

# Response to the public consultation on a proposed recast of the ECB Regulation on oversight requirements for systemically important payment systems (SIPS Regulation)

July 2025

## Background

The Eurosystem ran a public consultation on the recast SIPS Regulation from 18 October to 29 November 2024. The consultation provided stakeholders with the opportunity to comment on the proposed revisions and newly introduced requirements in the recast Regulation. During this public consultation, the ECB received responses from a small number of operators of (systemically important) payment systems.

The Eurosystem has carefully reviewed each comment submitted in the context of the public consultation and revised the respective provisions of the SIPS Regulation, to the extent this was deemed necessary and appropriate.

This is a summary of the main points raised in the public consultation, and which have led to further modifications to the recast SIPS Regulation. This statement also clarifies potential interpretational issues related to the changes introduced in the recast SIPS Regulation.

## 1 Summary of main comments and Eurosystem responses

### 1.1 Definitions

Some respondents provided feedback or sought clarifications in relation to some of the newly introduced definitions set out in Article 2 of the recast SIPS Regulation.

#### “Board”

Where a branch is identified as a SIPS operator, a query was raised as to whether the references to the “Board” should be understood as referring to the board of the legal entity.

The Eurosystem has amended the definition of the “Board” to ensure clarity that in the case of a branch being identified as a SIPS operator, the references to the “Board” relate to the board of the legal entity of which the branch is a legally dependent part.

## “Management”

Respondents submitted comments highlighting that the current definition of “Management” should be amended to better reflect different governance models and managerial structures.

Taking this feedback into account, the Eurosystem has amended the definition of “Management” to also include executive officers appointed by the Board who are engaged in the daily management of a SIPS. In this context, the Eurosystem emphasises that the concept of management should be understood as functional.

## “Branch management”

Feedback was provided on the term “executive directors” in the context of defining “branch management”, considering that a branch does not have an independent legal personality or a separate board of directors.

The Eurosystem has replaced the term “executive directors” with the term “managing directors”, indicating that these are directors who are formally appointed to be responsible for the branch and to whom the conduct of the daily management of the SIPS is duly delegated. It is noted in this respect that the SIPS Regulation is primarily concerned with the functions and associated responsibilities rather than the specific titles assigned to those roles, which are often a consequence of national company law.

## “Outsourcing service provider”

One respondent suggested revising the definition of “outsourcing service provider” to exclude providers with whom a SIPS operator does not yet have a contractual relationship.

The Eurosystem has considered this feedback and revised the definition to remove the explicit reference to potential service providers. However, the Eurosystem notes that the concept of a potential outsourcing service provider remains in Article 22 in the sense that any risks that may arise from outsourcing should be assessed by the SIPS operator in line with the requirements of this Article before the signing of any contractual documentation.

## Cyber risk-related definitions

Further clarity was sought regarding the definitions of “cybersecurity”, “cyber incident” and “cyber threat” introduced in the recast SIPS Regulation and their interplay with similar definitions in existing Eurosystem policies and EU regulatory requirements.

The Eurosystem has considered the comments received on the cyber-related definitions and streamlined the definitions to be more concise, clear and, to the degree deemed appropriate, aligned with existing policy and EU law. The Eurosystem notes that Article 20(5) on operational risk has also been amended to make clear that ICT aspects, including operational ICT incidents, are covered under its scope.

### 1.2 Governance – record of convictions or penalties

Some respondents commented on the newly introduced requirement under Article 12(9), which, in the version submitted for public consultation, strictly prohibited members of the management bodies of a SIPS operator from having any record in respect of convictions or penalties for breaches of the applicable commercial law, insolvency law, financial services law, anti-money laundering law and counter-terrorist financing law or for breaches of professional duty as well as for fraud. In the comments, clarifications were requested with respect to the expectations stemming from this requirement as well as its overlap with the [ECB Guide to fit and proper assessments](#)<sup>1</sup>. One respondent also asked that this requirement is not applied to existing members of the governing bodies of a SIPS operator and that the scope of its application be limited.

The Eurosystem has reflected on the comments received and decided against imposing a strict prohibition. The adopted SIPS Regulation imposes instead a requirement on a SIPS operator to consider any records of convictions or penalties of members of the management body when fulfilling the integrity requirements set out under Article 4 on governance. This approach will ensure that the relevance and significance of any such conviction and/or penalty will be assessed on a case-by-case basis and in a proportionate way. The requirement will remain applicable to existing management body members. Finally, it is noted that the ECB Guide to fit and proper assessments does not apply to SIPS operators and hence it cannot be used as guidance for the interpretation of the SIPS Regulation governance requirements, even if the two frameworks contain similar requirements.

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<sup>1</sup> Fit and proper assessments are conducted by the ECB to evaluate the suitability of members of the management body of a supervised credit institution (and key function holders where relevant under national law) for their roles. The ECB Guide to fit and proper assessments is not a legally binding document and does not substitute the relevant legal requirements stemming either from applicable EU law or applicable national law, nor does it introduce new rules or requirements.

## 1.3 Outsourcing risk

### SIPS operator's responsibility

One respondent requested clarification on the scope of responsibility of a SIPS operator in respect of any outsourced functions, operations and/or services, referred to in Article 22(1).

The Eurosystem has clarified in the text of Article 22(1) that the requirement on the responsibility of a SIPS operator introduced in this provision relate to the SIPS operator's compliance with its obligations arising from the SIPS Regulation.

### Outsourcing and third-party service provision

A request was made to clarify in the text of the SIPS Regulation that third-party service providers will not be captured under Article 22 on outsourcing by analogy.

The Eurosystem confirms that Article 22 on outsourcing only covers a subcategory of third-party service provision which falls under the definition of "outsourcing" as set out in Article 2 of the SIPS Regulation. There is no intention to apply the requirements set out under that article by analogy to other service providers, especially given that third-party service provision is captured under other articles of the SIPS Regulation, e.g. Article 20 on operational risk.

### Intragroup outsourcing

Some respondents commented that the requirements on outsourcing, including the requirement on exit strategy, should not apply to intragroup outsourcing, indicating that such arrangements carry lower risks compared with those involving third-party service providers.

The Eurosystem holds the view that intragroup outsourcing is not inherently less risky than outsourcing to third parties outside a SIPS group. Consequently, and notwithstanding potential benefits resulting from intragroup arrangements as acknowledged in the recitals of the Regulation, it should be subject to the same requirements as third-party outsourcing, including the requirement on exit strategy.

### Outsourcing and outsourcing of critical functions

A few respondents requested that the various requirements outlined in Article 22 on outsourcing should only apply to the outsourcing of critical functions.

More specifically, it was requested that the requirements set out in Article 22(3) point (c) – which mandate that contractual outsourcing arrangements must ensure the

rights of the relevant competent authority to exercise its powers under the SIPS Regulation – should only apply to critical outsourcing. Clarification was also sought as to whether the SIPS operators will need to include in their outsourcing arrangements specific rights for regulators to exercise their powers and what these rights should be.

The Eurosystem has redrafted Article 22(3) point (c) to clarify the scope of its application by cross-referring to the rights of the competent authority in Article 29 of the SIPS Regulation. Additionally, to reduce the burden on SIPS operators, the Eurosystem considers it proportionate that the requirements on the contractual arrangements should apply to:

1. all outsourcing with respect to the competent authority's power to access information and documents;
2. outsourcing only of critical functions, operations and/or services with respect to the competent authority's power to conduct on-site inspections and to appoint independent experts for investigations or independent reviews on the operation of the SIPS.

Furthermore, some respondents suggested that Article 22(7) – which stipulates that a SIPS operator must develop and maintain an exit strategy – should apply only to critical outsourcing. The Eurosystem notes that the requirement to establish an exit strategy already only applies to the outsourcing of critical functions, operations and/or services, but nonetheless minor changes have now been introduced to enhance the clarity of the text.

Finally, one respondent requested that audit plans and inspection rights on outsourcing service providers set out under Article 22(5) be made applicable only to critical outsourcing. The Eurosystem considers it proportionate to accept this comment and has amended the text accordingly. However, the obligation that the contractual arrangements ensure the exercise of audit rights by the SIPS operator remain.

## 1.4 Cyber risk

### Cyber incident reporting

Clarifications were requested regarding the nature of cyber incidents that are required to be reported under Article 21(6).

The Eurosystem has clarified in the final text that a SIPS operator is required to report at least any major cyber incident that has a negative impact on the SIPS. The adopted SIPS Regulation also requires such incidents to be reported not only to the competent authority but also to the management bodies of the respective SIPS operator.

## TIBER-EU framework

In the context of a branch being identified as a SIPS operator, comments were provided on the fact that the legal entity of which the branch is a legally dependent part may be subject to penetration tests comparable to those under the TIBER-EU framework. The respondent hence proposed that the draft Regulation should clarify that, to avoid duplicating efforts, the competent authority may accept testing performed by the respective legal entity if the exercise can be deemed comparable to a TIBER-EU test.

The Eurosystem considers it proportionate to accept the proposed approach where a SIPS operator is a branch, as it reduces the burden on operators while still ensuring that the imposed requirements on testing are fulfilled. The Eurosystem has clarified this in the text of the adopted Regulation, adding that testing under a framework comparable to TIBER EU should also capture the effectiveness of the branch's relevant controls and systems.

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For specific terminology please refer to the [ECB glossary](#) (available in English only).