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**WORKING DOCUMENT**

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| From: | Presidency |
| To: | Working Party on Financial Services and the Banking Union (CSDR)<br>Financial Services Attachés |
| Subject: | CSDR: interim updated 4CT, 23.06.23 |

# 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)**
**DRAFT [20230621_CSDR]**
**21-06-2023 at 17h18**

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| Formula | | | | |
| 1 | 2022/0074 (COD) | 2022/0074 (COD) | 2022/0074 (COD) | 2022/0074 (COD)<br>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 ***and amending Regulation (EU) No 236/2012*** (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 ***and amending Regulation (EU) No 236/2012*** (Text with EEA relevance)<br>Text Origin: Council Mandate |

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| 3 | 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,<br>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,<br>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,<br>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,<br>Text Origin: Commission Proposal |

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| Citation 4 | | | | |
| 7 | Having regard to the opinion of the European Central Bank[1],<br><br>1. OJ C […], […], p. […]. | Having regard to the opinion of the European Central Bank[1],<br><br>1. OJ C […], […], p. […]. | Having regard to the opinion of the European Central Bank[1],<br><br>1. OJ C […], […], p. […]. | Having regard to the opinion of the European Central Bank[1],<br><br>1. OJ C ~~[…], […], p. […]~~ ***367, 26. 9. 2022, p. 3***.<br><br>Reference corrected<br><br>Text Origin: Commission Proposal |
| Citation 5 | | | | |
| 8 | Having regard to the opinion of the European Economic and Social Committee[1],<br><br>1. OJ C , , p. . | Having regard to the opinion of the European Economic and Social Committee[1],<br><br>1. OJ C , , p. . | Having regard to the opinion of the European Economic and Social Committee[1],<br><br>1. OJ C ***367, 26. 9. 2022, p. 3*** ~~, , p. .~~. | Having regard to the opinion of the European Economic and Social Committee[1],<br><br>1. OJ C ***443, 22.11.2022, p. 87*** ~~, , p. .~~<br><br>Reference corrected<br><br>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,<br><br>Text Origin: Commission Proposal |
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| 10 | Whereas: | Whereas: | Whereas: | Whereas:<br><br>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.<br><br>Text Origin: Commission Proposal |
| Recital 1 | | | | |
| 11 | (1) Regulation (EU) No 909/2014 of the European Parliament and of the Council[1] 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 | (1) Regulation (EU) No 909/2014 of the European Parliament and of the Council[1] 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 | (1) Regulation (EU) No 909/2014 of the European Parliament and of the Council[1] ~~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 | (1) Regulation (EU) No 909/2014 of the European Parliament and of the Council[1] ~~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 |

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| | and prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs and other institutions providing banking services that support securities settlement, and regime allowing authorised CSDs to provide their services across the Union.<br><br>_____<br>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 prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs and other institutions providing banking services that support securities settlement, and regime allowing authorised CSDs to provide their services across the Union.<br><br>_____<br>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 prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs and other institutions providing banking services that support securities settlement, and ***a*** regime allowing authorised CSDs to provide their services across the Union.<br><br>_____<br>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 prudential requirements for CSDs, increased prudential and supervisory requirements for CSDs and other institutions providing banking services that support securities settlement, and ***a*** regime allowing authorised CSDs to provide their services across the Union.<br><br>_____<br>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).<br><br>Text Origin: Council Mandate |
| 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.<br><br>Text Origin: Commission |

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| Recital 3 | | | | |
| 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 2020[1] included as one of its key actions the review of Regulation (EU) No 909/2014.<br>_____<br>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 2020[1] included as one of its key actions the review of Regulation (EU) No 909/2014.<br>_____<br>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 2020[1] included as one of its key actions the review of Regulation (EU) No 909/2014.<br>_____<br>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 2020[1] included as one of its key actions the review of Regulation (EU) No 909/2014.<br>_____<br>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.<br>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 | (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 | (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 | (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 |

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| | ('ESMA') and the European System of Central Banks ('ESCB'). It appeared from the consultations that stakeholders 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 report[1] 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.<br><br>_____<br>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). | ('ESMA') and the European System of Central Banks ('ESCB'). It appeared from the consultations that stakeholders 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 report[1] 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.<br><br>_____<br>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). | ('ESMA') and the European System of Central Banks ('ESCB'). It appeared from the consultations that stakeholders 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 report[1] 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.<br><br>_____<br>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). | ('ESMA') and the European System of Central Banks ('ESCB'). It appeared from the consultations that stakeholders 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 report*~~[1] ***report to the European Parliament and the Council*** 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.<br><br>_____<br>~~*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).*~~<br><br>Written procedure (WP), 14.06.-20.06: technical changes. In legislative acts there is no footnote reference to COM documents.<br><br>Text Origin: Council Mandate |

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| 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 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) 2018/1229[1] 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 | (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 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) 2018/1229[1] 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~~***measures to prevent and address settlement fails*** set out in ~~Article~~***Articles 6 and*** 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~~ | (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 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) 2018/1229[1] 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~~***reporting requirements*** 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~~***continue to apply in order to assess their impact on*** | (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 particular reporting requirements, a cash penalties regime and mandatory buy-ins. ***Currently, only reporting requirements and cash penalties apply. The accumulated*** ~~Despite the absence of~~ experience in applying ~~those rules,~~***cash penalties as well as*** the development and specification of the ***settlement discipline*** framework in Commission Delegated Regulation (EU) 2018/1229[1] has allowed all interested parties to better understand the regime and the challenges its application ~~could give~~***gives*** rise to. In ~~this regard~~***particular***, 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~~ |

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| | 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.<br><br>_____<br>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).– | ~~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~~.<br><br>_____<br>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).– | ***improving settlement efficiency in the Union. However, the scope*** of cash penalties ~~or~~***and*** 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~~***set 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***.<br><br>_____<br>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).– | ~~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~~***buy-in measures to prevent and address settlement fails set out in*** Regulation (EU) No 909/2014 ~~by further specifying the details of such exclusions by means of a delegated act.~~***should be clarified.***<br><br>_____<br>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).–<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP question on inclusion of "prevent" in the last sentence, if cash penalties and MBIs address rather than prevent settlement fails. To be checked by Council. |
| Recital 5a | | | | |
| 15a | | | | |

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| | | | ***(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 calculation of cash penalties, such as the possibility of setting a progressive rate.*** | ***(5a) Transactions that fail to settle for reasons not attributable to the participants and transactions that are not considered as trading should not be subject to cash penalties or mandatory buy-ins because for those transactions the application of those measures would not be practicable or could lead to detrimental consequences for the market. This is likely to be the case for certain primary market transactions, securities financing transactions, corporate actions, reorganisations or the creation and redemption of fund units, realignment operations or other types of transactions that render the buy-in process ineffective or unnecessary. Equally, the settlement discipline measures should not apply to failing participants against which insolvency proceedings have been opened, where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties or to transactions that are within the scope of Article 15a of Regulation (EU) No 236/2012.***<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP propose to replace "transactions" by "operations" as per line 51w (line 71g |

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| | | | | should also be aligned).<br>The the SSR is only exempted in Article 7 on MBIs, not in Article 6 on penalties. In Article 7 on MBIs, there are two additional exemptions: SFTs, to other types of transactions that render the buy-in process unnecessary. EP therefore proposes to change the last part of the last sentence as follows: "In addition, transactions that are within the scope of Article 15a of Regulation (EU) No 236/2012 , securities financing transactions and other types of transactions that render the buy-in process unnecessary should not be subject to mandatory buy-ins."<br>To be checked by Council.<br><br>Text Origin: Council Mandate |
| Recital 5b | | | | |
| 15b | | | ***(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.*** | ***(5b) Cash penalties should incentivise the timely settlement of securities transactions. Therefore, the Commission should be empowered to reassess the parameters used to calculate cash penalties on a regular basis and to further consider possible changes to the method used for the calculation of those penalties, such as setting progressive rates. Cash penalties 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*** |

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| | | | | ***actual settlement day, whichever is the earlier.***<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine. To be checked by Council. |
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| Y | 15c | | ***(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 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*** | Y |

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| | | | ***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.*** | |
| | | | | |
| | 15d | ***(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, 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*** | | |

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| | | ***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.*** | | |
| 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 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, | (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 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*~~***significantly interfering in the functioning of securities*** | (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 market conditions. The application of ~~*those*~~***mandatory buy-in*** rules should therefore be subject to an assessment by the Commission as to its appropriateness***, necessity and proportionality*** 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.*~~ | (6) ~~*The overarching objective of the settlement discipline regime is to improve settlement efficiency within the Union. However, the market volatility in 2020 amplified*~~***There are*** concerns about the potential negative effects of mandatory buy-in rules, both in normal and stressed market conditions. ~~*The application of those rules*~~***Mandatory buy-ins*** 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*~~***be a measure of last resort and*** should ~~*however continue to*~~ apply ~~*in order to assess their impact on improving settlement efficiency in the Union. Considering*~~ |

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| | 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 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 | ***transactions through mandatory buy-in rules, both in normal and stressed market conditions.*** . 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*~~***as a last resort, when all other available measures have failed to address the insufficient levels of*** 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* .***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*** mandatory buy-ins ~~*is proportionate to address level of settlement fails in the Union, the Commission should be empowered*~~ | 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*~~***as the last resort and when all possible other avenues for addressing insufficient*** level of settlement ~~*fails*~~***efficiency*** in the Union ~~*has or is likely to have a negative effect on the financial stability of the Union. Where*~~***have been tried. Therefore,*** 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 to adopt an implementing act determining for which financial instruments or categories of transactions the*~~***should as a first step consult ESRB and require from ESMA to be provided with a cost-benefit analysis. Where such analysis demonstrates that*** | ~~*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*~~***only where, first, the application of other measures, such as cash penalties or the suspension, by CSDs, CCPs or trading venues, of participants that cause*** settlement fails ~~*in the Union, where settlement efficiency in the Union*~~ ***consistently and systematically,*** 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*~~***resulted in a long-term, sustainable reduction or reduced level of settlement fails and, second, when*** 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 to adopt an implementing act determining for which financial instruments or categories of transactions the*~~ |

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| | the earlier. | ~~to adopt an implementing act determining for which financial instruments or categories of transactions the mandatory buy-in rules~~***might be the appropriate tool*** 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~~***the Commission have the possibility of recourse to the mandatory buy-in mechanism***. | 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~~***might be the appropriate tool, the Commission*** 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.~~***have the possibility to have recourse the mandatory buy-in mechanism.*** | ~~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.~~<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine, just proposed to add "first" and "second" to clarify that there are two conditions. To be checked by Council. |
| Recital 6a | | | | |
| Y | 16a | ***(6a) Moreover, mandatory buy-ins should only be possible where 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*** | ***(6a) Moreover, putting in place mandatory buy-in should only be 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*** | ***(6a) When considering introducing mandatory buy-ins, the Commission should, in addition to consulting the ESRB, request ESMA to provide a cost-benefit analysis. Based on the cost-benefit analysis, the Commission may introduce mandatory buy-ins by adopting an implementing act. The implementing act should specify to which financial instruments or categories of transactions the mandatory buy-in rules are to be applied. Where the buy-in is impossible, the party that was not responsible for the settlement fail*** |

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| | | ***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.*** | ***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.*** | ***should be able to choose to be paid cash compensation or defer the buy-in to an appropriate later date.***<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine. To be checked by Council. |
| Recital 6b | | | | |
| 16b | | ***(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.*** | | ***(6b) Additional measures and tools to improve settlement efficiency in the Union, such as shaping of transaction sizes or partial settlement, should be explored.***<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP suggest to move the recital up, after recital 5. Second, the current wording does not specify how it is done in the revised text (which to me brings some confusion). EP would therefore insist on |

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| | | | PUBLIC | adding part of the EP recital in line 15d: "Accordingly, ESMA should, in close cooperation with the ESCB, review industry best practices, both within the Union and internationally, with a view to identify all relevant measures that could be implemented by settlement systems or market participants, and update, where necessary, the draft regulatory technical standards on measures to prevent settlement fails in order to increase settlement efficiency." To be checked by Council. |
| | | | | |
| Y | 16c | ***(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*** | | Y |

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| | | ***securities transfers made in the context of the (de)mobilisation of collateral.*** | | |
| | | | | |
| | 16d | ***(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 Council[1], Article 15 of Regulation (EU) No 236/2012 of the European Parliament and of the Council[2] 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.*** | | |

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| | | ***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).***<br>***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).*** | PUBLIC | |
| 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 ***that are participants in the CSD***, 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 ***allowing those participants to coordinate their actions and inform the CSD thereof. Where appropriate, the CSD should inform relevant market infrastructure involved***. Each participant involved in the transaction chain should be allowed to pass-on a buy-in notification ***based on their bilateral agreement*** to the participant failing to them until ~~*it reaches*~~ the original | (7) ~~*To avoid a multiplicity of buy-ins for a*~~ ***Applying buy-ins to a chain of*** transactions on the same financial instrument ~~*along a chain of*~~***carried out by*** counterparties~~,~~ ~~*which*~~ ***that are participants in a CSD*** could trigger unnecessary duplicative costs and could affect the liquidity of the financial instrument. ***To avoid this***, 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.<br><br>Written procedure 14.06.-21.06. Draft proposal. |

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| | | | failing participant ***is reached***. | EP propose to add "being the end receiving participant" at the end. In line 65a we refer to “end receiving participant” to make sure that it is understood that they are the same. To be checked by Council. |
| 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.*~~ | (8) Mandatory buy-ins ~~*and*~~***or*** cash compensation***, should the buy-in be impossible following the deferral period,*** ~~*processes*~~ allow for the payment of the difference between ~~*the*~~***a security’s*** buy-in price and ~~*the*~~***its*** 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 ***cash compensation*** 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*~~***It would also make the pass-on mechanism impossible to apply. Therefore, this asymmetry should be removed, both when applied to mandatory buy-in or cash compensation,*** to ensure that |

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| | | | | the trading parties are restored to the economic terms~~,~~ ***that would have applied*** had the original transaction taken place.<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine. To be checked by Council. |
| 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 counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council[1]. 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.<br><br>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). | (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 counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council[1]. 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.<br><br>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). | (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 counterparty ('CCP') as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council[1]. ***Further details should be specified in regulatory technical standards.*** 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*~~***CCP*** should be subject to the settlement discipline regime like any other participant.<br><br>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). | (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 counterparty ('CCP') ~~*as defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council*~~[1]. ~~*However, for transactions entered into by*~~ ***For instance, when*** a CCP ~~*where it*~~ does not interpose itself between counterparties, such as ***in cases where it is*** permitted ~~*use of*~~***to reinvest*** collateral ~~*for investment purposes*~~***posted by its participants***, the CPP should be subject to the settlement discipline regime like any other participant. ***Further details explaining when a CCP does not interpose itself between counterparties should be specified in regulatory technical standards.***<br><br>~~*1. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4*~~ |

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| | | | | ~~July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).~~<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP comment: this recital overlaps with recital 5a above (on exemptions), could we move the two recitals next to each other and combine the content<br>To be checked by Council. |
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| Y | 19a | | ***(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.*** | Y |
| Recital 9a | | | | |
| Y | 19b | | ***(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*** | ***(9a) The failing party should therefore bear responsibility for the payment of the price difference, the cash compensation and the buy-in costs.***<br><br>Written procedure 14.06.-21.06. Draft |

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| | | | ***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.*** | proposal.<br>EP comment: "therefore" to which provision, this sentence alone makes no sense<br>To be checked by Council. |
| 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 should be proportionate to those aims. | (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 should be proportionate to those aims. | (10) Where the mandatory ~~*buy-ins*~~***buy-in measures*** 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 should be proportionate to those aims. | (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 should be proportionate to those aims.<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine.<br>To be checked by Council. |
| Recital 11 | | | | |

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| 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~~***possibility of a*** negative interest ~~rates~~***rate environment*** 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. | (11) The ~~context of~~ ***possibility of a*** negative interest ~~rates~~***rate environment*** 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~~***nonfailing*** participant by eliminating any adverse incentives to fail that may arise in a low or negative interest rate environment.<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine, but small comment on the order of recitals that alternate between MBIs and cash penalties, while now have a structure with two separate articles.<br>To be checked by Council. |
| 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 | (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~~ | (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***. That would*** ~~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 | (12) ESMA should prepare draft regulatory ***technical*** standards to revise the existing ~~regulatory technical standards~~***ones*** in order to take into account the ~~changes made~~***amendments*** 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~~ |

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| | buy-ins. | ~~buy-ins~~. | execute their own buy-ins. | ~~participants may execute their own buy-ins.~~ ***standards.***<br><br>Written procedure 14.06.-21.06. Draft proposal.<br>EP fine. To be checked by Council. |
| | | | | |
| 22a | | ***(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.*** | | |
| Recital 13 | | | | |
| G 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 | (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 | (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 | (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 G |

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| | 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. | 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. | 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. | 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.<br><br>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*~~***regular*** 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. ***Any of the authorities that issued a negative opinion might refer the matter to ESMA for assistance*** | (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*~~***regular*** 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. ***If the competent authority fails to act accordingly, the affected relevant authority should have the right to*** |

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| | | | ***under Regulation (EU) No 1095/2010.*** | ***refer the matter to ESMA for assistance.***<br><br>Written procedure 14.06.-21.06: compromise text, EP fine, to be checked by Council |
| Recital 15 | | | | |
| 25 | (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. ***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*** | (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*~~***might*** 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*~~***appropriate*** periodicity should therefore be set in order to alleviate this burden and avoid a duplication of information from one review ***to*** the other. The ***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*** | (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*~~***CSDs are***, 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*~~***appropriate frequency of reviews and evaluations*** should therefore be set in order to alleviate this burden and avoid a duplication of information from one ~~*review the other*~~***exercise to the next, subject to a common minimum frequency. Furthermore, the assessment of the appropriate frequency by the competent authority should be*** |

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| | | ***the Council[1] conduct reviews and evaluations of banking-type ancillary services should be aligned with the frequency of the review and evaluation of CSDs.*** The supervisory capacities of competent authorities and the objective of safeguarding financial stability should, however, not be undermined.<br><br>***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).*** | ***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*** supervisory capacities of competent authorities and the objective of safeguarding financial stability should, however, not be undermined***, therefore the 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***. | ***carried out in a proportionate manner, taking into account the size, systemic importance, nature, scale and complexity of the CSD***. The supervisory capacities of competent authorities and the objective of safeguarding financial stability should, however, not be undermined. ***Therefore, competent authorities should maintain the possibility to request an additional review. To 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 Council[1] conduct reviews and evaluations of banking-type ancillary services should be aligned with the frequency of the review and evaluation of CSDs.***<br><br>Written procedure 14.06.-21.06. compromise text<br>EP/COM propose to replace the last sentence with: "The reviews and evaluations of banking-type ancillary services carried out under [the CSDR] should not be carried out less frequently than the reviews and evaluations of those services under Directive 2013/36/EU."<br>To be checked by Council |
| Recital 16 | | | | |

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| 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 European Parliament and of the Council[1], 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 | (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 European Parliament and of the Council[1], 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 | (16) A CSD should be prepared to face scenarios that ~~may~~***might*** 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 European Parliament and of the Council[1], 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~~***In order to avoid duplication of requirements, CSDs authorised to offer banking-type ancillary*** | (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 ***in those scenarios***. 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 European Parliament and of the Council[1], 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 |

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| | resolution for all CSDs.<br><br>_____<br>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). | resolution for all CSDs. ***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.***<br><br>_____<br>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). | ***services that are already subject to*** 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*~~***or orderly wind down under this Regulation, insofar as the information to be included in those plans has been already provided***.<br><br>_____<br>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). | the recovery and resolution for all CSDs.<br><br>_____<br>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).<br><br>Written procedure 14.06.-21.06: compromise text, EP fine, to be checked by Council<br><br>Text Origin: Commission Proposal |
| Recital 16a | | | | |
| 26a | | | | ***(16a) In order to avoid a duplication of requirements, CSDs that are already subject to the requirements regarding recovery and resolution plans under Directive 2014/59/EU should not be*** |

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| | | | | ***required to prepare plans on recovery or orderly wind-down under Regulation (EU) No 909/2014, insofar as the information to be included in those plans has been already provided. However, those CSDs should communicate to their competent authority the plans drawn under that Directive.***<br><br>Written procedure 14.06.-21.06: compromise text, corresponds to EP AM in line 26.<br>EP fine, to be checked by Council |
| 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. ***That assessment is particularly relevant as regards the use of distributed ledger technology and the application of Regulation (EU) 2022/858.*** | (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***, before granting*** ~~*grant*~~ the authorisation***, assess whether it is likely that the*** ~~*subject to the condition that those*~~ requirements ~~*are*~~***under this Regulation will be*** complied with ***by the CSD concerned*** when the CSD effectively ~~*launches*~~***commences*** its activities. ***That assessment is particularly relevant as regards the use of distributed ledger technology and application of Regulation (EU) 2022/858 of the European*** | (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***, before granting*** ~~*grant*~~ the authorisation***, assess whether it is likely that the*** ~~*subject to the condition that those*~~ requirements ~~*are*~~***under Regulation (EU) No 909/2014 will be*** complied with ***by the CSD concerned*** when the CSD effectively ~~*launches*~~***commences*** its activities. ***That assessment is particularly relevant as regards the use of distributed ledger technology and application of Regulation (EU)*** |

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| | | | ***Parliament and of the Council.*** | ***2022/858 of the European Parliament and of the Council[1].***<br><br>***[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, of the European Parliament and of the Council (OJ L 151, 2.6.2022, p. 1–33)***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine, to be checked by Council |
| 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 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 | (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 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 | (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 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 | (18) The procedure set out in Article 23 of Regulation (EU) No 909/2014 regarding the provision by ~~*CSDs*~~***a CSD*** of notary and central maintenance services in relation to financial instruments constituted under the law of a Member State other than ~~*that of their authorisation*~~***the law under which the CSD is authorised*** 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 |

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| | barriers to cross-border settlement in order for authorised CSDs to fully benefit from the freedom to provide services within the Union. | barriers to cross-border settlement in order for authorised CSDs to fully benefit from the freedom to provide services within the Union. | barriers to cross-border settlement ~~*in order for*~~ ***so as to enable*** authorised CSDs to fully benefit from the freedom to provide services within the Union. ***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 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.*** | ***clarified and*** simplified to better dismantle the barriers to cross-border settlement ~~*in order for*~~***so as to enable*** authorised CSDs to fully benefit from the freedom to provide services within the Union. ***Without prejudice to the measures that CSDs need to take to allow their users to comply with national laws, it should also be clear which is the relevant legal framework for a passporting request from a CSD. Furthermore, in order to streamline the process and lessen the burden placed on CSDs, 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 should be made only in relation to shares. The competent authority of the host Member State should be offered the possibility to comment on the assessment related to national laws of that Member State before the passport is granted. The final decision on passporting should be left to the competent authority of the home Member State.***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP commented line to align better to line 141. |

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| | | | | To be checked by Council |
| 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 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 | (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 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*~~ | (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*~~***constituted*** 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*~~***a*** 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*~~ | |

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| | 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. | ~~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~~**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. Such** colleges~~, where a CSD offering services cross-border is also part of a group of CSDs, the chair of the~~ **should be chaired by ESMA and ensure the sharing of information pertaining to the CSDs concerned. Members of a** 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~~ | ~~the law of more than one~~**. A college of supervisors should be established for CSDs whose activities in at least two host** 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~~**are considered of substantial importance for the functioning of the securities markets and the protection of 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** | |

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| | | ~~colleges. Such colleges should ensure the sharing of information pertaining to the CSDs concerned~~***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***. | ***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***. | |
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| 29a | | | ***(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 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*** | |

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| | | | ***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.*** | |
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| 29b | | | ***(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.*** | |
| Recital 20 | | | | |
| 30 | (20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country 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 | (20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country offer in relation to financial instruments constituted under the law of a Member State for several reasons. ~~*First, due to the deferred*~~ ***Firstly, the*** application~~*, without an*~~ | (20) ESMA and competent authorities currently have limited information on the services that CSDs established in a third-country 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 | |

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| | 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. | ~~*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*~~ ***has been deferred indefinitely. Secondly,*** 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, ***the recognition regime for*** CSDs established in a third-country should be ~~*required to inform Union authorities of their activities in relation to*~~***expanded to cover securities settlement services in addition to notary and central 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*** | 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*~~***due to the fact that*** 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*~~***Given the*** lack of information, neither issuers nor public authorities at national and Union level ~~*would be*~~***have been*** 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. | |

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| | | ***the risks related to settlement services in respect of*** 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*~~***In order to ensure a more consistent application of the concept of independence, that concept*** 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*~~***In order to ensure a more consistent application of the concept of independence, that concept*** should ~~*therefore*~~ be clarified, in line with the definition of 'independent members' under Article 2***, point (28),*** ~~*(28)*~~ of Regulation (EU) No 648/2012.<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council |
| Recital 21a | | | | |
| 31a | | | | ***(21a) Regulation (EU) No 909/2014 does not contain specific requirements that apply in case of the acquisition of, or increase in, qualifying holdings in the capital of*** |

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| | | | | ***CSDs. Such requirements, including on the procedures to be followed, should be introduced in order to ensure a consistent application of requirements regarding the shareholding structure of a CSD.***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP suggest to mention the other Regulations that also apply qualifying holding, EMIR, CRD, to provide more contextual background.<br>To be checked by Council. |
| Recital 22 | | | | |
| 32 | (22) In order to ensure the consistency of interpretation of the key issues on which user committees should advise the management body, it should be further clarified what elements are included in the 'service level'. | (22) In order to ensure the consistency of interpretation of the key issues on which user committees should advise the management body, it should be further clarified what elements are included in the 'service level'. | (22) In order to ensure ~~*the consistency of interpretation of*~~***legal certainty as regards*** the key issues on which user committees should advise the management body, it should be further clarified what elements are included in the 'service level'. | (22) In order to ensure ~~*the consistency of interpretation of*~~***legal certainty as regards*** the key issues on which user committees should advise the management body, it should be further clarified what elements are included in the 'service level'.<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council<br><br>Text Origin: Council Mandate |
| Recital 23 | | | | |
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| | (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 ***also*** 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 ***also*** seek to minimise those risks.<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council<br><br>Text Origin: Council Mandate |
| 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~~***might*** 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~~***incorporated*** in one Member State and the securities ~~may~~***might*** be issued under the governing law of another Member State. In such a case, both national corporate or similar laws should continue to apply. ***The choice of the applicable law is not to be governed by this Regulation and should therefore remain at the issuers' discretion or otherwise be determined by law.*** | (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~~***incorporated*** 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.<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council<br><br>Text Origin: Commission Proposal |

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| Y | 34a | | ***(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.*** | | Y |
| Recital 25 | | | | | |
| G | 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.<br><br>Text Origin: Commission Proposal | G |
| Recital 25a | | | | | |

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| | 35a | | | ***(25a) Several CSDs established in the Union operate securities settlement systems that apply deferred net settlement. Those CSDs should adequately measure, monitor and manage the risks stemming from the use of such settlement.***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council |
| 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 to provide banking services under the conditions provided in Regulation (EU) No 909/2014. The efficiency of the settlement market would be | (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*~~***transactionsthrough*** accounts opened with institutions authorised to provide banking services under the conditions provided in Regulation (EU) No 909/2014.***For that purpose, CSDs*** | (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*~~***open an account with*** 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*~~***a currency other than of the country where the settlement takes place*** through accounts opened with institutions authorised to provide banking services under the | (26) In order to avoid settlement risks due to the insolvency of ~~*the*~~***a*** 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*~~***open an account with*** 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 to provide banking services under the conditions provided in Regulation (EU) No 909/2014. The efficiency*~~***a*** |

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| | 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. | ***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*** ~~*The efficiency of the settlement market would be better served by enhancing the possibilities for CSDs to provide*~~ settlement ***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*** ~~*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*~~***should be authorised only to provide such services to 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 | 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*~~***currency other than that of the country where the settlement takes place*** 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*~~***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,*** to other CSDs that do not hold such license irrespective ~~*if*~~***of whether*** the latter are part of the same group of companies. | ***currency other than*** of the ~~*settlement market would be better served by enhancing the possibilities for CSDs to provide*~~ ***country where the*** settlement ~~*in foreign currencies*~~***takes place*** through ~~*the use of accounts opened with*~~***accounts opened with CSDs or credit*** 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*~~ ***under the conditions provided in*** 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.*~~<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council |

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| | | ~~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***. | | |
| Recital 26a | | | | |
| 36a | | | | ***(26a) In order to better support the efficiency of the settlement market, deepen capital markets and enhance cross-border settlement a CSD authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014, whose relevant risks are already monitored, should be able to offer 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, to other CSDs that do not hold such authorisation under Directive 2013/36/EU, irrespective of whether they are part of the same group of companies. Except where provided otherwise, an authorisation to designate CSDs or credit institutions should only be used 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*** |

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| | | | | ***ancillary services, and not to carry out any other activities. A CSD that intends to settle the cash leg of all or part of its securities settlement system through its own accounts or otherwise wishes to provide itself any banking-type ancillary services may also be authorised to do so under the conditions provided in Regulation (EU) No 909/2014.***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP proposed to replace "licence" by "authorisation". To be checked by Council |
| 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 | (27) Within ~~*an*~~ appropriately set risk ~~*limit*~~***limits***, CSDs that are not authorised to provide banking-type ancillary services should be able ~~*to offer a sufficient amount of*~~***arrange*** 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 ***consist of a maximum*** | (27) Within ~~*an*~~ appropriately set risk ~~*limit*~~***limits***, CSDs that are not authorised to provide banking-type ancillary services should be able to ~~*offer a sufficient amount of foreign currency*~~***arrange payments in a currency other than of the country where the*** settlement ***takes place*** 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*~~***below particular threshold as*** a separate legal entity ~~*without being required to comply*~~ | (27) ~~*Within*~~***Below*** an appropriately set ~~*risk limit*~~***threshold***, CSDs that are not authorised to provide banking-type ancillary services should be able to ~~*offer a sufficient amount of foreign*~~***settle the cash leg of transactions in the*** currency ***of the country where the*** settlement ***takes place*** 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*~~ |

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| | promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. 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 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. | ***amount for those arranged payments. The threshold should*** be calibrated in a way that promotes efficiency of settlement and the use of banking ancillary services while ensuring financial stability. ***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.*** 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 ***taking into account the implications for the various financial risks and the level playing field. EBA should also be entrusted with drafting*** ~~*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 | ~~*with the conditions set out in Title IV of Regulation (EU) No 909/2014.*~~ ***That threshold should consist of a maximum amount for those arranged payments. In addition, that threshold*** should be calibrated in a way that promotes efficiency of settlement and ~~*the use of*~~ ***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,*** while ensuring financial stability ***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***. 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*~~***mitigation*** requirements. EBA should also closely cooperate | ~~*Regulation (EU) No 909/2014*~~***CSDs authorised to provide banking-type ancillary services in accordance with Regulation (EU) No 909/2014 and should be able to settle the cash leg of transactions in any currency through accounts opened with any credit institution. That threshold should consist of a maximum aggregate amount for those arranged cash leg settlements. In addition, that threshold*** should be calibrated in a way that promotes efficiency of settlement and ~~*the use of*~~ ***allows CSDs to reach a level of cash settlement beyond which requiring a*** banking ~~*ancillary services*~~***authorisation under Directive 2013/36/EU or connecting to a central bank of issue becomes relevant,*** while ensuring financial stability ***and limiting risk implications that result from the derogations applicable under that threshold. The calibration of the threshold should consider the need for a CSD 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 CSD as a whole. The calibration of the threshold should also take into account the need to avoid an unintended shift away from settlement in central bank money***. As a body with specialised expertise |

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| | | 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. | 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. | regarding banking and credit risk matters, EBA should be entrusted with the development of draft regulatory technical standards to set the appropriate thresholds***. EBA should also be entrusted with drafting*** ~~*and*~~, where necessary, any ***appropriate risk management and prudential*** ~~*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.<br><br>Written procedure 14.06.-21.06: compromise text<br>EP proposed to replace "licence" by "authorisation". To be checked by Council |
| Recital 28 | | | | |

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| 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 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. | (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 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. | (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 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~~. ***That would*** 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. | (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 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~~. ***That would*** 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.<br><br>Written procedure 14.06.-21.06: compromise text |

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| Recital 29 | | | | |
| G 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 ~~1~~ ***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 ~~2~~ ***two*** months should be laid down. | (29) A period of only ~~1~~ ***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 ~~2~~ ***two*** months should be laid down. G<br>Text Origin: Council Mandate |
| Recital 30 | | | | |
| 40 | (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 | (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 | (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 | |

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| | 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. | 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. | 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. ***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 should benefit from a simplified notification procedure.*** | |
| 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 | (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 | (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 | |

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| | 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. | 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. | 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. ***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.*** | |
| Recital 32 | | | | |
| 42 | (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.*~~***moved to recital 35a*** | |
| 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 | (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*~~ ***the case of a*** negative interest ~~*rates*~~***rate environment***, 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 | (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*~~ | |

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| | 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. | attributable to the participants to the transaction and the transactions that are not to be considered to involve two trading parties***; 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;*** 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. | ~~*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*~~***might*** 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 Council[1].<br>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of | (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 Council[1].<br>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of | (34) ***In order*** 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 Council[1].<br>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of | (34) ***In order*** 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 Council[1].<br>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of |

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| | 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). | 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). | 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). | 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).<br><br>Text Origin: Council Mandate |
| Recital 34a | | | | |
| 44a | | ***(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. 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.*** | | ***(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. 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.***<br><br>Written procedure 14.06.-21.06: compromise text<br>EP fine. To be checked by Council |

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| Recital 35 | | | | |
| 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 out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. | (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 out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. | (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 out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives. | (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 out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.<br><br>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 | (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 | (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*~~ | |

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| | 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, | 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, | ~~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~~.~~. | |
| | | | | |
| 46a | | | ***(36a) Regulations (EU) No 236/2012 and (EU) No 909/2014 should therefore be amended accordingly.*** | |
| Formula | | | | |
| 47 | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION: | HAVE ADOPTED THIS REGULATION:<br><br>Text Origin: Commission Proposal |
| Article 1 | | | | |

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| 48 | Article 1<br>Amendments to Regulation (EU) No 909/2014 | Article 1<br>Amendments to Regulation (EU) No 909/2014 | Article 1<br>Amendments to Regulation (EU) No 909/2014 | Article 1<br>Amendments to Regulation (EU) No 909/2014<br>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:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (1) | | | | |
| 50 | (1) in Article 2 the following point (25a) is inserted: | (1) ~~in~~ Article 2 ~~the following point (25a) is inserted~~***is amended as follows***: | (1) ~~in~~ Article 2 ~~the following point (25a) is inserted~~***is amended as follows***: | (1) ~~in~~ Article 2 ~~the following point (25a) is inserted~~***is amended as follows***:<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1), amending provision, first paragraph (a) | | | | |
| 50a | | ***(a) the following point is inserted:*** | ‘<br>***(a) the following point (25a) is inserted:*** | ***(a) the following point (25a) is inserted:***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1), amending provision, first paragraph | | | | |
| 51 | ‘<br>(25a) ‘group’ means a group within | ‘<br>(25a) ‘group’ means a group within | (25a) ‘group’ means a group within the meaning of Article 2(11) of | ‘<br>(25a) ‘group’ means a group within |

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| | the meaning of Article 2(11) of Directive 2013/34/EU;; ' | the meaning of Article 2(11) of Directive 2013/34/EU;; ' | Directive 2013/34/EU;; ' | the meaning of Article 2(11) of Directive 2013/34/EU;;<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (b) | | | | |
| 51a | | ***(b) point (26) is replaced by the following:*** | ***(b) point (26) is replaced by the following:*** | ***(b) point (26) is replaced by the following:***<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1c) | | | | |
| 51b | | ***(26) 'default' means, in relation to a participant, a situation where insolvency proceedings, as defined 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;';*** | ***'(26) 'default', in relation to a participant, means a situation where insolvency proceedings, as 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;';*** | ***(26) 'default' means, in relation to a participant, a situation where insolvency proceedings, as defined 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;';***<br><br>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.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (b), first paragraph | | | | |
| 51c | | | | |

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| | | ***(c) the following points are inserted:*** | ***(c) the following points (47) and (48) are added:*** | ***(c) the following points are inserted:***<br><br>Text Origin: EP Mandate |
| | | | | |
| G 51d | | "<br>***(28a) netting' means netting as defined in Article 2, point (k), of Directive 98/26/EC;*** | | G |
| Article 1, first paragraph, point (1d), amending provision, first paragraph | | | | |
| G 51e | | ***(28b) 'deferred net settlement' means a settlement mechanism whereby cash or securities transfer orders in relation to securities transactions of the participants in 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; ';***<br>" | | "<br>***(28a) 'deferred net settlement' means a settlement mechanism whereby cash or securities transfer orders in relation to securities transactions 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; ';***<br><br>TM 27.04: definition related to new article 47a on Netting (line 219f onwards)<br>Council will come back on the definition<br><br>TM 08.04. Council has no comments.<br><br>Text Origin: EP Mandate |

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| Article 1, first paragraph, point (1d), amending provision, second paragraph | | | | |
| 51f | | | "<br>***(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;*** | ***(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;***<br><br>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) deleted since they do not relate to CSDs<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1d), amending provision, third paragraph | | | | |
| 51g | | | ***(48) 'close links' means close links as defined in of Article 4(1), point (35) of Directive 2014/65/EU.';***<br>" | ***(48) 'close links' means close links as defined in of Article 4(1), point (35) of Directive 2014/65/EU.';***<br>"<br><br>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.<br><br>Text Origin: Council Mandate |

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| Article 1, first paragraph, point (1e) | | | | |
| 51h | | ***(1e) in Article 6, paragraph 5 is replaced by the following:*** | | ***(1e) in Article 6, paragraph 5 is replaced by the following:***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1e), amending provision, first paragraph | | | | |
| 51i | | "<br>***'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:*** | | "<br>***'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:***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1e), amending provision, first paragraph, point (a) | | | | |
| 51j | | ***(a) the measures to be taken by investment firms in accordance with the first subparagraph of paragraph 2;*** | | ***(a) the measures to be taken by investment firms in accordance with the first subparagraph of paragraph 2;***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |

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| Article 1, first paragraph, point (1e), amending provision, first paragraph, point (b) | | | | |
| 51k | | ***(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*** | | ***(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***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1e), amending provision, first paragraph, point (c) | | | | |
| 51l | | ***(c) the details of the measures to encourage and incentivise the timely settlement of transactions referred to in paragraph 4.*** | | ***(c) the details of the measures to encourage and incentivise the timely settlement of transactions referred to in paragraph 4.***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1e), amending provision, first paragraph, point (d) | | | | |
| 51m | | ***ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by... [18 months after the date of*** | | ***ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by... [18 months after the date of*** |

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| | | ***publication of this amending Regulation].*** | | ***entry into force of this amending Regulation].***<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1e), amending provision, first paragraph, point (e) | | | | |
| G 51n | | ***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. ';***<br>" | | ***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. ';***<br>"<br><br>TM 08.06.: Council accepts EP text.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (1a) | | | | |
| G 51o | | | ***(1a) The following Article 6a is inserted:*** | ***(1a) The following Article 6a is inserted:***<br><br>TM 19.04: agreed to keep CNL structure<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, title | | | | |
| G 51p | | | "<br>***1. 'Article 6a Penalty mechanism*** | "<br>***'Article 6a Penalty mechanism*** |

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| | | | | "<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (1) | | | | |
| 51q | | | ***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.*** | ***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.***<br><br>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"<br><br>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. |

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| | | | PUBLIC | TM 11.05: discussion on whether par 1 and 2 of new Art 6a would fit better in Art 6 .<br><br>TM 24.05.The structural change was not found the best solution. Instead, the title of Art. 6a should be changed.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (2) | | | | |
| 51r | | | ***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.*** | ***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.***<br><br>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<br>+ same comment as above on "which are admitted to trading..." - CNL to come back<br><br>TM 27.04: Council argues that the |

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| | | | | limitation in the brackets is already in current CSDR Art 7(10), COM disputes this interpretation<br><br>TM 11.05: discussion on whether par 1 and 2 of new Art 6a would fit better in Art 6.<br><br>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 [which are admitted to trading or traded on a trading venue or cleared by a CCP] |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (2), second paragraph | | | | |
| G 51s | | | ***. 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.*** | ***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.***<br><br>TM 19.04: line agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (3) | | | | |
| G 51t | | | ***3. The penalty mechanism referred*** | ***The penalty mechanism referred*** |

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| | | | ***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 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.*** | ***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.***<br><br>TM 19.04: agreed to combine this line with the EP line 54 | |
| Article 1, first paragraph, point (1), amending provision, sixth paragraph | | | | | |
| G | 51u | | ***4. The penalty mechanism referred to in paragraph 2 shall not apply to settlement fails:*** | ***3. 'The penalty mechanism referred to in paragraph 2 shall not apply to:***<br><br>TM 19.04: text of entire paragraph agreed but slightly re-drafted | G |
| Article 1, first paragraph, point (1), amending provision, seventh paragraph | | | | | |
| G | 51v | | ***(a) that are caused by factors not attributable to the participants to the transactions;*** | ***(a) settlement fails that are caused by factors not attributable to the participants to the transaction;***<br><br>TM 19.04: similar to line 70 (EP and COM) | G |

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| Article 1, first paragraph, point (1), amending provision, eighth paragraph | | | | | |
| G | 51w | | | ***(b) where the operations are not considered as trading;*** | ***(b) operations that are not considered as trading;***<br><br>TM 19.04: similar to line 71 (EP and COM)<br>TM 09.06. operations was earlier changed to transactions; reverted, since this is the existing text | G |
| Article 1, first paragraph, point (1), amending provision, ninth paragraph | | | | | |
| G | 51x | | | ***(c) where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties; or*** | ***(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***<br><br>TM 19.04: similar to line 75 (EP and COM) | G |
| Article 1, first paragraph, point (1), amending provision, tenth paragraph | | | | | |
| G | 51y | | | ***(d) if insolvency proceeding is opened against the failing participant.*** | ***(d) transactions where insolvency proceedings are opened against the failing participant.'***<br><br>TM 19.04: in the existing CSDR Art 7(12) | G |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (4), second paragraph | | | | | |
| G | 51z | | | ***. If a CCP incurs losses from the application of the first*** | ***4. If a CCP incurs losses from the application of paragraph 2, third*** | G |

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| | | | ***subparagraph, the CCP may establish in its rules a mechanism to cover such losses.*** | ***subparagraph, the CCP may establish in its rules a mechanism to cover such losses.***<br><br>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 - it should also be a new paragraph 4<br><br>Written procedure 14.06.-20.06: reference corrected<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1), amending provision, twelfth paragraph | | | | |
| G 51aa | | | ***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*** | ***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:***<br>***(a) asset type;***<br>***(b) liquidity of the financial instrument;***<br>***(c) type of transaction;***<br>***(d) duration of the settlement fail.***<br>***When specifying the parameters referred to in the first subparagraph, the Commission*** G |

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| | | | ***the calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.*** | ***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 on 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.***<br><br>TM 19.04: line corresponding to line 87 (EP and COM)<br>*COM come back active tense in second subparagraph (legal)<br><br>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 | | ***. 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.*** | ***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 on the financial stability of the Union.***<br><br>TM 19.04: agreed (Depend on |

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| | | | | structure)<br>*COM come back active tense in second subparagraph (legal)<br><br>TM 27.04: COM agree on use of "shall take into account"<br>TM 24.05.: text harmonised to line 51aa |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (6) | | | | |
| G | 51ac | | ***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.*** | ***6. ESMA shall publish and keep updated on its website a list of the financial instruments referred to in Article 5(1) which are admitted to trading or traded on a trading venue or cleared by a CCP.***<br><br>TM 19.04: similar to line 53g, which is political<br>TM 24.05.: redrafted to avoid confusion.<br>TM 08.06. the link to the delegated act on cash penalties removed because if ESMA does not have the means to fulfill its obligation to provide the list, then cash penalty regime is not endangered.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (7) | | | | |
| G | 51ad | | ***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*** | ***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*** |

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| | | | ***shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.*** | ***shares shall be determined in accordance with Article 16 of Regulation (EU) No 236/2012.***<br><br>TM 19.04: agreed as corresponds to current paragraph 13 in Article 7<br>Only applies to cash penalties here, but reproduced in line 73m for MBIs<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (8) | | | | |
| G | 51ae | | ***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).*** | ***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 3, point (a) and the circumstances in which operations are not to be considered as trading under paragraph 3, point (b).***<br><br>TM 19.04: agreed but depend on the lines below (LL: standard wording is "is empowered")<br>Correspond to line 89 (EP and COM)<br><br>TM 08.06. second part moved from lline 51ai<br>TM 09.06. "transactions not to be considered trading" reverted back to existing text "operations ..." |

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| | | | | Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9) | | | | |
| 51af | | | ***9. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify:*** | ***9. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to specify:***<br>TM 19.04: agreed<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (a) | | | | |
| 51ag | | | ***(a) the details of the system monitoring settlement fails and the reports on settlement fails referred to in paragraph 1;*** | ***(a) the details of the system monitoring settlement fails and the reports on settlement fails referred to in paragraph 1;***<br>TM 19.04: correspond to CSDR Art7(15)-point (a)<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (b) | | | | |
| 51ah | | | ***(b) the processes for collection and redistribution of cash penalties and any other possible proceeds from such penalties in accordance with paragraph 2;*** | ***(b) the processes for collection and redistribution of cash penalties and any other possible proceeds from such penalties in accordance with paragraph 2;***<br>TM 19.04: correspond to CSDR Art7(15)- |

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| | | | | point (b)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (c) | | | | |
| 51ai | | | ***(c) the circumstances in which operations are not to be considered as trading under paragraph 4, point (b);*** | *deleted*<br><br>*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.*<br><br>*TM 08.07. agreed to move to line 51ae*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), point (d)* | | | | |
| *51aj* | | | ***(d) the mechanism applicable where CCP is failing participant under paragraph 4, point (c).*** | *deleted*<br><br>*TM 19.04: CNL to come back new text corresponding to recital 9 - line 19 - by CNL*<br><br>*TM 27.04: line deleted as covered by line 51ah. Need recital (possible recital 9) to explain.*<br>*TM 08.05. "covered" means since line 51ah sets out at level 2 all the processes for the collection of cash penalties; point d was a specific case of cash penalties. The recital would explain* |

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| | | | | *the concept.*<br><br>Text Origin: Council Mandate |
| *Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), second paragraph* | | | | |
| *51ak* | | | ***. 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].***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (1a), amending provision, numbered paragraph (9), third paragraph | | | | |
| 51al | | | ***. 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.';*** " | ***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.';*** '<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2) | | | | |
| 52 | (2) Article 7 is amended as follows: | (2) Article 7 is amended as follows: | (2) Article 7 is ~~*amended as follows*~~***replaced by the following***: | (2) Article 7 is ~~*amended as follows*~~***replaced by the following***:<br><br>Text Origin: Council Mandate |
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| R | 52a | | ***(-a) the following paragraph is inserted:*** | | | R |
| | | | | | | |
| R | 52b | | "<br>***'1a. Where a CSD's settlement efficiency over a six-month period is significantly lower than the average settlement efficiency levels recorded on the Union market, ESMA and the competent authority of the home Member State shall identify the reasons for those fails and the measures that could be taken to address the situation.';***<br>" | | | R |
| | | | | | | |
| G | 52c | | ***(-b) in paragraph 2, the first subparagraph is replaced by the following:*** | | | G |
| | Article 1, first paragraph, point (2a) | | | | | |
| G | 52d | | "<br>***'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*** | | TM 19.04: corresponds to CNL line 51r<br>Agreed to keep CNL structure (so line 51r)<br>Depend on political decision on line 52b<br><br>TM 08.06. Based on the new structure, | G |

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| | | ***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.';*** " | PUBLIC | this line should be deleted. |
| | 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:*~~***deleted*** | *deleted* |
| | *Article 1, first paragraph, point (2)(a), amending provision, title* | | | |
| G | *53a* | | "<br>***. 'Article 7 Mandatory buy-in process*** | "<br>***. 'Article 7 Mandatory buy-in process***<br><br>TM 19.03: Agreed to use CNL structure with an Article 7 on MBIs<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (2)(a), amending provision, title | | | |
| Y | 53b | | ***1. Upon consultation with ESRB and based on the cost-benefit analysis provided by ESMA pursuant to Article 74(1a), the*** | ***1. Without prejudice to [the regulatory tools referred to in paragraph 1a of this Article], the penalty mechanism referred to in*** |

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| | | | ***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.*** | ***Article 6a 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:***<br>***(a) the possible impact of the mandatory buy-in process on the Union market;***<br>***(b) the number, volume and duration of settlement fails, including the number and volume of settlement fails still outstanding at the end of the extension period referred to in paragraph 3 of this Article;***<br>***(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*** |

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| | | | | ***participants to trigger a buy-in.***<br><br>TM 19.04: corresponding to line 56 by EP/COM<br>Agreed on redrafting, except for the reference to paragraph 1a - related to political line 52b<br>TM 08.06. Reference to penalty mechanism corrected. |
| | Article 1, first paragraph, point (2)(a), amending provision, title | | | |
| G | 53c | | ***. The Commission may adopt the implementing act on mandatory buy-in referred to in the first subparagraph if the following conditions are met:*** | ***. The Commission may adopt the implementing act on mandatory buy-in referred to in the first subparagraph only if both conditions are met:***<br><br>TM 19.04: agreed, correspond to last subparagraph in line 56 (EP). Slight redrafting based on LL advise.<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (2)(a), amending provision, title | | | |
| G | 53d | | ***(a) the application of the cash penalty mechanism referred to in 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*** | ***(a) the application of the cash penalty mechanism referred to in 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(5), second subparagraph;*** |

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| | | | | TM 19.04: agreed and added EP reference to the review (correspond to EP/COM line 57)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (4), point (a) | | | | |
| G | 53e | | ***(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.*** | ***(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.***<br><br>TM 19.04: line agreed, correspond to line 59<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (1), second paragraph | | | | |
| G | 53f | | ***. 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.*** | ***. 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 one year after its entry into force.***<br><br>TM 19.04: agreed, compromise on the date of application at 6 months<br>TM 08.06. 6 months would be too short. Agreed to go back to full Council text, |
| Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (1), fourth paragraph | | | | |

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| G | 53g | | . ***ESMA shall publish and keep updated on its website a list of financial instruments determined by the implementing act referred to in this paragraph.*** " | . ***ESMA shall publish and keep updated on its website a list of financial instruments determined by the implementing act referred to in this paragraph.*** "<br><br>TM 08.06. EP agrees.<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (2)(a), amending provision, first paragraph | | | |
| G | 54 | ‘<br>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 shall not be configured as a revenue source for the CSD.; | ‘<br>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 transaction is either settled or else bilaterally cancelled***. The cash | ‘<br>~~*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 shall not be configured as a revenue source for the*~~ | *deleted*<br><br>*TM 19.04: agreed to combine this line with the CNL line 51t:*<br>*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.* |

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| | ’ | penalties shall not be configured as a revenue source for the CSD.;<br>’ | ~~CSD.;~~ ***deleted***<br>’ | |
| *Article 1, first paragraph, point (2), .* | | | | |
| 55 | *(b)* the following paragraph 2a is inserted: | (b) the following paragraph ~~2a~~ is inserted: | (b) ~~*the following paragraph 2a is inserted:*~~***deleted*** | ~~*(b).*~~ ***.*** ~~*the following paragraph 2a is inserted:*~~ |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, 2. | | | | |
| 56 | ‘<br>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: | ‘<br>2a. 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(-1), point (a),*** 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 | ‘<br>~~2a~~***2***. ~~*Without prejudice to the penalty mechanism referred to in*~~***The Commission shall, before adopting the implementing act under*** 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*~~***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 penalty mechanism in order to increase the settlement efficiency in*** | ‘<br>~~2a~~***2***. ~~*Without prejudice to the penalty mechanism referred to in*~~***The Commission shall, before adopting the implementing act under*** 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*~~***1, assess the effectiveness and proportionality of the penalty mechanism referred to in Article 6a(2) and where appropriate change the structure or degree of penalty mechanism in order to increase the settlement efficiency in*** |

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| | | Union, ***taking into account the possible impact of the mandatory buy-in process*** ~~*and that, based*~~ on the ***Union market, the*** number and volume of settlement fails~~, *any*~~ ***still outstanding at the end*** of the ***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.***<br><br>***The Commission may adopt an implementing act as referred to in the first subparagraph if the*** following conditions ~~*is met:*~~***are met:*** | ***the Union.***<br>***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*** 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:*~~***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.*** | ***the Union.***<br>***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*** 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:*~~***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.***<br>,<br><br>TM 19.04: CNL will come back on the necessity of this line<br>*the "deleted" is a consequence of the deletion of line 55<br><br>TM 08.06. Council insists on keeping the line.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, 2., . | | | | |
| G | 57 | (a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction of | (a) the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction ***or*** | (a) ~~*the application of the cash penalty mechanism referred to in paragraph 2 has not resulted in a long-term, continuous reduction of*~~ | *deleted*<br><br>Text Origin: Council Mandate | G |

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| | settlement fails in the Union; | ***in maintaining a sustainable reduced level*** of settlement fails in the Union, ***even after a review of the level of cash penalties in accordance with paragraph 14 of this Article***; | ~~*settlement fails in the Union;*~~***deleted*** | |
| *Article 1, first paragraph, point (2), ., amending provision, first paragraph, 2., .* | | | | |
| *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;*~~***deleted*** | *deleted*<br><br>*TM 19.04: agreed to not include (CNL does not include this point either in line 53e*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (2), ., amending provision, first paragraph, 2., .* | | | | |
| *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.*~~***deleted*** | *deleted*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (2), ., 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).;*~~***deleted*** , | *deleted*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (2), .* | | | | |

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| 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:*~~***deleted*** | ~~*(c).*~~ ***.*** ~~*paragraph 3 is replaced by the following:*~~<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first subparagraph | | | | |
| 62 | ‘<br>3. 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. | ‘<br>3. ***Without prejudice to the right to bilaterally cancel the transaction,*** 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. | ‘<br>3. Where the Commission has adopted an implementing act pursuant to paragraph ~~*2a*~~***1*** and where a failing participant has not delivered ***the*** financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date (‘extension period’) equal to ~~*4*~~***six*** 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*~~. | ‘<br>~~*3*~~. ***Without prejudice to the right to bilaterally cancel the transaction,*** where the Commission has adopted an implementing act pursuant to paragraph ~~*2a*~~***1*** and where a failing participant has not delivered ***the*** financial instruments covered by that implementing act to the receiving participant within a period after the intended settlement date (‘extension period’) equal to ~~*4*~~***five*** 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*~~.<br><br>TM 19.04: Political decision on the extension period<br><br>TM 08.06. Provisional compromise of 5 days.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (3), second subparagraph -a | | | | |
| 62a | | | | |

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| | | | | ***3. By way of derogation from the first subparagraph, based on asset type and liquidity of the financial instruments concerned, the extension period may be increased from five business days up to a maximum of seven business days where a shorter extension period would affect the smooth and orderly functioning of the financial markets concerned.***<br><br>TM 08.06. New line corresponding to ex line 68. |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (3), second subparagraph | | | | |
| 63 | Where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 calendar 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~~***business*** 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~~***business*** days unless the SME growth market decides to apply a shorter period. | ***By way of derogation from the first and second subparagraphs,*** where the transaction relates to a financial instrument traded on an SME growth market, the extension period shall be 15 ~~calendar~~***business*** days unless the SME growth market decides to apply a shorter period.**'**<br><br>TM 19.04: agreed, clarified the derogation<br><br>TM 08.06. Adapted to the previous line.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (3a) | | | | |
| 63a | | | | |

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| | | | ***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.*** , | ***3a. 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.*** ,<br><br>TM 19.04: agreed, corresponds to the last sentence in line 62 deleted<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), . | | | | |
| G | 64 | (d) the following paragraph 3a is inserted: | (d) ~~*the following paragraph 3a is inserted:*~~***deleted*** | ~~*(d).*~~***.*** ~~*the following paragraph 3a is inserted:*~~<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph | | | | |
| G | 65 | ‘<br>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 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 | ‘<br>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 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*~~ | ‘<br>~~*3a*~~***4***. Where ~~*a receiving participant (the ‘intermediate receiving participant’) does not receive the financial instruments by the date referred to in paragraph 3 leading to a failing onward delivery of those financial instruments to another receiving participant (the ‘end receiving participant’), the intermediate receiving*~~***there is a settlement fail in a chain of transactions resulting in settlement fails of subsequent transactions in*** |

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| | 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.;<br>, | 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.;<br>, | ~~*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.;*~~ | ***the chain, each*** 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*~~ ***have the right to pass on their obligation to initiate the mandatory buy-in*** to the ~~*failing*~~***next*** participant ~~*its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.;*~~***in the chain.***<br><br>TM 19.04: COM come back with a compromise between line 65 and 65a<br><br>TM 27.04: Preliminary compromise found at technical level based on input from COM. EP and CNL to confirm.<br><br>TM 08.06. Compromise proposed by COM agreed |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph a | | | | |
| G 65a | | | ***(3b) Where a transaction is part of a chain of trades and may result in different settlement instructions, 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 intermediate receiving participant shall be considered as complying with the obligation to execute a mandatory buy-in against the failing participant where it passes-on its obligation in accordance with the first subparagraph. Similarly, the*** G |

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| | | | ***the ultimate failing participant responsible for the buy-in, and inform the CSD thereof.*** , | ***intermediate receiving participant may pass on to the failing participant its obligations toward the end receiving participant pursuant to paragraphs 6, 7 and 8.***<br><br>***The relevant CSD must be informed about the sequential resolution of the failed transaction.*** ,<br><br>TM 19.04: COM come back with a compromise between line 65 and 65a<br><br>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).<br><br>TM 08.06. Compromise by COM agreed. |
| Article 1, first paragraph, point (2), . | | | | |
| G 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:*~~***deleted*** | ~~*(e).*~~***.*** ~~*paragraph 4 is replaced by the following:*~~<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, 5. | | | | |
| G 67 | ‘<br>4. Without prejudice to paragraph 3a, the following derogations from the requirement referred to in | ‘<br>4. Without prejudice to paragraph 3a, the following derogations from the requirement referred to in | ‘<br>4. Without prejudice to paragraph ~~*3a, the following derogations from the requirement*~~***3b, the mandatory*** | ‘<br>~~*4*~~***5***. Without prejudice to paragraph ~~*3a, the following derogations from the requirement*~~***4, the mandatory*** |

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| | paragraph 3 shall apply: | paragraph 3 shall apply: | ***buy-in process*** referred to in paragraph 3 shall ***not*** apply: | ***buy-in process*** referred to in paragraph 3 shall ***not*** apply:<br><br>TM 19.04: keep reference to par 3a (where compromise needs to be found in line 65)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, 5., . | | | | |
| 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;~~***deleted*** | *deleted*<br><br>*TM 19.04: dependent on political line 62 on the extension period*<br><br>*TM 08.06. Flexibility kept. Moved to new line 62a.*<br><br>Text Origin: Council Mandate |
| *Article 1, first paragraph, point (2), ., amending provision, 5., .* | | | | |
| *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;~~***deleted*** | *deleted*<br><br>*TM 19.04: correspond to line 71a* |
| *Article 1, first paragraph, point (2), ., amending provision, 5., .* | | | | |

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| 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;*~~***deleted*** | *deleted*<br><br>*TM 27.04: deleted because using CNL structure. Correspond to line 71e*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (2), ., amending provision, 5., .* | | | | |
| 71 | *(d)* for transactions that do not involve two trading parties the buy-in process referred to in paragraph 3 shall not apply.;<br>, | (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.;*~~***deleted*** | *deleted*<br><br>*TM 27.04: deleted because using CNL structure. Correspond to line 71f*<br><br>*Text Origin: Council Mandate* |
| *Article 1, first paragraph, point (2), ., amending provision, 5., point (a)* | | | | |
| 71a | | ***(da) for securities financing transactions, the buy-in process referred to in paragraph 3 shall not apply.';***<br>, | ***(a) to transactions including securities repurchase or lending agreements and other types of transactions that render the buy-in process ineffective;***<br>, | ***(a) to securities financing transactions;***<br><br>TM19.04 COM to consider and advise / redraft<br><br>TM 27.04: Preliminary compromise found at technical level based on input from COM. EP and CNL to confirm. Corresponding RTS in line 90c.<br><br>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 |

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| | | | | covered the examples in 90c.<br><br>TM 08.06. Compromised between the two texts agreed. In order to avoid a misunderstanding, 2 points created. |
| Article 1, first paragraph, point (2), ., amending provision, 5., point (b) | | | | |
| G | 71b | | | ***(b) to other types of transactions that render the buy-in process unnecessary;***<br><br>TM 08.06. Compromise between the two positions. |
| Article 1, first paragraph, point (2)(a) | | | | |
| G | 71c | | ***(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;*** | ***(c) to transactions where CCPs are the failing participants, except for transactions entered into by a CCP where it does not interpose itself between counterparties;***<br><br>TM 27.04: correspond in substance to line 75 by EP/COM |
| Article 1, first paragraph, point (2)(b) | | | | |
| G | 71d | | ***(c) to transaction when the insolvency proceeding is opened against the failing participant;*** | ***(d) to transactions where insolvency proceedings are opened against the failing participant;***<br><br>TM 27.04: correspond to Art7(12) of |

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| | | | | current CSDR. Needed in new structure.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(c) | | | | |
| 71e | | | ***(d) to transactions that are within the scope of Article 15a of Regulation (EU) No 236/2012;*** | ***(e) to transactions that are within the scope of Article 15 of Regulation (EU) No 236/2012;***<br><br>TM 27.04: EP and CNL reinstate Article 15 of SSR, but difference on interaction with CSDR. Linked to like 314d.<br>TM 08.06. EP agreed to CNL and COM. Article 15 reinserted in its old place.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(d) | | | | |
| 71f | | | ***(e) to settlement fails that occurred for reasons not attributable to the participants to the transactions;*** | ***(f) to settlement fails whose underlying cause is not attributable to the participants to the transactions;***<br><br>TM 27.04: agreed, correspond to line 70<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(e) | | | | |
| 71g | | | ***(f) to operations that are not to be considered as trading.*** | ***(g) to transactions that are not considered as trading.***<br><br>TM 27.04: agreed, correspond to line |

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| | | | | 70, slightly redrafted as line 51w<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(f) | | | | |
| 71h | | ***(ea) paragraph 5 is replaced by the following:*** | | TM 27.04: not needed when using the Council structure (entire Art 7 replaced) |
| Article 1, first paragraph, point (2)(g) | | | | |
| 71i | | "<br>***'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.';***<br>" | | 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.<br><br>TM 08.06. Line 71e already solves the problem with short selling regulation. The EP text covered. |
| Article 1, first paragraph, point (2), . | | | | |
| 72 | (f) paragraph 6 is replaced by the following: | (f) paragraph 6 is replaced by the following: | (f) ~~*paragraph 6 is replaced by the following:*~~***deleted*** | ~~*(f).*~~ ~~*paragraph 6 is replaced by the following:*~~<br><br>TM 27.04: not needed when using the Council structure (entire Art 7 replaced)<br><br>Text Origin: Council Mandate |

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| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6) | | | | |
| 73 | ‘<br>6. Without prejudice to the penalty mechanism referred to in paragraph 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.;<br>, | ‘<br>6. Without prejudice to the penalty mechanism referred to in paragraph 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.; | ‘<br>6. Without prejudice to the penalty mechanism referred to in ~~*paragraph 2*~~***Article 6a***, 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*~~***by the failing*** participant no later than on the second business day after the financial instruments have been delivered following the buy-in.~~;~~ | ‘<br>6. Without prejudice to the penalty mechanism referred to in ~~*paragraph 2*~~***Article 6a***, 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.;<br><br>TM 27.04: provisional agreement to keep a symmetric payment. CNL to confirm.<br>TM 08.06. CNL can agree to the symmetry,<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6a) | | | | |
| 73a | | ***(fa) in paragraph 7, the second subparagraph is replaced by the following:*** | | TM 27.04: not needed when using the Council structure (entire Art 7 replaced) |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6b) | | | | |
| 73b | | ***.*** | ***7. If the buy-in fails or is not*** | ***7. If the buy-in fails or is not*** |

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| | | TM 27.04: EP text in 73b moved to 73c, to ensure comparability | ***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 instruments are not delivered to the receiving participant at the end of the deferral period, cash compensation shall be paid.*** | ***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 instruments are not delivered to the receiving participant at the end of the deferral period, cash compensation shall be paid.***<br><br>TM 27.04: agreed, same text as Art 7(7) in current CSDR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6c) | | | | |
| 73c | | ***. '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.';***<br>, | ***. 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.*** | ***. Cash compensation shall be paid 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.***<br><br>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<br><br>TM 25.05. There is no issue of assymetries 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 |

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| | | | | no situation for which we should cater for an assymetry of payments.<br>EP to check.<br>TM 08.06. Discussion to be continued.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6d) | | | | |
| G | 73d | | ***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.*** | ***8. The failing participant shall reimburse the entity that executes the buy-in for all amounts paid in accordance with paragraph 3, first subparagraph, including any execution fees resulting from the buy-in. Such fees shall be clearly disclosed to the participants.***<br><br>TM 27.04: same text as Art 7(8) of current CSDR, without the reference to paragraph 4 as it is not relevant anymore<br><br>Written procedure 14.06.-20.06: reference corrected<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6e) | | | | |
| G | 73e | | ***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*** | ***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*** |

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| | | | ***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 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.*** | ***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 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.***<br><br>TM 27.04: same text as Art 7(9) of current CSDR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6f) | | | | |
| G | 73f | | ***. Public disclosure of suspensions shall not contain personal data within the meaning of Article 4(1) Regulation (EU) 2016/679.*** | ***. Public disclosure of suspensions shall not contain personal data within the meaning of Article 4(1) Regulation (EU) 2016/679.***<br><br>TM 27.04: same text as Art 7(9) subparagraph 2 of current CSDR, with |

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| | | | | updated reference to GDPR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g) | | | | |
| G | 73g | | ***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 or traded on a trading venue or cleared by a CCP as follows:*** | ***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 or traded on a trading venue or cleared by a CCP as follows:***<br><br>TM 27.04: same text as Art 7(10) of current CSDR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (a) | | | | |
| G | 73h | | ***(a) for transactions cleared by a CCP, the CCP shall be the entity that executes the buy-in according to paragraphs 3 to 8;*** | ***(a) for transactions cleared by a CCP, the CCP shall be the entity that executes the buy-in according to paragraphs 3 to 8;***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (b) | | | | |
| G | 73i | | ***(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*** | ***(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*** |

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| | | | ***referred to in paragraphs 3 to 8;*** | ***referred to in paragraphs 3 to 8;***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (c) | | | | |
| G | 73j | | ***(c) for all transactions other than those referred to in points (a) and (b) of this subparagraph, CSDs shall include in their internal rules an obligation for their participants to be subject to the measures referred to in paragraphs 3 to 8.*** | ***(c) for all transactions other than those referred to in points (a) and (b) of this subparagraph, CSDs shall include in their internal rules an obligation for their participants to be subject to the measures referred to in paragraphs 3 to 8.***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (d) | | | | |
| G | 73k | | ***. A CSD shall provide the necessary settlement information to CCPs and trading venues to enable them to fulfil their obligations under this paragraph.*** | ***. A CSD shall provide the necessary settlement information to CCPs and trading venues to enable them to fulfil their obligations under this paragraph.***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (e) | | | | |
| G | 73l | | ***. 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*** | ***. 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*** |

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| | | | ***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.*** | ***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.***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (6g), point (f) | | | | |
| G 73m | | | ***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.*** , | ***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.*** ,<br>TM 27.04: TM 27.04: same text as Art 7(13) of current CSDR<br>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:*~~***deleted*** | *deleted*<br>*TM 27.04: not needed when using the Council structure (entire Art 7 replaced)*<br>*Text Origin: Council Mandate* |

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| *Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (11), first subparagraph* | | | | |
| 75 | ‘<br>*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. | ‘<br>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. | ‘<br>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.*~~ | *deleted*<br><br>TM 27.04: correspond in substance to line 51z<br><br>Text Origin: Commission Proposal |
| *Article 1, first paragraph, point (2), ., 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.;<br>, | If a CCP incurs losses from the application of ~~*Article 7(2)*~~***paragraph 2***, third subparagraph, the CCP may establish in its rules a mechanism to cover such losses.**’**;<br>, | ~~*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.;*~~***deleted***<br>, | *deleted*<br><br>Text Origin: Council Mandate |
| *Article 1, first paragraph, point (2), .* | | | | |
| 77 | *(h)* the following paragraph 13a is inserted: | (h) the following paragraph 13a is inserted: | (h) ~~*the following paragraph 13a is inserted:*~~***deleted*** | ~~*(h).*~~ ~~*the following paragraph 13a is inserted:*~~<br><br>TM 27.04: not needed when using the Council structure (entire Art 7 replaced)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, first subparagraph | | | | |
| 78 | ‘<br>13a. ESMA may recommend that the Commission suspend in a | ‘<br>13a. ESMA may recommend that the Commission suspend in a | ‘<br>~~*13a*~~***12***. ESMA may recommend that the Commission suspend in a | ‘<br>~~*13a*~~***12***. ESMA may recommend that the Commission suspend in a |

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| | proportionate way the buy-in 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. | proportionate way the buy-in 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. | proportionate way the buy-in 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. | proportionate way the buy-in 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.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, second subparagraph | | | | |
| G 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 ***referred to in the first subparagraph***, ESMA shall consult the ESRB and the ESCB. | Before making the recommendation ***referred to in the first subparagraph***, ESMA shall consult the ESRB and the ESCB.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, third subparagraph | | | | |
| G 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 | 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 | 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 | 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 |

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| | recommended suspension. Where the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public. | recommended suspension. Where the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public. | recommended suspension. Where the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public. | recommended suspension. Where the Commission rejects the requested suspension, it shall provide the reasons thereof in writing to ESMA. Such information shall not be made public.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, fourth subparagraph | | | | |
| G 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 ***referred to in the third subparagraph*** shall be adopted in accordance with the procedure referred to in Article 68(3). | The implementing act ***referred to in the third subparagraph*** shall be adopted in accordance with the procedure referred to in Article 68(3).<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, fifth subparagraph | | | | |
| G 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.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph, sixth subparagraph | | | | |
| G 83 | The suspension of the buy-in | The suspension of the buy-in | The suspension of the buy-in | The suspension of the buy-in |

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| | mechanism shall be valid for an initial period of no more than 6 months from the date of application of that suspension. | mechanism shall be valid for an initial period of no more than 6 months from the date of application of that suspension. | mechanism shall be valid for an initial period of no more than ~~6~~***six*** months from the date of application of that suspension. | mechanism shall be valid for an initial period of no more than ~~6~~***six*** months from the date of application of that suspension.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., 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.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., 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 ***referred to in the seventh subparagraph*** 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 ***referred to in the seventh subparagraph*** 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 |

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| | 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.~~:~~<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), . | | | | |
| 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:*~~***deleted*** | ~~*(i).*~~ ~~*paragraph 14 is replaced by the following:*~~<br>TM 27.04: not needed when using the Council structure (entire Art 7 replaced)<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (14) | | | | |
| 87 | ‘<br>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 the calculation of cash penalties shall | ‘<br>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 the calculation of cash penalties shall | ‘<br>~~*14*~~***13***. The Commission shall ~~*be empowered to supplement this Regulation by*~~***review its decision on*** adopting ~~*delegated acts in accordance with Article 67 specifying parameters for the calculation of a deterrent and proportionate level of the cash penalties*~~***an implementing act*** 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*~~ | ‘<br>~~*14*~~***13***. ***Where*** the Commission ~~*shall be empowered to supplement this Regulation by adopting delegated acts*~~***has adopted an implementing act*** 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 the*~~ |

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| | ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.;<br>, | ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned.;<br>, | ~~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~~***1 on a regular basis and at least every four years in order to assess whether the criteria set in paragraph 1 remain fulfilled***~~;~~ | ~~calculation of cash penalties shall ensure a high degree of settlement discipline and the smooth and orderly functioning of the financial markets concerned~~***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***~~;~~<br><br>TM 27.04: EP/COM text correspond to line 51aa in new structure<br>EP accept the CNL proposal to have a review of the IA by the COM<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (14a) | | | | |
| G | 87a | | ***. 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.*** | ***. 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.***<br><br>TM 27.04: EP accept the CNL proposal to have a review of the IA by the COM, see line above<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (14b) | | | | |

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| G | 87b | | . *The implementing act referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 68(2).* | . *The implementing act referred to in the second subparagraph shall be adopted in accordance with the examination procedure referred to in Article 68(2).*<br><br>TM 27.04: agreed, see lines above<br><br>Text Origin: Council Mandate | G |
| Article 1, first paragraph, point (2), ., amending provision, numbered paragraph (14c) | | | | | |
| Y | 87c | | . *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.* , | *14c. ESMA may recommend that the Commission review the implementing act referred to in paragraph 1, where it considers that the mandatory buy-in is no longer justified.*<br><br>*At least every four years or upon a recommendation from ESMA referred to in the first subparagraph, the Commission shall review its decision on adopting an implementing act in order to assess whether the criteria set out in paragraph 1 remain fulfilled.*<br><br>*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* | Y |

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| | | | | ***justified or does not address the settlement fails in Union and is no longer necessary, appropriate or proportionate.***<br><br>***The implementing act referred to in the third subparagraph shall be adopted in accordance with the examination procedure referred to in Article 68(2).***<br>,<br><br>TM 27.04: COM to come back after consulting legal service<br>TM 09.06. Lengthy discussion. Commission will check again whether moving this to Article 74(1), new point, with the frequency of 2 years and comply or explain by the COM.<br>Written procedure 14.06.-21.06.: first draft compromise from the Commission aiming for the provision to work legally - to be discussed in TM 27.06 ff<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), . | | | | |
| G | 88<br>(j) the following paragraph 14a is inserted: | (j) the following paragraph 14a is inserted: | (j) ~~*the following paragraph 14a is inserted:*~~***deleted*** | ~~*(j)*~~***.*** ~~*the following paragraph 14a is inserted:*~~<br><br>TM 27.04: not needed when using the Council structure (entire Art 7 replaced)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph | | | | |

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| 89 | ‘<br>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.;<br>, | ‘<br>14a. The Commission ~~may~~**shall be empowered to** 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.;<br>, | ‘<br>~~14a~~**14**. The Commission may adopt delegated acts in accordance with Article 67 to supplement this Regulation specifying the ~~reasons for~~**conditions under which** 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)~~**5, point (e)**, of this Article.~~;~~<br>, | ‘<br>~~14a~~**14**. 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~~**as** trading ~~parties under paragraph 2 and~~**as referred to in** paragraph ~~4~~**5**, points ~~(c) and (d)~~**(f) and (g)**, of this Article.;<br>,<br><br>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<br><br>TM 08.06. adapted to the Council structure agreed above.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (2), . | | | | |
| 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:~~**deleted** | ~~(k).~~ ~~in paragraph 15, the second subparagraph is replaced by the following:~~<br><br>TM 27.04: not needed when using the Council structure (entire Art 7 replaced) |

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| | | | | Text Origin: Council Mandate |
| Article 1, first paragraph, point (2)(a) | | | | |
| 90a | | | ‘<br>***15. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify:*** | ***15. ESMA shall, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify:***<br><br>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<br>TM 08.06. old point (c) to be reinserted; point (d) to be reinserted since compromise found on 5 days with possible extension of 2 days; old point (e) covered by new (b); (f) to (h) to be reinserted<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision | | | | |
| 90b | | | ***(a) the details of the pass-on-mechanism under paragraph 4;*** | ***(a) the details of the pass-on mechanism under paragraph 3a;***<br><br>TM 27.04: Preliminary compromise on lines 65 and 65a found at technical level based on input from COM. EP and CNL to confirm.<br>TM 08.06. Compromise agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, point (a) | | | | |

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| G | 90c | | ***(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;*** | t<br>***(b) other types of transactions that render the buy-in process unnecessary referred to in paragraph 5, point (b), such as financial collateral arrangements or transactions that include close-out netting provision;***<br><br>TM 27.04: COM suggest to move points (a) and (f) to DA in line 89, and that point (b) does not need to be further specified<br>Indications in the second part of the sentence are not usual for DAs.<br><br>TM 25.05. linked to line 71a<br><br>TM 08.06. Adapted to the structure above, but level 2 acts were agreed already after the trilogue in the TM 19.04; Council and EP not to go back on points (a) and (b). EP can agree to the second part of the sentence.<br><br>Written procedure 14.06.-20.06: deletion of the reference to paragraph 5, point (c) as no level 2 is needed on CCP transactions under the current CSDR<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (2), ., amending provision, point (b) | | | |
| Y | 90d | | ***(c) the details of how the*** | |

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| | | | ***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.*** | |
| Article 1, first paragraph, point (2), ., amending provision, point (c) | | | | |
| G 90e | | | | ***(d) the details of operation of the appropriate buy-in process referred to in paragraphs 3 to 8, including appropriate time-frames to deliver the financial instrument following the buy-in process referred to in paragraph 3. Such time-frames shall be calibrated taking into account the asset type and liquidity of the financial instruments;***<br><br>TM 08.06. existing text inserted |
| Article 1, first paragraph, point (2), ., amending provision, point (e) | | | | |
| G 90f | | | | ***(e) a methodology for the calculation of the cash compensation referred to in paragraph 7;***<br><br>TM 08.06. existing text, reference to be checked |
| Article 1, first paragraph, point (2), ., amending provision, point (d) | | | | |

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| 90g | | | | ***(f) the circumstances under which the extension period could be prolonged according to asset type and liquidity of the financial instruments, in accordance with the conditions referred to in paragraph 3, second subparagraph, taking into account the criteria for assessing liquidity under point (17) of Article 2(1) of Regulation (EU) No 600/2014***<br><br>TM 08.06. existing text, reference corrected |
| Article 1, first paragraph, point (2), ., amending provision, point (f) | | | | |
| 90h | | | | ***(g) the conditions under which a participant is deemed consistently and systematically to fail to deliver the financial instruments as referred to in paragraph 9; and***<br><br>TM 08.06. existing text; reference to be checked |
| Article 1, first paragraph, point (2), ., amending provision, point (g) | | | | |
| 90i | | | | ***(h) the necessary settlement information referred to in the second subparagraph of paragraph 10.***<br>; |

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| | | | | TM 08.06. existing text; reference to be checked |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph | | | | |
| 91 | ‘<br>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].;<br>’ | ‘<br>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].;<br>’ | 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].~~;~~ | ‘<br>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].~~;~~<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, first paragraph a | | | | |
| 91a | | | ***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.’;***<br>’ | ***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.’;***<br>’<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (2), ., amending provision, third paragraph | | | | |
| 91b | | ***(3) Article 12 is amended as follows:*** | | TM 27.04: Depend on political decision in line 94c |
| Article 1, first paragraph, point (3) | | | | |
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| | (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 | | | | |
| G 93 | ‘<br>(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place; | ‘<br>(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place; | ‘<br>(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place; | ‘<br>(b) the central banks in the Union issuing the most relevant currencies in which settlement takes or will take place;<br>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.;<br>, | (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.’;<br>, | (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.;<br>,<br>Text Origin: Commission Proposal |
| | | | | |
| R 94a | | ***(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*** | | |

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| | | ***group with two or more CSDs.';*** , | | |
| | | | | |
| R 94b | | ***(b) paragraph 3 is replaced by the following:*** | | R |
| | | | | |
| R 94c | | "<br>***'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.***<br><br>***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].***<br><br>***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*** | | R |

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| | | ***Regulation (EU) No 1095/2010.';*** " | | |
| Article 1, first paragraph, point (4) | | | | |
| 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:<br>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:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(a), amending provision, first paragraph | | | | |
| 97 | ,<br>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 | ,<br>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 | ,<br>'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~~***commenced*** 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 | ,<br>'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~~***commenced*** 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 |

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| | its activities.;<br>” | its activities.;<br>” | ~~launches~~***commences*** its activities.***’***;<br>” | ~~launches~~***commences*** its activities.***’***;<br>”<br><br>TM 11.05 technical changes by Council accepted<br><br>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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), first subparagraph | | | | |
| 99 | ‘<br>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. | ‘<br>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. | ‘<br>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. | ‘<br>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.<br><br>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 | Each relevant authority may issue a | Each relevant authority may issue a | Each relevant authority may issue a |

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| | reasoned opinion to the competent authority within 3 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. | reasoned opinion to the competent authority within 3 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. | reasoned opinion ***within its area of competences*** to the competent 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. | reasoned opinion ***within its areas of competence*** to the competent 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.<br><br>11.05. technical clarification by the Council accepted<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), third subparagraph | | | | |
| G 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. ***In particular, the reasoning shall include the reasons for derogation from the negative reasoned opinion issued by the relevant authority.*** | 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.<br><br>11.05. Compromise text agreed.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), fourth subparagraph | | | | |
| G 102 | Where within 30 calendar days after | Where within 30 calendar days after | ~~Where within 30 calendar days after~~ | ~~Where within 30 calendar days after~~ |

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| | the competent authority has issued 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 competent authority has issued 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 competent authority has issued 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.~~***deleted*** | ~~the competent authority has issued the reasoned decision referred to in the third subparagraph,~~ Any of the relevant authorities ~~issues another~~***that issued a*** negative opinion ~~and the competent authority disagrees it shall inform those relevant authorities. Any of the authorities that issued a negative opinion~~***referred to in the third subparagraph*** may refer the matter to ESMA for assistance under Article 31(2) point (c), of Regulation (EU) No 1095/2010.<br><br>TM 11.05. Provisional compromise agreed. Council to come back.<br>TM 08.06.: Council agrees.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), fifth subparagraph | | | | |
| G | 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.~~***deleted*** | 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.<br><br>TM 11.05. ESMA Regulation does not provide a detailed procedure and is silent on a timeline. Council to come back. |

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| | | | | TM 08.06. Council agrees.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), sixth subparagraph | | | | |
| 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. | ~~*Where the competent authority wishes to refuse authorisation, the matter shall not be referred to ESMA.*~~ ***deleted*** | Where the competent authority ~~*wishes*~~***intends*** to refuse authorisation, the matter shall not be referred to ESMA.<br><br>TM 11.05. For clarification purposes. Council to come back.<br>TM 08.06. Council agrees.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(b), amending provision, numbered paragraph (4), seventh subparagraph | | | | |
| 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 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*~~***opinion referred to in the third subparagraph*** 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.***'***; | ***A*** negative ~~*opinions*~~***opinion referred to in the third subparagraph*** 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.***'***;<br><br>TM 11.05. Council text agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(c) | | | | |
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| | (c) the following paragraph 7a is inserted: | (c) the following paragraph 7a is inserted: | ~~(c)~~***(ba)*** the following paragraph 7a is inserted: | (c) the following paragraph 7a is inserted:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (4)(c), amending provision, first paragraph | | | | |
| 107 | ‘<br>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.;<br>, | ‘<br>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.;<br>, | ‘<br>7a. The competent authority ~~*shall inform without undue delay the*~~ ***may, before granting authorisation to the applicant CSD, consult appropriate competent*** authorities ~~*consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process*~~***supervising an entity that has a qualifying holding in the applicant CSD on the matters referred to in paragraph 7.’***;<br>, | ‘<br>7a. ***In addition to consulting the competent authorities referred to in paragraph 6,*** the competent authority ~~*shall inform without undue delay the*~~ ***may, before granting authorisation to the applicant CSD, consult other*** authorities ~~*consulted pursuant to paragraphs 4 to 7 of the results, including any remedial actions, of the authorisation process*~~***supervising an entity that has a qualifying holding in the applicant CSD on the matters referred to in paragraph 7.’***;<br>,<br><br>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.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(ca) | | | | |
| 107a | | | | |

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| | | | ***(c) the following paragraph 8a is inserted:*** | ***(c) the following paragraph 8a is inserted:***<br><br>TM 11.05. COM proposal paragraph 7a<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(cb) | | | | |
| G 107b | | | ***'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.'*** | ***'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.'***<br><br>TM 11.05. COM proposal para 7a, correspond to line 107<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (4)(cc) | | | | |
| G 107c | | ***(4a) in Article 19, paragraph 2 is replaced by the following:*** | | ***. (4a) in Article 19, paragraph 2 is replaced by the following:***<br><br>TM 11.05. See line 107d<br>TM 24.05: Compromise text proposed by the COM, see following lines.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (4)(cd) | | | | |
| G 107d | | " | | ***. '2. The granting of an*** |

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| | | ***'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).*** | | ***authorisation to outsource a core service to a third party pursuant to paragraph 1 or to extend the activities pursuant to paragraph 1, points (a), (c) and (d), shall follow the procedure laid down in Article 17.***<br><br>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.<br><br>TM 24.05.: the COM compromise proposes different regimes for different activities to make the system coherent, See also line 107g.<br>TM 08.06.: EP agrees<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (4)(ce) | | | | |

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| 107e | | ***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.*** | PUBLIC | TM 11.05. see line 107d<br>TM 08.06: agreed |
| Article 1, first paragraph, point (4)(cf) | | | | |
| 107f | | ***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.';***<br>" | | TM 11.05. See line 107d<br>TM 08.06.: agreed |
| Article 1, first paragraph, point (4)(cc), amending provision, first paragraph | | | | |
| 107g | | | | "<br>***The granting of authorisation under paragraph 1, point (b), shall follow the procedure laid down in Article 17(1), (2), (3), (5) and (8a).*** |

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| | | | | ***The granting of authorisation under paragraph 1, point (e), shall follow the procedure laid down in Article 17(1), (2) and (3).***<br>***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.***<br>"<br><br>TM 24.05.: COM compromise text, see the explanation under paragraph 2.<br>TM 08.06.: EP agrees. |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (5), amending provision, numbered paragraph (5) | | | | |
| 109 | ‘<br>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 | ‘<br>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 | ‘<br>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 | ‘<br>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 |

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| | include the transfer of issuance accounts and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex.; | include the transfer of issuance accounts ***or similar records evidencing securities issuances*** and records linked to the provision of ~~core~~***notary*** services ~~*referred to in Section A, points 1 and 2, of the Annex*~~***and central maintenance services***.; | include the transfer of issuance accounts ***or similar records evidencing securities issuance*** and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex.~~;~~ | include the transfer of issuance accounts ***or similar records evidencing securities issuance*** and records linked to the provision of core services referred to in Section A, points 1 and 2, of the Annex.~~;~~<br><br>TM 12.05. The content of the EP and Council text is exactly the same, see Annex, Section A, points 1 and 2.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6) | | | | |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (6)(a) | | | | |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (1) | | | | |
| 112 | ‘<br>1. The competent authority shall, at least every 2 years, review the | ‘<br>1. The competent authority shall, at least every 2 years, review the | ‘<br>1. The competent authority shall, at least every ~~2~~***three*** years, review the | ‘<br>1. The competent authority shall~~, at least every 2 years,~~ review the |

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| | arrangements, strategies, processes 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. | arrangements, strategies, processes 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. | arrangements, strategies, processes 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 ***for the*** stability of the financial markets. | arrangements, strategies, processes 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.<br>***The competent authority shall establish the frequency and depth of the review and evaluation referred to in the first subparagraph having regard to the size, systemic importance, risk profile, nature, scale and complexity of the activities of the CSD concerned.***<br>***The review and evaluation shall take place at least every three years.***<br><br>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.<br><br>TM 08.06. EP agrees to three years here since Council insisted on three years here. There are some very small CSDs where even a light review is not merited every second year.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2) | | | | |

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| Y | 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 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. | 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 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. | 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 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. | 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 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.<br><br>Written procedure 14.06.-21.06. The provisions on the recovery, wind-down and resolution plan (lines 113 to 121) to be moved to a new Article in Chapter II – Requirements for CSDs. A reference to this new Article should in return be added to line 112. To be done in the next TM.<br><br>Text Origin: Commission Proposal | Y |
| | Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2a) | | | | |
| G | 113a | | ***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,*** | ***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*** | G |

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| | | | ***the CSD shall not be required to prepare and submit to the competent authority the plans for its recovery referred to in paragraph 2.*** | ***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.***<br><br>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. Correspond to EP text in line 120b |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (2b) | | | | |
| 113b | | | ***. 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].*** | 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:<br><br>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 | (a) a substantive summary of the | (a) a substantive summary of the | (a) a substantive summary of the |

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| | key recovery or orderly wind-down strategies; | key recovery or orderly wind-down strategies; | key recovery or orderly wind-down strategies; | key recovery or orderly wind-down strategies;<br><br>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;<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (ba) | | | | |
| 116a | | | ***(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);***<br><br>Note: this and following points renumbered compared to Council GA in order to preserve comparability of texts | ***(c) adequate procedures ensuring the raising of additional capital should its equity capital approach or fall below the requirements laid down in Article 47(1);***<br><br>TM 24.05. Moved from Article 47. (EP line 219c)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (bb) | | | | |
| 116b | | | ***(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;*** | ***(d) 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;***<br><br>TM 24.05.: moved from Article 47, EP |

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| | | | | line 219d<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), first subparagraph, point (c) | | | | |
| G | 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~~**enabling** 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)~~**(e)** 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;<br><br>TM 24.05: consistency with Article 20(5) and 57(5). "Ensure" stronger.<br><br>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. | ~~(d)~~**(f)** a description of the measures needed to implement the key strategies.<br><br>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 | The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely | The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely | The CSD shall have the capacity to identify and provide to related entities the information needed to implement the plans on a timely |

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| | basis during stress scenarios. | basis during stress scenarios. | basis during stress scenarios. | basis during stress scenarios.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), third subparagraph | | | | |
| G 120 | The CSD shall review and update the plans regularly and a 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 plan established in accordance with Directive 2014/59/EU. | The CSD shall review and update the plans regularly and ~~a~~***at*** least every 2 years. The plans shall ***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 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*** 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~~. | The ~~CSD~~***plans*** shall ~~review and update the plans~~***be approved by the management body or an appropriate committee of the management body and updated*** regularly and ~~a~~***at*** least every ~~2~~***three*** years~~. The plans shall have regard to the size, systemic importance, nature, scale and complexity of the activities of~~ ***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***. | ***The plans shall be approved by the management body, or an appropriate committee of the management body.*** The CSD shall review and update the plans regularly and ~~a~~***at*** least every~~ 2~~ ***two*** years. ***Each update of the plans shall be provided to the competent 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.*** 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~~.<br><br>TM 24.05.: compromise proposed by the COM,<br>Council prepared to agree on 2 years here.<br>TM 08.06. agreed |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), third subparagraph a | | | | |

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| 120a | | | ***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.*** | TM 24.05. contained in line 120 now. |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (3), fifth subparagraph | | | | |
| 120b | | ***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 resolution authority respectively in accordance with that Directive, taking into account points (a) to (d) of the first subparagraph of paragraph 3.*** | | TM 24.05.: contained in line 113a |
| 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 ***resolution authority or, where no such authority exists, the*** competent authority shall inform ESMA thereof. | Where a ~~resolution~~***recovery or orderly wind down*** plan is established and maintained ~~for~~***by*** a CSD ***authorised to provide banking-type ancillary services in accordance with Article 54(3)*** 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~~***under Directive 2014/59/EU or a similar plan under national law*** with the aim of ensuring ~~its~~***the CSD's*** core functions ***is established and maintained for a CSD, the resolution authority or, where no such authority exists***, the competent authority shall inform ESMA ~~thereof~~***of the fact that such a plan exists***. |

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| | | | | ,<br><br>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.<br>EP and Council to check.<br><br>08.06.: OK for EP and the Council.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (6)(a), amending provision, numbered paragraph (4) | | | | |
| G 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.;<br>, | 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.;<br>, | 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***, as well as risk exposures of the CSD***. The review and evaluation shall be updated at least every ~~2~~***three*** years.***'***;<br>, | *deleted*<br><br>*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 .* G |
| *Article 1, first paragraph, point (6)(b)* | | | | |
| G *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:<br><br>Text Origin: Commission G |

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| Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), first subparagraph | | | | |
| 124 | ‘<br>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 securities settlement systems operated by the CSD. | ‘<br>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 securities settlement systems operated by the CSD. | ‘<br>6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit ***the*** 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 securities settlement systems operated by the CSD. | ‘<br>6. When performing the review and evaluation referred to in paragraph 1, the competent authority shall, at an early stage, transmit ***the*** necessary information to the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU, and consult them ***on whether the requirements laid down in this Regulation or other requirements of Union law are met by the CSD as regards*** ~~*in particular concerning*~~ the functioning of the securities settlement systems operated by the CSD.<br><br>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.<br><br>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*~~***its area of competences within three*** months of the receipt of the information by | The consulted authorities may issue a reasoned opinion within ~~*3*~~***their areas of competence within three*** months of the receipt of the |

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| | | | the competent authority. | information by the competent authority.<br><br>TM 24.05.: Council text contains a clarification.<br><br>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.<br><br>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~~***consulted*** authorities issues a negative reasoned opinion, the competent authority shall within ~~30 calendar days~~***one month*** provide the ~~relevant~~***consulted*** authorities with a ~~reasoned decision~~***reasoning*** addressing the negative opinion. ***In particular, the reasoning shall include the reasons for derogation from the negative reasoned opinion issued by the consulted authority.*** | Where ~~at least one of the relevant authorities~~***a consulted authority*** issues a negative reasoned opinion~~,~~ ***and*** the competent authority ***disagrees with it, it*** shall within ~~30 calendar days~~***one month*** provide the ~~relevant authorities~~***consulted authority*** with a ~~reasoned decision~~***reasoning*** addressing the negative opinion.<br><br>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 |

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| | | | | 2014/65/EU," Only authorities that have been consulted can give an opinion.<br>Negative opinions need to be addressed only if the competent authority disagrees with the consulted authority.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), fifth subparagraph | | | | |
| G 128 | Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this 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. | Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this 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. | ~~*Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this 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.*~~***deleted*** | ~~*Where within 30 calendar days after the reasoned decision referred to in the fourth subparagraph of this 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*~~***consulted*** 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.<br><br>TM 11.05. provisional agreement similar to line 102<br>TM 24.05. the reasons for using "consulted authorities" explained above.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (6), sixth subparagraph | | | | |

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| G | 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.~~***deleted*** | 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.<br><br>TM 11.05. Provisional agreement similar to 103. Council to come back. TM 08.06.: Council agrees<br><br>Text Origin: Commission Proposal | G |
| | 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 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 ***referred to in the fourth subparagraph*** 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 ***referred to in the fourth subparagraph*** 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.<br>,<br><br>Text Origin: Council Mandate | G |
| | Article 1, first paragraph, point (6)(b), amending provision, numbered paragraph (7) | | | | |
| Y | 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 | 7. The competent authority shall regularly, and at least once every 2 years, inform the relevant authorities and, where applicable, the ~~colleges~~***college of supervisors*** | 7. The competent authority shall regularly, and at least once every ~~2~~***three*** years, inform the relevant authorities***, ESMA*** and, where applicable, the ~~colleges~~***college*** | TM 24.05. Council provisionally agrees to two years, the only remaining political point would be the role of ESMA here. | Y |

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| | 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.;<br>' | 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.';<br>' | 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.';<br>' | Written procedure 14.06.-21.06. The frequency in this line should be aligned to the content of line 112, meaning that the competent authority should inform the relevant authorities etc after each review and evaluation. Setting a mere frequency in years does not help. Exact wording to be found in next TM, if the principle agreed. Content also depends on trilogue agreement on the list of relevant authorities (line 94a). |
| Article 1, first paragraph, point (6)(ba) | | | | |
| G 131a | | | ***(ba) in paragraph 10, point (b) is replaced by the following:*** | ***(ba) in paragraph 10, point (b) is replaced by the following:***<br><br>TM 24.05.: agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(bb) | | | | |
| G 131b | | | ***(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;';*** | ***(b) the information that the competent authority is to supply in accordance with paragraph 7;';***<br><br>TM 24.05: paragraph 7 already indicates already to which authorities the information should go; pure drafting change.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(bc) | | | | |

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| 131c | | | ***(bb) in paragraph 10, the second subparagraph is replaced by the following:*** | ***(bb) in paragraph 10, the second subparagraph is replaced by the following:***<br><br>TM 24.05. agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(bc)(i) | | | | |
| 131d | | | ***. '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].';*** | ***. '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].';***<br><br>TM 24.05. The mandate for ESMA has changed, the RTSs need to be updated. See also line 133.<br><br>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:<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (6)(c), amending provision, first paragraph | | | | |
| 133 | ‘ ESMA shall submit those draft | ‘ ESMA shall submit those draft | ‘ ‘ESMA shall submit those draft | ‘ ‘ESMA shall submit those draft |

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| | implementing technical standards to the Commission by [PO please insert 1 year after the entry into force of this Regulation].;<br>, | implementing technical standards to the Commission by [PO please insert 1 year after the entry into force of this Regulation].;<br>, | implementing technical standards to the Commission by … [PO please insert 1 year after the entry into force of this Regulation].';<br>, | implementing technical standards to the Commission by … [PO please insert 1 year after the entry into force of this Regulation].';<br>,<br>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:<br>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.<br>paragraph 1 - current text<br>TM 24.05.: going back to the technique of the COM proposal<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (2) | | | | |
| 135 | ‘<br>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 | ‘<br>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 | ‘<br>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~~law of another Member State | ‘<br>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~~law of another Member State |

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| | 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. | 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. | referred to in Article 49(1), second subparagraph, ***point (a),*** 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. | referred to in Article 49(1), second subparagraph, ***point (a)*** 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.<br><br>TM 11.05. EP and Council to agree on whether to include a reference to point (a)<br>TM 08.06. Agreed finally. |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3) | | | | |
| G 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, for the first time, or to change the range of those services provided shall ~~*submit*~~***communicate*** 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, ***point (a),*** 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*~~***that intends*** 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, ***point (a),*** for the first time, or to change the range of those services provided shall ~~*submit documents with*~~***communicate*** the following information to the competent authority of the home Member State:<br><br>TM 11.05.: EP and Council to agree on whether to include a reference to point (a) G |

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| | | | | TM 08.06. agreed |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (a) | | | | |
| 137 | (a) the host Member State; | (a) the host Member State; | (a) the host Member State; | (a) the host Member State;<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (b) | | | | |
| 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 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; | (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***, including the type of financial instruments constituted under the law of the host Member State in respect of which the CSD intends to provide such services***;<br>TM 11.05.: EP to come back with a justification on why the type of financial instruments is needed.<br>TM 08.05: Council agrees to EP text.<br>Written procedure 14.06.-21.06. Wording also clarified with the Commission. |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (c) | | | | |
| 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; | (c) the currency or currencies that the CSD intends to process; |

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| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), . | | | | |
| 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; | ~~(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)(d) | | | | |
| 141 | (e) an assessment of the measures the CSD intends to take to allow its users to comply with the national law referred to in Article 49(1). | (e) an assessment of the measures the CSD intends to take to allow its users to comply with the national law referred to in Article 49(1)***, in relation to shares***. | (e) an assessment of the measures the CSD intends to take to allow its users to comply with the ~~national~~ law ***of the host Member State*** referred to in Article 49(1)***, second subparagraph, point (a), in relation to shares***. | ~~(c)~~***(d)*** an assessment of the measures the CSD intends to take to allow its users to comply with the ~~national~~ law ***of the host Member State*** referred to in Article 49(1)***, second subparagraph, point (a), in relation to shares***.<br><br>TM 11.05.: EP and Council to agree on whether to include a reference to point (a) in both references<br>TM 08.06. Agreed. |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3), point (da) | | | | |
| 141a | | | ***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*** | TM 11.05. as per compromise text: Council text not taken over in this cell |

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| | | | ***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.*** | | |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a) | | | | | |
| G | 141b | | ***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, shall communicate the following information to the competent authority of the home Member State:*** | ***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, shall communicate the following information to the competent authority of the home Member State:***<br><br>TM 11.05. NB LLs: further attempts to be considered to improve the structure of paragraphs 3 and 3a | G |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a), point (a) | | | | | |
| G | 141c | | ***(a) the host Member State;*** | ***(a) the information listed in paragraph 3, points (a), (b) and (c);***<br><br>TM 11.05: compromise text; EP lines 141c, 141d, 141e | G |

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| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a), point (b) | | | | |
| 141d | | ***(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;*** | | ***(b) the organisational structure of the branch and the names of the persons responsible for the management of the branch;***<br><br>TM 11.05.: compromise text; EP line 141f |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a), point (c) | | | | |
| 141e | | ***(c) the currency or currencies that the CSD intends to process;*** | | ***(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 Article 49(1), second subparagraph, point (a), in relation to shares.***<br><br>TM 11.05.: EP and Council to agree on whether to include a reference to point (a)<br>EP to come back on whether it agrees to add the assessment compared to the EP text: linked to line 141<br>TM 08.06. Agreed |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (3a), point (d) | | | | |
| 141f | | ***(d) the organisational structure of the branch and the names of the persons responsible for the management of the branch.*** | | ***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*** |

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| | | | | ***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.***<br><br>TM 11.05.: Council line 141a; depends on Line 141.<br><br>Same comment for all references to "paragraph 3a point (c)."<br>TM 08.06. Brackets removed, agreed. |
| | | | | |
| G | 141g | | ***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.*** | G |
| | Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), first subparagraph | | | |
| G | 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 | 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 | 4. Within ~~*1 month*~~***two months*** from the receipt of ~~*the*~~***complete*** information referred to in paragraph 3, the competent authority of the home Member State shall communicate that information to the | 4. Within ~~*1 month*~~***two months*** from the receipt of the ***complete*** information referred to in paragraph 3, ***points (a), (b) and (c), or paragraph 3a, points (a) and (b), as applicable,*** the competent authority | G |

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| | 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. | 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.*~~ | 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.*~~ ***or the adequacy of the measures the CSD intends to take in accordance with paragraph 3, point (e). Within the same period,*** 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. | 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*~~***intending*** to provide its services in the host Member State ***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,*** ~~–~~where the CSD already provides services to other host Member States, ***including through a branch,*** the competent authority of the home Member State shall also inform the ~~*passporting*~~ college referred to in Article 24a.<br><br>TM 11.05. Two months to be confirmed by the EP<br>TM 08.06. Brackets removed, agreed |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), first subparagraph a | | | | |
| G 142a | | | ***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.*** | TM 12.05.: the Council text in line 142a is now contained, as modified, in line 143. G |

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| Article 1, first paragraph, point (7), amending provision, numbered paragraph (4), second subparagraph | | | | |
| G 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. ***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.***<br><br>TM 11.05: as per compromise text agreed; Council line 142a, original COM-proposal line 148 inserted here.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (5) | | | | |
| G 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 | 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 | 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*~~***provide a fully reasoned decision*** for its refusal to the CSD concerned within ~~*3 months*~~***one*** | 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 ***or paragraph 3a, as applicable,*** to the competent authority of the host Member State, it shall ~~*give*~~***provide the*** reasons for its refusal to the CSD concerned within ~~*3*~~***two*** months ~~*of*~~ |

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| | competent authority of the host Member State and the passporting college referred to in Article 24a of its decision. | competent authority of the host Member State ~~*and the passporting college referred to in Article 24a*~~ of its decision. | ***month*** 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. | ~~*receiving all the*~~***from the receipt of that*** information and inform the competent authority of the host Member State and the ~~*passporting*~~ college referred to in Article 24a of its decision.<br><br>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 ***of this Article in relation to financial instruments constituted under the law of a*** ~~*in the*~~ host Member State ~~*at the earliest*~~***referred to in Article 49(1), 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.*** | 6. The CSD may start providing the services ***or set up a branch as*** referred to in paragraph 2 ***at the earliest 15 calendar days from the date of transmission of the communication referred to in paragraph 4, first subparagraph, from the competent authority of the home*** ~~*in the host*~~ Member State ~~*at the earliest*~~***to the competent authority*** of the ~~*following dates:*~~***host Member State.***<br><br>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, . | | | | |
| 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;*~~***deleted*** | ~~*(a).*~~ ~~*after 1 month from the date of transmission of the communication referred to in paragraph 4;*~~ |

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| Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), first subparagraph, . | | | | |
| G 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.~~ ***deleted*** | ~~(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.~~<br><br>TM 11.05. as per agreed text<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (6), second subparagraph | | | | |
| 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. | ~~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.~~<br><br>TM 11.05. as per agreed text<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (7) | | | | |
| G 149 | 7. In the event of a change of the information set out in the documents submitted in accordance with | 7. In the event of a change of the information ~~set out in the documents submitted in accordance with~~ | 7. In the event of a change of the information set out in the documents submitted in accordance with | 7. In the event of a change of the information set out in the documents submitted in accordance with |

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| | 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 1 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.; | ~~paragraph 3 of this~~***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)***, a CSD shall give written notice of that change to the competent authority of the home Member State at least ~~1~~***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.***'***; | 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 ~~1~~***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.~~;~~ | paragraph 3 ~~of this Article~~***or paragraph 3a, as applicable***, a CSD shall give written notice of that change to the competent authority of the home Member State at least ~~1~~***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.~~;~~<br><br>TM 11.05: This line is related to the colleges which is political.<br>TM 08.06. Since there will be some kind of college, the reference will remain in anyway. |
| Article 1, first paragraph, point (7), amending provision, numbered paragraph (7a) | | | | |
| G 149a | | | ***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).';*** | ***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).*** |

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| | | | PUBLIC | 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". TM 08.06. Brackets removed from para 3a, point (c), agreed |
| Article 1, first paragraph, point (8) | | | | |
| G 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:<br><br>Text Origin: Commission Proposal |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (8)(a), amending provision, first paragraph | | | | |
| R 152 | ‘<br>Upon the request of any member of the passporting college referred to in Article 24a, the competent authority | ‘<br>~~*Upon the request of any member of the passporting college referred to in Article 24a,*~~ The competent | ‘<br>‘Upon ~~*the*~~ request of any member of the ~~*passporting*~~ college referred to in Article 24a, the competent authority | |

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| | of the home Member State may invite staff from competent authorities of the host Member States and ESMA to participate in on-site inspections. | 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. | 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~~***shall*** transmit to ESMA any information received from the CSDs during or in relation to on-site inspections ***relating to any remedial actions or penalties decided on by the competent authority***.; , | 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~~***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.'***; , | R |
| | | | | |
| R 153a | | ***(aa) paragraph 3 is replaced by the following:*** | | R |
| | | | | |
| R 153b | | "<br>***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*** | | R |

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| | | ***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.;*** " | | |
| Article 1, first paragraph, point (8)(b) | | | | |
| R 154 | (b) paragraph 4 is deleted; | (b) paragraph 4 is deleted; | (b) paragraph 4 is deleted; | R |
| 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: | R |
| 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 | ‘ 5. Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within | ‘ 5. Where the competent authority of the host Member State has clear and demonstrable grounds for believing that a CSD providing services within | R |

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| | 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. | 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~~ ***and ESMA. ESMA may inform the*** college referred to in Article 24a of those findings. | 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 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. | 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 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. ***ESMAshall be informed of such measures without delay. ESMA may inform the***~~ESMA and the passporting~~ college referred to in Article 24a ~~shall be informed of such~~***of those*** measures~~ without delay~~. | Where, despite measures taken by the competent authority of the home Member State, the CSD persists in acting in ~~infringement~~***breach*** of the obligations arising from the provisions of this Regulation, the 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~~ ***The*** college referred to in Article 24a shall be informed ***by the competent authority of the host Member State*** of such measures without ***undue*** delay. | R |
| Article 1, first paragraph, point (8)(c), amending provision, numbered paragraph (5), third subparagraph | | | | |

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| G 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.; , | ***Either*** 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.**'**; , | ‘ ***Either*** 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.**'**; , TM 12.05. Council text agreed. Text Origin: Council Mandate G |
| Article 1, first paragraph, point (8)(d) | | | | |
| Y 159 | (d) paragraphs 7 and 8 are deleted; | (d) ~~paragraphs 7 and 8 are~~***paragraph 8 is*** 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. Y |
| Article 1, first paragraph, point (9) | | | | |

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| 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, ***Chapter I,*** the following Section 4a is inserted: | |
| Article 1, first paragraph, point (9), amending provision, first paragraph | | | | |
| 161 | ‘<br>Section 4a | ‘<br>Section 4a | ‘<br>Section 4a | ‘<br>Section 4a<br>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<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (9), amending provision, third paragraph | | | | |
| 163 | Article 24a | Article 24a | Article 24a | Article 24a<br>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*~~ | |

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| Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), first subparagraph | | | | |
| 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:*~~***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').*** | 1. ~~*Colleges of supervisors*~~***The competent authority of the home Member State*** shall ~~*be established*~~***establish a college of supervisors*** to carry out the tasks referred to in paragraph ~~*6 in the following cases:*~~***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.*** | |
| 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');*~~***deleted*** | |
| 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').*~~***deleted*** | |
| 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 | ~~*In the case referred to in the first subparagraph, point (a), the CSD's*~~ | ~~*In the case referred to in the first subparagraph, point (a), the CSD's*~~ | |

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| | 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). | ~~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).~~ | ~~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).~~ ***deleted*** | |
| 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.~~ ***deleted*** | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (1), fourth subparagraph | | | | |
| 170 | | | | |

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| | 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 be heard before the competent authorities take the decision. | ~~*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 be heard before the competent authorities take the decision.*~~ | ~~*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 be heard before the competent authorities take the decision.*~~***deleted*** | |
| 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.*~~***deleted*** | |
| | | | | |
| 171a | | | ***2. The college shall be established within one month from the date when:*** | |
| | | | | |

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| 171b | | | ***(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*** | |
| | | | | |
| 171c | | | ***(b) the competent authority of the home Member State is notified by one of the entities listed in paragraph 3 that the activities carried out by the CSD in at least two host Member States are of substantial importance.*** | |
| | | | | |
| 171d | | | ***. The competent authority of the home Member State shall manage and chair the college.*** | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (2) | | | | |
| 172 | 2. The college referred to in paragraph 1 shall consist of: | 2. The college referred to in paragraph 1 shall consist of: | ~~2~~***3***. The college referred to in paragraph 1 shall consist of: | 2. The college referred to in paragraph 1 shall consist of:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (2), point (a) | | | | |

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| R 173 | (a) ESMA; | (a) ESMA, ***as the chair of the college***; | (a) ESMA; | R |
| 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; | (c) the relevant authorities referred to in Article 12;<br><br>Text Origin: Commission Proposal G |
| 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*~~***the competent authority of the host Member States where the CSD is of substantial importance***; | (d) ~~*in the case of a passporting college, the competent authority of the host Member States*~~***the competent authorities of the host Member States in relation to which the condition set in paragraph 1 is fulfilled***; | |
| | | | | |
| R 176a | | | ***(da) the competent authorities of the host Member States other than those referred to in point (d), upon their justified request;*** | R |

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| | | | | |
| 176b | | | ***(db) third-country authorities, upon their justified request;*** | |
| 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*~~***where a CSD is part of a group***, the competent ~~*authority and the relevant authorities*~~***authorities of the home Member State*** of each CSD in the group~~;~~**.** | R |
| 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).<br>Text Origin: Commission Proposal G |
| | | | | |
| R 178a | | ***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*** | | R |

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| | | ***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.*** | | |
| | | | | |
| 178b | | | ***. The members of a college other than its chair may decide not to participate in a meeting of the college.*** | |
| | | | | |
| 178c | | | ***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.*** | |
| 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 | 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*~~ | 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*~~ | |

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| | 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. | ~~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.~~ | ~~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.~~***deleted*** | |
| 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:~~***deleted*** | |
| 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;~~***deleted*** | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (3), second subparagraph, point (b) | | | | |
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| | (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.~~***deleted*** | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (4) | | | | |
| 183 | 4. The chair shall notify the composition of the college to 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. | 4. The chair shall notify the composition of the college to ~~ESMA~~***all relevant competent authorities*** 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. | 4. The chair shall notify the composition of the college to ESMA within ~~30 calendar days~~***one month*** of the college's establishment and any change in its composition within ~~30 calendar days~~***one month*** of that change. ESMA ***and the competent authority of the home Member State*** shall publish on its website without undue delay the list of the members of that college and keep that list ~~up-to-date~~***updated***. | |
| 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.~~***deleted*** | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph | | | | |

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| 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~~*be established to facilitate*: | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (a) | | | | |
| 186 | (a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15 and information on the review and evaluation process pursuant to Article 22; | (a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15 and information on the review and evaluation process pursuant to Article 22; | (a) the exchange of information, including requests for information pursuant to Articles 13, 14 and 15 and information on the review and evaluation process pursuant to Article 22; | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (b) | | | | |
| 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~~-~~; | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (6), first subparagraph, point (c) | | | | |
| 188 | (c) agreement on the voluntary entrustment of tasks among its members. | (c) agreement on the voluntary entrustment of tasks among its members. | (c) *an* agreement on the voluntary entrustment of tasks among its members~~-~~*;* | |
| | | | | |
| 188a | | *(ca) the coordination of the supervisory review and evaluation* | | |

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| | | ***processes pursuant to Articles 22 and 60 or that relate to the extension and outsourcing of activities and services under Article 19;*** | | |
| 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 measures referred to in Article 23(4), point (e) and on any issues encountered in the provision of services in other Member States; | (d) ~~*in the case of a passporting college,*~~ the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article ~~*23(4)*~~***23(3)***, point (e) and on any issues encountered in the provision of services in other Member States; | (d) ~~*in the case of a passporting college,*~~ the cooperation of the home and host Member State pursuant to Article 24 and regarding the measures referred to in Article ~~*23(4)*~~***23(3)***, point (e) and on any issues encountered in the provision of services in other Member States; | R |
| 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 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 and*~~***approved*** outsourcing arrangements ~~*in place within a group of CSDs*~~***of core services*** 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*~~**;** | R |

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| R 190a | | | ***(f) the exchange of information on senior management, management body and shareholders pursuant to Article 27.*** | R |
| 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. | The chair shall convene a meeting of the college at least once a year. | ***6.*** The chair shall convene a meeting of the college at least ~~*once a year*~~***annually or upon request of a member of the college***. | R |
| 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*~~***the college pursuant to*** paragraph ***5***, members of the college ~~*referred to in paragraph 2*~~ may add points to the agenda of a meeting. | R |
| | | | | |
| R 192a | | ***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*** | | R |

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| | | ***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).*** | | |
| | | | | |
| R 192b | | ***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.*** | | R |
| | | | | |
| 192c | | ***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.*** | | |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (7), first subparagraph | | | | |
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| | 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. | 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 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. | That agreement shall determine the practical arrangements for the functioning 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~~***for inviting other relevant authorities on an ad hoc basis and for specific topics***. | That agreement shall determine the practical arrangements for the functioning of the college, including the modalities of communication amongst college members, and may determine tasks to be entrusted to the ~~CSD's competent authority or another member~~***members*** 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~~***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***. | 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<br><br>Commission comment: the delegated act on the topic of "substantial R |

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| | | | | 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 | | | | |
| 196 | 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].<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (9), amending provision, numbered paragraph (8), third subparagraph | | | | |
| 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.;<br>, | 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.;<br>, | 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.';<br>, | 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.';<br>,<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10) | | | | |
| 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:<br>Text Origin: Commission Proposal |

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| R | 198a | ***(-a) paragraph 2 is replaced by the following:*** | | |
| | | | | |
| R | 198b | "<br>***'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.';***<br>" | | |
| | 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 | "<br>2a. A third-country CSD that intends to provide the core service | "<br>2a. ~~*A third-country CSD that intends to provide the core service*~~ | "<br>2a. A third-country CSD that intends to provide the core service | TM 11.05. Linked to 198b |

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| | 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.;<br>” | ~~*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.;*~~<br>” | 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.<br>***ESMA shall inform the competent authority of the Member State under whose law the financial instruments are constituted of the notification received.’;***~~:~~<br>” | |
| | Article 1, first paragraph, point (10)(aa) | | | |
| G | 200a | | ***(aa) in paragraph 4, the following point is inserted:*** | ***(aa) in paragraph 4, the following point is inserted:***<br>Text Origin: EP Mandate |
| | Article 1, first paragraph, point (10)(a), amending provision, first paragraph a | | | |
| G | 200b | "<br>***‘(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 Council[1];’;***<br>" | | “<br>***(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 Council[1];’;***<br>”<br>***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*** |

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| | | _____<br>*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).* | PUBLIC | *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).*<br><br>TM 12.05. The text aligned to the Green Bonds Regulation and to the ELTIFs regulation.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (10)(b) | | | | |
| G 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (10)(b), amending provision, first paragraph | | | | |
| G 202 | ‘<br>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.; | ‘<br>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.; | ‘<br>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.*’*; | ‘<br>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.*’*; |

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| | ' | ' | ' | '<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(c) | | | | |
| 203 | (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 | '<br>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: | '<br>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:*~~ | '<br>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 ***or intends to provide*** 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 | (b) ~~*the number and volume of transactions in financial instruments*~~ | (b) the number and volume of transactions in financial instruments | |

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| | constituted under the law of a Member State settled during the previous year; | ~~constituted under the law of a Member State settled during the previous year;~~ | 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) | | | | | |
| 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.~~ | (c) the number and volume of transactions settled by Union participants during the previous year. | Y |
| 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]. | Y |
| 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.'; , | Y |
| Article 1, first paragraph, point (10)(ca) | | | | | |
| G | 209a | | ***(10a) In Article 26, paragraph 3 is*** | ***(10a) Article 26 is amended as*** | G |

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| | | | ***replaced by the following:*** | ***follows:***<br>***(a) the following second subparagraph is added to paragraph 2:***<br>***"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."***<br><br>***(b) paragraph 3 is replaced by the following:***<br><br>TM 04.05: text of line 229g (new point in Art 59(3)) is moved here.<br>TM 12.05. point (b) and replacement of paragraph 3 agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(cb) | | | | |
| G 209b | | | ***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:*** | ***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:*** G |

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| | | | | TM 12.05. Council change Art 26(3) to introduce close links (see line 209g and 209h) and new format with letter points. Agreed<br><br>COM comment: This paragraph applies to all CSDs. CRD applies automatically to CSDs with banking authorisation.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(cc) | | | | |
| 209c | | | ***(a) the CSD's managers;*** | ***(a) the CSD's managers;***<br><br>TM 12.05. agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(cd) | | | | |
| 209d | | | ***(b) the CSD's employees;*** | ***(b) the CSD's employees;***<br><br>TM 12.05. agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(ce) | | | | |
| 209e | | | ***(c) members of the CSD's management body;*** | ***(c) members of the CSD's management body;***<br><br>TM 12.05. agreed<br><br>Text Origin: Council Mandate |

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| Article 1, first paragraph, point (10)(cf) | | | | |
| 209f | | | ***(d) any person with direct or indirect control over the CSD;*** | ***(d) any person with direct or indirect control over the CSD;***<br><br>TM 12.05. agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(cg) | | | | |
| 209g | | | ***(e) any person with close links with any of the persons listed in points (a), (b) and (c); or*** | ***(e) any person with close links with any of the persons listed in points (a), (b) and (c); or***<br><br>TM 12.05. New provision on close links, inspired from EMIR:<br>EMIR Article 33(1):<br>1. A CCP shall maintain and operate effective written organi1sational 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.<br><br>Close links defined in line 51g<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(ch) | | | | |

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| G 209h | | | ***(f) any person with close links with the CSD itself.*** | ***(f) any person with close links with the CSD itself.***<br><br>TM 12.05. New provision on close links, inspired from EMIR:<br>EMIR Article 33(1):<br>1. A CCP shall maintain and operate effective written organi1sational 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.<br><br>Close links defined in line 51g<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10)(ci) | | | | |
| G 209i | | | ***. A CSD shall maintain and implement adequate resolution procedures where possible conflicts of interest occur.';*** | ***. A CSD shall maintain and implement adequate resolution procedures where possible conflicts of interest occur.';***<br><br>TM 12.05. Originally in CSD Article 26(3)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (10a) | | | | |

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| G 209j | | | | ***(c) the following paragraph 9 is added:***<br>***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 sub-paragraph.***<br><br>***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].***<br><br>***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.***<br><br>TM 04.05: RTS corresponding to addition 209a - taken from Art 59(9a) line 240a/240b G |
| Article 1, first paragraph, point (11) | | | | |
| G 210 | (11) in Article 27, the following paragraph 3a is inserted: | (11) in Article 27, the following paragraph 3a is inserted: | (11) ~~*in*~~ Article 27~~*, the following paragraph 3a is inserted*~~ ***is amended as follows***: | (11) ~~*in*~~ Article 27~~*, the following paragraph 3a is inserted*~~ ***is amended as follows***: G |

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| Article 1, first paragraph, point (11), amending provision, first paragraph -a | | | | |
| 210a | | | “<br>***. in paragraph 2, the second subparagraph is inserted:*** | “<br>***(a) in paragraph 2, a second subparagraph is inserted:***<br><br>TM 09.06.: the introductory sentence had not been inserted earlier<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . | | | | |
| 211 | “<br>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;<br>” | “<br>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;<br>” | ~~*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*~~***interest*** 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.*~~ ***’***;<br><br>PUBLIC | ~~*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~~*;*~~***.***<br><br>TM 27.04: COM/EP text but accepting CNL structure.<br>"participants" reinserted (in comparison to CNL text) to align with EP (and COM) texts |

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| | | | | Text Origin: EP Mandate |
| Article 1, first paragraph, point (11), amending provision, ., point (a) | | | | |
| 211a | | | ***(a) paragraphs 6 to 8 are replaced by the following:*** | ***(b) paragraphs 6 to 8 are replaced by the following:***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . a | | | | |
| 211b | | | ***'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.*** | ***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.***<br><br>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<br><br>TM 11.05: COM no further comments on deletion of par 6, agreed.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . b | | | | |
| 211c | | | ***7. The competent authority shall refuse to authorise a CSD where it is not satisfied as to the suitability*** | ***7. The competent authority shall refuse to authorise a CSD where it is not satisfied as to the suitability*** |

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| | | | ***of the shareholders or members that have qualifying holdings in the CSD, taking into account the need to ensure the sound and prudent management of a CSD.*** | ***of the shareholders or members that have qualifying holdings in the CSD, taking into account the need to ensure the sound and prudent management of a CSD.***<br><br>TM 27.04: CNL text aligned with EMIR Art 30(2) - Art14(2) CRD<br>ex paragraph 6 of existing CSDR on "suitable" management is partly covered in this new paragraph 7.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . c | | | | |
| G 211d | | | ***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.';*** | ***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.';***<br><br>TM 27.04: CNL text aligned with EMIR Art 30(3) + Art 14(3) CRD<br>related definition of "close links" in line 51g<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . c, point (a) | | | | |
| G 211e | | | ***(b) the following paragraphs 9 to 11 are added:*** | ***(c) the following paragraphs 9 to 11 are added:*** |

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| Article 1, first paragraph, point (11), amending provision, . d | | | | |
| G 211f | | | '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. | 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.<br><br>TM 27.04: CNL text aligned with EMIR Art 30(4) + CRD Art 26(2)<br><br>EP note that equivalent provision on withdrawal does not exist in CRD. COM believe that in practice same power exists under CRD regime.<br>09.06. EP fine with it.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . e | | | | |
| G 211g | | | 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, | 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, |

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| | | | ***prevent the effective exercise of the supervisory functions of the competent authority.*** | ***prevent the effective exercise of the supervisory functions of the competent authority.***<br><br>TM 27.04: CNL text aligned with EMIR Art 30(5) - Art 14(3) second subparagraph of CRD<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . f | | | | |
| G 211h | | | ***11. A CSD shall, without delay:*** ” | ***11. A CSD shall, without delay:***<br><br>TM 27.04: CNL text aligned to MiFID Art 46(2a) and correspond to ex-paragraph 7 of existing CSDR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11), amending provision, . g | | | | |
| G 211i | | | ***(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;*** | ***(a) provide the competent authority with 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;*** ”<br><br>TM 27.04: CNL text aligned to MiFID Art 46(2a) point (a) + CRD Art 14(3), subparagraph 3<br>+ correspond to ex-paragraph 7, point (a) of existing CSDR, but "any parties in a position to exercise control over the |

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| | | | | operation of the CSD" is replaced by "qualified holding"<br>COM check if this change expands the scope<br><br>Written procedure 14.06.-20.06: compromise suggested by the COM as slightly changed by the Council; agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11a) | | | | |
| G | 211j | | ***(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.';*** | ***(b) make public<br>i) the information provided to the competent authority under point (a) and<br>ii) the transfer of ownership rights that result in a change in control over the CSD.';***<br><br>TM 27.04: CNL text aligned to MiFID Art 46(2a) point (b)<br>+ COM to check if similar disclosure requirement in CRD or level 2<br>+ correspond to ex-paragraph 7, point (b) of existing CSDR, the steps are reversed<br><br>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.<br><br>Written procedure 14.06.-20.06: compromise suggested by the COM as |

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| | | | | slightly changed by the Council; agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b) | | | | |
| 211k | | | ***(11a) The following Articles 27a to 27c are inserted:*** | ***(11a) The following Articles 27a to 27c are inserted:***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph | | | | |
| 211l | | | "<br>***'Article 27a<br>Information to competent authorities*** | "<br>***'Article 27a<br>Information to competent authorities***<br><br>TM 27.04: Correspond to Art 30 and 31 of EMIR and similar to Art 22 and 25 CRD<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (1) | | | | |
| 211m | | | ***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).*** | ***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).***<br><br>TM 27.04: updated the reference to Art 27 (to double check) |

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| | | | | correspond to art 31(1) of EMIR<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (2) | | | | |
| G | 211n | | ***. 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.*** | ***. 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.***<br><br>TM 27.04: similar to Art 91(1), second subparagraph CRD<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (3) | | | | |
| G | 211o | | ***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*** | ***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*** |

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| | | | ***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 in Article 27b(4). This natural or legal person shall also notify the CSD.*** | ***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 in Article 27b(4).***<br><br>TM 27.04: correspond Art 31(2) of EMIR and Art 22(1) CRD<br>CNL agrees to drop last sentence.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (4) | | | | |
| G | 211p | | ***. 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.*** | ***. 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.***<br><br>TM 27.04: correspond Art 31(2) of EMIR and Art 25 CRD |

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| | | | | CNL agrees to drop last sentence.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (5) | | | | |
| G 211q | | | . ***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.*** | . ***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.***<br><br>TM 27.04: correspond to Art 22(2) subparagraph 1 of CRD (as regards acquisitions) + Art 31(2) EMIR<br>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".<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (6) | | | | |
| G 211r | | | . ***The competent authority shall*** | ***2a. The competent authority shall*** |

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| | | | ***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 referred to in Article 27b(4) (the assessment period), to carry out the assessment provided for in Article 27b(1) (the assessment).*** | ***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 referred to in Article 27b(4) (the assessment period), to carry out the assessment provided for in Article 27b(1) (the assessment).***<br><br>TM 27.04: correspond to Art 22(2) CRD + Art 31(2) EMIR<br>+ correspond to ex paragraph 8 of Art 27 CSDR<br>(new paragraph to separate notifications from assessment)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (7) | | | | |
| G | 211s | | ***. 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.*** | ***. 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.***<br><br>TM 27.04: correspond to Art 22(2) CRD (as regards acquirers, not vendors) + Art 31(2) EMIR<br>TM 08.06. EP fine with it.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (8) | | | | |

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| G | 211t | | ***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 necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.*** | ***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 necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.***<br><br>TM 27.04: correspond to Art 22(3) of CRD + Art 31(3) EMIR<br><br>Text Origin: Council Mandate | G |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (9) | | | | |
| G | 211u | | ***. 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.*** | ***. 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.***<br><br>TM 27.04: correspond to Art 22(3) of CRD + Art 31(3) EMIR<br><br>Text Origin: Council Mandate | G |

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| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (10) | | | | |
| G 211v | | | ***. The competent authority may extend the interruption referred to in the second subparagraph of paragraph 3 up to 30 working days where the proposed acquirer is situated or regulated outside the Union.*** | ***4. The competent authority may extend the interruption referred to 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.***<br><br>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")<br>Agree not to include "vendor", but decided to include point (b), updating the references to other legislations.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (11) | | | | |
| G 211w | | | ***5. Where the competent authority, upon completion of the assessment, decides to oppose the proposed*** | ***5. Where the competent authority, upon completion of the assessment, decides to oppose the proposed*** |

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| | | | ***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, 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.*** | ***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, 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.***<br><br>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"<br>+ also correspond to MiFID Art 12(4)<br>+ correspond to CRD Art 22(5) - which does not contain a "notification" of colleges, but COM will check level 2<br><br>TM 09.06. Possible notification issues (when the competent authorities should notify colleges) will be dealt in the Article on colleges (Article 24a)<br><br>Written procedure 14.06.-20.06: COM: there is nothing in Level 2 or in practice on the notification of colleges of refusals to approve acquisitions of qualifying holdings. It is only relevant competent authorities that get |

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| | | | | informed. No change to the text agreed before.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (12) | | | | |
| G | 211x | | ***6. Where the competent authority does not oppose the proposed acquisition within the assessment period, it shall be deemed to be approved.*** | ***6. Where the competent authority does not oppose the proposed acquisition within the assessment period, it shall be deemed to be approved.***<br><br>TM 04.05: correspond to Art 22(6) CRD + 31(6) of EMIR + 12(5) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (13) | | | | |
| G | 211y | | ***7. The competent authority may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.*** | ***7. The competent authority may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.***<br><br>TM 04.05: correspond to Art 22(7) CRD + 31(7) of EMIR + 12(6) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (14) | | | | |
| G | 211z | | ***8. If a CSD becomes aware of any acquisitions or disposals of holdings in its capital that cause*** | TM 04.05: correspond to 11(3) MiFID, but Council agree to delete. |

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| | | | ***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.*** | Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (15) | | | | |
| G 211aa | | | ***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 capital that are more stringent than those set out in this Regulation.*** | ***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 capital that are more stringent than those set out in this Regulation.***<br><br>TM 04.05: correspond to Art 22(8) CRD + 31(8) of EMIR + 12(7) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (16) | | | | |
| G 211ab | | | ***Article 27b Assessment*** | ***Article 27b Assessment***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17) | | | | |
| G 211ac | | | ***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*** | ***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*** |

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| | | | ***of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following:*** | ***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:***<br><br>TM 04.05: correspond to Art 23(1) CRD + 32(1) of EMIR + 13(1) MiFID<br>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.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(a) | | | | |
| G 211ad | | | ***(a) the reputation and financial soundness of the proposed acquirer;*** | ***(a) the reputation and financial soundness of the proposed acquirer;***<br><br>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 G |

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| | | | | acquisition is proposed"<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(b) | | | | |
| G 211ae | | | ***(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 as a result of the proposed acquisition;*** | ***(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;***<br><br>TM 04/05:<br>+ 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<br>+ similar to EMIR Art 32(1) point (b) and MiFID 13(1) point (b)<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(c) | | | | |
| G 211af | | | ***(c) whether the CSD will be able to comply and continue to comply with this Regulation;*** | ***(c) whether the CSD will be able to comply and continue to comply with this Regulation;***<br><br>TM 04.05: correspond to 32(1) point (c) of EMIR<br>+ similar (with some differences) to Art 23(1) point (d) CRD + 13(1) points (d) MiFID<br>- last part is included in line 211ai |

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| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(d) | | | | |
| G 211ag | | | ***(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 committed or attempted, or that the proposed acquisition could increase the risk thereof.*** | ***(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 committed or attempted, or that the proposed acquisition could increase the risk thereof.***<br><br>TM 04.05: correspond to 32(1) point (d) of EMIR<br>+ similar to Art 23(1) point (e) CRD + 13(1) points (e) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(e) | | | | |
| G 211ah | | | ***. 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.*** | ***. 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.***<br><br>TM 04.05: correspond to 32(1) second subparagraph of EMIR<br>+ correspond to Art 23(1) point (c) CRD |

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| | | | | + 13(1) points (c) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(f) | | | | |
| G 211ai | | | . ***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 possible to exercise effective supervision, to effectively exchange information among the competent authorities and to determine the allocation of responsibilities among the competent authorities.*** | . ***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 possible to exercise effective supervision, to effectively exchange information among the competent authorities and to determine the allocation of responsibilities among the competent authorities.***<br><br>TM 04.05: correspond to 32(1) third subparagraph EMIR<br>+ correspond to part of Art 23(1) point (d) CRD + 13(1) points (d) MiFID (in combination with 211af<br><br>- 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<br><br>TM 08.06. Opinions of colleges need to be addressed in the Article on colleges.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(g) | | | | |

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| G | 211aj | | ***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.*** | ***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.***<br><br>TM 04.05: correspond to 32(2) of EMIR + Art 23(2) CRD + 13(2) MiFID<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(h) | | | |
| G | 211ak | | ***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.*** | ***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.***<br><br>TM 04.05: correspond to 32(3) of EMIR + Art 23(3) CRD + 13(3) MiFID<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(i) | | | |
| G | 211al | | ***4. Member States shall make publicly available a list specifying the information that is necessary to carry out the assessment and that*** | ***4. Member States shall make publicly available a list specifying the information that is necessary to carry out the assessment and that*** |

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| | | | ***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.*** | ***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.***<br><br>TM 04.05: correspond to 32(4) of EMIR + Art 23(4) CRD + 13(4) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(j) | | | | |
| G | 211am | | ***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.*** | ***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.***<br><br>TM 04.05: correspond to 32(5) of EMIR + Art 23(5) CRD + 13(5) MiFID<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(k) | | | | |
| G | 211an | | ***6. The competent authorities shall,*** | ***6. The competent authorities shall,*** |

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| | | | ***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 competent authority responsible for the proposed acquirer.*** | ***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 competent authority responsible for the proposed acquirer.***<br><br>TM 04.05: Council has not included Art 32(6) of EMIR + Article 24 of CRD - to check why it is not included<br>*Art 14 of current CSDR covers cooperation between competent authorities<br><br>this text in paragraph 6 corresponds to Art 24(2) of CRD + Art 32(7) of EMIR<br>TM 09.06. Art 17(7a) and (8a), 27b(1), last subpara cover the text also cover cooperation.<br>Agreed.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(l) | | | | |
| G 211ao | | | ***7. ESMA shall, in close cooperation with EBA, issue*** | ***7. ESMA shall, in close cooperation with EBA, issue*** G |

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| | | | ***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.*** | ***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.***<br><br>TM 04.05: wording adapted to line 211ae<br>+ 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 under CRD/EMIR... - this existing guidelines could be expanded to CSDs<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(m) | | | | |
| G | 211ap | | ***(10) Article 27c*** | ***. Article 27c<br>Derogation for CSDs providing banking-type ancillary services***<br><br>TM 04.05: added a title<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (11b), amending provision, first paragraph, point (17)(n) | | | | |
| G | 211aq | | ***(11) Articles 27a and 27b shall not*** | ***. Articles 27a and 27b shall not*** |

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| | | | ***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.';*** " | ***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.';*** "<br><br>TM 04.05: agreed<br><br>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:<br><br>Text Origin: Commission Proposal |
| 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~~*.*~~ ***'***; , | ' 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*~~ ***the*** use of technology ~~*and procedures*~~ for the operations of the CSD***, and relevant procedures***~~*.*~~ ***'***; |

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| | | | | TM 12.05. Compromise agreed. EP procedures are much more technical than arrangements, therefore they would deserve to be mentioned separately.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (12a) | | | | |
| G 213a | | ***(12a) in Article 29, the following paragraph is inserted:*** | | ***(12a) in Article 29, the following paragraph is inserted:***<br><br>TM 08.06. See comment next line.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (12), amending provision, numbered paragraph (3a) | | | | |
| G 213b | | "<br>***'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.';***<br>" | | ***. '1a. A CSD shall require an issuer to obtain and transmit to the CSD a valid legal entity identifier (LEI).***<br>'<br><br>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.<br>EP will check whether there is a different place in the regulation to incorporate this provision. The second sentence covers the first one. |

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| | | | | TM 08.06. First part of EP text agreed plus a transitional provision.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (13) | | | | |
| 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: | (13) Article 36 is replaced by the following:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (13), amending provision, first paragraph | | | | |
| 215 | “<br>Article 36 | “<br>Article 36 | “<br>Article 36 | “<br>Article 36<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (13), amending provision, second paragraph | | | | |
| 216 | General provisions | General provisions | General provisions | General provisions<br><br>Text Origin: Commission Proposal |
| 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 | For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure | For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure | For each securities settlement system it operates a CSD shall have appropriate rules and procedures, including robust accounting practices and controls, to help ensure |

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| | the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.;<br>” | the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.;<br>” | the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.’;<br>” | the integrity of securities issues, and minimise and manage the risks associated with the safekeeping and settlement of transactions in securities.;<br>”<br><br>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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (14), amending provision, numbered paragraph (2) | | | | |
| 219 | ‘<br>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 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 | ‘<br>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 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 | ‘<br>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 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 | ‘<br>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 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 |

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| | 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.;<br>, | 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.;<br>, | 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.**'**;<br>, | 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.**'**;<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (14a) | | | | |
| 219a | | ***(14a) in Article 47, paragraph 2 is replaced by the following:*** | ***(14a) in Article 47, paragraph 2 is deleted;*** | ***(14a) in Article 47, paragraph 2 is deleted;***<br>TM 24.05. moved to Article 22, line ...<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (14b) | | | | |
| 219b | | "<br>***'2. A CSD shall maintain a plan for the following:*** | | TM 24.05. moved to Article 22 |
| Article 1, first paragraph, point (14c) | | | | |
| 219c | | ***(a) the raising of additional capital should its equity capital approaches or falls below the requirements laid down in paragraph 1;*** | | TM 24.05. moved to Article 22 |
| Article 1, first paragraph, point (14d) | | | | |
| 219d | | ***(b) enabling the orderly winding-down or restructuring of its*** | | TM 24.05. moved to Article 22 |

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| | | ***operations and services where the CSD is unable to raise new capital.*** | | |
| Article 1, first paragraph, point (14e) | | | | |
| 219e | | ***The plan required under point (b) of the first subparagraph shall be drafted in accordance with Article 22.;*** " | | TM 24.05. Covered by Art 22 |
| Article 1, first paragraph, point (14f) | | | | |
| 219f | | ***(14b) the following Article is inserted:*** | | ***(14b) the following Article is inserted:***<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (14f), amending provision, first paragraph | | | | |
| 219g | | "<br>***'Article 47a*** | | "<br>***'Article 47a***<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (14f), amending provision, second paragraph | | | | |
| 219h | | ***Netting*** | | ***Deferred net settlement*** "<br>TM 24.05. The title harmonised to the content of the compromise text.<br>Text Origin: EP Mandate |

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| Article 1, first paragraph, point (14), amending provision, numbered paragraph (2a) | | | | |
| 219i | | ***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.*** | | ***1. A CSD that applies 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.***<br><br>TM 27.04: provisional compromise to limit the scope to deferred net settlements. Definition in line 51e CNL come back<br>TM 09.06. "uses" changed to "applies; Council fine now<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (14), amending provision, numbered paragraph (2b) | | | | |
| 219j | | ***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.*** | | ***2. CSDs that apply deferred net settlement shall measure, monitor, manage and report to competent authorities the credit and liquidity risks arising from that mechanism.***<br><br>TM 27.04: provisional compromise<br>TM 09.06. Council fine now. small technical changes done.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (14), amending provision, numbered paragraph (2c) | | | | |
| 219k | | | | |

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| | | ***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.*** | PUBLIC | ***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.***<br><br>TM2704: provisional compromise TM 09.06. Council fine now.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (14), amending provision, numbered paragraph (2d) | | | | |
| 219l | | ***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.';*** " | | ***. 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.';*** '<br><br>TM 2704: provisional compromise TM 09.06. Council also fine.<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (15) | | | | |
| 220 | (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: |

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| | | | | Text Origin: Commission Proposal |
| Article 1, first paragraph, point (15), amending provision, first paragraph | | | | |
| 221 | ‘<br>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: | ‘<br>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: | ‘<br>‘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: | ‘<br>‘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:<br>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~~***for shares, the*** 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~~***incorporated***; and | (a) the corporate or similar law of the Member State where the issuer is ~~established~~***incorporated***; and<br>TM 11.05.: the same for line 223:<br>Council agrees with Article 49 included in this compromise but not with EP text.<br>-Both EP and Council agree that the goal is to alleviate the passporting process.<br>-Compromise on point (a) and (b) reflects Q&A9 from ESMA and therefore current practice.<br>-EP and Council to consider whether this could be solved under Article 23 (2) with the reference Article 49(1), second subparagraph, [point (a)] |

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| | | | | -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.<br><br>TM 08.06. EP accepts.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (15), amending provision, first paragraph, point (b) | | | | |
| G 223 | (b) the governing corporate or similar law under which the securities are issued. | (b) ***for securities other than shares, the law of the Member State*** ~~*the governing corporate or similar law*~~ under which the securities are issued. | (b) the governing corporate or similar law ***of the Member State*** under which the securities are issued. | (b) the governing corporate or similar law ***of the Member State*** under which the securities are issued.<br><br>11.05.: see remark to line 223<br><br>08.06. EP agrees Wording to be double checked by LL.<br><br>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 update that list regularly and at least every 2 years. They shall communicate the updated | 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 update that list regularly and at least every 2 years. They shall communicate the updated | Member States shall compile a list of key relevant provisions of their ***corporate or similar*** law, as referred to in the second subparagraph, ***including a general description of the main principles applicable in the context of the provision of the core services referred to in point 1 and 2 of Section A of the Annex on a cross border basis in accordance*** | Member States shall compile a list of key relevant provisions of their ***corporate or similar*** law, as referred to in the second subparagraph. Competent authorities shall communicate that list to ESMA by ~~*18 December 2014*~~***… [PO please insert the date = 1 year after the entry into force of this Regulation]***. ESMA shall publish the list by ~~*18*~~ |

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| | list at those regular intervals to ESMA. ESMA shall publish the updated list.; | list at those regular intervals to ESMA. ESMA shall publish the updated list.; | ***with these provisions***. Competent authorities shall communicate that list to ESMA by ~~*18 December 2014*~~***… [PO please insert the date = 1 year after the entry into force of this Regulation]***. ESMA shall publish the list by ~~*18 January 2015*~~***… [PO please insert the date = 1 year and one month after the entry into force of this Regulation]***. Member States shall update that list regularly and at least every ~~*2*~~***two*** years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.**'**; | ~~*January 2015*~~***… [PO please insert the date = 1 year and one month after the entry into force of this Regulation]***. Member States shall update that list regularly and at least every ~~*2*~~***two*** years. They shall communicate the updated list at those regular intervals to ESMA. ESMA shall publish the updated list.~~;~~<br><br>TM 11.05. as per compromise text |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (16), amending provision, numbered paragraph (1) | | | | |
| 226 | ‘<br>1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving CSD shall treat such request promptly and shall provide a response to the requesting CSD | ‘<br>1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving CSD shall treat such request promptly and shall provide a response to the requesting CSD | ‘<br>1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving CSD shall treat such request promptly and shall provide a response to the requesting CSD | ‘<br>1. When a CSD submits a request for access to another CSD pursuant to Articles 50 and 51, the receiving CSD shall treat such request promptly and shall provide a response to the requesting CSD |

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| | 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.; | 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.; | 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.***';*** ~~;~~ | 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.***';*** ~~;~~<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (17) | | | | |
| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(a) | | | | |
| 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:<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(a), amending provision, first paragraph | | | | |
| 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 banking-type ancillary services pursuant to paragraph 3 of this Article.’, | ‘(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 banking-type ancillary services pursuant to paragraph 3 of this Article.’, | ‘~~*(b)*~~***2. A CSD that intends to settle the cash leg of all or part of its securities settlement system*** ~~*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*~~***40(2) or otherwise wishes*** | ‘~~*(b)*~~***2. A CSD that intends to settle the cash leg of all or part of its securities settlement system through its own accounts*** ~~*to designate for that purpose one or more credit institutions authorised*~~ in accordance with Article ~~*8 of Directive 2013/36/EU or a CSD*~~ |

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| | | | to provide ***any*** banking-type ancillary services ~~*pursuant to*~~***referred to in*** paragraph ~~*3 of*~~***1 shall be authorised to offer such services in accordance with*** this Article.***';*** , | ~~*authorised*~~***40(2) or otherwise wishes*** to provide ***any*** banking-type ancillary services ~~*pursuant to*~~***referred to in*** paragraph ***1 shall be authorised under the conditions specified in paragraphs 3, 6, 7, 8 and 9a***~~*3*~~ of this Article. ,<br><br>TM 04.05: agreed to use CNL text with "accounts" in plural. LL decision on structure still open<br>TM 09.06. "itself" deleted; The remark on structure to LLs; the article is very sensitive and will be checked carefully<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(aa), first subparagraph | | | | |
| G | 229a | | ***(aa) the following paragraph 2a is added:*** | ***(aa) the following paragraph 2a is added:***<br><br>TM 09.06. was agreed 04.05.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(aa), first subparagraph, point (i) | | | | |
| G | 229b | | ***'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:*** | ***'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*** |

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| | | | | ***specified in paragraphs 3 to 9a of this Article, to designate for that purpose one or more:*** <br><br> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open TM 09.06. see remark above <br><br> Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(aa), first subparagraph, point (i), first indent | | | | |
| G | 229c | | ***(a) to designate a CSD authorised to provide banking-type ancillary services pursuant to paragraph 3 of this Article; or*** | ***(a) CSDs authorised to provide banking-type ancillary services pursuant to paragraph 3 of this Article; or*** <br><br> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open TM 08.06. See remark above. <br><br> Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(aa), first subparagraph, point (i), second indent | | | | |
| G | 229d | | ***(b) to designate for that purpose one or more credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU.';*** | ***(b) credit institutions authorised in accordance with Article 8 of Directive 2013/36/EU.*** <br><br> TM 04.05: agreed to include Council text, slightly redrafted by technical team. decision on structure still open TM 08.06. See remark above. |

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| Article 1, first paragraph, point (17)(aa), second subparagraph | | | | |
| 229e | | | | ***An authorisation to designate CSDs or credit institutions in accordance with the first sub-paragraph 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.***<br><br>***The credit institutions and CSDs authorised to provide banking-type ancillary services designated in accordance with the first sub-paragraph shall be considered to be settlement agents.***<br><br>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 (line 236a contains new para 6)<br>TM 08.06. Brackets moved. Agreed, |
| Article 1, first paragraph, point (17)(aa), third subparagraph | | | | |
| 229f | | ***(aa) in paragraph 3, first subparagraph, the following point*** | ***(b) in paragraph 3, the following points (g) and (h) are added:*** | TM 04.05: agreed not to include the |

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| | | ***is added:*** | | two points below in the Art 54(3), but moved elsewhere. |
| Article 1, first paragraph, point (17)(aa), fourth subparagraph | | | | |
| 229g | | "<br>***(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.;***<br>" | "<br>***(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;***<br>" | TM 04.05: agreed to move this point to Art 26(2) - see line 209a |
| Article 1, first paragraph, point (17)(aa), fifth subparagraph | | | | |
| 229h | | | ***(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.';*** | TM 04.05: agreed to move this point to Art 59(4a) - see line 252b |
| Article 1, first paragraph, point (17)(b) | | | | |
| 230 | (b) in paragraph 4, the first | (b) in paragraph 4, the first | (b) ~~*in paragraph 4, the first*~~ | (b) in paragraph 4, the first |

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| | subparagraph is amended as follows: | subparagraph is amended as follows: | ~~subparagraph is amended as follows:~~**deleted** | subparagraph is amended as follows:<br><br>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:~~**deleted** | (i) the introductory wording is replaced by the following:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(b)(i), amending provision, first paragraph | | | | |
| 232 | “<br>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:;<br>” | “<br>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:;<br>” | “<br>~~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:;~~**deleted**<br>” | “<br>~~Where~~ A CSD ~~seeks~~**may be authorised** 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~~**for the settlement** of the ~~group to which the former CSD belongs, whether or not ultimately controlled by the same parent undertaking, the authorisation referred to in~~ **cash leg for all or part of that CSD's securities settlement system pursuant to** paragraph ~~2 shall be granted~~**2a, point (b),** only where **all of** the following conditions are met:~~;~~<br>”<br><br>TM 04.05: agreed, added a reference to |

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| | | | | point (b) and to the cash leg |
| Article 1, first paragraph, point (17)(b)(ii) | | | | |
| G 233 | (ii) point (c) is deleted; | (ii) point (c) is deleted; | (ii) ~~*point (c) is*~~ deleted~~;~~ | (ii) point ~~*(c)*~~***(a)*** is deleted;<br><br>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<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(b)(iia), first subparagraph | | | | |
| G 233a | | | | ***(iia) points (b) to (f) are replaced by the following:*** |
| Article 1, first paragraph, point (17)(b)(iia), second subparagraph | | | | |
| G 233b | | | | ***(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;***<br>***(b) the credit institution does not itself carry out any of the core services referred to in Section A of the Annex;***<br>***(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*** |

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| | | | | ***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;***<br>***(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;***<br>***(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; and***<br>***(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.***<br><br>TM 04.05: New point (b) covering part |

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| | | | | of EP AM in line 233b. in the rest of the 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. |
| Article 1, first paragraph, point (17)(b)(iia), third subparagraph | | | | |
| G 233c | | ***(ba) in paragraph 4, the following suparagraphs are added:*** | | ***(ba) the following paragraph 4a is added:***<br><br>TM 09.06 CNL agrees<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (17)(b)(iia), third subparagraph, amending provision, first paragraph | | | | |
| G 233d | | "<br>***'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*** | | "<br>***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.***<br>"<br><br>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".<br>TM 08.06. |

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| | | ***in a currency of the country where the CSD seeking to use those services is established.*** | | TM 09.06. Council agrees. |
| Article 1, first paragraph, point (17)(b)(iia), third subparagraph, amending provision, second paragraph | | | | |
| 233e | | ***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.';***<br>" | | TM 04.05: same line as above (error in 4CT) |
| Article 1, first paragraph, point (17)(ba), first subparagraph | | | | |
| 234 | (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)~~ ***(ba)*** paragraph 5***, 6 and 7*** is replaced by the following:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(ba), first subparagraph, amending provision, numbered paragraph (5), first subparagraph | | | | |

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| G 235 | ‘<br>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. | ‘<br>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. | ‘<br>5. Paragraph 4 shall not apply to credit institutions referred to in paragraph ~~2~~***2a***, 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. | ‘<br>5. Paragraph 4 shall not apply to credit institutions referred to in paragraph ~~2~~***2a***, point (b), ***and paragraph 4a shall not apply to credit institutions and CSDs referred to in paragraph 2a, points (a) and (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*~~***and CSDs, as applicable,*** calculated over a one-year period~~*. That threshold shall be*~~***, does not exceed the threshold*** determined in accordance with paragraph 9.<br><br>TM 04.05: agreed, slightly redrafted and updated references. Depend on decision on par 4a, line 233d<br>TM 09.06. Council agrees. |
| Article 1, first paragraph, point (17)(ba), first subparagraph, 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 | ~~*The competent authority*~~***ESMA*** shall monitor at least once per year that the threshold referred to in the first subparagraph is respected and report its findings to ~~*ESMA*~~***the competent authority***, ESCB and EBA. Where ~~*the competent authority*~~***ESMA*** determines that the threshold has | 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. ***Without prejudice to Article 40(1),*** where the competent authority determines that the threshold has | ~~*The*~~***[ESMA/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*~~***[ESMA/the competent authority]***, ESCB and EBA. ***Without prejudice to Article 40(1),*** where |

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| | require the CSD concerned to seek authorisation in accordance with paragraph 4. The CSD concerned shall submit its application for authorisation within 6 months.; | been exceeded, ~~it~~***the competent authority*** shall require the CSD concerned to seek authorisation in accordance with paragraph 4. The CSD concerned shall submit its application for authorisation within 6 months.; | been exceeded, it shall require the CSD concerned to seek authorisation in accordance with paragraph ~~4~~***2***. The CSD concerned shall submit its application for authorisation within ~~6~~***six*** months.***'***; | ~~the~~***[ESMA/the*** competent authority***]*** determines that the threshold has been exceeded, ~~it~~***the competent authority*** shall require the CSD concerned to seek authorisation in accordance with paragraph ~~4~~***2***. The CSD concerned shall submit its application for authorisation within ~~6~~***six*** months.~~;~~***'***<br><br>TM 04.05: provisional text, depend on political decision on role of ESMA/NCAs<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(ba), second subparagraph | | | | |
| G 236a | | | | ***6. The competent authority may require a CSD to designate more than one credit institution or CSD referred in paragraph 2a, point (a), or to designate a credit institution or a CSD referred in paragraph 2a, point (a) 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.***<br><br>***7. A CSD authorised to provide any banking-type ancillary services and*** G |

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| | | | | ***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 delay, notify the competent authorities of any substantive changes affecting the conditions for authorisation.***<br><br>TM.04.05: updated references in paragraphs 6 and 7 of current CSDR<br>Open decision in paragraph 6: should banking CSDs be mentioned?<br>TM 08.06. Agreed to add bankingtype CSD |
| Article 1, first paragraph, point (17)(d) | | | | |
| 237 | (d) the following paragraph 9 is added: | (d) the following ~~*paragraph 9 is*~~***paragraphs are*** added: | (d) the following ~~*paragraph 9 is*~~***paragraphs 9 and 10 are*** added: | (d) the following paragraph 9 is added:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph | | | | |
| 238 | ‘<br>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 | ‘<br>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*~~ | ‘<br>9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the ~~*maximum amount*~~***threshold*** referred to in paragraph 5, taking into account the need to balance the credit and liquidity risks for CSDs | ‘<br>9. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory technical standards to determine the ~~*maximum amount*~~***threshold*** referred to in paragraph 5~~*, taking into account the need to balance the credit and liquidity*~~ ***and*** |

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| | 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 developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements. | ~~*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 developing these draft regulatory technical standards the EBA shall also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.*~~***at least the following criteria:*** | 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. ***That threshold shall take into account the possibility for CSDs to settle the cash payments in several currencies.*** When developing these draft regulatory technical standards ~~*the*~~***,*** EBA shall also determine~~,~~ ~~*where necessary, any accompanying appropriate risk management and prudential mitigating requirements*~~ ***appropriate risk management and prudential risk mitigation requirements and consider level playing field in the Union***. | ***accompanying appropriate risk management and prudential requirements to mitigate*** risks ~~*for CSDs that result from the settlement of cash payments through accounts opened with*~~ ***in relation to the designation of*** credit ~~*institutions and the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions*~~***institution in accordance with paragraph 2a***. When developing ~~*these draft regulatory technical*~~***those*** standards***,*** the EBA shall~~ also determine, where necessary, any accompanying appropriate risk management and prudential mitigating requirements.~~ ***take into account the following:***<br><br>TM 04.05: compromise text combining EP and CNL mandate, and containing text of line 238f |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph, point (a) | | | | |
| 238a | | ***(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;*** | | ***(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;***<br><br>Text Origin: EP Mandate |

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| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph, point (b) | | | | |
| G 238b | | ***(b) the implications for the credit and liquidity risks for CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions exempt from paragraph 4;*** | | ***(b) the implications for the credit and liquidity risks for CSDs, for the designated credit institutions involved and for the CSD participants that result from the settlement of cash payments through accounts opened with credit institutions exempt from paragraph 4;***<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph, point (c) | | | | |
| G 238c | | ***(c) the need to allow CSDs to settle in foreign currencies through accounts opened with such credit institutions;*** | | ***(c) the possibility for CSDs to settle the cash payments in several currencies;***<br>TM 04.05: combination of EP text in line 238c and CNL text in line 238 |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph, point (d) | | | | |
| G 238d | | ***(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*** | | ***(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***<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph, point (e) | | | | |

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| G | 238e | ***(e) the existing global guidance and principles related to such activity.*** | | ***(e) the need to ensure a level playing field amongst CSDs in the Union.***<br><br>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 |
| | Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), first subparagraph a | | | |
| G | 238f | ***When developing these draft regulatory technical standards the EBA shall also determine accompanying appropriate risk management and prudential mitigating requirements.*** | | 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 | | | |
| G | 239 | ***9a.*** 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].<br><br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), third subparagraph | | | |
| G | 240 | Power is delegated to the Commission to supplement this Regulation by adopting the | Power is delegated to the Commission to supplement this Regulation by adopting the | Power is delegated to the Commission to supplement this Regulation by adopting the |

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| | regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.;<br>, | regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.; | regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) ~~*No 1095/2010*~~***No 1093/2010***.~~;~~ | regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) ~~*No 1095/2010*~~***No 1093/2010***.~~;~~<br>,<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (17)(d), amending provision, numbered paragraph (9), third subparagraph a | | | | |
| 240a | | ***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).*** | ***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.*** | 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)<br><br>TM 04.05: As point (g) and (h) have been moved to Art 26 and Art 59, respectively |
| | | | | |
| 240b | | ***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].*** | ***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].*** | |
| | | | | |
| 240c | | ***Power is delegated to the Commission to supplement this*** | ***9b. Power is delegated to the Commission to supplement this*** | |

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| | | ***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.';*** , | ***Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';*** , | |
| Article 1, first paragraph, point (18) | | | | |
| G 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~~***55 is amended as follows***: | (18) in Article 55(5), the first ~~subparagraph is~~***to fourth subparagraphs are*** replaced by the following: | (18) ~~in~~***Article 55 is amended as follows:***<br>***(a) paragraphs 1 and 2 are replaced by the following:***<br>***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*** Article ~~55(5), the first subparagraph is replaced by the following:~~***54, to the competent authority of its home Member State.***<br><br>***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 meet*** G |

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| | | | | ***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.***<br><br>TM 04.05: paragraphs 1 and 2 adapted to include banking CSDs<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (18a) | | | | |
| 241a | | ‘<br>***(a) in paragraph 5, the first subparagraph is replaced by the following:*** | | ***(b) in paragraph 5, the first to fourth subparagraphs are replaced by the following:***<br><br>TM 04.05: depend on decision in 242a<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (18), amending provision, first paragraph | | | | |

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| G | 242 | ‘<br>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.;<br>, | 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.;<br>, | ‘<br>‘The authorities referred to in paragraph 4, points (a) to (e), shall issue a reasoned opinion on the authorisation within ~~2~~*two* 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.~~;~~ | ‘<br>‘The authorities referred to in paragraph 4, points (a) to (e), shall issue a reasoned opinion on the authorisation within ~~2~~*two* 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.~~;~~<br>Text Origin: Council Mandate |
| | Article 1, first paragraph, point (18), amending provision, first paragraph a | | | |
| R | 242a | | ***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.***<br>, | ***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.***<br><br>***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 authorities*** |

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| | | | | ***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.***<br><br>***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.***<br>,<br><br>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").<br><br>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:<br>"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 |

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| | | | | 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.<br>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.<br>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." |
| Article 1, first paragraph, point (18b) | | | | |
| G 242b | | ***(b) the following paragraph is inserted:*** | | ***(b) the following paragraph 6a is inserted:***<br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (18b), amending provision, first paragraph | | | | |
| G 242c | | "<br>***'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.;***<br>" | | "<br>***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.*** |

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| | | | | "<br><br>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:<br><br>TM 04.05: cross-references to Article 54 in paragraphs 1 to 4 of Article 59 should be updated.<br><br>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:<br><br>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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (19)(a)(i), amending provision, first paragraph | | | | |

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| | 246 | ‘<br>(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; | ‘<br>(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; | ‘<br>(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;<br><br>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 for the | (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 for the | (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 for the | (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 for the |

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| | | management of its liquidity risks; | management of its liquidity risks; | management of its liquidity risks; | management of its liquidity risks;<br><br>Text Origin: Commission Proposal | |
| Article 1, first paragraph, point (19)(a)(i), amending provision, third paragraph | | | | | | |
| Y | 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 [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;~~;~~ ,<br><br>TM 04.05: COM to check if the term "highly reliable" is needed<br><br>Text Origin: Commission Proposal | Y |
| Article 1, first paragraph, point (19)(a)(ii) | | | | | | |
| G | 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:<br><br>Text Origin: Commission Proposal | G |
| Article 1, first paragraph, point (19)(a)(ii), amending provision, first paragraph | | | | | | |
| G | 250 | | | | | G |

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| | ‘<br>(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;;<br>, | ‘<br>(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;;<br>, | ‘<br>(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;’;<br>, | ‘<br>(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;’;<br>,<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (19)(a)(iii) | | | | |
| G 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***<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (19)(a)(iii), amending provision, first paragraph | | | | |
| G 252 | ‘<br>(k) it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.;<br>, | ‘<br>(k) ~~*it shall adequately monitor and manage any risks, including relevant netting arrangements in relation to the cash leg of their applied settlement model.;*~~<br>, | ‘<br>(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***<br>, | ‘<br>~~*(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***<br>,<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (19)(a)(iiia) | | | | |
| G 252a | | | | |

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| | | ***(aa) the following paragraph is inserted:*** | | ***(aa) the following paragraph 4a is inserted:***<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (19)(a)(iiia), amending provision, first paragraph | | | | |
| G 252b | | "<br>***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).;***<br>" | | "<br>***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.***<br>"<br><br>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 ***first and*** second subparagraph ~~is~~***are*** replaced by the following: | (b) in paragraph 5, the second subparagraph is replaced by the following: | (b) in paragraph 5, the ***first and*** second subparagraph ~~is~~***are*** replaced by the following:<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (19)(ba) | | | | |
| G 253a | | ‘<br>***‘5. EBA shall, in close cooperation with ESMA and the members of the*** | | ***5. EBA shall, in close cooperation with ESMA and the members of the ESCB, develop draft regulatory*** |

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| | | ***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. '*** | PUBLIC | ***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.***<br><br>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 | ‘<br>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].;<br>, | 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].;<br>, | ‘<br>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].’;<br>; | ‘<br>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].’;<br>;<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (20) | | | | |
| 255 | | | | |

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| | (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:<br><br>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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (20)(a), amending provision, first paragraph | | | | |
| 257 | ‘<br>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.;<br>’ | ‘<br>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.;<br>’ | ‘<br>The competent authorities referred to in the first subparagraph shall regularly, and at least ~~once a year~~***every three years***, 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~~***college*** referred to in Article 24a, of the results, including any remedial actions or penalties, of its supervision under this paragraph.~~;~~<br>’ | ‘<br>The competent authorities referred to in the first subparagraph shall regularly, and at least ~~once a year~~***every two years***, 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~~***college*** referred to in Article 24a, of the results, including any remedial actions or penalties, of its supervision under this paragraph.;<br>’ |

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| | | | | 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.<br><br>TM 08.06. Added to the package of frequencies: every two years<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (20)(b) | | | | |
| 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: | (b) ~~*in*~~ paragraph 2~~*, the second subparagraph is replaced by the following*~~ ***is amended as follows***: | (b) ~~*in*~~ paragraph 2~~*, the second subparagraph is replaced by the following*~~ ***is amended as follows***:<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (20)(b), amending provision, first paragraph -a | | | | |
| 258a | | | ‘<br>***(i) the introductory wording is replaced by the following:*** | ‘<br>***(i) the introductory wording is replaced by the following:***<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (20)(b), amending provision, first paragraph | | | | |
| 259 | ‘<br>The competent authority of the CSD shall regularly, and at least once a year, inform the authorities referred | ‘<br>The competent authority of the CSD shall regularly, and at least once a year, inform the authorities referred | ***‘***The competent authority of the CSD shall ~~*regularly, and at least once a year, inform the*~~***, after consulting the competent*** authorities | ***‘***The competent authority of the CSD shall ~~*regularly, and at least once a year, inform the*~~***, after consulting the competent*** authorities |

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| | 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.; , | 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.; , | 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:';*** ~~;~~ | 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 two years the following:';*** ~~;~~<br><br>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.<br>TM 09.06. Frequency of 2 years.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (20)(b), amending provision, first paragraph a | | | | |
| G 259a | | | ***(ii) the second subparagraph is replaced by the following:*** | ***(ii) the second subparagraph is replaced by the following:***<br><br>TM 09.06. Agreed 08.06.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (20)(b), amending provision, fourth paragraph | | | | |
| G 259b | | | ***'The competent authority of the CSD shall regularly, and at least every three years, inform the*** | ***'The competent authority of the CSD shall regularly, and at least every second year, inform the*** |

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| | | | ***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.';*** , | ***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.';*** ,<br><br>TM: it was COM and EP line 259; the frequency is a political issue<br>TM 09.06.: frequency every two years agreed 08.06.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (21) | | | | |
| 260 | (21) Article 67 is amended as follows: | (21) Article 67 is amended as follows: | (21) Article 67 is amended as follows: | (21) Article 67 is amended as follows:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (21)(-a) | | | | |
| 260a | | | ***(a) paragraph 2 is replaced by the following:*** | ***(a) paragraph 2 is replaced by the following:***<br><br>24.05. TM<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (21a) | | | | |
| 260b | | | | |

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| | | | *'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.';* | *. 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.';*<br><br>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.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (21b) | | | | |
| Y | 260c | | | *(aa) The following paragraphs are inserted:*<br>*2-a. The power to adopt delegated acts referred to in Articles 6a(5), 6a(8), 7(14) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this amending act]';* |
| Article 1, first paragraph, point (21)(a) | | | | |
| G | 261 | (a) the following paragraph 2a is inserted: | ~~(a)~~*(aa)* the following paragraph 2a is inserted: | ~~(a)~~*.* ~~*the following paragraph 2a is inserted:*~~<br><br>Text Origin: Commission Proposal |

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| Article 1, first paragraph, point (21)(a), amending provision, first paragraph | | | | |
| 262 | ‘<br>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].;<br>, | ‘<br>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].;<br>, | ‘<br>2a. The power to adopt delegated acts referred to in ~~*Articles 7(14a), 24a(8), 25(13) and 54(9)*~~ ***Article 6a(8) and Article 7(14)*** 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]. ***’***;<br>, | |
| 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:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (21)(b), amending provision, numbered paragraph (3) | | | | |
| 264 | ‘<br>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 | ‘<br>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 | ‘<br>3. The delegation of power referred to in ~~*Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25*~~***Article 2(2), Article 6a(5) and (8) and Article 7***(~~*13*~~***14***) ~~*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 | ‘<br>3. The delegation of power referred to in ~~*Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25*~~***Article 2(2), Article 6a(5) and (8) and Article 7***(~~*13*~~***14***) ~~*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 |

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| | 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.;<br>, | 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.;<br>, | 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.';<br>, | 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.';<br>, |
| Article 1, first paragraph, point (21)(c) | | | | |
| G 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:<br>Text Origin: Commission Proposal G |
| Article 1, first paragraph, point (21)(c), amending provision, numbered paragraph (5) | | | | |
| 266 | ‘<br>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 | ‘<br>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 | ‘<br>5. A delegated act adopted pursuant to ~~*Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9)*~~***Article 2(2), Article 6a(5) and (8) and Article 7(14)*** 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 | ‘<br>5. A delegated act adopted pursuant to ~~*Articles 2(2), 7(14), 24(7), 7(14a), 24a(8), 25(13) and 54(9)*~~***Article 2(2), Article 6a(5) and (8) and Article 7(14)*** 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 |

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| | by three months at the initiative of the European Parliament or of the Council. , | by three months at the initiative of the European Parliament or of the Council. , | 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.';<br>, | 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.';<br>, |
| Article 1, first paragraph, point (22) | | | | |
| G 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:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (22), amending provision, numbered paragraph (3) | | | | |
| G 268 | "<br>3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;<br>" | "<br>3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.;<br>" | "<br>3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.';<br>" | "<br>3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.';<br>"<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (23) | | | | |
| G 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:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (23)(a) | | | | |

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| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (23)(a), amending provision, numbered paragraph (4) | | | | |
| 271 | ‘<br>4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4. The national rules on the authorisation of CSDs shall continue to apply until the following date, whichever is earlier:<br><br>Text Origin: Commission Proposal |
| 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<br><br>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].;<br><br>Text Origin: Commission |

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| 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:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (23)(b), amending provision, first paragraph, first subparagraph | | | | |
| 275 | ‘<br>4a. The national rules on the recognition of third-country CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4a. The national rules on the recognition of third-country CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4a. The national rules on the recognition of third-country CSDs shall continue to apply until the following date, whichever is earlier: | ‘<br>4a. The national rules on the recognition of third-country CSDs shall continue to apply until the following date, whichever is earlier:<br><br>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<br><br>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 | (b) … [PO please insert the date = 3 | (b) …[PO please insert the date = 3 | (b) … [PO please insert the date = 3 |

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| | years after the date of entry into force of this Regulation]. | years after the date of entry into force of this Regulation]. | years after the date of entry into force of this Regulation]. | years after the date of entry into force of this Regulation].<br><br>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 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]. | 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 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]. | 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 rules on the recognition of third-country CSDs shall submit a notification to ESMA ~~*within 2 years from*~~*from … [PO please insert the date = 1 year after the date of entry into force of this Regulation] but no later than …* [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 | 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 | 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 | 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 |

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| | necessary including, where applicable and available: | necessary including, where applicable and available: | necessary including, where applicable and available: | necessary including, where applicable and available:<br><br>Text Origin: Commission Proposal |
| 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 ***or intends to provide*** the services referred to in the second subparagraph; | |
| Article 1, first paragraph, point (23)(b), amending provision, first paragraph, third subparagraph, point (b) | | | | |
| 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<br><br>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.<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (23)(b), amending provision, first paragraph, fourth subparagraph | | | | |
| 283 | ESMA shall submit those draft | ESMA shall submit those draft | ESMA shall submit those draft | ESMA shall submit those draft |

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| | regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation]. | regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation]. | regulatory technical standards to the Commission by **…** [PO please insert the date = 1 year after the date of entry into force of this Regulation]. | regulatory technical standards to the Commission by [PO please insert the date = 1 year after the date of entry into force of this Regulation].<br><br>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 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.<br><br>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~~***insert the date = 2 years after*** 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 ***= 2 years after the date*** of entry into force of | 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~~***insert the date = 2 years after*** 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 ***= 2 years after the date*** of entry into force of |

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| | | | this Regulation]. | this Regulation].<br><br>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 recognition of CSDs shall continue to apply until the ESMA decision is issued.;<br>, | 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 recognition of CSDs shall continue to apply until the ESMA decision is issued.;<br>, | 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 recognition of CSDs shall continue to apply until the ESMA decision is issued.**';**~~:~~<br>, | 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 recognition of CSDs shall continue to apply until the ESMA decision is issued.;<br>,<br><br>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 is*~~***paragraphs 6 and 7 are*** added: | |
| Article 1, first paragraph, point (23)(c), amending provision, numbered paragraph (6) | | | | |
| 288 | ‘<br>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 | ‘<br>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 | ‘<br>6. ~~*Home*~~***The*** competent authorities shall establish and manage colleges pursuant to Article ~~*24a for all CSDs providing their services in relation to financial instruments constituted*~~ | |

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| | 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].;<br>, | 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].;<br>, | ~~*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*~~***24a(1)*** by … [PO please insert the date = ~~*4*~~***25*** months after the date of entry into force of this Regulation].~~;~~ | |
| Article 1, first paragraph, point (23)(c), amending provision, numbered paragraph (6a) | | | | |
| 288a | | | ***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].';***<br>, | ‘<br>***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.***<br>***With the exception to the the change of the range of that services.***<br>***By derogation to the [XX] paragraph, CSDs that intend to change the range of services referred to in the ....***<br>, |

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| | | | PUBLIC | TM 11.05: Both EP and Council agree to include a grandfathering clause not focusing on securities.<br>Council legal service to draft a suggestion on how to include the case where there is a change re: range of services.<br><br>Proposal by Council legal services:<br><br>A CSD that provided core services referred to in Section A, points (1) and (2), of the Annex, or that set up a branch in another Member State, in accordance with Article 23 as applicable before … [date of entry into force of this amending Regulation] shall be subject to the procedure set out in Article 23(3) to (6) as applicable after … [PO please insert the date of entry into force of this amending Regulation] only in relation to:<br>a) the setting up of a new branch;<br>b) a change in the range of those services.<br><br>COM confirmed that the reference should be made to Article 23(3) to (6) (and not (7)) |
| Article 1, first paragraph, point (23)(ca) | | | | |
| 288b | | ***(23a) Article 72 is deleted;*** | | ***(23a) Article 72 is deleted;***<br><br>TTM 25.05 agreed. Article 15 reinserted in line 314c |

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| Article 1, first paragraph, point (24) | | | | |
| 289 | (24) Article 74 is amended as follows: | (24) Article 74 is amended as follows: | (24) Article 74 is amended as follows: | (24) Article 74 is amended as follows:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24a) | | | | |
| 289a | | ***(-a) the following paragraph is inserted:*** | | TM 25.05 The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24b) | | | | |
| 289b | | "<br>***(-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:*** | | TM 25.05. The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24c) | | | | |
| 289c | | ***(a) the average duration of settlement fails to which such a mandatory buy-in procedure could apply;*** | | TM 25.05. The text of this pararaph covered now in rows 296b till 296h |

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| Article 1, first paragraph, point (24d) | | | | |
| 289d | | ***(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;*** | | TM 25.05. The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24e) | | | | |
| 289e | | ***(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;*** | | TM 25.05.: Council has strong views on this since one should not compare the EU market with third-country markets<br>EP to check if this can be dropped<br>TM 08.06. EP does not agree to drop it. Compromise text agreed-, moved to 294b<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24f) | | | | |
| 289f | | ***(d) the application of a similar buy-in procedure in comparable third-country markets and the impact on the competitiveness of the Union market;*** | | TM 25.05 The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24g) | | | | |
| 289g | | | | |

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| | | ***(e) any clear impacts on financial stability stemming from the settlement fails;*** | | TM 25.05: The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24h) | | | | |
| 289h | | ***(f) any clear impacts on fragmentation of the Union's capital market stemming from diverging settlement efficiency rates.;***<br>" | | TM 25.05: The text of this pararaph covered now in rows 296b till 296h |
| Article 1, first paragraph, point (24)(a) | | | | |
| 290 | (a) paragraph 1 is amended as follows: | (a) paragraph 1 is amended as follows: | (a) paragraph 1 is amended as follows: | (a) paragraph 1 is amended as follows:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(a)(i) | | | | |
| 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: | (i) the introductory wording is replaced by the following:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(a)(i), amending provision, first paragraph | | | | |
| 292 | ‘<br>ESMA shall, in cooperation with EBA and the competent authorities | ‘<br>ESMA shall, in cooperation with EBA and the competent authorities | ‘<br>ESMA shall, in cooperation with EBA and the competent authorities | ‘<br>ESMA shall, in cooperation with EBA and the competent authorities |

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| | 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:;<br>, | 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:;<br>, | 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:**'**;<br>, | 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:;<br>,<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(a)(ii) | | | | |
| G 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~~**points (a), (b) and (c) are** replaced by the following:<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(a)(ii), amending provision, first paragraph | | | | |
| G 294 | ‘<br>(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 main drivers of settlement fails, the categories of financial instruments | ‘<br>(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 main drivers of settlement fails, the categories of financial instruments | ‘<br>(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 main drivers of settlement fails, the categories of financial instruments | ‘<br>(a) settlement efficiency for domestic and cross-border operations for each Member State**, *taking into account at least the following:***<br>***i. the*** ~~*based on the*~~ number and volume of settlement fails and their evolution~~*, including an analysis of the*~~ ~~*the*~~**;**<br>***ii.*** impact of cash penalties on |

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| | 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;; , | 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;; , | 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)~~ ***6a***, 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; ***'***; , | settlement fails across instruments~~,~~***;***<br>***iii.*** the duration and main drivers of settlement fails~~,~~***;***<br>***iv.*** the categories of financial instruments and markets where the highest settlement fail rates are observed~~*and*~~***;***<br>***v.*** an international comparison of settlement fail rates~~*, including an assessment of*~~***;***<br>***vi.*** the amount of penalties referred to in Article ~~*7(2), and,*~~***6a;***<br>***vii.*** 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;;*~~***;*** ,<br><br>TM 25.05. structure and wording improved, references updated to the provisional agreement<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iia) | | | | |
| 294a | | | ***(iii) point (c) is replaced by the following:*** | ***. (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);***<br><br>TM 25.05. Addition of the point (existing text) needed in order to |

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| | | | | 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) | | | | |
| G 294b | | | | ***(iib) the settlement efficiency levels in comparison to the situation in major third-country capital markets as well as in terms of instruments traded and types of transactions executed on such markets;***<br><br>TM 08.06. Moved from 289e G |
| Article 1, first paragraph, point (24)(a)(iic) | | | | |
| G 294c | | | ***(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;';*** | ***(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';***<br><br>TM 25.05. technical improvements to G |

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| | | | | the existing text to make it clear what exactly needs to be assessed.<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iii) | | | | |
| G 295 | (iii) the following point (l) is added: | (iii) the following point (l) is added: | (~~iii~~*iv*) the following point (l) is added: | (iii) the following point (l) is added:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(a)(iii), amending provision, first paragraph | | | | |
| G 296 | ‘<br>(l) the handling of notifications submitted in accordance with Article 25(2a);;<br>’, | ‘<br>(l) the handling of notifications submitted in accordance with Article 25(2a);;<br>’, | ‘<br>(l) the handling of notifications submitted in accordance with Article 25(2a)~~;~~*.*’;<br>’, | ‘<br>(l) the handling of notifications submitted in accordance with Article 25(2a)~~;~~*.*’;<br>’,<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia) | | | | |
| G 296a | | | ***(b) the following paragraphs 1a and 1b are inserted:*** | ***(b) the following paragraphs 1a and 1b are inserted:***<br><br>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<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph | | | | |

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| G 296b | | | "<br>***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:*** | "<br>***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:***<br><br>TM 25.05. In Article 7(1) there is already a reference to Article 74(1a), compromise agreed<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (a) | | | | |
| G 296c | | | ***(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;*** | ***(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;***<br><br>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<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (b) | | | | |
| G 296d | | | ***(b) the impact of the potential application of mandatory buy-in*** | ***(b) the impact of the introduction of the mandatory buy-in procedure*** |

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| | | | ***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;*** | ***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;***<br><br>TM 25.05. combination of EP and Council text<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (c) | | | | |
| G | 296e | | ***(c) the application of a similar buy-in process in comparable third-country markets and the impact on the competitiveness of the Union market;*** | ***(c) the application of a similar buy-in procedure in comparable third-country markets and the impact on the competitiveness of the Union market;***<br><br>TM 25.05. Combination of EP and Council text<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (d) | | | | |
| G | 296f | | ***(d) any impacts on financial stability in the Union stemming from settlement fails.***<br>" | ***(d) any clear impact on financial stability in the Union stemming from settlement fails.***<br><br>TM 25.05. combined text of EP and Council; impact preferably in Sg. |

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| Article 1, first paragraph, point (24)(a)(iiia), amending provision, first paragraph, point (e) | | | | |
| 296g | | | | ***(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.*** "<br><br>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, 1a. | | | | |
| 298 | ‘<br>1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows: | ‘<br>1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows: | ‘<br>1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows: | ‘<br>1a. The reports referred to in paragraph 1 shall be submitted to the Commission as follows:<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(b), amending provision, 1a., point (a) | | | | |
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| | (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);<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(b), amending provision, 1a., 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);<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(b), amending provision, 1a., 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);<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(b), amending provision, 1a., point (d) | | | | |
| 302 | (d) upon request from the Commission, for the reports referred to in paragraph 1, points (e), (h), (j) | (d) upon request from the Commission, for the reports referred to in paragraph 1, points (e), (h), (j) | (d) upon request from the Commission, for the reports referred to in paragraph 1, points (e), (h), (j) | (d) upon request from the Commission, for the reports referred to in paragraph 1, points (e), (h), (j) |

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| | and (k); | and (k); | and (k); | and (k);<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (24)(b), amending provision, 1a., 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~~*two* 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~~*two* 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).;<br><br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (24)(ba) | | | | |
| 303a | | *(ba) the following paragraphs are inserted:* | | *(ba) the following paragraphs are inserted:*<br><br>TM 25.05. in legal linguistic revision it can be checked whether the following paragraphs need to be moved to a separate article<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, first paragraph | | | | |
| 303b | | " | | " |

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| | | ***'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.*** | PUBLIC | ***'1aa. ESMA shall, after consulting the ESCB, submit a report by ... [one year after the date of entry into force of this amending Regulation] to the Commission regarding the possibility of applying additional regulatory tools to improve settlement efficiency in the Union.***<br><br>TM 25.05. Council agrees to take over EP text into the agreement; technical changes made<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, second paragraph | | | | |
| G | 303c | ***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.*** | | ***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.***<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, third paragraph | | | | |
| G | 303d | ***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 inform the Commission thereof and shall not be required to provide a report.*** | | ***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 inform the Commission thereof and shall not be required to provide a report.*** |

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| | | | | Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, fourth paragraph | | | | |
| G 303e | | ***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:*** | | ***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:***<br><br>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).<br>TM 08.06. Agreed. G |
| Article 1, first paragraph, point (24)(ba), amending provision, fourth paragraph, point (a) | | | | |
| G 303f | | ***(a) an overview of international developments on settlement cycles and their impact on capital markets of the Union;*** | | ***(a) an assessment of the possibility to shorten the settlement cycle and the potential impact of such shortening on CSDs, trading*** G |

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| | | | | ***venues and other market participants;***<br><br>TM 25.05. Combined text of EP and Council |
| Article 1, first paragraph, point (24)(ba), amending provision, fourth paragraph, point (b) | | | | |
| G | 303g | | ***(b) an assessment of the costs and benefits of shortening the settlement cycle in the Union, differentiating where appropriate between different financial instruments;*** | ***(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;***<br><br>TM 25.05. EP text agreed plus technical changes<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, fourth paragraph, point (c) | | | | |
| G | 303h | | ***(c) a detailed assessment and timeline of how to move to a shorter settlement cycle, differentiating, where appropriate, between different financial instruments;*** | ***(c) a detailed outline of how to move to a shorter settlement cycle, differentiating, where appropriate, between different financial instruments and categories of transactions;***<br><br>***(d) an overview of international developments on settlement cycles and their impact on the Union's capital markets .*** |

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| | | | | TM 25.05. EP text plus technical changes<br><br>Text Origin: EP Mandate |
| Article 1, first paragraph, point (24)(ba), amending provision, fifth paragraph | | | | |
| 303i | | ***Thereafter, ESMA, in agreement with the ESCB, shall report annually on the progress towards quicker settlement cycles in the Union.;*** " | | ***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.*** "<br><br>TM 25.05. EP text covered above, see remark on annual in line 303e.<br><br>The Council text has been moved to here from line 308b.<br><br>EP to come back.<br>08.06. EP agrees. |
| Article 1, first paragraph, point (24)(c) | | | | |
| 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: |

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| Article 1, first paragraph, point (24)(c), amending provision, numbered paragraph (2) | | | | |
| 305 | ‘<br>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.;<br>, | ‘<br>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.;<br>, | ‘<br>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.’;<br>, | ‘<br>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.’;<br>,<br>Text Origin: Council Mandate |
| 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:<br>Text Origin: Council Mandate |
| Article 1, first paragraph, point (25), amending provision, first paragraph | | | | |
| 307 | ‘<br>Article 75 | ‘<br>Article 75 | ‘<br>Article 75 | ‘<br>Article 75<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (25), amending provision, second paragraph | | | | |
| 308 | Review | Review | | Review |

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| Article 1, first paragraph, point (25), amending provision, second paragraph a | | | | |
| G 308a | | | ***'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.*** | TM 25.05. Council text moved to lines 303a etc |
| Article 1, first paragraph, point (25), amending provision, fourth paragraph | | | | |
| G 308b | | | ***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*** | TM 25.05. moved to line 303i |

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| | | | ***made publicly available.*** | |
| 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:<br>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;<br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (25), amending provision, third paragraph, point (b) | | | | |
| 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; | (b) limit the impact on taxpayers of the failure of CSDs;<br>Text Origin: Commission Proposal |

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| Article 1, first paragraph, point (25), amending provision, third paragraph, point (ba) | | | | |
| 311a | | ***(ba) further regulate the practice of internalised settlement;*** | | ***(ba) address any identified competition or financial stability issues related to internalised settlement;***<br><br>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.<br><br>For COM this is also fine. EP agreed after consultations |
| Article 1, first paragraph, point (25), amending provision, third paragraph, point (c) | | | | |
| 312 | (c) minimise barriers to cross-border settlement; | (c) minimise barriers to cross-border settlement; | (c) minimise barriers to cross-border settlement; | (c) minimise barriers to cross-border settlement;<br><br>Text Origin: Commission Proposal |
| Article 1, first paragraph, point (25), amending provision, third paragraph, point (d) | | | | |
| 313 | (d) ensure adequate powers and information for authorities to monitor risks. | (d) ensure adequate powers and information for ***competent and relevant*** 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.<br><br>TM 25.05. The COM text t is a compromise text already: the text does not qualify which authorities have to be addressed<br>EP to check. |

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| | | | | TM 09.06. EP fine<br><br>Text Origin: Commission Proposal |
| | | | | |
| R | 313a | ***(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;*** | | |
| | | | | |
| R | 313b | ***(db) grant ESMA further supervisory and enforcement powers in relation to third-country CSDs;*** | | |
| | Article 1, first paragraph, point (25), amending provision, third paragraph, point (da) | | | |
| G | 313c | ***(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;*** | | TM 25.05. EP to come back<br>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.<br>TM 09.06. EP fine with dropping. |

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| 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.; ,<br>Text Origin: Commission Proposal |
| Article 1a | | | | |
| 314a | | ***Article 1a<br>Amendment to Regulation (EU) No 236/2012*** | ***Article 1a<br>Amendment to Regulation (EU) No 236/2012*** | ***Article 1a<br>Amendment to Regulation (EU) No 236/2012***<br>TM 27.04: both EP and CNL reinstate Article 15 of SSR<br>Text Origin: EP Mandate |
| Article 1a, first paragraph | | | | |
| 314b | | ***The following article is inserted:*** | ***The following Article 15a is inserted into Regulation (EU) No 236/2012:*** | ***The following Article is inserted:***<br>Text Origin: EP Mandate |
| Article 1a, second paragraph | | | | |
| 314c | | ***'Article 15<br>Buy-in procedures*** | ***'Article 15a<br>Buy-in procedures*** | ***'Article 15<br>Buy-in procedures*** |

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| | | | | TM 27.04: to be determined whether it should be article 15 or 15a<br><br>Text Origin: EP Mandate |
| Article 1a, third paragraph | | | | |
| 314d | | ***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:*** | ***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:*** | ***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:***<br><br>TM 27.04: EP and CNL reinstate Article 15 of SSR, but difference on interaction with CSDR.<br>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.<br><br>TM 08.06 EP agreed with Council approach.<br><br>Text Origin: EP Mandate |
| Article 1a, third paragraph, point (a) | | | | |
| 314e | | ***(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*** | ***(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*** | ***(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*** |

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| | | ***triggered for the buy-in of the shares to ensure delivery for settlement;*** | ***triggered for the buy-in of the shares to ensure delivery for settlement;*** | ***triggered for the buy-in of the shares to ensure delivery for settlement;***<br><br>Text Origin: EP Mandate |
| Article 1a, third paragraph, point (b) | | | | |
| 314f | | ***(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;*** | ***(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*** | ***(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;***<br><br>Text Origin: EP Mandate |
| Article 1a, third paragraph, point (c) | | | | |
| 314g | | ***(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).*** | ***(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).'*** | ***(c) the natural or legal person who fails to settle reimburses all amounts paid pursuant to points (a) and (b).***<br><br>Text Origin: EP Mandate |
| Article 2 | | | | |
| 315 | Article 2<br>Entry into force and application | Article 2<br>Entry into force and application | Article 2<br>Entry into force and application | Article 2<br>Entry into force and application<br><br>Text Origin: Commission Proposal |

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| 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.<br>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 …. [***PO please insert the date = 24 months after the date of entry into force of this Regulation***~~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~~***19***)~~(b), second subparagraph,~~***(a)*** shall apply from …~~.~~ [PO please insert the date = 24 months after the date of entry into force of this Regulation]. | |
| | | | | |
| 317a | | | ***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 of application of the delegated regulation based on Article 6a(5) as amended by Article 1(1a) of this Regulation.*** | |
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| 317b | | ***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).*** | | |
| | | | | |
| 317c | | ***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.*** | | |
| 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.<br>Text Origin: Commission Proposal |
| Formula | | | | |
| 319 | Done at Brussels, | Done at Brussels, | Done at Brussels, | Done at Brussels,<br>Text Origin: Commission Proposal |
| Formula | | | | |

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| 320 | For the European Parliament | For the European Parliament | For the European Parliament | For the European Parliament<br>Text Origin: Commission Proposal |
| Formula | | | | |
| 321 | The President | The President | The President | The President<br>Text Origin: Commission Proposal |
| Formula | | | | |
| 322 | For the Council | For the Council | For the Council | For the Council<br>Text Origin: Commission Proposal |
| Formula | | | | |
| 323 | The President | The President | The President | The President<br>Text Origin: Commission Proposal |

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