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From:	Presidency
To:	Working Party on Financial Services and the Banking Union (CSDR) Financial Services Attachés

Subject:	CSDR: interim updated 4CT, 26.05.23
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Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third-country central securities depositories (Text with EEA relevance)

2022/0074(COD)
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26-05-2023 at 09h27

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2022/0074 (COD)	2022/0074 (COD)	2022/0074 (COD)	2022/0074 (COD) Text Origin: Commission Proposal
Proposal Title				
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third- country central securities depositories (Text with EEA relevance)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third- country central securities depositories (Text with EEA relevance)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third- country central securities depositories <u>and amending</u> <u>Regulation (EU) No 236/2012</u> (Text with EEA relevance)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 909/2014 as regards settlement discipline, cross-border provision of services, supervisory cooperation, provision of banking-type ancillary services and requirements for third- country central securities depositories <u>and amending</u> <u>Regulation (EU) No 236/2012</u> (Text with EEA relevance) Text Origin: Council Mandate
Formula				
3				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Text Origin: Commission Proposal
Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, Text Origin: Commission Proposal
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission, Text Origin: Commission Proposal
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments, Text Origin: Commission Proposal
Citation 4				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
7	Having regard to the opinion of the European Central Bank ¹ , 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank ¹ , 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank ¹ , 1. OJ C [...], [...], p. [...].	Having regard to the opinion of the European Central Bank ¹ , 1. OJ C [...], [...], p. [...] <u>367, 26. 9. 2022, p. 3.</u> Reference corrected Text Origin: Commission Proposal
Citation 5				
8	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C <u>367, 26. 9. 2022, p. 3</u> , p. .	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C <u>443, 22.11.2022, p. 87</u> , p. . Reference corrected Text Origin: Council Mandate
Citation 6				
9	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure, Text Origin: Commission Proposal
Formula				
10	Whereas:	Whereas:	Whereas:	Whereas:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	Note that recital numbers may not correspond to those in the versions adopted by the 3 institutions given (a) COM version having had two times 'recital 1' and (b) Council renumbering which was automatically corrected / adjusted in the process of aligning text with the relevant recital in the Commission proposal. It is believed that all colleagues will be able in practice to find the text concerned. Text Origin: Commission Proposal

Recital 1

11	(1) Regulation (EU) No 909/2014 of the European Parliament and of the Council¹ was published in the Official Journal of the European Union on 28 August 2014, and entered into force on 17 September 2014. It standardises the requirements for the settlement of financial instruments and rules on the organisation and conduct of central securities depositories (CSDs) to promote safe, efficient and smooth settlement. That Regulation introduced shorter settlement periods, settlement discipline measures, strict organisational, conduct of business and prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs	(1) Regulation (EU) No 909/2014 of the European Parliament and of the Council¹ was published in the Official Journal of the European Union on 28 August 2014, and entered into force on 17 September 2014. It standardises the requirements for the settlement of financial instruments and rules on the organisation and conduct of central securities depositories (CSDs) to promote safe, efficient and smooth settlement. That Regulation introduced shorter settlement periods, settlement discipline measures, strict organisational, conduct of business and prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs	(1) Regulation (EU) No 909/2014 of the European Parliament and of the Council¹ was published in the Official Journal of the European Union on 28 August 2014, and entered into force on 17 September 2014. It standardises the requirements for the settlement of financial instruments and rules on the organisation and conduct of central securities depositories (CSDs) to promote safe, efficient and smooth settlement. That Regulation introduced shorter settlement periods, settlement discipline measures, strict organisational, conduct of business and prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs	
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	and other institutions providing banking services that support securities settlement, and regime allowing authorised CSDs to provide their services across the Union. 1. Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).	and other institutions providing banking services that support securities settlement, and regime allowing authorised CSDs to provide their services across the Union. 1. Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).	and other institutions providing banking services that support securities settlement, and <u>a</u> regime allowing authorised CSDs to provide their services across the Union. 1. Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).	
Recital 2				
12	(2) A simplification of the requirements in certain areas covered by Regulation (EU) No 909/2014, and a more proportionate approach to those areas, is in line with the Commission's Regulatory Fitness and Performance (REFIT) programme which emphasises the need for cost reduction and simplification so that Union policies achieve their objectives in the most efficient way, and aims in particular at reducing regulatory and administrative burdens.	(2) A simplification of the requirements in certain areas covered by Regulation (EU) No 909/2014, and a more proportionate approach to those areas, is in line with the Commission's Regulatory Fitness and Performance (REFIT) programme which emphasises the need for cost reduction and simplification so that Union policies achieve their objectives in the most efficient way, and aims in particular at reducing regulatory and administrative burdens.	(2) A simplification of the requirements in certain areas covered by Regulation (EU) No 909/2014, and a more proportionate approach to those areas, is in line with the Commission's Regulatory Fitness and Performance (REFIT) programme, which emphasises the need for cost reduction and simplification so that Union policies achieve their objectives in the most efficient way, and aims in particular at reducing regulatory and administrative burdens.	(2) A simplification of the requirements in certain areas covered by Regulation (EU) No 909/2014, and a more proportionate approach to those areas, is in line with the Commission's Regulatory Fitness and Performance (REFIT) programme which emphasises the need for cost reduction and simplification so that Union policies achieve their objectives in the most efficient way, and aims in particular at reducing regulatory and administrative burdens. Text Origin: Commission Proposal
Recital 3				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
13	(3) Efficient and resilient post-trading infrastructures are essential elements for a well-functioning Capital Markets Union and they deepen the efforts to support investments, growth and jobs in line with the political priorities of the Commission. For this reason, the Commission Capital Markets Union Action Plan adopted in 2020¹ included as one of its key actions the review of Regulation (EU) No 909/2014. 1. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘A Capital Markets Union for people and businesses-new action plan’, COM(2020/) 590.	(3) Efficient and resilient post-trading infrastructures are essential elements for a well-functioning Capital Markets Union and they deepen the efforts to support investments, growth and jobs in line with the political priorities of the Commission. For this reason, the Commission Capital Markets Union Action Plan adopted in 2020¹ included as one of its key actions the review of Regulation (EU) No 909/2014. 1. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘A Capital Markets Union for people and businesses-new action plan’, COM(2020/) 590.	(3) Efficient and resilient post-trading infrastructures are essential elements for a well-functioning Capital Markets Union and they deepen the efforts to support investments, growth and jobs in line with the political priorities of the Commission. For this reason, the Commission Capital Markets Union Action Plan adopted in 2020¹ included as one of its key actions the review of Regulation (EU) No 909/2014. 1. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘A Capital Markets Union for people and businesses-new action plan’, COM(2020/) 590.	(3) Efficient and resilient post-trading infrastructures are essential elements for a well-functioning Capital Markets Union and they deepen the efforts to support investments, growth and jobs in line with the political priorities of the Commission. For this reason, the Commission Capital Markets Union Action Plan adopted in 2020¹ included as one of its key actions the review of Regulation (EU) No 909/2014. 1. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘A Capital Markets Union for people and businesses-new action plan’, COM(2020/) 590. Text Origin: Commission Proposal
Recital 4				
14	(4) In 2019, the Commission carried out a targeted consultation on the application of Regulation (EU) No 909/2014. The Commission also received input from the European Securities and Markets Authority (‘ESMA’) and the European System of Central Banks (‘ESCB’). It appeared from the consultations that stakeholders	(4) In 2019, the Commission carried out a targeted consultation on the application of Regulation (EU) No 909/2014. The Commission also received input from the European Securities and Markets Authority (‘ESMA’) and the European System of Central Banks (‘ESCB’). It appeared from the consultations that stakeholders	(4) In 2019, the Commission carried out a targeted consultation on the application of Regulation (EU) No 909/2014. The Commission also received input from the European Securities and Markets Authority (‘ESMA’) and the European System of Central Banks (‘ESCB’). It appeared from the consultations that stakeholders	

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	support and consider as relevant the objectives of that Regulation, i.e. to promote safe, efficient and smooth settlement of financial instruments, and that no major overhaul was necessary. On 1 July 2021, the Commission adopted a review report¹ in accordance with Article 75 of Regulation (EU) No 909/2014. Although not all the provisions of that Regulation are fully applicable yet, the report identified areas for which targeted action is necessary to ensure that its objectives are reached in a more proportionate, efficient and effective manner. 1. Report from the Commission to the European Parliament and the Council under Article 75 of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (COM(2021) 348 final).	support and consider as relevant the objectives of that Regulation, i.e. to promote safe, efficient and smooth settlement of financial instruments, and that no major overhaul was necessary. On 1 July 2021, the Commission adopted a review report¹ in accordance with Article 75 of Regulation (EU) No 909/2014. Although not all the provisions of that Regulation are fully applicable yet, the report identified areas for which targeted action is necessary to ensure that its objectives are reached in a more proportionate, efficient and effective manner. 1. Report from the Commission to the European Parliament and the Council under Article 75 of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (COM(2021) 348 final).	support and consider as relevant the objectives of that Regulation, i.e. to promote safe, efficient and smooth settlement of financial instruments, and that no major overhaul was necessary. On 1 July 2021, the Commission adopted a review report¹ in accordance with Article 75 of Regulation (EU) No 909/2014. Although not all the provisions of that Regulation are fully applicable yet, the report identified areas for which targeted action is necessary to ensure that its objectives are reached in a more proportionate, efficient and effective manner. 1. Report from the Commission to the European Parliament and the Council under Article 75 of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (COM(2021) 348 final).	
Recital 5				
15	(5) Regulation (EU) No 909/2014 has introduced rules on settlement discipline to prevent and address failures in the settlement of securities transactions and therefore ensure the safety of transaction settlement. Such rules include in	(5) Regulation (EU) No 909/2014 has introduced rules on settlement discipline to prevent and address failures in the settlement of securities transactions and therefore ensure the safety of transaction settlement. Such rules include in	(5) Regulation (EU) No 909/2014 has introduced rules on settlement discipline to prevent and address failures in the settlement of securities transactions and therefore ensure the safety of transaction settlement. Such rules include in	

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	particular reporting requirements, a cash penalties regime and mandatory buy-ins. Despite the absence of experience in applying those rules, the development and specification of the framework in Commission Delegated Regulation (EU) 2018/1229¹ has allowed all interested parties to better understand the regime and the challenges its application could give rise to. In this regard, the scope of cash penalties and mandatory buy-ins set out in Article 7 of Regulation (EU) No 909/2014 should be clarified, in particular by specifying which categories of transactions are excluded. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application of cash penalties or mandatory buy-ins would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units and realignments. The Commission should be empowered to supplement Regulation (EU) No 909/2014 by further specifying the details of such exclusions by means of a delegated act.	particular reporting requirements, a cash penalties regime and mandatory buy-ins. Despite the absence of experience in applying those rules, the development and specification of the framework in Commission Delegated Regulation (EU) 2018/1229¹ has allowed all interested parties to better understand the regime and the challenges its application could give rise to. In this regard, the scope of cash penalties and mandatory buy-ins <u>measures to prevent and address settlement fails</u> set out in Article <u>Articles 6 and 7</u> of Regulation (EU) No 909/2014 should be clarified, in particular by specifying which categories of transactions are excluded. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application of cash penalties or mandatory buy-ins would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units and realignments. The Commission should be empowered to supplement <u>Regulation (EU) No 909/2014 by</u>	particular reporting requirements, a cash penalties regime and mandatory buy-ins. Despite the absence of experience in applying those rules, the development and specification of the framework in Commission Delegated Regulation (EU) 2018/1229¹ has allowed all interested parties to better understand the regime and the challenges its application could give rise to. In this regard, the scope of Cash penalties and mandatory buy-ins set out in Article 7 of Regulation (EU) No 909/2014 <u>reporting requirements</u> should be clarified, in particular by specifying which categories of transactions are excluded. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application <u>continue to apply in order to assess their impact on improving settlement efficiency in the Union. However, the scope</u> of cash penalties or <u>and</u> mandatory buy-ins would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units and realignments. The Commission <u>set</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1. Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1).–	<i>further specifying the details of such exclusions by means of a delegated act.</i> 1. Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1).–	<u>out in Article 7 of Regulation (EU) No 909/2014 should be clarified. In order to distinguish the requirements on cash penalties from those on mandatory buy-ins, they should be empowered to supplement Regulation (EU) No 909/2014 by further specifying the details of such exclusions by means of a delegated act split in two separate articles, one dedicated to cash penalties and another one to mandatory buy-ins.</u> 1. Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (OJ L 230, 13.9.2018, p. 1).–	
Recital 5a				
15a			<u>(5a) The cash penalties should continue to be subject to some of the requirements in Regulation (EU) No 909/2014 that are relevant only for the cash penalties and their calculations. The parameters for calculation of cash penalties should remain applicable. However, the Commission should be empowered to reassess such parameters on a regular basis every four years and to further consider the method used for</u>	

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			<u>calculation of cash penalties, such as the possibility of setting a progressive rate.</u>	
Recital 5b				
15b			<u>(5b) Specific provisions should be dedicated to mandatory buy-in measures, which should be measures of last resort used only in the situation where the level of settlement fail is excessively high and other measures have not proved sufficient in lowering it.</u>	
Recital 5c				
15c			<u>(5c) Some categories of transactions should be excluded from the scope of the cash penalties measures and mandatory buy-in measures. The exemptions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties, for which the application of cash penalties or mandatory buy-ins would not be practicable or could lead to detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and</u>	

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			<u>redemption of fund units and realignments. The Commission should be empowered to supplement Regulation (EU) No 909/2014 by further specifying the conditions under which settlement fails should not be considered as attributable to the participants by means of a delegated act. ESMA should develop draft regulatory technical standards specifying the particulars of what are the transactions that should not be considered as trading and some further details that are left up to ESMA for cash penalties. It should also be clarified that cash penalties should be calculated on a daily basis for each business day that a transaction fails to be settled until the actual settlement day or until the transaction is bilaterally cancelled, whichever is the earlier.</u>	
15d		<u>(5a) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. As such, it is necessary that all measures to improve settlement efficiency are explored to reduce settlement fails. To achieve that objective, this Regulation contains a number of measures, including cash penalties,</u>		

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		<u>more efficient operational processes, and closer monitoring of supervisory activities to target settlement fails. Nevertheless, further efforts are needed to improve settlement efficiency in the Union. A range of different practices already exist on the market, for example, hold and release or partial settlement, however other measures could also be considered. Accordingly, ESMA should, in close cooperation with the ESCB, review industry best practices, both within the Union and internationally, with a view to identifying all relevant measures that could be implemented by settlement systems or market participants, and updating, where necessary and appropriate, the draft regulatory technical standards on measures to encourage and incentivise timely settlement.</u>		
Recital 6				
16	(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed	(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, The market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and	(6) The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed	

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	market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered	stressed market conditions. The application of those rules should therefore be subject to an assessment by the Commission as to its appropriateness in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. <u>significantly interfering in the functioning of securities transactions through mandatory buy-in rules, both in normal and stressed market conditions.</u> Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, where <u>as a last resort, when all other available measures have failed to address the insufficient levels of</u> settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where the level of settlement fails in the Union has or is likely to have a	market conditions. The application of those <u>mandatory buy-in</u> rules should therefore be subject to an assessment by the Commission as to its appropriateness, <u>necessity and proportionality</u> in the light of the evolution of settlement efficiency in the Union. Cash penalties and reporting requirements should however continue to apply in order to assess their impact on improving settlement efficiency in the Union. Considering the potential impacts of mandatory buy-in rules, such rules should apply only where certain conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction of settlement fails in the Union, where settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets, or where <u>as the last resort and when all possible other avenues for addressing insufficient</u> level of settlement fails <u>efficiency</u> in the Union has or is likely to have a negative effect on the financial stability of the Union. Where <u>have been tried. Therefore,</u> the Commission considers that any of	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier.	negative effect on the financial stability of the Union. Where the Commission considers that any of those conditions is met and that the application of. <u>Therefore, the Commission should as a first step consult the ESRB and require ESMA to provide it with a cost-benefit analysis. Only in cases where such analysis demonstrates that</u> mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules <u>might be the appropriate tool</u> should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier <u>the Commission have the possibility of recourse to the mandatory buy-in mechanism.</u>	those conditions is met and that the application of mandatory buy-ins is proportionate to address level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the <u>should as a first step consult ESRB and require from ESMA to be provided with a cost-benefit analysis. Where such analysis demonstrates that</u> mandatory buy-in rules should start to apply. The cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 <u>might be the appropriate tool, the Commission</u> should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process or the actual settlement day, whichever is the earlier <u>have the possibility to have recourse the mandatory buy-in mechanism.</u>	
Recital 6a				
16a		<u>(6a) Moreover, mandatory buy-ins should only be possible where</u>	<u>(6a) Moreover, putting in place mandatory buy-in should only be</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>certain additional conditions are met, namely where the application of cash penalties has not resulted in a long-term, continuous reduction, or in maintaining a sustainable reduced level, of settlement fails in the Union, even after a review of the level of cash penalties, and where the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. Where the Commission considers that those conditions are met and that the application of mandatory buy-ins is necessary, appropriate and proportionate to address the level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply.</u>	<u>possible where certain conditions are met. The mandatory buy-in should therefore only be applied where the application of cash penalties has not resulted in a long-term and sustainable reduction of settlement fails in the Union or in maintaining a sustainable reduced level of settlement fails in the Union, as certain limited level of settlement fails is unavoidable. Together with that condition, also a second condition should be fulfilled, namely that the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. A negative effect should be understood as less severe impact than jeopardising the financial stability in the Union. Where the Commission considers that both those conditions are met and that the application of mandatory buy-in measure is a proportionate, necessary and adequate to address the level of settlement fails in the Union, the Commission should be empowered to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules should start to apply.</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
16b		<u>(6b) It should be clarified that the cash penalties referred to in the third subparagraph of Article 7(2) of Regulation (EU) No 909/2014 should be calculated on a daily basis for each business day that a transaction fails to be settled until the end of the buy-in process, or until the original transaction is either settled or else bilaterally cancelled, whichever is the earlier.</u>		
16c		<u>(6c) Some categories of transactions should be excluded from the scope of cash penalties and mandatory buy-ins. Such exclusions should cover in particular transactions that failed for reasons not attributable to the participants and transactions that do not involve two trading parties. The application of cash penalties or mandatory buy-ins to such transactions would not be practicable or could result in detrimental consequences for the market, such as certain transactions from the primary market, corporate actions, reorganisations, creation and redemption of fund units, realignments, and free-of-payment securities transfers made in the</u>		

Commission Proposal		EP Mandate	Council Mandate	Draft Agreement
		<u>context of the (de)mobilisation of collateral.</u>		
16d		<u>(6d) Pursuant to Article 72 of Regulation (EU) No 909/2014, and to Article 76(5) of that Regulation prior to its amendment by Regulation (EU) 2022/858 of the European Parliament and of the Council¹, Article 15 of Regulation (EU) No 236/2012 of the European Parliament and of the Council² was deleted from the date of entry into force of Delegated Regulation (EU) 2018/1229 to reflect the fact that, from that date onwards, Regulation (EU) No 909/2014 and Delegated Regulation (EU) 2018/1229 were expected to harmonise at Union level the measures to prevent and address settlement fails with a wider scope of application than Regulation (EU) No 236/2012. Given that the provisions on buy-in will not enter into application on the date of entry into force of this Regulation, it is necessary to provide for the application of the buy-in procedures that are laid down in Article 41a of Delegated Regulation (EU) 2018/1229 until such time as the provisions on buy-in of this Regulation apply.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>1. Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU (OJ L 151, 2.6.2022, p. 1).</u> <u>2. [2]Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1).</u>		
Recital 7				
17	(7) To avoid a multiplicity of buy-ins for a transactions on the same financial instrument along a chain of counterparties, which could trigger unnecessary duplicative costs and could affect the liquidity of the financial instrument, a ‘pass-on’ mechanism should be available to participants in such transactions. Each participant involved in the transaction chain should be allowed to pass-on a buy-in notification to the participant failing to them until it reaches the original failing participant.	(7) To avoid a multiplicity of buy-ins for a transactions on the same financial instrument along a chain of counterparties, which could trigger unnecessary duplicative costs and could affect the liquidity of the financial instrument, a ‘pass-on’ mechanism should be available to participants in such transactions. Each participant involved in the transaction chain should be allowed to pass-on a buy-in notification to the participant failing to them until it reaches the original failing participant.	(7) To avoid a multiplicity of buy-ins for a transactions on the same financial instrument along a chain of counterparties <u>that are participants in the CSD</u>, which could trigger unnecessary duplicative costs and could affect the liquidity of the financial instrument, a ‘pass-on’ mechanism should be available to participants in such transactions <u>allowing those participants to coordinate their actions and inform the CSD thereof. Where appropriate, the CSD should inform relevant market infrastructure involved.</u> Each participant involved in the transaction chain should be allowed to pass-on a buy-in notification <u>based on their bilateral agreement</u> to the participant failing to them	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			until it reaches the original failing participant <u>is reached</u> .	
Recital 8				
18	(8) Mandatory buy-ins and cash compensation processes allow for the payment of the difference between the buy-in price and the original trade price to be made from the seller to the purchaser only where that buy-in or cash compensation reference price is higher than the original trade price. This asymmetry for the payment of the differential could create an unequitable remedy that would unduly benefit the purchaser in the event that the buy-in or reference price is lower than the original trade price. The payment of the differential between the buy-in price and the original trade price should therefore apply in both directions to ensure that the trading parties are restored to the economic terms, had the original transaction taken place.	(8) Mandatory buy-ins and cash compensation processes allow for the payment of the difference between the buy-in price and the original trade price to be made from the seller to the purchaser only where that buy-in or cash compensation reference price is higher than the original trade price. This asymmetry for the payment of the differential could create an unequitable remedy that would unduly benefit the purchaser in the event that the buy-in or reference price is lower than the original trade price. The payment of the differential between the buy-in price and the original trade price should therefore apply in both directions to ensure that the trading parties are restored to the economic terms, had the original transaction taken place.	(8) Mandatory buy-ins and cash compensation processes allow for the payment of the difference between the buy-in price and the original trade price to be made from the seller to the purchaser only where that buy-in or cash compensation reference price is higher than the original trade price. This asymmetry for the payment of the differential could create an unequitable remedy that would unduly benefit the purchaser in the event that the buy-in or reference price is lower than the original trade price. The payment of the differential between the buy-in price and the original trade price should therefore apply in both directions to ensure that the trading parties are restored to the economic terms, had the original transaction taken place.	
Recital 9				
19	(9) The settlement discipline regime set out in Article 7 of Regulation (EU) No 909/2014 should not apply to a failing participant, which is a central	(9) The settlement discipline regime set out in Article 7 of Regulation (EU) No 909/2014 should not apply to a failing participant, which is a central	(9) The settlement discipline regime set out in Article 7 of Regulation (EU) No 909/2014 should not apply to a failing participant, which is a central	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council¹. However, for transactions entered into by a CCP where it does not interpose itself between counterparties, such as permitted use of collateral for investment purposes, the CPP should be subject to the settlement discipline regime like any other participant. ¹. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council¹. However, for transactions entered into by a CCP where it does not interpose itself between counterparties, such as permitted use of collateral for investment purposes, the CPP should be subject to the settlement discipline regime like any other participant. ¹. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council¹. <u>Further details should be specified in regulatory technical standards.</u> However, for transactions entered into by a CCP where it does not interpose itself between counterparties, such as permitted use of collateral for investment purposes, the CPPCCP should be subject to the settlement discipline regime like any other participant. ¹. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).	
Recital 9a				
19a			<u>(9a) The CCPs had applied independent mandatory buy-in measure under Regulation (EU) No 236/2012 until it was accidentally deleted. The mandatory buy-in regime in Regulation (EU) No 236/2012 is independent of the regime of Regulation (EU) No 909/2014 and should continue to apply. Therefore, the particular provision should return to its original place.</u>	

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Recital 9b				
19b			<u>(9b) Transactions not cleared by a CCP might be uncollateralised and therefore each trading venue member or trading party bears the counterparty risk. Moving this risk to other entities, such as CSD's participants, would force the latter to cover their exposure to counterparty risk with collateral. This could lead to increased costs of securities settlement in a disproportionate manner. The failing clearing member, the failing trading venue member or the failing trading party, as applicable, should therefore bear responsibility for the payment of the price difference, the cash compensation and the buy-in costs.</u>	
Recital 10				
20	(10) Where the mandatory buy-ins apply, it should be possible for the Commission to temporarily suspend their application in certain exceptional situations. Such a suspension should be possible for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such a suspension	(10) Where the mandatory buy-ins apply, it should be possible for the Commission to temporarily suspend their application in certain exceptional situations. Such a suspension should be possible for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such a suspension	(10) Where the mandatory buy- ins<u>buy-in measures</u> apply, it should be possible for the Commission to temporarily suspend their application in certain exceptional situations. Such a suspension should be possible for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	should be proportionate to those aims.	should be proportionate to those aims.	Such a suspension should be proportionate to those aims.	
Recital 11				
21	(11) The context of negative interest rates should be taken into account in the delegated act for the calculation of cash penalties in order to avoid unintended effects on the non-failing participant by eliminating any adverse incentives to fail that may arise in a low or negative interest rate environment.	(11) The context of <u>possibility of a negative interest rates rate environment</u> should be taken into account in the delegated act for the calculation of cash penalties in order to avoid unintended effects on the non-failing participant by eliminating any adverse incentives to fail that may arise in a low or negative interest rate environment.	(11) The context of negative interest rates should be taken into account in the delegated act for the calculation of cash penalties in order to avoid unintended effects on the non-failing participant by eliminating any adverse incentives to fail that may arise in a low or negative interest rate environment.	
Recital 12				
22	(12) ESMA should prepare draft regulatory standards to revise the existing regulatory technical standards in order to take into account the changes made to Regulation (EU) No 909/2014 in order to enable the Commission to make any necessary corrections or amendments with a view to clarifying the requirements set out in such regulatory technical standard, such as the conditions under which participants may execute their own buy-ins.	(12) ESMA should prepare draft regulatory standards to revise the existing regulatory technical standards in order to take into account the changes made to Regulation (EU) No 909/2014 in order to enable the Commission to make any necessary corrections or amendments with a view to clarifying the requirements set out in such regulatory technical standard, such as the conditions under which participants may execute their own buy-ins.	(12) ESMA should prepare draft regulatory standards to revise the existing regulatory technical standards in order to take into account the changes made to Regulation (EU) No 909/2014. <u>That would-in order to</u> enable the Commission to make any necessary corrections or amendments with a view to clarifying the requirements set out in such regulatory technical standard, such as the conditions under which participants may execute their own buy-ins.	

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22a		<u>(12a) At present, ESMA has limited information on the authorisation and supervision of CSDs that are of substantial importance for the functioning of securities markets and the protection of investors in the Union in at least two host Member States and of CSDs that are part of a group with two or more CSDs. To foster regulatory convergence and contribute to a more level playing field through a more consistent interpretation of requirements, ESMA should be added to the list of relevant authorities for such CSDs.</u>		
Recital 13				
23	(13) Where a central securities depository (CSD) does not carry out a settlement activity before the beginning of the authorisation process, the criteria determining which relevant authorities should be involved in such authorisation process should take into account the anticipated settlement activity to ensure that the views of all relevant authorities potentially interested in the activities of that CSD are taken into account.	(13) Where a central securities depository (CSD) does not carry out a settlement activity before the beginning of the authorisation process, the criteria determining which relevant authorities should be involved in such authorisation process should take into account the anticipated settlement activity to ensure that the views of all relevant authorities potentially interested in the activities of that CSD are taken into account.	(13) Where a central securities depository (CSD) does not carry out a settlement activity before the beginning of the authorisation process, the criteria determining which relevant authorities should be involved in such authorisation process should take into account the anticipated settlement activity to ensure that the views of all relevant authorities potentially interested in the activities of that CSD are taken into account.	(13) Where a central securities depository (CSD) does not carry out a settlement activity before the beginning of the authorisation process, the criteria determining which relevant authorities should be involved in such authorisation process should take into account the anticipated settlement activity to ensure that the views of all relevant authorities potentially interested in the activities of that CSD are taken into account.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Recital 14				
24	(14) While Regulation (EU) No 909/2014 requires national supervisors to cooperate with and involve relevant authorities, national supervisors are not required to inform the those relevant authorities if and how their views have been considered in the outcome of the authorisation process and if additional issues have been identified in the course of annual reviews and evaluations. The relevant authorities should therefore be able to issue reasoned opinions on the authorisation of CSDs and the review and evaluation process. The competent authorities should take into account such opinions or explain in a reasoned decision why such opinions were not followed.	(14) While Regulation (EU) No 909/2014 requires national supervisors to cooperate with and involve relevant authorities, national supervisors are not required to inform the those relevant authorities if and how their views have been considered in the outcome of the authorisation process and if additional issues have been identified in the course of annual reviews and evaluations. The relevant authorities should therefore be able to issue reasoned opinions on the authorisation of CSDs and the review and evaluation process. The competent authorities should take into account such opinions or explain in a reasoned decision why such opinions were not followed.	(14) While Regulation (EU) No 909/2014 requires national supervisors to cooperate with and involve relevant authorities, national supervisors are not required to inform the those relevant authorities if and how their views have been considered in the outcome of the authorisation process and if additional issues have been identified in the course of annual <u>regular</u> reviews and evaluations. The relevant authorities should therefore be able to issue reasoned opinions on the authorisation of CSDs and the review and evaluation process. The competent authorities should take into account such opinions or explain in a reasoned decision why such opinions were not followed. <u>Any of the authorities that issued a negative opinion might refer the matter to ESMA for assistance under Regulation (EU) No 1095/2010.</u>	
Recital 15				
25				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(15) Regular reviews and evaluations of CSDs by competent authorities are necessary to ensure that CSDs continue to have in place appropriate arrangements, strategies, processes and mechanisms to evaluate the risks to which the CSD is, or might be, exposed or which may constitute a threat to the smooth functioning of securities markets. Experience has, however, shown that an annual review and evaluation is disproportionately burdensome for both CSDs and competent authorities and with limited added value. A more appropriately calibrated periodicity should therefore be set in order to alleviate this burden and avoid a duplication of information from one review the other. The supervisory capacities of competent authorities and the objective of safeguarding financial stability should, however, not be undermined.	(15) Regular reviews and evaluations of CSDs by competent authorities are necessary to ensure that CSDs continue to have in place appropriate arrangements, strategies, processes and mechanisms to evaluate the risks to which the CSD is, or might be, exposed or which may constitute a threat to the smooth functioning of securities markets. Experience has, however, shown that an annual review and evaluation is disproportionately burdensome for both CSDs and competent authorities and with limited added value. A more appropriately calibrated periodicity should therefore be set in order to alleviate this burden and avoid a duplication of information from one review the other. <u>To further ensure consistency, the minimum frequency at which the competent authorities of CSDs and the competent authorities defined in Regulation (EU) No 575/2013 of the European Parliament and of the Council¹ conduct reviews and evaluations of banking-type ancillary services should be aligned with the frequency of the review and evaluation of CSDs.</u> The supervisory capacities of competent authorities and the objective of safeguarding financial	(15) Regular reviews and evaluations of CSDs by competent authorities are necessary to ensure that CSDs continue to have in place appropriate arrangements, strategies, processes and mechanisms to evaluate the risks to which the CSD is, or might be, exposed or which may<u>might</u> constitute a threat to the smooth functioning of securities markets. Experience has, however, shown that an annual review and evaluation is disproportionately burdensome for both CSDs and competent authorities and with limited added value. A more appropriately calibrated<u>appropriate</u> periodicity should therefore be set in order to alleviate this burden and avoid a duplication of information from one review <u>to</u> the other. The <u>period of evaluation should be carefully calibrated. Where relevant, competent authorities might coordinate their review and evaluation with the conduct of thread led penetration testing under Regulation (EU) 2022/... of the European Parliament and of the Council [DORA] and take into account the result of such tests in their report. The</u> supervisory capacities of competent authorities and the objective of safeguarding financial stability should, however, not be undermined, <u>therefore the</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		stability should, however, not be undermined. <u>1. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).</u>	<u>possibility of competent authorities to request an additional review should be kept. Furthermore, the assessment of the appropriate periodicity by the competent authority should be carried out in a proportionate manner, with a review interval of up to three years if appropriate considering the risk profile of the CSD's activities.</u>	
Recital 16				
26	(16) A CSD should be prepared to face scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. Regulation (EU) No 909/2014 introduced requirements in this respect, providing in particular that a competent authority is to require the CSD to submit an adequate recovery plan and is to ensure that an adequate resolution plan is established and maintained for each CSD. No harmonised resolution regime on which a resolution plan could be based, however, currently exists. While CSDs authorised to offer banking-type ancillary services fall within the scope of Directive 2014/59/EU of the	(16) A CSD should be prepared to face scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. Regulation (EU) No 909/2014 introduced requirements in this respect, providing in particular that a competent authority is to require the CSD to submit an adequate recovery plan and is to ensure that an adequate resolution plan is established and maintained for each CSD. No harmonised resolution regime on which a resolution plan could be based, however, currently exists. While CSDs authorised to offer banking-type ancillary services fall within the scope of Directive 2014/59/EU of the	(16) A CSD should be prepared to face scenarios that may<u>might</u> potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. Regulation (EU) No 909/2014 introduced requirements in this respect, providing in particular that a competent authority is to require the CSD to submit an adequate recovery plan and is to ensure that an adequate resolution plan is established and maintained for each CSD. No harmonised resolution regime on which a resolution plan could be based, however, currently exists. While CSDs authorised to offer banking-type ancillary services fall within the scope of Directive 2014/59/EU of the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	European Parliament and of the Council¹, no specific provisions exist for CSDs that are not authorised to provide such services and therefore are not considered credit institutions under Directive 2014/59/EU with the obligation to have recovery and resolution plans in place. Clarifications should therefore be introduced with a view to better align the requirements applicable to CSDs taking into account the absence of a Union framework for the recovery and resolution for all CSDs. 1. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).	European Parliament and of the Council¹, no specific provisions exist for CSDs that are not authorised to provide such services and therefore are not considered credit institutions under Directive 2014/59/EU with the obligation to have recovery and resolution plans in place. Clarifications should therefore be introduced with a view to better align the requirements applicable to CSDs taking into account the absence of a Union framework for the recovery and resolution for all CSDs. <u>In order to avoid a duplication of requirements, CSDs authorised to offer banking-type ancillary services that are already subject to the requirements regarding recovery plans set out in Directive 2014/59/EU should not be required to comply with the requirements regarding the preparation of plans on recovery or orderly wind-down under this Regulation, insofar as the information to be included in those plans has been already provided.</u> 1. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU,	European Parliament and of the Council¹, no specific provisions exist for CSDs that are not authorised to provide such services and therefore are not considered credit institutions under Directive 2014/59/EU with the obligation to have recovery and resolution plans in place. Clarifications should therefore be introduced with a view to better align<u>In order to avoid duplication of requirements, CSDs authorised to offer banking-type ancillary services that are already subject to</u> the requirements applicable to CSDs taking into account the absence of a Union framework for the regarding recovery plans set in Directive 2014/59/EU of the European Parliament and of the Council should not be required to comply with the requirements regarding the preparation of plans on recovery and resolution for all CSDs<u>or orderly wind down under this Regulation, insofar as the information to be included in those plans has been already provided.</u> 1. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU,	

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		2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).	2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).	
Recital 17				
27	(17) Where a new CSD applies for authorisation and compliance with certain requirements cannot be assessed because the CSD is not operational yet, the competent authority should be able to grant the authorisation subject to the condition that those requirements are complied with when the CSD effectively launches its activities.	(17) Where a new CSD applies for authorisation and compliance with certain requirements cannot be assessed because the CSD is not operational yet, the competent authority should be able to grant the authorisation subject to the condition that those requirements are complied with when the CSD effectively launches its activities. <u>That assessment is particularly relevant as regards the use of distributed ledger technology and the application of Regulation (EU) 2022/858.</u>	(17) Where a new CSD applies for authorisation and compliance with certain requirements cannot be assessed because the CSD is not operational yet, the competent authority should be able to, <u>before granting</u> grant the authorisation, <u>assess whether it is likely that the subject to the condition that those requirements are</u> are <u>under this Regulation will be</u> complied with <u>by the CSD concerned</u> when the CSD effectively launches <u>commences</u> its activities. <u>That assessment is particularly relevant as regards the use of distributed ledger technology and application of Regulation (EU) 2022/858 of the European Parliament and of the Council.</u>	
Recital 18				
28	(18) The procedure set out in Article 23 of Regulation (EU) No 909/2014 regarding the provision by CSDs of notary and central maintenance services in relation to	(18) The procedure set out in Article 23 of Regulation (EU) No 909/2014 regarding the provision by CSDs of notary and central maintenance services in relation to	(18) The procedure set out in Article 23 of Regulation (EU) No 909/2014 regarding the provision by CSDs of notary and central maintenance services in relation to	

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	financial instruments constituted under the law of a Member State other than that of their authorisation has proven to be burdensome and some of its requirements are unclear. This has resulted in a disproportionately costly and lengthy process for CSDs. The procedure should therefore be simplified to better dismantle the barriers to cross-border settlement in order for authorised CSDs to fully benefit from the freedom to provide services within the Union.	financial instruments constituted under the law of a Member State other than that of their authorisation has proven to be burdensome and some of its requirements are unclear. This has resulted in a disproportionately costly and lengthy process for CSDs. The procedure should therefore be simplified to better dismantle the barriers to cross-border settlement in order for authorised CSDs to fully benefit from the freedom to provide services within the Union.	financial instruments constituted under the law of a Member State other than that of their authorisation has proven to be burdensome and some of its requirements are unclear. This has resulted in a disproportionately costly and lengthy process for CSDs. The procedure should therefore be simplified to better dismantle the barriers to cross-border settlement in order for <u>so as to enable</u> authorised CSDs to fully benefit from the freedom to provide services within the Union. <u>Without prejudice to the measures that CSD need to take to allow their users to comply with national laws, it should also be clear which is the legal framework that is relevant for the assessment that a CSD is required to perform under Article 23 of Regulation (EU) No 909/2014 in relation to the measures that it intends to take to allow its users to comply with the law of another Member State and that this assessment is limited to shares only. The obligation to perform that assessment should be streamlined to lessen the burden placed on CSDs. The competent authority of the host Member State should be offered the possibility to comment on the assessment related to national laws before the competent authority of the home</u>	

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			<u>Member State communicates the information to the competent authority of the host Member State. The final decision on passporting should be left to the home competent authority.</u>	
Recital 19				
29	(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation (, that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the	(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation , that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the	(19) Regulation (EU) No 909/2014 requires the cooperation of authorities that have an interest in the operations of CSDs that offer services in relation to financial instruments issued <u>constituted</u> under the law of more than one Member States. Nonetheless, the supervisory arrangements remain fragmented and can lead to differences in the allocation and nature of supervisory powers depending on the CSD concerned. This in turn creates barriers to the cross-border provision of CSD services in the Union, perpetuates the remaining inefficiencies in the Union settlement market and has negative impacts on the stability of Union financial markets. Despite the possibility to set up colleges in accordance with Article 24(4) of that Regulation , that option has barely been used. In order to ensure an effective and efficient coordination of the supervision by competent authorities, the <u>a</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	requirement to set up mandatory colleges should apply in two cases. Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the "group-level colleges"). To reduce the administrative burden on the authorities participating to colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that decision only where the competent authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned.	requirement to set up mandatory colleges should apply in two cases: Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the "group-level colleges"). To reduce the administrative burden on the authorities participating to <u>be based on a single existing and reliable criterion, namely, the substantial importance of a CSD for a jurisdiction other than the one where it is established. The threshold for the mandatory establishment by competent authorities of a college of supervisors should be met where a CSD is of substantial importance in at least two host Member States.</u> <u>Such</u> colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the <u>should be chaired by ESMA and ensure the sharing of information pertaining to the CSDs concerned. Members of a</u> college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that decision only where the competent	requirement to set up mandatory colleges should apply in two cases: Firstly, for CSDs that offer notary and central maintenance services in relation to financial instruments issued under the law of more than one. <u>A college of supervisors should be established for CSDs whose activities in at least two host</u> Member States (the passporting colleges) and secondly for CSDs that belong to the same group (the "group-level colleges"). To reduce the administrative burden on the authorities participating to colleges, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the college should be able to decide that only one college is established for that CSD. Where the other CSDs in the group also offer services cross-border, the chair of the college should be able to make that decision only where the competent authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned <u>are considered of substantial importance for the functioning of the securities markets and the protection of</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		authorities of those other CSDs consent. In that case, there would be only one college for all CSDs within the group that would exercise the tasks assigned to passporting and group-level colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned<u>have the possibility of requesting the adoption by the college of a formal opinion concerning issues identified during the review and evaluation process of CSDs, or during the review and evaluation of providers of banking-type ancillary services, or concerning issues that relate to the extension or outsourcing of activities and services provided by the CSD, or concerning any potential breach of the requirements of Regulation (EU) No 909/2014 arising from the provision of services in a host Member State. The process for the adoption of formal opinions should rely on a simple majority vote.</u>	<u>investors. A college set up under this Regulation should not automatically prevent or replace other forms of cooperation between competent authorities. ESMA should develop draft regulatory technical standards to specify the criteria on the basis of which it can be determined whether the activities are of substantial importance and, if still relevant, respect the current threshold that is set for substantial importance set in Commission Delegated Regulation 2017/389 at 15 % involvement of CSDs in particular services in the relevant host Member State.</u>	
Recital 19a				
29a			<u>(19a) In order to facilitate the performance of the tasks of the college, the members of the college should include, among others, the home and host competent authorities of the CSD, the relevant</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>authorities pursuant to Article 12 of Regulation (EU) No 909/2014 and authorities from third countries upon their justified request. That request should include a comprehensive reasoning demonstrating the need for the participation of the third-country authority in the college, as well as the added value of such participation.</u>	
Recital 19b				
29b			<u>(19b) In order to facilitate certain tasks assigned to the colleges, the competent authority of CSD should share most relevant information set by this Regulation about the CSD with the members of college. The information should include that on senior management, management body and shareholders, as well as information about approved outsourcing arrangements regarding core functions within the group or outside the group the CSDs is member of.</u>	
Recital 20				
30	(20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country	(20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country	(20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	offer in relation to financial instruments constituted under the law of a Member State for several reasons. First, due to the deferred application, without an end date, of recognition requirements for third-country CSDs that already provided central maintenance and notary services in the Union before the date of application of Regulation (EU) No 909/2014 pursuant to Article 69(4) of that Regulation. Second, due to the fact that where a third-country CSD provides only the settlement service, it is not subject to recognition requirements. Finally, since Regulation (EU) No 909/2014 does not require CSDs established in a third-country to notify Union authorities of their activities related to financial instruments constituted under the law of a Member State. Due to that lack of information, neither issuers nor public authorities at national and Union level would be able to assess the activities of those CSDs in the Union if needed. Therefore, CSDs established in a third-country should be required to inform Union authorities of their activities in relation to financial instruments constituted under the law of a Member State.	offer in relation to financial instruments constituted under the law of a Member State for several reasons. First, due to the deferred <u>Firstly, the</u> application, without an end date, of recognition requirements for third-country CSDs that already provided central maintenance and notary services in the Union before the date of application of Regulation (EU) No 909/2014 pursuant to Article 69(4) of that Regulation. Second, due to the fact that <u>has been deferred indefinitely. Secondly,</u> where a third-country CSD provides only the settlement service, it is not subject to recognition requirements. Finally, since Regulation (EU) No 909/2014 does not require CSDs established in a third-country to notify Union authorities of their activities related to financial instruments constituted under the law of a Member State. Due to that lack of information, neither issuers nor public authorities at national and Union level would be able to assess the activities of those CSDs in the Union if needed. Therefore, <u>the recognition regime for</u> CSDs established in a third-country should be required to inform Union authorities of their activities in relation to <u>expanded to cover securities settlement services in addition to notary and central</u>	offer in relation to financial instruments constituted under the law of a Member State for several reasons. First, due to the deferred application, without an end date, of recognition requirements for third-country CSDs that already provided central maintenance and notary services in the Union before the date of application of Regulation (EU) No 909/2014 pursuant to Article 69(4) of that Regulation. Second, due to the fact that where a third-country CSD provides only the settlement service, it is not subject to recognition requirements. Finally, since <u>due to the fact that</u> Regulation (EU) No 909/2014 does not require CSDs established in a third-country to notify Union authorities of their activities related to financial instruments constituted under the law of a Member State. Due to that <u>Given the</u> lack of information, neither issuers nor public authorities at national and Union level would be <u>have been</u> able to assess the activities of those CSDs in the Union if needed. Therefore, CSDs established in a third-country should be required to inform Union authorities of their activities in relation to financial instruments constituted under the law of a Member State.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>maintenance services. Such expansion would contribute to a more level playing field between CSDs established in a Member State and CSDs established in a third country, adequately mitigating the risks related to settlement services in respect of</i></u> financial instruments constituted under the law of a Member State.		
Recital 21				
31	(21) Article 27(2) of Regulation (EU) No 909/2014 requires a CSD to have a management body of which at least one third, but no less than two, of its members are independent. That concept of independence may, however, be subject to divergent interpretations and should therefore be clarified, in line with the definition of ‘independent members’ under Article 2(28) of Regulation (EU) No 648/2012.	(21) Article 27(2) of Regulation (EU) No 909/2014 requires a CSD to have a management body of which at least one third, but no less than two, of its members are independent. That concept of independence may, however, be subject to divergent interpretations and should therefore be clarified, in line with the definition of ‘independent members’ under Article 2(28) of Regulation (EU) No 648/2012.	(21) Article 27(2) of Regulation (EU) No 909/2014 requires a CSD to have a management body of which at least one third, but no less than two, of its members are independent. That concept of independence may, however, be subject to divergent interpretations and <u>In order to ensure a more consistent application of the concept of independence, that concept</u> should therefore be clarified, in line with the definition of ‘independent members’ under Article 2(28) of Regulation (EU) No 648/2012.	
Recital 22				
32	(22) In order to ensure the consistency of interpretation of the key issues on which user	(22) In order to ensure the consistency of interpretation of the key issues on which user	(22) In order to ensure the consistency of interpretation of <u>legal certainty as regards</u> the key issues	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	committees should advise the management body, it should be further clarified what elements are included in the 'service level'.	committees should advise the management body, it should be further clarified what elements are included in the 'service level'.	on which user committees should advise the management body, it should be further clarified what elements are included in the 'service level'.	
Recital 23				
33	(23) Given their central role regarding the safety of transactions, CSDs should not only reduce the risks associated with the safekeeping and settlement of transactions in securities, but should seek to minimise those risks.	(23) Given their central role regarding the safety of transactions, CSDs should not only reduce the risks associated with the safekeeping and settlement of transactions in securities, but should seek to minimise those risks.	(23) Given their central role regarding the safety of transactions, CSDs should not only reduce the risks associated with the safekeeping and settlement of transactions in securities, but should <u>also</u> seek to minimise those risks.	
Recital 24				
34	(24) Under certain circumstances, a security may be constituted under the national corporate or similar laws of two different Member States. This is in particular the case for debt securities where the issuer is established in one Member State and the securities may be issued under the governing law of another Member State. In such a case, both national corporate or similar laws should continue to apply.	(24) Under certain circumstances, a security may be constituted under the national corporate or similar laws of two different Member States. This is in particular the case for debt securities where the issuer is established in one Member State and the securities may be issued under the governing law of another Member State. In such a case, both national corporate or similar laws should continue to apply.	(24) Under certain circumstances, a security may <u>might</u> be constituted under the national corporate or similar laws of two different Member States. This is in particular the case for debt securities where the issuer is established <u>incorporated</u> in one Member State and the securities may <u>might</u> be issued under the governing law of another Member State. In such a case, both national corporate or similar laws should continue to apply. <u>The choice of the applicable law is not to be governed by this Regulation and should therefore remain at the</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>issuers' discretion or otherwise be determined by law.</u>	
Recital 24a				
34a			<u>(24a) Any new rules in this Regulation governing the provision of services by a CSD established in a given Member State in relation to financial instruments constituted under the law of another Member State should apply only to securities initially recorded after those new rules become applicable. The securities that have been recorded by a CSD by the date of entry into force of this Regulation should therefore not trigger the application of any new rules with regard to the freedom to provide services in another Member State.</u>	
Recital 25				
35	(25) In order to ensure that issuers who arrange for their securities to be recorded in a CSD established in another Member State can comply with the relevant provisions of the corporate or similar law of such Member States, Member States should regularly update the list of such national key relevant provisions published by ESMA.	(25) In order to ensure that issuers who arrange for their securities to be recorded in a CSD established in another Member State can comply with the relevant provisions of the corporate or similar law of such Member States, Member States should regularly update the list of such national key relevant provisions published by ESMA.	(25) In order to ensure that issuers who arrange for their securities to be recorded in a CSD established in another Member State can comply with the relevant provisions of the corporate or similar law of such Member States, Member States should regularly update the list of such national key relevant provisions published by ESMA.	(25) In order to ensure that issuers who arrange for their securities to be recorded in a CSD established in another Member State can comply with the relevant provisions of the corporate or similar law of such Member States, Member States should regularly update the list of such national key relevant provisions published by ESMA.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
35a		<i><u>(25a) Some CSDs established in the Union operate securities settlement systems that apply netting arrangements. Such CSDs should adequately measure, monitor and manage the risks stemming from the application of the netting arrangements put in place for settlement on a net basis, particularly for deferred netting arrangements.</u></i>		
Recital 26				
36	(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever practical and available, the cash leg of the securities transaction through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access a central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in foreign currencies through accounts opened with institutions authorised	(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever practical and available, the cash leg of the securities transaction through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access a central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in foreign currencies <u>through transactionsthrough</u>	(26) In order to avoid settlement risks due to the insolvency of the settlement agent, a CSD should settle, whenever practical and available, the cash leg of the securities transaction through accounts opened with a central bank. Where that option is not practical and available, including where a CSD does not meet the conditions to access <u>open an account with</u> a central bank other than that of its home Member State, that CSD should be able to settle the cash leg of transactions in foreign currencies <u>a currency other than of</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	to provide banking services under the conditions provided in Regulation (EU) No 909/2014. The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide settlement in foreign currencies through the use of accounts opened with institutions authorised to provide banking services, within appropriate risk limits, with a view to deepen capital markets and enhance cross-border settlement. For that purpose, CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and for which the relevant risks are already monitored, should be able to offer such services to other CSDs that do not hold such license irrespective if the latter are part of the same group of companies.	accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014. <u>For that purpose, CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and for which the relevant risks are already monitored, should be able to offer services pertaining to the</u> The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide <u>of the cash leg of securities transactions, in a currency other than that of the country where the settlement takes place, to other CSDs that do not hold such license irrespective if the latter are part of the same group of companies. Designated credit institutions and</u> in foreign currencies through the use of accounts opened with institutions authorised to provide banking services, within appropriate risk limits, with a view to deepen capital markets and enhance cross-border settlement. For that purpose, CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and for which the relevant risks are already monitored, should be able to offer such <u>should be authorised only to provide such services to</u>	<u>the country where the settlement takes place</u> through accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014. The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide settlement in foreign currencies <u>currency other than that of the country where the settlement takes place</u> through the use of accounts opened with institutions authorised to provide banking services, within appropriate risk limits, with a view to deepen capital markets and enhance cross-border settlement. For that purpose, CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014, and for which the relevant risks are already monitored, should be able to offer such services <u>services pertaining to the settlement of the cash leg of securities transactions, in a currency other than that of the country where the settlement takes place,</u> to other CSDs that do not hold such license irrespective if <u>whether</u> the latter are part of the same group of companies.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>settle the cash leg corresponding to all or part of the securities settlement system of the CSD seeking to use the banking-type ancillary services, and not to carry out any -to- other CSDs that do not hold such license irrespective if the latter are part of the same group of companies activities. That cash leg should not be in a currency of the country where the CSD seeking to use those services is established.</u>		
Recital 27				
37	(27) Within an appropriately set risk limit, CSDs that are not authorised to provide banking-type ancillary services should be able to offer a sufficient amount of foreign currency settlement through accounts opened with credit institutions or through its own account. The threshold below which a CSD may designate a credit institution to provide any banking-type ancillary services from within a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. As a body with specialised	(27) Within an appropriately set risk limit<u>limits</u>, CSDs that are not authorised to provide banking-type ancillary services should be able to offer a sufficient amount of<u>arrange</u> foreign currency settlement through accounts opened with credit institutions or through its own account. The threshold below which a CSD may designate a credit institution to provide any banking-type ancillary services from within a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014 should <u>consist of a maximum amount for those arranged payments. The threshold should</u> be calibrated in a way that promotes efficiency of settlement and the use	(27) Within an appropriately set risk limit<u>limits</u>, CSDs that are not authorised to provide banking-type ancillary services should be able to offer a sufficient amount of foreign currency<u>arrange payments in a currency other than of the country where the settlement takes place</u> through accounts opened with credit institutions or through its own account. The threshold below which a CSD may. A CSD should be able to designate a credit institution to provide any banking-type ancillary services from within<u>below particular threshold as</u> a separate legal entity without being required to comply with the conditions set out in Title IV of Regulation (EU) No 909/2014. That threshold should consist of a maximum	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.	of banking ancillary services while ensuring financial stability. <u>The calibration of the threshold should avoid the introduction of new risks to the CSD, the credit institution providing the banking services and the banking system as a whole. It should also ensure a level playing field among CSDs, with and without authorisation, in the provision of banking-type ancillary services respecting the principle of ‘same activity, same risk, same rules’, and be based on total settled amounts.</u> As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds <u>taking into account the implications for the various financial risks and the level playing field. EBA should also be entrusted with drafting</u> and, where necessary, any risk mitigating requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type	<u>amount for those arranged payments. In addition, that threshold</u> should be calibrated in a way that promotes efficiency of settlement and the use of <u>allows CSDs to reach a level of cash settlement below which requiring a banking ancillary services license or connecting to a central bank of issue is not practical,</u> while ensuring financial stability <u>and level playing field in the Union. To this end, the threshold should take into account the need for CSDs to be able to settle payments in different currencies, especially for the most liquid ones, while setting an appropriate limit that would be applicable to the institution as a whole. Nevertheless, in determining and calibrating the threshold, risks to the financial stability of market infrastructures as well as to the EU should be avoided or appropriately mitigated.</u> As a body with specialised expertise regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds and, where necessary, any risk mitigating <u>mitigation</u> requirements. EBA should also closely cooperate with the members of the ESCB and with ESMA. The Commission should be empowered to adopt	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.	regulatory technical standards in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) with regard to the detailed elements of the determining for the provisioning of banking type ancillary services, the accompanying details of the risk management and capital requirements for CSDs and the prudential requirements on credit and liquidity risks for CSDs and designated credit institutions that are authorised to provide banking-type ancillary services.	
Recital 28				
38	(28) CSDs, including those authorised to provide banking-type ancillary services, and designated credit institutions should cover relevant risks in their risk management and prudential frameworks, including relevant netting arrangements. Tools to cover those risks should include maintaining sufficient qualifying liquid resources in all relevant currencies and ensuring that stress scenarios are sufficiently strong. CSDs should also ensure that corresponding liquidity risks are managed and covered by highly reliable funding arrangements with creditworthy institutions, whether	(28) CSDs, including those authorised to provide banking-type ancillary services, and designated credit institutions should cover relevant risks in their risk management and prudential frameworks, including relevant netting arrangements. Tools to cover those risks should include maintaining sufficient qualifying liquid resources in all relevant currencies and ensuring that stress scenarios are sufficiently strong. CSDs should also ensure that corresponding liquidity risks are managed and covered by highly reliable funding arrangements with creditworthy institutions, whether	(28) CSDs, including those authorised to provide banking-type ancillary services, and designated credit institutions should cover relevant risks in their risk management and prudential frameworks, including relevant netting arrangements . Tools to cover those risks should include maintaining sufficient qualifying liquid resources in all relevant currencies and ensuring that stress scenarios are sufficiently strong. CSDs should also ensure that corresponding liquidity risks are managed and covered by highly reliable funding arrangements with creditworthy institutions, whether	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	those arrangements are committed or have similar reliability. The EBA should submit draft regulatory technical standards to revise the existing regulatory technical standards in order to take into account those changes to prudential requirements, in order to enable the Commission to make any necessary amendments with a view to clarifying the requirements set out in such regulatory technical standards, such as those related to the management of potential liquidity shortfalls.	those arrangements are committed or have similar reliability. The EBA should submit draft regulatory technical standards to revise the existing regulatory technical standards in order to take into account those changes to prudential requirements, in order to enable the Commission to make any necessary amendments with a view to clarifying the requirements set out in such regulatory technical standards, such as those related to the management of potential liquidity shortfalls.	those arrangements are committed or have similar reliability. The EBA should submit draft regulatory technical standards to revise the existing regulatory technical standards in order to take into account those changes to prudential requirements, in order to . <u>That would</u> enable the Commission to make any necessary amendments with a view to clarifying the requirements set out in such regulatory technical standards, such as those related to the management of potential liquidity shortfalls.	
Recital 29				
39	(29) A period of only 1 month for relevant authorities and competent authorities to issue a reasoned opinion on the authorisation to provide banking-type ancillary services has proven to be too short for those authorities to be able to make a substantiated analysis. Therefore, a longer period of 2 months should be laid down.	(29) A period of only 1 month for relevant authorities and competent authorities to issue a reasoned opinion on the authorisation to provide banking-type ancillary services has proven to be too short for those authorities to be able to make a substantiated analysis. Therefore, a longer period of 2 months should be laid down.	(29) A period of only one month for relevant authorities and competent authorities to issue a reasoned opinion on the authorisation to provide banking-type ancillary services has proven to be too short for those authorities to be able to make a substantiated analysis. Therefore, a longer period of two months should be laid down.	(29) A period of only one month for relevant authorities and competent authorities to issue a reasoned opinion on the authorisation to provide banking-type ancillary services has proven to be too short for those authorities to be able to make a substantiated analysis. Therefore, a longer period of two months should be laid down. Text Origin: Council Mandate
Recital 30				
40				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(30) In order to provide CSDs established in the Union or in third countries with sufficient time to apply for authorisation and recognition of their activities, the date of application of the authorisation and recognition requirements of Regulation (EU) No 909/2014 was initially deferred until an authorisation or recognition decision was made pursuant to that Regulation. Sufficient time has elapsed since the entry into force of that Regulation. , Therefore, those requirements should now start to apply to ensure, on the one hand, a level-playing field amongst all CSDs offering services in relation to financial instruments constituted under the law of a Member State, and, on the other hand, that authorities at national and Union level have the necessary information to ensure investor protection and monitor financial stability.	(30) In order to provide CSDs established in the Union or in third countries with sufficient time to apply for authorisation and recognition of their activities, the date of application of the authorisation and recognition requirements of Regulation (EU) No 909/2014 was initially deferred until an authorisation or recognition decision was made pursuant to that Regulation. Sufficient time has elapsed since the entry into force of that Regulation. , Therefore, those requirements should now start to apply to ensure, on the one hand, a level-playing field amongst all CSDs offering services in relation to financial instruments constituted under the law of a Member State, and, on the other hand, that authorities at national and Union level have the necessary information to ensure investor protection and monitor financial stability.	(30) In order to provide CSDs established in the Union or in third countries with sufficient time to apply for authorisation and recognition of their activities, the date of application of the authorisation and recognition requirements of Regulation (EU) No 909/2014 was initially deferred until an authorisation or recognition decision was made pursuant to that Regulation. Sufficient time has elapsed since the entry into force of that Regulation. , Therefore, those requirements should now start to apply to ensure, on the one hand, a level-playing field amongst all CSDs offering services in relation to financial instruments constituted under the law of a Member State, and, on the other hand, that authorities at national and Union level have the necessary information to ensure investor protection and monitor financial stability. <u><i>The third-country CSDs which would provide the core services referred to in Section A, points (1) and (2), of the Annex of Regulation (EU) No 909/2014 should be subject to the procedures set out in that Regulation. However, the third-country CSDs already providing the core services referred to in Section A, points (1) and (2), of the Annex of Regulation (EU) No 909/2014</i></u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>should benefit from a simplified notification procedure.</u>	
Recital 31				
41	(31) Regulation (EU) No 909/2014 currently requires ESMA to prepare, in cooperation with national competent authorities and the EBA, annual reports on 12 topics and submit those reports to the Commission. That requirement is disproportionate considering the nature of certain topics which do not require an annual update. The frequency and number of those reports should therefore be recalibrated in order to reduce the burden on ESMA and competent authorities while ensuring that the Commission is provided with the necessary information it needs to review the implementation of Regulation (EU) No 909/2014.	(31) Regulation (EU) No 909/2014 currently requires ESMA to prepare, in cooperation with national competent authorities and the EBA, annual reports on 12 topics and submit those reports to the Commission. That requirement is disproportionate considering the nature of certain topics which do not require an annual update. The frequency and number of those reports should therefore be recalibrated in order to reduce the burden on ESMA and competent authorities while ensuring that the Commission is provided with the necessary information it needs to review the implementation of Regulation (EU) No 909/2014.	(31) Regulation (EU) No 909/2014 currently requires ESMA to prepare, in cooperation with national competent authorities and the EBA, annual reports on 12 topics and submit those reports to the Commission. That requirement is disproportionate considering the nature of certain topics which do not require an annual update. The frequency and number of those reports should therefore be recalibrated in order to reduce the burden on ESMA and competent authorities while ensuring that the Commission is provided with the necessary information it needs to review the implementation of Regulation (EU) No 909/2014. <u>Upon request from the Commission, ESMA should provide a cost-benefit analysis that should be used as a basis for the implementing act on mandatory buy-in.</u>	
Recital 32				
42				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(32) Regulation (EU) No 909/2014 should therefore be amended accordingly.	(32) Regulation (EU) No 909/2014 should therefore be amended accordingly.	(32) Regulation (EU) No 909/2014 should therefore be amended accordingly. <u>moved to recital 35a</u>	
Recital 33				
43	(33) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to specify the effect that, in a context of negative interest rates, fails could have on the affected counterparties in relation to the calculation of cash penalties or their adverse incentives to fail, the reasons causing settlement fails that are to be considered to be not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties, the functioning of colleges of supervisors, the information to be notified by third-country CSDs; and the maximum amount below which CSDs may use any credit institution to settle the cash payments.	(33) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to specify the effect that, in a context of <u>the case of a</u> negative interest rates <u>rate</u> <u>environment</u> , fails could have on the affected counterparties in relation to the calculation of cash penalties or their adverse incentives to fail, the reasons causing settlement fails that are to be considered to be not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties; <u>to reassess the parameters or the method used for the calculation of deterrent and proportionate cash penalties, such as setting a progressive rate; to determine transactions that are to be excluded from the scope of the cash penalties measures and mandatory buy-in measures;</u> the functioning of colleges of supervisors, the information to be notified by third-country CSDs; and the maximum amount below which	(33) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to specify the effect that, in a context of negative interest rates, fails could have on the affected counterparties in relation to the calculation of cash penalties or their adverse incentives to fail, the reasons causing settlement fails that are to be considered to be not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties, the functioning of colleges of supervisors, the information to be notified by third-country CSDs; and the maximum amount below which CSDs may <u>might</u> use any credit institution to settle the cash payments.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		CSDs may use any credit institution to settle the cash payments.		
Recital 34				
44	(34) To ensure uniform conditions for the implementation of this Regulation, and in particular with regard to the application and the suspension of mandatory buy-in requirements where those apply, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	(34) To ensure uniform conditions for the implementation of this Regulation, and in particular with regard to the application and the suspension of mandatory buy-in requirements where those apply, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	(34) <u>In order</u> to ensure uniform conditions for the implementation of this Regulation, and in particular with regard to the application and the suspension of mandatory buy-in requirements where those apply, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	(34) <u>In order</u> to ensure uniform conditions for the implementation of this Regulation, and in particular with regard to the application and the suspension of mandatory buy-in requirements where those apply, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. 1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13). <u>Text Origin: Council Mandate</u>
44a		<u>(34a) Delegated and implementing acts adopted in accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) constitute Union legal acts.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>Pursuant to Articles 127(4) and 282(5) TFEU, the ECB is to be consulted on any proposed Union act in its fields of competence. Safe and efficient financial market infrastructures and the smooth functioning of financial markets are essential for the fulfilment of the basic tasks of the ESCB under Article 127(2) TFEU, and the pursuit of its primary objective of maintaining price stability under Article 127(1) TFEU. The ECB should therefore be duly consulted on the delegated and implementing acts adopted under this Regulation.</i></u>		

Recital 35

6	45	(35) Since the objectives of this Regulation, namely to increase the provision of cross-border settlement by CSDs, reduce administrative burden and compliance costs and ensure that authorities have sufficient information in order to monitor risks, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set	(35) Since the objectives of this Regulation, namely to increase the provision of cross-border settlement by CSDs, reduce administrative burden and compliance costs and ensure that authorities have sufficient information in order to monitor risks, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set	(35) Since the objectives of this Regulation, namely to increase the provision of cross-border settlement by CSDs, reduce administrative burden and compliance costs and ensure that authorities have sufficient information in order to monitor risks, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set	(35) Since the objectives of this Regulation, namely to increase the provision of cross-border settlement by CSDs, reduce administrative burden and compliance costs and ensure that authorities have sufficient information in order to monitor risks, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set	6
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. Text Origin: Commission Proposal
Recital 36				
46	(36) The application of the revised scope of the rules on cash penalties, the new requirements regarding the establishment of colleges of supervisors, the submission of a notification by third-country CSDs of the core services they provide in relation to financial instruments constituted under the law of a Member State, the revised threshold under which credit institutions may offer to settle the cash payments for part of the CSD's securities settlement system and the revised prudential requirements applicable to credit institutions or CSDs authorised to provide banking-type ancillary services pursuant to Article 59 of Regulation (EU) No 909/2014 should be deferred to give sufficient time for the adoption of the necessary delegated acts further specifying such requirements,	(36) The application of the revised scope of the rules on cash penalties, the new requirements regarding the establishment of colleges of supervisors, the submission of a notification by third-country CSDs of the core services they provide in relation to financial instruments constituted under the law of a Member State, the revised threshold under which credit institutions may offer to settle the cash payments for part of the CSD's securities settlement system and the revised prudential requirements applicable to credit institutions or CSDs authorised to provide banking-type ancillary services pursuant to Article 59 of Regulation (EU) No 909/2014 should be deferred to give sufficient time for the adoption of the necessary delegated acts further specifying such requirements,	(36) The application of the revised scope of the rules on cash penalties, the new requirements regarding the establishment of colleges of supervisors, the submission of a notification by third-country CSDs of the core services they provide in relation to financial instruments constituted under the law of a Member State, the revised threshold under which credit institutions may might offer to settle the cash payments for part of the CSD's securities settlement system and the revised prudential requirements applicable to credit institutions or CSDs authorised to provide banking-type ancillary services pursuant to Article 59 of Regulation (EU) No 909/2014 should be deferred to give sufficient time for the adoption of the necessary delegated acts further specifying such requirements.	
Recital 36a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
46a			<u>(36a) Regulations (EU) No 236/2012 and (EU) No 909/2014 should therefore be amended accordingly.</u>	
Formula				
47	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION: Text Origin: Commission Proposal
Article 1				
48	Article 1 Amendments to Regulation (EU) No 909/2014	Article 1 Amendments to Regulation (EU) No 909/2014	Article 1 Amendments to Regulation (EU) No 909/2014	Article 1 Amendments to Regulation (EU) No 909/2014 Text Origin: Commission Proposal
Article 1, first paragraph				
49	Regulation (EU) No 909/2014 is amended as follows:	Regulation (EU) No 909/2014 is amended as follows:	Regulation (EU) No 909/2014 is amended as follows:	Regulation (EU) No 909/2014 is amended as follows: Text Origin: Commission Proposal
Article 1, first paragraph, point (1)				
50	(1) in Article 2 the following point (25a) is inserted:			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		(1) in Article 2 <i>the following point (25a) is inserted</i> <u>is amended as follows:</u>	(1) in Article 2 <i>the following point (25a) is inserted</i> <u>is amended as follows:</u>	(1) in Article 2 <i>the following point (25a) is inserted</i> <u>is amended as follows:</u> Text Origin: EP Mandate
Article 1, first paragraph, point (1), amending provision, first paragraph (a)				
50a		<u>(a) the following point is inserted:</u>	<u>(a) the following point (25a) is inserted:</u>	<u>(a) the following point (25a) is inserted:</u> Text Origin: Council Mandate
Article 1, first paragraph, point (1), amending provision, first paragraph				
51	(25a) ‘group’ means a group within the meaning of Article 2(11) of Directive 2013/34/EU;;	(25a) ‘group’ means a group within the meaning of Article 2(11) of Directive 2013/34/EU;;	(25a) ‘group’ means a group within the meaning of Article 2(11) of Directive 2013/34/EU;;	(25a) ‘group’ means a group within the meaning of Article 2(11) of Directive 2013/34/EU;; Text Origin: Commission Proposal
Article 1, first paragraph, point (b)				
51a		<u>(b) point (26) is replaced by the following:</u>	<u>(b) point (26) is replaced by the following:</u>	<u>(b) point (26) is replaced by the following:</u> Text Origin: EP Mandate
Article 1, first paragraph, point (1b)				
51b		<u>(26) ‘default’ means, in relation to a participant, a situation where insolvency proceedings, as defined</u>	<u>(26) ‘default’, in relation to a participant, means a situation where insolvency proceedings, as</u>	<u>(26) ‘default’ means, in relation to a participant, a situation where insolvency proceedings, as defined</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>in Article 2, point (j), of Directive 98/26/EC, are opened against a participant, or an event stipulated in the CSD's internal rules as constituting a default;';</u>	<u>defined in Article 2, point (j) of Directive 98/26/EC of the European Parliament and of the Council, are opened against a participant or an event stipulated in the CSD's internal rules as constituting a default, relating notably to a failure to complete a transfer of funds or securities in accordance with the CSD's internal rules;';</u>	<u>in Article 2, point (j), of Directive 98/26/EC, are opened against a participant, or an event defined in the CSD's internal rules as constituting a default;';</u> TM 24.05.: in substance, the EP and the Council text are the same. Nevertheless, the EP would prefer to bring examples of default to be contained in the internal rules in a recital. Text Origin: EP Mandate
	Article 1, first paragraph, point (b), first paragraph			
	51c	<u>(c) the following points are inserted:</u>	<u>(c) the following points (47) and (48) are added:</u>	
	Article 1, first paragraph, point (1c), amending provision, first paragraph			
G	51d	" <u>(28a) netting' means netting as defined in Article 2, point (k), of Directive 98/26/EC;</u>		TM 24.05.: the definition is not needed, since the provisions on netting were not taken on board.
	Article 1, first paragraph, point (1c), amending provision, second paragraph			
Y	51e	<u>(28b) 'deferred net settlement' means a settlement mechanism whereby cash or securities transfer orders in relation to securities transactions of the participants in</u>		" <u>'deferred net settlement' means a settlement mechanism whereby cash or securities transfer orders in relation to securities transactions</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>the securities settlement system are subject to netting and settlement of participants' net claims and obligations and which takes place at the end of predefined settlement cycles during or at the end of the business day; ';</u>	"	<u>of the participants in the securities settlement system are subject to netting, and whereby settlement of participants' net claims and obligations takes place at the end of predefined settlement cycles during or at the end of the business day; ';</u> TM 27.04: definition related to new article 47a on Netting (line 219f onwards) Council will come back on the definition Text Origin: EP Mandate
Article 1, first paragraph, point (1c), amending provision, third paragraph				
51f			" <u>(47) 'qualifying holding' means a direct or indirect holding in a CSD which represents at least 10 % of the capital or of the voting rights, as set out in Articles 9, 10 and 11 of Directive 2004/109/EC of the European Parliament and of the Council, taking into account the conditions regarding aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the CSD;</u>	<u>(47) 'qualifying holding' means a direct or indirect holding in a CSD which represents at least 10 % of the capital or of the voting rights, as set out in Articles 9, 10 and 11 of Directive 2004/109/EC of the European Parliament and of the Council or which makes it possible to exercise a significant influence over the management of the CSD;</u> TM 12.05. Similar definition in CRR Article 4(1), point 36 COM comment: the MIFID definition is not tighter than the CRR one in the essence. The reference to Article 12(4) and (5)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				deleted since they do not relate to CSDs Text Origin: Council Mandate
Article 1, first paragraph, point (1c), amending provision, fourth paragraph				
G	51g		<u>(48) 'close links' means close links as defined in of Article 4(1), point (35) of Directive 2014/65/EU.';</u> "	<u>(48) 'close links' means close links as defined in of Article 4(1), point (35) of Directive 2014/65/EU.';</u> " TM 12.05. Linked to 211d and 209g and h. Reference to MIFID is more updated than a CRR definition. In substance the definition is the same. Text Origin: Council Mandate
R	51h	<u>(1e) in Article 6, paragraph 5 is replaced by the following:</u>		
R	51i	" <u>'5. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify the measures to prevent settlement fails in order to increase settlement efficiency, and in particular:</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
R	51j	<u>(a) the measures to be taken by investment firms in accordance with the first subparagraph of paragraph 2;</u>		
R	51k	<u>(b) the details of the procedures that facilitate settlement referred to in paragraph 3, which could include, but are not limited to, shaping of transaction sizes, partial settlement of failing trades, and the use of auto-lend/borrow programmes provided by certain CSDs; and</u>		
R	51l	<u>(c) the details of the measures to encourage and incentivise the timely settlement of transactions referred to in paragraph 4.</u>		
R	51m	<u>ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by... /18 months after the date of</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>publication of this amending Regulation].</u>		
R	51n	<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010. ‘;</u>		
	Article 1, first paragraph, point (1a)			
G	51o		<u>(1a) The following Article 6a is inserted:</u>	<u>(1a) The following Article 6a is inserted:</u> TM 19.04: agreed to keep CNL structure Text Origin: Council Mandate
	Article 1, first paragraph, point (1a), amending provision, title			
G	51p		<u>1. Article 6a</u> <u>Penalty mechanism</u>	<u>Article 6a</u> <u>Penalty mechanism</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (1)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
51q			<u>1. For each securities settlement system it operates, a CSD shall establish a system that monitors settlement fails of transactions in financial instruments referred to in Article 5(1), which are admitted to trading or traded on a trading venue or cleared by a CCP. The CSD shall provide regular reports to the competent authority and relevant authorities, as to the number and details of settlement fails and any other relevant information, including the measures envisaged by the CSD and its participants to improve settlement efficiency. Those reports shall be made public by the CSD in an aggregated and anonymised form on an annual basis. The competent authorities shall share with ESMA any relevant information on settlement fails.</u>	<u>1. For each securities settlement system it operates, a CSD shall establish a system that monitors settlement fails of transactions in financial instruments referred to in Article 5(1). The CSD shall provide regular reports to the competent authority and relevant authorities, as to the number and details of settlement fails and any other relevant information, including the measures envisaged by the CSD and its participants to improve settlement efficiency. Those reports shall be made public by the CSD in an aggregated and anonymised form on an annual basis. The competent authorities shall share with ESMA any relevant information on settlement fails.</u> TM 19.04: CNL to come back to clarify the addition "which are admitted to trading or traded on a trading venue or cleared by a CCP" TM 27.04: Council limits the scope with the addition [which are admitted to trading...], so accept to drop. Different interpretation in line 51r below. TM 11.05: discussion on whether par 1 and 2 of new Art 6a would fit better in Art 6 .

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 24.05.The structural change was not found the best solution. Instead, the title of Art. 6a should be changed. Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (2)				
51r			<u>2. For each securities settlement system it operates, a CSD shall establish procedures that facilitate settlement of transactions in financial instruments referred to in Article 5(1), which are admitted to trading or traded on a trading venue or cleared by a CCP, that are not settled on the intended settlement date. These procedures shall provide for a penalty mechanism which will serve as an effective deterrent for participants that cause settlement fails.</u>	<u>2. [Without prejudice to paragraph 1a], for each securities settlement system it operates, a CSD shall establish procedures that facilitate the settlement of transactions in financial instruments referred to in Article 5(1) that are not settled on the intended settlement date. Those procedures shall provide for a penalty mechanism that serves as an effective deterrent for participants that cause settlement fails.'</u> TM 19.04: line comparable to line 52d - EP add at the beginning "without prejudice to the regulatory tools referred to in paragraph 1a" - depend on political line 52b + same comment as above on "which are admitted to trading..." - CNL to come back TM 27.04: Council argues that the limitation in the brackets is already in current CSDR Art 7(10), COM disputes this interpretation

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	TM 11.05: discussion on whether par 1 and 2 of new Art 6a would fit better in Art 6. TM 24.05.: COM confirms EP reading that the current Article 7(1) to (9) apply to all financial instruments referred to in Art. 5(1), and the current Art. 7(10) is a specific rule. This has been developed also in level 2 acts.(RTS 2018/1229). Council did not intend to change the current scope, agreement to delete the text in the brackets.
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (2), second paragraph				
G 51s			<u>Before establishing the procedures referred to in the first subparagraph, a CSD shall consult the relevant trading venues and CCPs in respect of which it provides settlement services.</u>	<u>Before establishing the procedures referred to in the first subparagraph, a CSD shall consult the relevant trading venues and CCPs in respect of which it provides settlement services.</u> TM 19.04: line agreed Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (3)				
G 51t			<u>3. The penalty mechanism referred to in paragraph 2 shall include cash penalties for participants that cause settlement fails ('failing participants'). Cash penalties shall be calculated on a daily basis for each business day</u>	<u>The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails ('failing participants'). Cash penalties shall be calculated on a daily basis for each business day</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>that a transaction fails to be settled after its intended settlement date until the day at which the transaction is either settled or bilaterally cancelled, whichever is earlier. The cash penalties shall not be configured as a revenue source for the CSD.</u>	<u>that a transaction fails to be settled after its intended settlement date until the transaction is either settled or else bilaterally cancelled. The cash penalties shall not be configured as a revenue source for the CSD.</u> TM 19.04: agreed to combine this line with the EP line 54
	Article 1, first paragraph, point (1d), amending provision, numbered paragraph (6)			
G	51u		<u>4. The penalty mechanism referred to in paragraph 2 shall not apply to settlement fails:</u>	<u>4. 'The penalty mechanism referred to in paragraph 2 shall not apply to:</u> TM 19.04: text of entire paragraph agreed but slightly re-drafted
	Article 1, first paragraph, point (1d), amending provision, numbered paragraph (6), point (a)			
G	51v		<u>(a) that are caused by factors not attributable to the participants to the transactions;</u>	<u>(a) settlement fails that are caused by factors not attributable to the participants to the transaction;</u> TM 19.04: similar to line 70 (EP and COM)
	Article 1, first paragraph, point (1d), amending provision, numbered paragraph (6), point (b)			
G	51w		<u>(b) where the operations are not considered as trading;</u>	<u>(b) transactions that are not considered as trading;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 19.04: similar to line 71 (EP and COM)
	Article 1, first paragraph, point (1d), amending provision, numbered paragraph (6), point (c)			
G	51x		<u>(c) where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties; or</u>	<u>(c) transactions where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties; or</u> TM 19.04: similar to line 75 (EP and COM)
	Article 1, first paragraph, point (1d), amending provision, numbered paragraph (6), point (d)			
G	51y		<u>(d) if insolvency proceeding is opened against the failing participant.</u>	<u>(d) transactions where insolvency proceedings are opened against the failing participant.'</u> TM 19.04: in the existing CSDR Art 7(12)
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (4), second paragraph			
G	51z		<u>. If a CCP incurs losses from the application of the first subparagraph, the CCP may establish in its rules a mechanism to cover such losses.</u>	<u>4a. If a CCP incurs losses from the application of paragraph 1, the CCP may establish in its rules a mechanism to cover such losses.</u> TM 19.04: same in substance as line 76 (ep and com) - but reference in this line to first subparagraph is wrong and should be reference to the paragraph 1

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				- it should also be a new paragraph 4a Text Origin: Council Mandate
Article 1, first paragraph, point (1d), amending provision, numbered paragraph (8)				
51aa			<u>5. The Commission shall be empowered to supplement this Regulation by adopting delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties referred to in paragraph 3 of this Article based on asset type, on the liquidity of the financial instrument, on the type of transaction, and on the duration of the settlement fail, while taking into account the level of settlement fails per category of financial instruments and the effect that low or negative interest rates could have on the incentives of counterparties and fails. The parameters used for the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.</u>	<u>5. The Commission shall be empowered to supplement this Regulation by adopting delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties referred to in paragraph 2, third subparagraph, of this Article based on all of the following:</u> <u>(a) asset type;</u> <u>(b) liquidity of the financial instrument;</u> <u>(c) type of transaction;</u> <u>(d) duration of the settlement fail.</u> <u>The Commission shall take into account the level of settlement fails per class of financial instruments and the effect that low or negative interest rates could have on the incentives of counterparties and fails for the parameters referred to in the first subparagraph. The parameters used for the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 19.04: line corresponding to line 87 (EP and COM) *COM come back active tense in second subparagraph (legal) TM 27.04: COM agree with use of "shall take into account"
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (5), second paragraph			
G	51ab		<u>The level of the cash penalties shall be reviewed on a regular basis and at least every four years in order to reassess its appropriateness and effectiveness in achieving a level of settlement fails in the Union deemed to be acceptable having regards to the impact of the financial stability of the Union.</u>	<u>The Commission shall review the parameters for the calculation of the level of the cash penalties on a regular basis and at least every four years in order to reassess its appropriateness and effectiveness in achieving a level of settlement fails in the Union deemed to be acceptable having regard to the impact of the financial stability of the Union.</u> TM 19.04: agreed (Depend on structure) *COM come back active tense in second subparagraph (legal) TM 27.04: COM agree on use of "shall take into account" TM 24.05.: text harmonised to line 51aa
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (6)			
R	51ac			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>6. ESMA shall publish and keep updated on its website a list of financial instruments referred to in Article 5(1), which are admitted to trading or traded on a trading venue or cleared by a CCP, to which the delegated act referred to in paragraph 5 is to be applied to.</u>	<u>6. ESMA shall publish and keep updated on its website a list of financial instruments referred to in Article 5(1) to which the delegated act referred to in paragraph 5 is to be applied to and which are admitted to trading or traded on a trading venue or cleared by a CCP.</u> TM 19.04: similar to line 53g, which is political TM 24.05.: redrafted to avoid confusion. Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (7)				
G	51ad		<u>7. This Article shall not apply where the principal venue for the trading of shares is located in a third country. The location of the principal venue for the trading of shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.</u>	<u>7. This Article shall not apply where the principal venue for the trading of shares is located in a third country. The location of the principal venue for the trading of shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.</u> TM 19.04: agreed as corresponds to current paragraph 13 in Article 7 Only applies to cash penalties here, but reproduced in line 73m for MBIs Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (8)				
Y	51ae			Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>8. The Commission may adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the conditions under which settlement fails are to be considered as not attributable to the participants to the transaction under paragraph 4, point (a).</u>	<u>8. The Commission is empowered to adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the conditions under which settlement fails are to be considered as not attributable to the participants to the transaction under paragraph 4, point (a).</u> TM 19.04: agreed but depend on the lines below (LL: standard wording is "is empowered") Correspond to line 89 (EP and COM) Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9)				
G	51af		<u>9. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify:</u>	<u>9. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify:</u> TM 19.04: agreed Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (a)				
G	51ag		<u>(a) the details of the system monitoring settlement fails and the reports on settlement fails referred to in paragraph 1;</u>	<u>(a) the details of the system monitoring settlement fails and the reports on settlement fails referred to in paragraph 1;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
				TM 19.04: correspond to CSDR Art7(15)- point (a) Text Origin: Council Mandate	
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (b)				
G	51ah		<u>(b) the processes for collection and redistribution of cash penalties and any other possible proceeds from such penalties in accordance with paragraph 2;</u>	<u>(b) the processes for collection and redistribution of cash penalties and any other possible proceeds from such penalties in accordance with paragraph 2;</u> TM 19.04: correspond to CSDR Art7(15)- point (b) Text Origin: Council Mandate	G
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (c)				
Y	51ai		<u>(c) the circumstances in which operations are not to be considered as trading under paragraph 4, point (b);</u>	<u>(c) the circumstances in which transactions are not to be considered as trading under paragraph 4, point (b);</u> TM 19.04: EP and COM have covered this point under the DA in line 89 Commission and EP considering whether this point in the RTS should be instead covered by the DA above. Text Origin: Council Mandate	Y
	Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (d)				
G	51aj				G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(d) the mechanism applicable where CCP is failing participant under paragraph 4, point (c).</u>	<u>deleted</u> TM 19.04: CNL to come back new text corresponding to recital 9 - line 19 - by CNL TM 27.04: line deleted as covered by line 51ah. Need recital (possible recital 9) to explain. Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), second paragraph				
G	51ak		<u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].</u>	<u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].</u> Text Origin: Council Mandate
Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), third paragraph				
G	51al		<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	52	(2) Article 7 is amended as follows:	(2) Article 7 is amended as follows <u>replaced by the following</u> :	(2) Article 7 is amended as follows <u>replaced by the following</u> : Text Origin: Council Mandate	G
R	52a				R
R	52b				R
G	52c				G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	52d	" <u>'2. Without prejudice to the regulatory tools referred to in paragraph 1a, for each securities settlement system it operates, a CSD shall establish procedures that facilitate the settlement of transactions in financial instruments referred to in Article 5(1) that are not settled on the intended settlement date. Those procedures shall provide for a penalty mechanism that serves as an effective deterrent for participants that cause settlement fails.'</u> "		TM 19.04: corresponds to CNL line 51r Agreed to keep CNL structure (so line 51r) Depend on political decision on line 52b
Article 1, first paragraph, point (2)(a)				
G	53	(a) in paragraph 2, the third subparagraph is replaced by the following:	(a) in paragraph 2, the third subparagraph is replaced by the following: <u>deleted</u>	deleted
Article 1, first paragraph, point (2)(a), amending provision, title				
G	53a		" <u>'Article 7</u> <u>Mandatory buy-in process</u>	" <u>'Article 7</u> <u>Mandatory buy-in process</u> TM 19.03: Agreed to use CNL structure with an Article 7 on MBIs Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (2)(a), amending provision, title			
53b			<u>1. Upon consultation with ESRB and based on the cost-benefit analysis provided by ESMA pursuant to Article 74(1a), the Commission may decide, by means of an implementing act, to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the mandatory buy-in process referred to in paragraphs 3 to 8 of this Article is to be applied, where the Commission considers that this process constitutes a necessary, appropriate and proportionate means to address the level of settlement fails in the Union, taking into account the possible impact of the mandatory buy-in process on the Union market, as well as the number, volume and duration of settlement fails.</u>	<u>1. [Without prejudice to the regulatory tools referred to in paragraph 1a of this Article], the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, after consulting the ESRB and based on the cost-benefit analysis provided by ESMA pursuant to Article 74(1a), the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those measures constitute a necessary, appropriate and proportionate means to address the level of settlement fails in the Union. That decision shall take into account all of the following:</u> <u>(a) the possible impact of the mandatory buy-in process on the Union market;</u> <u>(b) the number, volume and duration of settlement fails, including the number and volume of settlement fails still outstanding</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<u>at the end of the extension period referred to in paragraph 3 of this Article;</u> <u>(c) whether a particular financial instrument or category of transactions in that financial instrument is already subject to appropriate contractual provisions that provide a right for receiving participants to trigger a buy-in.</u> TM 19.04: corresponding to line 56 by EP/COM Agreed on redrafting, except for the reference to paragraph 1a - related to political line 52b
	Article 1, first paragraph, point (2)(a), amending provision, title			
G	53c		<u>The Commission may adopt the implementing act on mandatory buy-in referred to in the first subparagraph if the following conditions are met:</u>	<u>The Commission may adopt the implementing act on mandatory buy-in referred to in the first subparagraph only if both conditions are met:</u> TM 19.04: agreed, correspond to last subparagraph in line 56 (EP). Slight redrafting based on LL advise. Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(a), amending provision, title			
G	53d		<u>(a) the application of the cash penalty mechanism referred to in</u>	<u>(a) the application of the cash penalty mechanism referred to in</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>Article 6a has not resulted in a long-term, sustainable reduction or in maintaining a sustainable reduced level of settlement fails in the Union; and</u>	<u>[Article 6a] has not resulted in a long-term, sustainable reduction or in maintaining a reduced level of settlement fails in the Union, even after a review of the level of cash penalties in accordance with Article 6a [line 51ab];</u> TM 19.04: agreed and added EP reference to the review (correspond to EP/COM line 57) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (3), point (b)				
53e			<u>(b) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union.</u>	<u>(b) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union.</u> TM 19.04: line agreed, correspond to line 59 Text Origin: Council Mandate
Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (1), second paragraph				
53f			<u>The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2). It shall specify a date of application that may not be shorter than one year after its entry into force.</u>	<u>The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2). It shall specify a date of application that is not earlier than six months after its entry into force.</u> "

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 19.04: agreed, compromise on the date of application at 6 months
	Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (1), fourth paragraph			
R	53g		<u>ESMA shall publish and keep updated on its website a list of financial instruments determined by the implementing act referred to in this paragraph.</u>	"
	Article 1, first paragraph, point (2)(a), amending provision, first paragraph			
G	54	The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails ('failing participants') except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the end of the buy-in process referred to in paragraphs 3 to 8 that is to be applied pursuant to paragraph 2a, or the actual settlement day, whichever is the earlier. The cash penalties	The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails ('failing participants') except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the end of the buy-in process referred to in paragraphs 3 to 8 that is to be applied pursuant to paragraph 2a, or the actual settlement day, whichever is the earlier. <u>the</u>	The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails ('failing participants') except where those settlement fails are caused by factors not attributable to the participants to the transaction or for operations that do not involve two trading parties. Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the end of the buy-in process referred to in paragraphs 3 to 8 that is to be applied pursuant to paragraph 2a, or the actual settlement day, whichever is the earlier. The cash deleted TM 19.04: agreed to combine this line with the CNL line 51t: The penalty mechanism referred to in the first subparagraph shall include cash penalties for participants that cause settlement fails ('failing participants'). Cash penalties shall be calculated on a daily basis for each business day that a transaction fails to be settled after its intended settlement date until the transaction is either settled or else bilaterally cancelled. The cash penalties shall not be configured as a revenue source for the CSD.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	shall not be configured as a revenue source for the CSD.;	<u>transaction is either settled or else bilaterally cancelled</u> . The cash penalties shall not be configured as a revenue source for the CSD.;	penalties shall not be configured as a revenue source for the CSD.; <u>deleted</u>	
Article 1, first paragraph, point (2)(b)				
55	(b) the following paragraph 2a is inserted:	(b) the following paragraph 2a is inserted:	(b) the following paragraph 2a is inserted: <u>deleted</u>	deleted
Article 1, first paragraph, point (2)(b), amending provision, first paragraph, first subparagraph				
56	2a. Without prejudice to the penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those measures constitute a proportionate means to address the level of settlement fails in the Union and that, based on the number and volume of settlement fails, any of the following conditions is met:	2a. Without prejudice to the <u>regulatory tools referred to in paragraph 1a of this Article, the</u> penalty mechanism referred to in paragraph 2 of this Article and the right to bilaterally cancel the transaction, <u>after consulting the ESRB and based on the cost-benefit analysis provided by ESMA pursuant to Article 74(-1), point (a),</u> the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those measures constitute a <u>necessary, appropriate</u>	2a2. Without prejudice to the penalty mechanism referred to in <u>The Commission shall, before adopting the implementing act under</u> paragraph 2 of this Article and the right to bilaterally cancel the transaction, the Commission may, by means of an implementing act, decide to which of the financial instruments referred to in Article 5(1) or categories of transactions in those financial instruments the settlement discipline measures referred to in paragraphs 3 to 8 of this Article are to be applied where the Commission considers that those <u>1, assess the effectiveness and proportionality of the penalty mechanism referred to in Article 6a(5) and where appropriate change the structure or degree of</u>	deleted TM 19.04: CNL will come back on the necessity of this line *the "deleted" is a consequence of the deletion of line 55

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>and</u> proportionate means to address the level of settlement fails in the Union, <u>taking into account the possible impact of the mandatory buy-in process</u> and that, based on the <u>Union market, the</u> number and volume of settlement fails, any <u>still outstanding at the end</u> of the <u>extension period referred to in paragraph 3 of this Article, and whether or not a particular market is already subject to appropriate contractual provisions that provide a right for receiving participants to trigger a buy-in.</u> <u>The Commission may adopt an implementing act as referred to in the first subparagraph if the following conditions is met:are met:</u>	<u>penalty mechanism in order to increase the settlement efficiency in the Union.</u> <u>Before adopting the implementing act, the Commission shall consider whether the applicable conditions referred to in paragraph 1 are met, despite the prior application of the</u> measures constitute a proportionate means to address the level of settlement fails in the Union and that, based on the number and volume of settlement fails, any of the following conditions is met: <u>referred to in Article 6a(2) and the rationale for, and potential cost implications of subjecting specific financial instruments and categories of transactions to the mandatory buy-in.</u>	

Article 1, first paragraph, point (2)(b), amending provision, first paragraph, first subparagraph, point (a)

57	(a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction of settlement fails in the Union;	(a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction <u>or in maintaining a sustainable reduced level</u> of settlement fails in the Union, <u>even after a review of the level of cash penalties in accordance with paragraph 14 of this Article;</u>	(a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction of settlement fails in the Union; <u>deleted</u>	deleted
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Article 1, first paragraph, point (2)(b), amending provision, first paragraph, first subparagraph, point (b)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
58	(b) settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets;	(b) settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets;	(b) settlement efficiency in the Union has not reached appropriate levels considering the situation in third-country capital markets that are comparable in terms of size, liquidity as well as instruments traded and types of transactions executed on such markets; <u>deleted</u>	deleted TM 19.04: agreed to not include (CNL does not include this point either in line 53e
Article 1, first paragraph, point (2)(b), amending provision, first paragraph, first subparagraph, point (c)				
59	(c) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union.	(c) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union.	(c) the level of settlement fails in the Union has or is likely to have a negative effect on the financial stability of the Union. <u>deleted</u>	deleted
Article 1, first paragraph, point (2)(b), amending provision, first paragraph, second subparagraph				
60	The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).;	The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).;	The implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).; <u>deleted</u>	deleted
Article 1, first paragraph, point (2)(c)				
61	(c) paragraph 3 is replaced by the following:	(c) paragraph 3 is replaced by the following:	(c) paragraph 3 is replaced by the following: <u>deleted</u>	(c) paragraph 3 is replaced by the following: <u>deleted</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(c), amending provision, numbered paragraph (3), first subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
R	62	3. <u>Without prejudice to the right to bilaterally cancel the transaction,</u> where the Commission has adopted an implementing act pursuant to paragraph 2a and where a failing participant has not delivered financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4 business days, a buy-in process shall be initiated whereby those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.	3. Where the Commission has adopted an implementing act pursuant to paragraph 2a<u>1</u> and where a failing participant has not delivered <u>the</u> financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4<u>six</u> business days, a buy-in process shall be initiated whereby those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.	3. <u>Without prejudice to the right to bilaterally cancel the transaction,</u> where the Commission has adopted an implementing act pursuant to paragraph 2a<u>1</u> and where a failing participant has not delivered <u>the</u> financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date ('extension period') equal to 4<u>X</u> business days, a buy-in process shall be initiated whereby those instruments shall be available for settlement and delivered to the receiving participant within an appropriate timeframe. TM 19.04: Political decision on the extension period Text Origin: Council Mandate
Article 1, first paragraph, point (2)(c), amending provision, numbered paragraph (3), second subparagraph				
G	63	Where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 calendar<u>business</u> days unless the SME growth market decides to apply a shorter period.	Where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 calendar<u>business</u> days unless the SME growth market decides to apply a shorter period.	<u>By way of derogation from the first subparagraph,</u> where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 calendar<u>business</u> days unless the SME growth market decides to apply a shorter period.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 19.04: agreed, clarified the derogation Text Origin: EP Mandate
Article 1, first paragraph, point (2)(c), amending provision, numbered paragraph (3), second subparagraph a				
63a			<u>The instruments under the scope of mandatory buy-in process shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.</u>	<u>The instruments under the scope of the mandatory buy-in process shall be available for settlement and delivered to the receiving participant within an appropriate timeframe.</u> TM 19.04: agreed, corresponds to the last sentence in line 62 deleted Text Origin: Council Mandate
Article 1, first paragraph, point (2)(d)				
64	(d) the following paragraph 3a is inserted:	(d) the following paragraph 3a is inserted:	(d) the following paragraph 3a is inserted: <u>deleted</u>	(d) the following paragraph 3a is inserted: <u>deleted</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(d), amending provision, first paragraph				
65	3a. Where a receiving participant (the ‘intermediate receiving participant’) does not receive the financial instruments by the date referred to in paragraph 3 leading to	3a. Where a receiving participant (the ‘intermediate receiving participant’) does not receive the financial instruments by the date referred to in paragraph 3 leading to	3a. Where a receiving participant (the ‘intermediate receiving participant’) does not receive the financial instruments by the date referred to in paragraph 3 leading to	3a. Where a receiving participant (the ‘intermediate receiving participant’) does not receive the financial instruments by the date referred to in paragraph 3 leading to

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	a failing onward delivery of those financial instruments to another receiving participant (the 'end receiving participant'), the intermediate receiving participant shall be considered as complying with the obligation to execute a buy-in against the failing participant where the end receiving participant executes the buy-in for those financial instruments. Similarly, the intermediate receiving participant may pass-on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.;	a failing onward delivery of those financial instruments to another receiving participant (the 'end receiving participant'), the intermediate receiving participant shall be considered as complying with the obligation to execute a buy-in against the failing participant where the end receiving participant executes the buy-in for those financial instruments. Similarly, the intermediate receiving participant may pass-on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.;	to a failing onward delivery of those financial instruments to another receiving participant (the 'end receiving participant'), the intermediate receiving participant shall be considered as complying with the obligation to execute a buy-in against the failing participant where the end receiving participant executes the buy-in for those financial instruments. Similarly, the intermediate receiving participant may pass-on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.;	to a failing onward delivery of those financial instruments to another receiving participant (the 'end receiving participant'), the intermediate receiving participant shall be considered as complying with the obligation to execute a buy-in against the failing participant where the end receiving participant executes the buy-in for those financial instruments. Similarly, the intermediate receiving participant may pass-on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.; <u>there is a settlement fail in a chain of transactions resulting in settlement fails of subsequent transactions in the chain, each</u> participant shall be considered as complying with the obligation to execute a buy-in against the failing participant where the end receiving participant executes the buy-in for those financial instruments. Similarly, the intermediate receiving participant may pass-on <u>have the right to pass on their obligation to initiate the mandatory buy-in</u> to the failing <u>next</u> participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.; <u>in the chain.</u> TM 19.04: COM come back with a compromise between line 65 and 65a TM 27.04: Preliminary compromise found at technical level based on input from COM. EP and CNL to confirm.
Article 1, first paragraph, point (2)(d), amending provision, first paragraph a				
65a			<u>(3b) Where a transaction is part of a chain of trades and may result in different settlement instructions,</u>	<u>The intermediate receiving participant shall be considered as complying with the obligation to</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>the participants involved in the buy-in process may, by coordinating their actions, pass-on their obligations to initiate the mandatory buy-in along a chain of trading transactions to the ultimate failing participant responsible for the buy-in, and inform the CSD thereof.</u>	<u>execute a mandatory buy-in against the failing participant where it passes-on its obligation in accordance with the first subparagraph. Similarly, the intermediate receiving participant may pass on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.</u> <u>The relevant CSD must be informed about the sequential resolution of the failed transaction.</u> TM 19.04: COM come back with a compromise between line 65 and 65a TM 27.04: Preliminary compromise found at technical level based on input from COM. CNL come back on purpose of the second subparagraph (inform CSD).
	Article 1, first paragraph, point (2)(e)			
66	(e) paragraph 4 is replaced by the following:	(e) paragraph 4 is replaced by the following:	(e) paragraph 4 is replaced by the following: <u>deleted</u>	(e). paragraph 4 is replaced by the following:<u>deleted</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4)			
67	,	,	,	,

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	4. Without prejudice to paragraph 3a, the following derogations from the requirement referred to in paragraph 3 shall apply:	4. Without prejudice to paragraph 3a, the following derogations from the requirement referred to in paragraph 3 shall apply:	4. Without prejudice to paragraph 3a, the following derogations from the requirement <u>3b, the mandatory buy-in process</u> referred to in paragraph 3 shall <u>not</u> apply:	4. Without prejudice to paragraph 3a, the following derogations from the requirement <u>mandatory buy-in process</u> referred to in paragraph 3 shall <u>not</u> apply: TM 19.04: keep reference to par 3a (where compromise needs to be found in line 65) Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4), point (a)			
Y	68 (a) based on asset type and liquidity of the financial instruments concerned, the extension period may be increased from 4 business days up to a maximum of 7 business days where a shorter extension period would affect the smooth and orderly functioning of the financial markets concerned;	(a) based on asset type and liquidity of the financial instruments concerned, the extension period may be increased from 4 business days up to a maximum of 7 business days where a shorter extension period would affect the smooth and orderly functioning of the financial markets concerned;	(a) based on asset type and liquidity of the financial instruments concerned, the extension period may be increased from 4 business days up to a maximum of 7 business days where a shorter extension period would affect the smooth and orderly functioning of the financial markets concerned; <u>deleted</u>	TM 19.04: dependent on political line 62 on the extension period
	Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4), point (b)			
G	69 (b) for operations composed of several transactions including securities repurchase or lending agreements, the buy-in process referred to in paragraph 3 shall not apply where the timeframe of those operations is sufficiently short and renders the buy-in process ineffective;	(b) for operations composed of several transactions including securities repurchase or lending agreements, the buy-in process referred to in paragraph 3 shall not apply where the timeframe of those operations is sufficiently short and renders the buy-in process ineffective;	(b) for operations composed of several transactions including securities repurchase or lending agreements, the buy-in process referred to in paragraph 3 shall not apply where the timeframe of those operations is sufficiently short and renders the buy-in process ineffective; <u>deleted</u>	(b) for operations composed of several transactions including securities repurchase or lending agreements, the buy-in process referred to in paragraph 3 shall not apply where the timeframe of those operations is sufficiently short and renders the buy-in process ineffective; <u>deleted</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 19.04: correspond to line 71a
Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4), point (c)				
70	(c) for settlement fails that occurred for reasons not attributable to the participants, the buy-in process referred to in paragraph 3 shall not apply;	(c) for settlement fails that occurred for reasons not attributable to the participants, the buy-in process referred to in paragraph 3 shall not apply;	(c) for settlement fails that occurred for reasons not attributable to the participants, the buy-in process referred to in paragraph 3 shall not apply; <u>deleted</u>	(c) for settlement fails that occurred for reasons not attributable to the participants, the buy-in process referred to in paragraph 3 shall not apply; <u>deleted</u> TM 27.04: deleted because using CNL structure. Correspond to line 71e Text Origin: Council Mandate
Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4), point (d)				
71	(d) for transactions that do not involve two trading parties the buy-in process referred to in paragraph 3 shall not apply.;	(d) for transactions that do not involve two trading parties the buy-in process referred to in paragraph 3 shall not apply.;	(d) for transactions that do not involve two trading parties the buy-in process referred to in paragraph 3 shall not apply.; <u>deleted</u>	(d) for transactions that do not involve two trading parties the buy-in process referred to in paragraph 3 shall not apply.; <u>deleted</u> TM 27.04: deleted because using CNL structure. Correspond to line 71f Text Origin: Council Mandate
Article 1, first paragraph, point (2)(e), amending provision, numbered paragraph (4), point (da)				
71a		<u>(da) for securities financing transactions, the buy-in process referred to in paragraph 3 shall not apply.;</u>	<u>(a) to transactions including securities repurchase or lending agreements and other types of transactions that render the buy-in process ineffective;</u>	<u>(a) to securities financing transactions, as defined in Article 3, point (11), of Regulation (EU) 2015/2365 of the European Parliament and of the Council,</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>that render the buy-in process ineffective;</u> TM19.04 COM to consider and advise / redraft TM 27.04: Preliminary compromise found at technical level based on input from COM. EP and CNL to confirm. Corresponding RTS in line 90c. TM 25.05. There is a need to revisit this line an 90c to remove the mismatch between those lines. Council text "other types of transactions" would have covered the examples in 90c.
Article 1, first paragraph, point (2)(ea)				
71b			<u>(b) to transactions where the failing participants are CCPs, except for transactions entered into by a CCP where it does not interpose itself between counterparties;</u>	<u>(b) to transactions where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties;</u> TM 27.04: correspond in substance to line 75 by EP/COM
Article 1, first paragraph, point (2)(eb)				
71c			<u>(c) to transaction when the insolvency proceeding is opened against the failing participant;</u>	<u>(c) to transactions where insolvency proceedings are opened against the failing participant;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
				TM 27.04: correspond to Art7(12) of current CSDR. Needed in new structure. Text Origin: Council Mandate	
	Article 1, first paragraph, point (2)(ec)				
Y	71d		<u>(d) to transactions that are within the scope of Article 15a of Regulation (EU) No 236/2012;</u>	TM 27.04: EP and CNL reinstate Article 15 of SSR, but difference on interaction with CSDR. Linked to like 314d.	Y
	Article 1, first paragraph, point (2)(ed)				
G	71e		<u>(e) to settlement fails that occurred for reasons not attributable to the participants to the transactions;</u>	<u>(e) to settlement fails whose underlying cause is not attributable to the participants to the transactions;</u> TM 27.04: agreed, correspond to line 70 Text Origin: Council Mandate	G
	Article 1, first paragraph, point (2)(ee)				
G	71f		<u>(f) to operations that are not to be considered as trading.</u>	<u>(f) to transactions that are not considered as trading.</u> TM 27.04: agreed, correspond to line 70, slightly redrafted as line 51w Text Origin: Council Mandate	G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	71g	<u>(ea) paragraph 5 is replaced by the following:</u>		TM 27.04: not needed when using the Council structure (entire Art 7 replaced)	G
Y	71h	" <u>'5. Without prejudice to paragraph 7, the derogations referred to in paragraph 4 shall not apply in relation to transactions for shares where those transactions are cleared by a CCP.'</u> "		TM 27.04: Derogations in para 4 now very different from those in current CSDR 7(4). Council does not disapply these derogations from CCP cleared share transactions. To be revisited with possible reference to lines 71a and 68 and 62	Y
Article 1, first paragraph, point (2)(f)					
G	72	(f) paragraph 6 is replaced by the following:	(f) paragraph 6 is replaced by the following: <u>deleted</u>	(f). paragraph 6 is replaced by the following: <u>deleted</u> TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate	G
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6)					
Y	73	6. Without prejudice to the penalty mechanism referred to in paragraph	6. Without prejudice to the penalty mechanism referred to in paragraph	6. Without prejudice to the penalty mechanism referred to in paragraph	Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	2, where the price of the financial instruments agreed at the time of the trade is different from the price paid for the execution of the buy-in, the corresponding difference shall be paid by the participant benefitting from such price difference to the other participant no later than on the second business day after the financial instruments have been delivered following the buy-in.;	2, where the price of the financial instruments agreed at the time of the trade is different from the price paid for the execution of the buy-in, the corresponding difference shall be paid by the participant benefitting from such price difference to the other participant no later than on the second business day after the financial instruments have been delivered following the buy-in.;	2 <u>Article 6a</u> , where the price of the financial instruments agreed at the time of the trade is different from higher than the price paid for the execution of the buy-in, the corresponding difference shall be paid by the to the receiving participant benefitting from such price difference to the other <u>by the failing</u> participant no later than on the second business day after the financial instruments have been delivered following the buy-in.;	2 <u>Article 6a</u> , where the price of the financial instruments agreed at the time of the trade is different from the price paid for the execution of the buy-in, the corresponding difference shall be paid by the participant benefitting from such price difference to the other participant no later than on the second business day after the financial instruments have been delivered following the buy-in.;
				TM 27.04: provisional agreement to keep a symmetric payment. CNL to confirm. Text Origin: Commission Proposal
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6a)				
6	73a	<u>(fa) in paragraph 7, the second subparagraph is replaced by the following:</u>		TM 27.04: not needed when using the Council structure (entire Art 7 replaced)
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6b)				
6	73b	<u>.</u> TM 27.04: EP text in 73b moved to 73c, to ensure comparability	<u>7. If the buy-in fails or is not possible, the receiving participant can choose to be paid cash compensation or to defer the execution of the buy-in to an appropriate later date ('deferral period'). If the relevant financial</u>	<u>7. If the buy-in fails or is not possible, the receiving participant can choose to be paid cash compensation or to defer the execution of the buy-in to an appropriate later date ('deferral period'). If the relevant financial</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>instruments are not delivered to the receiving participant at the end of the deferral period, cash compensation shall be paid.</u>	<u>instruments are not delivered to the receiving participant at the end of the deferral period, cash compensation shall be paid.</u> TM 27.04: agreed, same text as Art 7(7) in current CSDR Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6c)			
73c		<u>'Where the price of the financial instruments agreed at the time of the trade is different from the price used to determine cash compensation, the corresponding difference shall be paid by the participant benefitting from such price difference to the other participant no later than on the second business day after the end of either the buy-in process referred to in paragraph 3 or the deferral period, where the deferral period was chosen.';</u>	<u>Cash compensation shall be paid to the receiving participant no later than on the second business day after the end of either the buy-in process referred to in paragraph 3 or the deferral period, where the deferral period was chosen.</u>	<u>6c. Cash compensation shall be paid to the receiving participant no later than on the second business day after the end of either the buy-in process referred to in paragraph 3 or the deferral period, where the deferral period was chosen.</u> TM 27.04: COM will check in particular level 2. EP believes this text is required to align with line 73. CNL text is the existing second subparagraph of art 7(7) in CSDR TM 25.05. There is no issue of asymmetries of payments; it applies only when buy-in fails. The market value will also be positive; when the buy in fails, the buyer gets cash. Therefore there is no situation for which we should cater for an asymmetry of payments. EP to check. Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6d)			
73d			<u>8. The failing participant shall reimburse the entity that executes the buy-in for all amounts paid in accordance with paragraphs 3 and 5, including any execution fees resulting from the buy-in. Such fees shall be clearly disclosed to the participants.</u>	<u>8. The failing participant shall reimburse the entity that executes the buy-in for all amounts paid in accordance with paragraphs 3 and 5, including any execution fees resulting from the buy-in. Such fees shall be clearly disclosed to the participants.</u> TM 27.04: same text as Art 7(8) of current CSDR, without the reference to paragraph 4 as it is not relevant anymore Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6e)			
73e			<u>9. CSDs, CCPs and trading venues shall establish procedures that enable them to suspend, in consultation with their respective competent authorities, any participant that fails consistently and systematically to deliver the financial instruments referred to in Article 5(1) on the intended settlement date and to disclose to the public its identity only after giving that participant the opportunity to submit its observations and provided that the competent authorities of the CSDs, CCPs and trading venues, and of</u>	<u>9. CSDs, CCPs and trading venues shall establish procedures that enable them to suspend, in consultation with their respective competent authorities, any participant that fails consistently and systematically to deliver the financial instruments referred to in Article 5(1) on the intended settlement date and to disclose to the public its identity only after giving that participant the opportunity to submit its observations and provided that the competent authorities of the CSDs, CCPs and trading venues, and of</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>that participant have been duly informed. In addition to consulting before any suspension, CSDs, CCPs and trading venues shall notify, without delay, the respective competent authorities of the suspension of a participant. The competent authority shall immediately inform the relevant authorities of the suspension of a participant.</u>	<u>that participant have been duly informed. In addition to consulting before any suspension, CSDs, CCPs and trading venues shall notify, without delay, the respective competent authorities of the suspension of a participant. The competent authority shall immediately inform the relevant authorities of the suspension of a participant.</u> TM 27.04: same text as Art 7(9) of current CSDR Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6f)				
73f			<u>Public disclosure of suspensions shall not contain personal data within the meaning of Article 4(1) Regulation (EU) 2016/679.</u>	<u>Public disclosure of suspensions shall not contain personal data within the meaning of Article 4(1) Regulation (EU) 2016/679.</u> TM 27.04: same text as Art 7(9) subparagraph 2 of current CSDR, with updated reference to GDPR Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6g)				
73g			<u>10. Paragraphs 1 to 9 shall apply to all transactions of the financial instruments referred to in Article 5(1) which are admitted to trading</u>	<u>10. Paragraphs 1 to 9 shall apply to all transactions of the financial instruments referred to in Article 5(1) which are admitted to trading</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>or traded on a trading venue or cleared by a CCP as follows:</u>	<u>or traded on a trading venue or cleared by a CCP as follows:</u> TM 27.04: same text as Art 7(10) of current CSDR Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6g), point (a)				
73h			<u>(a) for transactions cleared by a CCP, the CCP shall be the entity that executes the buy-in according to paragraphs 3 to 8;</u>	<u>(a) for transactions cleared by a CCP, the CCP shall be the entity that executes the buy-in according to paragraphs 3 to 8;</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6g), point (b)				
73i			<u>(b) for transactions not cleared by a CCP but executed on a trading venue, the trading venue shall include in its internal rules an obligation for its members and its participants to apply the measures referred to in paragraphs 3 to 8;</u>	<u>(b) for transactions not cleared by a CCP but executed on a trading venue, the trading venue shall include in its internal rules an obligation for its members and its participants to apply the measures referred to in paragraphs 3 to 8;</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6g), point (c)				
73j			<u>(c) for all transactions other than those referred to in points (a) and (b) of this subparagraph, CSDs shall include in their internal rules</u>	<u>(c) for all transactions other than those referred to in points (a) and (b) of this subparagraph, CSDs shall include in their internal rules</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>an obligation for their participants to be subject to the measures referred to in paragraphs 3 to 8.</u>	<u>an obligation for their participants to be subject to the measures referred to in paragraphs 3 to 8.</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6h)				
73k			<u>A CSD shall provide the necessary settlement information to CCPs and trading venues to enable them to fulfil their obligations under this paragraph.</u>	<u>A CSD shall provide the necessary settlement information to CCPs and trading venues to enable them to fulfil their obligations under this paragraph.</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6i)				
73l			<u>Without prejudice to points (a), (b) and (c) of the first subparagraph, CSDs may monitor the execution of buy-ins referred to in those points with respect to multiple settlement instructions, on the same financial instruments and with the same date of expiry of the execution period, with the aim of minimising the number of buy-ins to be executed and thus the impact on the prices of the relevant financial instruments.</u>	<u>Without prejudice to points (a), (b) and (c) of the first subparagraph, CSDs may monitor the execution of buy-ins referred to in those points with respect to multiple settlement instructions, on the same financial instruments and with the same date of expiry of the execution period, with the aim of minimising the number of buy-ins to be executed and thus the impact on the prices of the relevant financial instruments.</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(f), amending provision, numbered paragraph (6j)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
73m			<u>11. This Article shall not apply where the principal venue for the trading of shares is located in a third country. The location of the principal venue for the trading of shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.</u>	<u>11. This Article shall not apply where the principal venue for the trading of shares is located in a third country. The location of the principal venue for the trading of shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.</u> TM 27.04: TM 27.04: same text as Art 7(13) of current CSDR Text Origin: Council Mandate
Article 1, first paragraph, point (2)(g)				
74	(g) paragraph 11 is replaced by the following:	(g) paragraph 11 is replaced by the following:	(g) paragraph 11 is replaced by the following: <u>deleted</u>	(g). paragraph 11 is replaced by the following:<u>deleted</u> TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(g), amending provision, numbered paragraph (11), first subparagraph				
75	11. Paragraphs 2 to 9 shall not apply to failing participants which are CCPs, except for transactions entered into by a CCP where it does not interpose itself between counterparties.	11. Paragraphs 2 to 9 shall not apply to failing participants which are CCPs, except for transactions entered into by a CCP where it does not interpose itself between counterparties.	11. Paragraphs 2 to 9 shall not apply to failing participants which are CCPs, except for transactions entered into by a CCP where it does not interpose itself between counterparties.	11. Paragraphs 2 to 9 shall not apply to failing participants which are CCPs, except for transactions entered into by a CCP where it does not interpose itself between counterparties.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 27.04: correspond in substance to line 51z Text Origin: Commission Proposal
Article 1, first paragraph, point (2)(g), amending provision, numbered paragraph (11), second subparagraph				
76	If a CCP incurs losses from the application of Article 7(2), third subparagraph, the CCP may establish in its rules a mechanism to cover such losses.;	If a CCP incurs losses from the application of Article 7(2) <u>paragraph 2</u> , third subparagraph, the CCP may establish in its rules a mechanism to cover such losses.;	If a CCP incurs losses from the application of Article 7(2), third subparagraph, the CCP may establish in its rules a mechanism to cover such losses.; <u>deleted</u>	If a CCP incurs losses from the application of Article 7(2), third subparagraph, the CCP may establish in its rules a mechanism to cover such losses.;<u>deleted</u> Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h)				
77	(h) the following paragraph 13a is inserted:	(h) the following paragraph 13a is inserted:	(h) the following paragraph 13a is inserted: <u>deleted</u>	(h) the following paragraph 13a is inserted:<u>deleted</u> TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, first subparagraph				
78	13a. ESMA may recommend that the Commission suspend in a proportionate way the buy-in	13a. ESMA may recommend that the Commission suspend in a proportionate way the buy-in	13a <u>12</u> . ESMA may recommend that the Commission suspend in a proportionate way the buy-in	13a<u>12</u>. ESMA may recommend that the Commission suspend in a proportionate way the buy-in

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	mechanism referred to in paragraphs 3 to 8 for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such recommendation shall be accompanied by a fully reasoned assessment of its necessity and shall not be made public.	mechanism referred to in paragraphs 3 to 8 for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such recommendation shall be accompanied by a fully reasoned assessment of its necessity and shall not be made public.	mechanism referred to in paragraphs 3 to 8 for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such recommendation shall be accompanied by a fully reasoned assessment of its necessity and shall not be made public.	mechanism referred to in paragraphs 3 to 8 for specific categories of financial instruments where necessary to avoid or address a serious threat to financial stability or to the orderly functioning of financial markets in the Union. Such recommendation shall be accompanied by a fully reasoned assessment of its necessity and shall not be made public. Text Origin: Commission Proposal
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, second subparagraph				
79	Before making the recommendation, ESMA shall consult the ESRB and the ESCB.	Before making the recommendation, ESMA shall consult the ESRB and the ESCB.	Before making the recommendation <u>referred to in the first subparagraph</u> , ESMA shall consult the ESRB and the ESCB.	Before making the recommendation <u>referred to in the first subparagraph</u> , ESMA shall consult the ESRB and the ESCB. Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, third subparagraph				
80	The Commission shall, without undue delay after receipt of the recommendation, on the basis of the reasons and evidence provided by ESMA, either suspend the buy-in mechanism referred to in paragraph 3 for the specific categories of financial instruments by means of an implementing act, or reject the recommended suspension. Where	The Commission shall, without undue delay after receipt of the recommendation, on the basis of the reasons and evidence provided by ESMA, either suspend the buy-in mechanism referred to in paragraph 3 for the specific categories of financial instruments by means of an implementing act, or reject the recommended suspension. Where	The Commission shall, without undue delay after receipt of the recommendation, on the basis of the reasons and evidence provided by ESMA, either suspend the buy-in mechanism referred to in paragraph 3 for the specific categories of financial instruments by means of an implementing act, or reject the recommended suspension. Where	The Commission shall, without undue delay after receipt of the recommendation, on the basis of the reasons and evidence provided by ESMA, either suspend the buy-in mechanism referred to in paragraph 3 for the specific categories of financial instruments by means of an implementing act, or reject the recommended suspension. Where

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public.	the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public.	the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public.	the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public. Text Origin: Commission Proposal
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, fourth subparagraph				
81	The implementing act shall be adopted in accordance with the procedure referred to in Article 68(3).	The implementing act shall be adopted in accordance with the procedure referred to in Article 68(3).	The implementing act <u>referred to in the third subparagraph</u> shall be adopted in accordance with the procedure referred to in Article 68(3).	The implementing act <u>referred to in the third subparagraph</u> shall be adopted in accordance with the procedure referred to in Article 68(3). Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, fifth subparagraph				
82	The suspension of the buy-in mechanism shall be communicated to ESMA and shall be published in the Official Journal of the European Union and on the Commission's website.	The suspension of the buy-in mechanism shall be communicated to ESMA and shall be published in the Official Journal of the European Union and on the Commission's website.	The suspension of the buy-in mechanism shall be communicated to ESMA and shall be published in the Official Journal of the European Union and on the Commission's website.	The suspension of the buy-in mechanism shall be communicated to ESMA and shall be published in the Official Journal of the European Union and on the Commission's website. Text Origin: Commission Proposal
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, sixth subparagraph				
83	The suspension of the buy-in mechanism shall be valid for an	The suspension of the buy-in mechanism shall be valid for an	The suspension of the buy-in mechanism shall be valid for an	The suspension of the buy-in mechanism shall be valid for an

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	initial period of no more than 6 months from the date of application of that suspension.	initial period of no more than 6 months from the date of application of that suspension.	initial period of no more than 6 six months from the date of application of that suspension.	initial period of no more than 6 six months from the date of application of that suspension. Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, seventh subparagraph				
84	Where the grounds for the suspension continue to apply, the Commission may, by way of an implementing act, extend the suspension referred to in the third subparagraph for additional periods of no more than 3 months, with the total period of the suspension not exceeding 12 months. Any extensions of the suspension shall be published in accordance with the fifth subparagraph.	Where the grounds for the suspension continue to apply, the Commission may, by way of an implementing act, extend the suspension referred to in the third subparagraph for additional periods of no more than 3 months, with the total period of the suspension not exceeding 12 months. Any extensions of the suspension shall be published in accordance with the fifth subparagraph.	Where the grounds for the suspension continue to apply, the Commission may, by way of an implementing act, extend the suspension referred to in the third subparagraph for additional periods of no more than 3 three months, with the total period of the suspension not exceeding 12 months. Any extensions of the suspension shall be published in accordance with the fifth subparagraph.	Where the grounds for the suspension continue to apply, the Commission may, by way of an implementing act, extend the suspension referred to in the third subparagraph for additional periods of no more than 3 three months, with the total period of the suspension not exceeding 12 months. Any extensions of the suspension shall be published in accordance with the fifth subparagraph. Text Origin: Council Mandate
Article 1, first paragraph, point (2)(h), amending provision, first paragraph, eighth subparagraph				
85	The implementing act shall be adopted in accordance with the procedure referred to in Article 68(3). ESMA shall, in sufficient time before the end of the suspension period referred to in the sixth subparagraph or of the extension period referred to in the seventh subparagraph, issue an opinion to the Commission on	The implementing act shall be adopted in accordance with the procedure referred to in Article 68(3). ESMA shall, in sufficient time before the end of the suspension period referred to in the sixth subparagraph or of the extension period referred to in the seventh subparagraph, issue an opinion to the Commission on	The implementing act <u>referred to in the seventh subparagraph</u> shall be adopted in accordance with the procedure referred to in Article 68(3). ESMA shall, in sufficient time before the end of the suspension period referred to in the sixth subparagraph or of the extension period referred to in the seventh subparagraph, issue an	The implementing act <u>referred to in the seventh subparagraph</u> shall be adopted in accordance with the procedure referred to in Article 68(3). ESMA shall, in sufficient time before the end of the suspension period referred to in the sixth subparagraph or of the extension period referred to in the seventh subparagraph, issue an

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	whether the grounds for the suspension continue to apply.;	whether the grounds for the suspension continue to apply.;	opinion to the Commission on whether the grounds for the suspension continue to apply.;	opinion to the Commission on whether the grounds for the suspension continue to apply.;
				Text Origin: Council Mandate
Article 1, first paragraph, point (2)(i)				
86	(i) paragraph 14 is replaced by the following:	(i) paragraph 14 is replaced by the following:	(i) paragraph 14 is replaced by the following: <u>deleted</u>	(i) paragraph 14 is replaced by the following: <u>deleted</u> TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(i), amending provision, numbered paragraph (14)				
87	14. The Commission shall be empowered to supplement this Regulation by adopting delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties referred to in paragraph 2, third subparagraph, of this Article based on asset type, liquidity of the financial instrument, type of transaction and the effect that low or negative interest rates could have on the incentives of counterparties and fails. The parameters used for	14. The Commission shall be empowered to supplement this Regulation by adopting delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties referred to in paragraph 2, third subparagraph, of this Article based on asset type, liquidity of the financial instrument, type of transaction and the effect that low or negative interest rates could have on the incentives of counterparties and fails. The parameters used for	14 <u>13</u> . The Commission shall be empowered to supplement this Regulation by <u>review its decision on</u> adopting delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties <u>an implementing act</u> referred to in paragraph 2, third subparagraph, of this Article based on asset type, liquidity of the financial instrument, type of transaction and the effect that low or negative interest rates could have	14. <u>Where</u> the Commission shall be empowered to supplement this Regulation by adopting delegated acts <u>has adopted an implementing act</u> in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties referred to in paragraph 2, third subparagraph, of this Article based on asset type, liquidity of the financial instrument, type of transaction and the effect that low or negative interest rates could have on the incentives of counterparties

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.;	the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.;	on the incentives of counterparties and fails. The parameters used for the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned <u>1 on a regular basis and at least every four years in order to assess whether the criteria set in paragraph 1 remain fulfilled.</u>	and fails. The parameters used for the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned <u>1, it shall review that decision on a regular basis and at least every four years in order to assess whether the criteria set in that paragraph remain fulfilled.</u> TM 27.04: EP/COM text correspond to line 51aa in new structure EP accept the CNL proposal to have a review of the IA by the COM Text Origin: Council Mandate
Article 1, first paragraph, point (2)(i), amending provision, numbered paragraph (14a)				
87a			<u>The Commission shall, without delay, adopt implementing acts amending or repealing the implementing act referred to in paragraph 1, where it considers that the mandatory buy-in is no longer justified or does not address the settlement fails in Union and is no longer necessary, appropriate or proportionate.</u>	<u>The Commission shall, without delay, adopt implementing acts amending or repealing the implementing act referred to in paragraph 1, where it considers that the mandatory buy-in is no longer justified or does not address the settlement fails in the Union and is no longer necessary, appropriate or proportionate.</u> TM 27.04: EP accept the CNL proposal to have a review of the IA by the COM, see line above Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (2)(i), amending provision, numbered paragraph (14b)			
G	87b		<u>The implementing act referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 68(2).</u>	<u>The implementing act referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 68(2).</u> TM 27.04: agreed, see lines above Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(i), amending provision, numbered paragraph (14c)			
Y	87c		<u>ESMA may recommend that the Commission amend or repeal the implementing act referred to in paragraph 1, where it considers that the mandatory buy-in is no longer justified or does not address the settlement fails in Union and is no longer necessary, appropriate or proportionate. The first to third subparagraphs of paragraph 12 shall apply mutatis mutandis.</u>	<u>ESMA may recommend that the Commission amend or repeal the implementing act referred to in paragraph 1, where it considers that the mandatory buy-in is no longer justified or does not address the settlement fails in Union and is no longer necessary, appropriate or proportionate. The first to third subparagraphs of paragraph 12 shall apply mutatis mutandis.</u> TM 27.04: COM to come back after consulting legal service Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(j)			
G	88			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(j) the following paragraph 14a is inserted:	(j) the following paragraph 14a is inserted:	(j) the following paragraph 14a is inserted: <u>deleted</u>	(j) the following paragraph 14a is inserted: <u>deleted</u> TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(j), amending provision, first paragraph				
89	14a. The Commission may adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the reasons for settlement fails that are to be considered as not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties under paragraph 2 and paragraph 4, points (c) and (d), of this Article.;	14a. The Commission may <u>shall be empowered to</u> adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the reasons for settlement fails that are to be considered as not attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties under paragraph 2 and paragraph 4, points (c) and (d), of this Article.;	14a 14. The Commission may adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the reasons for <u>conditions under which</u> settlement fails that are to be considered as not attributable to the participants to in the transaction and the transactions that are not to be considered to involve two trading parties under paragraph 2 and paragraph 4, points (c) and (d) <u>5, point (e)</u> , of this Article.;	TM 27.04: linked to unresolved issue in line 51ai, on whether [transactions that are not to be considered to involve two trading parties] should be further specified by a DA or RTS
Article 1, first paragraph, point (2)(k)				
90	(k) in paragraph 15, the second subparagraph is replaced by the following:	(k) in paragraph 15, the second subparagraph is replaced by the following:	(k) in paragraph 15, the second subparagraph is replaced by the following: <u>deleted</u>	(k) in paragraph 15, the second subparagraph is replaced by the following: <u>deleted</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 27.04: not needed when using the Council structure (entire Art 7 replaced) Text Origin: Council Mandate
Article 1, first paragraph, point (2)(k), amending provision, first paragraph -a				
G	90a		c <u>15. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify:</u>	<u>15. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify:</u> TM 27.04: CNL to come back to explain why points (c) to (h) of RTS in Art7(15) of current CSDR is not included Text Origin: Council Mandate
Article 1, first paragraph, point (2)(k), amending provision, first paragraph -a, point (a)				
G	90b		<u>(a) the details of the pass-on-mechanism under paragraph 4;</u>	<u>(a) the details of the pass-on-mechanism under paragraph 3a;</u> TM 27.04: Preliminary compromise on lines 65 and 65a found at technical level based on input from COM. EP and CNL to confirm. Text Origin: Council Mandate
Article 1, first paragraph, point (2)(k), amending provision, first paragraph -a, point (b)				
Y	90c		<u>(b) the transactions referred to in points (a), (b) and (f) of paragraph</u>	t

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>5, and other types of transactions that render the buy-in process ineffective, such as securities financing transactions, financial collateral arrangements or transactions that include close-out netting provision and other relevant transactions;</u>	<u>(b) the transactions referred to in points (a), (b) and (f) of paragraph 5, and other types of transactions that render the buy-in process ineffective, such as securities financing transactions, financial collateral arrangements or transactions that include close-out netting provision and other relevant transactions;</u> ; TM 27.04: COM suggest to move points (a) and (f) to DA in line 89, and that point (b) does not need to further specified Indications in the second part of the sentence are not usual for DAs. TM 25.05. Text Origin: Council Mandate
	Article 1, first paragraph, point (2)(k), amending provision, first paragraph -a, point (c)			
Y	90d		<u>(c) the details of how the participants to the CSDs, the CCPs or the trading venue members, as applicable, shall execute the mandatory buy-in in accordance with paragraph 10 taking into account the specifics of retail investors.</u>	
	Article 1, first paragraph, point (2)(k), amending provision, first paragraph			
G	91			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the entry into force of this Regulation].; Text Origin: Council Mandate
Article 1, first paragraph, point (2)(k), amending provision, first paragraph a				
G	91a		<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u> Text Origin: Council Mandate
Y	91b	<u>(3) Article 12 is amended as follows:</u>		TM 27.04: Depend on political decision in line 94c
Article 1, first paragraph, point (3)				
Y	92	(3) in Article 12(1), points (b) and (c) are replaced by the following:	(3)(a) in Article 12(1) paragraph 1, points (b) and (c) are replaced by the following:	(3) In Article 12(1), points (b) and (c) are replaced by the following: TM 27.04: Depend on political decision in 94a and 94c
Article 1, first paragraph, point (3), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	93 (b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place;	(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place;	(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place;	(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place; Text Origin: Commission Proposal
Article 1, first paragraph, point (3), amending provision, second paragraph				
G	94 (c) where relevant, the central bank in the Union in whose books the cash leg of a securities settlement system operated by the CSD is or will be settled.;	(c) where relevant, the central bank in the Union in whose books the cash leg of a securities settlement system operated by the CSD is or will be settled.;	(c) where relevant, the central bank in the Union in whose books the cash leg of a securities settlement system operated by the CSD is or will be settled.;	(c) where relevant, the central bank in the Union in whose books the cash leg of a securities settlement system operated by the CSD is or will be settled.;; Text Origin: Commission Proposal
R	94a	<u>(ca) ESMA, for CSDs that are of substantial importance for the functioning of securities markets and the protection of investors in the Union in at least two host Member States or that are part of a group with two or more CSDs.;</u>		
R	94b			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>(b) paragraph 3 is replaced by the following:</u>		
R	94c	" <u>'3. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards specifying the conditions under which the Union currencies referred to in paragraph 1, point (b), are considered to be the most relevant, and efficient practical arrangements for the consultation of the relevant authorities referred to in points (b), (c) and (ca) of that paragraph.</u> <u>ESMA shall submit those draft regulatory technical standards to the Commission by ... [one year after the date of entry into force of this amending Regulation].</u> <u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.'</u> "		
	Article 1, first paragraph, point (4)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
95	(4) Article 17 is amended as follows:	(4) Article 17 is amended as follows:	(4) Article 17 is amended as follows:	(4) Article 17 is amended as follows: Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(a)				
96	(a) in paragraph 2, the following subparagraph is added:	(a) in paragraph 2, the following subparagraph is added:	(a) in paragraph 2, the following subparagraph is added:	(a) in paragraph 2, the following subparagraph is added: Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(a), amending provision, first paragraph				
97	By way of derogation from the first subparagraph, where an applicant CSD does not comply with all requirements of this Regulation, but where it may be reasonably assumed that it will do so when it will have actually launched its activities, the competent authority may grant the authorisation subject to the condition that that CSD has all the necessary arrangements in place to comply with the requirements of this Regulation when it actually launches its activities.;	By way of derogation from the first subparagraph, where an applicant CSD does not comply with all requirements of this Regulation, but where it may be reasonably assumed that it will do so when it will have actually launched its activities, the competent authority may grant the authorisation subject to the condition that that CSD has all the necessary arrangements in place to comply with the requirements of this Regulation when it actually launches its activities.;	By way of derogation from the first subparagraph, where an applicant CSD does not comply with all requirements of this Regulation, but where it may be reasonably assumed that it will do so when it will have actually launched<u>commenced</u> its activities, the competent authority may grant the authorisation subject to the condition that that CSD has all the necessary arrangements in place to comply with the requirements of this Regulation when it actually launches<u>commences</u> its activities.;	By way of derogation from the first subparagraph, where an applicant CSD does not comply with all requirements of this Regulation, but where it may be reasonably assumed that it will do so when it will have actually launched<u>commenced</u> its activities, the competent authority may grant the authorisation subject to the condition that that CSD has all the necessary arrangements in place to comply with the requirements of this Regulation when it actually launches<u>commences</u> its activities.;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 11.05 technical changes by Council accepted Text Origin: Council Mandate
Article 1, first paragraph, point (4)(b)				
98	(b) paragraph 4 is replaced by the following:	(b) paragraph 4 is replaced by the following:	(b) paragraph 4 is replaced by the following:	(b) paragraph 4 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), first subparagraph				
99	4. From the moment when the application is considered to be complete, the competent authority shall transmit all information included in the application to the relevant authorities and consult those authorities concerning the features of the securities settlement system operated by the applicant CSD.	4. From the moment when the application is considered to be complete, the competent authority shall transmit all information included in the application to the relevant authorities and consult those authorities concerning the features of the securities settlement system operated by the applicant CSD.	4. From the moment when the application is considered to be complete, the competent authority shall transmit all information included in the application to the relevant authorities and consult those authorities concerning the features of the securities settlement system operated by the applicant CSD.	4. From the moment when the application is considered to be complete, the competent authority shall transmit all information included in the application to the relevant authorities and consult those authorities concerning the features of the securities settlement system operated by the applicant CSD. Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), second subparagraph				
100	Each relevant authority may issue a reasoned opinion to the competent authority within 3 months of the	Each relevant authority may issue a reasoned opinion to the competent authority within 3 months of the	Each relevant authority may issue a reasoned opinion <u>within its area of competences</u> to the competent	Each relevant authority may issue a reasoned opinion <u>within its areas of competence</u> to the competent

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	receipt of the information by the relevant authority. Where a relevant authority does not provide an opinion within that timeframe it shall be deemed to have issued a positive opinion.	receipt of the information by the relevant authority. Where a relevant authority does not provide an opinion within that timeframe it shall be deemed to have issued a positive opinion.	authority within 3 three months of the receipt of the information by the relevant authority. Where a relevant authority does not provide an opinion within that timeframe it shall be deemed to have issued a positive opinion.	authority within 3 three months of the receipt of the information by the relevant authority. Where a relevant authority does not provide an opinion within that timeframe it shall be deemed to have issued a positive opinion. 11.05. technical clarification by the Council accepted Text Origin: Council Mandate
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), third subparagraph				
101	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority wishing to grant the authorisation shall within 30 calendar days provide the relevant authorities with a reasoned decision addressing the negative opinion.	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority wishing to grant the authorisation shall within 30 calendar days provide the relevant authorities with a reasoned decision addressing the negative opinion.	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority wishing to grant the authorisation shall within 30 calendar days one month provide the relevant authorities with a reasoned decision reasoning addressing the negative opinion. <u>In particular, the reasoning shall include the reasons for derogation from the negative reasoned opinion issued by the relevant authority.</u>	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority wishing intending to grant the authorisation shall within 30 calendar days one month provide the relevant authorities with a reasoned decision addressing the reasons why it intends to proceed with the authorisation notwithstanding the negative opinion. 11.05. Compromise text agreed. Text Origin: Council Mandate
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), fourth subparagraph				
102	Where within 30 calendar days after the competent authority has issued	Where within 30 calendar days after the competent authority has issued	Where within 30 calendar days after the competent authority has issued	Where within 30 calendar days after the competent authority has issued

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the reasoned decision referred to in the third subparagraph, any of the relevant authorities issues another negative opinion and the competent authority disagrees it shall inform those relevant authorities. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2) point (c), of Regulation (EU) No 1095/2010.	the reasoned decision referred to in the third subparagraph, any of the relevant authorities issues another negative opinion and the competent authority disagrees it shall inform those relevant authorities. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2) point (c), of Regulation (EU) No 1095/2010.	the reasoned decision referred to in the third subparagraph, any of the relevant authorities issues another negative opinion and the competent authority disagrees it shall inform those relevant authorities. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2) point (c), of Regulation (EU) No 1095/2010. <u>deleted</u>	the reasoned decision referred to in the third subparagraph, Any of the relevant authorities issues another <u>that issued a</u> negative opinion and the competent authority disagrees it shall inform those relevant authorities. Any of the authorities that issued a negative opinion <u>referred to in the third subparagraph</u> may refer the matter to ESMA for assistance under Article 31(2) point (c), of Regulation (EU) No 1095/2010. TM 11.05. Provisional compromise agreed. Council to come back. Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), fifth subparagraph				
103	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the relevant authorities.	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the relevant authorities.	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the relevant authorities. <u>deleted</u>	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the relevant authorities. TM 11.05. ESMA Regulation does not provide a detailed procedure and is silent on a timeline. Council to come back.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), sixth subparagraph				
Y	104	Where the competent authority wishes to refuse authorisation, the matter shall not be referred to ESMA.	Where the competent authority wishes to refuse authorisation, the matter shall not be referred to ESMA. <u>deleted</u>	Where the competent authority wishes <u>intends</u> to refuse authorisation, the matter shall not be referred to ESMA. TM 11.05. For clarification purposes. Council to come back. Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), seventh subparagraph				
G	105	Negative opinions shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.;	Negative opinions <u>opinion referred to in the third subparagraph</u> shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.;	Negative opinions <u>opinion referred to in the third subparagraph</u> shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.;
Article 1, first paragraph, point (4)(c)				
G	106	(c) the following paragraph 7a is inserted:	(e) <u>(ba)</u> the following paragraph 7a is inserted:	(c) the following paragraph 7a is inserted:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (4)(c), amending provision, first paragraph				
107	7a. The competent authority shall inform without undue delay the authorities consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process.;	7a. The competent authority shall inform without undue delay the authorities consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process.;	7a. The competent authority shall inform without undue delay the <u>may, before granting authorisation to the applicant CSD, consult appropriate competent</u> authorities consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process <u>supervising an entity that has a qualifying holding in the applicant CSD on the matters referred to in paragraph 7.</u>;	7a. <u>In addition to consulting the competent authorities referred to in paragraph 6,</u> the competent authority shall inform without undue delay the <u>may, before granting authorisation to the applicant CSD, consult other competent</u> authorities <u>supervising an entity that has a qualifying holding in the applicant CSD on the matters referred to in paragraph 7</u> consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process.; TM 11.05. COM: there is a discretion for competent authorities. CRD Article 16 contains a provision on consultation. TM 24.05. There was an inconsistency (overlap and contradiction) with para 6 that needed to be corrected. Text Origin: Council Mandate
Article 1, first paragraph, point (4)(ca)				
107a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(c) the following paragraph 8a is inserted:</u>	<u>(c) the following paragraph 8a is inserted:</u> TM 11.05. COM proposal paragraph 7a Text Origin: Council Mandate
Article 1, first paragraph, point (4)(cb)				
G	107b		<u>'8a. The competent authority shall inform without undue delay the authorities consulted pursuant to paragraphs 4 to 7a of the results, including any remedial actions, of the authorisation process.'</u>	<u>'8a. The competent authority shall inform without undue delay the authorities consulted pursuant to paragraphs 4 to 7a of the results, including any remedial actions, of the authorisation process.'</u> TM 11.05. COM proposal para 7a, correspond to line 107 Text Origin: Council Mandate
Y	107c	<u>(4a) in Article 19, paragraph 2 is replaced by the following:</u>		<u>(4a) in Article 19, paragraph 2 is replaced by the following:</u> TM 11.05. See line 107d TM 24.05: Compromise text proposed by the COM, see following lines. Text Origin: EP Mandate
Y	107d	"		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>'2. The granting of an authorisation under paragraph 1 shall follow the procedure laid down in Article 17, with the exception of Article 17(4).</u>		<u>'2. The granting of an authorisation to outsource a core service to a third party pursuant to paragraph 1 or to to extend the activities pursuant to paragraph 1, points (a), (c) and (d), shall follow the procedure laid down in Article 17.</u> TM 11.05. Amended Article 17(4) has a procedure of altogether 5 months + Art 17(8) has final deadline at 8 months; Article 19(2) applies currently procedure of Article 17 with a three months deadline. This is incoherent. Article 19 has to be amended. One way would be to delete the second subparagraph of paragraph 2 or to disapply Article 17(4). The problem with the EP position is that by outsourcing of material activities the proposed timeline could be too short. EP to come back. COM proposes to consider the shortened deadline for outsourcing of activities or services that are not material. Otherwise a consistent timeline should be developed by the COM for other cases. TM 24.05.: the COM compromise proposes different regimes for different activities to make the system coherent, See also line 107g. Text Origin: EP Mandate
Y	107e			Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>Once the competent authority considers that an application referred to in paragraph 1 is complete, it shall transmit all information included in the application to the relevant authorities and consult those authorities concerning the features of the securities settlement system operated by the applicant CSD. Each relevant authority may inform the competent authority of its views within two months of receipt of the information by the relevant authority.</u>	PUBLIC	TM 11.05. see line 107d
Y	107f	<u>The competent authority shall inform the applicant CSD and the relevant authorities whether the authorisation has been granted or refused within three months of the submission of a complete application.';</u>	"	TM 11.05. See line 107d
Y	107g			" <u>2a. The granting of authorisation under paragraph 1, point (b), shall follow the procedure laid down in Article 17(1), (2), (3), (5) and (8a).</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<u>The granting of authorisation under paragraph 1, point (e), shall follow the procedure laid down in Article 17(1), (2) and (3).</u> <u>The competent authority shall inform the applicant CSD whether the authorisation has been granted or refused within three months of the submission of a complete application.</u> " TM 24.05.: COM compromise text, see the explanation under paragraph 2.
Article 1, first paragraph, point (5)				
108	(5) in Article 20, paragraph 5 is replaced by the following:	(5) in Article 20, paragraph 5 is replaced by the following:	(5) In Article 20, paragraph 5 is replaced by the following:	(5) in Article 20, paragraph 5 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (5), amending provision, numbered paragraph (5)				
109	‘ 5. A CSD shall establish, implement and maintain adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event of a withdrawal of authorisation referred to in paragraph 1. Such procedures shall include the transfer of issuance	‘ 5. A CSD shall establish, implement and maintain adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event of a withdrawal of authorisation referred to in paragraph 1. Such procedures shall include the transfer of issuance	‘ 5. A CSD shall establish, implement and maintain adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event of a withdrawal of authorisation referred to in paragraph 1. Such procedures shall include the transfer of issuance	‘ 5. A CSD shall establish, implement and maintain adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event of a withdrawal of authorisation referred to in paragraph 1. Such procedures shall include the transfer of issuance

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	accounts and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex.;	accounts <u>or similar records evidencing securities issuances</u> and records linked to the provision of core <u>notary</u> services referred to in Section A, points 1 and 2, of the Annex <u>and central maintenance services</u> .;	accounts <u>or similar records evidencing securities issuance</u> and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex. ;	accounts <u>or similar records evidencing securities issuance</u> and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex. ; TM 12.05. The content of the EP and Council text is exactly the same, see Annex, Section A, points 1 and 2. Text Origin: Council Mandate
	Article 1, first paragraph, point (6)			
G	110 (6) Article 22 is amended as follows:	(6) Article 22 is amended as follows:	(6) Article 22 is amended as follows:	(6) Article 22 is amended as follows: Text Origin: Commission Proposal
	Article 1, first paragraph, point (6)(a)			
G	111 (a) paragraphs 1 to 4 are replaced by the following:	(a) paragraphs 1 to 4 are replaced by the following:	(a) paragraphs 1 to 4 are replaced by the following:	(a) paragraphs 1 to 4 are replaced by the following: Text Origin: Commission Proposal
	Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (1)			
Y	112 ' 1. The competent authority shall, at least every 2 years, review the arrangements, strategies, processes	' 1. The competent authority shall, at least every 2 years, review the arrangements, strategies, processes	' 1. The competent authority shall, at least every 2 <u>three</u> years, review the arrangements, strategies, processes	' 1. The competent authority shall, at least every 2 years, review the arrangements, strategies, processes

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and mechanisms implemented by a CSD with respect to compliance with this Regulation and evaluate the risks to which the CSD is, or might be, exposed to or which it creates for the smooth functioning of securities markets or stability of the financial markets.	and mechanisms implemented by a CSD with respect to compliance with this Regulation and evaluate the risks to which the CSD is, or might be, exposed to or which it creates for the smooth functioning of securities markets or stability of the financial markets.	and mechanisms implemented by a CSD with respect to compliance with this Regulation and evaluate the risks to which the CSD is, or might be, exposed to or which it creates for the smooth functioning of securities markets or <u>for the</u> stability of the financial markets.	and mechanisms implemented by a CSD with respect to compliance with this Regulation and evaluate the risks to which the CSD is, or might be, exposed to or which it creates for the smooth functioning of securities markets or stability of the financial markets. <u>The competent authority shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned.</u> <u>The review and evaluation shall take place at least every 2 years.</u> TM 24.05. second subpara brought up from para 4. Council provisionally agrees to two years, if the EP accepts everywhere 2 years as frequencies where there were differences now. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2)				
113	2. The CSD shall identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for	2. The CSD shall identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for	2. The CSD shall identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for	2. The CSD shall identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	recovery or orderly wind-down. Those scenarios shall take into account the various independent and related risks to which the CSD is exposed. Using that analysis, the CSD shall prepare and submit to the competent authority appropriate plans for its recovery or orderly wind-down.	recovery or orderly wind-down. Those scenarios shall take into account the various independent and related risks to which the CSD is exposed. Using that analysis, the CSD shall prepare and submit to the competent authority appropriate plans for its recovery or orderly wind-down.	recovery or orderly wind-down. Those scenarios shall take into account the various independent and related risks to which the CSD is exposed. Using that analysis, the CSD shall prepare and submit to the competent authority appropriate plans for its recovery or orderly wind-down.	recovery or orderly wind-down. Those scenarios shall take into account the various independent and related risks to which the CSD is exposed. Using that analysis, the CSD shall prepare and submit to the competent authority appropriate plans for its recovery or orderly wind-down. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2a)				
113a			<u>2a. Where a CSD, required under Directive 2014/59/EU to draw up a recovery plan, has drawn up such a recovery plan and that recovery plan contains all of the elements listed in paragraph 3 of this Article, the CSD shall not be required to prepare and submit to the competent authority the plans for its recovery referred to in paragraph 2.</u>	<u>2a. Where a CSD is subject to Directive 2014/59/EU, and recovery and resolution plans have been drawn up under that Directive and such plans contain all of the elements listed in paragraph 3 of this Article, the CSD shall not be required to prepare the plans pursuant to paragraph 2. The CSD shall communicate to its competent authority the recovery plan drawn up under Directive 2014/59/EU.</u> TM 24.05.: to avoid duplication of drafting plans, the CSDs who are subject to BRRD requirements, would present the plans already drawn up in the framework of the BRRD.
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2b)				
113b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>CSDs shall not be required to include in the plans referred to in paragraph 2 the information required under paragraph 3 which has been already provided in the plans referred to in Article 12 of Regulation [DORA].</u>	TM 24.05. Council agreed not to include that subparagraph. DORA has amended Article 45 of CSDR, applicable as of 17 January 2025. The recovery plan under DORA is not duplicative to the recovery plans under paragraph 2.
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph				
114	3. The plans referred to in paragraph 2 shall contain at least the following:	3. The plans referred to in paragraph 2 shall contain at least the following:	3. The plans referred to in paragraph 2 shall contain at least the following:	3. The plans referred to in paragraph 2 shall contain at least the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (a)				
115	(a) a substantive summary of the key recovery or orderly wind-down strategies;	(a) a substantive summary of the key recovery or orderly wind-down strategies;	(a) a substantive summary of the key recovery or orderly wind-down strategies;	(a) a substantive summary of the key recovery or orderly wind-down strategies; Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (b)				
116	(b) an identification of the CSD's critical operations and services;	(b) an identification of the CSD's critical operations and services;	(b) an identification of the CSD's critical operations and services;	(b) an identification of the CSD's critical operations and services; Text Origin: Council Mandate
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (ba)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
116a			<u>(ba) adequate procedures ensuring the raising of additional capital should its equity capital approach or fall below the requirements laid down in Article 47(1);</u> Note: this and following points renumbered compared to Council GA in order to preserve comparability of texts	<u>(ba) adequate procedures ensuring the raising of additional capital should its equity capital approach or fall below the requirements laid down in Article 47(1);</u> TM 24.05. Moved from Article 47. (EP line 219c) Text Origin: Council Mandate
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (bb)				
116b			<u>(bb) adequate procedures ensuring the orderly winding-down or restructuring of the CSD's operations and services where the CSD is unable to raise new capital;</u>	<u>(bb) adequate procedures ensuring the orderly winding-down or restructuring of the CSD's operations and services where the CSD is unable to raise new capital;</u> TM 24.05.: moved from Article 47, EP line 219d Text Origin: Council Mandate
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (c)				
117	(c) adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event it became permanently impossible for the CSD to restore its critical operations and services;	(c) adequate procedures ensuring<u>enabling</u> the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event it became permanently impossible for the CSD to restore its critical operations and services;	(c) adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event it became permanently impossible for the CSD to restore its critical operations and services;	(c) adequate procedures ensuring the timely and orderly settlement and transfer of the assets of clients and participants to another CSD in the event it became permanently impossible for the CSD to restore its critical operations and services;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 24.05: consistency with Article 20(5) and 57(5). "Ensure" stronger. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (d)				
G	118	(d) a description of the measures needed to implement the key strategies.	(d) a description of the measures needed to implement the key strategies.	(d) a description of the measures needed to implement the key strategies. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), second subparagraph				
G	119	The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely basis during stress scenarios.	The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely basis during stress scenarios.	The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely basis during stress scenarios. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), third subparagraph				
Y	120	The CSD shall review and update the plans regularly and at least every 2 years. The plans shall have regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned and any relevant recovery or resolution	The CSD shall review and update the plans regularly and at least every 2 years. The plans shall <u>be approved by the management body, or an appropriate committee of the management body. Each update of the plans shall be provided to the competent authority. The</u>	The CSD plans shall review and update the plans <u>be approved by the management body or an appropriate committee of the management body and updated</u> regularly and at least every 2 <u>three</u> years. The plans shall have regard to the size, systemic importance, <u>The plans shall be approved by the management body, or an appropriate committee of the management body.</u> The CSD shall review and update the plans regularly and at least every 2 <u>two</u> years. <u>Each update of the plans shall be provided to the competent</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	plan established in accordance with Directive 2014/59/EU.	<u>competent authority may require the CSD to take additional measures or to make alternative provisions where the competent authority considers that the CSD's plans are insufficient. The plans shall</u> have regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned and any relevant recovery or resolution plan established in accordance with Directive 2014/59/EU.	nature, scale and complexity of the activities of <u>or when requested by the competent authority. Each update of the plan shall be provided to the competent authority. The competent authority may require the CSD concerned and any relevant recovery or resolution plan established in accordance with Directive 2014/59/EU to take additional measures or to make any alternative provision where it considers that the CSD's plan is insufficient.</u>	<u>authority. The competent authority may require the CSD to take additional measures or to develop alternative measures where the competent authority considers that the CSD's plans are insufficient.</u> The plans shall have regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned and any relevant recovery or resolution plan established in accordance with Directive 2014/59/EU. TM 24.05.: compromise proposed by the COM, Council prepared to agree on 2 years here.
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), third subparagraph a				
120a			<u>The plans shall have regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned, as well as risk exposures of the CSD.</u>	TM 24.05. contained in line 120 now.
120b		<u>3a. Where a CSD is subject to Directive 2014/59/EU, a recovery plan and a resolution plan shall, instead of the plans referred to in paragraph 2 of this Article, be drawn up by the CSD and the</u>		TM 24.05.: contained in line 113a

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>resolution authority respectively in accordance with that Directive, taking into account points (a) to (d) of the first subparagraph of paragraph 3.</u>		
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), fourth subparagraph				
121	Where a resolution plan is established and maintained for a CSD with the aim of ensuring its core functions, the competent authority shall inform ESMA thereof.	Where a resolution plan is established and maintained for a CSD with the aim of ensuring its core functions, the <u>resolution authority or, where no such authority exists, the</u> competent authority shall inform ESMA thereof.	Where a <u>resolution recovery or orderly wind down</u> plan is established and maintained for <u>by</u> a CSD <u>authorised to provide banking-type ancillary services in accordance with Article 54(3)</u> with the aim of ensuring its core functions, the competent authority shall inform ESMA thereof.	Where a resolution plan is established and maintained for a CSD <u>under Directive 2014/59/EU or a similar plan under national law</u> with the aim of ensuring its <u>the</u> CSD's core functions <u>is established and maintained for a CSD, the resolution authority or, where no such authority exists,</u> the competent authority shall inform ESMA thereof <u>of the fact that such a plan exists.</u> TM 24.05: COM explanation of the original proposal: there are bank CSDs who are subject to BRRD, non bank CSDs might under national law still be subject to some type of resolution, ESMA would need the information whether such plans exist with regard to any type of CSDs. EP and Council to check. Text Origin: EP Mandate
Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (4)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
122	4. The competent authority shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned. The review and evaluation shall be updated at least every 2 years.;	4. The competent authority shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned. The review and evaluation shall be updated at least every 2 years.;	4. The competent authority shall establish the frequency and depth of the review and evaluation referred to in paragraph 1 having regard to the size, systemic importance, nature, scale and complexity of the activities of the CSD concerned, <u>as well as risk exposures of the CSD</u> . The review and evaluation shall be updated at least every 2 <u>three</u> years.;	TM 24.05.: After lengthy discussions, the Council will drop the phrase "as well as risk exposures of the CSD" - the line has been integrated into para 1, line 112 .
Article 1, first paragraph, point (6)(b)				
123	(b) paragraphs 6 and 7 are replaced by the following:	(b) paragraphs 6 and 7 are replaced by the following:	(b) paragraphs 6 and 7 are replaced by the following:	(b) paragraphs 6 and 7 are replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), first subparagraph				
124	6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit necessary information to the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU, and consult them in particular concerning the functioning of the	6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit necessary information to the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU, and consult them in particular concerning the functioning of the	6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit <u>the</u> necessary information to the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU, and consult them in particular concerning the	6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit <u>the</u> necessary information to the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU, and consult them <u>on whether the requirements laid</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	securities settlement systems operated by the CSD.	securities settlement systems operated by the CSD.	functioning of the securities settlement systems operated by the CSD.	<u>down in this Regulation or other requirements of Union law are met by the CSD as regards</u>in particular concerning the functioning of the securities settlement systems operated by the CSD. TM 24.05. text added in order to make a link to line 130, and to facilitate the understanding of the concept of a negative opinion. Text Origin: Council Mandate
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), second subparagraph				
125	The consulted authorities may issue a reasoned opinion within 3 months of the receipt of the information by the competent authority.	The consulted authorities may issue a reasoned opinion within 3 months of the receipt of the information by the competent authority.	The consulted authorities may issue a reasoned opinion within 3 <u>its area of competences within three</u> months of the receipt of the information by the competent authority.	The consulted authorities may issue a reasoned opinion within 3<u>their areas of competence within three</u> months of the receipt of the information by the competent authority. TM 24.05.: Council text contains a clarification. Text Origin: Council Mandate
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), third subparagraph				
126	Where an authority does not provide an opinion within that deadline it shall be deemed to have issued a positive opinion.	Where an authority does not provide an opinion within that deadline it shall be deemed to have issued a positive opinion.	Where an authority does not provide an opinion within that deadline it shall be deemed to have issued a positive opinion.	Where an authority does not provide an opinion within that deadline it shall be deemed to have issued a positive opinion.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), fourth subparagraph				
127	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority shall within 30 calendar days provide the relevant authorities with a reasoned decision addressing the negative opinion.	Where at least one of the relevant authorities issues a negative reasoned opinion, the competent authority shall within 30 calendar days provide the relevant authorities with a reasoned decision addressing the negative opinion.	Where at least one of the relevant <u>consulted</u> authorities issues a negative reasoned opinion, the competent authority shall within 30 calendar days <u>one month</u> provide the relevant <u>consulted</u> authorities with a reasoned decision <u>reasoning</u> addressing the negative opinion. <u>In particular, the reasoning shall include the reasons for derogation from the negative reasoned opinion issued by the consulted authority.</u>	Where at least one of the relevant authorities <u>a consulted authority</u> issues a negative reasoned opinion, and the competent authority disagrees with it, it shall within 30 calendar days <u>one month</u> provide the relevant authorities <u>consulted authority</u> with a reasoned decision <u>reasoning</u> addressing the negative opinion. TM 24.05. Council uses "consulted authorities" in order not to repeat the phrase "where applicable, the authority referred to in Article 67 of Directive 2014/65/EU," Only authorities that have been consulted can give an opinion. Negative opinions need to be addressed only if the competent authority disagrees with the consulted authority. Text Origin: Council Mandate
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), fifth subparagraph				
128	Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this	Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this	Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this	Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	paragraph is issued, any of the relevant authorities issues another negative opinion and the competent authority disagrees, the competent authority shall inform that relevant authority. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010.	paragraph is issued, any of the relevant authorities issues another negative opinion and the competent authority disagrees, the competent authority shall inform that relevant authority. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010.	paragraph is issued, any of the relevant authorities issues another negative opinion and the competent authority disagrees, the competent authority shall inform that relevant authority. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010. <u>deleted</u>	paragraph is issued, Any of the relevant authorities issues another negative opinion and the competent authority disagrees, the competent authority shall inform that relevant authority. Any of the <u>consulted</u> authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010. TM 11.05. provisional agreement similar to line 102 TM 24.05. the reasons for using "consulted authorities" explained above. Text Origin: Commission Proposal
Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), sixth subparagraph				
129	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority shall take the final decision on the review and evaluation and provide a detailed explanation of its decision in writing to the relevant authorities.	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority shall take the final decision on the review and evaluation and provide a detailed explanation of its decision in writing to the relevant authorities.	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority shall take the final decision on the review and evaluation and provide a detailed explanation of its decision in writing to the relevant authorities. <u>deleted</u>	Where 30 calendar days after referral to ESMA the issue is not settled, the competent authority shall take the final decision on the review and evaluation and provide a detailed explanation of its decision in writing to the relevant authorities. TM 11.05. Provisional agreement similar to 103. Council to come back. Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), seventh subparagraph			
G	130	Negative opinions shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.	Negative opinions <u>referred to in the fourth subparagraph</u> shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met.	Negative opinions <u>referred to in the fourth subparagraph</u> shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met. Text Origin: Council Mandate
	Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (7)			
R	131	7. The competent authority shall regularly, and at least once every 2 years, inform the relevant authorities and, where applicable, the colleges referred to in Article 24a of this Regulation and the authority referred to in Article 67 of Directive 2014/65/EU of the results, including any remedial actions or penalties, of the review and evaluation referred to in paragraph 1 of this Article.;	7. The competent authority shall regularly, and at least once every 2 three years, inform the relevant authorities, <u>ESMA</u> and, where applicable, the colleges college referred to in Article 24a of this Regulation and the authority referred to in Article 67 of Directive 2014/65/EU of the results, including any remedial actions or penalties, of the review and evaluation referred to in paragraph 1 of this Article.;	TM 24.05. Council provisionally agrees to two years, the only remaining political point would be the role of ESMA here.
	Article 1, first paragraph, point (6)(ba)			
G	131a		<u>(ba) in paragraph 10, point (b) is replaced by the following:</u>	<u>(ba) in paragraph 10, point (b) is replaced by the following:</u> TM 24.05.: agreed

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
	Article 1, first paragraph, point (6)(bb)			
G	131b		<u>(b) the information that the competent authority is to supply to the relevant authorities, the authority referred to in Article 67 of Directive 2014/65/EU and the members of college referred to in Article 24a, as set out in paragraph 7;’;</u>	<u>(b) the information that the competent authority is to supply in accordance with paragraph 7;’;</u> TM 24.05: paragraph 7 already indicates already to which authorities the information should go; pure drafting change. Text Origin: Council Mandate
	Article 1, first paragraph, point (6)(bc)			
G	131c		<u>(bb) in paragraph 10, the second subparagraph is replaced by the following:</u>	<u>(bb) in paragraph 10, the second subparagraph is replaced by the following:</u> TM 24.05. agreed Text Origin: Council Mandate
	Article 1, first paragraph, point (6)(bc)(i)			
G	131d		<u>‘ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert 1 year after the entry into force of this Regulation].’;</u>	<u>‘ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert 1 year after the entry into force of this Regulation].’;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 24.05. The mandate for ESMA has changed, the RTSs need to be updated. See also line 133. Text Origin: Council Mandate
Article 1, first paragraph, point (6)(c)				
132	(c) in paragraph 11, the second subparagraph of is replaced by the following:	(c) in paragraph 11, the second subparagraph of is replaced by the following:	(c) in paragraph 11, the second subparagraph of is replaced by the following:	(c) in paragraph 11, the second subparagraph of is replaced by the following: Text Origin: Council Mandate
Article 1, first paragraph, point (6)(c), amending provision, first paragraph				
133	ESMA shall submit those draft implementing technical standards to the Commission by [PO please insert 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft implementing technical standards to the Commission by [PO please insert 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft implementing technical standards to the Commission by ... [PO please insert 1 year after the entry into force of this Regulation].;	ESMA shall submit those draft implementing technical standards to the Commission by ... [PO please insert 1 year after the entry into force of this Regulation].; Text Origin: Council Mandate
Article 1, first paragraph, point (7)				
134	(7) in Article 23, paragraphs 2 to 7 are replaced by the following:	(7) in Article 23, paragraphs 2 to 7 are replaced by the following:	(7) in Article 23, paragraphs 2 to 7 are replaced by the following:	(7) in Article 23, paragraphs 2 to 7 are replaced by the following: TM 11.05. Article 23 compromise text as proposed by the COM on the basis of the EP and Council texts and adapted during the TM.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				paragraph 1 - current text TM 24.05.: going back to the technique of the COM proposal Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (2)				
135	‘ 2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.	‘ 2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments constituted under the laws of another Member State referred to in Article 49(1), second subparagraph, or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6.	‘ 2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex, in relation to financial instruments constituted under the lawslaw of another Member State referred to in Article 49(1), second subparagraph, <u>point (a)</u>, or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17, but not earlier than the relevant date applicable in accordance with paragraph 6.	‘ 2. An authorised CSD or a CSD that has applied for authorisation pursuant to Article 17 that intends to provide the core services referred to in Section A, points 1 and 2, of the Annex, in relation to financial instruments constituted under the lawslaw of another Member State referred to in <u>[Article 49(1), second subparagraph, point (a)]</u> or to set up a branch in another Member State shall be subject to the procedure referred to in paragraphs 3 to 7 of this Article. The CSD may provide such services only after it has been authorised pursuant to Article 17 but not earlier than the relevant date applicable in accordance with paragraph 6. TM 11.05. EP and Council to agree on whether to include a reference to point (a)
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
y	136	3. Any CSD wishing to provide the services referred to in paragraph 2 of this Article in relation to financial instruments constituted under the law of another Member State referred to in Article 49(1), second subparagraph, for the first time, or to change the range of those services provided shall submit documents with the following information to the competent authority of the home Member State:	3. Any CSD wishing to provide the services referred to in paragraph 2 of this Article in relation to financial instruments constituted under the law of another Member State referred to in Article 49(1), second subparagraph, <u>point (a)</u> , for the first time, or to change the range of those services provided shall submit documents with the following information to the competent authority of the home Member State:	3. Any CSD wishing <u>that intends</u> to provide the services referred to in paragraph 2 of this Article in relation to financial instruments constituted under the law of another Member State referred to in <u>[Article 49(1), second subparagraph, <u>point (a)</u>]</u> or , for the first time, or to change the range of those services provided shall submit documents <u>with</u> <u>communicate</u> the following information to the competent authority of the home Member State: TM 11.05.: EP and Council to agree on whether to include a reference to point (a)
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (a)				
G	137	(a) the host Member State;	(a) the host Member State;	(a) the host Member State; Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (b)				
y	138	(b) a programme of operations stating in particular the services which the CSD intends to provide;	(b) a programme of operations stating in particular the services which the CSD intends to provide;	(b) a programme of operations stating in particular the services which the CSD intends to provide <u>[and the type of financial instruments constituted under the law of the host Member State in</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>well as</u> the services which the CSD intends to provide;		<u>respect of which the CSD intends to provide such services;]</u> TM 11.05.: EP to come back with a justification on why the type of financial instruments is needed. NB. COM also to consider whether by adding type of financial instruments we do not change the scope, as in the chapeau there is only the reference on the “change the range of those services”.
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (c)				
G	139	(c) the currency or currencies that the CSD intends to process;	(c) the currency or currencies that the CSD intends to process;	(c) the currency or currencies that the CSD intends to process; Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (d)				
G	140	(d) where there is a branch, the organisational structure of the branch and the names of those responsible for the management of the branch;	(d) where there is a branch, the organisational structure of the branch and the names of those responsible for the management of the branch;	(d) where there is a branch, the organisational structure of the branch and the names of those responsible for the management of the branch;
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (e)				
Y	141	(e) an assessment of the measures the CSD intends to take to allow its users to comply with the national	(e) an assessment of the measures the CSD intends to take to allow its users to comply with the <i>national</i>	(e) an assessment of the measures the CSD intends to take to allow its users to comply with the <i>national</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	users to comply with the national law referred to in Article 49(1).	law referred to in Article 49(1), <u>in relation to shares</u> .	law <u>of the host Member State</u> referred to in Article 49(1), <u>second subparagraph, point (a), in relation to shares</u> .	law <u>law of the host Member State</u> referred to in <u>[Article 49(1), second subparagraph, point (a)], in relation to shares</u> . TM 11.05.: EP and Council to agree on whether to include a reference to point (a) in both references
Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a)				
141a			<u>3a. The competent authority of the home Member State shall communicate the assessment referred to in paragraph 3, point (e), to the competent authority of the host Member State without undue delay. The competent authority of the host Member State may provide opinion to the competent authority of the home Member State within one month after the receipt of the assessment referred to in paragraph 3, point (e), from the competent authority of the home Member State.</u>	TM 11.05. as per compromise text: Council text not taken over in this cell
141b		<u>3a. A CSD intending to set up a branch in another Member State for the first time, or to change the range of core services referred to in Section A, point 1 or 2 of the Annex, provided through a branch,</u>		<u>3a. A CSD intending to set up a branch in another Member State for the first time, or to change the range of core services referred to in Section A, point 1 or 2 of the Annex, provided through a branch,</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
		<u>shall communicate the following information to the competent authority of the home Member State;</u>		<u>shall communicate the following information to the competent authority of the home Member State;</u> TM 11.05. NB LLs: further attempts to be considered to improve the structure of paragraphs 3 and 3a	
G	141c	<u>(a) the host Member State;</u>		<u>(a) the information listed in paragraph 3, points (a), (b) and (c);</u> TM 11.05: compromise text; EP lines 141c, 141d, 141e	G
G	141d	<u>(b) the type of financial instruments constituted under the law of the host Member State and in respect of which the CSD intends to provide services, as well as the services which the CSD intends to provide;</u>		<u>(b) the organisational structure of the branch and the names of the persons responsible for the management of the branch;</u> TM 11.05.: compromise text; EP line 141f	G
Y	141e	<u>(c) the currency or currencies that the CSD intends to process;</u>		<u>(c) [an assessment of the measures the CSD intends to take to allow its users to comply with the law of the host Member State referred to in</u>	Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>[Article 49(1), second subparagraph, point (a)], in relation to shares.</u> TM 11.05.: EP and Council to agree on whether to include a reference to point (a) EP to come back on whether it agrees to add the assessment compared to the EP text: linked to line 141
141f		<u>(d) the organisational structure of the branch and the names of the persons responsible for the management of the branch.</u>		<u>3b. The competent authority of the home Member State shall communicate the assessment referred to in paragraph 3, point (d), [or in paragraph 3a, point (c), as applicable,] to the competent authority of the host Member State without undue delay. The competent authority of the host Member State may provide a non-binding opinion on that assessment to the competent authority of the home Member State within one month from the receipt of that assessment.</u> TM 11.05.: Council line 141a; depends on Line 141. Same comment for all references to "paragraph 3a point (c)."
Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), first subparagraph -a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
141g			<u>4. The competent authority of the home Member State shall inform without delay the CSD of the date of transmission of the communication to the competent authority of the host Member State under the first subparagraph.</u>	
Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), first subparagraph				
142	4. Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. Where the CSD already provides services to other host Member States, the competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.	4. Within 1 month from the receipt of the information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. Where the CSD already provides services to other host Member States, the competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.	4. Within 1 month <u>two months</u> from the receipt of the <u>complete</u> information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing to provide its services in the host Member State. <u>or the adequacy of the measures the CSD intends to take in accordance with paragraph 3, point (e). Within the same period,</u> where the CSD already provides services to other host Member States, the competent authority of the home Member State shall also inform the passporting college referred to in Article 24a.	4. Within 1 month <u>[two months]</u> from the receipt of the <u>complete</u> information referred to in paragraph 3, <u>points (a), (b) and (c), or paragraph 3a, points (a) and (b), as applicable,</u> the competent authority of the home Member State shall communicate that information to the competent authority of the host Member State unless, by taking into account the provision of services envisaged, it has reasons to doubt the adequacy of the administrative structure or the financial situation of the CSD wishing <u>intending</u> to provide its services in the host Member State <u>or the adequacy of the measures the CSD intends to take in accordance with paragraph 3, point (d) [or in paragraph 3a, point (c), as applicable]. Within the same period,</u> where the CSD already provides services to other host Member States, <u>including through a branch,</u> the competent

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				authority of the home Member State shall also inform the passporting college referred to in Article 24a. TM 11.05. Two months to be confirmed by the EP
Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), first subparagraph a				
142a			<u>The competent authority of the home Member State shall inform without delay the CSD of the date of transmission of the communication to the competent authority of the host Member State under the first subparagraph.</u>	TM 12.05.: the Council text in line 142a is now contained, as modified, in line 143.
Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), second subparagraph				
143	The competent authority of the host Member State shall without delay inform the relevant authorities of that Member State of any communication received under the first subparagraph.	The competent authority of the host Member State shall without delay inform the relevant authorities of that Member State of any communication received under the first subparagraph.	The competent authority of the host Member State shall without delay inform the relevant authorities of that Member State of any communication received under the first subparagraph.	The competent authority of the host Member State shall without delay inform the relevant authorities of that Member State of any communication received under the first subparagraph. <u>The competent authority of the home Member State shall immediately inform the CSD of the date of transmission of the communication referred to in the first subparagraph.</u> TM 11.05: as per compromise text agreed; Council line 142a, original COM-proposal line 148 inserted here.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (5)				
144	5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 to the competent authority of the host Member State, it shall give reasons for its refusal to the CSD concerned within 3 months of receiving all the information and inform the competent authority of the host Member State and the passporting college referred to in Article 24a of its decision.	5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 to the competent authority of the host Member State, it shall give reasons for its refusal to the CSD concerned within 3 months of receiving all the information and inform the competent authority of the host Member State and the passporting college referred to in Article 24a of its decision.	5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 to the competent authority of the host Member State, it shall give reasons <u>provide a fully reasoned decision</u> for its refusal to the CSD concerned within 3 months <u>one month</u> of receiving all the information and inform the competent authority of the host Member State and the passporting college referred to in Article 24a of its decision.	5. Where the competent authority of the home Member State decides in accordance with paragraph 4 not to communicate all the information referred to in paragraph 3 <u>or paragraph 3a, as applicable,</u> to the competent authority of the host Member State, it shall give <u>provide the</u> reasons for its refusal to the CSD concerned within 3 <u>two</u> months of receiving all the <u>from the receipt of that</u> information and inform the competent authority of the host Member State and the passporting college referred to in Article 24a of its decision. TM 11.05.: as per compromise text agreed
Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), first subparagraph				
145	6. The CSD may start providing the services referred to in paragraph 2 in the host Member State at the earliest of the following dates:	6. The CSD may start providing the services referred to in paragraph 2 in the host Member State at the earliest of the following dates:	6. The CSD may start providing the services referred to in paragraph 2 <u>of this Article in relation to financial instruments constituted under the law of a</u> in the host Member State at the earliest <u>referred to in Article 49(1),</u>	6. The CSD may start providing the services <u>or set up a branch as</u> referred to in paragraph 2 <u>at the earliest 15 calendar days from the date of transmission of the communication referred to in paragraph 4, first subparagraph,</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>second subparagraph, point (a), or set up a branch after 15 calendar days from the date of transmission of the following dates: communication referred to in paragraph 4 from the competent authority of the home Member State to the competent authority of the host Member State.</u>	<u>from the competent authority of the home</u> in the host Member State at the earliest <u>to the competent authority of the following dates: host Member State.</u> TM 11.05. as per agreed text; "at the earliest" added for readability and clarity
Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), first subparagraph, point (a)				
146	(a) after 1 month from the date of transmission of the communication referred to in paragraph 4;	(a) after 1 month from the date of transmission of the communication referred to in paragraph 4;	(a) after 1 month from the date of transmission of the communication referred to in paragraph 4; <u>deleted</u>	(a). after 1 month from the date of transmission of the communication referred to in paragraph 4; TM 11.05. as per agreed text Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), first subparagraph, point (b)				
147	(b) on receipt of a communication from the competent authority of the host Member State approving the provision of services in the host Member State.	(b) on receipt of a communication from the competent authority of the host Member State approving the provision of services in the host Member State.	(b) on receipt of a communication from the competent authority of the host Member State approving the provision of services in the host Member State. <u>deleted</u>	(b). on receipt of a communication from the competent authority of the host Member State approving the provision of services in the host Member State. TM 11.05. as per agreed text Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), second subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	148	The competent authority of the home Member State shall immediately inform the CSD of the date of transmission of the communication referred to in paragraph 4.	The competent authority of the home Member State shall immediately inform the CSD of the date of transmission of the communication referred to in paragraph 4. deleted	The competent authority of the home Member State shall immediately inform the CSD of the date of transmission of the communication referred to in paragraph 4. TM 11.05. as per agreed text Text Origin: Commission Proposal
Article 1, first paragraph, point (7), amending provision, numbered paragraph (7)				
Y	149	7. In the event of a change of the information set out in the documents submitted in accordance with paragraph 3 of this Article <u>communicated in accordance with paragraph 3 or paragraph 3a of this Article regarding the types of financial instruments in respect of which the CSD provides or intends to provide services, the currency or currencies the CSD processes or intends to process, or the measures that the CSD takes or intends to take to allow its users to comply with the national law referred to in Article 49(1)</u> , a CSD shall give written notice of that change to the competent authority of the home Member State at least one month before implementing the change. The competent authority of the host	7. In the event of a change of the information set out in the documents submitted in accordance with paragraph 3 of this Article, a CSD shall give written notice of that change to the competent authority of the home Member State at least one month before implementing the change. The competent authority of the host Member State and the passporting college referred to in Article 24a shall also be informed of that change without delay by the competent authority of the home Member State.÷	7. In the event of a change of the information set out in the documents submitted in accordance with paragraph 3 of this Article <u>or paragraph 3a, as applicable</u>, a CSD shall give written notice of that change to the competent authority of the home Member State at least one month before implementing the change. The competent authority of the host Member State and the passporting college referred to in Article 24a <u>and</u> shall also be informed of that change without delay by the competent authority of the home Member State.÷ TM 11.05: This line is related to the colleges which is political.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
		Member State and the passporting college referred to in Article 24a shall also be informed of that change without delay by the competent authority of the home Member State. ² ;	PUBLIC		
Article 1, first paragraph, point (7), amending provision, numbered paragraph (7a)					
149a				<u>8. ESMA may issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the scope of the assessment that the CSD shall provide under paragraph 3(e).²;</u>	<u>7a. ESMA may issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the scope of the assessment that the CSD shall provide under paragraph 3, point (d), [and paragraph 3a, point (c)]l.</u> TM 11.05: EP to come back on the text in square brackets; linked to line 141e. A specific empowerment to ESMA for the sake of legal certainty since the CSD Regulation is not listed among the acts in Article 1(2) of the ESMA Regulation (2010/1095) and falls under "any further legally binding Union act which confers tasks on the Authority".
Article 1, first paragraph, point (8)					
150	(8) Article 24 is amended as follows:	(8) Article 24 is amended as follows:	(8) Article 24 is amended as follows:	(8) Article 24 is amended as follows: Text Origin: Commission Proposal	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (8)(a)			
G	151 (a) in paragraph 1, the following subparagraphs are added:	(a) in paragraph 1, the following subparagraphs are added:	(a) in paragraph 1, the following subparagraphs are added:	(a) in paragraph 1, the following subparagraphs are added: Text Origin: Commission Proposal
	Article 1, first paragraph, point (8)(a), amending provision, first paragraph			
R	152 Upon the request of any member of the passporting college referred to in Article 24a, the competent authority of the home Member State may invite staff from competent authorities of the host Member States and ESMA to participate in on-site inspections.	Upon the request of any member of the passporting college referred to in Article 24a, The competent authority of the home Member State may invite staff from competent authorities of the host Member States and ESMA to participate in on-site inspections.	Upon the request of any member of the passporting college referred to in Article 24a, the competent authority of the home Member State may invite staff from competent authorities of the host Member States and ESMA to participate in on-site inspections.	
	Article 1, first paragraph, point (8)(a), amending provision, second paragraph			
R	153 The competent authority of the home Member State may transmit to ESMA any information received from the CSDs during or in relation to on-site inspections.;	The competent authority of the home Member State may <u>shall</u> transmit to ESMA any information received from the CSDs during or in relation to on-site inspections <u>relating to any remedial actions or penalties decided on by the competent authority.</u> ;	The competent authority of the home Member State may transmit to ESMA any information received from the CSDs during or in relation to on-site inspections <u>college referred to in Article 24a shall be informed without undue delay of any findings of on-site inspections that may be relevant for the execution of its tasks.</u> ;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
R	153a	<u>(aa) paragraph 3 is replaced by the following:</u>		
R	153b	" <u>3. The competent authority of the home Member State of the CSD shall, on the request of the competent authority of the host Member State and without delay, communicate the identity of the issuers established in the host Member State or of the participants holding financial instruments constituted under the laws of the host Member State in the securities settlement systems operated by the CSD which provides core services as referred to in Section A, points 1 and 2, of the Annex in relation to financial instruments constituted under the laws of the host Member State and any other relevant information concerning the activities of a CSD that provides core services in the host Member State through a branch.;</u> "		
Article 1, first paragraph, point (8)(b)				

PUBLIC

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
R	154	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted;	
Article 1, first paragraph, point (8)(c)					
R	155	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	
Article 1, first paragraph, point (8)(c), amending provision, numbered paragraph (5), first subparagraph					
R	156	5. Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of the home Member State, ESMA and the passporting college referred to in Article 24a of those findings.	5. Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of the home Member State, ESMA and the passporting <u>and ESMA. ESMA may inform the</u> college referred to in Article 24a of those findings.	5. Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within its territory in accordance with Article 23 is in breach of the obligations arising from the provisions of this Regulation, it shall inform the competent authority of the home Member State, ESMA and the passporting college referred to in Article 24a of those findings.	
Article 1, first paragraph, point (8)(c), amending provision, numbered paragraph (5), second subparagraph					
R	157	Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in infringement of the obligations arising from the provisions of this Regulation, the	Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in infringement of the obligations arising from the provisions of this Regulation, the	Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in infringement <u>breach</u> of the obligations arising from the provisions of this Regulation, the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	competent authority of the host Member State shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to ensure compliance with the provisions of this Regulation within the territory of the host Member State. ESMA and the passporting college referred to in Article 24a shall be informed of such measures without delay.	competent authority of the host Member State shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to ensure compliance with the provisions of this Regulation within the territory of the host Member State. <u>ESMA shall be informed of such measures without delay.</u> ESMA and the passporting college referred to in Article 24a shall be informed of such of those measures without delay.	competent authority of the host Member State shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to ensure compliance with the provisions of this Regulation within the territory of the host Member State. ESMA and the passporting <u>The college referred to in Article 24a shall be informed by the competent authority of the host Member State</u> of such measures without <u>undue</u> delay.	
Article 1, first paragraph, point (8)(c), amending provision, numbered paragraph (5), third subparagraph				
158	The competent authority of the host Member State and of the home Member State may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.;	The competent authority of the host Member State and of the home Member State may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.;	<u>Either</u> the competent authority of the host Member State and/or the competent authority of the home Member State may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.;	‘ <u>Either</u> the competent authority of the host Member State and/or the competent authority of the home Member State may refer the matter to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.;
Article 1, first paragraph, point (8)(d)				
159				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(d) paragraphs 7 and 8 are deleted;	(d) paragraphs 7 and 8 <u>are paragraph 8 is</u> deleted;	(d) paragraphs 7 and 8 are deleted;	TM 12.05. Linked to line 195 (Colleges) Council comment: Member States deem it appropriate that ESMA develops the RTS given the technical nature and the fact that ESMA has the relevant competence and data required for the task. Sensitive issue for Member States given that the criteria in the RTS is determining for the establishment of colleges Commission comment: the delegated act on the topic of "substantial importance" of CSDs already exist. There is a question whether the delegated act should be revisited or not.
Article 1, first paragraph, point (9)				
160	(9) in Title III, the following Section 4a is inserted:	(9) in Title III, the following Section 4a is inserted:	(9) in Title III, <u>Chapter I</u> , the following Section 4a is inserted:	
Article 1, first paragraph, point (9), amending provision, first paragraph				
161	Section 4a	Section 4a	Section 4a	Section 4a Text Origin: Commission Proposal
Article 1, first paragraph, point (9), amending provision, second paragraph				
162	Cooperation of authorities through colleges	Cooperation of authorities through colleges	Cooperation of authorities through colleges	Cooperation of authorities through colleges

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (9), amending provision, third paragraph				
G	163	Article 24a	Article 24a	Article 24a Text Origin: Commission Proposal
Article 1, first paragraph, point (9), amending provision, fourth paragraph				
	164	Colleges of Supervisors for CSDs providing services in another Member State and for CSDs that are part of a group with two or more CSDs	Colleges of Supervisors for CSDs providing services in another Member State and for CSDs that are part of a group with two or more CSDs	Colleges of Supervisors for CSDs providing services in another Member State and for CSDs that are part of a group with two or more CSDs
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), first subparagraph				
R	165	1. Colleges of supervisors shall be established to carry out the tasks referred to in paragraph 6 in the following cases:	1. Colleges of supervisors shall be established to carry out the tasks referred to in paragraph 6 in the following cases: <u>Where a CSD is of substantial importance in more than one host Member State, ESMA shall establish, manage and chair a college of supervisors ('the college').</u>	1. Colleges of supervisors <u>The competent authority of the home Member State</u> shall be established <u>establish a college of supervisors</u> to carry out the tasks referred to in paragraph 6 in the following cases: <u>5 in relation to a CSD whose activities in at least two host Member States are considered of substantial importance for the functioning of the securities markets and the protection of the investors.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), first subparagraph, point (a)				
166	(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college');	(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college');	(a) where a CSD is subject to the procedure referred to in Article 23(3) to (7) ('passporting college'); <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), first subparagraph, point (b)				
167	(b) where a CSD is part of a group that comprises two or more CSDs authorised in at least two Member States ('group-level college').	(b) where a CSD is part of a group that comprises two or more CSDs authorised in at least two Member States ('group-level college');	(b) where a CSD is part of a group that comprises two or more CSDs authorised in at least two Member States ('group-level college'); <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), second subparagraph				
168	In the case referred to in the first subparagraph, point (a), the CSD's home competent authority shall establish, manage and chair the passporting college. That college shall be established within 1 month from the date referred to in Article 23(6). Where the CSD submits subsequent notifications pursuant to Article 23(3), the competent authority of the home Member State shall invite the competent authorities of the relevant host Member States to the passporting college within 1 month from the date referred to in Article 23(6).	In the case referred to in the first subparagraph, point (a), the CSD's home competent authority shall establish, manage and chair the passporting college. That college shall be established within 1 month from the date referred to in Article 23(6). Where the CSD submits subsequent notifications pursuant to Article 23(3), the competent authority of the home Member State shall invite the competent authorities of the relevant host Member States to the passporting college within 1 month from the date referred to in Article 23(6).	In the case referred to in the first subparagraph, point (a), the CSD's home competent authority shall establish, manage and chair the passporting college. That college shall be established within 1 month from the date referred to in Article 23(6). Where the CSD submits subsequent notifications pursuant to Article 23(3), the competent authority of the home Member State shall invite the competent authorities of the relevant host Member States to the passporting college within 1 month from the date referred to in Article 23(6). <u>deleted</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), third subparagraph				
169	In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college.	In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college.	In the case referred to in the first subparagraph, point (b), where the parent undertaking is a CSD authorised in the Union, the competent authority of the home Member State of that CSD shall establish, manage and chair the group-level college. Where the parent undertaking is not a CSD authorised in the Union, the competent authority of the home Member State of the CSD with the largest balance sheet total shall establish, manage and chair the group-level college. <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), fourth subparagraph				
170	By way of derogation from the third subparagraph, where the application of the criteria referred to in that subparagraph would be inappropriate, the competent authorities may waive by common agreement those criteria and appoint a different CSD's competent authority to manage and chair the college, taking into account the CSDs concerned and the relative importance of their activities in the relevant Member States. In such cases, the parent CSD or the CSD with the largest balance sheet total, as applicable, shall have the right to	By way of derogation from the third subparagraph, where the application of the criteria referred to in that subparagraph would be inappropriate, the competent authorities may waive by common agreement those criteria and appoint a different CSD's competent authority to manage and chair the college, taking into account the CSDs concerned and the relative importance of their activities in the relevant Member States. In such cases, the parent CSD or the CSD with the largest balance sheet total, as applicable,	By way of derogation from the third subparagraph, where the application of the criteria referred to in that subparagraph would be inappropriate, the competent authorities may waive by common agreement those criteria and appoint a different CSD's competent authority to manage and chair the college, taking into account the CSDs concerned and the relative importance of their activities in the relevant Member States. In such cases, the parent CSD or the CSD with the largest balance sheet total, as applicable,	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	be heard before the competent authorities take the decision.	shall have the right to be heard before the competent authorities take the decision.	shall have the right to be heard before the competent authorities take the decision. <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), fifth subparagraph				
171	The competent authorities shall notify the Commission and ESMA without delay of any agreement made pursuant to the fourth subparagraph.	The competent authorities shall notify the Commission and ESMA without delay of any agreement made pursuant to the fourth subparagraph.	The competent authorities shall notify the Commission and ESMA without delay of any agreement made pursuant to the fourth subparagraph. <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1a)				
171a			<u>2. The college shall be established within one month from the date when:</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1a), point (a)				
171b			<u>(a) the competent authority of the home Member State determined that the activities carried out by the CSD in at least two host Member States are of substantial importance; or</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1a), point (b)				
171c			<u>(b) the competent authority of the home Member State is notified by one of the entities listed in paragraph 3 that the activities</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>carried out by the CSD in at least two host Member States are of substantial importance.</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1b)				
R	171d		<u>The competent authority of the home Member State shall manage and chair the college.</u>	R
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2)				
G	172	2. The college referred to in paragraph 1 shall consist of:	23 . The college referred to in paragraph 1 shall consist of:	2. The college referred to in paragraph 1 shall consist of: Text Origin: Commission Proposal
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (a)				
R	173	(a) ESMA;	(a) ESMA, <u>as the chair of the college</u> ;	(a) ESMA;
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (b)				
	174	(b) the competent authority of the CSD's home Member State;	(b) the competent authority of the CSD's home Member State;	(b) the competent authority of the CSD's home Member State;
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (c)				
G	175	(c) the relevant authorities referred to in Article 12;	(c) the relevant authorities referred to in Article 12;	(c) the relevant authorities referred to in Article 12;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (d)				
176	(d) in the case of a passporting college, the competent authority of the host Member States;	(d) in the case of a passporting college, the competent authority of the host Member States <u>the competent authority of the host Member States where the CSD is of substantial importance</u> ;	(d) in the case of a passporting college, the competent authority of the host Member States <u>the competent authorities of the host Member States in relation to which the condition set in paragraph 1 is fulfilled</u> ;	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (da)				
R 176a			<u>(da) the competent authorities of the host Member States other than those referred to in point (d), upon their justified request</u> ;	R
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (db)				
176b			<u>(db) third-country authorities, upon their justified request</u> ;	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (e)				
R 177	(e) in the case of a group-level college, the competent authority and the relevant authorities of each CSD in the group;	(e) in the case of a group-level college, the competent authority and the relevant authorities of each CSD in the group ;	(e)(h)) in the case of a group-level college <u>where a CSD is part of a group</u> , the competent authority and the relevant authorities <u>authorities of the home Member State</u> of each CSD in the group ; .	R

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (f)			
G	178 (f) EBA, where a CSD has been authorised pursuant to Article 54(3).	(f) EBA, where a CSD has been authorised pursuant to Article 54(3).	(f) EBA, where a CSD has been authorised pursuant to Article 54(3).	(f) EBA, where a CSD has been authorised pursuant to Article 54(3). Text Origin: Commission Proposal
R	178a	<u>2a. Where a CSD for which a college is established in accordance with paragraph 1 is not of substantial importance in a Member State where a subsidiary belonging to the same group of companies as the CSD, or its parent undertaking, is established or where the CSD for which a college is established is entitled to provide services in another Member State in accordance with Article 23(2), the competent authority and relevant authorities of that Member State shall be able to participate in the college established in accordance with paragraph 1 of this Article upon their request.</u>		
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), first subparagraph -a			
	178b			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>. The members of a college other than its chair may decide not to participate in a meeting of the college.</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), first subparagraph -b				
178c			<u>The chair may decide to invite additional participants to the discussions of the college, such as authorities of the home or host Member States other than those referred to in points (b) to (e) of the first subparagraph.</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), first subparagraph				
179	3. Where a CSD subject to the procedure referred to in Article 23(3) to (7) is also part of a group that comprises two or more CSDs and its competent authority is the chair of the group-level college, that competent authority may decide that only one college shall be established for the purposes of paragraph 1, points (a) and (b), of this Article for that CSD. Where any of the other CSDs within the group are also subject to the procedure referred to in Article 23(3) to (7), the chair of the college may make that decision only with the agreement of the competent authorities of those CSDs.	3. Where a CSD subject to the procedure referred to in Article 23(3) to (7) is also part of a group that comprises two or more CSDs and its competent authority is the chair of the group-level college, that competent authority may decide that only one college shall be established for the purposes of paragraph 1, points (a) and (b), of this Article for that CSD. Where any of the other CSDs within the group are also subject to the procedure referred to in Article 23(3) to (7), the chair of the college may make that decision only with the agreement of the competent authorities of those CSDs.	3. Where a CSD subject to the procedure referred to in Article 23(3) to (7) is also part of a group that comprises two or more CSDs and its competent authority is the chair of the group-level college, that competent authority may decide that only one college shall be established for the purposes of paragraph 1, points (a) and (b), of this Article for that CSD. Where any of the other CSDs within the group are also subject to the procedure referred to in Article 23(3) to (7), the chair of the college may make that decision only with the agreement of the competent authorities of those CSDs. <u>deleted</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), second subparagraph				
180	Where a college established pursuant to the first subparagraph:	Where a college established pursuant to the first subparagraph:	Where a college established pursuant to the first subparagraph: <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), second subparagraph, point (a)				
181	(a) convenes for the exercise of the tasks referred to in paragraph 6, points (a) to (d), of this Article , the authorities referred to in paragraph 2, points (a) to (f) of this Article in relation to each CSD within the group shall participate to that meeting of the college;	(a) convenes for the exercise of the tasks referred to in paragraph 6, points (a) to (d), of this Article , the authorities referred to in paragraph 2, points (a) to (f) of this Article in relation to each CSD within the group shall participate to that meeting of the college;	(a) convenes for the exercise of the tasks referred to in paragraph 6, points (a) to (d), of this Article , the authorities referred to in paragraph 2, points (a) to (f) of this Article in relation to each CSD within the group shall participate to that meeting of the college; <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), second subparagraph, point (b)				
182	(b) convenes for the exercise of the tasks referred to in paragraph 6, point (e), of this Article only the authorities referred to, in paragraph 2, points (a), (b), (c), (e) and, where applicable, (f) of this Article shall participate to that meeting of the college.	(b) convenes for the exercise of the tasks referred to in paragraph 6, point (e), of this Article only the authorities referred to, in paragraph 2, points (a), (b), (c), (e) and, where applicable, (f) of this Article shall participate to that meeting of the college.	(b) convenes for the exercise of the tasks referred to in paragraph 6, point (e), of this Article only the authorities referred to, in paragraph 2, points (a), (b), (c), (e) and, where applicable, (f) of this Article shall participate to that meeting of the college. <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (4)				
183	4. The chair shall notify the composition of the college to	4. The chair shall notify the composition of the college to	4. The chair shall notify the composition of the college to	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	ESMA within 30 calendar days of the college's establishment and any change in its composition within 30 calendar days of that change. ESMA shall publish on its website without undue delay the list of the members of that college and keep that list up-to-date.	ESMA <u>all relevant competent authorities</u> within 30 calendar days of the college's establishment and any change in its composition within 30 calendar days of that change. ESMA shall publish on its website without undue delay the list of the members of that college and keep that list up-to-date.	ESMA within 30-calendar days <u>one month</u> of the college's establishment and any change in its composition within 30-calendar days <u>one month</u> of that change. ESMA <u>and the competent authority of the home Member State</u> shall publish on its website without undue delay the list of the members of that college and keep that list up-to-date <u>updated</u> .	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (5)				
184	5. The competent authority of a Member State which is not a member of the college may request from the college any information relevant for the performance of its supervisory duties.	5. The competent authority of a Member State which is not a member of the college may request from the college any information relevant for the performance of its supervisory duties.	5. The competent authority of a Member State which is not a member of the college may request from the college any information relevant for the performance of its supervisory duties. <u>deleted</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph				
R 185	6. The college shall, without prejudice to the responsibilities of competent authorities under this Regulation, ensure:	6. The college shall, without prejudice to the responsibilities of competent authorities under this Regulation, ensure:	6.5. The college shall, without prejudice to the responsibilities of competent authorities under this Regulation, ensure <u>be established to facilitate</u> :	R
Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (a)				
R 186	(a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15	(a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15	(a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15	R

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and information on the review and evaluation process pursuant to Article 22;	and information on the review and evaluation process pursuant to Article 22;	and information on the review and evaluation process pursuant to Article 22;	
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (b)			
R	187 (b) more efficient supervision by avoiding unnecessary duplicative supervisory actions, such as information requests ;	(b) more efficient supervision by avoiding unnecessary duplicative supervisory actions, such as information requests ;	(b) more efficient supervision by avoiding unnecessary duplicative supervisory actions, such as information requests;	R
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (c)			
R	188 (c) agreement on the voluntary entrustment of tasks among its members.	(c) agreement on the voluntary entrustment of tasks among its members.	(c) <u>an</u> agreement on the voluntary entrustment of tasks among its members-;	R
R	188a	<u>(ca) the coordination of the supervisory review and evaluation processes pursuant to Articles 22 and 60 or that relate to the extension and outsourcing of activities and services under Article 19;</u>		R
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (d)			
R	189 (d) in the case of a passporting college, the cooperation of the home and host Member State pursuant to Article 24 and regarding the	(d) in the case of a passporting college , the cooperation of the home and host Member State pursuant to Article 24 and regarding the	(d) in the case of a passporting college , the cooperation of the home and host Member State pursuant to Article 24 and regarding the	R

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States;	measures referred to in Article 23(4) <u>23(3)</u> , point (e) and on any issues encountered in the provision of services in other Member States;	measures referred to in Article 23(4) <u>23(3)</u> , point (e) and on any issues encountered in the provision of services in other Member States;	
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (e)			
R	190	(e) in the case of a group-level college , the exchange of information on resources shared and outsourcing arrangements in place within a group of CSDs pursuant to Article 19, on significant changes to the structure and ownership of the group, and on changes in the organisation, senior management, processes or arrangements where those changes have a significant impact on governance or risk management for the CSDs belonging to the group.	(e) in the case of a group-level college , the exchange of information on resources shared <u>and approved</u> outsourcing arrangements in place within a group of CSDs <u>of core services</u> pursuant to Article 19, on significant changes to the structure and ownership of the group, and on changes in the organisation, senior management, processes or arrangements where those changes have a significant impact on governance or risk management for the CSDs belonging to the group.	
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (ea)			
R	190a		<u>(f) the exchange of information on senior management, management body and shareholders pursuant to Article 27.</u>	
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), second subparagraph			
R	191	The chair shall convene a meeting of the college at least once a year.	<u>6.</u> The chair shall convene a meeting of the college at least once	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			a year <u>annually or upon request of a member of the college.</u>	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), third subparagraph				
R	192	In order to facilitate the performance of the tasks assigned to colleges pursuant to the first subparagraph of this paragraph, members of the college referred to in paragraph 2 may add points to the agenda of a meeting.	In order to facilitate the performance of the tasks assigned to colleges pursuant to the first subparagraph of this paragraph, members of the college referred to in paragraph 2 may add points to the agenda of a meeting.	In order to facilitate the performance of the tasks assigned to colleges pursuant to the first subparagraph of this <u>the college</u> pursuant to paragraph <u>5</u> , members of the college referred to in paragraph 2 may add points to the agenda of a meeting.
R	192a			
		<u>6a. At the request of any of its members, and upon adoption by a majority of the college in accordance with paragraph 6b, the college shall adopt formal opinions with regard to issues identified during the review and evaluation processes pursuant to Article 22 or 60, or that relate to any extension or outsourcing of activities and services under Article 19, or concerning any potential breach of requirements laid down in this Regulation arising from the provision of services in a host Member State as referred to in Article 24(5).</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
R	192b	<u>6b. The college shall adopt its formal opinions on the basis of a simple majority of its members. Each member of the college shall have one vote. Members of the college that act in more than one capacity, including as competent authority and as relevant authority, shall have one vote for each capacity in which they act.</u>	PUBLIC	R
	192c	<u>Where EBA is a member of the college pursuant to paragraph 2, its voting member shall have voting rights only on those opinions that relate to issues identified during the review and evaluation process pursuant to Article 60.</u>		
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (7), first subparagraph			
	193	7. The establishment and functioning of the college shall be based on a written agreement between all its members.	7. The establishment and functioning of the college shall be based on a written agreement between all its members.	
	Article 1, first paragraph, point (9), amending provision, numbered paragraph (7), second subparagraph			
	194	That agreement shall determine the practical arrangements for the functioning of the college, including	That agreement shall determine the practical arrangements for the functioning of the college, including	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the modalities of communication amongst college members, and may determine tasks to be entrusted to the CSD's competent authority or another member of the college.	including as well as the modalities of communication amongst college members, and may determine tasks to be entrusted to the CSD's competent authority or another member of the college <u>for inviting other relevant authorities on an ad hoc basis and for specific topics.</u>	the modalities of communication amongst college members, and may determine tasks to be entrusted to the CSD's competent authority or another member <u>members</u> of the college.	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (8), first subparagraph				
R 195	8. ESMA shall develop draft regulatory technical standards specifying the details of the practical arrangements referred to in paragraph 7.	8. ESMA shall develop draft regulatory technical standards specifying the details of the practical arrangements referred to in paragraph 7.	8. ESMA shall develop draft regulatory technical standards specifying the details of the practical arrangements referred to in paragraph 7 <u>criteria under which the activities of a CSD in the host Member State could be considered to be of substantial importance for the functioning of the securities markets and the protection of the investors.</u>	TM 12.05. Linked to line 159 Council comment: Member States deem it appropriate that ESMA develops the RTS given the technical nature and the fact that ESMA has the relevant competence and data required for the task. Sensitive issue for Member States given that the criteria in the RTS is determining for the establishment of colleges Commission comment: the delegated act on the topic of "substantial importance" of CSDs already exist. There is a question whether the delegated act should be revisited or not.
Article 1, first paragraph, point (9), amending provision, numbered paragraph (8), second subparagraph				
G 196	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
	the date = 1 year after the date of entry into force of this Regulation].	the date = 1 year after the date of entry into force of this Regulation].	the date = 1 year after the date of entry into force of this Regulation].	the date = 1 year after the date of entry into force of this Regulation]. Text Origin: Commission Proposal	
Article 1, first paragraph, point (9), amending provision, numbered paragraph (8), third subparagraph					
G	197 Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	G
Article 1, first paragraph, point (10)					
G	198 (10) Article 25 is amended as follows:	(10) Article 25 is amended as follows:	(10) Article 25 is amended as follows:	(10) Article 25 is amended as follows: Text Origin: Commission Proposal	G
R	198a	<u><i>(-a) paragraph 2 is replaced by the following:</i></u>			R
R	198b				R

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		" <u><i>'2. Notwithstanding paragraph 1, a third-country CSD that intends to provide the core services referred to in Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in the second subparagraph of Article 49(1), or to set up a branch in a Member State, shall be subject to the procedure referred to in paragraphs 4 to 11 of this Article.'</i></u> "		
	Article 1, first paragraph, point (10)(a)			
Y	199	(a) the following paragraph 2a is inserted:	(a) the following paragraph 2a is inserted:	(a) the following paragraph 2a is inserted:
	Article 1, first paragraph, point (10)(a), amending provision, first paragraph			
Y	200	“ 2a. A third-country CSD that intends to provide the core service referred to in point (3) of Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph, shall submit a notification to ESMA.; ”	“ 2a. A third-country CSD that intends to provide the core service referred to in point (3) of Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph, shall submit a notification to ESMA.; ”	“ 2a. A third-country CSD that intends to provide the core service referred to in point (3) of Section A of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph, shall submit a notification to ESMA. <u>ESMA shall inform the competent authority of the Member State under whose law the financial instruments are</u> TM 15.11. Linked to 198b

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>constituted of the notification received.</u> ¹ ;	
G	200a	<u>(aa) in paragraph 4, the following point is inserted:</u>		<u>(aa) in paragraph 4, the following point is inserted:</u> Text Origin: EP Mandate
G	200b	“ <u>‘(ca) the CSD is established or authorised in a third country that is not considered to have strategic deficiencies in its national anti-money laundering and counter-terrorist financing regime that pose significant threats to the financial system of the Union, in accordance with Article 9 of Directive (EU) 2015/849 of the European Parliament and of the Council¹’;</u> ” <u>1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission</u>		“ <u>(ca) the CSD is established or authorised in a third country that is not identified as a high-risk country listed in the Delegated Act adopted pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council¹’;</u> ” <u>1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).</u>		TM 12.05. The text aligned to the Green Bonds Regulation and to the ELTIFs regulation. Text Origin: EP Mandate
Article 1, first paragraph, point (10)(b)				
201	(b) in paragraph 6, the fifth subparagraph is replaced by the following:	(b) in paragraph 6, the fifth subparagraph is replaced by the following:	(b) in paragraph 6, the fifth subparagraph is replaced by the following:	(b) in paragraph 6, the fifth subparagraph is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (10)(b), amending provision, first paragraph				
202	Within 6 months from the submission of a complete application or from the adoption of an equivalence decision by the Commission in accordance with paragraph 9, whichever is later, ESMA shall inform the applicant CSD in writing with a fully reasoned decision whether the recognition has been granted or refused.;	Within 6 months from the submission of a complete application or from the adoption of an equivalence decision by the Commission in accordance with paragraph 9, whichever is later, ESMA shall inform the applicant CSD in writing with a fully reasoned decision whether the recognition has been granted or refused.;	Within 6 six months from the submission of a complete application or from the adoption of an equivalence decision by the Commission in accordance with paragraph 9, whichever is later, ESMA shall inform the applicant CSD in writing with a fully reasoned decision whether the recognition has been granted or refused.;	Within 6 six months from the submission of a complete application or from the adoption of an equivalence decision by the Commission in accordance with paragraph 9, whichever is later, ESMA shall inform the applicant CSD in writing with a fully reasoned decision whether the recognition has been granted or refused.;
Article 1, first paragraph, point (10)(c)				
203				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(c) the following paragraph 13 is added:	(c) the following paragraph 13 is added:	(c) the following paragraph 13 is added:	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), first subparagraph				
204	13. ESMA shall develop draft regulatory technical standards to specify the information that the third-country CSD is to provide to ESMA in the notification referred to in paragraph 2a. Such information shall be limited to what is strictly necessary, including, where applicable and available:	13. ESMA shall develop draft regulatory technical standards to specify the information that the third-country CSD is to provide to ESMA in the notification referred to in paragraph 2a. Such information shall be limited to what is strictly necessary, including, where applicable and available:	13. ESMA shall develop draft regulatory technical standards to specify the information that the third-country CSD is to provide to ESMA in the notification referred to in paragraph 2a. Such information shall be limited to what is strictly necessary, including, where applicable and available:	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), first subparagraph, point (a)				
205	(a) the number of Union participants to whom the third-country CSD provides the services referred to in paragraph 2a;	(a) the number of Union participants to whom the third-country CSD provides the services referred to in paragraph 2a;	(a) the number of Union participants to whom the third-country CSD provides <u>or intends to provide</u> the services referred to in paragraph 2a;	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), first subparagraph, point (b)				
206	(b) the number and volume of transactions in financial instruments constituted under the law of a Member State settled during the previous year;	(b) the number and volume of transactions in financial instruments constituted under the law of a Member State settled during the previous year;	(b) the number and volume of transactions in financial instruments constituted under the law of a Member State settled during the previous year;	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), first subparagraph, point (c)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	207	(c) the number and volume of transactions settled by Union participants during the previous year.	(c) the number and volume of transactions settled by Union participants during the previous year.	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), second subparagraph				
Y	208	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation]. ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].	
Article 1, first paragraph, point (10)(c), amending provision, numbered paragraph (13), third subparagraph				
Y	209	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.; Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	
Article 1, first paragraph, point (10a)				
G	209a		<u>(10a) In Article 26, paragraph 3 is replaced by the following:</u>	<u>(10a) Article 26 is amended as follows:</u> <u>(a) the following second subparagraph is added to paragraph 2:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<u>"Where the CSD intends to provide banking-type ancillary services to other CSDs pursuant to point (a) of Article 54(2a), the CSD shall have in place clear rules and procedures addressing potential conflicts of interest and mitigating the risk of discriminatory treatment towards any such other CSDs and their participants."</u> <u>(b) paragraph 3 is replaced by the following:</u> TM 04.05: text of line 229g (new point in Art 59(3)) is moved here. TM 12.05. point (b) and replacement of paragraph 3 agreed Text Origin: Council Mandate
Article 1, first paragraph, point (10b)				
209b			<u>3. A CSD shall maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest between its participants or their clients and the CSD itself, including:</u>	<u>3. A CSD shall maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest between its participants or their clients and the CSD itself, including:</u> TM 12.05. Council change Art 26(3) to introduce close links (see line 209g and 209h) and new format with letter points. Agreed

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				COM comment: This paragraph applies to all CSDs. CRD applies automatically to CSDs with banking authorisation. Text Origin: Council Mandate
	Article 1, first paragraph, point (10b)(a)			
G	209c		<u>(a) the CSD's managers;</u>	<u>(a) the CSD's managers;</u> TM 12.05. agreed Text Origin: Council Mandate
	Article 1, first paragraph, point (10b)(b)			
G	209d		<u>(b) the CSD's employees;</u>	<u>(cd) the CSD's employees;</u> TM 12.05. agreed Text Origin: Council Mandate
	Article 1, first paragraph, point (10b)(c)			
G	209e		<u>(c) members of the CSD's management body;</u>	<u>(c) members of the CSD's management body;</u> TM 12.05. agreed Text Origin: Council Mandate
	Article 1, first paragraph, point (10b)(d)			
G	209f			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(d) any person with direct or indirect control over the CSD;</u>	<u>(d) any person with direct or indirect control over the CSD;</u> TM 12.05. agreed Text Origin: Council Mandate
Article 1, first paragraph, point (10b)(e)				
209g			<u>(e) any person with close links with any of the persons listed in points (a), (b) and (c); or</u>	<u>(e) any person with close links with any of the persons listed in points (a), (b) and (c); or</u> TM 12.05. New provision on close links, inspired from EMIR: EMIR Article 33(1): 1. A CCP shall maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest between itself, including its managers, employees, or any person with direct or indirect control or close links, and its clearing members or their clients known to the CCP. It shall maintain and implement adequate procedures aiming at resolving possible conflicts of interest. Close links defined in line 51g Text Origin: Council Mandate
Article 1, first paragraph, point (10b)(f)				
209h				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>(f) any person with close links with the CSD itself.</u>	<u>(f) any person with close links with the CSD itself.</u> TM 12.05. New provision on close links, inspired from EMIR: EMIR Article 33(1): 1. A CCP shall maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest between itself, including its managers, employees, or any person with direct or indirect control or close links, and its clearing members or their clients known to the CCP. It shall maintain and implement adequate procedures aiming at resolving possible conflicts of interest. Close links defined in line 51g Text Origin: Council Mandate
	Article 1, first paragraph, point (10c)			
209i			<u>. A CSD shall maintain and implement adequate resolution procedures where possible conflicts of interest occur.';</u>	<u>. A CSD shall maintain and implement adequate resolution procedures where possible conflicts of interest occur.';</u> TM 12.05. Originally in CSD Article 26(3) Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
209j				<u>(c) the following paragraph 9 is added:</u> <u>9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to further specify the details of the rules and procedures referred to in paragraph 2, second subparagraph.</u> <u>EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].</u> <u>Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.</u> TM 04.05: RTS corresponding to addition 209a - taken from line Art 59(9a) line 240a/240b
Article 1, first paragraph, point (11)				
210	(11) in Article 27, the following paragraph 3a is inserted:	(11) in Article 27, the following paragraph 3a is inserted:		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(11) in Article 27, the following paragraph 3a is inserted <u>is amended as follows:</u>	(11) in Article 27, the following paragraph 3a is inserted <u>is amended as follows:</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (11), amending provision, first paragraph -a			
6	210a		“ <u>in paragraph 2, the second subparagraph is inserted:</u>	6
	Article 1, first paragraph, point (11), amending provision, first paragraph			
6	211	“ 3a. For the purposes of paragraphs 2 and 3, independent member of the management body shall mean a member of the management body who has no business, family or other relationship that raises a conflict of interests regarding the CSD concerned or its controlling shareholders, its management or its participants, and who has had no such relationship during the five years preceding his membership of the management body; ”	3a. For the purposes of paragraphs 2 and 3, A member of the management body shall be considered to be independent member of the management body shall mean a member of the management body who has no when it does not have, and has not had during the previous five years, any business, family or other relationship that raises a conflict of interests <u>interest</u> regarding the CSD concerned or its controlling shareholders, its management or its participants, and who has had no such relationship during the five years preceding his membership of the management body. ; ”	“ 3a. For the purposes of paragraphs 2 and 3, An independent member of the management body shall mean a member of the management body who has no business, family or other relationship that raises a conflict of interests regarding the CSD concerned or its controlling shareholders, its management or its participants, and who has had no such relationship during the five years preceding his membership of the management body. TM 27.04: COM/EP text but accepting CNL structure. "participants" reinserted (in comparison to CNL text) to align with EP (and COM) texts Text Origin: EP Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (11), amending provision, first paragraph, point (a)			
G	211a		<u>(a) paragraphs 6 to 8 are replaced by the following:</u>	<u>(a) paragraphs 6 to 8 are replaced by the following:</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (11), amending provision, first paragraph, point (a)(i)			
G	211b		<u>'6. The competent authority shall not authorise a CSD unless it has been informed of the identities of the shareholders or members, whether direct or indirect, natural or legal persons, that have qualifying holdings in the CSD and of the amounts of those holdings.</u>	<u>6. The competent authority shall not authorise a CSD unless it has been informed of the identities of the shareholders or members, whether direct or indirect, natural or legal persons, that have qualifying holdings in the CSD and of the amounts of those holdings.</u> TM 27.04: CNL text aligned with EMIR Art 30(1) - Art 14(1) CRD Commission to come back on deletion of paragraph 6 of existing CSDR TM 11.05: COM no further comments on deletion of par 6, agreed. Text Origin: Council Mandate
	Article 1, first paragraph, point (11), amending provision, first paragraph, point (a)(ii)			
G	211c		<u>7. The competent authority shall refuse to authorise a CSD where it is not satisfied as to the suitability of the shareholders or members</u>	<u>7. The competent authority shall refuse to authorise a CSD where it is not satisfied as to the suitability of the shareholders or members</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>that have qualifying holdings in the CSD, taking into account the need to ensure the sound and prudent management of a CSD.</u>	<u>that have qualifying holdings in the CSD, taking into account the need to ensure the sound and prudent management of a CSD.</u> TM 27.04: CNL text aligned with EMIR Art 30(2) - Art14(2) CRD ex paragraph 6 of existing CSDR on "suitable" management is partly covered in this new paragraph 7. Text Origin: Council Mandate
Article 1, first paragraph, point (11), amending provision, first paragraph, point (a)(iii)				
211d			<u>8. Where close links exist between the CSD and other natural or legal persons, the competent authority shall grant authorisation only where those links do not prevent the effective exercise of the supervisory functions of the competent authority.';</u>	<u>8. Where close links exist between the CSD and other natural or legal persons, the competent authority shall grant authorisation only where those links do not prevent the effective exercise of the supervisory functions of the competent authority.';</u> TM 27.04: CNL text aligned with EMIR Art 30(3) + Art 14(3) CRD related definition of "close links" in line 51g Text Origin: Council Mandate
Article 1, first paragraph, point (11), amending provision, first paragraph, point (b)				
211e			<u>(b) the following paragraphs 9 to 11 are added:</u>	<u>(b) the following paragraphs 9 to 11 are added:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
	Article 1, first paragraph, point (11), amending provision, first paragraph, point (b)(i)			
y	211f		<u>9. Where the persons referred to in paragraph 6 exercise an influence which is likely to be prejudicial to the sound and prudent management of the CSD, the competent authority shall take appropriate measures to terminate that situation, which may include the withdrawal of the authorisation of the CSD.</u>	<u>9. Where the persons referred to in paragraph 6 exercise an influence which is likely to be prejudicial to the sound and prudent management of the CSD, the competent authority shall take appropriate measures to put an end to that situation, which may include the withdrawal of the authorisation of the CSD.</u> TM 27.04: CNL text aligned with EMIR Art 30(4) + CRD Art 26(2) EP note that equivalent provision on withdrawal does not exist in CRD. COM believe that in practice same power exists under CRD regime. Text Origin: Council Mandate
	Article 1, first paragraph, point (11), amending provision, first paragraph, point (b)(ii)			
g	211g		<u>10. The competent authority shall refuse authorisation where the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the CSD has close links, or difficulties involved in their enforcement, prevent the effective exercise of the</u>	<u>10. The competent authority shall refuse authorisation where the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the CSD has close links, or difficulties involved in their enforcement, prevent the effective exercise of the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>supervisory functions of the competent authority.</u>	<u>supervisory functions of the competent authority.</u> TM 27.04: CNL text aligned with EMIR Art 30(5) - Art 14(3) second subparagraph of CRD Text Origin: Council Mandate
Article 1, first paragraph, point (11), amending provision, first paragraph, point (b)(iii)				
G	211h		<u>11. A CSD shall, without delay:</u> ”	<u>11. A CSD shall, without delay:</u> TM 27.04: CNL text aligned to MiFID Art 46(2a) and correspond to ex-paragraph 7 of existing CSDR Text Origin: Council Mandate
Article 1, first paragraph, point (11a)				
Y	211i		<u>(a) provide the competent authority with, and make public, information regarding the ownership of the CSD, and, in particular, the identity and scale of interests of any person having a qualifying holding in the CSD;</u>	<u>(a) provide the competent authority with, and make public, information regarding the ownership of the CSD, and, in particular, the identity and scale of interests of any person having a qualifying holding in the CSD;</u> ” TM 27.04: CNL text aligned to MiFID Art 46(2a) point (a) + CRD Art 14(3), subparagraph 3 + correspond to ex-paragraph 7, point (a) of existing CSDR, but "any parties in a position to exercise control over the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				operation of the CSD" is replaced by "qualified holding" COM check if this change expands the scope Text Origin: Council Mandate
Article 1, first paragraph, point (11b)				
211j			<u>(b) make public the transfer of ownership rights that indicate a change in control over the CSD, after such a change in control has been approved by the competent authority.';</u>	<u>(b) make public the transfer of ownership rights that indicate a change in control over the CSD, after such a change in control has been approved by the competent authority.';</u> TM 27.04: CNL text aligned to MiFID Art 46(2a) point (b) + COM to check if similar disclosure requirement in CRD or level 2 + correspond to ex-paragraph 7, point (b) of existing CSDR, the steps are reversed TM 04.05: COM confirms that there is NO equivalent in CRD. This provision will also apply to banking CSDs as only Article 27a and 27b are disapplied for banking CSDs. Text Origin: Council Mandate
Article 1, first paragraph, point (11c)				
211k			<u>(11a) The following Articles 27a to 27c are inserted:</u>	<u>(11a) The following Articles 27a to 27c are inserted:</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph			
G	211l		" <u>'Article 27a</u> <u>Information to competent</u> <u>authorities</u>	" <u>'Article 27a</u> <u>Information to competent</u> <u>authorities</u> TM 27.04: Correspond to Art 30 and 31 of EMIR and similar to Art 22 and 25 CRD Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (1)			
G	211m		<u>1. A CSD shall notify its competent authority of any changes to its management, and shall provide the competent authority with all the information necessary to assess compliance with Article 27(1) and (4).</u>	<u>1. A CSD shall notify its competent authority of any changes to its management, and shall provide the competent authority with all the information necessary to assess compliance with Article 27(1) to (5).</u> TM 27.04: updated the reference to Art 27 (to double check) correspond to art 31(1) of EMIR Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (2)			
G	211n			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>Where the conduct of a member of the management body is likely to be prejudicial to the sound and prudent management of the CSD, the competent authority shall take appropriate measures, which may include removing that member from the management body.</u>	<u>Where the conduct of a member of the management body is likely to be prejudicial to the sound and prudent management of the CSD, the competent authority shall take appropriate measures, which may include removing that member from the management body.</u> TM 27.04: similar to Art 91(1), second subparagraph CRD Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (3)				
211o			<u>2. Any natural or legal person or such persons acting in concert (the 'proposed acquirer'), who have taken a decision either to acquire, directly or indirectly, a qualifying holding in a CSD or to further increase, directly or indirectly, such a qualifying holding in a CSD as a result of which the proportion of the voting rights or of the capital held would reach or exceed 10 %, 20 %, 30 % or 50 % or so that the CSD would become its subsidiary (the 'proposed acquisition'), shall first notify in writing the competent authority of the CSD in which they are seeking to acquire or increase a qualifying holding, indicating the size of the intended holding and relevant information, as referred to</u>	<u>2. Any natural or legal person or such persons acting in concert (the 'proposed acquirer'), who have taken a decision either to acquire, directly or indirectly, a qualifying holding in a CSD or to further increase, directly or indirectly, such a qualifying holding in a CSD as a result of which the proportion of the voting rights or of the capital held would reach or exceed 10 %, 20 %, 30 % or 50 % or so that the CSD would become its subsidiary (the 'proposed acquisition'), shall first notify in writing the competent authority of the CSD in which they are seeking to acquire or increase a qualifying holding, indicating the size of the intended holding and</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>in Article 27b(4). This natural or legal person shall also notify the CSD.</u>	<u>relevant information, as referred to in Article 27b(4).</u> TM 27.04: correspond Art 31(2) of EMIR and Art 22(1) CRD CNL agrees to drop last sentence. Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (4)				
211p			<u>Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in a CSD (the 'proposed vendor') shall first notify the competent authority in writing thereof, indicating the size of such holding. Such a person shall likewise notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below 10 %, 20 %, 30 % or 50 % or so that the CSD would cease to be that person's subsidiary. This natural or legal person shall also notify the CSD.</u>	<u>Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in a CSD (the 'proposed vendor') shall first notify the competent authority in writing thereof, indicating the size of such holding. Such a person shall likewise notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below 10 %, 20 %, 30 % or 50 % or so that the CSD would cease to be that person's subsidiary.</u> TM 27.04: correspond Art 31(2) of EMIR and Art 25 CRD CNL agrees to drop last sentence. Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (5)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
211q			<u>The competent authority shall, promptly and in any event within two working days of receipt of the notification referred to in this paragraph and of the information referred to in paragraph 3, acknowledge receipt in writing thereof to the proposed acquirer or proposed vendor.</u>	<u>The competent authority shall, promptly and in any event within two working days of receipt of the notification referred to in this paragraph and of the information referred to in paragraph 3, acknowledge receipt in writing thereof to the proposed acquirer or proposed vendor.</u> TM 27.04: correspond to Art 22(2) subparagraph 1 of CRD (as regards acquisitions) + Art 31(2) EMIR TM 25.05. the aim is to have the same wording as in EMIR Art 31(2) reads: The competent authority shall, promptly and in any event within two working days of receipt of the notification referred to in this paragraph and of the information referred to in paragraph 3, acknowledge receipt in writing thereof to the proposed acquirer or vendor". Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (6)				
211r			<u>The competent authority shall have a maximum of 60 working days as from the date of the written acknowledgement of receipt of the notification and all documents required to be attached to the notification on the basis of the list</u>	<u>2a. The competent authority shall have a maximum of 60 working days as from the date of the written acknowledgement of receipt of the notification and all documents required to be attached to the notification on the basis of the list</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>referred to in Article 27b(4) (the assessment period), to carry out the assessment provided for in Article 27b(1) (the assessment).</u>	<u>referred to in Article 27b(4) (the assessment period), to carry out the assessment provided for in Article 27b(1) (the assessment).</u> TM 27.04: correspond to Art 22(2) CRD + Art 31(2) EMIR + correspond to ex paragraph 8 of Art 27 CSDR (new paragraph to separate notifications from assessment) Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (7)			
Y	211s		<u>The competent authority shall inform the proposed acquirer or proposed vendor of the date of the expiry of the assessment period at the time of acknowledging receipt.</u>	<u>The competent authority shall inform the proposed acquirer or proposed vendor of the date of the expiry of the assessment period at the time of acknowledging receipt.</u> TM 27.04: correspond to Art 22(2) CRD (as regards acquirers, not vendors) + Art 31(2) EMIR Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (8)			
G	211t		<u>3. The competent authority may, during the assessment period, where necessary, but no later than on the 50th working day of the assessment period, request any further information that is</u>	<u>3. The competent authority may, during the assessment period, where necessary, but no later than on the 50th working day of the assessment period, request any further information that is</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.</u>	<u>necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.</u> TM 27.04: correspond to Art 22(3) of CRD + Art 31(3) EMIR Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (9)				
211u			<u>The assessment period shall be interrupted for the period between the date of request for information by the competent authority and the receipt of a response thereto by the proposed acquirer. The interruption shall not exceed 20 working days. Any further requests by the competent authority for completion or clarification of the information shall be at its discretion but may not result in an interruption of the assessment period.</u>	<u>The assessment period shall be interrupted for the period between the date of request for information by the competent authority and the receipt of a response thereto by the proposed acquirer. The interruption shall not exceed 20 working days. Any further requests by the competent authority for completion or clarification of the information shall be at its discretion but may not result in an interruption of the assessment period.</u> TM 27.04: correspond to Art 22(3) of CRD + Art 31(3) EMIR Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (10)				
211v			<u>The competent authority may extend the interruption referred to</u>	<u>4. The competent authority may extend the interruption referred to</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>in the second subparagraph of paragraph 3 up to 30 working days where the proposed acquirer is situated or regulated outside the Union.</u>	<u>in the second subparagraph of paragraph 3 up to 30 working days where the proposed acquirer is situated or regulated outside the Union or is a natural or legal person not subject to supervision under this Regulation or under Regulation (EU) No 648/2012 or under Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, or 2014/65/EU.</u> TM 27.04: correspond to Art 22(4) of CRD (with one difference not keeping point (b) on natural/legal person) + correspond to Art 31(4) EMIR (with two differences not keeping point (b) on natural/legal person + not keeping "vendor") Agree not to include "vendor", but decided to include point (b), updating the references to other legislations. Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (11)			
y	211w		<u>5. Where the competent authority, upon completion of the assessment, decides to oppose the proposed acquisition, it shall, within two working days, and not exceeding the assessment period, inform the proposed acquirer in writing and provide the reasons for that decision. Subject to national law,</u>	<u>5. Where the competent authority, upon completion of the assessment, decides to oppose the proposed acquisition, it shall, within two working days, and not exceeding the assessment period, inform the proposed acquirer in writing and provide the reasons for that decision. [The competent authority</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>an appropriate statement of the reasons for the decision may be made accessible to the public at the request of the proposed acquirer. However, a competent authority may make such disclosure also in the absence of a request by the proposed acquirer if so provided for by national law.</u>	<u>shall notify the college referred to in Article 24a accordingly.] Subject to national law, an appropriate statement of the reasons for the decision may be made accessible to the public at the request of the proposed acquirer. However, a competent authority may make such disclosure also in the absence of a request by the proposed acquirer if so provided for by national law.</u> TM 04.05: correspond to Art 31(5) EMIR except Council deleted a sentence to "notify the college" and add in last sentence "if so provided for by national law" + also correspond to MiFID Art 12(4) + correspond to CRD Art 22(5) - which does not contain a "notification" of colleges, but COM will check level 2 Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, first paragraph, point (12)				
211x			<u>6. Where the competent authority does not oppose the proposed acquisition within the assessment period, it shall be deemed to be approved.</u>	<u>6. Where the competent authority does not oppose the proposed acquisition within the assessment period, it shall be deemed to be approved.</u> TM 04.05: correspond to Art 22(6) CRD + 31(6) of EMIR + 12(5) MiFID Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (13)			
G	211y		<u>7. The competent authority may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.</u>	<u>7. The competent authority may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.</u> TM 04.05: correspond to Art 22(7) CRD + 31(7) of EMIR + 12(6) MiFID Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (14)			
G	211z		<u>8. If a CSD becomes aware of any acquisitions or disposals of holdings in its capital that cause holdings to exceed or fall below any of the thresholds referred to in the first subparagraph of paragraph 2, that CSD shall inform the competent authority without delay.</u>	TM 04.05: correspond to 11(3) MiFID, but Council agree to delete. Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, first paragraph, point (15)			
G	211aa		<u>9. Member States shall not impose requirements for notification to, and approval by, the competent authority of direct or indirect acquisitions of voting rights or</u>	<u>9. Member States shall not impose requirements for notification to, and approval by, the competent authority of direct or indirect acquisitions of voting rights or</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>capital that are more stringent than those set out in this Regulation.</u>	<u>capital that are more stringent than those set out in this Regulation.</u> TM 04.05: correspond to Art 22(8) CRD + 31(8) of EMIR + 12(7) MiFID Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph				
21lab			<u>Article 27b</u> <u>Assessment</u>	<u>Article 27b</u> <u>Assessment</u> Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (1)				
21lac			<u>1. When assessing the notification provided for in Article 27a(2) and the information referred to in Article 27a(3), the competent authority shall assess the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following:</u>	<u>1. When assessing the notification provided for in Article 27a(2) and the information referred to in Article 27a(3), the competent authority shall, in order to ensure the sound and prudent management of the CSD in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the CSD, assess the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following:</u> TM 04.05: correspond to Art 23(1) CRD + 32(1) of EMIR + 13(1) MiFID

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Council add deleted the wording "in order to ensure the sound and prudent management of the XX in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the XX" - agree to re-add it. Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (1)(a)				
21lad			<u>(a) the reputation and financial soundness of the proposed acquirer;</u>	<u>(a) the reputation and financial soundness of the proposed acquirer;</u> TM 04.05: correspond to Art 23(1) points (a) and (c) CRD + 32(1) point (a) of EMIR + 13(1) points (a) and (c) MiFID - difference with MiFID and CRD on financial soundness, missing "in particular in relation to the type of business pursued and envisaged in the credit institution in which the acquisition is proposed" Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (1)(b)				
21lae			<u>(b) the reputation and experience of any member of management body, any member of senior management and any person who will direct the business of the CSD</u>	<u>(b) the reputation, knowledge, skills and experience of any person who will direct the business of the CSD as a result of the proposed acquisition;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>as a result of the proposed acquisition;</u>	TM 04/05: + correspond to Art 23(1) point (b) CRD, but CRD has broader scope with "knowledge, skills" in addition to reputation and experience, but smaller scope on members - compromise agreed + similar to EMIR Art 32(1) point (b) and MiFID 13(1) point (b) Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (1)(c)				
211af			<u>(c) whether the CSD will be able to comply and continue to comply with this Regulation;</u>	<u>(c) whether the CSD will be able to comply and continue to comply with this Regulation;</u> TM 04.05: correspond to 32(1) point (c) of EMIR + similar (with some differences) to Art 23(1) point (d) CRD + 13(1) points (d) MiFID - last part is included in line 211ai Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (1)(d)				
211ag			<u>(d) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of Article 1 of Directive (EU) 2015/849 is being or has been</u>	<u>(d) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of Article 1 of Directive (EU) 2015/849 is being or has been</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>committed or attempted, or that the proposed acquisition could increase the risk thereof.</i></u>	<u><i>committed or attempted, or that the proposed acquisition could increase the risk thereof.</i></u> TM 04.05: correspond to 32(1) point (d) of EMIR + similar to Art 23(1) point (e) CRD + 13(1) points (e) MiFID Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, second paragraph, point (2)			
G	211ah		<u><i>When assessing the financial soundness of the proposed acquirer, the competent authority shall pay particular attention to the type of business pursued and envisaged in the CSD in which the acquisition is proposed.</i></u>	<u><i>When assessing the financial soundness of the proposed acquirer, the competent authority shall pay particular attention to the type of business pursued and envisaged in the CSD in which the acquisition is proposed.</i></u> TM 04.05: correspond to 32(1) second subparagraph of EMIR + correspond to Art 23(1) point (c) CRD + 13(1) points (c) MiFID Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, second paragraph, point (3)			
Y	211ai		<u><i>When assessing the CSD's ability to comply with this Regulation, the competent authority shall pay particular attention to whether the group of which it will become a part has a structure that makes it</i></u>	<u><i>When assessing the CSD's ability to comply with this Regulation, the competent authority shall pay particular attention to whether the group of which it will become a part has a structure that makes it</i></u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>possible to exercise effective supervision, to effectively exchange information among the competent authorities and to determine the allocation of responsibilities among the competent authorities.</u>	<u>possible to exercise effective supervision, to effectively exchange information among the competent authorities and to determine the allocation of responsibilities among the competent authorities.</u> TM 04.05: correspond to 32(1) third subparagraph EMIR + correspond to part of Art 23(1) point (d) CRD + 13(1) points (d) MiFID (in combination with 211af - EMIR includes an additional subparagraph with an opinion from the college - CNL prefers not to include it - COM check if similar provision in CRD - if not, ok to drop Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (4)				
211aj			<u>2. The competent authorities may oppose the proposed acquisition only where there are reasonable grounds for doing so on the basis of the criteria set out in paragraph 1 or where the information provided by the proposed acquirer is incomplete.</u>	<u>2. The competent authorities may oppose the proposed acquisition only where there are reasonable grounds for doing so on the basis of the criteria set out in paragraph 1 or where the information provided by the proposed acquirer is incomplete.</u> TM 04.05: correspond to 32(2) of EMIR + Art 23(2) CRD + 13(2) MiFID Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (5)				
G	211ak		<u>3. Member States shall neither impose any prior conditions in respect of the level of holding that shall be acquired nor allow their competent authorities to examine the proposed acquisition in terms of the economic needs of the market.</u>	<u>3. Member States shall neither impose any prior conditions in respect of the level of holding that shall be acquired nor allow their competent authorities to examine the proposed acquisition in terms of the economic needs of the market.</u> TM 04.05: correspond to 32(3) of EMIR + Art 23(3) CRD + 13(3) MiFID Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (6)				
G	211al		<u>4. Member States shall make publicly available a list specifying the information that is necessary to carry out the assessment and that shall be provided to the competent authorities at the time of notification referred to in Article 27a(2). The information required shall be proportionate and shall be adapted to the nature of the proposed acquirer and the proposed acquisition. Member States shall not require information that is not relevant for a prudential assessment.</u>	<u>4. Member States shall make publicly available a list specifying the information that is necessary to carry out the assessment and that shall be provided to the competent authorities at the time of notification referred to in Article 27a(2). The information required shall be proportionate and shall be adapted to the nature of the proposed acquirer and the proposed acquisition. Member States shall not require information that is not relevant for a prudential assessment.</u> TM 04.05: correspond to 32(4) of EMIR + Art 23(4) CRD + 13(4) MiFID

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, second paragraph, point (7)			
G	211am		<u>5. Notwithstanding Article 27a(2), (3) and (4), where two or more proposals to acquire or increase qualifying holdings in the same CSD have been notified to the competent authority, the latter shall treat the proposed acquirers in a non-discriminatory manner.</u>	<u>5. Notwithstanding Article 27a(2), (3) and (4), where two or more proposals to acquire or increase qualifying holdings in the same CSD have been notified to the competent authority, the latter shall treat the proposed acquirers in a non-discriminatory manner.</u> TM 04.05: correspond to 32(5) of EMIR + Art 23(5) CRD + 13(5) MiFID Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, second paragraph, point (8)			
Y	211an		<u>6. The competent authorities shall, without undue delay, provide each other with any information which is essential or relevant for the assessment. The competent authorities shall, upon request, communicate all relevant information to each other and shall communicate all essential information at their own initiative. A decision by the competent authority that has authorised the CSD in which the acquisition is proposed shall indicate any views or reservations expressed by the</u>	<u>6. The competent authorities shall, without undue delay, provide each other with any information which is essential or relevant for the assessment. The competent authorities shall, upon request, communicate all relevant information to each other and shall communicate all essential information at their own initiative. A decision by the competent authority that has authorised the CSD in which the acquisition is proposed shall indicate any views or reservations expressed by the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>competent authority responsible for the proposed acquirer.</u>	<u>competent authority responsible for the proposed acquirer.</u> TM 04.05: Council has not included Art 32(6) of EMIR + Article 24 of CRD - to check why it is not included *Art 14 of current CSDR covers cooperation between competent authorities this text in paragraph 6 corresponds to Art 24(2) of CRD + Art 32(7) of EMIR Text Origin: Council Mandate
	Article 1, first paragraph, point (11c), amending provision, second paragraph, point (9)			
211ao			<u>7. ESMA shall, in close cooperation with EBA, issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 on the assessment of suitability of the members of the management body, members of the senior management or any person who will direct the business of the CSD, as well as on the procedural rules and evaluation criteria for the prudential assessment of direct or indirect acquisitions and increases of holdings in CSDs.</u>	<u>7. ESMA shall, in close cooperation with EBA, issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 on the assessment of suitability of any person who will direct the business of the CSD, as well as on the procedural rules and evaluation criteria for the prudential assessment of direct or indirect acquisitions and increases of holdings in CSDs.</u> TM 04.05: wording adapted to line 211ae + existing guidelines JC/GL2016/01 - Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector - which already applies

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				under CRD/EMIR... - this existing guidelines could be expanded to CSDs Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (10)				
211ap			<u>(10) Article 27c</u>	<u>Article 27c</u> <u>Derogation for CSDs providing banking-type ancillary services</u> TM 04.05: added a title Text Origin: Council Mandate
Article 1, first paragraph, point (11c), amending provision, second paragraph, point (11)				
211aq			<u>(11) Articles 27a and 27b shall not apply to a CSD which has been authorised pursuant to Article 54(3) and is subject to relevant rules as set in Directive 2013/36/EU.;</u>	<u>Articles 27a and 27b shall not apply to a CSD which has been authorised pursuant to Article 54(3) and is subject to relevant rules as set in Directive 2013/36/EU.;</u> TM 04.05: agreed Text Origin: Council Mandate
Article 1, first paragraph, point (12)				
212	(12) in Article 28, paragraph 3 is replaced by the following:	(12) in Article 28, paragraph 3 is replaced by the following:	(12) in Article 28, paragraph 3 is replaced by the following:	(12) in Article 28, paragraph 3 is replaced by the following: Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (12), amending provision, numbered paragraph (3)			
213	3. User committees shall advise the management body on key arrangements that impact on their members, including the criteria for accepting issuers or participants in their respective securities settlement systems and on service level, which includes the choice of a clearing and settlement arrangement, operating structure of the CSD, scope of products settled or recorded, and the use of technology and procedures for the operations of the CSD .;	3. User committees shall advise the management body on key arrangements that impact on their members, including the criteria for accepting issuers or participants in their respective securities settlement systems and on service level, which includes the choice of a clearing and settlement arrangement, operating structure of the CSD, scope of products settled or recorded, and the use of technology and procedures for the operations of the CSD .;	3. User committees shall advise the management body on key arrangements that impact on their members, including the criteria for accepting issuers or participants in their respective securities settlement systems and on service level, which includes the choice of a clearing and settlement arrangement, operating structure of the CSD, scope of products settled or recorded, and the use of technology and procedures for the operations of the CSD-²;	3. User committees shall advise the management body on key arrangements that impact on their members, including the criteria for accepting issuers or participants in their respective securities settlement systems and on service level, which includes the choice of a clearing and settlement arrangement, operating structure of the CSD, scope of products settled or recorded, and the <u>the</u> use of technology and procedures for the operations of the CSD, <u>and relevant procedures</u>-²; TM 12.05. Compromise agreed. EP procedures are much more technical than arrangements, therefore they would deserve to be mentioned separately. Text Origin: Council Mandate
213a		<u>(12a) in Article 29, the following paragraph is inserted:</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	213b	" <u>'2a. Prior to using the services of a CSD, an issuer shall be required to obtain and transmit to the CSD a valid legal entity identifier (LEI). A CSD shall not provide services under this Regulation to an issuer prior to obtaining the LEI from that issuer.'</u> "	PUBLIC	TM 12.05. COM comment: for the sake of the second sentence of EP text, a transition period or a delayed application is needed. COM has not analysed the impact of such a requirement. EP will check whether there is a different place in the regulation to incorporate this provision. The second sentence covers the first one.
Article 1, first paragraph, point (13)				
G	214	(13) Article 36 is replaced by the following:	(13) Article 36 is replaced by the following:	(13) Article 36 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (13), amending provision, first paragraph				
G	215	“ Article 36	“ Article 36	“ Article 36 Text Origin: Commission Proposal
Article 1, first paragraph, point (13), amending provision, second paragraph				
G	216	General provisions	General provisions	General provisions Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (13), amending provision, third paragraph				
217	For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.; ”	For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.; ”	For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.; ”	For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.; ” Text Origin: Commission Proposal
Article 1, first paragraph, point (14)				
218	(14) in Article 40, paragraph 2 is replaced by the following:	(14) in Article 40, paragraph 2 is replaced by the following:	(14) in Article 40, paragraph 2 is replaced by the following:	(14) in Article 40, paragraph 2 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (14), amending provision, numbered paragraph (2)				
219	2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution, through a CSD	2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution, through a CSD	2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution, through a CSD	2. Where it is not practical and available to settle in central bank accounts as provided in paragraph 1, a CSD may offer to settle the cash payments for all or part of its securities settlement systems through accounts opened with a credit institution, through a CSD

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;	that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;	that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;	that is authorised to provide the services listed in Section C of the Annex whether within the same group of undertakings ultimately controlled by the same parent undertaking or not, or through its own accounts. If a CSD offers to settle in accounts opened with a credit institution, through its own accounts or the accounts of another CSD, it shall do so in accordance with the provisions of Title IV.;
Text Origin: Council Mandate				
Article 1, first paragraph, point (14a)				
219a		<u>(14a) in Article 47, paragraph 2 is replaced by the following:</u>	<u>(14a) in Article 47, paragraph 2 is deleted;</u>	<u>(14a) in Article 47, paragraph 2 is deleted;</u> TM 24.05. moved to Article 22, line ... Text Origin: Council Mandate
219b		" <u>'2. A CSD shall maintain a plan for the following:</u>		TM 24.05. moved to Article 22
219c		<u>(a) the raising of additional capital should its equity capital approaches or falls below the</u>		TM 24.05. moved to Article 22

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>requirements laid down in paragraph 1;</u>		
G	219d	<u>(b) enabling the orderly winding-down or restructuring of its operations and services where the CSD is unable to raise new capital.</u>		TM 24.05. moved to Article 22
G	219e	<u>The plan required under point (b) of the first subparagraph shall be drafted in accordance with Article 22.;</u> "		TM 24.05. Covered by Art 22
G	219f	<u>(14b) the following Article is inserted:</u>		<u>(14b) the following Article is inserted:</u> Text Origin: EP Mandate
G	219g	" <u>'Article 47a</u>		" <u>'Article 47a</u> Text Origin: EP Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	219h	<u>Netting</u>		<u>Deferred net settlement</u> TM 24.05. The title harmonised to the content of the compromise text. Text Origin: EP Mandate
Y	219i	<u>1. CSDs applying netting arrangements and in particular deferred net settlement systems shall clearly define the rules and procedures applicable to netting and for the settlement of participants' net claims and obligations.</u>		<u>1. A CSD that uses deferred net settlement shall define the rules and procedures applicable to that mechanism as well as for the settlement of participants' net claims and obligations.</u> TM 27.04: provisional compromise to limit the scope to deferred net settlements. Definition in line 51e CNL come back Text Origin: EP Mandate
Y	219j	<u>2. CSDs applying netting arrangements shall measure, monitor and manage the credit and liquidity risks arising from netting arrangements, in particular deferred net settlement systems.</u>		<u>2. CSDs using deferred net settlement shall measure, monitor, manage and report to competent authorities the credit and liquidity risks arising from that mechanism.</u> TM 27.04: provisional compromise Text Origin: EP Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	219k	<u>3. ESMA shall, in close cooperation with EBA and the members of the ESCB, develop draft regulatory technical standards to further specify details of the frameworks for the monitoring, measuring, management, reporting and public disclosure of the risks in relation to netting arrangements, in particular deferred net settlement systems.</u>		<u>3. ESMA shall, in close cooperation with EBA and the members of the ESCB, develop draft regulatory technical standards to specify the details of the measuring, monitoring, management and reporting of the credit and liquidity risks in relation to deferred net settlement.</u> TM2704: provisional compromise Text Origin: EP Mandate
Y	219l	<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';</u>		<u>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.';</u> TM 2704: provisional compromise Text Origin: EP Mandate
	Article 1, first paragraph, point (15)			
G	220			G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(15) in Article 49(1), the second and the third subparagraphs are replaced by the following:	(15) in Article 49(1), the second and the third subparagraphs are replaced by the following:	(15) in Article 49(1), the second and the third subparagraphs are replaced by the following:	(15) in Article 49(1), the second and the third subparagraphs are replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (15), amending provision, first paragraph				
221	Without prejudice to the issuer's right referred to in the first subparagraph, the corporate or similar law of the Member State under which the securities are constituted shall continue to apply. The corporate or similar law of the Member State under which the securities are constituted includes:	Without prejudice to the issuer's right referred to in the first subparagraph, the corporate or similar law of the Member State under which the securities are constituted shall continue to apply. The corporate or similar law of the Member State under which the securities are constituted includes:	Without prejudice to the issuer's right referred to in the first subparagraph, the corporate or similar law of the Member State under which the securities are constituted shall continue to apply. The corporate or similar law of the Member State under which the securities are constituted includes:	Without prejudice to the issuer's right referred to in the first subparagraph, the corporate or similar law of the Member State under which the securities are constituted shall continue to apply. The corporate or similar law of the Member State under which the securities are constituted includes: Text Origin: Council Mandate
Article 1, first paragraph, point (15), amending provision, first paragraph, point (a)				
222	(a) the corporate or similar law of the Member State where the issuer is established; and	(a) the corporate or similar <u>for shares, the</u> law of the Member State where the issuer is established; and	(a) the corporate or similar law of the Member State where the issuer is established <u>incorporated</u> ; and	(a) the corporate or similar law of the Member State where the issuer is established <u>incorporated</u> ; and TM 11.05.: the same for line 223: Council agrees with Article 49 included in this compromise but not with EP text. -Both EP and Council agree that the goal is to alleviate the passporting process.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	-Compromise on point (a) and (b) reflects Q&A9 from ESMA and therefore current practice. -EP and Council to consider whether this could be solved under Article 23 (2) with the reference Article 49(1), second subparagraph, [point (a)] -Assessment was referred in ESMA recommendation quoted by EP. However, assessment in the EP and Council text both agree to require an assessment only for shares. Text Origin: Council Mandate
Article 1, first paragraph, point (15), amending provision, first paragraph, point (b)				
Y	223	(b) <u>for securities other than shares, the law of the Member State</u> the governing corporate or similar law under which the securities are issued.	(b) the governing corporate or similar law <u>of the Member State</u> under which the securities are issued.	(b) the governing corporate or similar law <u>of the Member State</u> under which the securities are issued. 11.05.: see remark to line 223 Text Origin: Council Mandate
Article 1, first paragraph, point (15), amending provision, second paragraph				
G	224	Member States shall compile a list of key relevant provisions of their law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by 18 December 2014. ESMA shall publish the list by 18 January 2015. Member States shall	Member States shall compile a list of key relevant provisions of their law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by 18 December 2014. ESMA shall publish the list by 18 January 2015. Member States shall	Member States shall compile a list of key relevant provisions of their <u>corporate or similar</u> law, as referred to in the second subparagraph, <u>including a general description of the main principles applicable in the context of the provision of the core services</u> Member States shall compile a list of key relevant provisions of their <u>corporate or similar</u> law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by 18 December 2014... <u>[PO please insert the date =</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	update that list regularly and at least every 2 years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;	update that list regularly and at least every 2 years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;	<u>referred to in point 1 and 2 of Section A of the Annex on a cross border basis in accordance with these provisions.</u> Competent authorities shall communicate that list to ESMA by 18 December 2014 ... <u>[PO please insert the date = 1 year after the entry into force of this Regulation]</u> . ESMA shall publish the list by 18 January 2015 ... <u>[PO please insert the date = 1 year and one month after the entry into force of this Regulation]</u> . Member States shall update that list regularly and at least every 2 <u>two</u> years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;	<u>1 year after the entry into force of this Regulation]</u> . ESMA shall publish the list by 18 January 2015 ... <u>[PO please insert the date = 1 year and one month after the entry into force of this Regulation]</u> . Member States shall update that list regularly and at least every 2 <u>two</u> years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.;
Article 1, first paragraph, point (16)				
225	(16) in Article 52, paragraph 1 is replaced by the following:	(16) in Article 52, paragraph 1 is replaced by the following:	(16) in Article 52, paragraph 1 is replaced by the following:	(16) in Article 52, paragraph 1 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (16), amending provision, numbered paragraph (1)				
226	1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving	1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving	1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving	1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	CSD shall treat such request promptly and shall provide a response to the requesting CSD within 3 months. If the receiving CSD agrees to the request, the link shall be implemented within a reasonable timeframe, but no longer than 12 months.;	CSD shall treat such request promptly and shall provide a response to the requesting CSD within 3 months. If the receiving CSD agrees to the request, the link shall be implemented within a reasonable timeframe, but no longer than 12 months.;	CSD shall treat such request promptly and shall provide a response to the requesting CSD within 3 ^{three} months. If the receiving CSD agrees to the request, the link shall be implemented within a reasonable timeframe, but no longer than 12 months. ³ ;	CSD shall treat such request promptly and shall provide a response to the requesting CSD within 3 ^{three} months. If the receiving CSD agrees to the request, the link shall be implemented within a reasonable timeframe, but no longer than 12 months. ³ ; Text Origin: Council Mandate
	Article 1, first paragraph, point (17)			
G	227 (17) Article 54 is amended as follows:	(17) Article 54 is amended as follows:	(17) Article 54 is amended as follows:	(17) Article 54 is amended as follows: Text Origin: Commission Proposal
	Article 1, first paragraph, point (17)(a)			
Y	228 (a) in paragraph 2, point (b) is replaced by the following:	(a) in paragraph 2, point (b) is replaced by the following:	(a) in -paragraph 2, point (b) is replaced by the following:	(a) in -paragraph 2, point (b) is replaced by the following: Text Origin: Council Mandate
	Article 1, first paragraph, point (17)(a), amending provision, first paragraph			
Y	229 (b) to designate for that purpose one or more credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU or a CSD authorised to provide	(b) to designate for that purpose one or more credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU or a CSD authorised to provide	(b)2. <u>A CSD that intends to settle the cash leg of all or part of its securities settlement system</u> to designate for that purpose one or more credit institutions authorised	(b)2. <u>A CSD that intends to settle the cash leg of all or part of its securities settlement system through its own accounts</u> to designate for that purpose one or

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	banking-type ancillary services pursuant to paragraph 3 of this Article.	banking-type ancillary services pursuant to paragraph 3 of this Article.	in accordance with Article 8 of Directive 2013/36/EU or a CSD authorised <u>40(2) or otherwise wishes</u> to provide <u>any</u> banking-type ancillary services pursuant to referred to in paragraph 3 of 1 <u>shall be authorised to offer such services in accordance with</u> this Article. <u>;</u>	more credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU or a CSD authorised <u>40(2) or otherwise wishes</u> to provide <u>itself any</u> banking-type ancillary services pursuant to referred to in paragraph <u>1 shall be authorised under the conditions specified in paragraphs 3, 6, 7, 8 and 9a</u> 3 of this Article.
				TM 04.05: agreed to use CNL text with "accounts" in plural. decision on structure still open Text Origin: Council Mandate
Article 1, first paragraph, point (17)(aa)				
Y	229a		<u>(aa) the following paragraph 2a is added:</u>	<u>(aa) the following paragraph 2a is added:</u> Text Origin: Council Mandate
Article 1, first paragraph, point (17)(aa)(i)				
Y	229b		<u>'2a. A CSD that intends to settle the cash leg of all or part of its securities settlement system in accordance with Article 40(2) shall be authorised either:</u>	<u>'2a. A CSD that intends to settle the cash leg of all or part of its securities settlement system through accounts opened with a credit institution or a CSD in accordance with Article 40(2) shall be authorised, under the conditions specified in paragraphs 3 to 9a of</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
				<u>this Article, to designate for that purpose one or more:</u> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open Text Origin: Council Mandate	
	Article 1, first paragraph, point (17)(aa)(i), first indent				
Y	229c		<u>(a) to designate a CSD authorised to provide banking-type ancillary services pursuant to paragraph 3 of this Article; or</u>	<u>(a) CSDs authorised to provide banking-type ancillary services pursuant to paragraph 3 of this Article; or</u> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open Text Origin: Council Mandate	Y
	Article 1, first paragraph, point (17)(aa)(i), second indent				
Y	229d		<u>(b) to designate for that purpose one or more credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU.;</u>	<u>(b) credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU.</u> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open	Y
Y	229e				Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<u>An authorisation to designate CSDs or credit institutions in accordance with the first subparagraph shall only be used to provide the banking-type ancillary services referred to in Section C of the Annex for the settlement of the cash leg for all or part of the securities settlement system of the CSD seeking to use the banking-type ancillary services, and not to carry out any other activities.</u> <u>[The credit institutions and CSDs authorised to provide banking-type ancillary services designated in accordance with the first subparagraph shall be considered to be settlement agents.]</u> TM 04.05: added two new subparagraphs. First subparagraph corresponds to part of the EP text in lines 233b/233c. decision on structure still open. Second subparagraph taken from last sentence of Art 54(6) of current CSDR
Article 1, first paragraph, point (17)(ab)				
229f		<u>(aa) in paragraph 3, first subparagraph, the following point is added:</u>	<u>(b) in paragraph 3, the following points (g) and (h) are added:</u>	TM 04.05: agreed not to include the two points below in the Art 54(3), but moved elsewhere.
Article 1, first paragraph, point (17)(ab), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	229g	" <u>(fa) where the CSD intends to provide banking-type ancillary services to other CSDs in accordance with paragraph 2, point (b), the CSD has in place clear rules and procedures addressing potential conflicts of interest and mitigating the risk of discriminatory treatment towards any other such CSDs and their participants.;</u> "	" <u>(g) where the CSD intends to provide banking-type ancillary services to other CSDs in accordance with the second subparagraph of paragraph 2, the CSD has in place clear rules and procedures addressing potential conflicts of interest and mitigating the risk of discriminatory treatment towards any such other CSDs and their participants;</u> "	TM 04.05: agreed to move this point to Art 26(2) - see line 209a
Article 1, first paragraph, point (17)(ac)				
G	229h		<u>(h) where the CSD intends to provide banking-type ancillary services to other CSDs in accordance with the second subparagraph of paragraph 2, the CSD has in place clear rules and procedures addressing any potential credit, liquidity and concentration risks resulting from such activity. ';</u>	TM 04.05: agreed to move this point to Art 59(4a) - see line 252b
Article 1, first paragraph, point (17)(b)				
G	230	(b) in paragraph 4, the first subparagraph is amended as follows:	(b) in paragraph 4, the first subparagraph is amended as follows: <u>deleted</u>	(b) in paragraph 4, the first subparagraph is amended as follows:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (17)(b)(i)				
231	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following: <u>deleted</u>	(i) the introductory wording is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (17)(b)(i), amending provision, first paragraph				
232	“ Where a CSD seeks to designate a credit institution or use a CSD that is authorised pursuant to paragraph 3 to provide any banking-type ancillary services from within a separate legal entity, which may be part of the group to which the former CSD belongs, whether or not ultimately controlled by the same parent undertaking, the authorisation referred to in paragraph 2 shall be granted only where the following conditions are met:; ”	“ Where a CSD seeks to designate a credit institution or use a CSD that is authorised pursuant to paragraph 3 to provide any banking-type ancillary services from within a separate legal entity, which may be part of the group to which the former CSD belongs, whether or not ultimately controlled by the same parent undertaking, the authorisation referred to in paragraph 2 shall be granted only where the following conditions are met:; ”	“ Where a CSD seeks to designate a credit institution or use a CSD that is authorised pursuant to paragraph 3 to provide any banking-type ancillary services from within a separate legal entity, which may be part of the group to which the former CSD belongs, whether or not ultimately controlled by the same parent undertaking, the authorisation referred to in paragraph 2 shall be granted only where the following conditions are met:; <u>deleted</u> ”	“ Where A CSD seeks <u>may be authorised</u> to designate a credit institution or use a CSD that is authorised pursuant to paragraph 3 to provide any banking-type ancillary services from within a separate legal entity, which may be part of the group to which the former CSD belongs, whether or not ultimately controlled by the same parent undertaking, the authorisation referred to in <u>cash leg for all or part of that CSD's securities settlement system pursuant to paragraph 2 shall be granted</u> <u>2a, point (b),</u> only where <u>all of</u> the following conditions are met:; ” TM 04.05: agreed, added a reference to point (b) and to the cash leg

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (17)(b)(ii)			
233	(ii) point (c) is deleted;	(ii) point (c) is deleted;	(ii) point (c) is deleted;	(ii) point (c) <u>(a)</u> is deleted; TM 04.05: point (a) "the separate legal entity is authorised as a credit institution as provided for in Article 8 of CRD" deleted as not necessary Text Origin: Commission Proposal
233a				<u>(iia) points (b) to (f) are replaced by the following:</u>
233b				<u>(a) the credit institution meets the prudential requirements laid down in Article 59(1), (3) and (4) and supervisory requirements laid down in Article 60;</u> <u>(b) the credit institution does not itself carry out any of the core services referred to in Section A of the Annex;</u> <u>(c) the authorisation under Article 8 of Directive 2013/36/EU is used only to provide the banking-type ancillary services referred to in Section C of the Annex for the settlement of the cash leg for all or</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>part of the securities settlement system of the CSD seeking to use the banking-type ancillary services, and not to carry out any other activities;</u> <u>(d) the credit institution is subject to an additional capital surcharge that reflects the risks, including credit and liquidity risks, resulting from the provision of intra-day credit, inter alia, to the participants in a securities settlement system or other users of CSD services;</u> <u>(e) the credit institution reports at least monthly to the competent authority and discloses to the public annually as a part of its public disclosure as required under Part Eight of Regulation (EU) No 575/2013 on the extent and management of intra-day liquidity risk in accordance with Article 59(4), point (j), of this Regulation;</u> <u>and</u> <u>(f) the credit institution has submitted to the competent authority an adequate recovery plan to ensure continuity of its critical operations, including in situations where liquidity or credit risk crystallises as a result of the provision of banking-type ancillary services from within a separate legal entity.</u> TM 04.05: New point (b) covering part of EP AM in line 233b. in the rest of the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				points "separate legal entity" is replaced by "credit institution". In point (c) (ex point (d)) the reference to point (a) is replaced by a reference to Art 8 of CRD + added a reference to settlement of the cash leg.
Y	233c	<u>(ba) in paragraph 4, the following subparagraphs are added:</u>		<u>(ba) the following paragraph 4a is added:</u> Text Origin: EP Mandate
Y	233d	<u>" 'Where a CSD seeks to designate a credit institution that does not itself carry out any of the core services referred to in Section A of the Annex, the authorisation referred to in point (a) of the first subparagraph of this paragraph shall be used only to provide the banking-type ancillary services referred to in Section C of the Annex for settlement of the cash leg corresponding to all or part of the securities settlement system of that CSD, and not to carry out any other activities. That cash leg shall not be in a currency of the country where the CSD seeking to use those services is established.'</u>		<u>" 4a. Where a CSD seeks to designate a credit institution or a CSD in accordance with paragraph 2a to settle the cash leg of all or part of its securities settlement system such cash leg shall not be in a currency of the country where the designating CSD is established."</u> TM 04.05: first part of the EP text is moved to line 229e. Council to come back on second part of the text on "currency".

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	233e	<u>Where a CSD seeks to use a CSD that is authorised pursuant to paragraph 3 of this Article, the authorisation referred to in point (a) of the first subparagraph of this paragraph shall be used only to provide the banking-type ancillary services in Section C of the Annex for the settlement of the cash leg corresponding to all or part of the securities settlement system of the CSD seeking to use the banking-type ancillary services, and not to carry out any other activities. That cash leg shall not be in a currency of the country where the CSD seeking to use those services is established.';</u>		TM 04.05: same line as above (error in 4CT)
	Article 1, first paragraph, point (17)(c)			
G	234	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	(e)(ba) paragraph 5, <u>6 and 7</u> is replaced by the following: Text Origin: Commission Proposal
	Article 1, first paragraph, point (17)(c), amending provision, numbered paragraph (5), first subparagraph			
Y	235	,	,	,

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	5. Paragraph 4 shall not apply to credit institutions referred to in paragraph 2, point (b), that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount calculated over a one-year period. That threshold shall be determined in accordance with paragraph 9.	5. Paragraph 4 shall not apply to credit institutions referred to in paragraph 2, point (b), that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount calculated over a one-year period. That threshold shall be determined in accordance with paragraph 9.	5. Paragraph 4 shall not apply to credit institutions referred to in paragraph 22a , point (b), that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount calculated over a one-year period. That threshold shall be determined in accordance with paragraph 9.	5. Paragraph 4 shall not apply to credit institutions referred to in paragraph 22a , point (b), <u>[and paragraph 4a shall not apply to credit institutions and CSDs referred to in paragraph 2a, points (a) and (b)]</u> , that offer to settle the cash payments for part of the CSD's securities settlement system, if the total value of such cash settlement through accounts opened with those credit institutions does not exceed a maximum amount <u>and CSDs, as applicable</u> , calculated over a one-year period. That threshold shall be, <u>does not exceed the threshold</u> determined in accordance with paragraph 9. TM 04.05: agreed, slightly redrafted and updated references. Depend on decision on par 4a, line 233d
	Article 1, first paragraph, point (17)(c), amending provision, numbered paragraph (5), second subparagraph			
R 236	The competent authority shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ESMA, ESCB and EBA. Where the competent authority determines that the threshold has been exceeded, it shall require the CSD concerned to seek authorisation in accordance with paragraph 4. The CSD concerned	The competent authority <u>ESMA</u> shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ESMA <u>the competent authority</u> , ESCB and EBA. Where the competent authority <u>ESMA</u> determines that the threshold has been exceeded, the <u>the competent authority</u> shall require the CSD concerned to seek	The competent authority shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ESMA, ESCB and EBA. <u>Without prejudice to Article 40(1)</u> , where the competent authority determines that the threshold has been exceeded, it shall require the CSD concerned to seek authorisation in accordance with	The <u>[ESMA/The</u> competent authority] shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ESMA <u>[ESMA/the competent authority]</u> , ESCB and EBA. <u>Without prejudice to Article 40(1)</u> , where the <u>[ESMA/the</u> competent authority] determines that the threshold has been exceeded, the <u>the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	shall submit its application for authorisation within 6 months.;	authorisation in accordance with paragraph 4. The CSD concerned shall submit its application for authorisation within 6 months.;	paragraph 42. The CSD concerned shall submit its application for authorisation within six months.;	<u>competent authority</u> shall require the CSD concerned to seek authorisation in accordance with paragraph 42. The CSD concerned shall submit its application for authorisation within <u>six</u> months.; TM 04.05: provisional text, depend on political decision on role of ESMA/NCAs Text Origin: Commission Proposal
236a				<u>6. The competent authority may require a CSD to designate more than one credit institution, or to designate a credit institution in addition to providing services itself in accordance with paragraph 2 of this Article where it considers that the exposure of one credit institution to the concentration of risks under Article 59(3) and (4) is not sufficiently mitigated.</u> <u>7. A CSD authorised to provide any banking-type ancillary services and a credit institution designated in accordance with paragraph 2a, point (b) shall comply at all times with the conditions necessary for authorisation under this Regulation and shall, without</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>delay, notify the competent authorities of any substantive changes affecting the conditions for authorisation.</u> TM.04.05: updated references in paragraphs 6 and 7 of current CSDR Open decision in paragraph 6: should banking CSDs be mentioned?
Article 1, first paragraph, point (17)(d)				
237	(d) the following paragraph 9 is added:	(d) the following paragraph 9 <u>is paragraphs are</u> added:	(d) the following paragraph 9 <u>is paragraphs 9 and 10 are</u> added:	(d) the following paragraph 9 is added: Text Origin: Commission Proposal
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph				
238	9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account the need to balance the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions. When	9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount referred to in paragraph 5, taking into account the need to balance the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions. When	9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount <u>threshold</u> referred to in paragraph 5, taking into account the need to balance the credit and liquidity risks for CSDs that result from the settlement of cash payments through accounts opened with credit institutions and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions.	9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the maximum amount <u>threshold</u> referred to in paragraph 5, taking into account the need to balance the credit and liquidity <u>and accompanying appropriate risk management and prudential requirements to mitigate risks for CSDs that result from the settlement of cash payments through accounts opened with</u> <u>in relation to the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.	developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements. <u>at least the following criteria:</u>	<u>That threshold shall take into account the possibility for CSDs to settle the cash payments in several currencies.</u> When developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements <u>appropriate risk management and prudential risk mitigation requirements and consider level playing field in the Union.</u>	<u>designation of</u> credit institutions <u>and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions</u> <u>institution in accordance with paragraph 2a.</u> When developing these draft regulatory technical <u>those</u> standards, the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements. <u>take into account the following:</u> TM 04.05: compromise text combining EP and CNL mandate, and containing text of line 238f
G 238a		<u>(a) the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, taking into account the systemic importance of CSDs for the functioning of securities markets;</u>		<u>(a) the implications for the market stability that could derive from a change of risk profile of CSDs and their participants, including the systemic importance of CSDs for the functioning of securities markets;</u> Text Origin: EP Mandate
G 238b		<u>(b) the implications for the credit and liquidity risks for CSDs, for</u>		<u>(b) the implications for the credit and liquidity risks for CSDs, for</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions exempt from paragraph 4;</u>		<u>the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions exempt from paragraph 4;</u> Text Origin: EP Mandate
G 238c		<u>(c) the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions;</u>		<u>(c) the possibility for CSDs to settle the cash payments in several currencies;</u> TM 04.05: combination of EP text in line 238c and CNL text in line 238
G 238d		<u>(d) the need to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and disincentives to the efforts of CSDs to achieve settlement in central bank money; and</u>		<u>(d) the need to avoid both an unintended shift from settlement in central bank money to settlement in commercial bank money and disincentives to the efforts of CSDs to settle in central bank money; and</u> Text Origin: EP Mandate
G 238e				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>(e) the existing global guidance and principles related to such activity.</u>		<u>(e) the need to ensure a level playing field amongst CSDs in the Union.</u> TM 04.05: agreed not to include EP text on "global guidance", and instead mention it in a recital. Included Council text on level playing field in line 238
238f		<u>When developing these draft regulatory technical standards the EBA shall also determine accompanying appropriate risk management and prudential mitigating requirements.</u>		TM 04.05: moved to the introduction of paragraph 9 in line 238
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), second subparagraph				
239	EBA shall submit those draft regulatory technical standards to the Commission by [PO please insert the date= 1 year after the date of entry into force of this Regulation].	<u>9a.</u> EBA shall submit those draft regulatory technical standards to the Commission by [PO please insert the date= 1 year after the date of entry into force of this Regulation].	EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date= 1 year after the date of entry into force of this Regulation].	EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date= 1 year after the date of entry into force of this Regulation]. Text Origin: Council Mandate
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), third subparagraph				
240	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;	referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 <u>No 1093/2010</u> .	referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 <u>No 1093/2010</u> . Text Origin: Council Mandate
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9a), first subparagraph				
240a		<u>EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to further specify the details of the rules and procedures referred to in paragraph 3, point (g).</u>	<u>9a. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to further specify the details of the rules and procedures referred to in points (g) and (h) of paragraph 3.</u>	TM 04.05: As point (g) and (h) have been moved to Art 26 and art 59 respectively, the corresponding RTS are moved to 59(5) and 26(9) TM 04.05: As point (g) and (h) have been moved to Art 26 and Art 59, respectively
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9a), second subparagraph				
240b		<u>EBA shall submit those draft regulatory technical standards to the Commission by ... [one year after the date of entry into force of this amending Regulation].</u>	<u>EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].</u>	
Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9b)				
240c		<u>Power is delegated to the Commission to supplement this Regulation by adopting the</u>	<u>9b. Power is delegated to the Commission to supplement this Regulation by adopting the</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;</u>	<u>regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.;</u>	
Article 1, first paragraph, point (18)				
241	(18) in Article 55(5), the first subparagraph is replaced by the following:	(18) in Article 55(5), the first subparagraph is replaced by the following <u>55 is amended as follows:</u>	(18) in Article 55(5), the first subparagraph is <u>to fourth subparagraphs are</u> replaced by the following:	(18) in Article 55 <u>Article 55 is amended as follows:</u> <u>(a) paragraphs 1 and 2 are replaced by the following:</u> <u>1. The CSD shall submit its application for authorisation to designate a credit institution or a CSD authorised to provide banking-type ancillary services or to provide itself any banking-type ancillary service, as required under</u> Article 55(5), the first subparagraph is replaced by the following: <u>54, to the competent authority of its home Member State.</u> <u>2. The application shall contain all the information that is necessary to enable the competent authority to satisfy itself that the CSD and where applicable the designated credit institution or CSD authorised to provide banking-type ancillary services have established, at the time of the authorisation, all the necessary arrangements to</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<u>meet their obligations as laid down in this Regulation. It shall contain a programme of operations setting out the banking-type ancillary services envisaged, the structural organisation of the relations between the CSD and the designated credit institutions or CSDs authorised to provide banking-type ancillary services where applicable and how that CSD or where applicable the designated credit institutions or CSDs authorised to provide banking-type ancillary services intend to meet the prudential requirements laid down in Article 59(1), (3) and (4) and the other conditions laid down in Article 54.</u> TM 04.05: paragraphs 1 and 2 adapted to include banking CSDs Text Origin: Council Mandate
241a		<u>(a) in paragraph 5, the first subparagraph is replaced by the following:</u>		<u>(b) in paragraph 5, the first to fourth subparagraphs are replaced by the following:</u> TM 04.05: depend on decision in 242a Text Origin: EP Mandate
Article 1, first paragraph, point (18), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	242	The authorities referred to in paragraph 4, points (a) to (e), shall issue a reasoned opinion on the authorisation within 2 months of receipt of the information referred to in that paragraph. Where an authority does not provide an opinion within that deadline it shall be deemed to have a positive opinion.;	The authorities referred to in paragraph 4, points (a) to (e), shall issue a reasoned opinion on the authorisation within 2<i>two</i> months of receipt of the information referred to in that paragraph. Where an authority does not provide an opinion within that deadline, it shall be deemed to have a positive opinion.†	The authorities referred to in paragraph 4, points (a) to (e), shall issue a reasoned opinion on the authorisation within 2<i>two</i> months of receipt of the information referred to in that paragraph. Where an authority does not provide an opinion within that deadline, it shall be deemed to have a positive opinion.† Text Origin: Council Mandate
Article 1, first paragraph, point (18), amending provision, first paragraph a				
R	242a		<u>Where at least one of the authorities referred to in points (a) to (e) of paragraph 4 issues a negative reasoned opinion, the competent authority wishing to grant the authorisation shall within one month provide the authorities referred to in points (a) to (e) of paragraph 4 with reasoning addressing the negative opinion. In particular, the reasoning shall include the reasons for derogation from the negative reasoned opinion issued by the relevant authority.</u>	<u>Where at least one of the authorities referred to in points (a) to (e) of paragraph 4 issues a negative reasoned opinion, the competent authority wishing to grant the authorisation shall within 30 days provide the authorities referred to in points (a) to (e) of paragraph 4 with a reasoned decision addressing the negative opinion.</u> <u>Where 30 days after that decision has been presented any of the authorities referred to in points (a) to (e) of paragraph 4 issues a negative opinion and the competent authority still wishes to grant the authorisation any of the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>authorities that issued a negative opinion may refer the matter to ESMA for assistance under point (c) of Article 31 of Regulation (EU) No 1095/2010.</u> <u>Where 30 days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the authorities referred to in points (a) to (e) of paragraph 4.</u> TM 04.05: The third and fourth subparagraphs are deleted by the Council. EP prefers to keep them. Political decision depending on ESMA role's. Similar issue in Art 17 and 22. Depending on the decision on the third and fourth subparagraphs, the second subparagraph should be adapted (use of "reasoned opinion" or "reasoning"). TM 11.05. Rediscussion of this line possibly on the basis of the agreement in line 102 depending on the outcome of the political trilogue: "Where at least one of the authorities referred to in points (a) to (e) of paragraph 4a issues a negative reasoned opinion, the competent authority intending to grant the authorisation shall within one month

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	provide the authorities referred to in points (a) to (e) of paragraph 4 with the reasons why it intends to proceed with the authorisation notwithstanding the negative opinion. Any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010. Where 30 days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the authorities referred to in points (a) to (e) of paragraph 4."
G	242b	<u>(b) the following paragraph is inserted:</u>		<u>(b) the following paragraph 6a is inserted:</u> Text Origin: EP Mandate
G	242c	" <u>'6a. The competent authority shall, without undue delay, inform the authorities referred to in paragraph 4, points (a) to (e), of the results of the authorisation process, including any remedial actions.;</u>		" <u>6a. The competent authority shall, without undue delay, inform the authorities referred to in paragraph 4, points (a) to (e), of the results of the authorisation process, including any remedial actions.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		"		" TM 04.05: Linked to CNL text in line 107b. EP and Council agree on both lines.
	Article 1, first paragraph, point (19)			
Y	243 (19) Article 59 is amended as follows:	(19) Article 59 is amended as follows:	(19) Article 59 is amended as follows:	(19) Article 59 is amended as follows: TM 04.05: cross-references to Article 54 in paragraphs 1 to 4 of Article 59 should be updated. Text Origin: Commission Proposal
	Article 1, first paragraph, point (19)(a)			
G	244 (a) paragraph 4 is amended as follows:	(a) paragraph 4 is amended as follows:	(a) paragraph 4 is amended as follows:	(a) paragraph 4 is amended as follows: Text Origin: Commission Proposal
	Article 1, first paragraph, point (19)(a)(i)			
G	245 (i) points (c), (d) and (e) are replaced by the following:	(i) points (c), (d) and (e) are replaced by the following:	(i) points (c), (d) and (e) are replaced by the following:	(i) points (c), (d) and (e) are replaced by the following: Text Origin: Commission Proposal
	Article 1, first paragraph, point (19)(a)(i), amending provision, first paragraph			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
246	(c) it shall maintain sufficient qualifying liquid resources in all relevant currencies for a timely provision of settlement services under a wide range of potential stress scenarios including the liquidity risk generated by the default of at least two participants, including its parent undertakings and subsidiaries, to which it has the largest exposures;	(c) it shall maintain sufficient qualifying liquid resources in all relevant currencies for a timely provision of settlement services under a wide range of potential stress scenarios including the liquidity risk generated by the default of at least two participants, including its parent undertakings and subsidiaries, to which it has the largest exposures;	(c) it shall maintain sufficient qualifying liquid resources in all relevant currencies for a timely provision of settlement services under a wide range of potential stress scenarios including the liquidity risk generated by the default of at least two participants, including its parent undertakings and subsidiaries, to which it has the largest exposures;	(c) it shall maintain sufficient qualifying liquid resources in all relevant currencies for a timely provision of settlement services under a wide range of potential stress scenarios including the liquidity risk generated by the default of at least two participants, including its parent undertakings and subsidiaries, to which it has the largest exposures; Text Origin: Commission Proposal
Article 1, first paragraph, point (19)(a)(i), amending provision, second paragraph				
247	(d) it shall mitigate the corresponding liquidity risks with qualifying liquid resources in each relevant currency such as cash at the central bank of issue and at other creditworthy financial institutions, committed lines of credit or similar arrangements and highly liquid collateral or investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions and it shall identify, measure and monitor its liquidity risk stemming from the various financial institutions used	(d) it shall mitigate the corresponding liquidity risks with qualifying liquid resources in each relevant currency such as cash at the central bank of issue and at other creditworthy financial institutions, committed lines of credit or similar arrangements and highly liquid collateral or investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions and it shall identify, measure and monitor its liquidity risk stemming from the various financial institutions used	(d) it shall mitigate the corresponding liquidity risks with qualifying liquid resources in each relevant currency such as cash at the central bank of issue and at other creditworthy financial institutions, committed lines of credit or similar arrangements and highly liquid collateral or investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions and it shall identify, measure and monitor its liquidity risk stemming from the various financial institutions used	(d) it shall mitigate the corresponding liquidity risks with qualifying liquid resources in each relevant currency such as cash at the central bank of issue and at other creditworthy financial institutions, committed lines of credit or similar arrangements and highly liquid collateral or investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions and it shall identify, measure and monitor its liquidity risk stemming from the various financial institutions used

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	for the management of its liquidity risks;	for the management of its liquidity risks;	for the management of its liquidity risks;	for the management of its liquidity risks; Text Origin: Commission Proposal
Article 1, first paragraph, point (19)(a)(i), amending provision, third paragraph				
248	(e) where prearranged and highly reliable funding arrangements, committed lines of credit or similar arrangements are used, it shall select only creditworthy financial institutions as liquidity providers; it shall establish and apply appropriate concentration limits for each of the corresponding liquidity providers including its parent undertaking and subsidiaries;;	(e) where prearranged and highly reliable funding arrangements, committed lines of credit or similar arrangements are used, it shall select only creditworthy financial institutions as liquidity providers; it shall establish and apply appropriate concentration limits for each of the corresponding liquidity providers including its parent undertaking and subsidiaries;;	(e) where prearranged and highly reliable funding arrangements, committed lines of credit or similar arrangements are used, it shall select only creditworthy financial institutions as liquidity providers; it shall establish and apply appropriate concentration limits for each of the corresponding liquidity providers including its parent undertaking and subsidiaries;.	(e) where prearranged <u>and</u> highly reliable <u>funding</u> arrangements, committed lines of credit or similar arrangements are used, it shall select only creditworthy financial institutions as liquidity providers; it shall establish and apply appropriate concentration limits for each of the corresponding liquidity providers including its parent undertaking and subsidiaries;. TM 04.05: COM to check if the term "highly reliable" is needed Text Origin: Commission Proposal
Article 1, first paragraph, point (19)(a)(ii)				
249	(ii) point (i) is replaced by the following:	(ii) point (i) is replaced by the following:	(ii) point (i) is replaced by the following:	(ii) point (i) is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (19)(a)(ii), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
250	(i) it shall have prearranged and highly reliable arrangements to ensure that it can convert in a timely fashion the collateral provided to it by a defaulting client into cash and where non-committed arrangements are used, establish that any associated potential risks have been identified and mitigated;;	(i) it shall have prearranged and highly reliable arrangements to ensure that it can convert in a timely fashion the collateral provided to it by a defaulting client into cash and where non-committed arrangements are used, establish that any associated potential risks have been identified and mitigated;;	(i) it shall have prearranged and highly reliable arrangements to ensure that it can convert in a timely fashion the collateral provided to it by a defaulting client into cash and where non-committed arrangements are used, establish that any associated potential risks have been identified and mitigated;;	(i) it shall have prearranged and highly reliable arrangements to ensure that it can convert in a timely fashion the collateral provided to it by a defaulting client into cash and where non-committed arrangements are used, establish that any associated potential risks have been identified and mitigated;; Text Origin: Council Mandate
Article 1, first paragraph, point (19)(a)(iii)				
251	(iii) the following point (k) is added:	(iii) the following point (k) is added:	(iii) the following point (k) is added: deleted	(iii) the following point (k) is added: deleted Text Origin: Council Mandate
Article 1, first paragraph, point (19)(a)(iii), amending provision, first paragraph				
252	(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.;	(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.;	(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.; deleted	(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.; deleted Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 252a		<u>(aa) the following paragraph is inserted:</u>		<u>(aa) the following paragraph 4a is inserted:</u> Text Origin: EP Mandate
G 252b		" <u>4a. A CSD authorised under Article 54(2), point (a), to provide banking-type ancillary services shall have in place clear rules and procedures to address any potential additional credit, liquidity and concentration risks resulting from the increased activity from the provision of banking-type ancillary services to other CSDs in accordance with Article 54(2), point (b).;</u> "		" <u>4a. Where a CSD intends to provide banking-type ancillary services to other CSDs pursuant to point (a) of Article 54(2a), the CSD shall have in place clear rules and procedures addressing any potential credit, liquidity and concentration risks resulting from the provision of those services.</u> " TM 04.05: combining text in line 229h and 252b
Article 1, first paragraph, point (19)(b)				
G 253	(b) in paragraph 5, the second subparagraph is replaced by the following:	(b) in paragraph 5, the <u>first and</u> second subparagraph <u>is</u> are replaced by the following:	(b) in paragraph 5, the second subparagraph is replaced by the following:	(b) in paragraph 5, the <u>first and</u> second subparagraph <u>is</u> are replaced by the following: Text Origin: EP Mandate
G 253a		,		<u>5. EBA shall, in close cooperation with ESMA and the members of</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>‘5. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to further specify details of the frameworks and tools for the monitoring, measuring, management, reporting and public disclosure of the credit and liquidity risks, including those which occur intra-day, referred to in paragraphs 3 and 4 as well as the rules and procedures referred to in paragraph 4a. Such draft regulatory technical standards shall, where appropriate, be aligned to the regulatory technical standards adopted in accordance with Article 46(3) of Regulation (EU) No 648/2012. ‘</u>		<u>the ESCB, develop draft regulatory technical standards to further specify details of the frameworks and tools for the monitoring, measuring, management, reporting and public disclosure of the credit and liquidity risks, including those which occur intra-day, referred to in paragraphs 3 and 4, as well as the rules and procedures referred to in paragraph 4a. Those draft regulatory technical standards shall, where appropriate, be aligned to the regulatory technical standards adopted in accordance with Article 46(3) of Regulation (EU) No 648/2012.</u> TM 04.05: added the "rules and procedures referred to in paragraph 4a" from EP/CNL Art 54(9a) - line 240a
Article 1, first paragraph, point (19)(b), amending provision, first paragraph				
254	‘ EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].; ,	EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].; ,	‘ EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].; ,	‘ EBA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].; , Text Origin: Council Mandate
Article 1, first paragraph, point (20)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
255	(20) Article 60 is amended as follows:	(20) Article 60 is amended as follows:	(20) Article 60 is amended as follows:	(20) Article 60 is amended as follows: Text Origin: Commission Proposal
Article 1, first paragraph, point (20)(a)				
256	(a) in paragraph 1, the third subparagraph is replaced by the following:	(a) in paragraph 1, the third subparagraph is replaced by the following:	(a) in paragraph 1, the third subparagraph is replaced by the following:	(a) in paragraph 1, the third subparagraph is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (20)(a), amending provision, first paragraph				
257	The competent authorities referred to in the first subparagraph shall regularly, and at least once a year, assess whether the designated credit institution or CSD authorised to provide banking-type ancillary services complies with Article 59 and shall inform the competent authority of the CSD which shall then inform the authorities referred to in Article 55(4) and, where applicable, the colleges referred to in Article 24a, of the results, including any remedial actions or penalties, of its supervision under this paragraph.;	The competent authorities referred to in the first subparagraph shall regularly, and at least once a year, assess whether the designated credit institution or CSD authorised to provide banking-type ancillary services complies with Article 59 and shall inform the competent authority of the CSD which shall then inform the authorities referred to in Article 55(4) and, where applicable, the colleges referred to in Article 24a, of the results, including any remedial actions or penalties, of its supervision under this paragraph.;	The competent authorities referred to in the first subparagraph shall regularly, and at least once a year <u>every three years</u> , assess whether the designated credit institution or CSD authorised to provide banking-type ancillary services complies with Article 59 and shall inform the competent authority of the CSD which shall then inform the authorities referred to in Article 55(4) and, where applicable, the colleges <u>college</u> referred to in Article 24a, of the results, including any remedial actions or penalties, of its supervision under this paragraph. 	TM 24.05.: COM: those are credit institutions and under CRD they are checked annually, under SSM they will be checked annually anyway, without making the distinction whether the credit institution runs a securities settlement system or not.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (20)(b)			
G	258	(b) in paragraph 2, the second subparagraph is replaced by the following:	(b) in paragraph 2, the second subparagraph is replaced by the following <u>is amended as follows:</u>	(b) in paragraph 2, the second subparagraph is replaced by the following <u>is amended as follows:</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (20)(b), amending provision, first paragraph -a			
G	258a		(i) <u>the introductory wording is replaced by the following:</u>	(i) <u>the introductory wording is replaced by the following:</u> Text Origin: Council Mandate
	Article 1, first paragraph, point (20)(b), amending provision, first paragraph			
Y	259	The competent authority of the CSD shall regularly, and at least once a year, inform the authorities referred to in Article 55(4) and, where applicable, the colleges referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph.;	<u>The competent authority of the CSD shall regularly, and at least once a year, inform the, after consulting the competent authorities referred to in Article 55(4) and, where applicable, the colleges referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph. paragraph 1 and the relevant authorities, review and evaluate at least every three years the following:</u> ;	<u>The competent authority of the CSD shall regularly, and at least once a year, inform the, after consulting the competent authorities referred to in Article 55(4) and, where applicable, the colleges referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph. paragraph 1 and the relevant authorities, review and evaluate at least [every ... years] the following:</u> ;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 24.05: For the Council, the frequency of three years (like other frequencies) an important issue (linked also to line 259b), otherwise the new text added to the introductory wording is "and the relevant authorities". EP fine with that. Text Origin: Council Mandate
Article 1, first paragraph, point (20)(b), amending provision, first paragraph a				
y	259a		<u>(ii) the second subparagraph is replaced by the following:</u> Text Origin: Council Mandate	<u>(ii) the second subparagraph is replaced by the following:</u> Text Origin: Council Mandate
Article 1, first paragraph, point (20)(b), amending provision, first paragraph b				
y	259b		<u>'The competent authority of the CSD shall regularly, and at least every three years, inform the authorities referred to in Article 55(4) and, where applicable, the college referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph.'</u>	<u>'The competent authority of the CSD shall regularly, and at least [every ... years], inform the authorities referred to in Article 55(4) and, where applicable, the college referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph.'</u> TM: it was COM and EP line 259; the frequency is a political issue Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (21)				
G	260	(21) Article 67 is amended as follows:	(21) Article 67 is amended as follows:	(21) Article 67 is amended as follows: Text Origin: Commission Proposal
Article 1, first paragraph, point (21)(-a)				
G	260a		<u>(a) paragraph 2 is replaced by the following:</u>	<u>(a) paragraph 2 is replaced by the following:</u> 24.05. TM Text Origin: Council Mandate
Article 1, first paragraph, point (21)(-a)(1)				
G	260b		<u>'2. The power to adopt delegated acts referred to in Article 2(2) and Article 6a(5) shall be conferred on the Commission for an indeterminate period of time from 17 September 2014.'</u>	<u>'2. The power to adopt delegated acts referred to in Article 2(2) shall be conferred on the Commission for an indeterminate period of time from 17 September 2014.'</u> 24.05. TM: depending on which delegated acts will be agreed upon, the paragraph can be updated later. It should be two paragraphs: para 2 with the old date for Article 2(2) and para 2x with the date of entry into force for the delegated acts agreed in this amending act. Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (21)(-a)(2)			
Y	260c			<u>(aa) the following paragraph is inserted:</u> <u>2-a. The power to adopt delegated acts referred to in Article ... shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this amending act]’;</u>
	Article 1, first paragraph, point (21)(a)			
G	261	(a) the following paragraph 2a is inserted:	(a) <u>(aa)</u> the following paragraph 2a is inserted:	(a) the following paragraph 2a is inserted: Text Origin: Commission Proposal
	Article 1, first paragraph, point (21)(a), amending provision, first paragraph			
	262	2a. The power to adopt delegated acts referred to in Articles 7(14a), 24a(8), 25(13) and 54(9) shall be conferred on the Commission for an indeterminate period of time from [PO please insert the date of entry into force of this Regulation].;	2a. The power to adopt delegated acts referred to in Articles 7(14a), 24a(8), 25(13) and 54(9) shall be conferred on the Commission for an indeterminate period of time from [PO please insert the date of entry into force of this Regulation].;	2a. The power to adopt delegated acts referred to in Articles 7(14a), 24a(8), 25(13) and 54(9) <u>Article 6a(8) and Article 7(14)</u> shall be conferred on the Commission for an indeterminate period of time from ... [PO please insert the date of entry into force of this Regulation].;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 1, first paragraph, point (21)(b)				
263	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (21)(b), amending provision, numbered paragraph (3)				
264	3. The delegation of power referred to in Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.;	3. The delegation of power referred to in Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.;	3. The delegation of power referred to in Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25 <u>Article 2(2), Article 6a(5) and (8) and Article 7(1314) and 54(9)</u> may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.;	
Article 1, first paragraph, point (21)(c)				
265	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 1, first paragraph, point (21)(c), amending provision, numbered paragraph (5)				
266	5. A delegated act adopted pursuant to Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	5. A delegated act adopted pursuant to Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.	5. A delegated act adopted pursuant to Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9) <u>Article 2(2), Article 6a(5) and (8) and Article 7(14)</u> shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council. <u>;</u>	
Article 1, first paragraph, point (22)				
267	(22) in Article 68, the following paragraph 3 is added:	(22) in Article 68, the following paragraph 3 is added:	(22) in Article 68, the following paragraph 3 is added:	(22) in Article 68, the following paragraph 3 is added: Text Origin: Commission Proposal
Article 1, first paragraph, point (22), amending provision, numbered paragraph (3)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
268	“ 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;”	“ 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;”	“ 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;”	“ 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;” Text Origin: Council Mandate
Article 1, first paragraph, point (23)				
269	(23) Article 69 is amended as follows:	(23) Article 69 is amended as follows:	(23) Article 69 is amended as follows:	(23) Article 69 is amended as follows: Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(a)				
270	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(a), amending provision, numbered paragraph (4)				
271	‘ 4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier:	‘ 4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier:	‘ 4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier:	‘ 4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier: Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1, first paragraph, point (23)(a), amending provision, numbered paragraph (4), point (a)			
272	(a) the date when a decision is made under this Regulation on the authorisation of CSDs and of their activities, including CSD links; or	(a) the date when a decision is made under this Regulation on the authorisation of CSDs and of their activities, including CSD links; or	(a) the date when a decision is made under this Regulation on the authorisation of CSDs and of their activities, including CSD links; or	(a) the date when a decision is made under this Regulation on the authorisation of CSDs and of their activities, including CSD links; or Text Origin: Commission Proposal
	Article 1, first paragraph, point (23)(a), amending provision, numbered paragraph (4), point (b)			
273	(b) ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].;	(b) ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].;	(b) ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].;	(b) ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].; Text Origin: Commission Proposal
	Article 1, first paragraph, point (23)(b)			
274	(b) the following paragraphs 4a, 4b and 4c are inserted:	(b) the following paragraphs 4a, 4b and 4c are inserted:	(b) the following paragraphs 4a, 4b and 4c are inserted:	(b) the following paragraphs 4a, 4b and 4c are inserted: Text Origin: Commission Proposal
	Article 1, first paragraph, point (23)(b), amending provision, first paragraph, first subparagraph			
275	4a. The national rules on the recognition of third-country CSDs	4a. The national rules on the recognition of third-country CSDs	4a. The national rules on the recognition of third-country CSDs	4a. The national rules on the recognition of third-country CSDs

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	shall continue to apply until the following date, whichever is earlier:	shall continue to apply until the following date, whichever is earlier:	shall continue to apply until the following date, whichever is earlier:	shall continue to apply until the following date, whichever is earlier: Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, first subparagraph, point (a)				
276	(a) the date when a decision is made under this Regulation on the recognition of the respective third-country CSDs and of their activities; or	(a) the date when a decision is made under this Regulation on the recognition of the respective third-country CSDs and of their activities; or	(a) the date when a decision is made under this Regulation on the recognition of the respective third-country CSDs and of their activities; or	(a) the date when a decision is made under this Regulation on the recognition of the respective third-country CSDs and of their activities; or Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, first subparagraph, point (b)				
277	(b) ... [PO please insert the date = 3 years after the date of entry into force of this Regulation].	(b) ... [PO please insert the date = 3 years after the date of entry into force of this Regulation].	(b) ... [PO please insert the date = 3 years after the date of entry into force of this Regulation].	(b) ... [PO please insert the date = 3 years after the date of entry into force of this Regulation]. Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, second subparagraph				
278	A third-country CSD that provides the core services referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph pursuant to the applicable national	A third-country CSD that provides the core services referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph pursuant to the applicable national	A third-country CSD that provides the core services referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), second subparagraph pursuant to the applicable national	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	rules on the recognition of third-country CSDs shall submit a notification to ESMA within 2 years from [PO please insert the date of entry into force of this Regulation].	rules on the recognition of third-country CSDs shall submit a notification to ESMA within 2 years from [PO please insert the date of entry into force of this Regulation].	rules on the recognition of third-country CSDs shall submit a notification to ESMA within 2 years from <u>from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] but no later than ...</u> [PO please insert the date = 2 years after the date of entry into force of this Regulation].	
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, third subparagraph				
279	ESMA shall develop draft regulatory technical standards to specify the information that the third- country CSD shall provide to ESMA in the notification referred to in the second subparagraph. Such information shall be limited to what is strictly necessary including, where applicable and available:	ESMA shall develop draft regulatory technical standards to specify the information that the third- country CSD shall provide to ESMA in the notification referred to in the second subparagraph. Such information shall be limited to what is strictly necessary including, where applicable and available:	ESMA shall develop draft regulatory technical standards to specify the information that the third- country CSD shall provide to ESMA in the notification referred to in the second subparagraph. Such information shall be limited to what is strictly necessary including, where applicable and available:	ESMA shall develop draft regulatory technical standards to specify the information that the third- country CSD shall provide to ESMA in the notification referred to in the second subparagraph. Such information shall be limited to what is strictly necessary including, where applicable and available: <u>Text Origin: Commission Proposal</u>
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, third subparagraph, point (a)				
280	(a) the number of participants to whom the third-country CSD provides the services referred to in the second subparagraph;	(a) the number of participants to whom the third-country CSD provides the services referred to in the second subparagraph;	(a) the number of participants to whom the third-country CSD provides <u>or intends to provide</u> the services referred to in the second subparagraph;	
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, third subparagraph, point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
281	(b) the categories of financial instruments in respect of which the third-country CSD provides such services; and	(b) the categories of financial instruments in respect of which the third-country CSD provides such services; and	(b) the categories of financial instruments in respect of which the third-country CSD provides such services; and	(b) the categories of financial instruments in respect of which the third-country CSD provides such services; and Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, third subparagraph, point (c)				
282	(c) the total volume and value of such financial instruments.	(c) the total volume and value of such financial instruments.	(c) the total volume and value of such financial instruments.	(c) the total volume and value of such financial instruments. Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, fourth subparagraph				
283	ESMA shall submit those draft regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO please insert the date = 1 year after the date of entry into force of this Regulation].	ESMA shall submit those draft regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation]. Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(b), amending provision, first paragraph, fifth subparagraph				
284	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph	Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.	in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.	in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.	in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010. Text Origin: Council Mandate
Article 1, first paragraph, point (23)(b), amending provision, second paragraph				
285	4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within 2 years from ...[PO please insert the date of entry into force of this Regulation].	4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within 2 years from ...[PO please insert the date of entry into force of this Regulation].	4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter <u>insert the date = 2 years after</u> the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within 2 years from ...by... [PO please insert the date <u>= 2 years after the date</u> of entry into force of this Regulation].	4b. A third-country CSD that provided the core service referred to in Section A, point (3), of the Annex in relation to financial instruments constituted under the law of a Member State referred to in Article 49(1), before ... [PO please enter <u>insert the date = 2 years after</u> the date of entry into force of this Regulation] shall submit the notification referred to in Article 25(2a) within 2 years from ...by... [PO please insert the date <u>= 2 years after the date</u> of entry into force of this Regulation]. Text Origin: Council Mandate
Article 1, first paragraph, point (23)(b), amending provision, third paragraph				
286	4c. Where a CSD has submitted a complete application for recognition in accordance with Article 25(4), (5) and (6) before ... [PO please insert the date = the date of entry into force of this Regulation] but ESMA has not issued a decision in accordance with Article 25(6) by that date, the national rules on	4c. Where a CSD has submitted a complete application for recognition in accordance with Article 25(4), (5) and (6) before ... [PO please insert the date = the date of entry into force of this Regulation] but ESMA has not issued a decision in accordance with Article 25(6) by that date, the national rules on	4c. Where a CSD has submitted a complete application for recognition in accordance with Article 25(4), (5) and (6) before ... [PO please insert the date = the date of entry into force of this Regulation] but ESMA has not issued a decision in accordance with Article 25(6) by that date, the national rules on	4c. Where a CSD has submitted a complete application for recognition in accordance with Article 25(4), (5) and (6) before ... [PO please insert the date = the date of entry into force of this Regulation] but ESMA has not issued a decision in accordance with Article 25(6) by that date, the national rules on

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	recognition of CSDs shall continue to apply until the ESMA decision is issued.;	recognition of CSDs shall continue to apply until the ESMA decision is issued.;	recognition of CSDs shall continue to apply until the ESMA decision is issued.;	recognition of CSDs shall continue to apply until the ESMA decision is issued.;
				Text Origin: Commission Proposal
Article 1, first paragraph, point (23)(c)				
287	(c) the following paragraph 6 is added:	(c) the following paragraph 6 is added:	(c) the following paragraph 6 <u>paragraphs 6 and 7</u> are added:	
Article 1, first paragraph, point (23)(c), amending provision, numbered paragraph (6)				
288	6. Home competent authorities shall establish and manage colleges pursuant to Article 24a for all CSDs providing their services in relation to financial instruments constituted under the law of another Member State pursuant to Article 23(2) before ... [PO please insert the date = the date of entry into force of this Regulation] or for CSDs that belong to a group that comprises other CSDs by ... [PO please insert the date = 4 months after the date of entry into force of this Regulation].;	6. Home competent authorities shall establish and manage colleges pursuant to Article 24a for all CSDs providing their services in relation to financial instruments constituted under the law of another Member State pursuant to Article 23(2) before ... [PO please insert the date = the date of entry into force of this Regulation] or for CSDs that belong to a group that comprises other CSDs by ... [PO please insert the date = 4 months after the date of entry into force of this Regulation].;	6. Home <u>The</u> competent authorities shall establish and manage colleges pursuant to Article 24a for all CSDs providing their services in relation to financial instruments constituted under the law of another Member State pursuant to Article 23(2) <u>24a(1)</u> by ... [PO please insert the date = 4 <u>25</u> months after the date of entry into force of this Regulation].;	
Article 1, first paragraph, point (23)(c), amending provision, numbered paragraph (6a)				
Y 288a				Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>7. A CSD that provided the core service referred to in Section A, points (1) and (2), of the Annex in relation to financial instruments constituted under the law of another Member State referred to in Article 49(1), second subparagraph, point (a), shall comply with the procedure set out in Article 23(3) to (7) applicable after ... [PO please insert the date of entry into force of this amending Regulation] only in relation to securities recorded after [PO please insert the date of entry into force of this amending Regulation].';</u>	<u>6a. A CSD that provided the core service referred to in Section A, points (1) and (2), of the Annex in accordance with Article 23 before ... [PO please insert the date of entry into force of this amending Regulation] or that had set up a branch in another Member State in accordance with that Article before that date, shall not be subject to the procedure referred to in paragraphs 3 to 6 of that Article to provide those services or operate that branch.</u> <u>With the exception to the the change of the range of that services.</u> <u>By derogation to the [XX] paragraph, CSDs that intend to change the range of services referred to in the</u> TM 11.05: Both EP and Council agree to include a grandfathering clause not focusing on securities. Council legal service to draft a suggestion on how to include the case where there is a change re: range of services.
g	288b	<u>(23a) Article 72 is deleted;</u>		<u>(23a) Article 72 is deleted;</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
				TTM 25.05 agreed. Article 15 reinserted in line 314c Text Origin: EP Mandate	
	Article 1, first paragraph, point (24)				
G	289	(24) Article 74 is amended as follows:	(24) Article 74 is amended as follows:	(24) Article 74 is amended as follows: Text Origin: Commission Proposal	G
G	289a		<u><i>(-a) the following paragraph is inserted:</i></u>	TM 25.05 The text of this paragraph covered now in rows 296b till 296h	G
G	289b		" <u><i>(-1) Upon the request of the Commission, ESMA shall provide a cost-benefit analysis, for the purposes of Article 7(2a), of a potential mandatory buy-in procedure. The analysis shall consist of the following:</i></u>	TM 25.05. The text of this paragraph covered now in rows 296b till 296h	G
G	289c		<u><i>(a) the average duration of settlement fails to which such a</i></u>		G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
		<u>mandatory buy-in procedure could apply;</u>		TM 25.05. The text of this paragraph covered now in rows 296b till 296h	
G	289d	<u>(b) the impact of the mandatory buy-in procedure on the Union market, including an analysis of the implication of subjecting specific financial instruments and categories of transactions to the mandatory buy-in procedure;</u>		The text of this paragraph covered now in rows 296b till 296h	G
Y	289e	<u>(c) the appropriateness of settlement efficiency levels considering the situation in third-country capital markets that are comparable in terms of size and liquidity, as well as in terms of instruments traded and types of transactions executed on such markets;</u>		TM 25.05.: Council has strong views on this since one should not compare the EU market with third-country markets EP to check if this can be dropped	Y
G	289f	<u>(d) the application of a similar buy-in procedure in comparable third-country markets and the impact on the competitiveness of the Union market;</u>		TM 25.05 The text of this paragraph covered now in rows 296b till 296h	G

PUBLIC

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	289g	<u>(e) any clear impacts on financial stability stemming from the settlement fails;</u>		TM 25.05: The text of this paragraph covered now in rows 296b till 296h	G
G	289h	<u>(f) any clear impacts on fragmentation of the Union's capital market stemming from diverging settlement efficiency rates.;</u>		TM 25.05: The text of this paragraph covered now in rows 296b till 296h	G
Article 1, first paragraph, point (24)(a)					
G	290	(a) paragraph 1 is amended as follows:	(a) paragraph 1 is amended as follows:	(a) paragraph 1 is amended as follows: Text Origin: Commission Proposal	G
Article 1, first paragraph, point (24)(a)(i)					
G	291	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following: Text Origin: Commission Proposal	G
Article 1, first paragraph, point (24)(a)(i), amending provision, first paragraph					
G	292	,	,	,	G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit reports to the Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by this Regulation. Those reports shall include an assessment of the following::	ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit reports to the Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by this Regulation. Those reports shall include an assessment of the following::	ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit reports to the Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by this Regulation. Those reports shall include an assessment of the following::	ESMA shall, in cooperation with EBA and the competent authorities and the relevant authorities, submit reports to the Commission providing assessments of trends, potential risks and vulnerabilities, and, where necessary, recommendations of preventative or remedial action in the markets for services covered by this Regulation. Those reports shall include an assessment of the following:: Text Origin: Commission Proposal
Article 1, first paragraph, point (24)(a)(ii)				
293	(ii) point (a) is replaced by the following:	(ii) point (a) is replaced by the following:	(ii) point (a) is replaced by the following:	(ii) point (a) is <u>points (a), (b) and (c) are</u> replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (24)(a)(ii), amending provision, first paragraph				
294	(a) settlement efficiency for domestic and cross-border operations for each Member State based on the number and volume of settlement fails and their evolution, including an analysis of the impact of cash penalties on settlement fails across instruments, the duration and	(a) settlement efficiency for domestic and cross-border operations for each Member State based on the number and volume of settlement fails and their evolution, including an analysis of the impact of cash penalties on settlement fails across instruments, the duration and	(a) settlement efficiency for domestic and cross-border operations for each Member State based on the number and volume of settlement fails and their evolution, including an analysis of the impact of cash penalties on settlement fails across instruments, the duration and	(a) settlement efficiency for domestic and cross-border operations for each Member State, <u>taking into account at least the following:</u> <u>i. the</u> based on the number and volume of settlement fails and their

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	main drivers of settlement fails, the categories of financial instruments and markets where the highest settlement fail rates are observed and an international comparison of settlement fail rates, including an assessment of the amount of penalties referred to in Article 7(2), and, where applicable, the number and volumes of buy-in transactions referred to in Article 7(3) and (4) as well as any other relevant criteria;;	main drivers of settlement fails, the categories of financial instruments and markets where the highest settlement fail rates are observed and an international comparison of settlement fail rates, including an assessment of the amount of penalties referred to in Article 7(2), and, where applicable, the number and volumes of buy-in transactions referred to in Article 7(3) and (4) as well as any other relevant criteria;;	main drivers of settlement fails, the categories of financial instruments and markets where the highest settlement fail rates are observed and an international comparison of settlement fail rates, including an assessment of the amount of penalties referred to in Article 7(2) <u>6a</u> , and, where applicable, the number and volumes of buy-in transactions referred to in Article 7(3) and (4) as well as any other relevant criteria;;	evolution, including an analysis of the; <u>ii.</u> impact of cash penalties on settlement fails across instruments; <u>i</u> <u>iii.</u> the duration and main drivers of settlement fails; <u>i</u> <u>iv.</u> the categories of financial instruments and markets where the highest settlement fail rates are observed and; <u>v.</u> an international comparison of settlement fail rates, including an assessment of; <u>vi.</u> the amount of penalties referred to in Article 7(2), and, 6a; <u>vii.</u> where applicable, the number and volumes of buy-in transactions referred to in Article 7(3) and (4) as well as any other relevant criteria;; <u>i</u> TM 25.05. structure and wording improved, references updated to the provisional agreement Text Origin: Council Mandate
	Article 1, first paragraph, point (24)(a)(iia)			
294a			<u>(iii) point (c) is replaced by the following:</u>	<u>(b) the appropriateness of penalties for settlement fails, in particular the need for additional flexibility in relation to penalties for settlement fails in relation to illiquid financial instruments referred to in Article 6a(4);</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				TM 25.05. Addition of the point (existing text) needed in order to update the reference. The reference to Art 6a(4) needs to be checked, since the content does not match.
Article 1, first paragraph, point (24)(a)(iib)				
294b			<u>(c) measuring settlement, which does not take place in the securities settlement systems operated by CSDs based on the number and volume of transactions, including its evolution over time also with respect to settlement in securities settlement systems operated by CSDs, based on the information received under Article 9 and any other relevant criteria. The report shall consider the impact of this evolution on competition in the settlement market as well as identify any potential risks to financial stability;';</u>	<u>(c) the number and volume of transactions that are settled outside the securities settlement systems operated by CSDs and their evolution over time, including a comparison with the number and volume of the transactions that are settled in the securities settlement systems operated by CSDs, based on the information received under Article 9 and any other relevant information, as well as the impact of that evolution on competition in the settlement market and any potential risks to financial stability from internalised settlement';</u> TM 25.05. technical improvements to the existing text to make it clear what exactly needs to be assessed. Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iii)				
295				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(iii) the following point (I) is added:	(iii) the following point (I) is added:	(iii ^{iv}) the following point (I) is added:	(iii) the following point (I) is added: Text Origin: Commission Proposal
Article 1, first paragraph, point (24)(a)(iii), amending provision, first paragraph				
296	‘ (I) the handling of notifications submitted in accordance with Article 25(2a);; ’,	‘ (I) the handling of notifications submitted in accordance with Article 25(2a);; ’,	‘ (I) the handling of notifications submitted in accordance with Article 25(2a) ; [;] ’,	‘ (I) the handling of notifications submitted in accordance with Article 25(2a) ; [;] ’, Text Origin: Council Mandate
296a				‘ ; ’,
Article 1, first paragraph, point (24)(a)(iiia)				
296b			<u>(b) the following paragraphs 1a and 1b are inserted:</u>	<u>(b) the following paragraphs 1a and 1b are inserted:</u> TM 25.05. It is proposed to move paragraphs 1a and 1b to separate articles: Article 74a Cost-benefit analysis on mandatory buy-in procedure during the LL revision Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
296c			" <u>1a. Upon request of the Commission, ESMA shall provide a cost-benefit analysis as referred to in Article 7(1), of a potential mandatory buy-in procedure when applied with respect to financial instruments or categories of transactions in those financial instruments as specified by the Commission in its request. Such cost-benefit analysis shall consist of the following elements:</u>	" <u>1a. Upon the request of the Commission, ESMA shall provide a cost-benefit analysis of the introduction of the mandatory buy-in procedure. Such cost-benefit analysis shall consist of the following elements:</u> TM 25.05. In Article 7(1) there is already a reference to Article 74(1a), compromise agreed Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (a)				
296d			<u>(a) the duration of settlement fails with respect to the financial instrument of categories of transactions in those financial instruments to which the mandatory buy-in may apply;</u>	<u>(a) the average duration of settlement fails with respect to the financial instrument of categories of transactions in those financial instruments to which the mandatory buy-in could apply;</u> TM 25.05. the term "duration" will be revisited in legal linguistic finalisation because it is not used the regulation - needs to be corrected in several places Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (b)				
296e			<u>(b) the impact of the potential application of mandatory buy-in</u>	<u>(b) the impact of the introduction of the mandatory buy-in procedure</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>process on the Union market, including an assessment of the underlying causes of the settlement fails to which the mandatory buy-in may apply and an analysis of the implications of subjecting specific financial instruments and categories of transactions to the mandatory buy-in;</u>	<u>on the Union market, including an assessment of the underlying causes of the settlement fails to which the mandatory buy-in could apply and an analysis of the implications of subjecting specific financial instruments and categories of transactions to the mandatory buy-in;</u> TM 25.05. combination of EP and Council text Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (c)				
296f			<u>(c) the application of a similar buy-in process in comparable third-country markets and the impact on the competitiveness of the Union market;</u>	<u>(c) the application of a similar buy-in procedure in comparable third-country markets and the impact on the competitiveness of the Union market;</u> TM 25.05. Combination of EP and Council text Text Origin: Council Mandate
Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (d)				
296g			<u>(d) any impacts on financial stability in the Union stemming from settlement fails.</u>	<u>(d) any clear impact on financial stability in the Union stemming from settlement fails.</u> TM 25.05. combined text of EP and Council; impact preferably in Sg.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
	Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (e)			
296h				<u>(e) any clear impact on fragmentation of the Union's capital market stemming from diverging settlement efficiency rates, including the reasons for such divergence and appropriate measures to limit it.</u> TM 25.05. EP text plus addition by the Council in TM
	Article 1, first paragraph, point (24)(b)			
297	(b) the following paragraph 1a is inserted:	(b) the following paragraph 1a is inserted:	(b) the following paragraph 1a is inserted:	
	Article 1, first paragraph, point (24)(b), amending provision, first paragraph			
298	1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows:	1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows:	1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows:	1a1aa. The reports referred to in paragraph 1 shall be submitted to the Commission as follows: Text Origin: Commission Proposal
	Article 1, first paragraph, point (24)(b), amending provision, first paragraph, point (a)			
299				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(a) at least every 2 years from ... [PO please insert the date = the date of entry into force of this Regulation] for the report referred to in paragraph 1, point (a);	(a) at least every 2 years from ... [PO please insert the date = the date of entry into force of this Regulation] for the report referred to in paragraph 1, point (a);	(a) at least every 2 ^{two} years from ... [PO please insert the date = the date of entry into force of this Regulation] for the report referred to in paragraph 1, point (a);	(a) at least every 2 ^{two} years from ... [PO please insert the date = the date of entry into force of this Regulation] for the report referred to in paragraph 1, point (a); Text Origin: Council Mandate
Article 1, first paragraph, point (24)(b), amending provision, first paragraph, point (b)				
300	(b) every 2 years for the reports referred to in paragraph 1, points (b) and (c);	(b) every 2 years for the reports referred to in paragraph 1, points (b) and (c);	(b) every 2 ^{two} years for the reports referred to in paragraph 1, points (b) and (c);	(b) every 2 ^{two} years for the reports referred to in paragraph 1, points (b) and (c); Text Origin: Council Mandate
Article 1, first paragraph, point (24)(b), amending provision, first paragraph, point (c)				
301	(c) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 3 years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation], for the reports referred to in paragraph 1, points (d) and (f);	(c) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 3 years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation], for the reports referred to in paragraph 1, points (d) and (f);	(c) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 3 ^{three} years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation], for the reports referred to in paragraph 1, points (d) and (f);	(c) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 3 ^{three} years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation], for the reports referred to in paragraph 1, points (d) and (f); Text Origin: Council Mandate
Article 1, first paragraph, point (24)(b), amending provision, first paragraph, point (d)				
302	(d) upon request from the Commission, for the reports referred	(d) upon request from the Commission, for the reports referred	(d) upon request from the Commission, for the reports referred	(d) upon request from the Commission, for the reports referred

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	to in paragraph 1, points (e), (h), (j) and (k);	to in paragraph 1, points (e), (h), (j) and (k);	to in paragraph 1, points (e), (h), (j) and (k);	to in paragraph 1, points (e), (h), (j) and (k); Text Origin: Commission Proposal
Article 1, first paragraph, point (24)(b), amending provision, first paragraph, point (e)				
303	(e) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 2 years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] for the reports referred to in paragraph 1, points (i) and (l).;	(e) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 2 years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] for the reports referred to in paragraph 1, points (i) and (l).;	(e) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 2 <i>two</i> years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] for the reports referred to in paragraph 1, points (i) and (l).;	(e) on an annual basis until ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] and every 2 <i>two</i> years from ... [PO please insert the date = 1 year after the date of entry into force of this Regulation] for the reports referred to in paragraph 1, points (i) and (l).; Text Origin: Council Mandate
303a		<u>(ba) the following paragraphs are inserted:</u>		<u>(ba) the following paragraphs are inserted:</u> TM 25.05. in legal linguistic revision it can be checked whether the following paragraphs need to be moved to a separate article Text Origin: EP Mandate
303b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		" <u>'1aa. ESMA shall, after consulting the ESCB, submit a report no more than [one year after the date of publication of this amending Regulation in the Official Journal] to the Commission regarding the possibility of applying additional regulatory tools to improve settlement efficiency in the Union.</u>	" TM 25.05. Council agrees to take over EP text into the agreement; technical changes made Text Origin: EP Mandate	
303c		<u>That report shall cover at least the shaping of transaction sizes, the partial settlement of failing trades, and the use of auto-lend/borrow programmes provided by certain CSDs.</u>		<u>That report shall cover at least the shaping of transaction sizes, the partial settlement of failing trades, and the use of auto-lend/borrow programmes.</u> Text Origin: EP Mandate
303d		<u>Thereafter, ESMA, after consulting the ESCB, shall report every three years on any potential additional tools to improve settlement efficiency the Union. In cases where no new tools have been identified, ESMA shall</u>		<u>Thereafter, ESMA, after consulting the ESCB, shall report every three years on any potential additional tools to improve settlement efficiency the Union. In cases where no new tools have been identified, ESMA shall</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>inform the Commission thereof and shall not be required to provide a report.</u>		<u>inform the Commission thereof and shall not be required to provide a report.</u> Text Origin: EP Mandate
Y	303e	<u>1ab. ESMA shall, in agreement with the ESCB, submit a report not more than [X months after publication of this amending Regulation in the Official Journal] to the Commission regarding the potential shortening of the settlement cycle on the Union capital market. That report shall include all of the following:</u>		<u>1ab. By ... [one year after the date of entry into force of this amending Regulation] and every second year thereafter, ESMA, in close cooperation with the members of the ESCB, shall submit a report to the European Parliament and to the Council on the assessment regarding the potential shortening of the period referred to in Article 5(2), first sentence ("settlement cycle"). That report shall include all of the following:</u> TM 25.05. Council line 308a, some additional elements of EP text added. EP to check that the report would be every second year. For the Council an annual report in EP text is not proportionate since being too frequent, instead the report should be every second (see EP line 303 i).
G	303f	<u>(a) an overview of international developments on settlement cycles</u>		<u>(a) an assessment of the possibility to shorten the settlement cycle and</u>

PUBLIC

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>and their impact on capital markets of the Union;</u>		<u>the potential impact of such shortening on CSDs, trading venues and other market participants;</u> TM 25.05. Combined text of EP and Council
G 303g		<u>(b) an assessment of the costs and benefits of shortening the settlement cycle in the Union, differentiating where appropriate between different financial instruments;</u>		<u>(b) an assessment of the costs and benefits of shortening the settlement cycle in the Union, differentiating where appropriate between different financial instruments and categories of transactions;</u> TM 25.05. EP text agreed plus technical changes Text Origin: EP Mandate
G 303h		<u>(c) a detailed assessment and timeline of how to move to a shorter settlement cycle, differentiating, where appropriate, between different financial instruments;</u>		<u>(c) a detailed outline of how to move to a shorter settlement cycle, differentiating, where appropriate, between different financial instruments and categories of transactions;</u> <u>(d) an overview of international developments on settlement cycles</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>and their impact on the Union's capital markets.</u> TM 25.05. EP text plus technical changes Text Origin: EP Mandate
303i		<u>Thereafter, ESMA, in agreement with the ESCB, shall report annually on the progress towards quicker settlement cycles in the Union.;</u>		<u>By ... [PO please insert the date = two years after the date of entry into force of this Regulation], EBA, in close cooperation with the members of the ESCB and ESMA, shall submit a report to the European Parliament and to the Council on the assessment of the residual credit loss related to residual credit exposures as referred to in Article 59(3), point (g), and possibilities of addressing it. The report shall be made publicly available.</u> TM 25.05. EP text covered above, see remark on annual in line 303e. The Council text has been moved to here from line 308b. EP to come back.
Article 1, first paragraph, point (24)(c)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
304	(c) paragraph 2 is replaced by the following:	(c) paragraph 2 is replaced by the following:	(c) paragraph 2 is replaced by the following:	(c) paragraph 2 is replaced by the following: Text Origin: Commission Proposal
Article 1, first paragraph, point (24)(c), amending provision, numbered paragraph (2)				
305	2. The reports referred to in paragraph 1 shall be communicated to the Commission by 30 April of the relevant year as determined in accordance with the periodicity set out in paragraph 1a.;	2. The reports referred to in paragraph 1 shall be communicated to the Commission by 30 April of the relevant year as determined in accordance with the periodicity set out in paragraph 1a.;	2. The reports referred to in paragraph 1 shall be communicated to the Commission by 30 April of the relevant year as determined in accordance with the periodicity set out in paragraph 1a.;	2. The reports referred to in paragraph 1 shall be communicated to the Commission by 30 April of the relevant year as determined in accordance with the periodicity set out in paragraph 1a.;
Article 1, first paragraph, point (25)				
306	(25) Article 75 is replaced by the following:	(25) Article 75 is replaced by the following:	(25) Article 75 is replaced by the following:	(25) Article 75 is replaced by the following: Text Origin: Council Mandate
Article 1, first paragraph, point (25), amending provision, first paragraph				
307	Article 75	Article 75	Article 75	Article 75 Text Origin: Commission Proposal
Article 1, first paragraph, point (25), amending provision, second paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
308	Review	Review		Review Text Origin: Commission Proposal
Article 1, first paragraph, point (25), amending provision, second paragraph a				
308a			<u>'By ... [PO please insert the date = one year after the date of entry into force of this Regulation] and every second year thereafter, ESMA, in close cooperation with the members of the ESCB, shall submit a report to the European Parliament and to the Council on the assessment of the possibility to shorten the settlement date under Article 5(2) and assess potential impact of such shortening on CSDs, trading venues and other market participants. The report shall be made publicly available.</u>	TM 25.05. Council text moved to lines 303a etc
Article 1, first paragraph, point (25), amending provision, second paragraph b				
308b			<u>By ... [PO please insert the date = two years after the date of entry into force of this Regulation], EBA, in close cooperation with the members of the ESCB and ESMA, shall submit a report to the European Parliament and to the Council on the assessment of the residual credit loss related to</u>	TM 25.05. moved to line 303i

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u><i>residual credit exposures as referred to in Article 59(3), point (g), and possibilities of addressing it. The report shall be made publicly available.</i></u>	
Article 1, first paragraph, point (25), amending provision, third paragraph				
309	By ... [PO please insert the date = 5 years after the date of entry into force of this Regulation], the Commission shall review and prepare a general report on this Regulation. That report shall, in particular, assess the matters referred to in Article 74(1), points (a) to (l), establish whether there are substantive barriers to competition in relation to the services subject to this Regulation which are insufficiently addressed and set out the potential need to apply further measures to:	By ... [PO please insert the date = 5 years after the date of entry into force of this Regulation], the Commission shall review and prepare a general report on this Regulation. That report shall, in particular, assess the matters referred to in Article 74(1), points (a) to (l), establish whether there are substantive barriers to competition in relation to the services subject to this Regulation which are insufficiently addressed and set out the potential need to apply further measures to:	By ... [PO please insert the date = 5 years after the date of entry into force of this Regulation], the Commission shall review and prepare a general report on this Regulation. That report shall, in particular, assess the matters referred to in Article 74(1), points (a) to (l), establish whether there are substantive barriers to competition in relation to the services subject to this Regulation which are insufficiently addressed and set out the potential need to apply further measures to:	By ... [PO please insert the date = 5 years after the date of entry into force of this Regulation], the Commission shall review and prepare a general report on this Regulation. That report shall, in particular, assess the matters referred to in Article 74(1), points (a) to (l), establish whether there are substantive barriers to competition in relation to the services subject to this Regulation which are insufficiently addressed and set out the potential need to apply further measures to: Text Origin: Commission Proposal
Article 1, first paragraph, point (25), amending provision, third paragraph, point (a)				
310	(a) improve settlement efficiency;	(a) improve settlement efficiency;	(a) improve settlement efficiency;	(a) improve settlement efficiency; Text Origin: Commission Proposal
Article 1, first paragraph, point (25), amending provision, third paragraph, point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	311	(b) limit the impact on taxpayers of the failure of CSDs;	(b) limit the impact on taxpayers of the failure of CSDs;	(b) limit the impact on taxpayers of the failure of CSDs; Text Origin: Commission Proposal	G
G	311a			<u>(ba) further regulate the practice of internalised settlement;</u> <u>(ba) address any identified competition or financial stability issues related to internalised settlement;</u> TM 25.05. Council made a counter-proposal. In the essence this text should spell out what the potential concerns are that need to be addressed. For COM this is also fine. EP agreed after consultations	G
Article 1, first paragraph, point (25), amending provision, third paragraph, point (c)					
G	312	(c) minimise barriers to cross-border settlement;	(c) minimise barriers to cross-border settlement;	(c) minimise barriers to cross-border settlement; Text Origin: Commission Proposal	G
Article 1, first paragraph, point (25), amending provision, third paragraph, point (d)					
Y	313		(d) ensure adequate powers and information for <u>competent and</u>		Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(d) ensure adequate powers and information for authorities to monitor risks.	<u>relevant</u> authorities to monitor risks;	(d) ensure adequate powers and information for authorities to monitor risks.	(d) ensure adequate powers and information for authorities to monitor risks. TM 25.05. The COM text t is a compromise text already: the text does not qualify which authorities have to be addressed EP to check. Text Origin: Commission Proposal
R	313a	<u>(da) grant ESMA further supervisory powers in relation to CSDs that are of substantial importance for the functioning of securities markets and the protection of investors in the Union or that are of substantial importance in at least five host Member States;</u>		
R	313b	<u>(db) grant ESMA further supervisory and enforcement powers in relation to third-country CSDs;</u>		
Y	313c			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i><u>(dc) improve the ability of market participants to monitor effectively their exposure to penalties and potential mandatory buy-in procedures by consolidating and making available reference data in a centralised database;</u></i>		TM 25.05. EP to come back There exist already databases for that end. If ESMA would need to integrate all those databases, it would need to buy some of them and to hire more staff. Also there is the issue of liability for ESMA.
Article 1, first paragraph, point (25), amending provision, fourth paragraph				
314	The Commission shall submit the report to the European Parliament and to the Council, together with any appropriate proposals.;	The Commission shall submit the report to the European Parliament and to the Council, together with any appropriate proposals.;	The Commission shall submit the report to the European Parliament and to the Council, together with any appropriate proposals.;	The Commission shall submit the report to the European Parliament and to the Council, together with any appropriate proposals.;
				Text Origin: Commission Proposal
Article 1a				
314a		<i><u>Article 1a</u></i> <i><u>Amendment to Regulation (EU) No 236/2012</u></i>	<i><u>Article 1a</u></i> <i><u>Amendment to Regulation (EU) No 236/2012</u></i>	<i><u>Article 1a</u></i> <i><u>Amendment to Regulation (EU) No 236/2012</u></i> TM 27.04: both EP and CNL reinstate Article 15 of SSR Text Origin: EP Mandate
Article 1a, first paragraph				
314b		<i><u>The following article is inserted:</u></i>	<i><u>The following Article 15a is inserted into Regulation (EU) No 236/2012:</u></i>	<i><u>The following Article is inserted:</u></i> Text Origin: EP Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 1a, second paragraph			
G	314c	<u>‘Article 15 Buy-in procedures</u>	<u>‘Article 15a Buy-in procedures</u>	<u>‘Article 15 Buy-in procedures</u> TM 27.04: to be determined whether it should be article 15 or 15a Text Origin: EP Mandate
	Article 1a, third paragraph			
Y	314d	<u>Until the buy-in regime set out in Article 7 of Regulation (EU) No 909/2014 [CSDR] is applied to transactions in shares cleared by central counterparties, a central counterparty in a Member State that provides clearing services for shares shall ensure that procedures are in place that comply with all of the following requirements:</u>	<u>A central counterparty in a Member State that provides clearing services for shares shall ensure that procedures are in place which comply with all of the following requirements:</u>	<u>[Until the buy-in regime set out in Article 7 of Regulation (EU) No 909/2014 [CSDR] is applied to transactions in shares cleared by central counterparties,] a central counterparty in a Member State that provides clearing services for shares shall ensure that procedures are in place that comply with all of the following requirements:</u> TM 27.04: EP and CNL reinstate Article 15 of SSR, but difference on interaction with CSDR. TM 25.05. CNL feels strong about their text. EP to check whether it agrees to the Council text. CNL text would provide legal certainty to the markets in the long run. Text Origin: EP Mandate
	Article 1a, third paragraph, point (a)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
314e		<u>(a) where a natural or legal person who sells shares is not able to deliver the shares for settlement within four business days of the day on which settlement is due, procedures are automatically triggered for the buy-in of the shares to ensure delivery for settlement;</u>	<u>(a) where a natural or legal person who sells shares is not able to deliver the shares for settlement within four business days after the day on which settlement is due, procedures are automatically triggered for the buy-in of the shares to ensure delivery for settlement;</u>	<u>(a) where a natural or legal person who sells shares is not able to deliver the shares for settlement within four business days of the day on which settlement is due, procedures are automatically triggered for the buy-in of the shares to ensure delivery for settlement;</u> Text Origin: EP Mandate
Article 1a, third paragraph, point (b)				
314f		<u>(b) where the buy-in of the shares for delivery is not possible, an amount is paid to the buyer based on the value of the shares to be delivered at the delivery date plus an amount for losses incurred by the buyer as a result of the settlement fail;</u>	<u>(b) where the buy-in of the shares for delivery is not possible, an amount is paid to the buyer based on the value of the shares to be delivered at the delivery date plus an amount for losses incurred by the buyer as a result of the settlement failure; and</u>	<u>(b) where the buy-in of the shares for delivery is not possible, an amount is paid to the buyer based on the value of the shares to be delivered at the delivery date plus an amount for losses incurred by the buyer as a result of the settlement fail;</u> Text Origin: EP Mandate
Article 1a, third paragraph, point (c)				
314g		<u>(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).</u>	<u>(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).'</u>	<u>(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).</u> Text Origin: EP Mandate
Article 2				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
315	Article 2 Entry into force and application	Article 2 Entry into force and application	Article 2 Entry into force and application	Article 2 Entry into force and application Text Origin: Commission Proposal
Article 2, first paragraph				
316	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. Text Origin: Council Mandate
Article 2, second paragraph				
317	However, Article 1, point (2)(a), point (9), point (10)(a), point (17)(c), point (19)(a) and point (23)(b), second subparagraph, shall apply from [PO please insert the date = 24 months after the date of entry into force of this Regulation].	However, Article 1, point (2)(a) , point (9), point (10)(a), point (17)(c), point (19)(a) and point (23)(b), second subparagraph, shall apply from [<u>PO please insert the date = 24 months after the date of entry into force of this Regulation</u> PO please insert the date = 24 months after the date of entry into force of this Regulation].	However, Article 1, point (2)(a) , point (9), point (10)(a), point (17)(c), point (19)(a) and point (23)(b), second subparagraph , <u>(a)</u> shall apply from ...- [PO please insert the date = 24 months after the date of entry into force of this Regulation].	
Article 2, second paragraph a				
317a			<u>Article 7(14) of Regulation (EU) No 909/2014 as applicable before entry into force of this Regulation will continue to apply until the date</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>of application of the delegated regulation based on Article 6a(5) as amended by Article 1(1a) of this Regulation.</u>	
317b		<u>Article 1, point (2)(a), shall apply from the date of entry into force of the delegated act adopted by the Commission pursuant to Article 7(14a).</u>		
317c		<u>Article 1, point (14b), of this Regulation shall apply from the date of entry into force of the delegated act adopted by the Commission pursuant to Article 47a(3) of Regulation (EU) No 909/2014.</u>		
Article 2, third paragraph				
318	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States. <u>Text Origin: Commission Proposal</u>
Formula				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement	
G	319	Done at Brussels,	Done at Brussels,	Done at Brussels, Text Origin: Commission Proposal	G
	Formula				
G	320	For the European Parliament	For the European Parliament	For the European Parliament Text Origin: Commission Proposal	G
	Formula				
G	321	The President	The President	The President Text Origin: Commission Proposal	G
	Formula				
G	322	For the Council	For the Council	For the Council Text Origin: Commission Proposal	G
	Formula				
G	323	The President	The President	The President Text Origin: Commission Proposal	G