated market.

DRAFT

3. The competent authority shall refuse to approve proposed changes to the controlling interests of the market operator and, where relevant, of the regulated market, where there are objective and demonstrable grounds for believing that they would pose a threat to the sound and prudent management of the regulated market.

If changes to the controlling interests of the market operator and, where relevant, of the regulated market, take place despite the opposition of the competent authority, that competent authority shall be able to order the annulment of the corresponding votes cast.

4. Where the persons referred to in paragraph 1 exercise an influence which is likely to be prejudicial to the sound and prudent management of a regulated market, the competent authority shall take appropriate measures to put an end to that situation. Such measures may include applications for judicial orders, the imposition of sanctions against directors and those responsible for management, and the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.

5. Member States shall not impose any additional requirements for transfers of ownership which give rise to changes to the controlling interests of the market operator and, where relevant, of the regulated market.

Article 2f

Organisational requirements

1. Market operators shall ensure that a regulated market that they operate:

(a) has arrangements to identify clearly and manage the potential adverse consequences, for the operation of the regulated market or for its members or participants, of any conflict of interest between the interest of the regulated market, the market operator and its owners, and the sound functioning of the regulated market, and in particular where such conflicts of interest might prove prejudicial to the accomplishment of any functions delegated to the regulated market by the competent authority;

(b) is adequately equipped to manage the risks to which it is exposed, including to manage ICT risk in accordance with Chapter II of Regulation (EU) 2022/2554, to implement appropriate arrangements and systems for identifying significant risks to its operation, and to put in place effective measures to mitigate those risks;

(c) has transparent and non-discretionary rules and procedures that provide for fair and orderly trading and establish objective criteria for the efficient execution of orders;

(d) has effective arrangements to facilitate the efficient and timely finalisation of the transactions executed under its systems;

(e) has available, at the time of authorisation and on an ongoing basis, sufficient financial resources to facilitate its orderly functioning, having regard to the nature and extent of the transactions concluded on the market and the range and degree of the risks to which it is exposed;

(f) has arrangements in place to ensure that it meets data quality standards pursuant to Article 22b;

(g) has at least three materially active members or users, each having the opportunity to interact with all the others in respect of price formation.

Where, for the purposes of compliance with the requirements under the first subparagraph, points (a), (b), (d), and (f), a market operator deploys resources of or relies on the performance of functions by another entity located in the Union that belongs to the same group as that market operator, reliance on that entity shall not constitute outsourcing for the purposes of this Regulation, provided that the conditions set out in paragraph 1a are met. The location within the Union of the entity that deploys resources or performs functions for the compliance by a market operator with the requirements referred to in the first subparagraph, points (a), (b), (d), and (f), shall not be relevant in the assessment of that compliance by the competent authority.

1a. The reliance of a market operator on another entity located in the Union and that belongs to the same group as that market operator shall not constitute outsourcing pursuant to paragraph 1, provided that the following conditions are fulfilled:

(a) the market operator and another entity in the group that will deploy its resources or will perform functions for that regulated market have put in place arrangements to ensure that that entity within the same group cooperates with the competent authority and, where relevant, the national surveillance authority of the regulated market in connection with that deployment of resources or with that performance of functions;

(b) the market operator has put in place adequate mechanisms to identify clearly and manage the potential adverse consequences, for the operation of the regulated market or for its members or participants, of any conflict of interest between the regulated market, the market operator and another entity in the group that will deploy its resources or will perform functions for that regulated market.

When deploying resources of or relying on the performance of functions by another entity within the same group, market operators shall remain fully responsible for discharging all of their obligations under this Regulation and under Directive 2014/65/EU.

Member States shall not impose any additional requirements for the deployment of resources or reliance on the performance of functions, pursuant to paragraph 1, by another entity located in the Union within the same group as the market operator.

1b. Where a market operator relies on another entity in accordance with the conditions set out in paragraph 1a, and in relation to critical operational functions, that market operator shall notify the competent authority of the regulated market in respect of which the entity performs tasks or dedicates resources no later than 30 days after those arrangements take effect.

DRAFT

2. Market operators shall not execute client orders against proprietary capital, or engage in matched principal trading on any of the regulated markets they operate.

Article 2g

Systems resilience, circuit breakers and electronic trading

1. The market operator of a regulated market shall ensure that the regulated market establishes and maintains its operational resilience in accordance with the requirements laid down in Chapter II of Regulation (EU) 2022/2554 to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress, are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements, including ICT business continuity policy and plans and ICT response and recovery plans established in accordance with Article 11 of Regulation (EU) 2022/2554, to ensure continuity of its services if there is any failure of its trading systems.

2. The market operator of a regulated market shall ensure that the regulated market has in place:

(a) written agreements with all investment firms pursuing a market making strategy on the regulated market;

(b) schemes to ensure that a sufficient number of investment firms participate in such agreements which require them to post firm quotes at competitive prices with the result of providing liquidity to the market on a regular and predictable basis, where such a requirement is appropriate to the nature and scale of the trading on that regulated market.

3. The written agreement referred to in paragraph 2 shall at least specify:

(a) the obligations of the investment firm in relation to the provision of liquidity and where applicable any other obligation arising from participation in the scheme referred to in paragraph 2, point (b);

(b) without prejudice to Article 39a, any incentives in terms of rebates or otherwise offered by the regulated market to an investment firm so as to provide liquidity to the market on a regular and predictable basis and, where applicable, any other rights accruing to the investment firm as a result of participation in the scheme referred to in paragraph 2, point (b).

The market operator of the regulated market shall monitor and enforce compliance by investment firms with the requirements of such binding written agreements. The market operator of the regulated market shall inform the competent authority about the content of the binding written agreement and shall, upon request, provide all further information to the competent authority necessary to enable the competent authority to satisfy itself of compliance by the regulated market with this paragraph. Where ESMA is the competent authority, the national surveillance authority may request ESMA to share the content of the binding written agreements relevant to the supervisory activity of that national surveillance authority.

PUBLIC DRAFT

4. The market operator of a regulated market shall ensure that the regulated market has in place effective systems, procedures and arrangements to reject orders that exceed pre-determined volume and price thresholds or are clearly erroneous.

5. The market operator of a regulated market shall ensure that the regulated market is able to temporarily halt or constrain trading in emergency situations or in the event of a significant price movement in a financial instrument on that market or a related market during a short period and, in exceptional cases, to be able to cancel, vary or correct any transaction. The market operator of a regulated market shall ensure that the regulated market sets the parameters for halting or constraining trading that are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users, and is sufficient to avoid significant disruptions to the orderliness of trading.

The market operator of a regulated market shall ensure that the regulated market reports the parameters for halting trading and any material changes to those parameters to the competent authority in a consistent and comparable manner. Where the competent authority is not ESMA, the competent authority shall report those parameters to ESMA. Where a regulated market which is material in terms of liquidity in that financial instrument halts trading, in any Member State, the market operator of that regulated market shall ensure that the regulated market has the necessary systems and procedures in place to notify its competent authority, its national surveillance authority and ESMA, where ESMA is not its competent authority. The competent authority and, where ESMA is the competent authority, the national surveillance authority shall then notify all other competent authorities and, where relevant, national surveillance authorities in the Union in order for them to coordinate a market-wide response and determine whether it is appropriate to halt trading on other venues on which the financial instrument is traded until trading resumes on the original market.

The market operator of a regulated market shall ensure that the regulated market discloses publicly on its website information about the circumstances leading to the halting or constraining of trading and on the principles for establishing the main technical parameters used to do so.

Where a regulated market does not halt or constrain trading as referred to in the first subparagraph, despite the fact that a significant price movement in a financial instrument or related financial instruments has led to disorderly trading conditions on one or several markets, the competent authority or, where ESMA is the competent authority, the national surveillance authority shall be able to take appropriate measures to re-establish the normal functioning of the markets, including using the supervisory powers referred to in Article 69(2), points (m) to (p) of Directive 2014/65/EU. The national surveillance authority shall notify ESMA of the measures taken without undue delay.

6. The market operator of a regulated market shall ensure that the regulated market has in place effective systems, procedures and arrangements, including requiring members or participants to carry out appropriate testing of algorithms and providing environments to facilitate such testing in accordance with the

requirements laid down in Chapters II and IV of Regulation (EU) 2022/2554, to ensure that algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market and to manage any disorderly trading conditions which do arise from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be entered into the system by a member or participant, to be able to slow down the flow of orders if there is a risk of its system capacity being reached and to limit and enforce the minimum tick size that may be executed on the market.

7. The market operator of a regulated market that permits direct electronic access shall ensure that the regulated market has in place effective systems procedures and arrangements to ensure that members or participants are only permitted to provide direct electronic access if they are investment firms authorised under Directive 2014/65/EU or credit institutions authorised under Directive 2013/36/EU, that appropriate criteria are set and applied regarding the suitability of persons to whom such access may be provided and that the member or participant retains responsibility for orders and trades executed using that service in relation to the requirements of this Regulation.

The market operator of a regulated market shall ensure that the regulated market sets appropriate standards regarding risk controls and thresholds on trading through such access and shall be able to distinguish and if necessary to stop orders or trading by a person using direct electronic access separately from other orders or trading by the member or participant.

The market operator of a regulated market shall ensure that the regulated market has arrangements in place to suspend or terminate the provision of direct electronic access by a member or participant to a client in the case of non-compliance with this paragraph.

8. The market operator of a regulated market shall ensure that the rules of the regulated market on co-location services are transparent, fair and non-discriminatory.

9. The market operator of a regulated market shall ensure that the regulated market has fee structures including execution fees, ancillary fees and any rebates that are transparent, fair and non-discriminatory and that they do not create incentives to place, modify or cancel orders or to execute transactions in a way which contributes to disorderly trading conditions or market abuse. In particular, the market operator of a regulated market shall ensure that the regulated market imposes market making obligations in individual shares or a suitable basket of shares in exchange for any rebates that are granted.

A regulated market may adjust its fees for cancelled orders according to the length of time for which the order was maintained and calibrate the fees to each financial instrument to which they apply.

A regulated market may impose a higher fee for placing an order that is subsequently cancelled than an order which is executed and impose a higher fee on participants placing a high ratio of cancelled orders to executed orders and on those operating a high-frequency algorithmic trading technique in order to reflect the additional burden on system capacity.

DRAFT

10. The market operator of a regulated market shall ensure that the regulated market be able to identify, by means of flagging from members or participants, orders generated by algorithmic trading, the different algorithms used for the creation of orders and the relevant persons initiating those orders. That information shall be available upon request to competent authorities and, where ESMA is the competent authority, to national surveillance authorities

The market operator of a regulated market shall ensure that the regulated market makes available to the competent authority or, where ESMA is the competent authority, to the national surveillance authority data relating to the order book or give the competent authority or, where relevant to the national surveillance authority access to the order book, upon request, so that it is able to monitor trading. The national surveillance authority shall, in turn, report that data to ESMA, upon request.

Article 2h

Tick sizes

1. The market operator of a regulated market shall ensure that the regulated market adopts tick-size regimes in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and in any other financial instrument for which regulatory technical standards are developed in accordance with Article 2zg(3), point (k). ***The tick size regime shall apply to orders, quotes and executed transaction prices***. The application of tick sizes shall not prevent regulated markets from matching orders large in scale at mid-point within the current bid and offer prices.

By way of derogation from subparagraph 1, when applying a periodic auction trading system, the market operator of a regulated market shall apply the tick size regime only to orders.

2. The tick size regimes referred to in paragraph 1 shall:

(a) be calibrated to reflect the liquidity profile of the financial instrument in different markets and the average bid-ask spread, taking into account the desirability of enabling reasonably stable prices without unduly constraining further narrowing of spreads;

(b) adapt the tick size for each financial instrument appropriately.

In respect of shares with an International Securities Identification Number (ISIN) issued outside the European Economic Area (EEA), or shares which have an EEA ISIN and which are traded on a third-country venue in the local currency or in a non-EEA currency, as referred to in Article 23(1), point (a), for which the venue that is the most relevant market in terms of liquidity is in a third country, regulated markets may provide for the same tick size that applies on that venue.

Article 2ha

Specific conditions for the operation of a frequent batch auction trading system

1. The market operator of a regulated market that operates a frequent batch auction trading system shall ensure that such trading system is sufficiently price forming.

2. The market operator of a regulated market that intends to operate a frequent batch auction trading system shall notify ESMA and, where ESMA is not the competent authority, its competent authority, thereof at least 30 days before the commencement of the operation of the frequent batch auction trading system. That notification shall be accompanied by an explanation of why that frequent batch auction trading system is deemed sufficiently price forming.

After receiving a notification pursuant to the first subparagraph, ESMA shall assess whether the functioning of the frequent batch auction trading system ensures that the auction is sufficiently price forming.

Where ESMA deems that the auction is not sufficiently price forming, it shall notify the concerned market operator as soon as possible, and in any case within 30 days following the notification referred to in the first subparagraph. ESMA shall indicate in the notification the reasons why it deems that the auction is not sufficiently price forming.

The market operator may start the operation of the frequent batch auction trading system where it does not receive a notification from ESMA within 30 days following the notification referred to in the first subparagraph.

Where a market operator receives a notification from ESMA pursuant to the third subparagraph, it may start the operation of the frequent batch auction trading system only following confirmation by ESMA that such trading system is sufficiently price forming or, where ESMA does not object within 30 days following the re-submission by the market operator of the amended functioning of the frequent batch auction trading system pursuant to subparagraph 1.

3. Paragraph 2 shall also apply to market operators of regulated markets that on [PO: please introduce date of application of this provision] already operate a frequent batch auction trading system. They shall notify ESMA and, where ESMA is not the competent authority, its competent authority, pursuant to paragraph 2, first subparagraph, within [PO: please introduce date of application of this provision + 30 days].

4. The market operator of a regulated market that operates a frequent batch auction trading system shall notify ESMA and, where ESMA is not the competent authority, its competent authority, of any changes to the parameters of the trading algorithm on which the frequent batch auction is based 30 days before those changes take effect.

Where ESMA deems that those changes materially negatively affect the price forming nature of the frequent batch auction, it shall notify the concerned market operator, and, where ESMA is not the competent authority, the competent authority, as soon as possible within 30 days from the date of notification. In those cases, the market operator may change the functioning of the frequent batch auction only following confirmation by ESMA that those

changes do not materially negatively affect the price forming nature of the frequent batch auction.

Article 2i

Admission of financial instruments to trading

1. The market operator of a regulated market shall ensure that the regulated market has clear and transparent rules regarding the admission of financial instruments to trading.

Those rules shall ensure that any financial instruments admitted to trading on a regulated market are capable of being traded in a fair, orderly and efficient manner and, in the case of transferable securities, are freely negotiable.

Member States shall not restrict the scope of financial instruments that can be admitted to trading on a regulated market on the ground that such instruments shall not be made available to non-professional investors in their jurisdiction.

2. In the case of derivatives, the rules referred to in paragraph 1 shall ensure in particular that the design of the derivative contract allows for its orderly pricing as well as for the existence of effective settlement conditions.

3. In addition to the obligations set out in paragraphs 1 and 2, the market operator of a regulated market shall ensure that the regulated market establishes and maintains effective arrangements to verify that issuers of transferable securities that are admitted to trading on the regulated market comply with their obligations under Union law in respect of initial, ongoing or ad hoc disclosure obligations.

The market operator of a regulated market shall ensure that the regulated market establishes arrangements which facilitate their members or participants in obtaining access to information which has been made public under Union law.

4. The market operator of a regulated market shall ensure that the regulated market establishes the necessary arrangements to review regularly the compliance with the admission requirements of the financial instruments which it admits to trading.

5. A transferable security that has been admitted to trading on a regulated market can subsequently be admitted to trading on other regulated markets, even without the consent of the issuer and in compliance with the relevant provisions of Regulation (EU) 2017/1129. The issuer shall be informed by the regulated market of the fact that its securities are traded on that regulated market. The issuer shall not be subject to any obligation to provide information required under paragraph 3 directly to any regulated market which has admitted the issuer's securities to trading without its consent.

Article 2j

Specific conditions for the admission to trading of shares

1. The market operator of a regulated market shall ensure that the regulated market requires that the foreseeable market capitalisation of the company for whose shares admission to trading is sought, or if that cannot be assessed, that

PUBLIC DRAFT

company's capital and reserves, including profit and loss, from the last financial year, shall be at least EUR 1 000 000 or an equivalent amount in a national currency other than the euro.

2. Paragraph 1 shall not apply to the admission to trading of shares fungible with shares already admitted to trading.

3. Where, as a result of an adjustment of the equivalent amount in a national currency other than the euro, the market capitalisation expressed in the national currency remains for a period of one year at least 10 % more, or at least 10 % less, than EUR 1 000 000, the market operator shall, within the 12 months following the expiry of that period, ensure that the regulated market adjusts its rules to comply with paragraph 1.

4. The market operator of a regulated market shall ensure that the regulated market requires that at least 10 % of the subscribed capital represented by the class of shares concerned by the application for admission to trading is held by the public at the time of admission to trading.

5. By way of derogation from paragraph 4, Member States may require that regulated markets establish, at the time of admission, at least one of the following requirements for an application for admission to trading of shares:

(a) a sufficient number of shares is held by the public;

(b) the shares are held by a sufficient number of shareholders;

(c) the market value of the shares held by the public represents a sufficient level of subscribed capital in the class of shares concerned.

6. Where admission to trading is sought for shares fungible with shares already admitted to trading, regulated markets shall assess, to fulfil the requirement laid down in paragraph 4, whether a sufficient number of shares has been distributed to the public in relation to all shares issued and not only in relation to the shares fungible with shares already admitted to trading.

Article 2k

Suspension and removal of financial instruments from trading on a regulated market

1. Without prejudice to the right of the competent authority or, where ESMA is the competent authority, the national surveillance authority under Article 69(2) of Directive 2014/65/EU to demand suspension or removal of a financial instrument from trading, a market operator may suspend or remove from trading a financial instrument which no longer complies with the rules of the regulated market unless such suspension or removal would be likely to cause significant damage to the investors' interests or the orderly functioning of the market.

2. A market operator that suspends or removes from trading a financial instrument shall also suspend or remove the derivatives as referred to in points (4) to (10) of Section C of Annex I to Directive 2014/65/EC that relate or are referenced to that financial instrument where necessary to support the objectives of the suspension or removal of the underlying financial instrument. The market operator shall make public the suspension or removal of the financial instrument

and of any related derivative and communicate it to its competent authority and, where ESMA is the competent authority, its national surveillance authority.

Market operators operating other regulated markets, and market operators and investment firms operating MTFs, OTFs and systematic internalisers, which trade the same financial instrument as referred to in paragraph 1 or derivatives as referred to in points (4) to (10) of Section C of Annex I to Directive 2014/65/EC that relate or are referenced to the financial instrument referred to in paragraph 1, shall upon gaining knowledge of such suspension or removal and without undue delay also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of Regulation (EU) No. 596/2014, unless the competent authority or, where ESMA is the competent authority, the national surveillance authority deems that the suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market.

The market operators, investment firms and systematic internalisers referred to in the previous subparagraph shall make public the suspension or removal of the financial instrument and of any related derivative. This paragraph applies also when the suspension from trading of a financial instrument or derivatives as referred to in points (4) to (10) of Section C of Annex I to Directive 2014/65/EC that relate or are referenced to that financial instrument is lifted.

This paragraph shall also apply in the case where the decision to suspend or remove from trading a financial instrument or derivatives as referred to in points (4) to (10) of Section C of Annex I to Directive 2014/65/EC that relate or are referenced to that financial instrument is taken by the competent authority or, where ESMA is the competent authority, the national surveillance authority pursuant to Article 69(2), points (m) and (n), of Directive 2014/65/EU.

Article 2l

Access to a regulated market

1. The market operator of a regulated market shall ensure that the regulated market establishes, implements and maintains transparent and non-discriminatory rules, based on objective criteria, governing access to or membership of the regulated market.

2. The rules referred to in paragraph 1 shall specify any obligations for the members or participants arising from:

(a) the constitution and administration of the regulated market;

(b) rules relating to transactions on the market;

(c) professional standards imposed on the staff of the investment firms or credit institutions that are operating on the market;

(d) the conditions established, for members or participants other than investment firms and credit institutions, under paragraph 3;

DRAFT

(e) the rules and procedures for the clearing and settlement of transactions concluded on the regulated market.

3. Regulated markets may admit as members or participants investment firms, credit institutions authorised under Directive 2013/36/EU, and other persons who:

(a) are of sufficient good repute;

(b) have a sufficient level of trading ability, competence and experience;

(c) have, where applicable, adequate organisational arrangements;

(d) have sufficient resources for the role they are to perform, taking into account the different financial arrangements that the regulated market may have established in order to guarantee the adequate settlement of transactions.

3a. When admitting as members or participants persons that are already members or participants of another regulated market, regulated markets shall deem that those persons comply with paragraph 3, point (a), without any further assessment. Regulated markets shall also deem that those persons comply with paragraph 2, point (c), or paragraph 3, points (b) and (c), as applicable, without any further assessment, where they request to become members or participants with respect to trading in a class of financial instruments for which they are already members or participants of another regulated market.

4. For the transactions concluded on a regulated market, members and participants are not obliged to apply to each other the obligations laid down in Articles 24, 25, 27 and 28 of Directive 2014/65/EU. However, the members or participants of the regulated market shall apply the obligations provided for in Articles 24, 25, 27 and 28 of Directive 2014/65/EU with respect to their clients when they, acting on behalf of their clients, execute their orders on a regulated market.

5. The rules on access to or membership of or participation in a regulated market shall provide for the direct or remote participation of investment firms and credit institutions. Those rules shall not discriminate between direct or remote participation or impose any additional restrictions on either form of participation.

6. Market operators shall communicate, on a regular basis, to the competent authority and, where ESMA is the competent authority, to the national surveillance authority, the list of the members or participants of the regulated markets they operate.

Article 2m

Notification of amendments to the rules of the regulated market

1. A market operator shall notify the competent authority of any amendment to the rules of the regulated market it operates at least 30 days before that amendment takes effect.

PUBLIC DRAFT

2. The competent authority shall have the power to require a market operator to amend the rules of the regulated market it operates where it finds that those rules do not comply with the requirements under this Regulation.

Article 2n

Monitoring of compliance with the rules of the regulated market and with other legal obligations

1. The market operator of a regulated market shall ensure that the regulated market establishes and maintains effective arrangements and procedures including the necessary resources for the regular monitoring of the compliance by their members or participants with their rules. Regulated markets shall monitor orders sent including cancellations and the transactions undertaken by their members or participants under their systems in order to identify infringements of those rules, disorderly trading conditions or conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument and shall deploy the resources necessary to ensure that such monitoring is effective.

2. The market operator of a regulated market shall immediately inform its competent authority and, where ESMA is the competent authority, the national surveillance authority, of significant infringements of their rules or disorderly trading conditions or conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument.

The competent authority or, where ESMA is the competent authority, the national surveillance authority shall communicate the information referred to in the first subparagraph to ESMA and to the authorities designated in accordance with Article 67(1) of Directive 2014/65/EU of the other Member States.

In relation to conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014, the competent authority or, where ESMA is the competent authority, the national surveillance authority shall be convinced that such behaviour is being or has been carried out before it notifies the authorities designated in accordance with Article 67(1) of Directive 2014/65/EU of the other Member States.

Where ESMA is the competent authority, ESMA shall take due consideration of the information received pursuant to this paragraph, in particular when assessing a potential infringement of paragraph 1 by the regulated market. ESMA may require the national surveillance authority to submit any additional information necessary for the purpose of this assessment.

Where ESMA is the competent authority, in cases where a national surveillance authority considers that the information referred to in this paragraph has not been provided or has not been provided in a timely manner by the market operator, that authority shall inform ESMA. ESMA shall assess, within 20 working days, whether the market operator has breached its obligations under the first subparagraph, and take the appropriate measures.

3. The market operator shall supply the relevant information without undue delay to the authority competent for the investigation and prosecution of market

abuse on the regulated market and provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through the systems of the regulated market.

Where ESMA is the competent authority of the regulated market, in cases where an authority competent for the investigation and prosecution of market abuse on such a regulated market considers that the information or the assistance referred to in this paragraph has not been provided or has not been provided in a timely manner, that authority shall inform ESMA. ESMA shall assess, within 20 working days, whether the market operator has breached its obligations under the first subparagraph, and take the appropriate measures.

4. ***National surveillance authorities in the Member State in which a market operator or PEMO is established or where a trading venue is operated, and where ESMA is the competent authority for the market operator, PEMO or trading venue, should be able to request information from ESMA that ESMA has access to in its capacity as competent authority of the market operator, PEMO or trading venue, that may be relevant for the purposes national security and preparedness.***

Article 2o

Cross-border activity of regulated markets

1. An authorised regulated market may freely perform its activity within the Union, through the freedom to provide services or through setting up a branch. Those activities shall include at least:

(a) the provision of appropriate arrangements so as to facilitate access to and trading on that regulated market by remote members or participants established in any Member State;

(b) activities relating to the admission of members or participants on that regulated market;

(c) activities relating to the admission of financial instruments to trading on that regulated market.

2. The market operator of an authorised regulated market, or of a regulated market that has applied for authorisation pursuant to Article 2b that intends to perform its activity within the territory of another Member State, shall ensure that the regulated market communicates to its competent authority the Member State in which it intends to perform its activity. The competent authority shall communicate that information to the authority designated pursuant to Article 67 of Directive 2014/65/EU of the Member State where the regulated market intends to perform its activity, within seven working days. Where ESMA is not the competent authority, ESMA may request access to that information in accordance with the procedure and under the conditions set out in Article 35 of Regulation (EU) No 1095/2010.

The competent authority of the regulated market shall, on the request of the authority designated pursuant to Article 67 of Directive 2014/65/EU of the Member State where the regulated market intends to perform or performs its

activity, and, without undue delay, communicate the identity of the members or participants of the regulated market that are established in that Member State.

Where the regulated market sets up a branch, the information referred to in the first subparagraph shall include:

(a) the tasks that will be carried out by the branch;

(b) the organisational structure of the branch;

(c) the address in the Member State where the regulated market intends to set up a branch;

(d) the names of those responsible for the management of the branch.

3. In the event of a change in any of the particulars communicated in accordance with paragraph 2, the market operator of a regulated market shall ensure that the regulated market gives written notice of that change to its competent authority at least seven working days before implementing the change. That competent authority shall notify that change to the authority designated pursuant to Article 67 of Directive 2014/65/EU of the Member State where the regulated market performs its activity.

4. Member States shall not impose any further legal or administrative requirements in relation to the cross-border activity of regulated markets in their territory.

CHAPTER 2

Requirements for MTFs and OTFs

Article 2p

Requirement for authorisation for MTFs and OTFs operated by a market operator

A competent authority shall authorise a market operator to operate an MTF or OTF subject to the prior verification of its compliance with the provisions set out in this Chapter.

Article 2q

Authorisation, ongoing supervision and withdrawal of authorisation of investment firms to operate MTFs or OTFs

1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, and where an applicant investment firm belongs to the same group as that investment firm or that market operator operating a significant trading venue, ESMA shall be empowered to authorise that applicant investment firm where it intends to exclusively perform the operation of an MTF or an OTF, or both.

ESMA shall, within seven months of receipt of the application, adopt a reasoned decision granting or refusing authorisation and notify the applicant investment firm and the national surveillance authority within 5 days of that decision.

ESMA shall, without undue delay following the receipt of an application, notify the relevant national surveillance authority, and make available to that

PUBLIC DRAFT

authority all supporting documents submitted by the applicant. The relevant national surveillance authority may, within three months following the notification, provide ESMA with factual and other observations that may inform ESMA in its assessment.

Where the application is not complete, ESMA shall inform the applicant as soon as possible of the additional information to be provided. For the period between the date of request for additional information by ESMA and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. ESMA may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

2. ESMA shall keep under regular review the compliance of the investment firm authorised in accordance with paragraph 1 with the requirements set out in this Regulation and Title II of Directive 2014/65/EU.

3. ESMA may withdraw the authorisation issued to an investment firm in accordance with paragraph 1 where the conditions for withdrawal set out in Article 8 of Directive 2014/65/EU are met.

Where ESMA intends to withdraw the authorisation pursuant to subparagraph 1, it shall, without undue delay, notify the relevant national surveillance authority of such intention. The relevant national surveillance authority may, within one month following the notification, provide ESMA with factual and other observations that could inform ESMA's final decision.

Where ESMA withdraws the authorisation, it shall notify the investment firm and the national surveillance authority within 5 days of that decision.

4. For the purposes of carrying out the tasks conferred on it by this Article, ESMA shall apply the national provisions transposing Directive 2014/65/EU of the home Member State of that investment firm, interpreted in a manner consistent with Union law.

5. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, an applicant investment firm that belongs to the same group as that investment firm or that market operator operating a significant trading venue and that seeks authorisation to provide investment services or perform investment activities, including but not limited to the operation of an MTF or an OTF, shall submit a request for authorisation to the competent authority of its home Member State.

The competent authority of the home Member State shall without undue delay transmit to ESMA that request and any information provided by the investment firm for the purpose of seeking authorisation to operate an MTF or OTF.

~~***ESMA shall assess whether the application for authorisation to operate an MTF or OTF is complete within 10 working days of receipt of the application.***~~

~~***Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information.***~~

~~***After assessing the application as complete, ESMA shall notify the investment firm accordingly.***~~

ESMA shall, within ~~***60 working days***~~ ***six months*** of receipt of the ~~***complete***~~ application, issue an opinion on the authorisation to operate an MTF or OTF and transmit that opinion without undue delay to the competent authority of the home Member State.

Where the application is not complete with respect to the applicant's request to operate an MTF or OTF, ESMA shall inform the applicant, in writing, as soon as possible of and specify the additional information to be provided.

Where the application is not complete with respect to the applicant's request to provide investment services or activities other than the operation of an MTF or OTF, the competent authority of the home Member State shall inform the applicant, in writing, and shall specify the additional information needed.

For the period between the date of request for additional information by ESMA or the competent authority of the home Member State and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. ESMA or the competent authority of the home Member State may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

The competent authority of the home Member State shall***, within seven months of receipt of the application,*** adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by ESMA and ~~***shall***~~ notify the investment firm ***and ESMA*** ~~***accordingly***~~ within five working days of ~~***adoption***~~ ***that decision***. The competent authority shall refuse the authorisation to operate an MTF or OTF where ESMA gives a negative opinion.

6. The competent authority of the home Member State may withdraw the authorisation referred to in the previous paragraph, where ESMA notifies it that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority withdraws the authorisation, it shall inform the investment firm ~~***accordingly***~~ ***and ESMA within five days of that decision***.

7. Paragraphs 1 to 6 shall also apply to an investment firm that belongs to the same group as a CCP or CSD that is subject to supervision by ESMA.

8. Paragraphs 1 to 7 shall apply as of when ESMA becomes the competent authority pursuant to Article 38fa.

Article 2r

Extension of authorisation for investment firms that already operate MTFs or OTFs

1. An investment firm authorised by ESMA pursuant to Article 2q(1) and seeking authorisation to extend its business to additional investment services or

activities or ancillary services not foreseen at the time of initial authorisation shall submit a request for extension of its authorisation to ESMA.

2. Where the request referred to in paragraph 1 concerns investment services or activities other than the operation of an MTF or an OTF, ESMA shall without undue delay transmit that request and any information provided by the investment firm for that purpose to the competent authority of the home Member State of the investment firm.

The competent authority ***of the home Member State of the investment firm*** ~~***referred to in subparagraph 1***~~ shall**,** ~~***assess whether the application for authorisation is complete within 10 working days of receipt of the application.***~~

~~***Where the application is not complete, the competent authority shall set a deadline by which the investment firm is to provide additional information.***~~

~~***After assessing the application as complete, the competent authority shall notify the investment firm accordingly.***~~

~~***The competent authority shall,***~~ within ~~***60***~~ ***70*** working days of receipt of the ~~***complete***~~ application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to ESMA.

Where the application is not complete, the competent authority of the home Member State of the investment firm shall inform the applicant as soon as possible, in writing, of the additional information to be provided. For the period between the date of request for additional information by the competent authority of the home Member State of the investment firm and the receipt of such additional information from the applicant, the assessment period of 70 working days shall be interrupted. The competent authority of the home Member State of the investment firm may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

ESMA shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by the competent authority ***of the home Member State of the investment firm*** and shall notify the investment firm ***and that competent authority*** ~~***accordingly***~~ within five working days of ***that decision***~~***adoption***~~. ESMA shall refuse the extension of the authorisation where the competent authority gives a negative opinion.

3. Without prejudice to Article 2q(3), ESMA shall withdraw the authorisation referred to in Article 2q in relation to services or activities referred to in paragraph 1, where the competent authority ***of the home Member State of the investment firm*** provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the investment services or activities referred to in paragraph 1. Where ESMA withdraws the authorisation, it shall inform the investment firm ~~***accordingly***~~***and the competent authority of the home Member State within five days of that decision***.

4. When carrying out the tasks conferred on it by this Article, ESMA shall apply the national provisions transposing Directive 2014/65/EU of the home Member State of that investment firm, interpreted in a manner consistent with Union law.

5. Paragraphs 1 to 4 shall apply as of when ESMA becomes the competent authority pursuant to Article 38fa.

Article 2s

Extension of authorisation for investment firms that intend to operate MTFs or OTFs

1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, an applicant investment firm that belongs to the same group as that investment firm or that market operator operating a significant trading venue and that seeks an extension of its authorisation for the purpose of the operation of an MTF or an OTF, shall submit a request for extension to the competent authority of its home Member State.

The competent authority of the home Member State shall without undue delay transmit to ESMA that request and any information provided by the investment firm for that purpose.

~~***ESMA shall assess whether the application for authorisation is complete within 10 working days of receipt of the application.***~~

~~***Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information.***~~

~~***After assessing the application as complete, ESMA shall notify the investment firm accordingly.***~~

ESMA shall, within ~~***60***~~ ***70*** working days of receipt of the ~~***complete***~~ application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to the competent authority of the home Member State.

Where the application is not complete, ESMA shall inform the applicant, in writing, as soon as possible of the additional information to be provided. For the period between the date of request for additional information by ESMA and the receipt of such additional information from the applicant, the assessment period of 70 working days shall be interrupted. ESMA may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

The competent authority of the home Member State shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by ESMA and shall notify the investment firm ***and ESMA*** ~~***accordingly***~~ within five working days of ***that decision***~~***adoption***~~. The competent authority shall refuse the extension of the authorisation where ESMA gives a negative opinion.

PUBLIC DRAFT

2. Without prejudice to Article 8 of Directive 2014/65/EU, the competent authority of the home Member State shall withdraw the authorisation in relation to the operation of an MTF or an OTF, where ESMA provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority withdraws the authorisation, it shall inform the investment firm ***~~accordingly~~and ESMA within five days of that decision***.

3. Paragraphs 1 and 2 shall also apply to an investment firm that belongs to the same group as a CCP or CSD that is subject to supervision by ESMA, where that investment firm seeks an extension of its authorisation for the purpose of the operation of an MTF or an OTF.

4. Paragraphs 1 to 3 shall apply as of when ESMA becomes the competent authority pursuant to Article 38fa.

Article 2t

Ongoing supervision

1. For investment firms authorised in accordance with Article 2q(5), Article 2r and Article 2s, ESMA shall keep under regular review the compliance of the investment firm with requirements set out in this Title and, for aspects that are relevant to the operation of an MTF or OTF, with the national provisions transposing Article 16 of Directive 2014/65/EU of the home Member State of that investment firm interpreted in a manner consistent with Union law.

2. For investment firms authorised in accordance with Article 2q(5), Article 2r and Article 2s, the competent authority of the home Member State of the investment firm shall keep under regular review the compliance of the investment firm with requirements set out in the national provisions adopted in the implementation of Title II of Directive 2014/65/EU by the home Member State of that investment firm.

3. For the purposes of ensuring an effective and efficient authorisation and ongoing supervision of investment firms in accordance with Article 2q(5), Article 2r, and Article 2s, ESMA and the competent authority of the home Member State of the investment firm shall set up a cooperation arrangement.

4. Paragraphs 1 to 3 shall apply as of when ESMA becomes the competent authority pursuant to Article 38fa.

Article 2u

Compliance with the rules of the MTF or the OTF and with other legal obligations

1. Investment firms and market operators operating an MTF or an OTF shall establish transparent rules and procedures for fair and orderly trading and establish objective criteria for the efficient execution of orders. They shall have arrangements for the sound management of the technical operations of the facility, including the establishment of effective contingency arrangements to cope with risks of systems disruption.

DRAFT

2. Investment firms and market operators operating an MTF or an OTF shall establish transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems.

Where applicable, investment firms and market operators operating an MTF or an OTF shall provide, or shall be satisfied that there is access to, sufficient publicly available information to enable its users to form an investment judgement, taking into account both the nature of the users and the types of instruments traded.

3. Investment firms and market operators operating an MTF or an OTF shall comply with Article 2f(1), points (a), (f) and (g), Article 2g, Article 2h, ***Article 2ha,*** Article 2l(1), Article 2m(1), Article 2n(1), Article 2n(2), first subparagraph, and Article 2n(3), first subparagraph, and shall have in place all the necessary effective systems, procedures and arrangements to do so.

4. Article 2m(2), Article 2n(2), second, third, fourth and fifth subparagraphs, and Article 2n(3), second subparagraph, shall apply *mutatis mutandis* with respect to investment firms and market operators operating an MTF or OTF.

5. Investment firms and market operators operating an MTF or an OTF shall clearly inform its members or participants of their respective responsibilities for the settlement of the transactions executed in that facility. Investment firms and market operators operating an MTF or an OTF shall put in place the necessary arrangements to facilitate the efficient settlement of the transactions concluded under the systems of that MTF or OTF.

6. Where a transferable security that has been admitted to trading on a regulated market is also traded on an MTF or an OTF without the consent of the issuer, the issuer shall not be subject to any obligation relating to initial, ongoing or ad hoc financial disclosure with regard to that MTF or OTF.

7. Any investment firm and market operator operating an MTF or an OTF shall comply immediately with any instruction from its competent authority or, where ESMA is the competent authority, its national surveillance authority pursuant to Article 69(2) of Directive 2014/65/EU to suspend or remove a financial instrument from trading.

8. Investment firms and market operators operating an MTF or an OTF shall provide the competent authority with a detailed description of the functioning of the MTF or OTF, including, without prejudice to Article 2z(1), (4) and (5), any links to or participation by a regulated market, an MTF, an OTF or a systematic internaliser owned by the same investment firm or market operator, and a list of their members, participants and/or users. Competent authorities shall make that information available to ESMA and, where ESMA is the competent authority, to national surveillance authorities on request.

Article 2v

Suspension and removal of financial instruments from trading on an MTF or an OTF

1. Without prejudice to the right of the competent authority or, where ESMA is the competent authority, the national surveillance authority to demand

suspension or removal of a financial instrument from trading pursuant to Article 69(2) of Directive 2014/65/EU, an investment firm or a market operator operating an MTF or an OTF may suspend or remove from trading a financial instrument under the circumstances set out in Article 2k(1).

2. Article 2k(2) shall apply *mutatis mutandis* in the case where an investment firm or a market operator operating an MTF or an OTF suspends or removes from trading a financial instrument and the derivatives as referred to in points (4) to (10) of Section C of Annex I to Directive 2014/65/EC that relate or are referenced to that financial instrument.

Article 2w

Cross-border activity of MTFs and OTFs

Article 2o shall apply *mutatis mutandis* with respect to an investment firm or a market operator operating an MTF or an OTF.

Article 2x

Specific requirements for MTFs

1. Investment firms and market operators operating an MTF, in addition to meeting the requirements laid down in Articles 16 of Directive 2014/65/EU and of this Regulation, shall establish and implement non-discretionary rules for the execution of orders in the system.

2. When complying with Article 2l(1), investment firms and market operators operating an MTF shall ensure that the rules governing access to an MTF comply with the conditions established in Article 2l(3).

When admitting as members or participants persons that are already members or participants of another regulated market or MTF, investment firms and market operators operating an MTF shall deem that those persons comply with Article 2l(3), point (a), without any further assessment. Investment firms and market operators operating an MTF shall also deem that those persons comply with points Article 2l(3), points (b) and (c), without any further assessment, where they request to become members or participants with respect to trading in a class of financial instruments for which they are already members or participants of another regulated market or MTF.

3. Investment firms and market operators operating an MTF shall:

(a) have arrangements to be adequately equipped to manage the risks to which it is exposed, to implement appropriate arrangements and systems to identify all significant risks to its operation, and to put in place effective measures to mitigate those risks;

(b) have arrangements to facilitate the efficient and timely finalisation of the transactions executed under its systems; and

(c) have available, at the time of authorisation and on an ongoing basis, sufficient financial resources to facilitate its orderly functioning, having regard to the nature and extent of the transactions concluded on the market and the range and degree of the risks to which it is exposed.

DRAFT

Where, for the purposes of compliance with the requirements under points (a), and (b) of the first subparagraph of this paragraph, an investment firm or a market operator operating an MTF deploys resources of or relies on the performance of functions by another entity located in the Union that belongs to the same group as that investment firm or market operator, reliance on that entity shall not constitute outsourcing for the purpose of this Regulation, provided that the conditions set out in paragraph 3a are met. The location within the Union of the entity that deploys resources or performs functions for the compliance by a market operator with the requirements under points (a), and (b), of the first subparagraph of this paragraph shall not be relevant in the assessment of that compliance by the competent authority.

3a. The reliance of an investment firm or a market operator operating an MTF on another entity located in the Union and that belongs to the same group as that investment firm or market operator shall not constitute outsourcing pursuant to paragraph 3, provided that the following conditions are fulfilled:

(a) the investment firm or the market operator operating an MTF and another entity in the group that will deploy its resources or will perform functions for that investment firm or that market operator have put in place arrangements to ensure that that entity within the same group cooperates with the competent authority of the investment firm or the market operator operating an MTF in connection with that deployment of resources or with that performance of functions;

(b) the investment firm or the market operator operating an MTF has put in place adequate mechanisms to identify clearly and manage the potential adverse consequences, for the operation of the MTF or for its members or participants, of any conflict of interest between the investment firm or the market operator operating an MTF and another entity in the group that will deploy its resources or will perform functions for that MTF.

When deploying resources of or relying on the performance of functions by another entity within the same group, the investment firm or the market operator operating an MTF shall remain fully responsible for discharging all of their obligations under this Regulation and under Directive 2014/65/EU.

Member States shall not impose any additional requirements for the deployment of resources or reliance on the performance of functions, pursuant to paragraph 3, by another entity located in the Union within the same group as the investment firm or the market operator operating an MTF.

4. Articles 24, 25, Article 27(1), (2) and (4) to (10) and Article 28 of Directive 2014/65/EU shall not apply to the transactions concluded under the rules governing an MTF between its members or participants or between the MTF and its members or participants in relation to the use of the MTF. However, the members of or participants in the MTF shall comply with the obligations provided for in Articles 24, 25, 27 and 28 of Directive 2014/65/EU with respect to their clients when, acting on behalf of their clients, they execute their orders through the systems of an MTF.

5. Investment firms and market operators operating an MTF shall not execute client orders against proprietary capital, or engage in matched principal trading.

Article 2y

SME growth markets

1. The operator of an MTF may apply to its competent authority to have the MTF, or a segment thereof, registered as an SME growth market.

2. The competent authority may register the MTF, or a segment thereof, as an SME growth market if the competent authority receives an application as referred to in paragraph 1 and is satisfied that the conditions set out in paragraph 3 are complied with in relation to the MTF, or that the conditions in paragraph 3a are complied with in relation to a segment of the MTF.

3. MTFs shall ensure that:

(a) at least 50 % of the issuers whose financial instruments are admitted to trading on the MTF are SMEs at the time when the MTF is registered as an SME growth market and in any calendar year thereafter;

(b) appropriate criteria are set for initial and ongoing admission to trading of financial instruments of issuers on the market;

(c) on initial admission to trading of financial instruments on the market there is sufficient information published to enable investors to make an informed judgment about whether or not to invest in the financial instruments, either through an appropriate admission document or a prospectus if the requirements laid down in Regulation (EU) 2017/1129are applicable in respect of a public offer being made in conjunction with the initial admission to trading of the financial instrument on the MTF;

(d) there is appropriate ongoing periodic financial reporting by or on behalf of an issuer on the market, for example audited annual reports;

(e) issuers on the market as defined in Article 3(1), point (21), of Regulation (EU) No 596/2014, persons discharging managerial responsibilities as defined in point Article 3(1), point (25), of Regulation (EU) No 596/2014 and persons closely associated with them as defined in Article 3(1), point (26), of Regulation (EU) No 596/2014 comply with relevant requirements applicable to them under Regulation (EU) No 596/2014;

(f) regulatory information concerning the issuers on the market is stored and disseminated to the public;

(g) there are effective systems and controls aiming to prevent and detect market abuse on that market as required under the Regulation (EU) No 596/2014.

3a. The relevant segment of the MTF shall be subject to effective rules, systems and procedures which ensure that the conditions set out in paragraph 3 and all of the following conditions have been complied with:

PUBLIC DRAFT

(a) the segment of the MTF registered as "SME growth market" is clearly separated from the other market segments operated by the investment firm or market operator operating the MTF, which is, inter alia, indicated by a different name, different rulebook, different marketing strategy, and different publicity, as well as a specific allocation of the market identification code to the segment registered as SME growth market segment;

(b) the transactions made on the SME growth market segment concerned are clearly distinguished from other market activity within the other segments of the MTF;

(c) upon the request of the competent authority of the MTF, the MTF shall provide a comprehensive list of the instruments listed on the SME growth market segment concerned, as well as any information on the operation of the SME growth market segment that the competent authority may request.

4. Compliance by the investment firm or market operator operating the MTF, or a segment thereof, with the conditions laid down in paragraphs 3 and 3a is without prejudice to compliance by that investment firm or market operator with other obligations under this Regulation and under Directive 2014/65/EU relevant to the operation of MTFs. Without prejudice to paragraph 7, the investment firm or market operator operating the MTF, or a segment thereof, may impose additional conditions.

5. The competent authority of an MTF may deregister an MTF, or a segment thereof, as an SME growth market in any of the following cases:

(a) the investment firm or market operator operating the MTF, or a segment thereof, applies for its deregistration;

(b) the conditions in paragraph 3 or 3a are no longer complied with in relation to the MTF, or a segment thereof.

6. If a competent authority of an MTF registers or deregisters an MTF, or a segment thereof, as an SME growth market under this Article, that authority, where different from ESMA, shall as soon as possible notify ESMA of that registration or deregistration. ESMA shall publish on its website a list of SME growth markets and shall keep that list up to date.

7. Where a financial instrument of an issuer is admitted to trading on one SME growth market, that financial instrument may also be traded on another trading venue only where the issuer has been informed and has not objected. Where the other trading venue is another SME growth market or a segment of an SME growth market, the issuer shall not be subject to any obligation relating to corporate governance, or initial, ongoing or ad hoc disclosure, with regard to that other SME growth market. Where the other trading venue is not an SME growth market, the issuer shall be informed of any obligation to which the issuer will be subject that relates to corporate governance, or initial, ongoing or ad hoc disclosure, with regard to the other trading venue.

DRAFT

Article 2z

Specific requirements for OTFs

1. Investment firms and market operators operating an OTF shall establish arrangements preventing the execution of client orders in an OTF against the proprietary capital of the investment firm or market operator operating the OTF or of any entity that is part of the same group or legal person as the investment firm or market operator.

2. Investment firms and market operators operating an OTF may engage in matched principal trading in bonds, structured finance products, emission allowances and certain derivatives only where the client has consented to the process.

Investment firms and market operators operating an OTF shall not use matched principal trading to execute client orders in an OTF in derivatives pertaining to a class of derivatives that has been declared subject to the clearing obligation in accordance with Article 5 of Regulation (EU) No 648/2012.

Investment firms and market operators operating an OTF shall establish arrangements ensuring compliance with the definition of matched principal trading in Article 4(1), point (38), of Directive 2014/65/EU.

3. Investment firms and market operators operating an OTF may engage in dealing on own account other than matched principal trading only with regard to sovereign debt instruments for which there is not a liquid market.

4. The operation of an OTF and of a systematic internaliser shall not take place within the same legal entity. An OTF shall not connect with a systematic internaliser in a way which enables orders in an OTF and orders or quotes in a systematic internaliser to interact. An OTF shall not connect with another OTF in a way which enables orders in different OTFs to interact.

5. An investment firm or a market operator operating an OTF may engage another investment firm to carry out market making on that OTF on an independent basis.

For the purposes of this Article, an investment firm shall not be deemed to be carrying out market making on an OTF on an independent basis if it has close links with the investment firm or market operator operating the OTF.

6. The execution of orders on an OTF shall be carried out on a discretionary basis.

An investment firm or market operator operating an OTF shall exercise discretion only in either or both of the following circumstances:

(a) when deciding to place or retract an order on the OTF they operate;

(b) when deciding not to match a specific client order with other orders available in the systems at a given time, provided it is in compliance with specific instructions received from a client and with its obligations in accordance with Article 27.

PUBLIC DRAFT

For the system that crosses client orders the investment firm or market operator operating the OTF may decide if, when and how much of two or more orders it wants to match within the system. In accordance with paragraphs 1, 2, 4 and 5 and without prejudice to paragraph 3, with regard to a system that arranges transactions in non-equities, the investment firm or market operator operating the OTF may facilitate negotiation between clients so as to bring together two or more potentially compatible trading interest in a transaction.

That obligation shall be without prejudice to Article 2u and 27 of Directive 2014/65/EU.

7. The competent authority may require from an investment firm or a market operator, either when that investment firm or that market operator requests to be authorised for the operation of an OTF or on ad-hoc basis, a detailed explanation why the system does not correspond to and cannot operate as a regulated market, MTF, or systematic internaliser, a detailed description as to how discretion will be exercised, in particular when an order to the OTF may be retracted and when and how two or more client orders will be matched within the OTF. In addition, the investment firm or market operator of an OTF shall provide the competent authority with information explaining its use of matched principal trading. The competent authority shall monitor an investment firm's or market operator's engagement in matched principal trading to ensure that it continues to fall within the definition of such trading and that its engagement in matched principal trading does not give rise to conflicts of interest between the investment firm or market operator and its clients.

8. Articles 24, 25, 27 and 28 of Directive 2014/65/EU shall apply to the transactions concluded on an OTF.

CHAPTER 3

Pan-European Market Operators

Article 2za

Authorisation of Pan-European Market Operators

1. Any legal person intending to operate more than one trading venue in more than one Member State may apply with ESMA for authorisation as pan-European market operator ('PEMO') as of **[PO: please insert the date as of when ESMA becomes the competent authority pursuant to Article 38fa]**.

2. A PEMO shall be authorised by ESMA for the purposes of this Title where:

(a) the PEMO is a legal person established in the Union; and

(b) both the PEMO and the trading venues that it intends to operate meet the requirements laid down in this Title.

3. The authorisation referred to in paragraph 2 shall specify the trading venues which the PEMO is authorised to operate and the Member States where those are situated or operated. Where an authorised PEMO seeks to extend its business to operate additional trading venues, it shall submit a request to ESMA for extension of that authorisation. ***Where ESMA receives such a request, it shall also notify all relevant national surveillance authorities within five days of the receipt of that request.***

4. A PEMO shall comply at all times with the conditions for authorisation referred to in this Title. A PEMO shall, without undue delay, notify ESMA of any material changes to the conditions for authorisation, including to the list of trading venues it intends to operate.

5. ESMA shall establish a register of all PEMOs in the Union. The register shall be publicly accessible and shall contain the list of all trading venues operated by a PEMO and the Member States where those trading venues are situated or operated. It shall be updated on a regular basis.

Article 2zb

Procedures for granting authorisation as PEMO

1. An applicant seeking authorisation as PEMO shall submit an application to ESMA. That application shall contain all information necessary to enable ESMA to assess whether the PEMO has put in place, at the time of initial authorisation, all the necessary arrangements to meet its obligations pursuant to this Title.

~~***2. ESMA shall assess whether the application for authorisation is complete within 20 working days of receipt of the application.***~~

~~***3. Where the application is not complete, ESMA shall set a deadline by which the applicant PEMO is to provide additional information.***~~

~~***After assessing the application as complete, ESMA shall notify the PEMO accordingly. It shall also notify the relevant national surveillance authorities.***~~

~~***4***~~ ***2***. ESMA shall, within ~~***six***~~ ***seven*** months of receipt of ~~***a complete***~~ ***the*** application, ~~***assess the compliance of the PEMO and of the trading venues that the PEMO intends to operate with this Title. It shall***~~ adopt a reasoned decision granting or refusing authorisation and ~~***shall***~~ notify the applicant PEMO ~~***accordingly within five working days of adoption. It shall also notify***~~ ***and*** the relevant national surveillance authorities ***within five days of that decision***. ***Where the application is not complete, ESMA shall inform the applicant as soon as possible, in writing, of the additional information to be provided***.

For the period between the date of request for additional information by ESMA and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. ESMA may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

3. Following the notification referred to in the first subparagraph of paragraph 2, or following the notification referred to in Article 2za(3), ESMA shall, without undue delay, make available to the relevant national surveillance authorities all supporting documents submitted by the applicant PEMO, or by the PEMO requesting an extension of its authorisation. The relevant national surveillance authorities may, within three months following the notification, provide ESMA with factual and other observations regarding the request.

PUBLIC DRAFT

~~5~~ **4**. By way of derogation from Articles 2b and 2p, trading venues operated by a PEMO shall not seek authorisation in the Member State where they are situated or operated pursuant to Chapter 1 and Chapter 2 of this Title.

~~6~~ **5**. ~~*In cases where a PEMO intends to become the operator of a trading venue that is operated by a market operator or investment firm that is a different legal entity and that does not belong to the group to which the PEMO belongs, the PEMO shall submit, as part of its application for authorisation or its request to extend its business to operate additional trading venues, a statement by that market operator or investment firm confirming its intention to transfer the operation of the trading venue that it operates to the PEMO. The authorisation referred in Article 2za(2) shall be amended accordingly.*~~ ***Where a group or a legal entity carries out a reorganisation of its corporate structure for the purposes of seeking authorisation as a PEMO, Member States shall not subject that reorganisation to any additional direct or indirect requirements or constraints and shall not require its approval by the competent authority where the reorganisation becomes effective only after and is conditional upon the issuance of the PEMO authorisation.***

In cases where a PEMO intends to become the operator of a trading venue that is operated by a market operator or investment firm that is a different legal entity, Member States shall not put in place any additional direct or indirect requirements or constraints or require prior approval by the competent authority of that trading venue where the operation of that trading venue by the PEMO is effective only after and is conditional upon the issuance of the extension of the PEMO authorisation to cover the operation of that trading venue.

In the cases referred to in this paragraph, Article 2e(3) shall not apply.

~~7~~ **6**. The authorisation granted to a regulated market pursuant to Article 2a or to a market operator or investment firm to operate an MTF or OTF pursuant to Article 2p of this Regulation or to Article 7 of Directive 2014/65/EU shall be considered to be revoked upon entry into effect of the authorisation or of the amended plan of operations of a PEMO that covers the operation of that trading venue, in accordance with paragraph 6. A PEMO authorisation may not be combined with other authorisations for the operation of a regulated market, MTF or OTF within the same group.

Article 2zc

Withdrawal of authorisation

1. ESMA may withdraw the authorisation of a PEMO in the cases referred to in Article 2c(1).

Where ESMA intends to withdraw the authorisation of a PEMO or to remove one or more trading venues from the list of trading venues that a PEMO is authorised to operate, ESMA shall, without undue delay, notify the relevant national surveillance authorities of such intention. Those national surveillance authorities may, within one month following the notification, provide ESMA with factual and other observations that could inform ESMA's final decision.

2. Upon withdrawal of the authorisation, ESMA shall notify the relevant national surveillance authorities as well as, where relevant, the authority designated pursuant to Article 67 of Directive 2014/65/EU of the Member State where the trading venues operated by the PEMO provide their activities.

Article 2zd

Requirements for the PEMO

1. The PEMO shall comply with all requirements that apply to a market operator, pursuant to this Regulation.

2. The PEMO shall be responsible, under the supervision of ESMA and, where expressly provided for by this Regulation, of the national surveillance authorities, for ensuring that the trading venues that it operates comply with the requirements laid down in in this Regulation.

The PEMO is entitled to exercise the rights that correspond to the regulated markets that it operates by virtue of this Regulation.

For trading venues operated by a PEMO, all references made in this regulation to the competent authority of the trading venue shall be understood as a reference to ESMA.

Article 2ze

Operation of trading venues in another Member State and applicable law

1. Member States shall, without further legal or administrative requirements, allow a PEMO that is authorised pursuant to Article 2za to operate trading venues on their territory, through the freedom to provide services or through setting up a branch, provided that the operation of those trading venues is covered by the authorisation of the PEMO.

2. The PEMO shall determine, in the application for authorisation pursuant to Article 2zb, or in the request for extension of the authorisation pursuant to Article 2za(3), for each trading venue that it intends to operate, the Member State in the territory of which the trading venue shall be deemed to be situated or operated. In cases where a PEMO becomes the operator of a trading venue that is already authorised, that trading venue shall be deemed to be situated or operated in the territory of the Member State where that trading venue was initially authorised.

For matters not covered by directly applicable Union law, the national law governing the trading conducted under the systems of a trading venue operated by a PEMO shall be that of the Member State where the trading venue is deemed to be situated or operated.

3. A PEMO may make use of passporting rights under Articles 2o and 2w with respect to each trading venue that it operates.

CHAPTER 4

List of trading venues and empowerments

Article 2zf

List of trading venues

PUBLIC DRAFT

Competent authorities shall communicate to ESMA the list of trading venues authorised in their jurisdiction, including any changes thereof. ESMA shall publish and keep up-to-date a list of all trading venues, including trading venues for which ESMA is the competent authority, on its website.

Article 2zg

Regulatory technical standards and delegation

1. ESMA shall develop draft regulatory technical standards to:

~~**(a) further specify the ancillary activities referred to in Article 2a(3);**~~

(a) ~~**(b)**~~ determine the information to be provided under Article 2b(1), the information to be included in the notifications referred to in Article 2d(8), as well as the standard forms, templates and procedures for the submission of that information;

(b) ~~**(c)**~~ further specify the situation in which a person shall be deemed to be in a position to exercise, directly or indirectly, a significant influence over the management of the regulated market, in accordance with Article 2e;

(c) ~~**(d)**~~ further specify requirements to ensure that a market operator has sufficient financial resources to facilitate the orderly functioning of the regulated market that it operates, in accordance with Article 2f;

(d) ~~**(e)**~~ specify the information to be provided pursuant to Article 2zb (1)***;***

(e) specify the characteristics of frequent batch auction trading systems referred to in Article 2ha;

(f) specify the parameters to determine whether a frequent batch auction trading system is sufficiently price forming pursuant to Article 2ha;

(g) specify the information to be notified pursuant to Article 2ha(2) and (3).

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to:

(a) amend this Regulation by modifying the thresholds referred to in Article 2j(1) and (3) or the threshold referred to in paragraph 4 of that Article, or all of them, when the applicable thresholds impede liquidity on public markets taking into account financial developments;

(b) supplement this Regulation by specifying the list of circumstances constituting significant damage to the investors' interests and the orderly functioning of the market referred to in Article 2k(1) and (2);

(c) supplement this Regulation by determining circumstances that trigger an information requirement as referred to in Article 2n(2);

(d) supplement this Regulation by further specifying the conditions laid down in Article 2y(3) and (3a). Those conditions shall take into account the need to maintain high levels of investor protection in order to promote investor

confidence in those markets, while minimising the administrative burdens for issuers on the market. They shall also take into account that deregistrations are not to occur nor are registrations to be refused merely because of a temporary failure to comply with the condition laid down in paragraph 3, point (a), of that Article.

3. ESMA may develop draft regulatory technical standards to:

(a) specify the requirements to ensure trading systems of regulated markets are resilient and have adequate capacity, except the requirements related to digital operational resilience;

(b) specify the ratio referred to in Article 2g(6), taking into account factors such as the value of unexecuted orders in relation to the value of executed transactions;

(c) specify the controls concerning direct electronic access in such a way as to ensure that the controls applied to sponsored access are at least equivalent to those applied to direct market access;

(d) specify the requirements to ensure that co-location services and fee structures are fair and non-discriminatory and that fee structures do not create incentives for disorderly trading conditions or market abuse;

(e) specify the determination of where a regulated market is material in terms of liquidity in a financial instrument;

(f) specify the requirements to ensure that market making schemes are fair and non-discriminatory and to establish minimum market making obligations that regulated markets must provide for when designing a market making scheme and the conditions under which the requirement to have in place a market making scheme is not appropriate, taking into account the nature and scale of the trading on that regulated market, including whether the regulated market allows for or enables algorithmic trading to take place through its systems;

(g) specify the requirements to ensure appropriate testing of algorithms, other than digital operational resilience testing, so as to ensure that algorithmic trading systems including high-frequency algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market;

(h) specify the principles that regulated markets are to consider when establishing their mechanisms to halt or constrain trading in accordance with Article 2g(5), taking into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users, and without prejudice to the discretion of regulated markets in setting those mechanisms;

(i) specify the information that regulated markets are to disclose, including the parameters for halting trading that regulated markets are to report to competent authorities, pursuant to Article 2g(5);

(j) specify minimum tick sizes or tick size regimes for specific shares, depositary receipts, exchange-traded funds, certificates, and other similar

PUBLIC DRAFT

financial instruments where necessary to ensure the orderly functioning of markets, in accordance with the factors in Article 2h(2) and the price, spreads and depth of liquidity of the financial instruments;

(k) specify minimum tick sizes or tick size regimes for specific financial instruments other than those listed in Article 2h(1) where necessary to ensure the orderly functioning of markets, in accordance with the factors in Article 2h(2) and the price, spreads and depth of liquidity of the financial instruments.

(l) specify the characteristics of different classes of financial instruments to be taken into account by a regulated market when assessing whether a financial instrument is issued in a manner consistent with the conditions laid down in the second subparagraph of Article 2i(1) for admission to trading on the different market segments which it operates;

(m) clarify the arrangements that a regulated market is required to implement so as to be considered to have fulfilled the obligation to verify that the issuer of a transferable security complies with its obligations under Union law in respect of initial, ongoing or ad hoc disclosure obligations;

(n) clarify the arrangements that a regulated market has to establish pursuant to Article 2i(3) in order to facilitate its members or participants in obtaining access to information which has been made public under the conditions established by Union law;

(o) specify the cases in which the connection between a derivative relating or referenced to a financial instrument suspended or removed from trading and the original financial instrument implies that the derivative are also to be suspended or removed from trading, in order to achieve the objective of the suspension or removal of the underlying financial instrument and to ensure that the obligation to suspend or remove from trading derivatives referred to in Articles 2k(2) and 2v(2) is applied proportionately;

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the previous subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

4. ESMA may develop draft implementing technical standards to determine:

(a) the format and timing of the communications and publications referred to in Articles 2k(2) and 2v(2);

(b) the content and format of the description and notification referred to in Article 2g(10).

Power is conferred on the Commission to adopt the implementing technical standards referred to in the previous subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.';

(6) in Article 4, paragraph 4 is replaced by the following:

'4. Before granting a waiver in accordance with paragraph 1, competent authorities shall notify ESMA and other competent authorities of the intended use of each individual waiver and provide an explanation regarding its

DRAFT

functioning, including the details of the trading venue where the reference price is established as referred to in paragraph 1(a). Notification of the intention to grant a waiver shall be made not less than four months before the waiver is intended to take effect. Within two months following receipt of the notification, ESMA shall issue a non-binding opinion to the competent authority in question, where different from ESMA, assessing the compatibility of each waiver with the requirements established in paragraph 1 and specified in the regulatory technical standard adopted pursuant to paragraph 6. Where that competent authority grants a waiver and a competent authority of another Member State disagrees, that competent authority may refer the matter back to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010. ESMA shall monitor the application of the waivers and shall submit an annual report to the Commission on how they are applied in practice.';

(7) ~~*in Article 7(1),*~~ ***Article 7 is amended as follows:***

(a) ***in paragraph 1,*** the fourth subparagraph is replaced by the following:

'Where a competent authority that is not ESMA authorises deferred publication and a competent authority of another Member State disagrees with the deferral or disagrees with the effective application of the authorisation granted, that competent authority may refer the matter back to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.';

(b) paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

'(a) the details of transactions that investment firms, including systematic internalisers and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 6(1), including identifiers for the different types of transactions published under Article 6(1) and Article 20, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors. Where a transaction is executed on a systematic internaliser, the identifier of that systematic internaliser shall be made public, in the case of execution of a retail order referred to in Article 15(2), subparagraph 3, after an appropriate deferral period lapses;';

(ii) the following point (aa) is added:

'(aa) the deferral period after which the identifier of the systematic internaliser as referred to in point (a) shall be published, taking into account the efficiency of price formation and the need to ensure that systematic internalisers are not exposed to undue risks;';

(8) in Article 8a(2), the introductory wording is replaced by the following:

'When applying a central limit order book or a periodic auction trading system, market operators and investment firms operating an MTF or an OTF shall make public current bid and offer prices and the depth of trading interests at those prices which are advertised through their systems in respect of OTC derivatives that are denominated in euro, Japanese yen, US dollars or pounds sterling, that are not forward rate agreements or single currency interest rate basis swaps, and that:';

(9) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Before granting a waiver in accordance with paragraph 1, competent authorities shall notify ESMA and other competent authorities of the intended use of each individual waiver and provide an explanation regarding their functioning. Notification of the intention to grant a waiver shall be made not less than four months before the waiver is intended to take effect. Within two months following receipt of the notification, ESMA shall issue an opinion to the competent authority in question, where different from ESMA, assessing the compatibility of the waiver with the requirements established in paragraph 1 and specified in the regulatory technical standards adopted pursuant to paragraph 5. Where a competent authority that is not ESMA grants a waiver and a competent authority of another Member State disagrees, that competent authority may refer the matter back to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010. ESMA shall monitor the application of the waivers and submit an annual report to the Commission on how they are applied in practice.';

(b) in paragraph 4, the third subparagraph is replaced by the following:

'Before suspending, or renewing a temporary suspension of, the obligations referred to in Article 8, the relevant competent authority, where different from ESMA, shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and second subparagraphs of this paragraph.';

(10) in Article 11(2), the fifth subparagraph is replaced by the following:

'Before suspending or renewing the temporary suspension as referred to in the first subparagraph, the relevant competent authority, where different from ESMA, shall notify ESMA of its intention and provide an explanation. ESMA shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and fourth subparagraphs.';

(11) in Article 11a(2), the fifth subparagraph is replaced by the following:

'Before suspending or renewing the temporary suspension as referred to in the first subparagraph, the relevant competent authority, where different from ESMA, shall notify ESMA of its intention and provide an explanation. ESMA

DRAFT PRIC

shall issue an opinion to the competent authority as soon as practicable on whether in its view the suspension or the renewal of the temporary suspension is justified in accordance with the first and fourth subparagraphs.';

(12) in Article 14, paragraph 7 is replaced by the following:

'7. In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility of investment firms to obtain the best deal for their clients, ESMA may develop draft regulatory technical standards to specify:

(a) the arrangements for the publication of a firm quote as referred to in paragraph 1;

(b) the determination of the threshold referred to in paragraph 2, which shall take into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of price formation and which shall not be below twice the standard market size;

(c) the determination of the minimum quote size as referred to in paragraph 3, which shall not exceed 90 % of the threshold referred to in paragraph 2 and which shall not be below the standard market size;

(d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3;

(e) the standard market size as referred to in paragraph 4;

(f) the arrangements for the identification of retail orders as referred to in Article 15(2).

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.';

(13) in Article 15, paragraph 2 is replaced by the following:

'2. Systematic internalisers shall, while complying with Article 27 of Directive 2014/65/EU, execute the orders they receive from their clients in relation to the shares, depositary receipts, ETFs, certificates and other similar financial instruments for which they are systematic internalisers at the quoted prices at the time of reception of the order.

However, in justified cases, they may execute those orders at a better price provided that:

(a) the price falls within a public range close to market conditions; and

(b) in case of retail orders, they immediately, and in any event before execution, update their public quotes to reflect the price improvement.

For the purpose of the second subparagraph, a retail order is an order originating from a retail client as defined in Article 4(1), point (11) of Directive 2014/65/EU and that has a size of up to and including the threshold referred to in Article 14(2).';

PUBLIC DRAFT

(14) Article 17a is replaced by the following:

'*Article 17a*

Tick sizes for systematic internalisers

1. Systematic internalisers' quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 2h.

2. The requirements laid down in Article 2h and in Article 15(2) shall not prevent systematic internalisers from matching orders at midpoint within the current bid and offer prices.';

(15) ***Article 20(2) is replaced by the following:***

'2. The information which is made public in accordance with paragraph 1 of this Article and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 6, including the regulatory technical standards adopted in accordance with Article 7(2) points (a) and (aa). Where the measures adopted pursuant to Article 7 provide for deferred publication for certain categories of transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, that possibility shall also apply to those transactions when undertaken outside trading venues.';

(16) in Article 21(1), the following subparagraphs are added:

'The first subparagraph shall not apply to investment firms which, either on own account or on behalf of clients, conclude transactions in OTC derivatives as referred to in Article 8a(2) on a third-country trading venue that meets all the following conditions:

(a) it operates a system or facility, in which multiple third-party buying and selling interests in financial instruments are able to interact;

(b) it is subject to authorisation in accordance with the legal and supervisory framework of the third-country;

(c) it is subject to supervision and enforcement on an ongoing basis in accordance with the legal and supervisory framework of the third-country by a competent authority that is a full signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information;

(d) it has a post-trade disclosure regime in place which ensures that transactions concluded on that trading venue are published as soon as possible after the transaction was executed or, in clearly defined situations, after a deferral period;

(e) it is included in the list published by ESMA, pursuant to the third subparagraph.

ESMA shall publish and regularly update a list of third-country trading venues that fulfil the conditions laid down in points (a) to (d) of the second subparagraph.';

(17) in Article 22, paragraph 1 is replaced by the following:

PUBLIC DRAFT

‘In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, 14 to 21 and 32 which are applicable to financial instruments, and in order to prepare reports to the Commission in accordance with Article 4(4), Article 7(1), Article 9(2), Article 11(3) and Article 11a(1), ESMA and other competent authorities may require information from:

(a) trading venues;

(b) APAs; and

(c) CTPs.’;

(18) in Article 22a(1), the following sentence is added:

‘Systematic internalisers shall, with regard to shares and ETFs that are traded on a trading venue, transmit to the data centre of the CTP, as close to real time as technically possible, the data required pursuant to Article 14(1), in accordance with the requirements specified in the regulatory technical standards adopted pursuant to Article 22b(3), point (d). Those data shall be transmitted in a harmonised format, through a high-quality transmission protocol.’;

(19) in Article 22b, paragraph 1 is replaced by the following:

‘1. The data transmitted to the CTP pursuant to Article 22a(1) and the data disseminated by the CTP pursuant to Article 27h(1), point (d), shall comply with the regulatory technical standards adopted pursuant to Article 4(6), point (a), Article 7(2), point (a), Article 11(4), point (a), Article 11a(3), point (a), and Article 14(7), unless provided otherwise in the regulatory technical standards adopted pursuant to paragraph 3, points (b) and (d), of this Article.’;

(20) Article 23a is replaced by the following:

‘*Article 23a*

Accessibility of information on the European single access point

1. From 10 January 2030, the information referred to in Article 2y(3) points (c), (d), and (f), Article 14(6), Article 15(1), second subparagraph, Articles 27(1), Article 34, Articles 40(5), 42(5), 44(2), 45(6) and Article 48 of this Regulation, shall be made accessible on the European single access point (ESAP) established under Regulation (EU) 2023/2859 of the European Parliament and of the Council*. The collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be ESMA.

That information shall comply with the following requirements:

(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

(b) be accompanied by the following metadata:

(i) all the names of the investment firm, PEMO or market operator to which the information relates;

(ii) where available, the legal entity identifier of the investment firm, PEMO or market operator as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;

(iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;

(iv) an indication of whether the information contains personal data.

2. For the purposes of paragraph 1, point (b)(ii), investment firms, PEMOs and market operators shall obtain a legal entity identifier.

3. By 9 January 2030, for the purpose of making the information referred to in Article 2y(3) points (c), (d), and (f) of this Regulation accessible on ESAP, investment firms, PEMOs and market operators shall designate at least one collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 and notify ESMA thereof.

4. From 10 January 2030, the information referred to in Article 2v(2) shall be made accessible on ESAP. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be the competent authority.

That information shall comply with the following requirements:

(a) be submitted in a data extractable format, as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

(b) be accompanied by the following metadata:

(i) all the names of the investment firm, PEMO or market operator to which the information relates;

(ii) where available, the legal entity identifier of the investment firm, PEMO or market operator, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;

(iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;

(iv) an indication of whether the information contains personal data.

5. From 10 January 2030, the information referred to in Article 2u(8) and Article 34b(1) point (a) of this Regulation shall be made accessible on ESAP. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be ESMA.

That information shall comply with the following requirements:

(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

(a) be accompanied by the following metadata:

(i) all the names of the investment firm, PEMO or market operator to which the information relates;

(ii) where available, the legal entity identifier of the investment firm, PEMO or market operator, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;

PUBLIC DRAFT

(iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;

(iv) an indication of whether the information contains personal data.

---

* Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (OJ L, 2023/2859, 20.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2859/oj).';

(21) Article 25 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The operator of a trading venue shall keep at the disposal of the competent authority or, where ESMA is the competent authority, the national surveillance authority, for at least five years, the relevant data relating to all orders in financial instruments which are advertised through their systems in a machine-readable format and using a common template. The competent authority of the trading venue or, where ESMA is the competent authority, the national surveillance authority of the trading venue may request those data on an ongoing basis. The records shall contain the relevant data that constitute the characteristics of the order, including those that link an order with the executed transactions that stem from that order and the details of which shall be reported in accordance with Article 26(1) and (3). ESMA shall perform a facilitation and coordination role in relation to the access by competent authorities and national surveillance authorities to information under this paragraph. Where ESMA is the competent authority of the trading venue, it shall have the ability to request to the national surveillance authority access to that information, in order to carry out its supervisory activities.';

(b) in paragraph 3, the third subparagraph is deleted;

(22) Article 26 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the second subparagraph, the introductory wording is replaced by the following:

'The competent authorities shall, in accordance with Article 85 of Directive 2014/65/EU, establish the necessary arrangements in order to ensure that the following authorities also receive that information:';

(ii) in the second subparagraph, point (a) is replaced by the following:

'(a) the competent authority of the most relevant market in terms of liquidity for those financial instruments or, where ESMA is the competent authority, the national surveillance authority;';

(iii) in the second subparagraph, point (d) is replaced by the following:

PUBLIC DRAFT

‘(d) the competent authority responsible for the supervision of the trading venues used or, where ESMA is the competent authority, the national surveillance authority.’;

(b) paragraph 5 is replaced by the following:

‘5. The operator of a trading venue shall report to its competent authority or, where ESMA is the competent authority, to its national surveillance authority details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user not subject to this Regulation in accordance with paragraphs 1 and 3.’;

(c) in paragraph 7, the fifth subparagraph is replaced by the following:

‘The competent authority shall require the trading venue, when making reports on behalf of the investment firm, to have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, to minimise the risk of data corruption and unauthorised access and to prevent information leakage maintaining the confidentiality of the data at all times. The competent authority shall require the trading venue to maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.’;

(d) in paragraph 9, the third subparagraph is deleted;

(23) Article 27 is amended as follows:

(a) in paragraph 1, fourth subparagraph, the last sentence is replaced by the following:

‘ESMA shall give competent authorities and national surveillance authorities access without undue delay to those reference data.’;

(b) in paragraph 2, the first subparagraph is amended as follows:

(i) the introductory wording is replaced by the following:

‘In order to allow competent authorities to monitor, pursuant to Article 26, the activities of investment firms to ensure that they act honestly, fairly and professionally and in a manner which promotes the integrity of the market, ESMA shall, after consulting the competent authorities and the national surveillance authorities, establish the necessary arrangements in order to ensure that:’;

(ii) points (c) and (d) are replaced by the following:

‘(c) the financial instrument reference data received pursuant to paragraph 1 of this Article is efficiently and without undue delay transmitted to the relevant competent authorities and national surveillance authorities;

(d) there are effective mechanisms in place between ESMA and the competent authorities or, where relevant, the national surveillance authorities to resolve data delivery or data quality issues.’;

(c) in paragraph 4, the third subparagraph is replaced by the following:

‘Before deciding to take the measure referred to in the first subparagraph, ESMA shall notify the relevant competent authorities or, where relevant, national surveillance authorities.’;

(24) in Article 27h(1), the second subparagraph is deleted;

(25) in Article 27ha(2), the second subparagraph is deleted;

(26) in Article 31(3), the last sentence is replaced by the following:

‘Those investment firms and market operators shall make those records available to the relevant competent authority, relevant national surveillance authority or to ESMA promptly upon their request.’;

(27) the following Articles 34a and 34b are inserted:

‘*Article 34a*

Position management controls in commodity derivatives and derivatives of emission allowances

1. An investment firm or a market operator operating a trading venue which trades in commodity derivatives or derivatives of emission allowances shall apply position management controls, including powers for the trading venue to:

(a) monitor the open interest positions of persons;

(b) obtain information, including all relevant documentation, from persons about the size and purpose of a position or exposure entered into, information about beneficial or underlying owners, any concert arrangements, and any related assets or liabilities in the underlying market, including, where appropriate, positions held in derivatives of emission allowances or positions held in commodity derivatives that are based on the same underlying and that share the same characteristics on other trading venues and in economically equivalent contracts traded outside of a trading venue through members and participants;

(c) request a person to terminate or reduce a position, on a temporary or permanent basis, and to unilaterally take action to ensure the termination or reduction of the position where the person does not comply with such request; and

(d) require a person to provide, on a temporary basis, liquidity back into the market at an agreed price and volume with the express intent of mitigating the effects of a large or dominant position.

ESMA may develop draft regulatory technical standards to specify the content of position management controls, thereby taking into account the characteristics of the trading venues concerned.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the second subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

2. The position management controls shall be transparent and non-discriminatory, specifying how they apply to persons and taking account of the nature and composition of market participants and of the use they make of the contracts submitted to trading.

PUBLIC
DRAFT

3. The investment firm or market operator operating the trading venue shall inform its competent authority of the details of position management controls.

Where ESMA is not the competent authority, the competent authority shall communicate the same information to ESMA, which shall publish and maintain on its website a database with summaries of the position management controls.

Article 34b

Position reporting by trading venues by categories of position holders

1. An investment firm or a market operator operating a trading venue which trades in commodity derivatives or in derivatives of emission allowances shall:

(a) make public:

(i) for trading venues where options are traded, two weekly reports, one of which is to exclude options, with the aggregate positions held by the different categories of persons for the different commodity derivatives or derivatives of emission allowances traded on their trading venue, specifying the number of long and short positions by such categories, changes thereto since the previous report, the percentage of the total open interest represented by each category, and the number of persons holding a position in each category in accordance with paragraph 4;

(ii) for trading venues where options are not traded, a weekly report on the elements set out in point (i);

(b) provide the competent authority or, where ESMA is the competent authority, the national surveillance authority with a complete breakdown of the positions held by all persons, including the members or participants and the clients thereof, on that trading venue, at least on a daily basis.

The obligation laid down in point (a) shall only apply when both the number of persons and their open positions exceed minimum thresholds.

Position reporting shall not be applicable to any other securities as referred to in point (c) of point (44) of Article 4(1) of Directive 2014/65/EU that relate to a commodity or an underlying as referred to in Section C.10 of Annex I of that Directive.

An investment firm or a market operator operating a trading venue which trades in commodity derivatives or in derivatives of emission allowances shall communicate the reports referred to in point (a) of the first subparagraph to the competent authority and, where ESMA is not the competent authority, to ESMA. ESMA shall proceed with a centralised publication of the information included in those reports.

2. Persons holding positions in a commodity derivative or in a derivative of emission allowance shall be classified by the investment firm or market operator operating that trading venue according to the nature of their main business, taking account of any applicable authorisation, as either:

(a) investment firms or credit institutions;

(b) investment funds, either an undertaking for collective investments in transferable securities (UCITS) as defined in Directive 2009/65/EC, or an alternative investment fund manager as defined in Directive 2011/61/EC;

PUBLIC DRAFT

(c) other financial institutions, including insurance undertakings and reinsurance undertakings as defined in Directive 2009/138/EC, and institutions for occupational retirement provision as defined in Directive (EU) 2016/2341;

(d) commercial undertakings;

(e) in the case of derivatives of emission allowances, operators with compliance obligations under Directive 2003/87/EC.

The reports referred to in paragraph 1, point (a), shall specify the number of long and short positions by category of persons, any changes thereto since the previous report, percent of total open interest represented by each category, and the number of persons in each category.

The reports referred to in paragraph 1, point (a), shall differentiate between:

(a) positions identified as positions which in an objectively measurable way reduce risks directly relating to commercial activities; and

(b) other positions.

3. ESMA may develop draft implementing technical standards to determine the format of the reports referred to in paragraph 1, point (a).

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

In the case of derivatives of emission allowances, the reporting shall not prejudice the compliance obligations under Directive 2003/87/EC.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to supplement this Regulation by specifying the thresholds referred to in the second subparagraph of paragraph 1 of this Article, having regard to the total number of open positions and their size and the total number of persons holding a position.

5. ESMA may develop draft implementing technical standards to specify the measures to require all reports referred to in paragraph 1, point (a), to be sent to ESMA at a specified weekly time, for their centralised publication by the latter.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.';

(28) the title of Title VI is amended as follows:

'**NON-DISCRIMINATORY ACCESS TO TRADING VENUES, CSDs AND CCPs**';

(29) the following Article 34c is inserted:

'*Article 34c*

Right to designate a CSD

Market operators and investment firms operating a trading venue shall offer all their members or participants the right to designate any CSD established in the Union for

the settlement of transactions in financial instruments undertaken on that trading venue~~.~~, ***where that CSD:***

i. has been granted access to that trading venue pursuant to Article 53 of Regulation (EU) No 909/2014, and

ii. has in place the necessary arrangements to settle those transactions.';

(30) Articles 35 and 36 are replaced by the following:

'*Article 35*

Non-discriminatory access by a trading venue to a CCP

1. Without prejudice to Article 7 of Regulation (EU) No 648/2012, a CCP shall accept to clear financial instruments on a non-discriminatory and transparent basis, including as regards collateral requirements and initial connectivity and access fees, regardless of the trading venue on which a transaction is executed.

The requirement in the first subparagraph shall not apply to exchange-traded derivatives.

The CCP shall in particular ensure that a trading venue has the right to non-discriminatory treatment of contracts traded on that trading venue in terms of:

(a) collateral requirements and netting of economically equivalent contracts, where the inclusion of such contracts in the close-out and other netting procedures of a CCP based on the applicable insolvency law would not endanger the smooth and orderly functioning, the validity or enforceability of such procedures; and

(b) cross-margining with correlated contracts cleared by the same CCP under a risk model that complies with Article 41 of Regulation (EU) No 648/2012.

A CCP may require that the trading venue complies with the operational and technical requirements established by the CCP including the risk management requirements. The requirement in this paragraph does not apply to any derivative contract that is already subject to the access obligations under Article 7 of Regulation (EU) No 648/2012.

2. A trading venue seeking to access a CCP's services shall submit its request to the CCP. The request shall specify the financial instruments for which the clearing is requested. The trading venue shall inform ESMA and the competent authority of the CCP and of the trading venue, where different from ESMA, of such a request***, via the central database***.

3. The CCP shall provide a written response to the trading venue within three months of the receipt of the request referred to in paragraph 2, either permitting or denying access.

4. The CCP may deny a request for access only where such access would affect the smooth and orderly functioning of the markets or cause systemic risk, based on a comprehensive risk assessment subject to the conditions laid down in the delegated act adopted pursuant to paragraph 6, point (a) of Article 36. The CCP shall not deny a request on grounds of a possible loss of revenue in respect of itself or of another entity that belongs to the same group. ***The CCP may charge a reasonable commercial***

fee for the establishment of such access link on a cost recovery basis, unless otherwise agreed by both parties.

Where the CCP fails to provide a written response to the trading venue within the time limit referred to in paragraph 3, ***the trading venue shall inform ESMA via the central database. Upon such communication,*** ESMA may ~~***notify the CCP and***~~ request ~~***additional***~~ information from the CCP ***or the trading venue***. Where there is no indication that the conditions for denial of request as laid down in the delegated act adopted pursuant to paragraph 6 of Article 36 are met, ESMA may issue***, via the central database,*** a decision requiring that CCP to grant access to its services within one month of the notification of the decision.

Where the CCP denies access, the written response shall provide a detailed explanation of the reasons for denied access, based on the comprehensive risk assessment referred to in the first subparagraph. ~~***The CCP shall i***~~***I***mmediately after providing the written response to the trading venue, ~~***and in writing,***~~ ***the CCP shall*** inform***, via the central database,*** ESMA and the competent authorities referred to in paragraph 2 of that decision.

5. Where the CCP has denied access, ***or where the CCP and the trading venue disagree on the conditions for such access, including on the fee charged for the establishment of the access link referred to in paragraph 4***, the trading venue may submit a complaint to ESMA***, via the central database***.

ESMA shall assess the reasons for denied access and, within one month of the date of the complaint, provide the trading venue with a reasoned reply. ESMA may consult the competent authorities referred to in paragraph 2 when preparing its reply. Where ESMA concludes that the refusal by the CCP to grant access is unjustified, where there is no indication that the conditions for denial of request as laid down in the delegated act adopted pursuant to paragraph 6 of Article 36 are met, ESMA shall issue***, via the central database,*** a decision requiring the CCP to grant access to its services within one month of the notification of that decision.

A CCP that grants access to a trading venue shall ensure that the access is fully operational within three months of the receipt of the positive response to the request for access. ***This period may be extended by up to one month where both parties agree.***

Article 36

Non-discriminatory access to trading venues by CCPs

1. Without prejudice to Article 8 of Regulation (EU) No 648/2012, a trading venue shall, upon request, provide trade feeds on a non-discriminatory and transparent basis, including as regards initial connectivity and access fees, to any CCP authorised or recognised pursuant to that Regulation that wishes to clear transactions in financial instruments that are concluded on that trading venue. That requirement shall not apply to:

(a) any derivative contract that is already subject to the access obligations laid down in Article 8 of Regulation (EU) No 648/2012;

(b) exchange-traded derivatives.

2. A CCP seeking to access a trading venue shall submit its request to the trading venue. The CCP shall inform***, via the central database,*** ESMA and the competent authority of the trading venue and of the CCP, where different from ESMA, of such a request.

3. The trading venue shall provide a written response to the CCP within three months of the receipt of the request referred to in paragraph 2, either permitting or denying access.

4. The trading venue may deny a request for access only where such access would affect the smooth and orderly functioning of the markets or cause systemic risk, based on a comprehensive risk assessment subject to the conditions laid down in the delegated act adopted pursuant to paragraph 6, point (a). The trading venue shall not deny a request on grounds of a possible loss of revenue in respect of itself or of another entity that belongs to the same group. In addition, it shall not restrict access to specific trade feeds on the ground that the counterparties to a specific transaction have not chosen the same CCP, where the CCPs of their choice have already entered into an interoperability arrangement pursuant to Article 51 of Regulation (EU) No 648/2012. ***The trading venue may charge a reasonable commercial fee for the establishment of such access link on a cost recovery basis, unless otherwise agreed by both parties.***

Where the trading venue fails to provide a written response to the CCP within the time limit referred to in paragraph 3, ***the CCP shall inform ESMA via the central database. Upon such communication,*** ESMA may ~~***notify the trading venue and***~~ request ~~***additional***~~ information from the trading venue ***or the CCP***. Where there is no indication that the conditions for denial of request as laid down in the delegated act adopted pursuant to paragraph 6 of are met, ESMA may issue***, via the central database,*** a decision requiring that trading venue to grant access to its services within one month of the notification of the decision.

Where the trading venue denies access, the written response shall provide a detailed explanation of the reasons for denied access, based on the comprehensive risk assessment referred to in the first subparagraph. ~~***The trading venue shall i***~~***I***mmediately after providing the written response to the CCP, ~~***and in writing,***~~ ***the trading venue shall*** inform***, via the central database,*** ESMA and the competent authorities referred to in paragraph 2 of that decision.

5. Where the trading venue has denied access, ***or where the trading venue and the CCP disagree on the conditions for such access, including on the fee charged for the establishment of the access link referred to in paragraph 4,*** the CCP may submit a complaint to ESMA, ***via the central database***.

ESMA shall assess the reasons for denied access and, within one month of the complaint, provide the CCP with a reasoned reply. ESMA may consult the competent authorities referred to in paragraph 2 when preparing its reply. Where ESMA concludes that the refusal by the trading venue to grant access is unjustified, where there is no indication that the conditions for denial of request as laid down in the delegated act adopted pursuant to paragraph 6 are met, ESMA shall issue***, via the central database,*** a decision requiring the trading venue to grant access to its trade feeds within one month of the notification of that decision.

A trading venue that grants access to a CCP shall ensure that access is fully operational within three months of the recepit of the positive response to the request for access. ***This period may be extended by up to one month where both parties agree.***

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to supplement this Regulation to specify:

(a) the specific risks to be taken into account by CCPs and trading venues when carrying out a comprehensive risk assessment as referred to in Article 35(3) and in paragraph 3 of this Article;

(b) the conditions under which access shall be granted by a CCP under Article 35, including the non-discriminatory***, fair*** and transparent basis as regards initial connectivity ***fees, ~~and~~*** access fees***~~,~~ and fees for the establishment of the access link,*** clearing fees, collateral requirements and operational requirements regarding margining, and the conditions under which access shall be granted by a trading venue under this Article, including the non-discriminatory***, fair*** and transparent basis as regards initial connectivity ***fees, ~~and~~*** access fees ***and fees for the establishment of the access link***;

(c) the conditions for non-discriminatory treatment in terms of how contracts traded on that trading venue are treated in terms of collateral requirements and netting of economically equivalent contracts and cross-margining with correlated contracts cleared by the same CCP, as referred to in Article 35.

(d) parameters for initial connectivity and access fees to ensure that such fees do not directly or indirectly prevent effective access to trading feeds, in accordance with this Article, or effective access to CCPs, in accordance with Article 35.';

(31) in Title VIa, the title of Chapter 1 is replaced by the following:

'*CHAPTER 1*
Scope, competences and procedures';

(32) Articles 38a to 38f are deleted;

(33) the following Article 38fa is inserted:

'*Article 38fa*
Scope of ESMA supervision for significant trading venues and PEMOs

1. ESMA shall be the competent authority for:

(a) PEMOs;

(b) market operators that operate at least one significant trading venue or that are part of the same group of a CSD or CCP for which ESMA is the competent authority pursuant to Regulation (EU) No 909/2014 or Regulation (EU) No 648/2012;

(c) investment firms that operate at least one significant trading venue or that are part of the same group of a CSD or CCP for which ESMA is the competent authority pursuant to Regulation (EU) No 909/2014 or Regulation (EU) No 648/2012 with respect to the operation of MTFs or OTFs.

A trading venue shall be considered significant where all of the following conditions are met:

(a) the trading venue is important for the economy of the Union as referred to in Article 38fb(1); and

(b) the trading venue has a significant cross-border dimension as referred to Article 38fb(2).

Where ESMA is the competent authority for a PEMO, a market operator or an investment firm pursuant to the first subparagraph, ESMA shall also be the competent authority for all trading venues operated by those entities.

Where ESMA is the competent authority pursuant to the first subparagraph for an investment firm or a market operator operating a significant trading venue, and where that investment firm or market operator belongs to a group that comprises other trading venues, ESMA shall be the competent authority for all trading venues, as well as for market operators or investment firms operating those trading venues, that are part of the group of that investment firm or that market operator operating a significant trading venue.

ESMA shall be empowered with the supervisory, investigatory and enforcement powers necessary for the exercise of its functions over the entities referred to in this paragraph to be exercised in accordance with Regulation (EU) No 1095/2010.

2. By way of derogation from paragraph 1, national surveillance authorities as defined in Article 2(1), point (18a), shall be responsible for monitoring compliance with Articles 2g(5), fourth subparagraph, Article 2k(1) and (2), Article 2u(7), Article 2v(1) and (2), Article 25(2), Article 26(5), Article 26(7), first and last subparagraph, and Article 34b by entities subject to ESMA supervision.

National surveillance authorities shall be able to exercise the powers conferred on national competent authorities under Title VI of Directive 2014/65/EU, including the power to adopt sanctions and other administrative measures in case of infringements of the provisions referred to in the previous subparagraph.';

(34) the following Article 38fb is inserted:

'*Article 38fb*

Methodology, transitional plans and list of significant trading venues

1. For the purposes of Article 38fa(1), a trading venue shall be considered important for the economy of the Union where the ratio between the trading volume on that trading venue or, where the trading venue is part of a group, the aggregated trading volume at group level, and the total trading volume on trading venues in the Union is equal to or greater than 5 % for any of the following classes of financial instruments:

(a) shares;

(b) ETFs;

(c) bonds;

(d) derivatives relating to any of the following:

(i) equity;

(ii) credit;

(iii) interest rate;

(iv) currency; or

(v) commodities.

2. For the purposes of Article 38fa(1), a trading venue shall be considered to have a significant cross-border dimension when it meets at least one of the following conditions:

(a) the trading venue is part of a group that includes at least one of the following undertakings that is authorised to operate in a Member State other than the Member State where that trading venue is situated or operated:

(i) another trading venue;

(ii) a CSD; or

(iii) a CCP;

(b) for the classes of financial instruments referred to in paragraph 1, points (a), (b) and (c), the ratio between the trading volume on the trading venue in those financial instruments for which the competent authority of the most relevant market referred to in Article 26 is different from the competent authority of the trading venue, and the total trading volume in all financial instruments belonging to the same class on that trading venue is equal to or greater than 50 %;

(c) for the classes of financial instruments referred to in paragraph 1, point (d), the ratio between the number of transactions on that trading venue in those financial instruments for which at least one of the counterparties to the transaction is located in a Member State that is different from the one where the trading venue is situated or operated and the total number of transactions in all financial instruments belonging to the same class on that trading venue is equal to or greater than 50%.

3. Without prejudice to Article 38fa(1), and paragraphs 1 and 2 of this Article, a trading venue shall be considered significant where the ratio between the trading volume in any class of financial instruments, as referred to in paragraph 1 of this Article, on that trading venue or, where the trading venue is part of a group, at group level, and the total trading volume in the Union in that class of financial instruments is equal to or greater than 50 %.

4. ESMA shall identify the trading venues that are considered significant pursuant to the methodology set out in paragraphs 1, 2 and 3. ESMA shall analyse market developments every twelve months starting from [OP*: please insert date = date 24 months after the entry into force of this Regulation*] to determine whether trading venues operating in the Union meet the conditions set out in paragraphs 1 and 2, or the condition set out in paragraph 3.

If ESMA concludes that a trading venue meets the conditions set out in paragraphs 1 and 2, or the condition set out in paragraph 3, it shall, without undue delay, notify the trading venue and its competent authority thereof. ESMA and the competent authority of a trading venue that is considered significant shall establish a supervisory transition plan to ensure a smooth and orderly transfer of competences and duties to ESMA. The effective date of the transfer of competences shall be no later than one year following

PUBLIC DRAFT

the date of the notification by ESMA referred to in this paragraph, and in any event not earlier than [OP: *please insert date = 2 years after entry into force of this Regulation*].

5. ESMA shall verify whether the trading venues under its supervision continue to meet the conditions set out in paragraphs 1 and 2, or the condition set out in paragraph 3, every 12 months starting in the year following the first full calendar year after the date on which ESMA became the competent authority for significant trading venues.

If ESMA concludes that a significant trading venue no longer meets the conditions set out in paragraphs 1 and 2 or the condition set out in paragraph 3 over a period of three consecutive years, it shall, without undue delay, notify the trading venue and its national surveillance authority of that situation.

6. The national surveillance authority shall, within three months of receipt of the notification referred to in the second subparagraph of paragraph 5, notify ESMA and the trading venue of whether the trading venue shall remain under ESMA supervision or become exclusively subject to national supervision.

Where the national surveillance authority concludes that the trading venue shall be subject to national supervision, it shall, jointly with ESMA prepare a supervisory transition plan before taking over ESMA's supervisory competences and duties. The supervisory transition plan shall include all transitional arrangements necessary for the smooth and orderly transfer of competences and duties between ESMA and national surveillance authorities as well as an effective date, by which the transfer of such competences and duties shall apply.

The national surveillance authority shall become the competent authority of the trading venue on the effective date of the transfer of competences and duties to that national surveillance authority. For the transfer of supervision to be effective, ESMA and the national surveillance authority shall formally agree that the conditions for a smooth and orderly transfer of competences have been met. The effective date of the transfer of competences shall be no later than one year following the date of the notification by the national surveillance authority referred to in the second subparagraph of paragraph 5.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to supplement this Regulation by:

(a) specifying the methodology to calculate the ratios as referred to in paragraphs 1 to 3, including the time periods to be used for such calculations, to determine whether an investment firm or market operator operates a significant trading venue;

(b) specifying and supplementing the classes of financial instruments referred to in paragraph 1;

(c) specifying the necessary procedural steps, including the contents of the supervisory transition plans referred to in the second subparagraphs of paragraphs 5 and 6, to ensure a smooth and orderly transfer of competences and duties.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to amend any of the thresholds referred to in paragraph 1, paragraph 2, point (b), and paragraph 3 in light of market developments.

9. ESMA shall establish a list of all significant trading venues and their operators that shall be subject to its supervision pursuant to Article 38fa(1) and publish it on its website.

ESMA shall regularly, update the list published on its website as referred to in the first subparagraph.';

(35) the following Articles 38fc and 38fd are inserted:

'*Article 38fc*

General investigations and supervisory powers

1. In order to carry out its duties under this Regulation, ESMA may conduct, in accordance with the procedure set out in Article 39c of Regulation (EU) No 1095/2010, necessary investigations of the following persons:

(a) an APA, a CTP, an ARM, and an investment firm or a market operator operating a trading venue and also providing the services of an APA, a CTP or an ARM, where they are supervised by ESMA, and the persons that control them or are controlled by them;

(b) an investment firm, a market operator, a PEMO, where they are supervised by ESMA, and the persons that control them or are controlled by them;

(c) the managers of the persons referred to in points (a) and (b);

(d) the auditors and advisors of the persons referred to in points (a) and (b).

To that end, ESMA shall be able to exercise the powers referred to in Article 39c of Regulation (EU) No 1095/2010.

2. In addition to the powers referred to in Article 39c and Article 39h(4) of Regulation (EU) No 1095/2010, and for the purpose of carrying out its duties under this Regulation as regards investment firms, market operators and PEMOs, ESMA shall be empowered to:

(a) adopt any type of measure to ensure that investment firms, market operators, PEMOs and other persons to whom this Regulation or Directive 2014/65/EU applies continue to comply with requirements under that Regulation and Directive;

(b) suspend the exercise of the voting rights attached to the shares held by persons exercising significant influence over the management of regulated markets, market operators and PEMOs that do not comply with the provisions of this Regulation;

(c) seek a judicial order for the nullity of the votes cast or for their annulment in case of acquisition of a change to the controlling interests of a regulated markets and/or a market operators or a PEMO in violation of Article 2e;

(d) require investment firms, market operators and PEMOs to amend the rules of a regulated market, MTF or OTF.

PUBLIC DRAFT

Article 38fd

Central database

1. ESMA shall establish and maintain a central database, in accordance with Article 35c of Regulation (EU) No 1095/2010, to ensure that the following entities and authorities can submit their documents and access their documents and documents addressed to them, as registered within that database:

(a) PEMOs;

(b) market operators that operate at least one significant trading venue or that are part of the same group of a CSD or CCP for which ESMA is the competent authority pursuant to Regulation (EU) No 909/2014 or Regulation (EU) No 648/2012;

(c) investment firms that operate at least one significant trading venue or that are part of the same group of a CSD or CCP for which ESMA is the competent authority pursuant to Regulation (EU) No 909/2014 or Regulation (EU) No 648/2012 with respect to the operation of MTFs or OTFs;

(d) other trading venues that belong to the same group as market operators and investment firms referred to in points (b) and (c);

(da) CCPs and trading venues for the purpose of transmitting information to ESMA and competent authorities, or for the purpose of receiving information from ESMA and competent authorities, under Articles 35 and 36;

(e) relevant national surveillance authorities of the entities referred to in points (a) to (d);

(f) ESMA;

(g) relevant national competent authority referred to in Article 2q to Article 2t of this Regulation;

(h) any other recipients, as specified under this Regulation.

2. ESMA shall ensure that the central database performs the functions set out in this Article. ESMA shall announce the establishment of the central database on its website.

3. The entities and authorities referred to in paragraph 1 shall submit the following information via the central database:

(a) any information related to authorisations of the entities referred to in paragraph 1, points (a) to (d), where those authorisations are issued pursuant to this Regulation;

(b) any information or questions formally submitted to or any information formally requested from any of the entities and authorities referred to in paragraph 1, pursuant to matters covered by this Regulation and where submitted or requested after the date of the application of this Regulation;

(c) information on the existing authorisations of entities referred to paragraph 1, points (b) to (d), where issued prior to the date of the application of this Regulation~~.~~***;***

PUBLIC DRAFT

(d) ***any information to be submitted to or received from ESMA and competent authorities, as required under Articles 35 and 36.***

Where information is submitted to authorities referred to in paragraph 1, points (e) to (g), an acknowledgement of receipt shall be sent via the central database within two working days of receipt of the information.

4. Where any of the authorities referred to in paragraph 1, points (e) to (g), is required to notify each other of the information referred to in paragraph 3, that requirement for notification shall be considered complied with where the relevant documents or information subject to that notification is submitted to the database, provided the recipient of that notification has access to those documents and information via the database.

5. The central database shall be designed to automatically inform the entities and authorities referred to in paragraph 1 when changes have been made to its content, including the uploading, deletion or replacement of documents, submission of questions and requests for information.';

(36) Article 38g is amended as follows:

(a) the title is replaced by the following:

'Article 38g
Sanctions for infringements';

(b) paragraph 1 is replaced by the following:

'1. Where ESMA finds that a person listed in Article 38fc(1), point (a), has not complied with any of the requirements laid down in Articles 20 to 22c, or in Title IVa, it shall take one or more of the following actions:

(a) adopt a decision requiring the person to bring the infringement to an end;

(b) adopt a decision imposing fines pursuant to Article 38g of this Regulation or periodic penalty payments pursuant to Article 39g of Regulation (EU) No 1095/2010;

(c) issue public notices.';

(c) the following paragraphs 1a and 1b are inserted:

'1a. ESMA shall take one or more of the actions referred to in paragraph 1b, where it finds that a person listed in Article 38fc(1), point (b), has not complied with one or more of the requirements laid down in:

(a) Article 2a(1), (3) and (4);

(b) Article 2d(1) to (6) and (8);

(c) Article 2e(1) and (2);

(d) Article 2f(1), (1a) and (2);

(e) Article 2g(1) to (4), Article 2g(5), first, second and third subparagraphs, Article 2g(6) to (8), Article 2g(9), the first subparagraph, and Article 2g(10), first subparagraph, the first sentence and second sentence , and the second subparagraph ;

(f) Article 2h(1);

(g) Article 2i(1), first and second subparagraphs, Article 2i(2) to (4), and Article 2i(5), the second sentence;

(h) Article 2j(1) and (4);

(i) Article 2l(1), (2), (3), (3a), (5) and (6);

(j) Article 2m;

(k) Article 2n(1), Article 2n(2), first subparagraph, and Article 2n(3), first subparagraph;

(l) Article 2o(2), first subparagraph, the first sentence, and Article 2o(3), the first sentence;

(m) Article 2q(5);

(n) Article 2r(1);

(o) Article 2s(1);

(p) Article 2u(1) to (5) and (8);

(q) Article 2w;

(r) Article 2x(1) to (3), Article 2x(3a), first and second subparagraphs, and Article 2x(5);

(s) Article 2y(3),(3a) and (7);

(t) Article 2z(1) to (4), Article 2z(6), first and second subparagraphs, and Article 2z(7), the first and second sentences;

(u) Article 2za(3) and (4);

(v) Article 2zd(1) and (2);

(w) Article 3(1) and (3);

(x) Article 4(3), first subparagraph;

(y) Article 5;

(z) Article 6;

(za) Article 7(1), third subparagraph, the first sentence;

(zb) Article 8(1);

(zc) Article 8a(1) and (2);

(zd) Article 8b;

(ze) Article 10;

(zf) Article 11(1), second subparagraph, the first sentence, Article 11(1a), second subparagraph, Article 11(1b) and Article 11(3), fourth subparagraph;

(zg) Article 11a(1), second subparagraph, the first sentence, and Article 11a(1), fourth subparagraph;

PUBLIC DRAFT

(zh) Article 12(1);

(zi) Article 13(1) and (2);

(zj) Article 22(2);

(zk) Article 22a(1) and (5) to (8);

(zl) Article 22b(1);

(zm) Article 22c(1);

(zn) Article 26(7), fifth subparagraph;

(zo) Article 27(1), first, second and fourth subparagraphs;

(zp) Article 29(1) and (2);

(zq) Article 30(1);

(zr) Article 31(3);

(zs) Article 34c;

(zt) Article 35(1), (2) and (3);

(zu) Article 36(1), (2) and (3);

(zv) Article 37(3);

(zw) Articles 40, 41 and 42.

1b. In cases of infringements of one or more of the requirements referred to in paragraph 1a, ESMA shall take one or more of the following actions:

(a) a public statement, which indicates the natural or legal person and the nature of the infringement;

(b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;

(c) in the case of an investment firm, a market operator or a PEMO under ESMA supervision, withdrawal or suspension of the authorisation, or part of that authorisation, in accordance with Article 8 of Directive 2014/65/EU, Article 2c, 2q(3) or 2zc of this Regulation;

(d) for investment firms that are not exclusively supervised by ESMA, a request, addressed to the competent authority of the home Member State of the investment firm, to impose a temporary or, for repeated serious infringements, a permanent ban against any member of the management body of that investment firm or any other natural person, who is held responsible, to exercise management functions in investment firms, market operators and PEMOs;

(e) a temporary or, for repeated serious infringements, a permanent ban against any member of the management body of an investment firm that is exclusively supervised by ESMA, a market operator or a PEMO or any other natural person who is held responsible, to exercise management functions in investment firms, market operators and PEMOs;

PUBLIC
DRAFT

(f) a decision imposing fines pursuant to Article 38g of this Regulation or periodic penalty payments pursuant to Article 39g of Regulation (EU) No 1095/2010.';

(d) paragraph 2 is replaced by the following:

'2. When taking the actions referred to in paragraphs 1 and 1b, ESMA shall take into account the nature and seriousness of the infringement, having regard to the criteria set out in Article 39h(3) of Regulation (EU) No 1095/2010 and shall act in accordance with the procedure referred to in paragraph 4 of that Article.';

(e) paragraph 3 is deleted;

(37) Article 38h is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. ESMA shall adopt a decision imposing a fine in accordance with paragraph 2 or paragraph 3 of this Article, where, in accordance with Article 39f(1) of Regulation (EU) No 1095/2010, it finds that:

(a) a person referred to in Article 38fc(1), point (a), has intentionally or negligently not complied with any of the requirements laid down in Article 22 to 22c, or in Title IVa; or

(b) a person referred to in Article 38fc(1), point (b), has intentionally or negligently not complied with any of the requirements referred to in Article 38g(1a).';

(b) paragraph 2 is replaced by the following:

'2. The maximum amount of the fine referred to in paragraph 1, point (a), shall be EUR 200 000 or, in the Member States whose currency is not the euro, the corresponding value in the national currency.';

(c) the following paragraph 2a is inserted:

'2a. The maximum amount of the fine referred to in paragraph 1, point (b), shall be:

(a) in the case of a legal person, up to EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on [OP insert date = *date of entry into force of this Regulation*], or up to 10 % of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

(b) in the case of a natural person, up to EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the

national currency on [OP insert date = *date of entry into force of this Regulation*];

(c) at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in points (a) and (b).';

(d) paragraph 3 is replaced by the following:

'3. When determining the level of a fine pursuant to paragraph 1, ESMA shall take into account the criteria set out in Article 38h(3) of Regulation (EU) No 1095/2010.';

(38) Articles 38i to 38m are deleted;

(39) Article 38n is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. ESMA shall charge fees to the data reporting services providers, investment firms, market operators and PEMOs under ESMA supervision in accordance with Article 39n of Regulation (EU) No 1095/2010 and in accordance with the delegated acts adopted pursuant to paragraphs 2 and 4 of this Article.';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. For data reporting services providers, the Commission shall be empowered to adopt a delegated act in accordance with Article 50 supplementing this Regulation to specify the type of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid.';

(d) the following paragraphs 4 and 5 are added:

'4. For investment firms, market operators and PEMOs under ESMA supervision, the Commission shall be empowered to adopt a delegated act in accordance with Article 50 supplementing this Regulation to specify the type of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid.

5. With respect to investment firms, market operators and PEMOs under ESMA supervision, where fees or charges are levied by the national surveillance authorities for carrying out their duties provided for by this Regulation, notably in relation to market surveillance, such fees or charges shall be consistent with the overall cost relating to the performance of the functions of that authority.';

(40) Article 38o is deleted;

(41) Article 50 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. The power to adopt delegated acts referred to in Article 1(9), Article 2(2) and (3), Article 2zg(1) and (2), Article 5(10), Article 8a(4), Article 17(3), Article 27(4) and (5), Article 31(4), Article 34b(4), Article 36(6), Article 38fb(7) and (8), Article 38n(3) and (4), Article 40(8), Article 41(8), Article 42(7), Article

45(10) and Article 52(10), (14b) and (15), shall be conferred on the Commission for an indeterminate period from 2 July 2014.

3. The delegation of power referred to in Article 1(9), Article 2(2) and (3), Article 2zg(1) and 2, Article 5(10), Article 8a(4), Article 17(3), Article 27(4) and (5), Article 31(4), Article 34b(4), Article 36(6), Article 38fb(7) and (8), Article 38n(3) and (4), Article 40(8), Article 41(8), Article 42(7), Article 45(10) and Article 52(10), (14b) and (15), may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.';

(b) paragraph 5 is replaced by the following:

'5. A delegated act adopted pursuant to Article 1(9), Article 2(2) or (3), Article 2zg(1) and (2), Article 5(10), Article 8a(4), Article 17(3), Article 27(4) or (5), Article 31(4), Article 34b(4), Article 36(6), Article 38fb(7) and (8), Article 38n(3) and (4), Article 40(8), Article 41(8), Article 42(7), Article 45(10) or Article 52(10), (14b) or (15), shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.';

(42) Article 52 is amended as follows:

(a) paragraph 14 is replaced by the following:

'14. By 30 June 2028, ESMA, in close cooperation with the expert stakeholder group established pursuant to Article 22b(2), shall assess the market demand for the consolidated tape for shares and ETFs, the impact of that consolidated tape on the functioning, attractiveness and international competitiveness of Union markets and firms, and whether the consolidated tape has delivered on its aim to decrease information asymmetries between market participants and to make the Union a more attractive location to invest. ESMA shall report to the Commission on the appropriateness of adding additional features to the consolidated tape. On the basis of that report, the Commission shall submit, where appropriate, a legislative proposal to the European Parliament and the Council.';

(b) in paragraph 14b, the first sentence is replaced by the following:

'By 29 March 2029, the Commission shall, in close cooperation with ESMA, assess the possibility of extending the requirements of Article 26 of this Regulation to AIFMs as defined in Article 4(1), point (b), of Directive 2011/61/EU, and management companies, as defined in Article 2(1), point (b), of Directive 2009/65/EC, which provide investment services and activities and which execute transactions in financial instruments.';

(c) the following paragraph 16 is added:

'16. By [OP please insert date = 5 years after entry into force of this Regulation], ESMA shall submit a report to the Commission assessing the state of cross-border access to trading venues by market participants in the Union, as well as the costs incurred by market participants and end-clients relating to cross-border trading in the Union. In particular, the report should assess the extent to which PEMOs have implemented solutions to effectively pool liquidity across the trading venues they operate.';

(43) in Article 54, the following paragraphs 1a and 1b are inserted:

'1a. References to the provisions laid down in Directive 2014/65/EU that are repealed pursuant to Directive [OP: please insert reference to the Master Amending Directive proposal] shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex to this Regulation.

1b. A regulated market or a market operator already authorised in the Member State in which it is registered or, if under the law of that Member State it has not registered office, the Member State in which its head office is situated, pursuant to Directive 2014/65/EU as applicable, before the [OP please insert date = date of entry into force of this Regulation], shall be deemed to be so authorised for the purposes of this Regulation.

A market operator already authorised in the Member State in which it is registered or, if under the law of that Member State it has not registered office, the Member State in which its head office is situated, pursuant to Directive 2014/65/EU as applicable, before the [OP please insert date = *date of entry into force of this Regulation*] to operate an MTF or OTF, shall be deemed to be so authorised for the purposes of this Regulation.';

(44) Article 54a is amended as follows:

(a) the following paragraph 1a is inserted:

'1a. Where ESMA concludes that a trading venue meets the conditions set out in Article 38fb(1) and (2), or the condition set out in Article 38fb(3), before [OP please insert date = *2 years after entry into force of the amending Regulation*], all competences and duties related to the supervisory and enforcement activity regarding that trading venue shall be transferred to ESMA on [OP please insert date = *2 years after entry into force of the amending Regulation*].

Where, as a result of the analysis of market developments referred to in Article 38fb(4), ESMA concludes that a trading venue meets the conditions set out in Article 38fb(1) and (2), or the condition set out in Article 38fb(3), all competences and duties related to the supervisory and enforcement activity regarding that trading venue shall be transferred to ESMA on the date agreed between ESMA and the competent authority of that trading venue and, in any event, no later than one year following the date of the notification by ESMA referred to in Article 38fb(4), second subparagraph.';

(b) the following paragraph 2a is inserted:

PUBLIC DRAFT

‘2a. The competent authorities shall ensure that ESMA receives any files and working documents related to the ongoing supervisory and enforcement activity regarding trading venues referred to in Article 38fa, including any ongoing examinations and enforcement actions, or certified copies thereof, by the date referred to in paragraph 1a.

ESMA may request the competent authorities to provide any additional existing documents related to past supervisory and enforcement activities regarding trading venues referred to in Article 38fa. The competent authorities shall provide those documents to ESMA without undue delay.’;

(c) the following paragraph 3a is inserted:

‘3a. The competent authorities shall render all necessary assistance and advice to ESMA to facilitate effective and efficient transfer to and taking up of supervisory and enforcement activity regarding trading venues referred to in Article 38fa by ESMA.’;

(d) paragraph 4 is replaced by the following:

‘4. If the supervisory competence is transferred to ESMA, the authority whose competence ends shall undertake efforts to complete any pending supervisory procedure which requires a decision prior to the date on which the change in the supervisory competence is to occur. Where, despite all the best efforts by the competent authorities, it was not possible to complete any pending supervisory procedure prior to the date of the effective transfer of competences and duties to ESMA, ESMA shall act as the legal successor to the competent authorities referred to in paragraphs 1 and 1a in any administrative or judicial proceedings that result from supervisory and enforcement activity pursued by those competent authorities in relation to matters that fall under this Regulation.’;

(e) the following paragraph 5a is inserted:

‘5a. Any authorisation of an investment firm or a market operator operating a trading venue or any authorisation of a regulated market by a competent authority as defined in Article 2(1), paragraph (18), point (a) shall remain valid after the transfer of competences to ESMA.’;

(45) the following Article 54ab is inserted:

‘*Article 54ab*

Transitional provisions on delegated and implementing regulations

The delegated acts and the regulatory technical standards adopted pursuant to Articles 31(4), 32(2), 32(4), 33(8), 48(12), 49(3), 49(4), 51(6), 51a(7), 52(2), 52(4), 54(4), 57(8) and 58(6) of Directive 2014/65/EU in its version in force on [OP*: please insert the date of the day preceding the date of entry into application of Master Directive*] shall continue to apply mutatis mutandis with regard to Articles 2h, 2i, 2j, 2k, 2n, 2u, 2v, 2y, 34a and 34b of this Regulation.

The Commission may, in accordance with Article 50, amend the delegated acts referred to in the first subparagraph pursuant to Articles 2zg(2) and 34b(4).

The implementing technical standards adopted under Articles 18(11), 32(3), 52(3), 58(5) and 58(7) of Directive 2014/65/EU in its version in force on [OP*: please insert*

the date of the day preceding the date of entry into application of Master Directive] shall continue to apply mutatis mutandis with regard to Articles 2k, 2u, 2v and 34b of this Regulation.

Where the Commission considers that amendments to the regulatory technical standards or to the implementing technical standards referred to in the first and in the third subparagraph are required, it shall follow the procedures set out in Article 10(4a) or 15(4a) of Regulation (EU) No 1095/2010. Those amendments shall be adopted pursuant to Articles 2zg(3), second subparagraph, 2zg(4), second subparagraph, 34a(1), third subparagraph, 34b(3), second subparagraph and 34b(5), second subparagraph.';

(46) in Article 54b, paragraph 1 is replaced by the following:

'1. Any person authorised within the meaning of Directive 2006/43/EC of the European Parliament and of the Council*, performing in a data reporting services provider or in a trading venue operated by a person referred to in Article 38fa(1) the task described in Article 34 of Directive 2013/34/EU of the European Parliament and of the Council* or Article 73 of Directive 2009/65/EC or any other task prescribed by law, shall have a duty to report promptly to ESMA any fact or decision concerning that data reporting services provider or that trading venue of which that person has become aware while carrying out that task and which is liable to:

(a) constitute a material infringement of the laws, regulations or administrative provisions which lay down the conditions governing authorisation or which specifically govern pursuit of the activities of data reporting services provider or of the trading venue operated by a person referred to in Article 38fa(1);

(b) affect the continuous functioning of the data reporting services provider or the trading venue operated by a person referred to in Article 38fa(1);

(c) lead to refusal to certify the accounts or to the expression of reservations.

That person shall also have a duty to report any facts and decisions of which the person becomes aware in the course of carrying out one of the tasks referred to in the first subparagraph in an undertaking having close links with the data reporting services provider or the trading venues operated by a person referred to in Article 38fa(1) within which he or she is carrying out that task.

---

* Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87. ELI: http://data.europa.eu/eli/dir/2006/43/oj).

* Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, pp. 19. ELI: http://data.europa.eu/eli/dir/2013/34/oj).';

(47) Annex I to this Regulation is added as an Annex to Regulation (EU) No 600/2014.

DRAFT