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From:	Presidency
To:	Working Party on Financial Services and Banking Union (MISP) Financial Services Attachés
Subject:	MISP - CWP Post-Trading 10.9. - Compromise text CSDR

PUBLIC

Recitals

(45) Regulation (EU) No 909/2014 of the European Parliament and of the Council sets out standardised requirements for the settlement of financial instruments and rules on the organisation and conduct of central securities depositories (CSDs) to promote safe, efficient and smooth settlement.

(46) In 2025, the Commission consulted stakeholders on their views on the barriers to the integration and modernisation of post-trading infrastructures in general, and on the barriers to the provision of cross-border services in the area of post trading in particular. The feedback indicated that stakeholders support and consider relevant the objective of Regulation (EU) No 909/2014 to promote safe, efficient and smooth settlement of financial instruments, but underlined the need to adapt that Regulation to technological innovation while ensuring fair competition between providers of settlement services.

(47) The concepts used and the rules laid down, in Regulation (EU) No 909/2014, should not hinder the use of any particular technology, including distributed ledger technology (DLT). To account for innovation and the application of new technologies in the provision of CSD services, in particular where those services are provided using DLT, Regulation (EU) No 909/2014 should be amended to ensure that all definitions, concepts and requirements should be updated so that they can be applied to situations in which a CSD provides its services using DLT. It is equally necessary to ensure that certain tokenised assets, including e-money tokens can be used as a means of payment when settling securities transactions or to pay penalties for settlement fails where CSD rules allow it.

(48) Regulation (EU) No 909/2014 should take into account developments in DLT in the provision of CSD services so that entities authorised under the pilot regime provided for in Regulation (EU) 2022/85825 can fall under the scope of Regulation (EU) No 909/2014 once they have outgrown that regime. Regulation (EU) No 909/2014 should also allow CSDs established in the Union that intend, from the very beginning, to provide CSD services in relation to DLT-based securities, –in particular those CSDs whose value would exceed the thresholds set out in Regulation (EU) 2022/858, to seek an authorisation directly under Regulation (EU) No 909/2014.

(49) Considering the significant volumes and values of securities transactions settled by settlement internalisers, it is important to strengthen the monitoring of the potential legal and operational risks related to that activity. The granularity of volume and value reporting requirements for settlement internalisers should therefore be increased and information on settlement fails included in reports to facilitate such risk monitoring. In addition, to ensure that market participants can compare prices of settlement services provided by settlement internalisers with prices of those services provided by CSDs, settlement internalisers should disclose their prices and fees to their clients.

(50) CSDs in the Union are authorised and supervised by the competent authorities of the Member States in which they are established, in cooperation with a college of supervisors where those CSDs offer services of substantial importance in two or more host Member States. Despite

PUBLIC

progress so far, diverging supervisory practices for CSDs amongst those national authorities persist, creating an unlevel playing field among CSDs in the Union and increasing the costs and burden for CSDs and groups of CSDs operating and seeking to operate cross-border. With the development of deeper, more liquid Union capital markets under the SIU, that unlevel playing field increases the risk of supervisory arbitrage which could lead to financial stability issues. To ensure that the prudential, organisational and business conduct requirements for CSDs established in the Union are applied in a uniform manner, in particular for CSDs with substantial settlement activity, CSDs with a material cross-border dimension, and CSDs 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 909/2014.

(51) To determine which CSDs authorised under Regulation (EU) No 909/2014 should be subject to supervision by ESMA, it is necessary to lay down clear and objective criteria for their identification, including criteria based on size and cross-border activity. With the aim of simplification and of avoiding unnecessary administrative burden, a CSD that has already been authorised should not be re-authorised by ESMA once it becomes significant.

(52) Given CSDs' central role in securities markets, their connection to other financial market infrastructures and the fact that most of the volume of settlement transactions in CSDs in the Union happens in central bank money, ESMA should develop deep and comprehensive cooperation arrangements with other authorities, in particular the ECB and other central banks of issue of the most relevant Union currencies that the CSDs settle in. Such cooperation arrangements should cover the exchange of information as well as the close involvement of those other authorities in the daily supervision of significant CSDs and should include arrangements for regular events, such as onsite inspections, and ad hoc events, such as emergency situations.

(53) The amendments to Regulation (EU) No 1095/2010, and in particular the changes to ESMA's internal organisational structure and the shift in supervisory responsibilities, should be reflected in Regulation (EU) No 909/2014. In addition, taking into account the shift in supervisory responsibilities, the involvement of national competent authorities in ESMA's governance structure, and to avoid any duplicative assignment of tasks between ESMA and the supervisory college, significant CSDs should no longer be required to have a college.

(54) As opposed to significant CSDs, less significant CSDs do not have substantial cross-border activities. They should therefore remain under the supervision of their national competent authorities. Supervisory arrangements for less significant CSDs should largely remain as they were. However, to ensure a consistent supervisory approach for those CSDs, it is necessary to provide for stronger cooperation between those national competent authorities with ESMA. In case they wish to do so, Member States should have the option to designate ESMA as the competent authority for less significant CSDs established in their jurisdictions. Moreover, should a previously significant CSD 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 CSD. Alternatively, the ~~national competent authority~~Member State should be able to leave the supervision of this

previously significant CSD to ESMA. In addition, to ensure consistency and a level playing field between significant and less significant CSDs, ESMA should also be the authority responsible for authorising interoperability arrangements such as, in the context of CSD services, interoperable links. For these purposes, ESMA should also be responsible for chairing the colleges for less significant CSDs.

(55) To modernise the exchange of information and to allow for faster procedures, ESMA should establish and maintain an electronic central database in the form of a platform. All relevant competent authorities and bodies referred to in Regulation (EU) No 909/2014 should have access to such platform for the information that is pertinent for their tasks and responsibilities. Entities subject to Regulation (EU) No 909/2014 should have access to the information and documentation they have submitted and any documentation that is addressed to them. To ensure the swift and efficient sharing of information and documentation under Regulation (EU) No 909/2014, the central database should be used to share as much information and documentation as possible.

(56) To allow groups of CSDs to benefit from their consolidation, Regulation (EU) No 909/2014 should enable CSDs that are part of a group to outsource their core services to CSDs that are part of the same group. In addition, situations where a CSD wishes to provide its core services by using a DLT solution it developed should not be considered as outsourcing but rather as an extension of the CSD's authorisation.

(57) The requirement to ensure the integrity of securities' issuance applies equally to conventional CSDs and CSDs using DLT. For CSDs using DLT, the rules should take into account the specific ways in which DLT works by allowing for appropriate reconciliation measures to be performed by nodes verifying that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the participants of the securities settlement system operated by the CSD.

(58) CSDs should be able to take advantage of the functionality offered by a common settlement infrastructure offering securities settlement with central bank money, in particular where such common settlement infrastructure provides for liquidity optimisation tools and promotes safe and efficient settlement, including across borders. To give to their participants the possibility to settle their securities transactions on that common settlement infrastructure, CSDs that offer settlement in their relevant currencies available on such a common settlement infrastructure should be required to directly connect to it. The requirement to connect to a common settlement infrastructure should take into account the technological developments in the area of central bank money settlement.

(59) Regulation (EU) 1114/2023 of the European Parliament and of the Council sets out a framework for the safe issuance in the Union of e-money tokens. To support innovation in securities settlement, CSDs in the Union should be able to settle the payments of securities transactions in e-money tokens, subject to appropriate safeguards. That possibility should be available to both CSDs that are authorised to provide banking-type ancillary services and CSDs that are not. CSDs that are not authorised to provide banking-type ancillary services should be

PUBLIC

able to settle the payments in e-money tokens, in any currency, through accounts opened with CSDs that are authorised to provide banking-type ancillary services or through accounts opened with a credit institution, subject to the threshold determined by EBA for the settlement of payments in commercial bank money.

(60) Regulation (EU) No 909/2014 sets out rules for the establishment and the maintenance of link arrangements set up between CSDs. To foster the provision of cross-border services, the access to another CSD in the Union via a standard link should be facilitated and the related process simplified. In addition, with the aim of fostering further integration of Union capital markets, CSDs should be required to establish a minimum number of bilateral links. To ensure proportionality, the number of links a CSD should be required to establish should depend on the significance of the CSD.

(XX) In accordance with Article 4(2) of the Treaty on European Union and without prejudice to the judicial review by the Court of Justice, this Regulation should not affect the responsibility of Member States with regard to essential State functions concerning public security, defence and the safeguarding of national security, for example concerning the supply of information which would be contrary to the safeguarding of national security.

(XX) The provisions of Regulation (EU) No 909/2014 should promote the integration of the Union financial markets and ensure that issuers established in the Union can freely access financing from investors across the Union. To achieve this objective and remove barriers to the freedom of issuance in the Union, issuers established in the Union should have the right to choose any CSD established in the Union to initially record, or to record subsequently to an initial recording, their securities that are in the process of being admitted to trading, admitted to trading or traded on trading venues. Where issuers established in the Union exercise this freedom, any matters that are not currently regulated under the provisions of Regulation (EU) No 909/2014 should remain subject to the applicable provisions of Union and national legislation. The right for an issuer to arrange for its securities to be recorded in a CSD in any Member State does not, however, oblige CSDs to start offering the initial recording of securities governed by the law of any Member State or third country .

(XX) The ability of authorised CSDs to provide core services on a cross-border basis promotes competition, which encourages lower prices and improved services across the Union's financial markets. As such, any undue procedural or regulatory barriers to cross-border activity of authorised CSDs should be removed, subject to compliance by the CSDs with all applicable legal requirements. In particular, the freedom to provide services does not free the CSD from complying with any requirements in Union or national law applicable to the specific core or ancillary services it provides. Where CSDs established in the Union exercise their freedom to provide services in another Member State, matters that are not currently regulated under the provisions of Regulation (EU) No 909/2014 should remain subject to the applicable provisions of Union and national legislation.

(XX) CSDs established in third countries should be able to offer their services in the Union, including through the setting-up of a branch. In order to ensure an appropriate level of safety in the provision of CSD services by third-country CSDs, such CSDs should be subject to

recognition by ESMA where they intend to set up a branch in the Union or to provide notary or central maintenance services in relation to financial instruments issued by an issuer established in a Member State and where the terms and conditions of the financial instrument concerned are governed by the law of a Member State. References to the law governing the terms and conditions of a financial instrument should be understood as the legal system whose substantive rules apply to the instrument's contractual terms and conditions, including the interpretation, performance and enforcement of the rights and obligations it embodies. This is distinct from the law of the issuer and the law applicable to the holding and custody of the instrument, although in the case of shares the governing law of the instrument will ordinarily coincide with the law of the issuer. For debt securities, this should be understood as the law governing the terms and conditions of the securities, setting out the rights and obligations arising from such securities, but not, to the extent different, the law governing any terms and conditions addressing the status (including level of subordination) of the securities, or giving effect to laws and regulations applicable to the issuer in its jurisdiction of incorporation (including, terms giving effect to an issuer's obligations under Directive 2014/59/EU, such as contractual bail-in provisions).-

PUBLIC

PUBLIC

Article 4

Amendments to Regulation (EU) No 909/2014 Regulation

(EU) No 909/2014 is amended as follows:

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

(a) the following paragraph 3a is added;

['3a. This Regulation is without prejudice to the responsibility of Member States regarding essential State functions concerning public security, defence and national security in accordance with Union law.]

~~(a)~~(b) paragraph 4 is replaced by the following:

'4. Articles 10 to 20, 22 to 24a and 27, Article 28(6), Article 30(4) and Articles 46 and 47, Article 48(2), (2a) and (2b), Article 48a and Article 48b, the provisions of Title IV and the requirements to report to competent authorities or relevant authorities or to comply with their orders under this Regulation, do not apply to the members of the ESCB, other Member States' national bodies performing similar functions, or to other public bodies charged with or intervening in the management of public debt in the Union in relation to any CSD which the aforementioned bodies directly manage under the responsibility of the same management body, which has access to the funds of those bodies and which is not a separate entity.';

(2) in Article 2, paragraph 1 is amended as follows:

(a) the following points (1a) and (1b) are inserted:

'(1a) 'significant CSD' means a CSD authorised under Article 16 that qualifies as significant pursuant to Article 11;

'(1b) 'less significant CSD' means a CSD authorised under Article 16 that is not a significant CSD;';

(b) point (3) is replaced by the following:

'(3) 'immobilisation' means the act of concentrating the location of physical and non-physical securities in a CSD in a way that enables subsequent transfers of such securities to be made by book entry;';

(c) the following points (4a) and (4b) are inserted:

'(4a) 'book entry' means an electronic record, evidencing any credit or debit or other changes made to such electronic record, where the electronic record and any changes to such electronic record may be undertaken by using distributed ledger technology;

(4b) 'distributed ledger technology' or 'DLT' means distributed ledger technology as defined in Article 2, point (1), of Regulation (EU) 2022/858;';

(d) the following points (8a), (8b), (8c) and (8d) are inserted:

'(8a) 'central bank money' means a liability of a central bank that is in the form of deposits held at the central bank, including in tokenised form, and that can be used for settlement purposes;

(8b) ‘commercial bank money’ means a liability of a credit institution that is in the form of deposits held at the credit institution, including in tokenised form, and that can be used for settlement purposes;

(8c) ‘cash’ means any currency, including where issued or recorded on a distributed ledger;

(8d) ‘e-money token’ means e-money token as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114;’;

(e) point (9) is replaced by the following:

‘(9) ‘transfer order’ means transfer order as defined in Article 2, point (20), of [Regulation (EU) …/… on settlement finality];’;

(f) the following points (9a) and (9b) are inserted:

‘(9a) ‘transfer of cash’ or ‘cash payment’ means a payment transaction in cash or in e-money tokens;

(9b) ‘cash leg’ means in the context of delivery versus payment as defined in point (27), the corresponding transfer of cash;’; (g)

point (10) is replaced by the following:

‘(10) ‘securities settlement system’ means a securities settlement system as defined in Article 2, point (5), of [Regulation (EU) …/… on settlement finality] that is designated in accordance with Article 3 of that Regulation and that is not operated by a central counterparty;’;

(h) point (14) is replaced by the following:

‘(14) ‘business day’ means business day as defined in Article 2, point (28), of [Regulation (EU) …/… on settlement finality];’; (i) point (15) is replaced by the following:

‘(15) ‘settlement fail’ means the non-occurrence of settlement, or partial settlement of a securities transaction on the intended settlement date, due to a lack of securities or of payment and regardless of the underlying cause;’; (j) point (17) is replaced by the following:

‘(17) ‘competent authority’ means, unless otherwise specified in this Regulation, the national competent authority and ESMA, as designated pursuant to Articles 10 and 11;’;

(k) the following point (17a) is inserted:

‘(17a) ‘national competent authority’ means the national authority of the Member State in which a CSD is established designated pursuant to Article 10(1);’; (l) point (19) is replaced by the following:

‘(19) ‘participant’ means participant as defined in Article 2, point (15), of [Regulation (EU) …/… on settlement finality];’; (m) point (20) is replaced by the following:

‘(20) ‘participating interest’ means participation within the meaning of the first sentence of point (2) of Article 2 of Directive 2013/34/EU, or the ownership, direct or

PUBLIC

indirect, of 20 % or more of the voting rights or capital of an undertaking;'; (n) point (26) is replaced by the following:

'(26) 'default' means, in relation to a participant, a situation where insolvency proceedings, as defined in Article 2, point (23), of [Regulation (EU) …/… on settlement finality], are opened against a participant or an event defined in the CSD's internal rules as constituting a default;';

(o) point (28) is replaced by the following:

'(28) 'securities account' means an account or record, including centralised and decentralised electronic records, on which securities may be credited, debited, or otherwise recorded to register a change in the record of such securities;'; (p)

point (29) is replaced by the following:

'(29) 'CSD link' means an arrangement between CSDs whereby one CSD becomes a participant in the securities settlement system of another CSD in order to facilitate the transfer of securities from the participants of the latter CSD to the participants of the former CSD or an arrangement whereby a CSD accesses another CSD indirectly via an intermediary. CSD links include standard links, customised links, indirect links, relayed links and interoperable links;'; (q) the following point (32a) is inserted:

'(32a) 'relayed link' means an indirect link where the third party is a CSD;'; (r)

the following point (33a) is inserted:

'(33a) 'bilateral link' means an arrangement between two CSDs that is composed of two links that are both standard and interoperable, where each involved CSD is the receiving CSD in one of the links and the requesting CSD in the other link;'; (s) point (43) is replaced by the following:

'(43) 'settlement agent' means settlement agent as defined in Article 2, point (13), of [Regulation (EU) …/… on settlement finality];';

(t) the following points (51), (52), (53) and (54) are added:

'(51) 'real-time gross settlement' means a settlement mechanism whereby cash, e-money tokens or securities transfer orders in relation to securities transactions of the participants in the securities settlement system are executed on a transaction-~~bytransaction~~by-transaction basis, and whereby settlement of participants' claims and obligations takes place without deferral and on a gross basis;

(52) 'settlement mismatch message' means, in the context of the settlement of a securities transaction, a message sent by a CSD to the owner of an account at that CSD informing such account owner of a mismatch with their counterpart with respect to the data submitted in their respective settlement instructions;

(53) 'central database' means the central database established by ESMA pursuant to Article 21a;

(54) 'omnibus client segregation' means an arrangement where a CSD keeps records and accounts that enable any participant to that CSD to hold in one securities account the securities that belong to different clients of that participant.';

(3) in Article 3, paragraph 1 is replaced by the following:

PUBLIC

'1. Without prejudice to paragraph 2, any issuer established in the Union that issues or has issued transferable securities which are admitted to trading or traded on trading venues, shall arrange for such securities to be recorded in book-entry form by means of an immobilisation or a direct initial recording in dematerialised form.';

(4) Article 6 is amended as follows:

(a) in paragraph 2, the following subparagraph is inserted after the second subparagraph:

'Investment firms and their professional clients shall use international open communication procedures and standards for the communication of the allocations and confirmations referred to in the previous sub-paragraph.';

(b) in paragraph 2, the third subparagraph is deleted;

(c) in paragraph 4, the second sentence is replaced by the following:

'CSDs and participants shall put in place measures to ensure that the processing of settlement instructions is fully automated. CSDs shall require participants to settle their transactions on the intended settlement date and to put in place measures ensuring that requirement.';

(d) in paragraph 5, the first and second subparagraphs are replaced by the following:

'5. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify all of the following:

(a) the measures to prevent settlement fails in order to increase settlement efficiency and in particular:

(i) the measures to be taken by investment firms and their professional clients in accordance with international open communication procedures and standards for the communication of the allocations and confirmations as referred to in paragraph 2;

(ii) the details of the procedures that facilitate settlement referred to in paragraph 3, which could include the shaping of transaction sizes, partial settlement of failing trades and the use of auto-lend/borrow programmes provided by certain CSDs. These procedures shall necessarily include settlement mismatch messaging and power of attorney requirements to participants for matched instructions; and

(iii) the details of the measures to encourage and incentivise the timely settlement of the transactions referred to in paragraph 4;

(b) the standardised procedures and messaging protocols to be implemented by investment firms and their professional clients in accordance with paragraph 2, which shall allow the automated processing of allocations and confirmations, and the international procedures and standards for messaging and reference data, referred to in Article 35, to be implemented by issuers, CSDs, and other market infrastructures in order to comply with the requirement set out in Article 35.

When developing the details of the measures referred to in the first subparagraph, ESMA shall take into account the technology used by CSDs, such as DLT. When developing the details of the measures and procedures referred to in point (a)(iii) of

the first subparagraph, ESMA shall consider any aspects relevant for cross-border transactions.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 1 year after the entry into force of this amending Regulation].';

(5) in Article 7(2), third subparagraph, the third sentence is replaced by the following:

'The cash penalties shall not be configured as a revenue source for the CSD or its participants. Cash penalties shall be paid in cash or, where provided for in the CSD's rules, in e-money tokens.';

(6) in Article 7a(15), the second subparagraph is replaced by the following: -'ESMA shall submit those draft regulatory technical standards to the Commission by 30 October 2027.';

(7) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Settlement internalisers shall report to the competent authorities of their place of establishment on a quarterly basis the aggregated volume and value, broken down by type of financial instrument and type of transaction, of all securities transactions that they settle outside securities settlement systems, and the corresponding settlement fail rates. Competent authorities shall transmit, without undue delay, the information received under the first sentence to ESMA via the central database and ESMA shall publicly disclose the information on the settlement fail rates of internalised settlement. Competent authorities shall also inform ESMA of any potential risk resulting from that settlement activity.';

(b) in paragraph 3, the second subparagraph is replaced by the following:

'ESMA shall submit those draft implementing technical standards to the Commission by [OP insert date = 18 months after the entry into force of this amending Regulation].';

(8) Article 10 is replaced by the following:

'Article 10

Competent authorities designated by the Member States

1. Each Member State shall designate one or more national competent authorities, to carry out the tasks and duties laid down in this Regulation for the authorisation and supervision of less significant CSDs established or to be established in its territory and the support and assistance functions referred to in Article 14(3). -Each Member State shall inform the Commission and ESMA thereof.

Where a Member State designates more than one national competent authority in accordance with the first subparagraph, it shall determine their respective roles and shall designate a single authority to be responsible for coordinating cooperation and the exchange of information with the Commission, other Member States' competent authorities, the relevant authorities, ESMA, and EBA, where specifically referred to in this Regulation.

Without prejudice to Article 11(1), a Member State may designate ESMA as the competent authority for one or more less significant CSDs established in its territory.

Where it ~~exercices~~exercises this option, the Member State shall notify the Commission, ESMA and the national competent authority thereof via the central database. Following this notification, the CSDs concerned shall be considered as significant CSDs and shall be supervised by ESMA following a potential adaptation period set by ESMA, in consultation with the national competent authorities thereof, which shall not exceed [6 months].

After a period of at least 36 months, Member States that designated ESMA, in accordance with paragraph 2, as the competent authority for a less significant CSD, may designate one or more national competent authorities as the CSD's competent authorities in consultation with ESMA. That Member State shall notify the Commission, ESMA, and the competent authorities thereof via the central database. Following this notification, those CSDs shall be considered less significant CSDs and shall be supervised by national competent authorities following a potential adaptation period set in agreement with ESMA, which shall not exceed 24 months.

2. Each Member State shall ensure that the national competent authority has the supervisory and investigatory powers necessary for the exercise of its functions under this Regulation.

3. ESMA shall publish on its website a list of the competent authorities of each CSD designated in accordance with this Article or identified in accordance with Article 11(1).

4. The provisions of this Article are without prejudice to the oversight by the members of the ESCB referred to in Article 12(1).';

(9) Article 11 is replaced by the following:

'Article 11

Competent authority for significant CSDs

1. ESMA shall be the competent authority for significant CSDs and carry out the supervisory tasks and duties laid down in this Regulation for their authorisation and supervision.

2. A CSD shall be considered significant where it fulfils at least one of the following conditions:

(a) it meets the criteria laid down in Article 11a(1) for two consecutive years;

~~(b) [~~it belongs to the same group as ~~at least one of the following:~~

~~(c)~~(b) a CSD that is established in the territory of another Member State~~]~~;

~~(i) a CSD, a CCP or a trading venue for which ESMA is the competent authority;~~

~~(d) it operates a securities settlement system governed by the law of a different Member State than the Member State where the legal person is established, where such system has been designated in accordance with Article 3 of [Regulation (EU) …/… on settlement finality];~~

PUBLIC

~~(e) the Member State where the CSD is established has designated ESMA as the competent authority in accordance with Article 10(2), where this designation applies to that CSD.~~

ESMA shall determine whether a CSD meets the conditions for qualifying as significant in accordance with this Article.

3. ESMA shall assess, at least every 12 ~~24~~ months, whether any authorised CSD fulfils at least one of the conditions set out in paragraph 2.

4. Where ESMA has determined that an authorised CSD meets at least one of the conditions laid down in paragraph 2 that CSD shall qualify as significant. Where the CSD is not yet supervised by ESMA, ESMA, [in consultation with the CSD's national competent authority], may set a potential adaptation period that shall not exceed 6 months, after which the CSD shall become supervised by ESMA.

ESMA shall notify the CSD concerned, its relevant authorities and its national competent authority of the outcome of the determination, and of any adaptation period, referred to in the second subparagraph within two working days of the date of that determination.

5. Before a legal person established in the Union applies for authorisation in accordance with Article 16, it shall request ESMA, via the central database, to determine whether it fulfils at least one of the conditions laid down in paragraph 2 of this Article.

ESMA may request further information from that legal person for that purpose. The legal person shall provide the requested information within the deadline set by ESMA. ESMA shall, within 20 working days from the receipt of all the relevant information, determine whether the legal person meets at least one of the conditions referred to in the first subparagraph.

Where ESMA has determined that the legal person meets at least one of the conditions laid down in paragraph 2 of this Article, that legal person shall qualify as significant and shall be supervised by ESMA, which shall be responsible for the authorisation of such legal person in accordance with Article 16.

Where ESMA has determined that the legal person does not meet any of the conditions laid down in paragraph 2 of this Article, that legal person shall qualify as less significant and it shall be supervised by the national competent authority, as referred to in Article 10(1), of the Member State in which the legal person is established. That authority shall be responsible for the authorisation of such legal person in accordance with Article 16.

ESMA shall inform, via the central database, the legal person, the national competent authority of the Member State in which the legal person is established and the relevant authorities of the outcome of its determination within two working days from the date of that determination.

6. Where ESMA determines that a CSD that was previously determined to be significant has not fulfilled any of the conditions laid down in paragraph 2 for the past 24~~36~~ months, it shall determine that the CSD shall no longer qualify as a significant CSD. ESMA shall immediately notify the CSD concerned, its relevant authorities and its national competent authority of that determination. That determination shall take effect

after an adaptation period to be determined by ESMA [in consultation with the ~~CSD~~'s national authority] of the CSD which shall not exceed 24 months.

7. ESMA shall, without undue delay, establish, and publish on its website the list of significant CSDs, and keep it updated.

8. ESMA shall charge fees to the significant CSDs for performing its supervisory tasks and duties laid– down in this Regulation for the authorisation and supervision of significant CSDs and in accordance with the delegated act adopted pursuant to paragraph 10.

9. The provisions of this Article are without prejudice to the oversight by the members of the ESCB referred to in Article 12(1).

10. The Commission shall be empowered to adopt a delegated act in accordance with Article 67 in order to supplement this Regulation by specifying the fees referred to in paragraph 8 by setting out:

(a) the types of fees;

(b) the matters for which fees are due;

(c) the method of calculation of the amount of the fees; and

(d) the manner in which fees are to be paid.';- (10) the following Article 11a is inserted:

'Article 11a

Criteria for determining the significance of a CSD

1. The condition set out in Article 11(2), point (a), shall be fulfilled where the CSD meets both the following criteria:

(a) it operates a settlement system that settles more than 5 % of the settlement instructions by value settled annually in the Union;

(b) it is of substantial importance for the functioning of the securities markets and the protection of investors in at least three host Member States in accordance with the criteria set out in paragraph 2.

2. The criterion set out in paragraph 1, point (b), shall be fulfilled when the CSD meets at least one of the following criteria in the host Member States referred to in that point:

(a) the aggregated market value or, where not available, the nominal value of financial instruments issued by issuers incorporated in the host Member State that are initially recorded or centrally maintained in securities accounts by the CSD represents at least 15 % of the total value of financial instruments issued

by all issuers from the host Member State that are initially recorded or centrally maintained in securities accounts by all CSDs authorised in the Union;

(b) the aggregated market value or, where not available, the nominal value of financial instruments centrally maintained in securities accounts by the CSD for participants and other holders of securities accounts from the host Member State represents at least 15 % of the total value of financial instruments centrally maintained in securities accounts by all CSDs authorised in the Union for all participants and other holders of securities accounts from the host Member State;

(c) the annual value of settlement instructions related to transactions in financial instruments issued by issuers from the host Member State and settled by the CSD represents at least 15 % of the total annual value of all settlement instructions related to transactions in financial instruments issued by issuers from the host Member State and settled by all CSDs authorised in the Union;

(d) the annual value of settlement instructions settled by the CSD for participants and other holders of securities accounts from the host Member State represents at least 15 % of the total annual value of the settlement instructions settled by all CSDs authorised in the Union, for participants and other holders of securities accounts from the host Member State;

~~(e) the CSD operates a securities settlement system governed by the law of the host Member State designated in accordance with Article 3 of [Regulation (EU) …/… on settlement finality~~].

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For the purposes of the calculation of the values referred to in the first subparagraph, points (b) and (d),

(a) in the case of individual client segregation, the country of incorporation (for legal persons) or the country of residence (for natural persons) of the holders of securities accounts, including participants' clients, shall be the relevant country;

(b) in the case of omnibus client segregation, the participants' country of incorporation shall be the relevant country, unless the information on the country of incorporation or the country of residence of the underlying clients is available to the CSD.

3. ESMA shall determine the value of a settlement instruction as follows:

(a) for a settlement instruction against payment, the value of a settlement instruction shall be the value of the corresponding transaction in financial instruments as entered into the securities settlement system;

(b) for a free-of-payment settlement instruction, the value of a settlement instruction shall be the aggregated market value, or where not available, the aggregated nominal value of the relevant financial instruments as determined in accordance with paragraph 4.

4. ESMA shall determine the market value of financial instruments, referred to in paragraphs 2 and 3, as follows:

(a) for shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments admitted to trading on a trading venue within the Union, the market value of the financial instrument concerned shall be the closing price of the most relevant market in terms of liquidity as referred to in Article 4(1), point (a), of Regulation (EU) No 600/2014 of the European Parliament and of the Council[1];

[1] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84, ELI: http://data.europa.eu/eli/reg/2014/600/oj).

PUBLIC

PUBLIC

(b) for financial instruments admitted to trading on a trading venue within the Union other than those referred to in point (a), the market value shall be the closing price derived from the trading venue within the Union with the highest turnover;

(c) for financial instruments other than those referred to in points (a) and (b), the market value shall be determined on the basis of a reference price calculated according to a predetermined methodology approved by the competent authority that refers to criteria related to reliable market data, including market prices available across trading venues or investment firms.

5. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to further specify the details and the procedures for the calculation of the criteria referred to in this Article, including the data to be reported by CSDs to ESMA for the purposes of such calculation.

When developing those standards, ESMA shall ensure that the data to be reported is limited to what is strictly necessary for the calculation of the criteria referred to in this Article.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 1 year after the entry into force of this amending Regulation]

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

(11) the following Article 11b is inserted:

'Article 11b

Powers of ESMA over significant CSDs under this Regulation

1. ESMA shall be responsible for carrying out its duties under this Regulation for the authorisation and supervision of significant CSDs. For those purposes it shall take any decision or other measure in accordance with Article 46a of Regulation (EU) No 1095/2010.

2. ESMA shall ensure on an ongoing basis the compliance by significant CSDs with Article 5, Article 6, Article 7, Articles 16 to 20, Article 22, Article 22a, Article 23, Title III, Chapters 2 and 3, and Title IV.

3. ESMA shall be conferred with the powers necessary for the exercise of its functions over significant CSDs pursuant to this Regulation and pursuant to Regulation (EU) No 1095/2010.

ESMA shall use these powers over significant CSDs and, where specified under this Regulation, over related parties, including to:

(a) supervise the significant CSDs' compliance with the requirements laid down in this Regulation;

(b) adopt decisions, conduct supervisory assessments and take measures in relation to Article 5, Article 6, Article 7, Articles 16 to 20, Article 22, Article 22a, Article 23, Chapters 2 and 3 of Title III, and Title IV;

(c) request via the central database, significant CSDs, and related third parties to whom those CSDs have outsourced services, operational functions or activities, to provide, within the time limit provided for in the request, all relevant information or data to enable ESMA to monitor those CSDs' provision of services and activities and to carry out ESMA's tasks and duties under this Regulation. The recipient of such a request shall provide ESMA, via the central database, with all the information requested by ESMA within the provided time limit. The information request may be of a periodic or one-off nature;

(d) require the auditors of significant CSDs to provide information or data;

(e) adopt a decision imposing fines, where a significant CSD has, intentionally or negligently, committed one of the infringements listed in the Annex. Such fines shall be up to twice the amount of the profits gained or losses avoided because of the breach where those can be determined, or up to 10 % of the total annual turnover of a legal person in the preceding business year and can take into account aggravating or mitigation factors in accordance with the relevant coefficients set out in the Annex;

(f) adopt a decision requiring a significant CSD to bring an infringement listed in the Annex to an end;

4. In addition, for the purpose of carrying out its tasks regarding significant CSDs, ESMA shall have the powers to take the temporary measures set out in the second subparagraph in any of the following circumstances:

(a) ESMA has obtained evidence suggesting that the entity infringes, or is likely to infringe, the requirements governing its operations within the next three months;

(b) ESMA has evidence that the arrangements, strategies, processes and mechanisms implemented by the entity do not ensure a sound management and coverage of its risks.

For the purposes of the first subparagraph, ESMA shall have, in particular, the powers to take the following temporary measures:

(a) require that the entity's arrangements, processes, mechanisms and strategies are properly adjusted to ensure the sound management and coverage of its risks;

(b) require the significant CSD to convene a meeting of its shareholders or, if the significant CSD fails to comply with that requirement, convene the meeting itself. In both cases ESMA shall set the agenda, including the decisions to be considered for adoption by the shareholders;

(c) require entities to present a plan to restore compliance with supervisory requirements and set a deadline for its implementation, including improvements to the scope and deadline of that plan;

(d) restrict or limit the business, operations or network of the entity, or request the divestment of activities that pose excessive risks to its soundness;

(e) require the CSD to mitigate the risk related to the infringement or likely infringement of the requirements under this Regulation and the inherent related risks in the activities, and systems of the entity;

(f) impose additional or more frequent reporting requirements;

(g) require additional disclosures;

(h) require the suspension of members from the management body of entities who do not fulfil the requirements governing their operations set out in this Regulation.

The decisions of ESMA shall state the reasons on which they are based.

5. ESMA shall refuse or subsequently withdraw the appointment of the person or persons referred to in Article 27 if it is not satisfied that the person is of sufficiently good repute, or if there are objective and demonstrable grounds for believing that the appointment or proposed changes would pose a threat to the sound and prudent management of the entity, the adequate consideration of the clients' interest and integrity of the market.

6. ESMA shall consider, in cooperation with EBA and the ESCB, any cross-border risks arising from CSDs' activities, including due to CSDs' interconnectedness with trading venues and CCPs and risks due to such cross-border connections.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 67 to amend the list of infringements under the Annex, where needed to take account of amendments to the requirements on CSDs under this Regulation and in particular as laid down in Article 6, Article 7, Articles 16 to 20, Article 22, Article 22a, Title III, Chapters 2 and 3, and Title IV or where needed to ensure that the infringements under the Annex correspond to the requirements under this Regulation and in particular as laid down in Article 6, Article 7, Articles 16 to 20, Article 22, Article 22a, Title III, Chapters 2 and 3, and Title IV.'; (12) the following Article 11c is inserted:

'Article 11c

Specific provisions for significant CSDs

1. By way of derogation from Article 24a, no college shall be established for a significant CSD. Where, for a CSD that becomes significant, a college had been established pursuant to Article 24a, such college shall be dissolved at the latest within a year after the CSD qualified as a significant CSD. In relation to a significant CSD, the procedures referred to in Articles 15, 17, 19a, 21a, 22, 23, 24, 48b, 55 and 60 shall apply without including the college.

2. By way of derogation from Articles 7, 13, 15, 17, 19a, 20, 21(1), 21a, 22, 22a, 23, 24, 27a, 27b, 33, 49, 52, 54a, 54b, 54c, 55, 57, 58 and 60 any requirement for the CSD, or the competent authority, to interact with ESMA, or ESMA to interact with the CSD or the competent authority, referred to in those Articles, shall not apply with respect to a significant CSD.

Article 17a shall not apply with respect to significant CSDs.';

(13) in Article 14, the following paragraphs 3 and 4 are inserted:

'3. For each significant CSD, ESMA, the national competent authority and the relevant authorities shall ~~establish~~ agree cooperation arrangements ~~, as laid down in~~ supplementary to those referred to in Article 8a of Regulation (EU) No 1095/2010, including in relation to ESMA's direct supervision of each significant CSD. Such arrangements shall reflect the distribution of competences and responsibilities pursuant to this Regulation and frame practical cooperation modalities in view of

ESMA exercising its competencies and responsibilities with regard to significant CSDs. In particular, such arrangements may cover support and assistance by the relevant authorities and the national competent authority, and/or information sharing with them, in respect of all of the following:

(a) the carrying out of their respective ~~supervisory tasks~~competences~~–~~ over a significant CSD, including investigations and on-site inspections;

(b) the preparation of authorisations, approvals, decisions, reports or other measures pertaining to the significant CSD under this Regulation, including where specified under the relevant Article and under Articles 15, 16, 17,19, 19a, 22, 27, 27a, 27b, 33(3), 48, 48a, 48b, 55, 56 and 60;

(c) any supervisory tasks to ensure financial stability and to monitor the operational resilience and market conduct of the significant CSD, including stress testing;

(d) addressing emergency situations in relation to the significant CSD.

The arrangements between ESMA and the national competent authority should also include, to the extent necessary and appropriate, arrangements for cooperation in relation to competences of the national competent authority currently falling outside the remit of this Regulation. ~~Those arrangements shall consider the supervision of a significant CSD in both going concern and emergency situations, including with regard to essential State functions concerning public security, defence and the safeguarding of national security.~~

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4. For each less significant CSD, ESMA shall fulfil a coordination role between competent authorities, relevant authorities and colleges to:

(a) ensure consistent supervisory practices in particular with regard to supervisory areas which have a cross-border dimension or a possible cross-border impact for CSDs that provide services cross-border;

(b) strengthen coordination in emergency situations in accordance with Article 15;

~~(b)~~(c) ~~(c)~~ assess risks when providing opinions to competent authorities pursuant to the second subparagraph on CSDs' compliance with the requirements of this Regulation, including in relation to identified cross-border risks or risks to the financial stability of the Union, and providing recommendations as to how a CSD shall mitigate such risks;

(d) promote regular exchange and discussion on relevant market developments, including situations or events which impact or are likely to impact the prudential or financial soundness or the resilience of CSDs.

Competent authorities shall submit their draft decisions, reports or other measures with respect to less significant CSDs to ESMA for its opinion before adopting any act or measure pursuant to Articles 17, 22, 24(5), 27a, 27b and 55 and, except where a decision is required urgently, pursuant to Article 20.

Competent authorities may also submit draft decisions to ESMA for its opinion before adopting any other act or measure in accordance with their duties under Article 10(1).

ESMA shall~~–~~ assess all opinions and recommendations adopted by colleges pursuant to Article 24a of this Regulation, in order to contribute to the consistent and coherent functioning of the colleges and to foster coherence in the application of this Regulation among them.

PUBLIC

For the purpose of this paragraph, ESMA shall consider, in cooperation with EBA and the ESCB, any cross-border risks arising from CSDs' activities, including due to CSDs' interconnectedness with trading venues and CCPs and risks due to such ~~crossborder~~cross-border connections.

Any opinion, decision, input, or other measure taken by ESMA under this paragraph, shall be taken in accordance with Article 46a of Regulation (EU) No 1095/2010.

ESMA shall on a yearly basis report to the Commission on the cross-border risks arising from CSDs' activities referred to in the fifth subparagraph.';

(14) in Article 15, the following subparagraph is added:

'

In an emergency situation at one or more CSDs that has or is likely to have destabilising effects on cross-border markets, ESMA shall coordinate with the competent authorities, the relevant authorities, and, where applicable, the colleges referred to in Article 24a to build a coordinated response to the emergency situation and ensure effective information sharing among competent authorities, relevant authorities and, where applicable, the colleges referred to in Article 24a. Any tasks undertaken by ESMA under this subparagraph shall be undertaken in accordance with Article 46a of Regulation (EU) No 1095/2010.';

(15) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Any legal person that falls within the definition of a CSD shall obtain an authorisation from the competent authority in accordance with the procedure laid down in Article 17 before commencing its activities.';

(b) the following paragraph 1a is inserted:

'1a. Once the authorisation has been granted in accordance with Article 17, it shall be effective for the entire territory of the Union.';

(16) Article 17 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Without prejudice to Article 11(5), an applicant CSD shall submit an application for an initial authorisation pursuant to Article 16, an application for authorisation of an extension of an existing authorisation pursuant to Article 19 or an application for authorisation of the outsourcing of a core service pursuant to Article 19, to its competent authority. The application shall be immediately shared with the registered recipients referred to in Article 21a and, where applicable, the college referred to in Article 24a.';

(b) paragraph 3 is replaced by the following:

['3. The competent authority shall, following the acknowledgement of receipt referred to in Article 21a(2), notify the applicant CSD whether the application contains the documents and information required.

The notification shall be sent within:

PUBLIC

(a) 20 working days of the acknowledgement of the receipt referred to in Article 21a(2), where the applicant CSD has applied for an initial authorisation pursuant to Article 16; or

(b) 10 working days of the acknowledgement of the receipt referred to in Article 21a(2), where the applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19.

Where, during the applicable period specified under the second subparagraph of this paragraph, the competent authority considers that not all documents or information required pursuant to paragraph 9 have been submitted, it ***shall*** *request the applicant CSD to submit such additional documents or information, via the central database. The application shall be rejected where the competent authority decides that the applicant CSD has failed to comply with any such request. The competent authority shall inform the CSD thereof via the central database.]*

During the period specified under paragraph 8, the competent authority, ESMA and the relevant authorities may request the applicant CSD to provide additional documents or information, where such documents or information are needed to assess that the applicant CSD meets all of its obligations as laid down in this Regulation. The competent authority may take a decision on the application in the absence of the CSD's response.

(c) paragraph 4 is amended as follows:

(i) the first, second and third subparagraphs are replaced by the following:

'During the period specified under paragraph 8, the competent authority shall conduct ~~a risk~~ an assessment of the applicant CSD's compliance with the requirements laid down in this Regulation and shall consult the relevant authorities, ESMA, and, where applicable, the college referred to in Article 24a ~~concerning the features of the securities settlement system operated by the applicant CSD.~~ Within three months of the ~~acknowledgement of receipt of the application~~notification referred to in paragraph 3 of this Article ~~21a(2),~~ where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within one month of the ~~acknowledgement of receipt of the application~~notification referred to in paragraph 3 of this Article ~~21a(2),~~ where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19:

(a) ESMA shall adopt an opinion pursuant to Article 14(4) determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a; and

(b) each relevant authority may issue an opinion within its areas of competence, determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a.

When providing the opinions referred to in the first subparagraph, ESMA and the relevant authorities, within their areas of competence, shall assess any relevant risks in relation to the applicant CSD, including any cross-border risks

PUBLIC

or risks to the financial stability of the Union, and may include any conditions or recommendations they consider necessary to mitigate any shortcomings in the applicant CSD's risk management. ESMA may also include in its opinion any elements needed to promote a consistent and coherent application of a relevant Article of this Regulation. A negative opinion shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.

Where any of the relevant authorities or ESMA, has issued a negative reasoned opinion, and the competent authority nevertheless intends to grant the authorisation, that competent authority shall, within 30 working days of receipt of the negative opinion, where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within 15 working days of receipt of the negative opinion, where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19, provide the relevant authority concerned or ESMA with the reasons why it intends to grant the authorisation notwithstanding the negative opinion.';

(ii) the seventh subparagraph is deleted;

(b) paragraph 6 is replaced by the following:

'6. The competent authority may, before granting authorisation to the applicant CSD, consult other authorities supervising an entity that has a qualifying holding in, or that controls, the applicant CSD on any of the following:

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(a) the suitability of the shareholders and persons referred to in Article 27(6) and the reputation and experience of the persons who effectively direct the business of the applicant CSD referred to in Article 27(1) and (4), where those shareholders and persons are common to the applicant CSD and to the entity that has a qualifying holding in or controls the applicant CSD;

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(b) whether the corporate relations between the applicant CSD and the entity that has a qualifying holding in or controls the applicant CSD do not affect the ability of the applicant CSD to comply with the requirements of this Regulation.';

(c) paragraphs 7 and 7a are deleted;

(d) paragraph 8 is replaced by the following:

'8. Within six months from the ~~acknowledgement of receipt of the application~~notification referred to in paragraph 3 of this Article ~~21a(2),~~ where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within three months from ~~of~~ the ~~acknowledgement of receipt of the application~~notification referred to in paragraph 3 of this Article ~~21a(2),~~ where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19, the competent authority shall adopt its decision and transmit it to the registered recipients referred to in Article 21a and the applicant CSD. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused.

Where the decision of the competent authority does not reflect the opinion of ESMA, or any of the relevant authorities, including any conditions or recommendations contained therein, it shall contain a fully reasoned explanation

PUBLIC

of any significant deviation from those opinions or conditions or recommendations.

Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply.';

(e) paragraph 8a is replaced by the following:

'8a. The competent authority shall, without undue delay, inform the authorities consulted pursuant to paragraphs 4, 5 and 6 of the results of the authorisation process, including any remedial actions.';

(17) the following Article 17a is inserted:

'Article 17a

Procedure for adopting decisions, reports or other measures

1. The competent authority shall submit a request for an opinion by ESMA, pursuant to Article 14(4), where the competent authority intends to adopt a decision, report or other measure pursuant to Articles 22, 24(5), 27a, 27b, 55 and, except where a decision is required urgently, pursuant to Article 20.

   The request for an opinion referred to in the first subparagraph, together with all relevant documents, shall be shared immediately with ESMA.

2. Unless otherwise specified under a relevant article, the competent authority shall, within 30 working days of submitting the request referred to in paragraph 1, assess the CSD's compliance with the respective requirements. By the end of that assessment period, the competent authority shall transmit its draft decision, report or other measure to ESMA.

3. Unless otherwise specified under a relevant article, following the receipt of both the request for an opinion referred to in paragraph 1 and the draft decisions, reports or other measures referred to in paragraph 2:

   (a) ESMA shall, with respect to Articles 20, 22, 24(5), and 55 adopt an opinion assessing the CSD's compliance with the requirements under this Regulation. ESMA may include in its opinion any conditions or recommendations it considers necessary to mitigate any shortcomings in the CSD's risk management, including in relation to identified cross-border risks or risks to the financial stability of the Union; and

   (b) ESMA may, with respect to Articles 27a and 27b adopt an opinion on that draft decision, report or other measure where necessary to promote a consistent and coherent application of a relevant article.

   ESMA shall adopt its opinion within the deadline provided by the competent authority, which shall be at least 15 working days following the receipt of the relevant documents under paragraph 2, and communicate it to the competent authority. The opinions shall be also shared with the relevant authorities.

4. Within 10 working days of receipt of the opinion of ESMA adopted under paragraph 3, first subparagraph, point (a), and, where issued, the opinion of ESMA adopted under

PUBLIC

paragraph 3, first subparagraph, point (b), or within the relevant period where otherwise specified in this Regulation, the competent authority shall, after duly considering the opinion of ESMA, including any conditions or recommendations contained therein, adopt its decision, report or other measure as required under a relevant article and transmit it to ESMA.

Where the decision, report or other measure does not reflect an opinion of ESMA it shall contain a fully reasoned explanation of any significant deviation from that opinion or those conditions or recommendations.

For the purpose of paragraph 3, first subparagraph, points (a) and (b), where the CSD's competent authority does not comply or does not intend to comply with the opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply.';

(18) in Article 18, paragraphs 1, 2 and 3 are replaced by the following:

'1. An authorised CSD shall not provide any additional services or otherwise undertake any activity for which it is not authorised, or which it has not notified to the competent authority in accordance with Article 19(8).

2. Securities settlement systems may be operated only by authorised CSDs or by central banks acting as CSDs.

3. An authorised CSD may have a participating interest only in a legal person whose activities are limited to the provision of services listed in Sections A and B of the Annex, unless such a participating interest is approved by its competent authority on the basis that it does not significantly increase the risk profile of the CSD.';

(19) Article 19 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

'An authorised CSD shall submit an application for authorisation to the competent authority where it wishes to outsource a core service to a third party pursuant to Article 30, other than to a CSD within its group as referred to in Article 19a, or extend its activities to one or more of the following:';

(b) paragraph 2 is amended as follows:

(i) the second and third subparagraphs are replaced by the following: 'The granting of an authorisation under paragraph 1, point (b), of this Article shall follow the procedure laid down in Article 17(1), (2), (3), (5), (8) and (8a).

The granting of an authorisation under paragraph 1, point (e), of this Article shall follow the procedure laid down in Article 17 with respect to interoperable links between a CSD established in the Union and a third-country CSD, or the procedure laid down in Article 48b with respect to interoperable links between CSDs established in the Union.';

(ii) the fourth subparagraph is deleted;

(c) paragraphs 3 to 7 are deleted;

(20) the following Article 19a is inserted:

PUBLIC

'Article 19a

Procedure for the approval of outsourcing of core services within a CSD group

1. An authorised CSD shall submit an application for approval to ESMA where it wishes to outsource a core service to a CSD within its group pursuant to Article 30. The application shall immediately be shared with the respective registered recipients referred to in Article 21a for both CSDs involved in the intended outsourcing and, where applicable, the respective colleges referred to in Article 24a of both CSDs involved in the intended outsourcing.

2. The applicant CSD shall include in the application all documents and information necessary to demonstrate that it will have established, at the time of the approval of the outsourcing, all the necessary arrangements to meet its obligations as laid down in this Regulation in respect of such outsourcing. The applicant CSD shall also include in the application a description of the core services to be outsourced and the CSDs within the group to which those services are intended to be outsourced, as well as the structural organisation of the applicant CSD.

3. During the period specified in paragraph 5, ESMA and the relevant authorities may request the applicant CSD to provide additional documents or information where such documents or information are needed to assess the applicant CSD's compliance with the relevant requirements laid down in this Regulation in respect of the intended outsourcing. ESMA may take a decision on the application in the absence of the CSD's response.~~.~~

4. During the period specified in paragraph 5, ESMA shall conduct a risk assessment of the applicant CSD's compliance with the relevant requirements laid down in this Regulation in respect of the intended outsourcing and shall, with respect to both CSDs involved in the intended outsourcing, consult the relevant authorities, the colleges referred to in Article 24a, where applicable, and the competent authorities on whether the intended outsourcing complies with the requirements laid down in this Regulation and on any potential risks that may arise as a consequence of such outsourcing.

5. Within three months from the acknowledgement of receipt of the application referred to in Article 21a(2), ESMA shall adopt its decision and transmit it to the respective registered recipients referred to in Article 21a that are relevant for each CSD involved in the outsourcing, the respective colleges referred to in Article 24a responsible for each CSD involved in the outsourcing, where applicable, and the applicant CSD. The decision shall include a fully reasoned explanation of whether the approval has been granted or refused.';

(21) Article 20 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

'Without prejudice to any remedial actions or measures under Title V, the competent authority shall withdraw the authorisation in any of the following circumstances, where the CSD';

(b) paragraphs 2 and 3 are replaced by the following:

'2. Before the competent authority takes a decision to withdraw the authorisation of the CSD it shall do all of the following:

(a) it shall request an opinion of the relevant authorities on the necessity of withdrawing the authorisation of the CSD;

(b) it shall consult, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU on the necessity of withdrawing the authorisation of the CSD;

(c) for a less significant CSD, it shall, request the opinion of ESMA, pursuant to Article 14(4) and in accordance with the procedure laid down in Article 17a on the necessity of withdrawing the authorisation of the CSD;

(d) for a significant CSD, it shall consult the national competent authority on the necessity of withdrawing the authorisation of the CSD.

Points (b) to (d) of the first subparagraph shall not apply where a decision is required urgently.

3. Any relevant authority, the authority referred to in Article 67 of Directive 2014/65/EU, where applicable, and, for a less significant CSD, ESMA may, at any time, request that the competent authority examines whether the CSD still complies with the conditions under which the authorisation was granted.';

(22) the following Article 21a is inserted:

'Article 21a

Central Database

1. ESMA shall establish and maintain a central database in accordance with Article 35c of Regulation (EU) No 1095/2010. Separately for each CSD, the competent authority of the CSD, ESMA, the relevant authorities of the CSD, and the national competent authority of the CSD, as well as the members of the CSD's college referred to in Article 24a, where applicable and where required under a relevant Article, ('registered recipients') shall have access to all information and documents referred to in paragraph 2, registered within the central database for that CSD, where relevant or necessary for the performance of their duties.

A CSD shall have access to the central database as regards the information and documents referred to in paragraph 2 it submitted to that central database or the information and documents referred to in paragraph 2 transmitted to it through that central database by any of the registered recipients. Other recipients shall also submit and have access to certain specific documents or information, where specified under this Regulation, that is registered in the central database. ESMA shall ensure that the central database performs the functions under this Article.

ESMA shall make available the information referred to in paragraph 2 shared via the central database under this Regulation to any authority relevant for the purpose of Regulation (EU) No 648/2012 and [Regulation (EU) …/… on settlement finality] where relevant or necessary for the performance of their duties.

ESMA shall announce the establishment of the central database on its website.

2. CSDs and registered recipients shall upload to the central database, in electronic format, all information and documents, including applications, decisions, recommendations, information, requests, questions, answers and notifications referred to in this Regulation, unless stated otherwise.

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An acknowledgement of receipt shall be sent via the central database within two working days of submission of information or documents.

3. The central database shall be designed to automatically inform the registered recipients when changes have been made to its content, including the uploading, deletion or replacement of documents, submission of questions and requests for information.

ESMA shall ensure the database enables- DLT recorded data, including on-chain data reading and access to such data.';

(23) Article 22 is amended as follows:

(a) the following paragraph 1a is inserted:

'1a. The CSD shall provide all the necessary information for the purposes of the review and evaluation referred to in paragraph 1, including periodic information, as specified in accordance with paragraph 10. This information shall be immediately shared with the registered recipients referred to in Article 21a.'; (b) paragraph 5 is replaced by the following:

'5. The competent authority shall subject the CSD to on-site inspections.

The competent authority shall inform ESMA and the relevant authorities of any planned on-site inspection one month before such inspection is due to take place, unless the decision to conduct an on-site inspection is taken in an emergency, in which case the competent authority shall inform those authorities as soon as that decision is taken.

ESMA or the relevant authorities may request to be invited to on-site inspections. Where the competent authority refuses to invite the authorities that have made such a request to an on-site inspection, it shall provide a reasoned explanation for such refusal.

The competent authority shall forward to ESMA, the relevant authorities, and, where applicable, the members of the college referred to in Article 24a any relevant information received from the CSD in relation to all on-site inspections it carries out.';

(c) in paragraph 6, the first and second subparagraphs are replaced by the following:

'When performing the review and evaluation referred to in paragraph 1, the competent authority shall cooperate closely with ESMA, and with the relevant authorities. The competent authority shall, at an early stage, transmit the necessary information to ESMA, the relevant authorities and, where applicable, to- the authority referred to in Article 67 of Directive 2014/65/EU, and consult them on whether the requirements of this Regulation or other requirements of Union law are met by the CSD as regards the functioning of the securities settlement systems operated by the CSD.

Within 90 working days of receipt of the information referred to in the first subparagraph from the competent authority:

(a) the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU may issue an opinion within their areas of competence; and

(b) ESMA may issue an opinion pursuant to Article 14(4) in accordance with the procedure laid down in Article 17a.';

(c) paragraph 7 is replaced by the following:

'7. The competent authority shall regularly, and at least immediately after the end of every review and evaluation period, inform, via the central database, the registered recipients referred to in Article 21a and, where applicable, the college referred to in Article 24a and the authority referred to in Article 67 of Directive 2014/65/EU of the results, including any remedial action or penalties, of the review and evaluation referred to in paragraph 1 of this Article.';

(d) paragraph 8 is replaced by the following:

'8. When performing the review and evaluation referred to in paragraph 1 of this Article, the competent authority shall consult the authorities referred to in Article 17(6) on all relevant information that is likely to facilitate the competent authority's tasks pursuant to this Article.';

(24) Article 23 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. An authorised CSD shall be able to provide services referred to in the Annex, within the territory of the Union, including through setting up a branch to provide such services, in accordance with Article 18.';

(b) paragraph 2 is replaced by the following:

'2. An authorised CSD that provides the core services referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments issued by issuers incorporated in a Member State other than the one in which the CSD is established or that has set up a branch in a Member State other than the one in which the CSD is established to provide those core services, shall notify this to its competent authority within 5 working days of commencing the provision of such services, or of setting up a branch, as applicable.

As part of the notification referred to in the first subparagraph, the CSD shall provide all of the following information, for each host Member State:

(a) the core services referred to in the first subparagraph provided by the CSD;

(b) whether the core services referred to in the first subparagraph are provided in relation to equities or debt instruments;

(c) the aggregate market value or, where not available, the nominal value of the financial instruments in relation to which the CSD provides the core services referred to in the first subparagraph;

(d) where applicable, the organisational structure of the branch and the names of the persons responsible for the management of the branch.

~~(a)~~ The CSD shall, update the information listed in:~~ :~~

(a) the second subparagraph, ~~every six months~~ and share the updated information with its competent authority as follows:

(b) with respect to information referred to in points (a), (b) and (d) of the second subparagraph, where there has been a change compared to its previous submission of such information;

(c) with respect to information referred to in point (c) of the second subparagraph, where the competent authority requires it for the purposes of the review and evaluation process in accordance with Article 22(1a).';

(c) paragraph 3 is replaced by the following:

'3. Following receipt of the notification or of the updated information referred to in paragraph 2, as applicable, the competent authority shall immediately share it with the registered recipients referred to in Article 21a and, where applicable, the college referred to in Article 24a.

ESMA shall publish the information referred to in paragraph 2, second subparagraph points (a), (b) and (c) on its website.';

(d) paragraphs 4 to 10 are deleted;

(25) Article 24 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

'1. Where an authorised CSD has set up a branch in a host Member State, in accordance with Article 23, the competent authority shall cooperate closely with the national competent authority of the host Member State in the performance of its duties provided for in this Regulation~~, in~~. In particular ~~when carrying~~the competent authority shall carry out on-site inspections in ~~that~~a branch~~.~~ in a host Member State ~~jointly~~ only upon notifying ~~with~~ the national competent authority of that Member State thereof.

The competent authority should ~~may~~ notify ~~invite staff from~~ the national competent authorities of the host Member States and ~~from~~ ESMA about its intention to conduct an ~~to participate~~ ~~in~~ on-site inspections~~.~~ in the CSD.

The competent authority shall transmit to ESMA, to the national competent authority of the host Member State and, where applicable, to the college referred to in Article 24a the findings of the on-site inspections and information on any remedial actions or penalties decided on by that competent authority.

2. The competent authority may require CSDs which provide services in accordance with Article 23 to report to it periodically on their activities in a host Member State, including for the purpose of collecting statistics. The competent authority shall, on request from the national competent authority of the host Member State, provide those periodic reports to the national competent authority of the host Member State.

3. The competent authority shall, upon the request of the national competent authority of the host Member State and without delay, communicate the identity of the issuers established in the host Member State and of the participants holding financial instruments issued by issuers incorporated in the host Member State in the securities settlement systems operated by the CSD which provides the services referred to in Article 23(2), and any other relevant information concerning the activities of a CSD that provides core services in the host Member State through a branch.';

(b) paragraph 5 is amended as follows:

(i) the first subparagraph is replaced by the following:

'Where the national competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its

territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of such CSD, ESMA and, where applicable, the college referred to in Article 24a of those findings. The competent authority shall take appropriate measures to ensure compliance by the CSD with the provisions of this Regulation. Before taking a decision in accordance with the second sentence of this subparagraph, the competent authority shall submit its draft decision to ESMA for an opinion pursuant to Article 14(4) in accordance with the procedure laid down in Article ~~17~~17a;';

(ii) the second subparagraph is deleted;

(c) paragraph 6 is deleted;

(26) Article 24a is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Without prejudice to Article 11(8), the competent authority shall establish a college of supervisors to carry out the tasks referred to in paragraph 8 in relation to a CSD that fulfils at least one of the following criteria:

(a) the CSD has initially recorded in its securities accounts financial instruments issued by issuers incorporated in a host Member State;

(b) the CSD centrally maintains in its securities accounts financial instruments issued by issuers incorporated in a host Member State;

(c) the CSD centrally maintains in its securities accounts financial instruments for participants and other holders of securities accounts from a host Member State.

For the purposes of the assessment of the criterion referred to in the first subparagraph, point (c), the following shall apply:

(a) in the case of individual client segregation, the country of incorporation (for legal persons) or the country of residence (for natural persons) of the holders of securities accounts, including participants' clients, shall be the relevant country;

(b) in the case of omnibus client segregation, the participants' country of incorporation shall be the relevant country, unless the information on the country of incorporation or the country of residence of the underlying clients is available to the CSD.';

(b) the following paragraph 1a is inserted:

'1a. ESMA shall assess, six months after an initial authorisation of a CSD pursuant to Article 17, whether a CSD meets the criteria laid down in paragraph 1.

ESMA shall also assess every twelve months whether an authorised CSD meets, or continues to meet, the criteria laid down in paragraph 1.

ESMA shall communicate the results of this assessment to the CSD and the registered recipients referred to in Article 21a.';

(c) paragraphs 2 and 3 are replaced by the following:

'2. The competent authority shall establish the college within six months of the date of the communication of the results of the assessment made by ESMA pursuant to paragraph 1a.

3. The college shall be chaired and managed by the competent authority of the home Member State ~~ESMA~~ ('the chair').';

~~(d) paragraph 4 is amended as follows:~~

~~(i) point (b) is replaced by the following:~~

~~'(b) the competent authority of the CSD;';~~

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

~~'(d) the competent authorities of the host Member States in which the CSD is offering its services in accordance with Article 23;~~

~~(e) EBA, where the CSD has been authorised pursuant to Article 54; and';~~

~~(iii) the following point (f) is added:~~

~~'(f) the competent authority referred to in Article 4(1), point (40), of Regulation (EU) No 575/2013 where the CSD has been authorised pursuant to Article 54 of this Regulation.'~~;

~~(e) paragraph 5 is deleted;~~

(f) paragraph 6 is replaced by the following:

'The chair shall notify the composition of the college to ESMA within one month of the college's establishment and any change in its composition within one month of that change. ESMA and the competent authority of the home Member State shall publish on their websites without undue delay the list of the members of that college and keep that list updated.';

(g) paragraph 8 is amended as follows:

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

'(a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15 and information on the review and evaluation process pursuant to Articles 22 and 60;';

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

'(d) the exchange of information on an authorised outsourcing or extension of activities and services under Articles 19, 19a and 56;

(e) cooperation regarding any issues encountered in relation to the provision of services in other Member States in accordance with Article 23;';

(h) in paragraph 9, the third subparagraph is replaced by the following:

'The chair may invite additional participants to the discussions of the college on an ad hoc basis on specific topics or as permanent observers.';

(i) in paragraph 10, points (b) and (c) are replaced by the following:

'(b) issues relating to any outsourcing or extension of activities and services under Article 19, 19a or 56; or

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(c) issues relating to any potential breach of this Regulation arising from the provision of services in a host Member State in accordance with Article 23.'; (j) paragraph 13 is deleted;

(27) Article 25 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Notwithstanding paragraph 1, a third-country CSD shall be subject to the procedure referred to in paragraphs 4 to 11 of this Article where it intends to do any of the following:

(a) set up a branch in a Member State;

(b) provide the core services referred to in points (1) and (2) of Section A of the Annex in relation to financial instruments issued by an issuer established in a Member State and where the terms and conditions of the financial instrument concerned are governed by the law of a Member State..';

(b) paragraph 2a is replaced by the following:

'2a. A third-country CSD that intends to provide the core service referred to in Section A, point 3, of the Annex in relation to financial instruments governed by the law of a Member State, shall notify ESMA thereof. ESMA shall inform the national competent authority of the Member State by whose law the financial instruments are governed of the notification received.';

(c) in paragraph 4, point (d) is replaced by the following:

'(d) where relevant, the third-country CSD takes the necessary measures to allow its users to comply with the relevant national law of the Member State in which the third-country CSD intends to provide CSD services, and the adequacy of those measures has been confirmed by the competent authorities of the Member State in which the third-country CSD intends to provide CSD services;'

(d) paragraph 13 is amended as follows:

(i) in the first subparagraph, point (b) is replaced by the following:

'(b) the number and volume of transactions in financial instruments governed by the law of a Member State settled during the previous year;';

(ii) the second subparagraph is replaced by the following:

'ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = one year after the entry into force of this amending Regulation].';

(28) the following Article 25a is inserted:

'*Article 25a*

Fees for third-country CSDs

1. ESMA shall charge fees associated with applications for recognition pursuant to Article 25 to CSDs established in a third country in accordance with this Regulation and with the delegated act adopted pursuant to paragraph 2.

2. The Commission shall be empowered to adopt a delegated act in accordance with Article 67 in order to supplement this Regulation by specifying the fees referred to in paragraph 1 by setting out:

(a) the types of fees;

(b) the amount of the fees;

(c) the manner in which fees are to be paid.';

(29) in Article 26(2), the second subparagraph is replaced by the following:

'Where a CSD intends to provide banking-type ancillary services to other CSDs pursuant to Article 54a, that CSD shall have in place clear rules and procedures addressing potential conflicts of interest and mitigating the risk of discriminatory treatment towards those other CSDs and their participants';

(30) in Article 27a(3), the following subparagraph is inserted after the second subparagraph:

'During the assessment period, ESMA shall issue an opinion pursuant to Article 14(4), in accordance with the procedure under Article 17a.';

(31) in Article 27b(1), the following subparagraph is added:

(32) 'The assessment of the competent authority concerning the notification provided for in Article 27a(2) and the information referred to in Article 27a(4) shall be subject to an opinion of ESMA pursuant to Article 14(4), issued in accordance with the procedure set out in Article 17a.';

(33) Article 30 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. The outsourcing of a core service to a third party other than a CSD within the same group shall be subject to authorisation by the competent authority in accordance with Article 19. The outsourcing of a core service to another CSD within the group shall be subject to approval by ESMA in accordance with Article 19a.

A CSD shall notify the outsourcing of services referred in Section B of the Annex to its competent authority prior to implementing the outsourcing. As part of the notification, the CSD shall provide all relevant information that allows its competent authority to assess compliance with the requirements provided in this Article.';

(b) the following paragraphs 6 and 7 are added:

'6. The use of DLT by a CSD to provide its ~~the~~ core services shall not be considered ~~by its~~ as outsourcing, when~~unless~~ the CSD operates a DLT platform itself and does not enter into an arrangement with a third party to provide those core services using DLT.

7. ESMA, in close cooperation with the ESCB, shall develop draft regulatory technical standards to specify under which specific circumstances an outsourcing arrangement shall be considered as an outsourcing of core services.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 18 months after the entry into force of this amending Regulation].

PUBLIC

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.';

(34) in Article 33, the following paragraph 7 is added: –'7. The Commission shall be empowered to adopt delegated acts in accordance with Article 67 to enable CSDs to also allow private individuals to become participants in a CSD where such private individuals have been allowed to participate in a securities settlement system under [Regulation (EU) …/… on settlement finality]. The delegated acts shall specify any additional requirements needed to mitigate any risks that may arise for CSDs accepting private individuals as participants.';

(35) in Article 34, the following paragraphs 9 and 10 are added:

'9. Settlement internalisers shall disclose to their clients the prices and fees associated with the services they provide and shall differentiate between the prices pertaining to settlement in and outside a securities settlement system. They shall disclose the prices and fees of each service provided separately, including discounts, rebates and the conditions to benefit from those reductions.

10. ESMA shall develop draft implementing technical standards to determine standard forms, templates and procedures for the disclosures referred to in the paragraphs 1, 5 and 9.

ESMA shall submit those draft implementing technical standards to the Commission by [OP insert date = 18 months after the entry into force of this amending Regulation].

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.';

(36) in Article 37, paragraph 1 is replaced by the following: '1. A CSD shall take appropriate reconciliation measures, that may be undertaken using DLT, to verify that the number of securities making up a securities issue or part of a securities issue submitted to the CSD is equal to the sum of securities recorded on the securities accounts of the participants of the securities settlement system operated by the CSD and, where relevant, on owner accounts maintained by the CSD. Such reconciliation measures shall be conducted at least daily.';

(37) Article 38 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. A CSD shall keep records and accounts that enable omnibus client segregation. Where a CSD is operating its core services using DLT, and where the CSD enables all participants and their clients to have individual client segregation as defined in paragraph 4, such CSD may, in derogation to the first sentence, opt not to offer omnibus client segregation. This provision is without prejudice to the obligations of the CSD to comply with the requirements set out in Article 48a for at least one of the security settlement systems it operates.';

(b) in paragraph 5, the following subparagraph is inserted after the first subparagraph:

'Where the CSD is operating its core services using DLT and has opted to offer omnibus client segregation in accordance with paragraph 3, such CSD shall, in

PUBLIC

derogation to the first subparagraph, take all reasonable steps to ensure that a participant offers its clients at least the choice between omnibus client segregation and individual client segregation and inform them of the costs and risks associated with each option.';

(38) Article 39 is amended as follows:

(a) paragraph 6 is replaced by the following:

'Where the CSD offers the services referred to in Article 40(3), it shall ensure that the cash proceeds of securities settlements shall be available for recipients to use no later than by the end of the business day of the intended settlement date.' (b) paragraph 7 is replaced by the following:

'7. All securities transactions against payment in cash or in e-money tokens between direct participants in a securities settlement system operated by a CSD and settled in that securities settlement system shall be settled on a DVP basis.';

(39) Article 40 is replaced by the following:

'Article 40

Cash and e-money token settlement

1. A CSD shall settle the cash payments of its securities settlement system in central bank money where practical and available.

2. Where a CSD offers to settle the cash payments of its securities settlement system in a currency available on a common settlement infrastructure integrated with central bank real-time gross settlement systems operated in the Union, that CSD shall connect directly to such infrastructure and offer to its participants the possibility to settle their transactions denominated in currencies available on such infrastructure in accounts opened at such infrastructure.

3. This requirement shall not apply to CSDs for which none of the currencies available on such infrastructure is one of the most relevant currencies referred to in Article 12(1), point (b).

4. CSDs shall comply with the obligations set out in paragraph 2 of this Article at the latest by:

(a) [OP enter date = 24 months after entry into force of this amending Regulation] where the currency is available on such infrastructure on that date; or

(b) 24 months after one of the most relevant currencies in which settlement takes place referred to in Article 12(1), point (b) becomes available on such infrastructure.

~~3.~~5. Where ESMA determines that a currency available on the settlement infrastructure referred to in paragraph 2 of this Article is considered as one of the most relevant currencies in which settlement takes place at a CSD in accordance with Article 12(1), point (b), that CSD shall comply with the obligations set out in paragraph 2 of this Article by 24 months after ESMA's determination and publication on its website pursuant to Article 12(2).

4.6. Where a CSD does not settle in central bank money as provided in paragraph 1, a CSD shall only offer to settle the cash payments for all or part of its securities settlement systems:

(a) through its own accounts;

(b) through accounts opened with a credit institution authorised in accordance with Article 8 of Directive 2013/36/EU; or

(c) through accounts opened with another CSD whether within the same group of undertakings ultimately controlled by the same parent undertaking or not.

A CSD wishing to settle the cash payments as specified in points (a) to (c) of the first subparagraph, shall obtain an authorisation to do so in accordance with Articles 54, 54a or 54b and, where applicable, 54c, and Article 55, and shall comply with the requirements set out in Title IV.';

(40) the following Article 45a is inserted:

'Article 45a

Risks related to the use of distributed ledger technology outside of an outsourcing arrangement

1. Without prejudice to the provisions of Article 45, where a CSD operates itself a core service listed in Section A of the Annex using DLT the CSD shall ensure it complies with the following requirements:

(a) the use of DLT does not result in depriving the CSD of the systems and controls necessary to manage the risks it faces;

(b) the use of DLT does not negatively affect the relationship and obligations of the CSD towards its participants or issuers;

(c) the use of DLT does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions; /

(d) the CSD retains the expertise and resources necessary to provide its services on DLT, to monitor the services provided using DLT and to effectively manage the risks associated with the use of DLT on an ongoing basis;

(e) the CSD has direct access to the relevant information in relation to the provision of services using DLT.

2. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify the risks referred to in paragraph 1 and the methods of assessment thereof, and to specify the methods for the CSD to meet the requirements set out in paragraph 1.

ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 12 months after the entry into force of this amending Regulation].

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.';

(41) in Article 47a(3), the second subparagraph is replaced by the following: 'ESMA shall submit those draft regulatory technical standards to the Commission by 30 October 2027.';

(42) Article 48 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'CSDs intending to establish an interoperable link shall provide the risk assessment referred to in the first subparagraph to their respective competent authorities in the application for authorisation of such interoperable link to be submitted by each of the concerned CSDs in accordance with the procedure laid down in Article 48b.';

(b) paragraph 2 is replaced by the following:

'2. CSDs established in the Union that intend to establish interoperable links with other CSDs established in the Union shall submit an application for authorisation as required under Article 19.';

(c) the following paragraphs 2a, 2b, 2c and 2d are inserted:

'2a. Interoperable links of CSDs that outsource some of their services related to those interoperable links to a public entity as referred to in Article 30(5) and CSD links that are not interoperable links shall not be subject to authorisation but shall be notified by the CSDs to their competent and relevant authorities prior to their implementation, by providing all relevant information that allows those authorities to assess compliance with the requirements provided in this Article.

2b. The competent authority of the requesting CSD shall require that CSD to discontinue a CSD link that has been notified when that link does not fulfil the requirements provided for in this Article and thereby would threaten the smooth and orderly functioning of the financial markets or cause systemic risk. Where a competent authority requires the CSD to discontinue a CSD link, it shall follow the procedure laid down in Article 20(2) and (3).

2c. An authorised CSD may establish a CSD link with a third-country CSD. In that case, it shall comply with the conditions and procedure provided in this Article. The information provided by the requesting CSD shall allow the competent authority to evaluate whether such links fulfil the requirements provided in this Article or the requirements that are equivalent to those provided in this Article.

2d. An authorised CSD intending to establish an interoperable link with a ~~third~~third-country CSD shall submit an application for authorisation to its competent authority, as required under Article 19. The competent authority shall refuse to authorise such a CSD link only where it would threaten the smooth and orderly functioning of the financial markets or cause systemic risks.';

(d) in paragraph 8, first subparagraph, the introductory wording is replaced by the following:

'CSDs which use a common settlement infrastructure, and interoperable securities settlement systems shall establish identical moments of:';

~~-~~(e) paragraph 9 is replaced by the following:

'9. All interoperable links between authorised CSDs shall be, where applicable, DVP-settlement supporting links.';

PUBLIC

(f) paragraph 10 is amended as follows:

(i) the first subparagraph is replaced by the following:

'ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify all of the following:

(a) the scope of the risk assessments referred to in paragraph 1;

(b) the conditions provided for in paragraph 3 under which each type of link arrangement provides for adequate protection of the linked CSDs and of their participants, in particular where a CSD intends to participate in the securities settlement system operated by another CSD;

(c) the monitoring and managing of additional risks referred to in paragraph 5 arising from the use of intermediaries;

(d) the reconciliation procedures referred to in paragraph 6;

(e) the cases where DVP settlement through CSD links is practical and feasible as provided for in paragraph 7 and the methods of assessment thereof;

(f) the rules ensuring the harmonised application of the obligation pertaining to the moments referred to in paragraph 8, specifically the moments of entry of transfer orders into a system, irrevocability of transfer orders and finality of transfers of securities and cash.';

(ii) the following subparagraph is inserted after the first subparagraph:

'When specifying the elements referred to in the first subparagraph, point (d), ESMA shall take into account the most widespread current practices.'; (iii) the second subparagraph is replaced by the following:

'ESMA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 1 year after entry into force of this amending Regulation].';

(43) the following Articles 48a and 48b are inserted:

'Article 48a

CSD connectivity

1. Where a significant CSD fulfils the criteria laid down in Article 11a(1) and is not part of a group of CSDs, or it is the only significant CSD within a group that fulfils the criteria of Article 11a(1), such CSD shall be considered a CSD hub.

Where two or more significant CSDs within a group fulfil the criteria of Article 11a(1), the group shall, without undue delay, appoint one of those CSDs as its CSD hub and notify ESMA via the central database.

ESMA shall disclose in the register referred to in Article 21, the CSD hubs, without undue delay.

Every CSD hub shall establish and maintain a bilateral link with each of the other CSD hubs.

2.

3. Every CSD that is not a CSD-hub ('CSD-spoke') and that is subject to the requirement set out in Article 40, paragraph -2~~(2)~~ shall establish and maintain a bilateral link with a CSD-hub. shall establish and maintain a bilateral link with a CSD-hub.

3a. Every CSD-spoke that is not subject to the requirement ~~to connect to ....~~set out in Article 40, paragraph 2, shall establish and maintain an arrangement with a CSD-hub that is composed of two standard links, where each of the involved CSDs is ~~the~~a receiving CSD in one of the links and the requesting CSD in the other link.

~~4. Every CSD that is not a CSD-hub shall establish and maintain a bilateral link with a CSD-hub.~~

Paragraphs 2, ~~and~~ 3 and 3a shall not apply to a DLT SS or a DLT TSS operated by a CSD as defined respectively in Article (2), points (7) and (10), of Regulation (EU) 2022/858.

5. CSDs-hubs involved in a bilateral link referred to in paragraph~~s~~ 2 ~~or 3, as applicable,~~ shall ensure that all financial instruments issued in each of the CSDs involved are available for settlement through that bilateral link.

5a. CSD-hubs involved in a bilateral link referred to in paragraph 3 or in an arrangement referred to in paragraph 3a shall ensure that all financial instruments that are issued in the CSD-spoke are available for settlement through that bilateral link or arrangement.

5b. Every CSD-spoke involved in a bilateral link referred to in paragraph 3 or in an arrangement referred to in paragraph 3a shall ensure that at least all financial instruments that meet all the following conditions are available for settlement through the bilateral link or arrangement where the CSD-hub~~s~~ is the receiving CSD:

a. they are issued in the CSD-hub;

b. they are denominated in euro;

c. they are admitted to trading or traded on a trading venue."

6. Receiving CSDs in links composing the bilateral link or the arrangement established pursuant to paragraphs 2 ~~or,~~ -3 or 3a~~,~~ as applicable, may charge a reasonable commercial fee to the requesting CSDs, to recover the costs incurred by the establishment and the use of those links from the requesting CSDs.

7. CSDs shall comply with the obligations set out in paragraphs 2 ~~or,~~ 3 and –3a, as applicable, at the latest by [OP enter date = ~~18~~24 months after entry into force of this amending Regulation].

8. Where ESMA determines that a CSD previously considered to be a CSD hub failed to meet the criteria laid down in Article 11a(1) for three consecutive years, all of the following shall apply:

(a) that CSD shall no longer be considered a CSD hub and ESMA shall notify the CSD concerned of such determination;

(b) ESMA shall remove the CSD, without undue delay, from the register referred to in paragraph 1;

(c) ESMA shall notify all CSDs that have established bilateral links or arrangements with that CSD pursuant to paragraphs 2 ~~or~~ 3, or 3a and their competent authorities;

(d) the CSDs referred to in point (c) of this paragraph shall have ~~18~~ 24 months to reestablish their compliance with the requirements set out in paragraphs 2, 3 or 3a, with another CSD hub.

~~9.~~ The Commission shall be empowered to adopt delegated acts in accordance with Article 67 to amend the conditions under which a CSD shall be subject to the obligations set out in paragraphs 2 and 3.

~~9.~~

~~2.~~ The Commission shall consider the appropriateness of making any such changes. Where amending such conditions the Commission shall take into account the cross-border relevance of the CSDs established in the Union and the risks they pose to the financial stability of the Union.

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Article 48b

Procedure to authorise interoperable links

1. Authorised CSDs shall submit an application for authorisation to ESMA where they intend to establish an interoperable link.

2. Applications to establish each of the standard and interoperable links composing the bilateral links referred to in Article 48a(2) and (3) shall be submitted by both receiving and requesting CSDs and treated as a single application. By way of derogation from the first sentence, where one of the standard and interoperable links that is to compose the mandatory bilateral link between two CSDs pursuant to Article 48a(2) and (3) has already been established, only an application for authorisation of the missing standard and interoperable link that is to compose the bilateral link shall be submitted to ESMA. Once ESMA has authorised the missing links, the requirements referred to in Article 48a(2) or (3), as applicable, shall be considered to be fulfilled.

3. The application shall be immediately shared with the respective registered recipients referred to in Article 21a for both CSDs involved in the intended interoperable link and, where applicable, the respective colleges referred to in Article 24a of both CSDs involved in the intended link.

   The applicant CSDs shall include in the application all documents and information necessary to demonstrate that they will have established, at the time of the authorisation of the interoperable link, all the necessary arrangements to meet their obligations as laid down in this Regulation in respect of such interoperable link.

4. During the period specified in paragraph 6, ESMA and the relevant authorities may request the applicant CSDs to provide additional documents or information where such documents or information are needed to assess the applicant CSDs' compliance with the relevant requirements laid down in this Regulation in respect of the interoperable link they intend to establish. ESMA may take a decision on the application in the absence of the CSDs' response.

5. During the period specified in paragraph 6, ESMA shall conduct a risk assessment of the applicant CSDs' compliance with the relevant requirements laid down in this Regulation in respect of the interoperable link they intend to establish and shall, for both applicant CSDs involved, consult the relevant authorities, the college referred to in Article 24a, where applicable, and the competent authority on whether the interoperable link the applicant CSDs intend to establish complies with the

PUBLIC

requirements laid down in this Regulation and on any potential risks that may arise as a consequence of such interoperable link.

6. Within three months from the acknowledgement of receipt of the application referred to in Article 21a(2), ESMA shall adopt its decision and transmit it to the respective registered recipients referred to in Article 21a for both CSDs involved in the interoperable link, the respective colleges referred to in Article 24a of both CSDs involved in the interoperable link, where applicable, and the applicant CSDs. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused.

Without prejudice to paragraph 4, ESMA shall refuse to authorise an interoperable link only where the link would threaten the smooth and orderly functioning of the financial markets or cause systemic risk.';

(44) Article 49 is amended as follows:

(a) in paragraph 1, the first, second and third subparagraphs are replaced by the following:

'Any issuer established in the Union that issues or has issued securities that are in the process of being admitted to trading, admitted to trading, or traded on trading venues, shall have the right to arrange for such securities to be initially recorded and the right to arrange for such securities to be recorded subsequently to an initial recording, in book-entry form in any CSD established in any Member State.~~'~~

Where an issuer exercises the right referred to in the first subparagraph, the provisions of the ~~**chosen**~~ national law **chosen** for regulating the issuance ~~**and**~~ **or of the national law regulating the** recording of the securities ~~**and**~~ **as well as** the provisions governing the terms and conditions of the securities shall continue to be applicable to such securities**, their issuer and their record keeping**. Any national law provisions that remain applicable shall not amount to an undue barrier to exercising the right referred to in the first subparagraph.'**;**~~;~~

(b) paragraphs 2 and 3 are replaced by the following:

'2. Where an issuer submits a request for recording its securities in a CSD, initially or subsequently to an initial recording, such CSD shall treat such request promptly and in a non-discriminatory manner and provide a response to the requesting issuer within three months.

3. A CSD may refuse to provide services to an issuer. Such a refusal shall be based only on a comprehensive risk assessment or if that CSD does not provide the services referred to in Section A, point (1), of the Annex in relation to securities for which such services are requested by the issuer.';

Article 50 is replaced by the following: 'Subject to fulfilling the requirements for participation set out in Article 33 and to the prior notification of the CSD link provided under Article 48(2a), a CSD shall have the right to become a participant of another CSD and set up a standard link with that
CSD in accordance with the procedure set out in Article 52.'; (46)

the following Article 51a is inserted:

PUBLIC

'Article 51a

Relayed links

'1. Where a CSD requests a CSD hub to be the third party to a relayed link with a CSD established in the Union, the CSD-hub and the receiving CSD shall reject such a request only on the basis of risks considerations. The CSD hub and the receiving CSD shall not deny a request on the grounds of loss of market share.

2. The CSD hub acting as the third party in a relayed link and the receiving CSD may charge a reasonable commercial fee to the requesting CSD to recover the costs incurred by the establishment and the use of the links referred to in paragraph 1.'; (47) Article 52 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. When a CSD submits a request for access to another CSD pursuant to Articles 48a(2) and (3), 50 and 51, the receiving CSD shall treat the request promptly and shall provide a response to the requesting CSD within three months. If the receiving CSD agrees to the request, the CSD link shall be implemented within a reasonable timeframe, which shall be no longer than 12 months.'; (b) paragraph 2 is amended as follows:

(i) the third subparagraph is replaced by the following:

'In case of a refusal to grant access through a link not referred to in Article 48a(2) or (3), the requesting CSD has the right to complain via the central database to the competent authority of the CSD that has refused access.';

(ii) in the fifth subparagraph, the first sentence is replaced by the following:

'The competent authority of the receiving CSD shall consult, via the central database, the competent authority of the requesting CSD and the relevant authority of the requesting CSD referred to in Article 12(1), point (a), on its assessment of the complaint.'

(c) the following paragraph 2a is inserted:

'2a. In case of refusal to grant access through a link referred to in Article 48a (2) or (3), the receiving CSD shall provide a duly justified refusal via the central database to ESMA and to the requesting CSD. The refusal shall be based on a comprehensive risk assessment.

Within 30 working days from the notification of the refusal to ESMA and to the requesting CSD, the receiving CSD and the requesting CSD shall provide ESMA, via the central database, with their proposed measures to mitigate the risks underlying the refusal.

Within 90 working days from receipt by ESMA of the complete submission of proposed measures by the receiving and requesting CSDs, ESMA, in cooperation with the competent authority of the CSD not considered to be a CSD hub, where applicable, and taking into account those proposed measures, shall identify necessary measures to be taken to mitigate the risks underlying the refusal and shall issue an order, via the central database, to the receiving or requesting CSDs, as applicable, to adopt those necessary measures and set up the link referred to in Articles 48a(2) or (3), as applicable, by a certain date.';

(48) Article 53 is amended as follows:

(a) paragraph 2 is replaced by the following:

When a party submits a request for access to another party in accordance with paragraph 1, such request shall be treated promptly and a response to the requesting party, shall be provided within three months. The party submitting a request shall inform, via the central database, its competent authority, the competent authority of the receiving party and ESMA.

Where a receiving party fails to provide a written response to the requesting party within three months, the requesting party shall inform ESMA via the central database. Upon such communication, ESMA may request information from any party.

Where there is no indication that the conditions for denial of request are met, ESMA may, issue, via the central database, a decision requiring that party to grant access to its services within one month of the notification of that decision.

~~(a)~~(b) paragraph 3 is amended as follows:

(i) the second and third subparagraphs are replaced by the following:

'A party that refuses access shall provide the requesting party with full written reasons for such refusal based on a comprehensive risk assessment~~.~~, and shall inform, via the central database, its competent authority, the competent authority of the receiving party and ESMA. In the case of a refusal, or where the receiving party and the requesting party disagree on the conditions for such access, including on the fee charged for the establishment of the access link referred to in paragraph 1, the requesting party has the right to complain to ESMA~~.~~ via the central database.

ESMA and the relevant authority referred to in Article 12(1), point (a), shall duly examine the complaint by assessing the reasons for refusal and shall provide the requesting party with a reasoned reply, within one month of the date of the complaint.';

~~(i)~~(ii) the fourth subparagraph is deleted;

~~(ii)~~(iii) the fifth subparagraph is replaced by the following:

'Where the refusal by a party to grant access is deemed to be unjustified, ESMA shall issue, via the central database, an order requiring that party to grant access to its services within one month~~.';~~ of the notification of that decision.

A party that grants access to the requested party shall ensure that such access is fully operational within three months of the date of the positive response to the request for access. This period may be extended by up to one month where both parties agree';

~~(b)~~(c) in paragraph 4, the first subparagraph is replaced by the following:

PUBLIC

'ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify the risks to be taken into account by CSDs when carrying out a comprehensive risk assessment and the elements of the procedure referred to in paragraph 3.';

(49) Article 54 is amended as follows:

(a) the title is replaced by the following:

'Authorisation to provide banking-type ancillary services'

(b) paragraphs 1 and 2 are replaced by the following:

'1. A CSD that intends to settle the cash payments for all or part of its securities settlement systems through its own accounts as referred to in Article 40(3), or that otherwise intends to provide any other banking-type ancillary services set out in Section C of the Annex, shall obtain an authorisation to do so under the conditions specified in this Article and in accordance with the procedure set out in Article 55.

2. A CSD shall ensure that any information it provides to market participants about the risks and costs associated with settlement through the own accounts of the CSD is clear, fair and not misleading. A CSD shall make available sufficient information to clients or potential clients to allow them to identify and evaluate the risks and costs associated with settlement through the own accounts of the CSD and shall provide such information on request.';

(c) paragraph 2a is deleted;

(d) paragraph 3 is amended as follows:

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

'Where a CSD seeks to provide any services referred to in paragraph 1 from within the same legal entity as the legal entity operating the securities settlement system the authorisation referred to in paragraph 1 shall be granted only where the following conditions are met:'; (ii) point (c) is replaced by the following:

'(c) the CSD only provides the banking-type ancillary services referred to in Section C of the Annex or the services related to e-money tokens referred in Article 54c and does not carry out any other activities under the authorisation referred to in point (a) of this subparagraph;';

(e) ~~(e)~~ paragraph 4 is replaced by the following:

'4. A CSD authorised to provide any banking-type ancillary services shall comply at all times with the conditions necessary for authorisation under this Regulation and shall, without delay, notify the competent authorities of any substantive changes affecting the conditions for authorisation.';

(f) paragraph 4a is deleted;

(g) paragraph 5 is replaced by the following:

'5. In addition to the provisions set out in paragraphs 1 to 4 of this Article and in Article 55, where a CSD intends to settle in e-money tokens through its own accounts, the provisions set out in Article 54c shall also apply.';

(h) paragraphs 6 and 7 are deleted;

(i) in paragraph 8, the first subparagraph is replaced by the following:

PUBLIC

'EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the additional risk-based capital surcharge referred to in paragraph 3, point (d), of this Article and in Article 54b(5), point (d).';

(j) paragraph 9 is deleted;

(50) the following Articles 54a, 54b and 54c are inserted:

'Article 54a

Authorisation to designate another CSD to provide banking-type ancillary services

1. A CSD that intends to settle the cash payments for all or part of its securities settlement systems through accounts opened with another CSD as referred to in Article 40(3) shall obtain an authorisation to designate that other CSD under the conditions specified in this Article and in accordance with the procedure set out in Article 55.

   For the purposes of the first subparagraph, a CSD may only designate one or more CSDs where those CSDs are authorised to provide banking-type ancillary services pursuant to Article 54.

2. A CSD shall ensure that information provided to market participants by the CSD itself or by the CSD it designated about the risks and costs associated with settlement through accounts opened with the designated CSD is clear, fair and not misleading. A CSD shall make available sufficient information to clients or potential clients to allow them to identify and evaluate the risks and costs associated with settlement through accounts opened with another CSD and shall provide such information on request.

3. Where a CSD is authorised to designate another CSD in accordance with paragraph 1, it may use such authorisation only for the purposes of the provision of the banking-type ancillary services referred to in Section C of the Annex, or of the services related to e-money tokens, required for the settlement of the payments for all or part of its securities settlement systems and not to carry out any other activities.

4. A CSD designated in accordance with paragraph 1 shall be considered to be a settlement agent.

5. Where a CSD seeks to designate another CSD in accordance with paragraph 1 to settle the cash payments for all or part of its securities settlement systems, such cash payments shall not be in a currency of the country where the designating CSD is established.

   The first subparagraph shall not apply if the total value of the settlement in cash or in e-money tokens through accounts opened with another CSD referred to in the first subparagraph does not exceed the threshold determined in accordance with Article 54b(12), point (a).

   The competent authority shall monitor at least once per year that the threshold referred to in the second subparagraph are respected. The competent authority shall transmit its findings together with the underlying data to ESMA and EBA. The competent authority shall also transmit its findings to the members of the ESCB.

   Without prejudice to Article 40, paragraphs 1 and 2, where the competent authority deems that the threshold determined in accordance with Article 54b(12), point (a), for settlement in cash or in e-money tokens has been exceeded, the competent authority shall require the CSD concerned to seek an authorisation in accordance with Article

54. The CSD concerned shall submit its application for authorisation within six months.

6. Where the competent authority considers that the exposure of a CSD designated by another CSD in accordance with paragraph 1 to the concentration of risks under Article 59(3) and (4) is not sufficiently mitigated, the competent authority may require the CSD to designate more than one CSD in accordance with paragraph 1 of

this Article, or to designate a credit institution in accordance with Article 54b, in addition to the originally designated CSD.

7. Where a CSD intends to designate another CSD in accordance with paragraph 1 of this Article to settle the payments for all or part of its securities settlement systems in e-money tokens, in addition to the provisions set out in paragraphs 1 to 6 of this Article, the provisions set out in Article 54c shall also apply.

Article 54b

Authorisation to designate a credit institution to provide banking-type ancillary services

1. A CSD that intends to settle the payments in cash or in e-money tokens for all or part of its securities settlement systems through accounts opened with a credit institution authorised in accordance with Article 8 of Directive 2013/36/EU, as referred to in Article 40(3) of this Regulation, shall obtain an authorisation to designate that credit institution under the conditions specified in this Article and in accordance with the procedure set out in Article 55 of this Regulation.

2. A CSD shall ensure that information provided to market participants by the CSD or by the credit institution it designated about the risks and costs associated with settlement through accounts opened with that credit institution is clear, fair and not misleading. A CSD shall make available sufficient information to clients or potential clients to allow them to identify and evaluate the risks and costs associated with settlement through accounts opened with a credit institution and shall provide such information on request.

3. Where a CSD is authorised to designate a credit institution in accordance with paragraph 1, it may use such authorisation only for the purposes of the provision of the banking-type ancillary services referred to in Section C of the Annex or of the services related to e-money tokens, required for the settlement of the cash payments for all or part of its securities settlement systems, and not to carry out any other activities.

4. A credit institution designated in accordance with paragraph 1 shall be considered to be a settlement agent.

5. Where a CSD seeks to designate a credit institution to provide services pursuant to paragraph 1, the authorisation referred to in that paragraph shall be granted only where all of the following conditions are met:

   (a) the credit institution meets the prudential requirements laid down in Article 59(1), (3) and (4) and the supervisory requirements laid down in Article 60;

   (b) the credit institution does not itself carry out any of the core services referred to in Section A of the Annex;

   (c) the authorisation under Article 8 of Directive 2013/36/EU is used only to provide the banking-type ancillary services referred to in Section C of the Annex, or the

services related to e-money tokens, required for the settlement of the cash payments for all or part of the securities settlement systems of the CSD seeking to use the services referred to in paragraph 1 and not to carry out any other activities;

(d) the credit institution is subject to an additional capital surcharge that reflects the risks, including credit and liquidity risks, resulting from the provision of intra-day credit, inter alia, to the participants in a securities settlement system or other users of CSD services;

(e) the credit institution reports at least monthly to the competent authority and discloses to the public annually as a part of its public disclosure as required under Part Eight of Regulation (EU) No 575/2013 on the extent and management of intra-day liquidity risk in accordance with Article 59(4), point (j), of this Regulation;

(f) the credit institution has submitted to the competent authority an adequate recovery plan to ensure continuity of its critical operations, including in situations where liquidity or credit risk materialises as a result of the provision of banking-type ancillary services from within a separate legal entity.

6. Where a CSD seeks to designate a credit institution in accordance with paragraph 1 to settle the cash payments for all or part of its securities settlement systems, such cash payments shall not be in a currency of the country where the designating CSD is established.

7. Paragraph 5, point (c), shall not apply to a credit institution designated pursuant to paragraph 1 where all of the following conditions are met:

(a) the designation is for the purpose of settling cash payments in non-Union currencies;

(b) the designation is made to only provide one or more of the banking-type ancillary services listed in Section C, points (a), (b) and (c), of the Annex~~,~~;

(c) the CSD operates in real-time gross settlement for such cash payments.

8. Paragraphs 5 and 6 shall not apply to a credit institution designated pursuant to paragraph 1 where the total value of settlement in cash and in e-money tokens through the accounts opened with the credit institution, calculated over a one-year period, does not exceed the threshold determined in accordance with paragraph 12.

The competent authority shall monitor at least once per year that the threshold referred to in the first subparagraph are respected. The competent authority shall transmit its findings together with the underlying data to ESMA and EBA. The competent authority shall also transmit its findings to the members of the ESCB.

Without prejudice to Article 40(1) and (2), where the competent authority deems that the threshold determined in accordance with paragraph 12 of this Article for settlement in cash or in e-money tokens has been exceeded, the competent authority shall require the CSD concerned to seek a new authorisation in accordance with paragraph 1 of this Article, or an authorisation in accordance with Article 54 or Article 54a. The CSD concerned shall submit its application for authorisation within six months.

9. Where the competent authority considers that the exposure of a credit institution designated by a CSD in accordance with paragraph 1 to the concentration of risks

PUBLIC

under Article 59(3) and (4) is not sufficiently mitigated, the competent authority may require the CSD to designate more than one credit institution in accordance with paragraph 1, or to designate another CSD in accordance with Article 54a, in addition to the originally designated credit institution.

10. A credit institution designated in accordance with paragraph 1 shall comply at all times with the conditions necessary for authorisation under this Regulation and shall,

without delay, notify the competent authorities of any substantive changes affecting the conditions for authorisation.

11. Where a CSD intends to designate a credit institution in accordance with paragraph 1 to settle the payments for all or part of its securities settlement systems in e-money tokens, in addition to the provisions set out in paragraphs 1 to 10 of this Article, the provisions set out in Article 54c shall also apply.

12. EBA shall, in close cooperation with the members of the ESCB and ESMA, develop draft regulatory technical standards specifying all of the following:

(a) the threshold referred to in paragraph 8 of this Article and in Article 54a(5) for the settlement in cash or in e-money tokens through accounts opened with a credit institution or with another CSD;

(b) the appropriate risk management and prudential requirements to mitigate risks in relation to the designation of credit institutions in accordance with this Article or CSDs in accordance with Article 54a;

(c) the appropriate risk management and prudential requirements to mitigate risks in relation to the provision of cash settlement in e-money tokens as referred to in Article 54c;

(d) the criteria to assess whether the requirement under Article 54c (2), point (c), is considered fulfilled.

When developing those standards, EBA shall take into account the following:

(a) the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, including the systemic importance of CSDs for the functioning of securities markets;

(b) the implications for the credit and liquidity risks for CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions that are not subject to paragraph 5, and from the settlement of cash payments in e-money tokens;

(c) the possibility for CSDs to settle cash payments in several currencies;

(d) the need to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money or to settlement in e-money tokens and disincentives to the efforts of CSDs to settle in central bank money; and

(e) the need to ensure a level playing field amongst CSDs in the Union.

EBA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 1 year after entry into force of this amending Regulation].

PUBLIC

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 54c

Additional requirements for settlement of cash payments in e-money tokens

1. A CSD may offer to settle the cash payments for all or part of its securities settlement systems in e-money tokens. A CSD shall only be able to do so through any of the following:

   (a) its own accounts in accordance with Article 54;

   (b) accounts opened with another CSD in accordance with Article 54a;

   (c) accounts opened with a credit institution in accordance with Article 54b.

2. Where a CSD intends to settle the cash payments for all or part of its securities settlement systems in e-money tokens, it shall ensure that all of the following conditions are met:

   (a) the e-money token intended to be used for settlement of the cash leg is listed in the ESMA register established in accordance with Article 109 of Regulation (EU) 2023/1114 and is classified as a significant e-money token by EBA in accordance with Articles 56, or 57 of that Regulation;

   (b) the settlement of such payments in e-money tokens takes place through prefunded accounts;

   (c) the e-money token intended to be used for the settlement in the CSD is accessible to the CSD's participants in a sufficient amount to meet the intended use in the securities settlement system operated by the CSD;

   (d) the information provided by the CSD itself, or by the credit institution or CSD it designated, to market participants about the risks and costs associated with settlement in e-money tokens is clear, fair and not misleading;

   (e) the CSD makes available sufficient information to clients or potential clients to allow them to identify and evaluate the risks and costs associated with settlement in e-money tokens and provides such information on request.

3. The competent authority shall monitor at least once per year that the use of e-money tokens referred to in paragraph 1 is compliant with the requirements laid down in paragraph 2, and report its findings, together with the underlying data, to ESMA and EBA.';

(51) Article 55 is amended as follows:

   (a) paragraph 1 is replaced by the following:

'1. A CSD that intends to provide any banking-type ancillary services in accordance with Article 54 or that intends to designate another CSD in accordance with Article 54a or a credit institution in accordance with Article 54b shall submit an application for authorisation as required under the relevant Article, to its competent authority. The application shall be immediately shared with the registered recipients referred to in Article 21a and with the authorities referred to in paragraph 4 via the central database.';

   (b) paragraph 2 is amended as follows:

(i) the second sentence is replaced by the following:

'It shall contain a programme of operations setting out the banking-type ancillary services envisaged, the structural organisation of the relations between the CSD and, where applicable, the designated credit institution or CSD authorised to provide banking-type ancillary services and how that CSD and, where applicable, the designated credit institution or CSD authorised to provide banking-type ancillary services intend to meet the prudential requirements laid down in Article 59(1), (3), (4) and (4a) and the other conditions laid down in Article 54, 54a or 54b, and, where applicable, 54c.'; (ii) the following subparagraph is added:

Where e-money tokens are intended to be used, it shall include an explanation of how the CSD intends to meet the conditions laid down in Article 54c(2) of this Regulation and the latest version of the crypto-asset white paper as published by ESMA in accordance with Article 109(4), point (c), of Regulation (EU) 2023/1114 for such e-money token.';

(c) paragraph 3 is deleted;

(d) paragraph 4 is amended as follows:

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

'The competent authority shall immediately transmit the application referred to in paragraph 1 to the following authorities';

(ii) point (c) is replaced by the following:

'(c) the competent authorities in the Member States where the CSD has established interoperable links with another CSD except where the CSD has established interoperable links referred to in Article 48(2a);';

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

'(d) where applicable, the members of the college referred to in Article 24a;';

(e) paragraph 5 is amended as follows:

(i) in the first subparagraph, the first sentence is replaced by the following:

'The authorities referred to in paragraph 4 may issue a reasoned opinion on the authorisation within two months of receipt of the application as referred to in that paragraph.';

(ii) the second, third and fourth subparagraphs are replaced by the following:

'Where an authority referred to in paragraph 4 issues a negative reasoned opinion, the competent authority intending to grant the authorisation shall, within 30 working days of receipt of that negative opinion, provide the authorities referred to in paragraph 4 with the reasons addressing the negative opinion.

Where, within 30 working days of those reasons being presented, any of the authorities referred to in paragraph 4 issues a negative opinion and the competent authority nevertheless intends to grant the authorisation, any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010.

Where 30 working days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the authorities referred to in paragraph 4.'; (iii) the seventh subparagraph is deleted.

(f) the following paragraph 5a is inserted:

'5a. Within six months from the acknowledgement of receipt of the application referred to in Article 21a(2), the competent authority shall adopt its decision and transmit it to the registered recipients referred to in Article 21a, the authorities referred to in paragraph 4 and the applicant CSD via the central database. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused. Where the decision of the competent authority does not reflect the opinion of any of the authorities referred to in paragraph 4, it shall contain a fully reasoned explanation of any significant deviation from those opinions or conditions or recommendations.

Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply.';

(g) in paragraph 7, the second subparagraph is replaced by the following:

'ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = one year after the entry into force of this amending Regulation].';

(52) in Article 56, paragraph 1 is replaced by the following:

'1. A CSD that intends to extend the banking-type ancillary services it provides itself or for which it designates a CSD or credit institution in accordance with Articles 54, 54a or 54b, as applicable, shall submit a request for extension to its competent authority.';

(53) Article 57 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

'Without prejudice to any remedial actions or measures under Title V, the competent authority of the CSD shall withdraw the authorisations referred to in Articles 54, 54a or 54b, as applicable, in any of the following circumstances:'; (b) paragraph 3 is replaced by the following:

'ESMA, any relevant authority under point (a) of Article 12(1) and any authority referred to in Article 60(1) or, respectively, the authorities referred to in Article 55(4) may, at any time, request that the competent authority of the CSD examine whether the CSD and where applicable the designated credit institution or designated CSD is still in compliance with the conditions under which the authorisation is granted.';

(54) Article 58 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Decisions taken by competent authorities under Articles 54, 54a, 54b, 56 and 57 shall be notified to ESMA.';

(b) paragraph 2 is amended as follows:

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

'(a) the name of each CSD which was subject to a decision under Articles 54, 54a, 54b, 56 and 57;';

(ii) point (c) is replaced by the following:

'(c) the list of banking-type ancillary services that a CSD, a designated credit institution or a designated CSD is authorised to provide for the CSD's participants in accordance with Articles 54, 54a, or 54b, as applicable.';

(55) Article 59 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. A CSD authorised to provide banking-type ancillary services in accordance with Article 54, a CSD designated to provide those services in accordance with Article 54a or a credit institution designated to provide those services in accordance with Article 54b shall provide only the services set out in Section C of the Annex-, or the services related to e-money tokens referred in Article 54c -that are covered by the authorisation.

2. A CSD authorised to provide banking-type ancillary services in accordance with Article 54, a CSD designated to provide those services in accordance with Article 54a or a credit institution designated to provide those services in accordance with Article 54b shall comply with any present or future legislation applicable to credit institutions.';

(b) in paragraph 3, the introductory wording is replaced by the following:

'A CSD authorised to provide banking-type ancillary services in accordance with Article 54, a CSD designated to provide those services in accordance with Article 54a or a credit institution designated to provide those services in accordance with Article 54b shall comply with the following specific prudential requirements for the credit risks related to those services in respect of each securities settlement system:'; (c)- in paragraph 4, the introductory wording is replaced by the following:

'A CSD authorised to provide banking-type ancillary services in accordance with Article 54, a CSD designated to provide those services in accordance with Article 54a, or a credit institution designated to provide those services in accordance with Article 54b shall comply with the following specific prudential requirements for the liquidity risks relating to those services in respect of each securities settlement system:';

(d) paragraph 4a is replaced by the following:

'4a. Where a CSD intends to provide banking-type ancillary services to other CSDs pursuant to Article 54a the CSD shall have in place clear rules and procedures addressing any potential credit, liquidity and concentration risks resulting from the provision of those services.';

(e) in paragraph 5, the second subparagraph is replaced by the following:

'EBA shall submit those draft regulatory technical standards to the Commission by [OP insert date = one year after the entry into force of this amending Regulation].';

(56) in Article 60, paragraph 2 is amended as follows:

(a) in the first subparagraph, points (a) and (b) are replaced by the following: '(a) in the cases referred to in Articles 54a and 54b, whether all the necessary

arrangements between the CSD and the designated CSDs or designated credit institutions allow them to meet their respective obligations as laid down in this Regulation;

(b) in the case referred to in Article 54, whether the arrangements relating to the authorisation to provide banking-type ancillary services allow the CSD to meet its obligations as laid down in this Regulation.';

(b) the second and third subparagraphs are replaced by the following:

'The competent authority of the CSD shall regularly, and at least immediately after the end of every review and evaluation period, inform the authorities referred to in Article 55(4) and, where applicable, the college referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph.

Where a CSD designates another CSD in accordance with Article 54a, or a credit institution in accordance with Article 54b, in view of the protection of the participants in the securities settlement systems it operates, a CSD shall ensure that it has access from the CSD or the credit institution it designates to all necessary information for the purpose of this Regulation and it shall report any infringements thereof to the competent authority of the CSD, to the relevant authorities and to competent authorities referred to in paragraph 1 of this Article.';

(57) in Article 62(1), fifth subparagraph, the third and fourth sentences are replaced by the following:

'ESMA shall maintain, in the central database, information on the sanctions communicated to it solely for the purposes of exchanging information between competent authorities. That information shall be accessible only to competent authorities.';

(58) Article 67 is amended as follows:

(a) the following paragraph 2b is inserted:

'2b. The power to adopt delegated acts referred to in Articles 9(5), 11(10), 11(11), 11a(6), 11b(3), 34(3) and 48a(9) shall be conferred on the Commission for an indeterminate period from [OP insert date = date of entry into force of this amending Regulation].';

(b) paragraph 3 is replaced by the following:

'3. The delegation of power referred to in Article 2(2), Article 7(5) and (9), Article 9(5), Article 11(10) and (11), and Articles 11a(6), 11b(3), 34(3) and 48a(9) may be revoked at any time by the European Parliament or by the Council. A decision of revocation 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.';

(59) Article 69 is amended as follows:

(a) paragraph 4a is amended as follows:

(i) the first and second subparagraphs are replaced by the following:

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'4a. The national rules on recognition of third-country CSDs shall continue to apply until the date when a decision is made under this Regulation on the recognition of the third-country CSDs and of their activities, or until [OP insert date = three years after the entry into force of this amending Regulation], whichever is earlier.

A third-country CSD that provides the core services referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments governed by the law of a Member State as referred to in Article 25(2) point (b) pursuant to the applicable national rules on recognition of third-country CSDs, shall notify ESMA thereof within [OP insert date = two years after the entry into force of this amending Regulation].';

(ii) the fourth subparagraph is replaced by the following:

'ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = one year after the entry into force of this amending Regulation].';

(b) paragraph 4b is replaced by the following:

'4b. A third-country CSD that provided the core service referred to in Section A, point 3, of the Annex in relation to financial instruments governed by the law of a Member State as referred to in Article 25(2a), before [OP insert date = two year after the entry into force of this amending Regulation] shall submit the notification referred to in Article 25(2a) by [OP insert date = two years after the entry into force of this amending Regulation].';

(c) paragraph 7 is replaced by the following:

'7. ESMA shall undertake the first assessment pursuant to Article 24a(1a), second subparagraph, by [OP insert date = 2 years after the entry into force of this Regulation]';

(d) the following paragraphs 9 and 10 are added:

'9. Until [OP insert date = 1 year after the entry into force of this amending Regulation] or 30 days after the announcement referred to in Article 21a(1), whichever date is earlier, the exchange of information, the submission of information and documentation, and notifications that are required to use the central database shall be carried out through the use of alternative arrangements.

10. CSDs that are authorised to outsource core services to other CSDs belonging to their group, and CSDs that are authorised to establish interoperable links including with third-country CSDs, by their national competent authorities before [OP insert date = date the entry into force of this amending Regulation], shall not seek a new authorisation pursuant to Articles 19(2), third subparagraph, 19a, or 48b, where the object of the previously granted authorisations has not changed.';

(60) Article 74 is amended as follows:

(a) paragraph 1 is amended as follows:

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

'(c) the evolution of scale and scope of internalised settlement in the EU, in particular, a comparison of the number, volume and settlement efficiency of the

transactions settled via internalised settlement with transactions settled via CSDs, as well as the evolution of pricing of CSDs and settlement internalisers. The report shall also assess the structure of the market and any potential risks to financial stability from internalised settlement;'; (ii) point (i) is replaced by the following:

'(i) the procedures and conditions under which CSDs have been authorised to designate credit institutions or other CSDs, or have been authorised themselves, to provide banking-type ancillary services in accordance with Articles 54, 54a, or 54b, and 55, including an assessment of the effects that such provision may have on financial stability and competition for settlement and banking-type ancillary services in the Union;'; (b) paragraph 5 is amended as follows:

(i) the second sentence is replaced by the following:

'That report shall take into account the findings related to the monitoring of the threshold by competent authorities referred to in Articles 54a(5) and 54b(8) and the credit and liquidity implications for CSDs providing banking-type ancillary services under such threshold.';

(ii) the following subparagraph is added:

'In the annual report referred to in the first subparagraph, the EBA shall also assess the use of e-money tokens for settlement in authorised CSDs, including the use of e-money tokens denominated in non-Union currencies.';

(61) the Annex to Regulation (EU) No 909/2014 is amended in accordance with Annex VI to this Regulation.

PUBLIC