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5 March 2026

Presidency Discussion Paper
Market Integration and Supervision Package
Post-Trading - Central Securities Depositories Regulation (CSDR)

5 March 2026 10:00 JL 35.8

Introduction

On 4 December 2025, the European Commission published the proposal on the Market Integration and Supervision Package ('**MISP**'). The MISP was presented by the Commission at the Council Working Party ('**CWP**') kick-off meeting on 15 December 2025, together with references to the accompanying evaluation and Impact Assessment (IA). Given the extended scope of the MISP, a more detailed technical presentation addressing certain elements of the asset management proposals took place on 15 January 2026. During the aforesaid presentation, Member States ('**MS**') had the opportunity to express their preliminary views and comments on the proposals. Following these exchanges, MS also had the opportunity to submit their written comments on the proposal to the Presidency ('**PCY**').

The purpose of this paper is to provide a structured basis for the technical discussions of the CWP meeting on 5 March 2026 which is dedicated to the first reading of the provisions of the MISP that are relevant to post-trading and are embedded in Article 4 amendments to Central Securities Depositories Regulation ('**CSDR'**) of the Master Regulation Proposal.

In the post-trading area, the existing framework under the CSDR has enhanced the safety and resilience of EU settlement markets. Further integration — including more effective use of TARGET2-Securities ('**T2S**') — may support increased cross-border activity by issuers, Central Securities Depository ('**CSDs**') and investors. While directly applicable EU rules provide a strong foundation, remaining national specificities, operational challenges linked to passporting, and the limited accommodation of market infrastructure group structures have contributed to complexity and may constrain efficiencies. The proposal seeks to further harmonise cross-border requirements, streamline supervision, enhance technological neutrality and clarify key concepts, with a view to promoting efficiency, legal certainty and a more integrated EU settlement landscape.

Today's CWP provides an opportunity to engage in constructive technical examination of the proposal and continue the exchange on the key issues raised. The PCY invites MS to provide comments during today's CWP, and to elaborate their positions in the subsequent written procedure in particular with regard to the following topics:

1. Integrating Post-Trade Services
2. Facilitating Scale and Competition
3. Significance criteria for EU CSDs & Supervisory changes for all CSDs and Less Significant CSDs

1. Integrating Post-Trade Services

1.1. The Role of T2S and Inter-CSD Connectivity

Relevant Articles: Article 2(1) point (33a) and Articles 40, 48, 48a CSDR

According to the Commission, the proposed amendments to the CSDR under MISP aim to address elements of fragmentation in the EU securities settlement landscape. While the implementation of CSDR and the launch of T2S have contributed to greater integration, settlement activity in the Union continues to take place across multiple infrastructures, currencies and legal frameworks. Connectivity between CSDs has increased over time; however, the level of connectivity differs across CSDs.

In this context, the proposal suggests two related measures. First, certain CSDs would be required to connect to a common settlement infrastructure integrated with central bank real-time gross settlement ('**RTGS**') systems operated in the Union (i.e. T2S). Second, the framework governing inter-CSD links would be revised through the introduction of a more structured model for connectivity, including the establishment of mandatory bilateral interoperable links.

1.1.1. Connectivity to a Common Settlement Infrastructure (T2S)

Relevant Article: Article 40 CSDR

The proposal suggests amending Article 40 of CSDR whereby a CSD offering settlement in a currency that is available on a common settlement infrastructure integrated with central bank RTGS systems in the Union would be required to connect to that infrastructure. In addition, the CSD would be required to offer its participants the possibility to settle transactions in those currencies in central bank money.

In practical terms, this provision is understood to refer to T2S. It would not require that all eligible transactions be settled in central bank money via T2S; rather, it would require that participants be offered the possibility to do so where the relevant currency is available on that infrastructure.

T2S was established with the objective of supporting the centralisation of securities settlement in central bank money and facilitating cross-border settlement within the Union. While a broad range of EU CSDs participate in T2S, settlement volumes processed through the platform represent only part of overall EU settlement activity[1]. A proportion of transactions continues to be settled outside T2S, including through internalised settlement arrangements[2].

More broadly, the amendment reinforces the principle that settlement in central bank money should be the default where practical and available. Where central bank money settlement is not used, CSDs would remain subject to strict limitations and authorisation requirements when settling through their own accounts, through credit institutions, or through another CSD, in accordance with the prudential requirements set out in Title IV.

[1] Transactions settled through T2S represent less than 30% of the value of securities transactions settled in all EU CSDs as per the Impact Assessment accompanying the Commission MISP proposal.

[2] In terms of value, settlement internalisers processed approximately two-thirds of what was processed by CSDs (Impact Assessment accompanying the Commission MISP proposal).

The Commission Communication accompanying the proposal notes that further harmonisation and integration efforts building on the use of T2S could contribute to the development of the Savings and Investment Union ('**SIU**'). It also refers to the potential role of extending the range of currencies settled in T2S, in cooperation with the relevant central banks of issue, and to ensuring that central bank money settlement arrangements remain compatible with the use of new technologies, including distributed ledger technology ('**DLT**').

In response to questions concerning the scope of the obligation under Article 40(2), the Commission clarified that the proposed amendment does not require the exclusive use of T2S for settlement. Rather, the provision would require CSDs that offer settlement in a currency available on a common settlement infrastructure integrated with EU RTGS systems to connect to that infrastructure and to offer their participants the possibility to settle in central bank money through it. The Commission underlined that the objective is to ensure the availability of central bank money settlement via T2S, not to mandate that all transactions be settled through that platform.

With regard to proportionality concerns and the relationship between connectivity and actual settlement volumes, the Commission explained that the measure addresses a structural coordination issue. In its view, limited cross-border settlement in central bank money may reflect incomplete connectivity rather than a lack of underlying demand. Conversely, investment in connectivity may not materialise where demand is not yet visible. Ensuring connectivity is therefore presented as a structural precondition for market integration and deeper capital markets, rather than a response to current settlement volumes alone. The Commission further indicated that promoting connectivity with T2S supports the broader objective of strengthening central bank money settlement in line with international standards. However, the concerns raised on the cost implications (proportionality) for small CSDs remain open.

In response to questions regarding non-euro currencies and practical feasibility, the Commission reiterated that the obligation concerns connectivity and the offering of central bank money settlement as an option where the currency is available on the relevant infrastructure. It does not impose an obligation on participants to use that option.

As regards the interaction with DLT-based settlement models, the Commission clarified that the proposal includes certain exemptions for specific DLT systems within the broader connectivity framework. However, CSDs authorised under the CSDR that offer settlement in a currency available on T2S would, in principle, remain subject to the Article 40 obligation. The Commission indicated that the intention is to preserve the centrality of central bank money settlement while ensuring technological neutrality, without precluding innovation.

Preliminary Views of MS:

MS in their written comments, broadly supported the underlying objective of requiring CSDs to connect to T2S, viewing it as a logical extension of the principle that settlement should take place in central bank money where practical and available. These MS underlined the contribution of the proposal to further integration of EU capital markets and to reinforcing the role of T2S. At the same time, a number of MS requested clarifications on the scope and proportionality of the obligation. Questions were raised as to whether all CSDs offering settlement in a currency available on such infrastructure would be required to connect, including less significant CSDs and those located outside the euro area. Several MS highlighted the potential operational and cost implications for smaller CSDs, particularly where settlement in euro represents only a limited share of overall activity. Concerns were also expressed regarding the practical

feasibility of settlement in non-euro currencies supported by T2S, given that participants would require access to the relevant central bank accounts.

Connecting to T2S may involve significant IT developments, operational adjustments and coordination with central banks and participants. Some MS also noted that potential uptake by participants could vary, including in cases where participants do not hold accounts with the relevant central banks, which may affect the business case for such investment.

Some MS suggested that the obligation could be limited to significant CSDs or be subject to a minimum quantitative threshold in the relevant currency in order to ensure proportionality. Requests were also made for a more detailed cost-benefit assessment supporting the proposed requirement.

At the same time, it was noted that 24 CSDs are currently connected to T2S, including all euro area CSDs authorised under CSDR, with the exception of three, as well as two CSDs from non-euro area MS and one non-EU CSD[3].

MS from non-euro area Member also raised additional considerations. In cases where a CSD provides settlement services in both euro and domestic currency, existing arrangements may already be in place for settlement in the national currency. Introducing an obligation to connect to T2S for euro-denominated transactions could therefore entail operating parallel settlement arrangements.

Clarification was further sought regarding the interaction with DLT-based settlement models and the use of e-money tokens under MiCAR. While supporting innovation, certain MS stressed the need to preserve the primacy of central bank money settlement. Drafting suggestions were made to clarify terminology and ensure consistency between the CSDR and the DLT Pilot Regime.

Questions to MS:

Q1: Do MS agree that action is required to build a more integrated settlement landscape in the Union? If not, why not?

Q2: Do MS consider that specific accommodations for non-euro area CSDs should be explored? If so, which ones and why?

Q3: Do MS consider that additional clarifications are needed regarding DLT-based CSDs? If yes, which ones and why?

1.1.2. Inter-CSD Links and the Introduction of "CSD Hubs"

Relevant Articles: Article 2(1) (33a), article 48 and Article 48a CSDR

This element of the Commission's proposal relates to the structure and governance of links between CSDs. According to the Commission, while the existing CSDR framework has supported the development of cross-border links, the network of connections remains incomplete and uneven. Many existing links are unidirectional or limited to specific categories of instruments[4]. As a result, participants in one CSD may

[3] Based on the Impact Assessment accompanying the Commission MISP proposal.

[4] For more information, see Annex 8 on Post-Trade: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52025SC0943

not be able to settle transactions in securities issued in another CSD in a seamless or comprehensive manner.

The proposal aims to address this by introducing a more structured connectivity model. Under the proposal, "CSD hubs" would be defined as significant CSDs meeting specified criteria. Each hub would be required to establish and maintain bilateral, interoperable links with every other hub. CSDs not designated as hubs would be required to establish and maintain a bilateral, interoperable link with at least one hub.

The proposal suggests that the links described above would be required to support the settlement of all financial instruments issued in the two linked CSDs. ESMA would be responsible for authorising these interoperable links, with the possibility to refuse authorisation limited to cases where a link could threaten the smooth and orderly functioning of financial markets or pose a systemic risk. The current option for a recipient CSD to refuse a standard or customised link would be removed. An 18-month period is envisaged for CSDs to comply with these requirements.

The introduction of a structured hub-and-spoke model aims to ensure that each EU CSD is connected, directly or indirectly, to all others, supporting cross-border investment and access to securities across the Union.

In response to the concerns raised by MS regarding the underlying rationale of mandatory CSD hub links and the proportionality of the proposed framework, the Commission clarified that the proposal reflects a structural integration approach. The Commission explained that cross-border settlement may remain limited where infrastructure connectivity is incomplete, even if there is underlying economic interest. In its view, establishing baseline connectivity is intended to remove structural barriers and allow demand to emerge over time, rather than merely respond to existing volumes.

Regarding the request by some MS for deletion of the mandatory link requirement or for limiting it to CSD hubs only, the Commission clarified that the objective is to ensure effective and comprehensive interoperability between infrastructures, thereby preventing fragmentation and selective connectivity that could undermine integration objectives.

On the potential impact on market structure and competitive dynamics, including concerns that the hub model could concentrate settlement activity in larger infrastructures to the detriment of smaller CSDs, the Commission clarified that increased connectivity could in fact foster competition between CSDs by enabling participants to access a broader range of instruments and infrastructures more easily. In its assessment, enhanced interoperability may create opportunities for smaller markets to integrate into a wider EU settlement ecosystem rather than weaken them.

In response to governance-related questions, in particular the perceived inconsistency between the automatic obligation to establish hub links and the requirement for ESMA authorisation of interoperable links under Article 48b, the Commission clarified that the mandatory nature of the link obligation does not remove the need for prudential scrutiny. Authorisation remains necessary to ensure that links comply with operational, risk management and financial stability requirements. The obligation to establish links and the requirement for supervisory approval therefore serve different purposes and are not considered duplicative.

Overall, the Commission suggests that the proposed framework seeks to balance market integration objectives with financial stability safeguards, while recognising that further technical clarification may be appropriate as negotiations progress.

These issues remain to be further clarified; in particular, MS' requests for a more detailed cost-benefit assessment and proportionality safeguards for less significant and non-euro area CSDs were not substantively explored. Concerns regarding the requirement to cover all financial instruments irrespective of demand, potential concentration effects under the hub model, the precise operational scope of link obligations (including services covered and SSS-level application), and the adequacy of the 18-month implementation timeline remain open.

Preliminary Views of MS:

MS broadly recognised the objective of strengthening cross-border integration through enhanced connectivity between CSDs and the establishment of CSD hubs. Several MS expressed support, or conditional openness, towards the concept, viewing interoperability and structured connectivity as a potential means of improving efficiency, fostering competition and advancing the integration of EU capital markets. Some MS underlined that, notwithstanding possible short-term implementation costs, the development of hub structures could generate medium-term benefits and contribute to a more integrated post-trade landscape.

At the same time, a significant number of MS stressed that any such framework must be proportionate, economically justified and responsive to demonstrated market demand. Several MS emphasised that integration should not entail excessive or disproportionate costs, particularly for smaller or less significant CSDs. Concerns were expressed that mandatory bilateral links, especially interoperable links covering the full range of securities and services, could impose substantial operational and IT investments without a corresponding business case, potentially leading to the creation of inactive or underutilised links. MS highlighted the risk that the proposed model could concentrate settlement activity in large hubs while requiring smaller CSDs to incur costs with limited prospects of recouping those investments.

Clarifications were requested on the criteria and procedure for designating CSD hubs, including whether the limitation of one hub per group is necessary and how such a restriction may affect existing business models. Some MS questioned whether certain infrastructures, notably ICSDs, should be eligible for hub designation, suggesting that the concept should be confined to EU-centric CSDs whose activities are primarily anchored within the Union. It was also underlined that the hub concept should remain technologically and functionally neutral and should not predetermine market structures or create implicit hierarchies among infrastructures.

Further clarification was sought regarding the nature and scope of the link obligations. Several MS requested confirmation that the requirement applies at the level of securities settlement systems rather than to CSDs as legal entities, and clarification on how the obligation would operate where a CSD manages more than one settlement system. Questions were also raised concerning the interaction between Article 48a, which mandates bilateral links, and Article 48b, which provides for an authorisation procedure for such links. Some MS considered that requiring prior ESMA approval for links that are already mandatory could create unnecessary administrative burden.

MS also sought clarification on the scope of services and instruments to be covered through the bilateral links. Concerns were expressed about the requirement that all financial instruments issued in each of the connected CSDs be available for settlement through the link, particularly if this entails the provision of the full range of services—such as settlement, corporate actions, asset servicing and tax reporting—for all instruments irrespective of demand. Several MS argued that such an approach would be disproportionate in the absence of demonstrated business need and suggested that service provision through links should

be demand-driven. Clarification was further requested regarding the interpretation of the term "issued", with suggestions that the term "recorded" might better reflect the intended scope and avoid ambiguity.

A number of MS called for the introduction of explicit proportionality mechanisms. Suggestions included limiting mandatory interoperable links to significant CSDs, allowing less-significant CSDs to establish only standard (non-interoperable) links unless a business case justifies full interoperability, or making link establishment conditional upon request by one of the CSDs concerned. Some MS proposed the concept of a "less-significant CSD hub" as a parallel structure. Other MS suggested deleting the mandatory obligation for non-hub CSDs to establish and maintain bilateral links with a hub, arguing that link creation has traditionally been driven by market demand and revenue considerations.

Additional concerns were raised regarding the economic justification of the proposal more broadly. Several MS requested a more detailed cost-benefit assessment demonstrating the added value of the hub model for the Savings and Investment Union, particularly in light of the concentration of settlement value within a limited number of large CSD groups and the relatively small share represented by less significant CSDs. It was argued that imposing uniform connectivity obligations without differentiation may increase infrastructure costs and adversely affect the competitiveness of smaller markets.

Questions were also raised regarding the proposed 18-month implementation timeline, which some MS considered overly ambitious given the technical complexity of establishing interoperable links, particularly where links do not currently exist or are not fully interoperable. Suggestions were made to extend the compliance period to 24 or 36 months. Clarification was further requested regarding the consequences of a CSD losing hub status and the treatment of existing links in such circumstances.

With regard to the exemption for DLT-based settlement systems, divergent views were expressed. While some MS acknowledged the need to accommodate innovation, others argued that exempting DLT systems from the link requirement could create unequal treatment and undermine the principle of technological neutrality.

In addition, some MS have questioned the scope of the delegated powers granted to the Commission to amend the conditions under which CSDs are subject to hub obligations. Finally, the proposed 18-month implementation period has been described as ambitious, particularly in cases where existing links would need to be upgraded to meet interoperability and scope requirements.

<u>Questions to MS:</u>

Q4: Do MS consider that the hub-and-spoke model represents an appropriate structural response to persistent fragmentation of the market for CSD services? If not, what other solutions should be adopted to address the fragmentation?

Q5: Do MS consider that mandatory connectivity should be conditioned on demonstrated demand, or should connectivity be viewed as enabling demand?

Q6: Do MS agree with the proposal to have mandatory links cover all financial instruments offered by the two linked CSDs? If not, what other approaches would be appropriate?

Q7: Do MS consider that the proposed timeline for putting in place the hub-and-spoke model is operationally feasible? If not, what timeline would you consider as operationally feasible?

1.2. Passporting and freedom of issuance

1.2.1. Provision of services in another Member State

1.2.1.1. Simplification of the passporting procedure

Relevant Article: Article 23 CSDR

According to the Commission, the proposal aims to simplify the existing passporting procedure by amending Article 23 of the CSDR, by introducing a simple ex post notification procedure to the competent authority of the CSD. In particular, in accordance with the proposed amendments, a CSD providing notary or central maintenance services in relation to financial instruments issued by issuers incorporated in a MS other than the one in which the CSD is established, or that has set up a branch in a MS other than the one in which the CSD is established, would only be required to notify the following information to its competent authority:

- the core services (notary or central maintenance) provided by the CSD;
- whether such core services are provided in relation to equities or debt instruments;
- the aggregate market value or, where not available, the nominal value of the financial instruments in relation to which the CSD provides such core services;
- where applicable, the organisational structure of the branch and the names of the persons responsible for the management of the branch.

The Commission proposal aims to reduce the regulatory burden for CSDs providing cross-border services, by proposing that CSDs would submit updated information to their competent authority every six months, rather than each time there is a change in the range of services offered, as is currently required under the CSDR.

The competent authority of the CSD would be mandated to share the information received from the CSD with the registered recipients via the central database[5], and ESMA would be mandated to publish such information on its website[6].

In response to the concerns raised by MS, the Commission provided the following clarifications.

First, in relation to requests questioning the rationale for replacing the ex-ante passporting procedure and concerns that simplification may weaken safeguards, the Commission explained that the objective of the proposed amendment is to ensure that CSDs can freely provide notary and central maintenance services cross-border without being subject to excessively costly and uncertain ex-ante assessments. Referring to the Impact Assessment and feedback from the public consultation, the Commission noted that stakeholders considered the current passporting regime — even after CSDR Refit — to remain unnecessarily cumbersome, costly and unpredictable in terms of timing and outcome. In particular, the need to undertake complex and sometimes unclear assessments was identified as a continued barrier to effective cross-border activity. The Commission clarified that the proposal seeks to address these

[5] Under the Commission proposal, the registered recipients would be for each CSD the competent authority of the CSD, ESMA, the relevant authorities of the CSD (as defined in Article 12 of the CSDR), the NCA of the CSD (where the competent authority is ESMA) and the members of the CSD college, where applicable.

[6] The information to be published by ESMA on its website would not include the organisational structure of the branch and the names of the persons responsible for the management of the branch.

obstacles while maintaining the applicability of national law and preserving the cooperation framework between home and host authorities under Article 24, which would continue to ensure effective monitoring and enforcement in cases of non-compliance.

Second, in response to the request by one MS questioning the timing of further amendments given the recent entry into force of CSDR Refit changes, the Commission reiterated that consultation feedback indicated that the simplified regime introduced under Refit had not sufficiently resolved the burdens identified by market participants. The proposed changes therefore aim to further streamline the process in light of that experience.

Third, regarding concerns expressed by two MS about the proportionality of the six-month update requirement and suggestions to reduce the frequency or rely on access to the central database, the Commission clarified that, under the current framework, CSDs are required to submit updated information each time they modify the range of services provided in a host MS. By contrast, the proposed semi-annual update would replace event-driven notifications with a structured reporting cycle, thereby reducing administrative complexity. The Commission further clarified that where no changes occur during the reference period, no update would be required.

Preliminary Views of MS:

Feedback received from the MS in their written comments, were mixed. MS broadly supported the objective of simplifying the passporting regime and welcomed the shift from prior authorisation to an ex-post notification framework as a means to reduce administrative burdens and facilitate cross-border provision of CSD services.

However, one MS stressed that simplification should not weaken safeguards linked to host MS law. Another MS emphasised that simplification must not come at the expense of service quality or sufficient knowledge of national legal frameworks.

Concerns were raised regarding the deletion of paragraphs 4 to 10, notably the removal of the requirement for CSDs to provide an assessment of how they will ensure compliance with host MS law and the possibility for host authorities to issue a non-binding opinion. One MS questioned how compliance with host law — including the possibility to require direct holding under Article 38(5) — would be effectively monitored and enforced under the revised regime.

Reservations were also expressed regarding the new reporting requirements. One MS questioned the feasibility of calculating cross-border market values at the time of notification and opposed the introduction of a six-month update obligation, considering it potentially disproportionate and duplicative given access to the central database.

Finally, one MS questioned the timing of the amendment, noting that the revised passporting framework has only recently entered into force and that no material shortcomings have been identified.

1.2.1.2. Cooperation between the competent authority of the CSD and the host MS authorities

Relevant Article: Article 24 CSDR

The Commission proposal aims to maintain the existing provisions on the cooperation between the competent authority of the CSD and the competent authority of the host MS, while at the same time amending certain procedures with the policy objective of introducing certain simplifications. In particular, the proposed amendments, maintain the framework for cooperation between the competent authority of the home MS and the competent authority of the host MS where a CSD provides cross-border services through a branch. The obligation to cooperate closely in the performance of supervisory duties, in particular in the context of on-site inspections, is preserved. The possibility to invite staff from host authorities and ESMA to participate in such inspections is also maintained but the power of the host MS NCA to carry out on-site inspections in that branch after informing the competent authority of the home MS is removed.

At the same time, certain adjustments are introduced; the amended text clarifies the transmission of inspection findings. The competent authority is required to transmit the findings of on-site inspections, as well as information on any remedial actions or penalties, to ESMA, to the host authority and, where applicable, to the college referred to in Article 24a. In this respect, the proposal explicitly includes the host authority among the recipients of inspection findings.

In addition, the proposed amendments remove the possibility for the host MS competent authority to require periodic reports directly from the CSD. This possibility would remain only for the competent authority of the CSD, which would have to provide such reports to the host MS authority upon request.

Moreover, the Commission proposes to maintain the existing requirement for the host MS authority to inform the competent authority of the CSD of any breaches by the CSD of the obligations set out in the CSDR while providing cross-border services in accordance with Article 23. However, only the competent authority of the CSD would be able to take measures to ensure compliance by the CSD with the CSDR provisions.

Before adopting such measures, the competent authority would be required to submit its draft decision to ESMA for an opinion in accordance with the procedure laid down in Article 17a.

The Commission, further clarifies that the aim of the changes proposed to Article 24 is to further streamline and simplify the passporting provisions, focusing on the home MS role while maintaining the necessary cooperation between home and host authorities. In view of the latter, a certain amount of information to be provided by the CSDs on their activities in host MS is deemed by the Commission necessary.

Preliminary Views of MS:

MS broadly acknowledged the importance of ensuring effective cooperation between the competent authority of the CSD and the competent authority of the host MS where cross-border services are provided through a branch. Several MS supported maintaining structured cooperation, including coordination during on-site inspections and the transmission of findings and remedial actions to the host authority and ESMA. One MS explicitly supported the strengthened cooperation obligation in the context of inspections. However, another MS proposed deleting the amended paragraph 1, in connection with broader concerns regarding the proposed approach to supervisory cooperation.

With regard to paragraph 2, which allows the home authority to require periodic reports on activities carried out in the host MS and to share them upon request with the host authority, one MS questioned the necessity of this provision and advocated limiting reporting obligations to what is strictly necessary, in order to avoid additional administrative burdens.

As regards paragraph 5, some MS emphasised that the host MS authority should retain the ex-post intervention power currently provided for in Article 24(5) as a last-resort safeguard where the home authority does not take appropriate action. In this context, suggestions were made to reintroduce a mechanism allowing the host authority, after informing the home authority, to take appropriate measures within its territory in cases of persistent breaches, subject to notification to ESMA and the college and with the possibility of referral to ESMA under Article 19 of the ESMA Regulation. One MS further proposed that, where a college exists, draft decisions should be submitted to the college rather than directly to ESMA.

Finally, a drafting proposal was made to empower ESMA, in close cooperation with the ESCB, to develop regulatory technical standards establishing standard forms, templates and procedures for cooperation under this Article and specifying the information that may be required from CSDs.

Questions to MS:

Q8: Do MS agree with the proposed changes to simplify the passporting procedure for the provision of cross-border services by CSDs? If not, why and how else could simplification be achieved? If yes, do the MS agree that there should not be an ex ante process but rather an ex post one? If not, why?

Q9: Do MS agree with the principle of simplified reporting for the extension of passporting of CSD services? If not, why? If yes, how frequently should the NCA be notified?

Q10: Do MS consider that other changes should be introduced to ensure the smooth provision of cross-border services by CSD? If so, which ones and why?

Q11: Do MS agree with the proposed changes to ensure cooperation between the competent authority of the CSD and the competent authorities of the host MS in which the CSD provides its services via passporting or a branch? If not, why?

1.2.2. Freedom of issuance under Article 49 of the CSDR

Relevant Article: Article 49 CSDR

The Commission proposes to clarify the freedom of issuance provisions in the CSDR, and particularly the wording of Article 49(1), first subparagraph, to ensure that any issuer established in the Union that issues or has issued securities that are in the process of being admitted to trading, already admitted to trading, or traded on trading venues, has 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 MS.

Under Article 49, the Commission proposes to remove the second and third subparagraphs of Article 49(1), as according to the Commission these provisions had been identified by stakeholders as introducing a legal uncertainty on the applicable law, due to a lack of common understanding of the concept of "corporate or similar law under which the securities are constituted" as well as limited clarity on the scope of such provisions. Moreover, the list of key provisions of MS corporate or similar laws had been highlighted

by stakeholders as not being a helpful tool in identifying applicable requirements and was instead creating a considerable additional hurdle to the cross-border provision of CSD services and freedom of issuance[7].

According to the Commission, the aim of the deletions proposed by the Commission is not to exclude the application of any relevant provisions of national law, but rather to achieve simplification by removing a text that, while not being helpful in clarifying the applicable law, nor its scope, had been identified as unclear and was introducing legal uncertainty.

Preliminary Views of MS:

Feedback received from MS during the January CWP meeting and in written contributions was mixed. Three MS expressed broad support for the simplification of the passporting procedure while many MS raised questions and concerns on the proposed amendments to Article 49.

Five MS expressed concerns that the proposed deletion of the second subparagraph of Article 49(1) could lead to legal uncertainty on the applicability of national laws. These MS stressed that the existing wording provides an important clarification that the corporate or similar law of the MS under which the securities are constituted continues to apply, and that removing this reference risks creating uncertainty in cross-border issuance scenarios, particularly for shares and bonds. Some MS suggested maintaining at least the sentence confirming the continued applicability of the relevant national law and potentially retaining the clarification listing the relevant connecting factors (law of incorporation and governing law of issuance) for transparency purposes.

More broadly, one MS cautioned that by removing any reference to "the law of the Member State", Article 49 would no longer provide an objective anchor for determining the applicable Member State law for financial instruments recorded in a Union CSD. This was considered particularly relevant for Article 25, which relies on the notion of "financial instruments governed by the law of a Member State". In the absence of definitional or contextual guidance in Article 49, this notion would become self-standing, increasing the risk of divergent interpretation and application across Member States and potentially affecting the coherence of the CSDR framework.

In addition, certain MS requested clarification on the scope of the revised paragraphs 2 and 3. Questions were raised as to whether the obligation to treat recording requests promptly and in a non-discriminatory manner applies to all securities an issuer wishes to have recorded or only to those referred to in paragraph 1. Clarification was also sought regarding the wording "in relation to securities for which such services are requested by the issuer", in particular whether a CSD's decision not to offer notary services under another MS's law could constitute valid grounds for refusal.

Finally, one MS raised concerns regarding the dispute resolution mechanism under Article 49(5), noting that in cases involving significant CSDs supervised by ESMA, ESMA could effectively be placed in a position of adjudicating disputes involving entities under its own supervision, which could raise questions regarding the principle that a supervisory authority should not be placed in a position of assessing disputes concerning entities under its own direct supervision.

[7] For further details, please refer to section 3.2.1 of the Impact Assessment accompanying the Commission MISP proposal.

Questions to MS:

Q12: Do MS agree with the proposed measures to ensure the freedom of issuance in the EU? If not, why and what alternative solutions could be adopted to ensure this objective?

Q13: Why do MS consider that the deletion of Article 49(1), second subparagraph, would provide legal uncertainty on the applicable law?

Q14: If MS consider that Article 49(1), second and third subparagraphs, should be reinstated, how should the issues highlighted by stakeholders on the unclarity of these provisions be addressed?

1.3. Harmonisation of operational communication standards

Relevant Articles: Article 2(1) point (52), Article 6 CSDR

To further improve the harmonisation of standards in settlement operations, the Commission proposes to introduce a requirement for investment firms and their professional clients to use international open communication procedures and standards for the communication of allocations and confirmations. It also proposes to require that CSDs and participants put in place measures to ensure that the processing of settlement instructions is fully automated. In addition, it proposes that CSDs would require participants to settle their transactions on the intended settlement date and to put in place measures ensuring that requirement. Moreover, the Commission proposes to mandate ESMA to develop draft regulatory technical standards ('**RTS**') to specify the standardised procedures and messaging protocols to be implemented by investment firms and their professional clients to allow the automated processing of allocations and confirmations, and the international procedures and standards for messaging and reference data to be implemented by issuers, CSDs, and other market infrastructures.

Preliminary Views of MS:

Two MS expressed support for automation, but cautioned against imposing too strong an obligation as, in their view, not all processes could be automated. One MS noted the importance of avoiding unintended fragmentation due to lack of flexibility in the requirements. Another MS noted that there was a risk that, through delegated acts, a single mandatory reporting standard for intermediaries, professional clients and CSDs would be designated, which would entail migration costs for the whole industry that appear disproportionate to the benefits and in contrast with the burden reduction initiative, and that would stack on top of the costs for the migration to T+1. Finally, one MS noted that international standards already existed, and hence there was no need to implement standards at EU level.

Based on explanations provided by the Commission, the aim of the proposal is to ensure better efficiency of settlement in the EU through modernisation, automation and smoother interoperability between settlement systems. The aim of introducing the mandate is to ensure that ESMA has the legal basis to analyse, consult and introduce the appropriate standardised procedures. While international standards do indeed exist, they are not necessarily used by a sufficient number of EU market participants. As the Commission noted, this needs to change as it has a negative impact on the efficiency of post-trading processes. As the ECB Ami-Seco report highlighted, the lack of harmonisation of messaging standards

constitutes a barrier to the integration of EU post-trade services[8]. It should also be noted that the high-level roadmap for T+1 recommended the automation of market claims processing [9].

Questions to MS:

Q15: Do MS agree with the need for greater harmonisation of operational communication standards? If not, which alternative solutions should be adopted to facilitate greater automation of post-trading services?

[8] ECB – Advisory Group on Market Infrastructures for Securities and Collateral report on Remaining barriers to the integration in securities post-trade services – issues and recommendations.
[9] High-Level Roadmap To T+1 Securities Settlement in the EU – 30 June 2025, EU T+1 Industry Committee.

2. Facilitating Scale and Competition

2.1. Cash Settlement

Relevant Articles: Articles 2(1), points (8a), (8b), (8c), (8d), (9a) and (51), and Articles 54, 54a, 54b, 54c, 55, 59 and 74(5)

The Commission's proposal amends Title IV of the CSDR which contains provisions related to the settlement of the cash leg of securities transactions.

Firstly, the Commission proposes to introduce more flexibility for CSDs that wish to designate a credit institution for the settlement of cash payments in non-EU currencies. The Commission's proposal would remove the current requirement for such designated credit institutions to have a special purpose authorisation that allows them to only provide such services without the ability to carry out other activities. The added flexibility would still be subject to certain conditions, namely the designated credit institution could only provide settlement in real time and the real-time settlement would need to entail minimal credit or liquidity risks for the designated credit institution and the participants of the CSD that designated it.

Second, the Commission proposes a series of amendments to allow settlement in digital forms of money including e-money tokens ('**EMTs**'). Specifically, the Commission proposal introduces the following definitions:

- 'central bank money' and 'commercial bank money', which would include tokenised forms thereof
- 'cash' which would include currencies issued or recorded using DLT
- 'e-money token' by referring to the definition in the Market in Crypto Assets Regulation (MiCAR)
- 'transfer of cash'/ 'cash payment' which would include EMTs
- 'real-time gross settlement'

Moreover, the Commission's proposal would allow the settlement of cash payments in EMTs, provided that the same conditions as for settlement in commercial bank money would be fulfilled, and that certain additional requirements, that would be set out in a new Article 54c, would be complied with. These additional requirements would include requirements related to the EMT intended to be used for the settlement of the cash leg (the EMT would need to be classified as significant under MiCAR and accessible to the CSD's participants in a sufficient amount), to the settlement process itself (the settlement of the payments in that EMT would take place through pre-funded accounts) and to the information to be provided by the CSD to market participants and clients.

Beyond the changes described above, the Commission also proposes to split Article 54 on the provision of banking-type ancillary services into three separate Articles (Articles 54a, 54b and 54c), for clarity purposes.

The three new articles would distinguish between the following situations:

a. where the CSD provides banking-type ancillary services itself;
b. where a CSD designates another CSD to provide such services; and
c. where a CSD designates a credit institution to provide such services.

Preliminary Views of MS:

As regards the introduction of a definition of 'cash', two MS questioned the use of the term 'cash' and recommended the use of the term 'funds' to align with the language used in other EU legislation, notably the Payment Services Directive and the E-Money Directive.

Based on explanations provided by the Commission, the term 'cash' is used extensively within the CSDR because it is a universally used term in the context of securities settlement. Also, in certain cases (e.g. references to cash penalties), replacing 'cash' with 'funds' would not seem to be appropriate.

As regards the criteria for designating credit institutions, one MS suggested removing the requirement that a credit institution designated to provide banking-type ancillary services cannot provide any other services. The MS considered the requirement too restrictive and noted that such credit institution has yet to be designated in the EU. The Commission explained that the proposal would remove this requirement, but only in respect of cash payments in non-EU currencies and where settlement happens in real time. The Commission also clarified that its proposal would ensure an appropriate mitigation of risks and would avoid negative impacts on the requirement that settlement must happen in central bank money where practical and available.

One MS raised several concerns regarding the proposed framework for settlement in EMTs. It questioned the restriction limiting cash settlement in EMTs to accounts held with a CSD or a credit institution, noting that this could constrain potential settlement models, including certain DLT-based arrangements, such as cash settlement directly between DLT wallets of participants or Delivery versus Payment settlement executed through smart contracts. The same MS suggested aligning the CSDR with the DLT Pilot Regulation by requiring that EMTs used for settlement reference the value of an official EU currency.

Concerns were also expressed regarding the limitation of settlement to "significant" EMTs, as there are currently no EMTs classified as significant in the Union. The MS noted that, under MiCAR, significance is determined based on a range of criteria beyond issuance volumes, and that EMT accessibility should not be assessed solely on the basis of direct holdings or aggregated volumes emitted. Finally, the MS suggested removing the mandatory pre-funding requirement for EMT-based settlement, indicating that not all EMT settlement models are instantaneous and that such a requirement could affect liquidity management.

Based on explanations provided by the Commission, the proposal allowing CSDs to settle the cash leg of securities transactions in EMTs aims to support innovation in securities settlement, subject to appropriate risk mitigants pertaining to wholesale payments. This balanced approach recognises the need for a means of payment easily accessible to DLT systems, while at the same time avoiding creating financial stability risk in the area of wholesale payments; it supports broader technological infrastructure development while maintaining trust in EU market infrastructures among market participants.

A second MS proposed clarifying explicitly that the digital euro is not included in the definition of central bank money. A third MS proposed defining "cash" as any electronically recorded currency, including when issued or recorded on a distributed ledger, aiming to clarify that the term does not include physical banknotes and coins.

Questions to MS:

Q16: Do MS agree that more flexibility should be given to CSDs that wish to designate a credit institution for the settlement of cash payments? If not, why? If yes, do MS agree with the

Commission's proposal on this issue? If not, which alternative amendments would you propose and why?

Q17: Do MS agree to allow settlement in tokenised forms of cash? If not, why not?

Q18: Do MS agree to allow settlement in EMTs? If not, why not? If yes, do MS agree with the proposed criteria under which settlement in EMTs would be allowed? If not, which alternative criteria could be used, keeping in mind the need to maintain an appropriate balance between innovation and an effective mitigation of the risks involved?

Q19: Do MS agree that the definitions of "central bank money" and "commercial bank money," provide sufficient legal and operational clarity?

2.2. Legal certainty and use of new technologies

Relevant Articles Article 2(1), points (3), (4a), (4b), 9(b), (28) and Articles 3, 7, 30, 33, 37, 38, 39(7), 45a

The Commission's proposal would amend certain definitions contained in Article 2 of the CSDR to provide legal certainty in relation to the provision of CSD services using distributed ledger technology (DLT). Specifically, the Commission proposes amending or adding the following definitions to ensure compatibility with DLT:

- 'immobilisation' would be amended to explicitly refer to non-physical securities;
- 'book-entry' would be amended to explicitly include DLT-based book-entry records;
- 'securities accounts' would be amended to ensure that the terminology works for securities transactions on a ledger, which would then include records using distributed or otherwise shared electronic ledgers to credit and debit such securities; and
- 'distributed ledger technology' would be added.

According to the Commission, the above amendments and addition would also bring legal clarity to other concepts, definitions and requirements under the CSDR that use the above concepts (directly or indirectly).

In addition, the Commission proposes amending the following Articles to make them compatible with DLT:

- Article 7 would be amended to allow the payment of cash penalties in EMTs;
- Article 30 would be amended to clarify that the provision of CSD services using DLT should not be considered as outsourcing unless the CSD would enter in an arrangement with a third party;
- Article 33 would be amended to empower the Commission to adopt a delegated act to enable CSDs to also allow private individuals to become participants in a CSD;
- Article 37 would be amended to ensure that the reconciliation measures to be taken by CSDs can also be undertaken by using DLT;
- Article 38 would be amended to enable CSDs that operate their core services using DLT and that offer individual client segregation, to opt not to offer omnibus client segregation (unless

the CSD would establish a link with other CSDs; in such case the opt-out would not be possible), and to ensure that where a CSD using DLT has opted to offer omnibus client segregation, it would have to take all reasonable steps to ensure that a participant in that CSD would offer at least the choice between omnibus and individual client segregation to its clients;

- Article 39(7) would be amended to extend the delivery-versus-payment requirement to securities transactions against payment in EMTs;
- a new Article 45a would be introduced requiring CSDs to mitigate the risks related to the use of DLT outside of an outsourcing arrangement.

Moreover, the Commission proposes additional amendments to the framework set out in Title IV for the settlement of the cash leg of a securities transaction and the related definitions in Article 2 to allow the settlement of the cash leg of securities transactions, under specific conditions, with certain EMTs authorised under MiCAR (see the section on cash settlement above for further details).

Preliminary Views by MS:

Six MS supported the amendments introduced to ensure legal certainty in relation to the provision of CSD services using DLT. Some MS had some requests for clarification, while some had concerns in relation to some of the proposed changes.

Two MS asked for clarifications on the changes introduced to the definition of immobilisation, noting that the notion of physical and non-physical securities has implications for national law and that if the purpose is to encompass DLT-issued securities, it would be more appropriate to revise the definition in this direction.

In this respect, based on additional explanations provided by the Commission, the changes to the definition of immobilisation have been proposed to allow for the immobilisation and subsequent circulation in book-entry form also for financial instruments that are already in non-physical form, for example in the case of electronically recorded financial instruments that are immobilised and then circulated in tokenised form. These changes would ensure that digital and DLT-based securities can satisfy immobilisation requirements.

Two MS expressed support for the proposed definition of book-entry form while five MS asked for clarifications. Among those five MS, one MS suggested clarifying that book-entry represents the recording of an asset or a right, one MS noted that the notion of “other changes” is unclear and could create legal uncertainty, one MS expressed a preference for these aspects to be regulated in national laws, while two MS noted that the definition seems to not be technology neutral with respect to existing legacy systems that do not use DLT.

Based on explanations provided by the Commission, the aim of the proposed introduction of this definition is to ensure legal certainty that book-entry form would clearly include both legacy systems and book-entry records on DLT. Respondents to the Commission’s targeted consultation as well as stakeholders more in general noted that the "book-entry form" requirement in Article 3(2) of the CSDR was seen as a barrier as it was considered unclear whether it was compatible with DLT. Stakeholders noted that while national laws offered legal certainty within a MS, the absence of an EU-wide approach could create fragmentation. Furthermore, given that many definitions and requirements in the CSDR, as well as the proposed Settlement Finality Regulation (‘**SFR**’) and the Financial Collateral Directive, incorporate, directly or

indirectly, the concept of book-entry, the legal uncertainty related to that concept has wider knock-on effects for legal certainty when those definitions and requirements are applied to DLT-based structures.[10]

One MS proposed to clarify that the definition of 'securities account' would include also electronic wallets, while another noted that the mention of "change" in that definition would need to be strictly defined in order to avoid legal uncertainty. Another MS raised concerns about the vagueness of "or otherwise recorded," noting potential legal uncertainty regarding corrections of erroneous entries or earmarking.

One MS, while supporting the objective of including EMTs as a payment method for settlement fail penalties, asked for clarification on which EMTs would be eligible, whether the CSD would have the right to refuse a particular EMT, and how this would interact with the settlement obligation in central bank money.

Three MS expressed concerns on allowing private individuals to become participants in a CSD. Based on explanations provided by the Commission, the proposal does not enable private individuals to become participants in a CSD, it empowers the Commission to adopt delegated acts to allow private individuals to become participants in a CSD where such private individuals have been allowed to participate in a securities settlement system under the SFR (the latter would, in turn, depend on whether a delegated act had been adopted by the Commission following cases where such persons would be allowed to participate in a DLT settlement system subject to the DLT Pilot Regulation). One MS requested clarification of the term "private individuals" and suggested defining it in Article 2(1) to avoid uncertainty.

One MS expressed concerns on the derogation for CSDs that operate their core services using DLT from the obligation to offer omnibus client segregation. In that MS's view this option is technology-specific (rather than technology neutral) and creates an asymmetry between "traditional" and DLT-based CSDs. It should be noted that the omnibus client segregation would not reflect the specific characteristics of provision of DLT services, which normally operate on the basis of individual accounts, as indicated by the DLT Pilot Regulation which provided the possibility to exempt CSDs operating on DLT from the provisions of Article 38 of the CSDR.

Questions to MS:

Q20: Do MS agree with the proposed changes to ensure legal certainty on the provision of CSD services using DLT? If not, which changes do you consider problematic, why, and how could those be adjusted to address your concerns while still meeting the objectives of ensuring legal certainty and compatibility with DLT, and avoiding fragmentation?

Q21: Do MS consider that any additional changes should be introduced to ensure the CSDR's compatibility with DLT? If so, which changes and why?

2.3. Transparency

Relevant Articles: Articles 9, 34, 74(1)

The Commission's proposal introduces three main sets of changes in relation to transparency.

The first set of changes is that reporting by settlement internalisers under Article 9 would be expanded to include more granular breakdowns by instrument type and transaction type, as well as settlement fail rates.

[10] See Impact Assessment, Annex 8 of the Sectoral Annex on Post-trade, page 231.

This information would continue to be reported to NCAs but would be transmitted to ESMA via a central database. ESMA would publicly disclose aggregated information on settlement fail rates of internalised settlement and would be informed by competent authorities of any potential risks identified.

The second set of changes is that price and fee transparency would be enhanced under Article 34. CSDs would continue to be required to disclose prices and fees, but ESMA would be mandated to develop harmonised templates and structures for these disclosures, with the aim of improving comparability and clarity across the EU. In addition, a new requirement would be introduced for settlement internalisers to disclose to their clients the prices and fees associated with the services they provide, distinguishing between settlement inside and outside a securities settlement system. ESMA would be mandated to develop harmonised templates and structures for these disclosures to ensure that clients would be able to compare the prices and fees with those published by CSDs.

The third set of changes focuses on ESMA's analytical and reporting mandate under Article 74 which would be expanded. ESMA would produce regular reports assessing trends in internalised settlement, comparing volumes, values, settlement efficiency, and pricing between settlement internalisers and CSDs, and analysing market structure and potential financial stability implications. Where appropriate, ESMA could issue policy recommendations.

According to the Commission, the proposed amendments seek to address two closely related developments in the EU post-trade landscape: the growing role of internalised settlement and persistent opacity around prices, fees, and services offered by both CSDs and settlement internalisers. While the CSDR has supported greater cross-border provision of post-trade services, data from recent years suggest that a significant and increasing share of settlement activity—particularly in equities—takes place outside CSDs, through settlement internalisation by intermediaries. This activity can deliver efficiency gains and cost savings for market participants and has contributed to bridging fragmentation in the EU settlement landscape. At the same time, its scale, concentration, and limited transparency raise questions about market structure, risk monitoring, and the level playing field between entities providing comparable settlement services.

In parallel, stakeholders and authorities have highlighted ongoing difficulties in comparing prices and services across CSDs and between CSDs and settlement internalisers. Fee schedules are often complex, lengthy, and heterogeneous, making it challenging for market participants to assess costs, particularly in a cross-border or T2S-based settlement context. This lack of transparency may weaken competitive pressures and obscure the true costs of settlement services for end-investors.

Against this backdrop, the proposal pursues a targeted transparency-based approach. The objective is to improve visibility, comparability, and monitoring, while preserving the existing roles of different market actors.

Preliminary Views of MS:

Three MS expressed support for the overall direction of travel, particularly the aim of increasing transparency around internalised settlement and creating a single point of publication at EU level. Centralised disclosure by ESMA was seen by one MS as consistent with broader EU initiatives on data accessibility and as a way to improve oversight without duplicating supervisory processes. There was also support by two MSs for bringing settlement internalisers more visibly within the analytical scope of the CSDR, given the scale and concentration of their activity.

At the same time, three MS opposed more detailed reporting due to proportionality, burden, and duplicative nature of the proposed changes. A recurring theme was whether more granular reporting under Article 9 would generate meaningful supervisory or market benefits, especially given that most settlement internalisers reportedly have limited activity, while a small number account for the vast majority of volumes. One MS questioned whether settlement fail data reported by settlement internalisers would duplicate information already available from CSDs under Article 7, and whether existing reporting obligations could instead be streamlined or consolidated through the central database.

One MS expressed concern about confidentiality and commercial sensitivity, particularly regarding the disclosure of prices and fees by settlement internalisers. While the objective of enabling comparison was understood, the MS cautioned that price transparency could expose business-sensitive information and potentially distort competition if not carefully calibrated. In this context, the Commission noted that with its proposal, settlement internalisers would be required to disclose price and fee information only to their clients, not to the public in general. Also, based on additional explanations provided by the Commission, the intention of the proposal is not to require settlement internalisers to disclose to all clients the fees and prices that each client is required to pay individually.

Two MS emphasised the importance of clear Level 1 boundaries and expressed caution about broad mandates for developing technical standards that could expand reporting or disclosure requirements over time. One MS suggested that, if additional transparency is pursued, it should apply symmetrically to both settlement internalisers and CSDs, including through more frequent and harmonised publication of CSD settlement data.

Questions to MS:

Q22: Do MS support the proposed increased transparency – both towards clients and competent authorities – for settlement internalisers? If not, what alternative solutions should be used to ensure meaningful comparability of prices and fees between settlement internalisers and CSDs?

Q23: Do MS consider that additional safeguards should be provided to take into account potential confidentiality and commercial sensitivity concerns in relation to the requirement to disclose fees and prices charged by settlement internalisers? If so, what safeguards?

Q24: How can reporting and disclosure requirements be calibrated to ensure proportionality, particularly for low-activity settlement internalisers?

Q25: Do MS consider that settlement internalisers should be subject to any additional requirements compared to what has been proposed by the Commission? If so, which ones and why?

Q26: Do MS support the proposed enhancements to the disclosures of fees and prices charged by CSDs for their services? If not, what other solutions could be adopted to ensure that market participants can meaningfully compare prices across CSDs?

Q27: Do MS consider that ESMA's mandates to develop reporting and disclosure templates merit additional framing? If so, in what way?

3. Significance criteria for EU CSDs & Supervisory changes for all CSDs and Less Significant CSDs

3.1 Significance criteria for EU CSDs

Relevant Articles: Article 11 and Article 11a CSDR

Under the Commission's proposal, as soon as the Regulation would enter into force, EU CSDs would be categorised by ESMA as *significant* or *less significant*:

- significant CSDs would be supervised by ESMA, and ESMA would start supervising them two years after the Regulation would enter into force;
- less-significant CSDs would remain under the supervision of their NCAs, but several changes would be introduced to strengthen supervisory convergence.

ESMA would be responsible for determining whether a CSD meets the criteria for significance and for publishing and keeping updated the list of significant CSDs. ESMA would also reassess at least annually whether authorised CSDs continue to meet the criteria for significance.

Where ESMA determines that a CSD meets at least one of the criteria for significance, it may set an adaptation period of up to six months before ESMA supervision becomes fully applicable. Conversely, where a CSD has not met any of the criteria for significance for a period of 36 months, ESMA would determine that it no longer qualifies as significant, with such determination taking effect after an adaptation period of up to 24 months.

The Commission's proposal contains the list of *four* criteria that ESMA would use to assess whether an EU CSD is significant (new Article 11 of CSDR). The criteria proposed by the Commission are non-cumulative and meeting any of them would make a CSD significant.

The *first* criterion is based on value of the activities and the substantial importance of the activities of a CSD in host MS. A CSD would meet this criterion where it would meet the conditions laid down in the new Article 11a(1) of the CSDR, namely if:

- it operates a settlement system that settles more than 5% of the settlement instructions by value settled annually in the EU; and
- it is of substantial importance for the functioning of the securities markets and the protection of investors in at least three host MS in accordance with the criteria set out in Article 11a(2) of the CSDR[11].

[11] A CSD would be considered of substantial importance in a host MS where it would meet at least one of the following criteria:
(a) the aggregated market value or, where not available, the nominal value of financial instruments issued by issuers incorporated in the host MS 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 MS 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 MS 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 MS;

This criterion would also be used for the interconnectivity requirements, to determine the CSDs that would become CSD hubs.

This first criterion for the significance of CSDs is based on the three core services that CSD can offer, namely notary, central maintenance and settlement services, and on the concept of substantial importance for the functioning of securities markets and the protection of investors in host MS. This concept had been introduced in the CSDR by the co-legislators through CSDR Refit, specifically in relation to the creation of a college of supervisors for a CSD (a college is created where the CSD's activities are considered of substantial importance for the functioning of securities markets and the protection of investors in at least two host MS). According to the explanations provided by the Commission during the January CWP meeting, the threshold of 5% seeks to balance the need to set a market share that would have a wide EU significance against the need to define a threshold that would be high enough to ensure a sufficient level of stability as regards the number of CSDs that would be eligible to become hubs, as this criterion would be used not only to determine significance, but also to determine which CSDs would qualify as CSD hubs. The criterion therefore focuses on establishing a threshold that would be meaningful to capture CSDs with significant market share and intra-EU cross-border activity. Article 11a further specifies in detail how ESMA would calculate the value of settlement instructions and the market value of financial instruments for the purposes of applying this threshold, and mandates ESMA to develop regulatory technical standards, in close cooperation with the ESCB, to further specify the calculation methodology and the data to be reported, limited to what is strictly necessary for that purpose.

The *second* criterion is a 'group' criterion meant to capture CSDs that belong to the same group as at least one of the following:

- a CSD that is established in the territory of another MS;
- a CSD, a CCP or a trading venue for which ESMA is the competent authority.

According to the Commission, this criterion aims to improve supervisory efficiency and ensure fair competition by ensuring that all the relevant EU infrastructures of the same group are supervised at the same level by the same supervisor, especially when there is a cross-border dimension.

The *third* criterion is meant to capture CSDs that operate a securities settlement system governed by the law of a different MS than the MS where the legal person is established, where such system has been designated in accordance with the Settlement Finality Regulation. This criterion therefore also has a cross-border angle.

The final criterion would allow MS to opt for ESMA supervision for the CSDs established in their jurisdiction which do not meet any of the criteria for significance mentioned above.

In addition, before applying for authorisation, a legal person established in the Union would be required to request ESMA, via the central database, to determine whether it meets at least one of the criteria for

(c) the annual value of settlement instructions related to transactions in financial instruments issued by issuers from the host MS 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 MS 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 MS 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 MS;
(e) the CSD operates a securities settlement system governed by the law of the host MS designated in accordance with the Settlement Finality Regulation.

significance. ESMA would be required to take a decision within 20 working days of receiving all relevant information. Finally, ESMA would charge supervisory fees to significant CSDs, with the detailed fee framework to be specified by delegated act.

In response to concerns raised by MS regarding the quantitative thresholds and the overall calibration of the significance criteria under Article 11a, the Commission clarified during the January CWP meeting that the proposal does not introduce fundamentally new criteria compared to the current CSDR framework. The proposed thresholds, including their 15% calibration, as well as the criterion relating to the operation of a securities settlement system governed by the law of another MS, correspond to the criteria already set out in Delegated Regulation (EU) 2017/389[12]. These criteria have recently been confirmed by ESMA in its Final Report on the RTS concerning substantial importance under CSDR Refit[13]. According to the Commission, the main change compared to the current framework concerns the number of host MS in which a CSD must be of substantial importance in order to qualify as significant at Union level.

With regard to the governing-law criterion, the Commission explained that where a CSD operates multiple securities settlement systems governed by the laws of different MS, its activities may have implications for financial stability and investor protection in each of those jurisdictions. For this reason, the inclusion of such CSDs within the scope of centralised supervision is considered justified. The Commission underlined that this criterion is already used in the context of determining substantial importance under the existing framework.

In response to questions on the economic rationale for centralised supervision, the Commission referred to feedback received in the targeted public consultation, according to which divergent supervisory approaches for cross-border CSDs may generate costs of up to EUR 3 million annually. On that basis, the Commission argued that centralised supervision could increase supervisory efficiencies and reduce compliance costs, particularly for groups of CSDs and for groups comprising several types of financial market infrastructures operating across multiple MS.

Preliminary Views of MS:

MS expressed divergent views on the proposal to designate ESMA as the competent authority for "significant CSDs" and on the related significance criteria.

Based on the feedback received from the MS during the January CWP meeting and in written contributions, two MS support the EU-level supervision of significant CSDs as mentioned in the Commission's proposal and three other MS showed openness towards it, while still asking for clarifications or suggesting targeted changes. Two MS propose deletion of the amended Article 11 and of the new Article 11a due to opposition of centralised supervision for CSDs. In addition, several other MS expressed strong reservations regarding the proportionality, cost implications and institutional design of the proposed transfer of direct supervisory powers to ESMA, without formally proposing deletion.

[12] Commission Delegated Regulation (EU) 2017/389 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host MS

[13] Final Report - Draft RTS on the Substantial Importance of CSDs under Article 24a(13) of CSDR, 20 February 2025 Ref. no. ESMA74-2119945925-1951.

One MS opposes the introduction of centralised supervision for CSDs. Supervisory objectives can be achieved more efficiently and at lower cost by strengthening and better leveraging existing national and EU convergence tools, as there is no clear evidence that the current model is inefficient. Further centralisation could reduce supervisory proximity to markets, increase complexity without clear benefits, and require significant scaling-up of expertise at ESMA, while supervision of ICSDs is already covered by banking supervisors. Moreover, the lack of adequate safety nets for systemic entities raises concerns about diluted accountability, as political and budgetary responsibilities would remain at national level while supervision shifts to the EU level. Given these risks, a thorough cost-benefit analysis is essential before pursuing major regulatory changes, as establishing a new centralised supervisory framework would involve a costly, lengthy, and uncertain transition. The second MS opposes granting direct supervisory powers to ESMA, arguing this could weaken supervision, increase costs, and overlook the need for expertise in national company and securities law. It also highlights that MS remain fiscally exposed in case of CSD crises.

Instead, one MS while supporting a more European dimension but without undermining the role of national authorities, proposes keeping supervision at national level, establishing a college model for significant cross-border CSDs, co-chaired by ESMA and the NCA, and strengthening ESMA's coordination and convergence powers rather than centralising supervision. This proposal also suggests empowering the college to issue opinions on key draft supervisory decisions and review reports of the home NCA, drawing inspiration from the EMIR framework.

One MS highlighted that CSDs are subject to relevant national legislation, including rules on core services, and asked for clarification on whether the proposal intends for ESMA to supervise compliance with such national laws for significant CSDs. They stressed for the need for further analysis and discussion, noting concerns that the proposal does not clearly define the division of supervisory responsibilities. One MS opposes broadening ESMA supervision, citing increased burden and cost, insufficient benefits and gaps regarding national legal frameworks (DORA, AML). They suggest limiting supervision to significant, cross-border cases using MiFIR-like criteria and requests certain provisions (including supervisory fee elements under Article 11(10)) to be included in L1 text rather than left to L2.

With regard to procedural aspects, several MS also raised concerns about the annual reassessment of significance as burdensome and potentially destabilising, suggesting a longer assessment cycle (e.g. 36 months). Clarifications were requested regarding transitional arrangements and the symmetry of time periods for entering and exiting ESMA supervision. Some MS also called for cooperation between ESMA and the home NCA in significance determinations and supervisory transfers.

While four MS expressed support for the first (quantitative) criterion, one MS was of the view that the 15% calibration of the four thresholds set out in Article 11a(2) was too low. Another MS noted that the criterion on operating a securities settlement system governed by the law of another MS is not an appropriate criterion to determine the significance of a CSD. As mentioned above, the notion of substantial importance already exists in the CSDR.

With respect to the *second* ('group') criterion, four MS had comments. One MS, without expressing disagreement with the group criterion was of the view that supervision by ESMA should rather be based on quantitative criteria. Another MS disagreed with the group criterion as a standalone criterion and suggested that the quantitative criterion under Article 11a should always apply. Another MS noted that the fact that a CSD was part of a group that includes a trading venue or a CCP that was subject to ESMA supervision was not relevant to determine that such CSD should be subject to ESMA supervision. The same MS noted that

CSDs whose centre of activity remained at national level should continue to be supervised by their NCA, as such CSDs would continue to be embedded in national legal frameworks that could not be overcome by central supervision. Another MS proposed deleting the group criterion as it considered that it did not capture truly significant CSDs.

With respect to the *third* criterion (governing law of the securities settlement system), two MS considered that operating a securities settlement system governed by the law of a different MS was not an appropriate criterion for determining the significance of a CSD

Questions to MS:

Q28: Do MS agree with the proposed quantitative criteria to determine the significance of EU CSDs? If not, which other/additional criteria should be used and why? What would be the impact of these alternative proposals in terms of CSDs captured and additional information to be collected?

Q29: Do MS agree with the proposed 'group' criterion to improve the efficiency of supervision? If not, why not?

Q30: Do MS agree with the proposed criterion on the law governing the securities settlement system? If not, why not?

Q31: Do MS agree with the idea to provide MS the option to designate ESMA as the supervisor of CSDs established in their territory? If not, why not?

Q32: Do MS believe that any other criteria should be introduced? If so, which ones and why? What would be the impact of these additional criteria in terms of CSDs captured and additional information to be collected?

Q33: Considering that CSDs are subject to relevant national legislation, including rules on core services, does the proposal intend for ESMA to supervise compliance with relevant national legislation applicable to significant CSDs?

3.2 Supervisory changes introduced for less significant CSDs

Relevant Articles: Articles 14(4), 17a, 24a + addition of ESMA opinions in Articles 17, 20, 22, 27a, 27b, 55

The Commission proposes two sets of changes aimed at strengthening supervisory convergence for less significant CSDs.

The first set concerns colleges. While colleges would be abolished for significant CSDs,[14] they would continue to have to be set up for all less-significant CSDs that meet a set of revised criteria (i.e. if they offer notary and central maintenance services cross-border). Under the proposal, ESMA would be responsible for assessing, following the initial authorisation of a CSD and on a periodic basis thereafter, whether those criteria are met. In addition, colleges would no longer be chaired by the NCAs of the CSDs for which the

[14] As explained by the Commission during the January CWP meeting, setting up colleges for significant CSDs would no longer be necessary as the internal governance of ESMA, which would supervise those CSDs under the proposal, could mimic colleges.

colleges were set up; they would all be chaired by ESMA. One aspect of the existing rules that the Commission's proposal does not change are the tasks of the colleges.

The second set concerns opinions to be provided by ESMA; the Commission proposes to enhance supervisory convergence by introducing ESMA opinions on the main authorisations and approvals under the CSDR for less-significant CSDs. To that end, competent authorities would be required, pursuant to Article 14(4), to submit draft decisions, reports or other supervisory measures concerning less-significant CSDs to ESMA for its opinion prior to adoption (except where a decision is required urgently), in accordance with the procedure laid down in Article 17a. These opinions would cover:

- the initial authorisation and extensions thereof (Article 17);
- the authorisation of outsourcing of a core service to an entity outside the group to which the CSD belongs (Article 17);
- the withdrawal of authorisation (Article 20);
- the review and evaluation (Article 22);
- breaches of passporting rules (Article 24);
- the assessment of qualifying holdings (Article 27a/27b);
- the authorisation of banking ancillary services (Article 55).

Under Article 17a, ESMA would be required to adopt its opinion within a specified deadline, and the competent authority would remain responsible for adopting the final decision, while taking due account of ESMA's opinion and providing a reasoned explanation in case of significant deviation.

Preliminary Views by MS:

As regards the proposed changes to college rules, one MS supported an enhanced role of the college, including opinions by the college (for significant CSDs) and by ESMA (for less significant CSDs) on the main authorisations and approvals under CSDR, but in the context of a different supervisory set-up which would not involve ESMA supervision of significant CSDs. Four MS questioned the proposed criteria for the establishment of CSD colleges; they considered that the proposed criteria did not accurately reflect the actual significance of a CSD in terms of market functioning, investor protection or systemic risk, and might therefore lead to an obligation to establish a college even where the cross-border dimension of a CSD activity was limited. They therefore suggested to introduce alternative criteria based on the volume, nature and risk profile and/or quantitative thresholds as well as the legal framework (including the governing law) for the issuance and registration of financial instruments. Four MS also expressed their preference for the colleges to be chaired by NCAs, while two MS proposed a co-chairing arrangement between ESMA and the NCAs. Several MS questioned whether ESMA should chair colleges for entities it does not directly supervise and stressed the importance of NCA market proximity and experience. Two MS also expressed concerns on the proposed college participation, considering that the host authorities that should attend the college should only be those of the host MS where the CSD was of substantial importance, to avoid that colleges become excessively large. Some MS also questioned the overall added value of colleges for less significant CSDs where existing home–host cooperation tools already apply, given the related administrative burden.

With respect to proposed changes on ESMA opinions, four MS questioned whether the introduction of a stronger role for ESMA for less significant CSDs would not be too burdensome and lead to lengthier

processes for the completion of individual supervisory tasks. Several MS also raised proportionality concerns, warning that systematic ESMA opinions could create a de facto additional supervisory layer (even if formally non-binding), risk duplicating processes, and potentially increase costs (including through fees). One MS, while supporting ESMA supervision of significant CSDs, cautioned that the supervisory arrangements for less-significant CSDs should not place a disproportionate burden on such CSDs.

Several MS nevertheless questioned whether the overall package (including chairing of colleges and mandatory ESMA opinions) is fully consistent with maintaining national supervision "largely unchanged" for less significant CSDs.

Questions to MS:

Q32: Do MS agree with the proposed alternative criteria used to determine for which less significant CSDs a college of supervisors should be established? If not, which criteria should be used for that purpose, and why?

Q33: Do MS support the proposal to have ESMA be the only chair for all colleges of less significant CSDs? If not, which alternative arrangement would you support and why?

Q34: Do MS support the proposed additional topics on which ESMA would be asked to provide opinions? If not, which topics should be removed from the list and why? Which alternative solutions should be used to achieve greater supervisory convergence on the removed topics? Should any topics be added to the list? If so, which ones?

3.3 Supervisory changes introduced for all CSDs

Relevant Articles: Articles 15, 19a, 48b, 53, 60 CSDR

The Commission proposes to simplify the processes for the approval of outsourcing between CSDs belonging to the same group and the approval of interoperable links between CSDs, and to entrust ESMA with the sole responsibility to approve interoperable links for all CSDs. As explained by the Commission, granting this role to ESMA would ensure a level playing field between significant and less significant CSDs in respect of the authorisation of interoperable links, which would be fundamental also in light of the mandatory interconnectivity obligation introduced by the proposal. Moreover, the proposed simplifications are expected to enable CSDs belonging to the same group to benefit from economies of scale and integration of technical systems and processes, as well as remove uncertainty and divergence of supervisory outcomes for cross-border groups of CSDs. This would accomplish the objectives of the overall proposal by reducing the burden and costs for CSDs belonging to the same group in providing their services in the most efficient way in accordance with their business strategy.

In line with the objective to clarify and simplify the framework for outsourcing CSD services, the Commission also proposes to introduce a simple notification requirement for the outsourcing of non-banking type ancillary services, as well as a mandate for ESMA to develop draft regulatory technical standards (RTS) to determine under which circumstances an outsourcing arrangement must be considered an outsourcing of core services.

Moreover, in alignment with the proposed changes to EMIR, the Commission's proposal to simplify the processes on access between CSDs and trading venues and between CSDs and CCPs (Article 53 of the

CSDR), would entrust ESMA with the role of sole arbitrator in case any dispute would arise between a CSD and a CCP or a trading venue, as the case may be, due to a refusal of access. By granting this role to ESMA, the arbitration process would be fully harmonised across the EU, ensuring consistent outcomes. The involvement of ESMA for simplification purposes would apply to all CSDs, not only the significant ones.

As regards the scope of the simplified intragroup outsourcing procedure under Article 19a, the Commission clarified that the regime is intentionally limited to outsourcing of core services to other CSDs within the same group. The Commission explained that where the outsourcee is itself an authorised CSD, the risks involved are significantly lower than in cases where services are outsourced to non-supervised entities or entities not normally providing core CSD services. For that reason, extending the simplified regime to non-CSD entities within the group was not considered appropriate.

In response to concerns that the proposed approval procedure may increase complexity rather than reduce burden, the Commission explained that the objective of the new framework is to address divergent supervisory interpretations among NCAs, particularly as regards what constitutes outsourcing of core services. The centralised ESMA approval process is intended to ensure clear timelines, coherent supervisory outcomes and a level playing field across the Union, while maintaining appropriate risk safeguards through consultation of relevant authorities.

With regard to the newly introduced notification requirement for outsourcing of non-banking type ancillary services and the mandate for ESMA to develop RTS specifying when outsourcing qualifies as core services, the Commission clarified that these elements are designed to complete the framework and ensure a clear distinction between core and non-core services. According to the Commission, this clarification is necessary to enhance legal certainty and avoid divergent application across MS.

As regards the procedure for authorising interoperable links, the Commission explained that entrusting ESMA with authorisation powers for all CSDs is necessary to ensure a level playing field between significant and less significant CSDs, particularly in light of the proposed mandatory interconnectivity obligation. The authorisation process aims to ensure that appropriate risk assessments are carried out prior to the establishment of a link and that compliance with CSDR requirements is confirmed. The Commission indicated that centralised authorisation by ESMA could reduce supervisory divergence and may be less burdensome than the current framework.

Preliminary Views by MS:

While two MS expressed support for the simplification of the intra-group outsourcing procedure for core services, they also advocated for further simplification, by turning the procedure into a simple notification procedure or by extending the procedure to cover outsourcing to entities that are not CSDs. Two MS expressed concerns, particularly on how national requirements stemming from preparedness issues would be taken into account. Another delegation noted that they would not support the proposed simplification due to the specific risks arising from intra-group outsourcing. The same Delegation highlighted that the proposal did not take into account the situation where a CSD wishes to outsource activities to different intra-group providers, some of them CSDs and others not, with the consequence that two parallel authorisation procedures would be established but with different timelines, ultimately leading to greater complexity. The same Delegation also suggested introducing a provision stating that staff-sharing arrangements should be considered outsourcing arrangements. One Delegation considered that the new proposed process under ESMA would be more restrictive rather than simplifying the outsourcing procedure.

With respect to the newly introduced notification requirement for the outsourcing of non-banking type ancillary services, one Delegation considered that this would add an additional compliance burden which should be reconsidered, or at a minimum waived where the service provider is a regulated entity within the same group.

With respect to the proposed new mandate for ESMA to specify in RTS under which specific circumstances an outsourcing arrangement would be considered as an outsourcing of core services, one Delegation supported this mandate, while another considered the mandate redundant.

With respect to the procedure to approve interoperable links, one MS supported the authorisation to be entrusted to ESMA for significant CSDs. Two MS noted that the authorisation of interoperable links, at least between less significant CSDs, should remain with the NCAs. One MS considered that in light of the mandatory interconnectivity obligation with the CSD hubs, it would be excessively burdensome to require an approval procedure for interoperable links.

As regards the role of ESMA in authorising interoperable links, restricting that role to only certain type of interoperable links would not ensure the aim of the Commission's proposal, namely ensuring a level playing field for all CSDs. With respect to the authorisation process for interoperable links, that process was put in place to ensure that the necessary risk assessments are carried out and compliance with the relevant CSDR requirements is confirmed before the link is approved.

With respect to the access provisions, one Delegation considered that the competent authority of the trading venue and of the CCP should be involved in addressing complaints about refusals of access. They also had questions on why the process for access to CSDs was different compared to the processes set out in MiFIR and EMIR, and on why the access provisions under MiFIR and EMIR are subject to common risk assessment conditions to be defined via a delegated act, while in the CSDR they would be defined in regulatory technical standards. According to that Delegation, that would increase the risk of inconsistency.

The same MS also suggested that ESMA should be designated as the sole responsible authority for dealing with access between market infrastructures, regardless of how the competent authorities for market infrastructures are defined.

Q35: Do MS support the proposal to introduce a simplified procedure for intra-group outsourcing of CSD core services within the same group? If not, why not?

Q36: Do MS support restricting the application of the simplified procedure to cases where a CSD outsources its core services to another CSD within the same group? If not, which cases of intragroup outsourcing should the simplified procedure apply to?

Q37: Do MS agree with the proposal to give ESMA the power to authorise all interoperability links? If not, why and what other solutions could then be adopted to ensure greater supervisory convergence in this area?

Q38: Do MS support the proposal to have ESMA as the sole arbitrator in case of disputes about refusals to give access? If not, why and what alternative approaches could be used to ensure consistent outcomes in relation to access requests?

Q39: Should any changes be made or additional clarifications be provided to the Commission's proposal on access? If so, which and why?