EUROPEAN CENTRAL BANK

EUROSYSTEM

Technical working document (1/3)

produced in connection with ECB Opinion [CON/2026/13][1]

Drafting proposals in relation the proposed Regulation of the European Parliament and of the Council amending Regulations (EU) No 1095/2010, No 648/2012, No 600/2014, No 909/2014, 2015/2365, 2019/1156, 2021/23, 2022/858, 2023/1114, No 1060/2009, 2016/1011, 2017/2402, 2023/2631 and 2024/3005 as regards the further development of capital market integration and supervision within the Union (the proposed master regulation)

Recitals of the proposed master regulation

Text proposed by the Commission	**Amendments proposed by the ECB[2]**
Amendment 1 Recital 9 of the proposed master regulation	
'(9) […] Such arrangements may range from close structural cooperation, including the establishment of joint supervisory teams or the conduct of joint inspections, to looser forms of operational coordination and, progressively, to more autonomous supervisory action by the Authority as its capacity develops. Those cooperation arrangements should also allow for their gradual adjustments over time and, where appropriate, the establishment of local presences of the Authority in Member States. Those cooperation arrangements should also promote effective and resource-efficient supervision, ensure the continuity and consistency of supervisory outcomes, and take due account of the statutory responsibilities and resources of other authorities. Cooperation should be guided by the principles of efficiency, proportionality, mutual trust and good faith, and should promote	'(9) […] Such arrangements may range from close structural cooperation, including the establishment of joint supervisory teams or the conduct of joint inspections, to looser forms of operational coordination, and, progressively, to more autonomous supervisory action by the Authority as its capacity develops. **Without prejudice to relevant provisions of the Treaties and of Union law, the Authority should have the right to give instructions to the national competent authorities and other relevant national authorities when giving support and performing tasks under these cooperation arrangements**. Those cooperation arrangements should also allow for their gradual adjustments over time and, where appropriate, the establishment of local presences of the Authority in Member States. Those cooperation arrangements should also promote effective and

1 This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published on EUR-Lex alongside the opinion itself.

2 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB[2]
the effective use of resources while safeguarding ESMA's independence and accountability for the performance of its tasks. To reflect the progressive build-up of ESMA's supervisory capacity and to ensure the full and effective assumption of its supervisory tasks, the cooperation arrangements should be subject to regular review by ESMA.'	resource-efficient supervision, ensure the continuity and consistency of supervisory outcomes, and take due account of the statutory responsibilities and resources of other authorities. Cooperation should be guided by the principles of efficiency, proportionality, mutual trust and good faith, and should promote the effective use of resources while safeguarding ESMA's independence and accountability for the performance of its tasks. **In this regard, cooperation arrangements should ensure that the Authority and the authorities devote the necessary financial and human resources to the exercise of the tasks under these cooperation arrangements.** To reflect the progressive build-up of ESMA's supervisory capacity and to ensure the full and effective assumption of its supervisory tasks, the cooperation arrangements should be subject to regular review by ESMA.'
Explanation *Clarifications should be introduced concerning the cooperation arrangements to be established by ESMA for the exercise of its direct supervisory responsibilities. First, it is important to emphasise ESMA's right to address instructions to the relevant national competent authorities, in order to ensure proper governance of such arrangements, particularly with respect to joint supervisory teams. Furthermore, with a view to promote the effective use of resources, such cooperation arrangements should ensure that ESMA is adequately staffed and has visibility over its financial and human resources within all cooperation arrangements.* *See paragraphs 2.1 and 2.5 of the ECB opinion, and Amendments 6, 8 and 9.*	
Amendment 2 Recital 20 of the proposed master regulation	
'(20) To ensure a clear division of responsibilities and effective checks and balances, the Board of Supervisors should remain ESMA's main body for regulatory decisions and supervisory convergence. To enhance the Union dimension in	'(20) To ensure a clear division of responsibilities and effective checks and balances, the Board of Supervisors should remain ESMA's main body for regulatory decisions and supervisory convergence. To enhance the Union dimension in

Text proposed by the Commission	Amendments proposed by the ECB[2]
the decision-making process within the Board of Supervisors its composition should be adjusted to include the full-time members of the Executive Board as voting members for supervisory decisions. To ensure a balanced approach and the consideration of national perspectives the Board of Supervisors should have the power to object to major supervisory decisions taken by the Executive Board within 10 days (or 48 hours in urgent cases), while the Executive Board should be required to report to the Board of Supervisors twice a year on its supervisory activities and should be able to request opinions on supervisory matters.'	the decision-making process within the Board of Supervisors its composition should be adjusted to include the full-time members of the Executive Board as voting members for supervisory decisions. **The European Central Bank (ECB) should also be represented, as a non-voting member.** To ensure a balanced approach and the consideration of national perspectives the Board of Supervisors should have the power to object to major supervisory decisions taken by the Executive Board within 10 days (or 48 hours in urgent cases), while the Executive Board should be required to report to the Board of Supervisors twice a year on its supervisory activities and should be able to request opinions on supervisory matters.'
Explanation *The ECB should be a non-voting member of the ESMA Board of Supervisors. This would further enhance the effectiveness of cooperation, coordination and exchange of information between the ECB, ESMA and the other authorities represented in the ESMA Board of Supervisors, and thereby reinforce cross-sectoral coordination in respect of the stability of the financial system. In particular, this would ensure that the supervisory convergence tools adopted by the ESMA Board of Supervisors take into account and benefit from the ECB's perspective and expertise. This is relevant not only with regard to CCPs and CSDs, but also with regard to other financial market participants, in particular entities active in capital markets which are part of banking groups, in view of the ECB's expertise both from the central bank of issue perspective, and in the framework of the tasks concerning the prudential supervision of credit institutions within the Single Supervisory Mechanism (SSM) conferred upon it in accordance with Regulation (EU) No 1024/2013.* *See paragraphs 2.2 and 2.4 of the ECB Opinion and Amendment 12.*	
Amendment 3 Recital 80 of the proposed master regulation	
'(80) Since e-money tokens have emerged as one of the most widely used means of DLT-based settlement, further legal clarity should be provided for the use of e-money tokens in the Pilot. To recognise that Regulation (EU) 2023/1114,	'(80) Since e-money tokens have emerged as one of the most widely used means of DLT-based settlement, further legal clarity should be provided for the use of e-money tokens in the Pilot. To recognise that Regulation (EU) 2023/1114,

Text proposed by the Commission	Amendments proposed by the ECB[2]
adopted after Regulation (EU) 2022/858, governs the services of custody of e-money tokens, it should be specified that e-money tokens cash accounts for the purpose settlement may be provided by a set of appropriately regulated financial institutions, including CASPs. However, it should be laid down that most banking type ancillary services with regards to e-money tokens, other than providing cash accounts and processing payments, may be provided only by credit institutions. Furthermore, to promote the use of e-money tokens denominated in Union currencies and to protect the market from foreign exchange risk, settlement of payments for assets denominated in Union currencies should be carried out in e-money tokens referencing EU currencies. To support the development of euro denominated stablecoins, DLT market infrastructures should be encouraged to offer settlement in e-money tokens denominated in euro, even if the financial instrument that is settled is denominated in a non-EU currency.'	adopted after Regulation (EU) 2022/858, governs the services of custody of e-money tokens, it should be specified that e-money tokens cash accounts for the purpose settlement may be provided by a set of appropriately regulated financial institutions, including CASPs. However, it should be laid down that most banking type ancillary services with regards to e-money tokens, other than providing cash accounts and processing payments, may be provided only by credit institutions. Furthermore, to promote the use of e-money tokens denominated in Union currencies and to protect the market from foreign exchange risk, settlement of payments for assets denominated in Union currencies should be carried out in e-money tokens referencing EU currencies. ~~To support the development of euro denominated stablecoins, DLT market infrastructures should be encouraged to offer settlement in e-money tokens denominated in euro, even if the financial instrument that is settled is denominated in a non-EU currency~~.'
Explanation *It is generally preferable for financial market infrastructures to settle payments relating to securities transactions in the currency in which the securities are denominated to avoid foreign exchange risk. The sentence regarding settlement in euro-denominated e-money tokens in this recital, which is not supported by any binding provision, should therefore be deleted to avoid advocating for currency mismatches between the cash and securities legs of securities transactions. Additionally, payment settlement in wholesale financial markets, and especially in financial market infrastructures, should be conducted primarily in central bank money, including in tokenised central bank money when available. This suggested use of DLT market infrastructures should therefore not be considered a pathway to develop euro-denominated e-money tokens.* *See paragraphs 4.5.2 and 5.4 of the ECB Opinion.*	

Text proposed by the Commission	Amendments proposed by the ECB[2]
Amendment 4 Recital 96 of the proposed master regulation	
'(96) As there is already a centralized system of banking supervision in the Union in the form of the Single Supervisory Mechanism, ensuring integration and consistency in the supervision of the activities of credit institutions, there should be no transfer of supervisory powers where the entity providing crypto-asset services is a credit institution.'	'(96) As there is already a centralized system of banking supervision in the Union in the form of the Single Supervisory Mechanism, which ensures integration and consistency in the supervision of the activities of credit institutions, there should be no transfer of supervisory powers where the entity providing crypto-asset services is a credit institution**, with the exception of investor protection and conduct requirements which should be transferred from the entity's home Member State competent authority, under Regulation (EU) 1114/2023, to ESMA**.'
Explanation *The compliance with investor protection and conduct requirements falls currently within the competences of national authorities under MiCAR. The Commission proposal would render ESMA responsible for the authorisation, monitoring and supervision of crypto-asset service providers, including the provisions that relate to market abuse for the crypto-asset sector and amends the definitions in Article 3 and the provisions of Titles V and VI (Articles 59 to 92) of MiCAR, accordingly. In view of this transfer of competences, and since investor protection and conduct requirements are not prudential supervisory tasks as defined in Article 127(6) of the Treaty and Article 4 of Regulation (EU) No 1024/2013, it would be consistent to transfer these responsibilities to ESMA.* *See paragraph 7 of the ECB Opinion.*	

Article 1 of the proposed master regulation

Proposed amendments to Regulation (EU) No 1095/2010 (the ESMA Regulation)

Text proposed by the Commission	**Amendments proposed by the ECB**
Amendment 5 Article 1, point (6), of the proposed master regulation (Article 8 of the ESMA Regulation)	
‘(6) Article 8 is amended as follows: (a) paragraph 1 is amended as follows: […] (m) to carry out the prudential supervision of central counterparties and central securities depositories when exercising its powers under Regulation (EU) No 648/2012 and Regulation (EU) No 909/2014*, and in relation thereto, to cooperate with the European Central Bank and the other relevant central banks of issue of the Union currencies; […]”;’	‘(6) Article 8 is amended as follows: (a) paragraph 1 is amended as follows: […] (m) to carry out the prudential supervision of central counterparties and central securities depositories when exercising its powers under Regulation (EU) No 648/2012 and Regulation (EU) No 909/2014*, and in relation thereto, to cooperate with the European Central Bank and the ~~other relevant~~ central banks of issue of ~~the~~ Union currencies **other than the euro**; […]”;’
Explanation *The ECB welcomes the fact that, when carrying out the prudential supervision of central counterparties (CCPs) and central securities depositories (CSDs), ESMA will cooperate with the central banks of issue of Union currencies and suggests further clarifications to ensure the involvement of all central banks of issue, especially of Union currencies other than the euro. This clarification is necessary, in particular, to avoid an overly restrictive interpretation of the term ‘relevant’.* *See paragraph 3.3 of the ECB Opinion.*	
Amendment 6 Article 1, point (7), of the proposed master regulation (Article 8a(2) of the ESMA Regulation)	
‘(7) the following Article 8a is inserted: “*Article 8a* […] 2. Both the Authority and the authorities shall be subject to a duty of cooperation in good faith and	‘(7) the following Article 8a is inserted: “*Article 8a* […] 2. Both the Authority and the authorities shall be subject to a duty of cooperation in good faith and

Text proposed by the Commission	Amendments proposed by the ECB
an obligation to exchange information to effectively exercise their tasks. When exercising its tasks, the Authority may draw from the expertise and knowledge of the authorities, including their supervisory experience and understanding of economic, organisational and cultural specificities. Where appropriate and without prejudice to the responsibility and accountability of the Authority for the tasks conferred on it by this Regulation and the legislation referred to in Article 1(2), the authorities shall be responsible for assisting the Authority, under the conditions set out in the arrangements set out in this Article. This may include support with the preparation and implementation of acts relating to the tasks referred to in Article 8(1) point (l), including assistance in verification activities or performance of specific operational tasks. The authorities shall follow the instructions given by the Authority when giving support and performing tasks under these arrangements. […]";'	an obligation to exchange information to effectively exercise their tasks. When exercising its tasks, the Authority may draw from the expertise and knowledge of the authorities, including their supervisory experience and understanding of economic, organisational and cultural specificities. Where appropriate and without prejudice to the responsibility and accountability of the Authority for the tasks conferred on it by this Regulation and the legislation referred to in Article 1(2), ~~the~~ **relevant national competent authorities and other national** authorities shall be responsible for assisting the Authority, under the conditions set out in the arrangements set out in this Article. This may include support with the preparation and implementation of acts relating to the tasks referred to in Article 8(1) point (l), including assistance in verification activities or performance of specific operational tasks. ~~The~~ **Without prejudice to relevant provisions of the Treaties and of Union law, relevant national competent authorities and other national** authorities shall follow the instructions given by the Authority when giving support and performing tasks under these arrangements. […]";'
Explanation *A clarification to the drafting should be introduced concerning instructions given by ESMA in the context of the duty of cooperation outlined in the proposed Article 8a of the ESMA Regulation. This clarification is necessary to ensure that those provisions are without prejudice to the principle of independence applicable to the ECB and NCBs under the Treaty, to the ECB and national competent authorities acting within the SSM under Regulation (EU) No 1024/2013, and to other Union bodies such as the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) under their founding regulations.* *As regards the ECB and the NCBs, Article 130 of the Treaty and Article 7 of the Statute of the ESCB state that when exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the ECB, nor an NCB, nor any*	

Text proposed by the Commission	Amendments proposed by the ECB
member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. In addition, the Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the NCBs in the performance of their tasks. *Similar provisions on independence apply to the ECB and national competent authorities acting within the SSM under Article 19 of Regulation (EU) No 1024/2013, and to the EBA and EIOPA under Articles 42, 46, 49 and 52 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[3] and (EU) Regulation (EU) No 1094/2010 of the European Parliament and of the Council[4] respectively.* *See paragraphs 2.5 of the ECB Opinion.*	
Amendment 7 Article 1, point (7), of the proposed master regulation (Article 8a(3) of the ESMA Regulation)	
'(7) the following Article 8a is inserted: "*Article 8a* […] 3. For the purpose of carrying out tasks according to Article 8(1), point (l), and without prejudice to specific arrangements envisaged in other Union acts, the Authority shall establish, under its overall responsibility, and after consulting with the authorities the practical arrangements for cooperation. […]";'	'(7) the following Article 8a is inserted: "*Article 8a* […] 3. For the purpose of carrying out tasks according to Article 8(1), point (l), and without prejudice to specific arrangements envisaged in other Union acts, the Authority shall establish, under its overall responsibility, and ~~after consulting~~ with the **close involvement of the** authorities**,** the practical arrangements for cooperation. **The Authority shall ensure the close involvement of the authorities throughout the drafting and revision process for the practical arrangements for cooperation, thereby guaranteeing an inclusive process that**

3 Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: http://data.europa.eu/eli/reg/2010/1093/oj).

4 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48, ELI: http://data.europa.eu/eli/reg/2010/1094/oj).

Text proposed by the Commission	Amendments proposed by the ECB
	adequately reflects the legitimate concerns of the authorities in day-to-day cooperation. […]";'
Explanation *Competent authorities and relevant authorities should be closely involved by ESMA throughout the drafting and revision process of cooperation arrangements, thereby guaranteeing an inclusive process that adequately reflects their legitimate concerns in day-to-day cooperation.*	
Amendment 8 Article 1, point (7), of the proposed master regulation (Article 8a(5) of the ESMA Regulation)	
'(7) the following Article 8a is inserted: "*Article 8a* […] 5. The practical arrangements for cooperation shall define the modalities of support, the procedures and processes, including time-limits, for the cooperation between the Authority and the authorities and shall be guided by the following principles: […] (g) they shall set out operational or organisational modalities in relation to the Authority's direct supervisory tasks, including arrangements such as joint teams, cooperation in investigations, on-site inspections or implementation activities; (h) where appropriate, they may envisage the establishment of local presences of the Authority in Member States; (i) they may determine the modalities for the calculation and reimbursement of any costs incurred by the authorities, taking into account differences across sectors, the nature of the activity supervised or of the tasks performed. […]";'	'(7) the following Article 8a is inserted: "*Article 8a* […] 5. The practical arrangements for cooperation shall define the modalities of support, the procedures and processes, including time-limits, for the cooperation between the Authority and the authorities and shall **clearly define the allocation of responsibilities and governance and** be guided by the following principles: […] (g) they shall set out operational or organisational modalities in relation to the Authority's direct supervisory tasks, including arrangements such as joint teams, cooperation in investigations, on-site inspections or implementation activities, **ensuring close cooperation with the national competent authorities and, where relevant, the other authorities referred to in paragraph 1**; (h) where appropriate, they may envisage the establishment of local presences of the Authority in Member States; **(i) they shall ensure that the Authority and the authorities devote the necessary financial and**

Text proposed by the Commission	Amendments proposed by the ECB
	human resources to the exercise of the tasks referred to in Article 8(1), point (l); (**j** ~~i~~) they may determine the modalities for the calculation and reimbursement of any costs incurred by the authorities, taking into account differences across sectors, the nature of the activity supervised or of the tasks performed. […]";'
Explanation *The practical arrangements for cooperation to be established by ESMA should ensure close cooperation between ESMA and the national competent authorities and, where applicable, the other relevant authorities involved in these arrangements. They should also ensure that ESMA is provided with sufficient staffing and funding, to enable it to carry out its extensive new direct supervisory powers.* *See paragraph 2.1 of the ECB Opinion and Amendment 1.*	
Amendment 9 Article 1, point (7), of the proposed master regulation (Article 8a(6) of the ESMA Regulation)	
'(7) the following Article 8a is inserted: "*Article 8a* […] 6. The practical arrangements for cooperation shall be approved by the Executive Board. The Executive Board shall also ensure their implementation and the authorities shall, in cases where ESMA is exercising direct supervisory tasks, follow the instructions given by the Executive Board when performing the tasks set out in the arrangements. […]";'	'(7) the following Article 8a is inserted: "*Article 8a* […] 6. The practical arrangements for cooperation shall be approved by the Executive Board. The Executive Board shall also ensure their implementation and**, without prejudice to relevant provisions of the Treaties and of Union law,** the **relevant national competent authorities and other national** authorities shall, in cases where ESMA is exercising direct supervisory tasks, follow the instructions given by the Executive Board when performing the tasks set out in the arrangements. […]";'

Text proposed by the Commission	Amendments proposed by the ECB
Explanation *See explanation under Amendment 6.*	
Amendment 10 Article 1, point (20), of the proposed master regulation (Article 28b(2) of the ESMA Regulation)	
'(20) the following Articles 28a and 28b are inserted: "[…] *Article 28b* […] 2. The amount recovered from enforcing the decision to impose the administrative fine shall accrue to the Member State of the applicant authority in its own currency, unless otherwise agreed between the Member State of the applicant authority and the Member State of the requested authority. The requested authority shall, if necessary for the recovery, convert the administrative fine into the currency of its Member State at the euro foreign exchange reference rate published by the European Central Bank applying on the date when the administrative fine was imposed. […]";'	'(20) the following Articles 28a and 28b are inserted: "[…] *Article 28b* […] 2. The amount recovered from enforcing the decision to impose the administrative fine shall accrue to the Member State of the applicant authority in its own currency, unless otherwise agreed between the Member State of the applicant authority and the Member State of the requested authority. The requested authority shall, if necessary for the recovery, convert the administrative fine into the currency of its Member State at ~~the euro foreign exchange reference rate published by the European Central Bank~~ **a foreign exchange benchmark rate, which complies with Regulation (EU) 2016/1011 of the European Parliament and of the Council (*),** applying on the date when the administrative fine was imposed. […] **(*) Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/1011/oj).";'**
Explanation *Since 1998, the ECB has published euro foreign exchange reference rates (ECBRRs) on the basis of a framework approved by the ECB Governing Council in 1998 and subsequently amended in 2015*	

Text proposed by the Commission	Amendments proposed by the ECB
(hereinafter the 'ECBRR Framework')[5]. The ECB has previously noted in ECB Opinions CON/2021/3[6] and CON/2024/13[7] that the ECBRRs are provided as a public good for individual citizens and institutions and are used by a wide range of institutions. The aim of the ECBRR Framework is to preserve the integrity of the ECBRRs by: (1) discouraging their use for transaction purposes; and (2) limiting their use to reference purposes. Therefore, the reference in the proposed regulation to the ECBRRs or a foreign exchange reference rate issued by the relevant central bank should be removed and replaced by a reference to an appropriate foreign exchange benchmark rate that falls within the scope of Regulation (EU) 2016/1011 of the European Parliament and of the Council[8] and which may be used in the context of the currency conversion charges.	
Amendment 11 Article 1, point (27), of the proposed master regulation (Article 39f(2) of the ESMA Regulation)	
'(27) The following chapter IIa is inserted: "[…] *Article 39f* […] 2. Unless otherwise provided for in other Union acts applicable to a specific sector or area, the fine shall not exceed: (a) in the case of a legal person, EUR 1 000 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency according to euro foreign exchange reference rate published by the European Central Bank applying on the date when the fine is imposed.	'(27) The following chapter IIa is inserted: "[…] *Article 39f* […] 2. Unless otherwise provided for in other Union acts applicable to a specific sector or area, the fine shall not exceed: (a) in the case of a legal person, EUR 1 000 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency according to ~~euro foreign exchange reference rate published by the European Central Bank~~ **a foreign exchange benchmark rate that complies with Regulation (EU) 2016/1011 and**

5 See the ECB's Framework for the euro foreign exchange reference rates, available on the ECB's website at www.ecb.europa.eu.

6 See Opinion CON/2021/3 of the European Central Bank of 25 January 2021 on a proposal for a regulation on cross-border payments in the Union (OJ C 65, 25.2.2021, p. 4).

7 See Opinion CON/2024/13 of the European Central Bank of 30 April 2024 on a proposed Regulation and Directive on payment and electronic money services (OJ C C/2024/3869, 19.6.2024).

8 Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/1011/oj).

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	which applies ~~applying~~ on the date when the fine is imposed.
(b) or 10% of the annual turnover of the financial market participant under the Authority's supervision subject to investigation concerned in the preceding business year whichever is higher;	(b) or 10% of the annual turnover of the financial market participant under the Authority's supervision subject to investigation concerned in the preceding business year whichever is higher;
(c) in the case of a natural person, EUR 500 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency according to euro foreign exchange reference rate published by the European Central Bank applying on the date when the fine was imposed.	(c) in the case of a natural person, EUR 500 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency according to ~~euro foreign exchange reference rate published by the European Central Bank~~ **a foreign exchange benchmark rate that complies with Regulation (EU) 2016/1011 and which applies** ~~applying~~ on the date when the fine was imposed.
[…]";'	[…]";'
Explanation *See the explanation under Amendment 9.*	
Amendment 12 Article 1, point (28), of the proposed master regulation (Article 40 of the ESMA Regulation)	
'(28) Article 40 is amended as follows:	'(28) Article 40 is amended as follows:
(a) in paragraph 1, the following point ba is inserted:	(a) in paragraph 1, the following point**s** ~~ba is~~ **are** inserted:
"(ba) 5 independent members of the Executive Board;";	"(ba) 5 independent members of the Executive Board;
	(bb) one representative of the ECB, who shall be non-voting;";
(b) paragraph 3 is replaced by the following:	(b) paragraph**s** 3 **and 4 are** ~~is~~ replaced by the following:
"3. Each of the authorities referred to in paragraph 1 shall be responsible for nominating a high-level alternate from its authority, who may replace the member of the Board of Supervisors referred to in paragraph 1(b), where that person is prevented	"3. Each of the authorities referred to in paragraph 1 shall be responsible for nominating a high-level alternate from its authority, who may replace the member of the Board of Supervisors referred to in

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from attending.";'	paragraph 1(b), where that person is prevented from attending. **4. In Member States where more than one authority is responsible for the supervision according to this Regulation, those authorities shall agree on a common representative. Nevertheless, when an item to be discussed by the Board of Supervisors falls within the competence of a national central bank, a representative from the relevant national central bank shall be invited to attend the item, in addition to the member of the Board of Supervisors referred to in paragraph 1(b). For the purposes of voting, the representatives of the authorities of any one Member State shall, together, be considered as one member.**";'
Explanation *The ECB should also become a non-voting member of the ESMA Board of Supervisors. Additionally, in some Member States, the responsibility for supervision of certain entities (e.g. CCPs, CSDs, trading venues) is exercised by an NCB not represented on the ESMA Board of Supervisors, whether alone or jointly with another authority. These NCBs should be able to attend the ESMA Board of Supervisors and vote when items falling within their field of competence are discussed and should be invited by ESMA accordingly.* *See paragraphs 2.2 and 2.4 of the ECB Opinion and Amendment 2.*	
Amendment 13 Article 1, point (29), of the proposed master regulation (Article 41 of the ESMA Regulation)	
'(29) Article 41 is replaced by the following: "The Board of Supervisors on its own initiative or at the request of the Chairperson may establish internal committees for specific tasks attributed to it. The Board of Supervisors may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive	'(29) Article 41 is replaced by the following: "The Board of Supervisors on its own initiative or at the request of the Chairperson may establish internal committees for specific tasks attributed to it. The Board of Supervisors may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive

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Board, the Executive Director or to the Chairperson. Where an internal committee discusses matters in relation to a central counterparty or central securities depository, the European Central Bank and the other relevant central banks of issue of the Union currencies shall have the right to be non-voting members.";'	Board, the Executive Director or to the Chairperson. Where an internal committee discusses matters in relation to ~~a~~ central ~~counterparty~~ **counterparties,** ~~or~~ central securities ~~depository~~ **depositories**, **or crypto-asset service providers,** the European Central Bank and the other ~~relevant~~ central banks of issue of the Union currencies shall also have the right to be non-voting members. **Where an internal committee discusses matters in relation to central counterparties, central securities depositories or trading venues, national central banks designated by their Member State as the competent authority responsible for central counterparties under Article 22(1) of Regulation (EU) No 648/2012, central securities depositories under Article 11(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council(*) or trading venues under Article 67 of Directive 2014/65/EU, respectively, shall have the right to be non-voting members.** **Where an internal committee discusses, matters in relation to a credit institution or entities forming part of banking groups, the European Central Bank shall have the right to nominate a non-voting member to represent its role in the framework of the tasks concerning the prudential supervision of credit institutions within the single supervisory mechanism conferred upon it in accordance with Regulation (EU) No 1024/2013.** **(*) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on**

Text proposed by the Commission	Amendments proposed by the ECB
	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, ELI: http://data.europa.eu/eli/reg/2014/909/oj).";'
Explanation *The ECB considers that when internal committees discuss matters in relation to CCPs, CSDs or CASPs, central banks of issue should be able to attend the discussion.* *Moreover, NCBs should be involved where their Member State has designated that NCB as the competent authority responsible for the supervision of CCPs, CSDs or trading venues, even when they are not the authority chosen to represent their Member State on the Board of Supervisors. It also clarifies that all central banks of issue of Union currencies should have the right to attend, to avoid an overly restrictive interpretation of the term 'relevant'.* *In addition, the ECB considers that the ECB, in its role as banking supervisor, should also have the right to be a non-voting member of internal committees, where such committees discuss matters with potential implications for credit institutions and banking groups. This is relevant, not only with regard to matters in relation to CCPs or CSDs, but also other financial markets participants under ESMA's supervision, including CASPs that form part of a banking group.* *See paragraphs 2.3 and 2.4 of the ECB Opinion, and Amendments 14 and 15.*	
Amendment 14 Article 1, point (33), of the proposed master regulation (Article 44a(2) of the ESMA Regulation)	
'(33) the following Article 44a is inserted: "*Article 44a* […] 2. Where the decisions referred to in Article 8 paragraph 1, point l in relation to a directly supervised entity are deliberated upon, the member of the Board of Supervisors from the Member State where the relevant entity is established may participate in the deliberations during the relevant meetings of the Executive Board. Where supervisory matters in relation to a central counterparty or central securities depository are	'(33) the following Article 44a is inserted: "*Article 44a* […] 2. Where the decisions referred to in Article 8 paragraph 1, point l in relation to a directly supervised entity are deliberated upon, the member of the Board of Supervisors from the Member State where the relevant entity is established may participate in the deliberations during the relevant meetings of the Executive Board. **Where the national central bank of the same Member State has competence in respect of the relevant entity, a representative**

Text proposed by the Commission	Amendments proposed by the ECB
discussed, a representative of the ECB shall have the right to attend the discussion. The observers specified in subparagraphs 1 and 2 shall not be present during the vote following such deliberations. The Executive Board may decide to admit other observers to the deliberations. […]";'	**of that national central bank shall also be invited to participate in these deliberations.** Where ~~supervisory~~ matters in relation to a central counterparty, ~~or~~ central securities depository**, or crypto-asset service provider** are discussed, a representative of the ECB shall have the right to attend the discussion. The observers specified in subparagraphs 1 and 2 shall not be present during the vote following such deliberations. The Executive Board may decide to admit other observers to the deliberations. […]";'
Explanation *The ECB should have the right to be a non-voting member of the ESMA Executive Board, not only in respect of discussions on supervisory matters, but in respect of all matters concerning CCPs, CSDs and CASPs. Under the proposed Article 46a of the ESMA Regulation, the Executive Board is tasked not only with the adoption of decisions on supervisory matters, but must also take decisions in respect of other specified supervisory convergence tools and may give opinions and make proposals on all matters to be decided by the Board of Supervisors. Involving the ECB will ensure that, in addition to individual supervisory decisions, where the ESMA Executive Board discusses technical standards, guidelines, recommendations and other practical instruments and supervisory convergence tools in respect of CCPs, CSDs and CASPs, the discussions can take into account the ECB's perspective and expertise in ensuring the safety and soundness of financial market infrastructures, and the stability of the financial system.* *Additionally, in some Member States, the responsibility for supervision of certain entities (e.g. CCPs, CSDs and trading venues) is exercised by an NCB not represented on the ESMA Board of Supervisors. These NCBs should be able to attend the Executive Board when items falling within their fields of competence are discussed and should be invited by ESMA accordingly.* *See paragraphs 2.3 and 2.4 of the ECB Opinion.*	
Amendment 15 Article 1, point (37), of the proposed master regulation (Article 45c of the ESMA Regulation)	
'(37) the following Article 45c is inserted:	'(37) the following Article 45c is inserted:

Text proposed by the Commission	Amendments proposed by the ECB
"*Article 45c* Internal committees 1. The Executive Board, on its own initiative, at the request of the Chairperson or where specified in other Union acts, may establish internal committees for specific tasks attributed to it. The Executive Board may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive Director or to the Chairperson. Where an internal committee discusses supervisory matters in relation to a central counterparty or central securities depository, the European Central Bank and the other relevant central banks of issue of the Union currencies shall have the right to be non-voting members.";'	"*Article 45c* Internal committees 1. The Executive Board, on its own initiative, at the request of the Chairperson or where specified in other Union acts, may establish internal committees for specific tasks attributed to it. The Executive Board may provide for the delegation of certain clearly defined tasks and decisions to internal committees, to the Executive Director or to the Chairperson. Where an internal committee discusses ~~supervisory~~ matters in relation to ~~a~~ central ~~counterparty~~ **counterparties** ~~or~~ central securities ~~depository~~ **depositories**, **or crypto-asset service providers,** the European Central Bank and the other ~~relevant~~ central banks of issue of the Union currencies**;** shall have the right to be non-voting members. **Where an internal committee discusses matters in relation to central counterparties, central securities depositories or trading venues, national central banks designated by their Member State as the competent authority responsible for central counterparties under Article 22(1) of Regulation (EU) No 648/2012, central securities depositories under Article 11(1) of Regulation (EU) No 909/2014 or trading venues under Article 67 of Directive 2014/65/EU, respectively, shall have the right to be non-voting members.** **Where an internal committee discusses, matters in relation to a credit institution or entities forming part of banking groups, the European Central Bank shall have the right to nominate a non-voting member to represent its role in the framework of the tasks concerning the prudential supervision of credit institutions within the single**

Text proposed by the Commission	Amendments proposed by the ECB
	supervisory mechanism conferred upon it in accordance with Council Regulation (EU) No 1024/2013.";'
Explanation *See paragraphs 2.3 and 2.4 of the ECB Opinion, and Amendments 13 and 14.*	

Article 2 of the proposed master regulation

Proposed amendments to Regulation (EU) No 648/2012 (EMIR)

Text proposed by the Commission	Amendments proposed by the ECB
Amendment 16 Article 2, point (10), of the proposed master regulation (Article 17c of EMIR)	
‘(10) Article 17c is amended as follows: (a) in paragraph 1, the first subparagraph is replaced by the following: “[…] ESMA shall make available the information shared via the central database under this Regulation to any authority relevant for the purpose of Regulation (EU) No 909/2014 and Regulation (EU) […/… on settlement finality], where relevant or necessary for the performance of their duties.”; […];’	‘(10) Article 17c is amended as follows: (a) in paragraph 1, the first subparagraph is replaced by the following: “[…] ESMA shall make available the information shared via the central database under this Regulation to any authority relevant for the purpose of Regulation (EU) No 909/2014 and Regulation (EU) […/… on settlement finality], **and to the ESRB and relevant members of the ESCB** where ~~relevant or~~ necessary for the performance of their duties**, including their financial stability and macroprudential responsibilities**.”; […];’
Explanation *Where relevant or necessary for the performance of their macroprudential responsibilities, the European Systemic Risk Board and the members of the ESCB should have access to the information shared via the central database established under Article 17c of EMIR.* *See paragraph 3.3.2 of the ECB Opinion.*	
Amendment 17 Article 2, point (15), of the proposed master regulation (Article 22a(2) of EMIR)	
‘(15) the following Articles 22a to 22e are inserted: “Article 22a […] 2. A CCP shall be considered significant where it fulfils at least one of the following conditions:	‘(15) the following Articles 22a to 22e are inserted: “Article 22a […] 2. A CCP shall be considered significant where it fulfils at least one of the following conditions:

Text proposed by the Commission	Amendments proposed by the ECB
(a) the average open interest of securities transactions, including securities financing transactions, exchange traded derivatives or non-financial instruments cleared by the CCP over a period of one year prior to the assessment is more than EUR 100 billion; (b) the average gross notional outstanding of OTC derivatives transactions cleared by the CCP over a period of one year prior to the assessment is more than EUR 500 billion; (c) the average aggregated initial margin requirement and default fund contributions for accounts held by the CCP's clearing members, calculated on a net basis at clearing member account level, over a period of one year prior to the assessment, is more than EUR 25 billion; (d) it belongs to the same group as any of the following: (i) a CCP authorised under Article 14 or a Tier 2 CCP; (ii) a CSD or a trading venue for which ESMA is the competent authority. (e) the Member State where the CCP is established has designated ESMA as the CCP's competent authority in accordance with paragraph 1a of Article 22, where this designation applies to that CCP. ESMA shall determine whether a CCP meets the conditions for qualifying as significant in accordance with this Article. […]";'	(a) the average open interest of securities transactions, including securities financing transactions, exchange traded derivatives or non-financial instruments cleared by the CCP over a period of one year prior to the assessment is more than EUR 100 billion; (b) the average gross notional outstanding of OTC derivatives transactions cleared by the CCP over a period of one year prior to the assessment is more than EUR 500 billion; (c) the average aggregated initial margin requirement and default fund contributions for accounts held by the CCP's clearing members, calculated on a net basis at clearing member account level, over a period of one year prior to the assessment, is more than EUR 25 billion; (d) it belongs to the same group as any of the following: (i) a CCP authorised under Article 14 or a Tier 2 CCP; (ii) a CSD or a trading venue for which ESMA is the competent authority. **(e) it has established an interoperability arrangement with a CCP authorised under Article 14 or recognised under Article 25;** (**f**~~e~~) the Member State where the CCP is established has designated ESMA as the CCP's competent authority in accordance with paragraph 1a of Article 22, where this designation applies to that CCP. ESMA shall determine whether a CCP meets the conditions for qualifying as significant in accordance with this Article. […]";'
Explanation *A further condition for considering a CCP to be significant, and thus subject to direct supervision by ESMA, should be added, namely where the CCP has established an interoperability arrangement with*	

Text proposed by the Commission	Amendments proposed by the ECB
another CCP. This additional condition reflects the fact that interoperability links are a source of cross-border relevance for interoperable CCPs, which would justify their direct supervision by ESMA. In addition, this would allow a more efficient supervision given that the Commission proposal grants ESMA the competence to approve interoperability arrangements. Last, this could foster the wider use of interoperability arrangements and integration, by providing reassurance to CCPs willing to establish such arrangements that they are subject to harmonised supervision by ESMA. *See paragraph 3.1 of the ECB Opinion.*	
Amendment 18 Article 2, point (15), of the proposed master regulation (Article 22d of EMIR)	
‘(15) the following Articles 22a to 22e are inserted: “[…] Article 22d Relevant authorities for significant CCPs The following entities shall be involved in the authorisation and supervision carried out by the CCP’s competent authority of a significant CCP and be referred to as relevant authorities for such CCP: (a) the national competent authority of the Member State in which the significant CCP is established; (b) the competent authorities responsible for the supervision of the clearing members, of the significant CCP, which are established in the three Member States with the largest contributions to the default fund referred to in Article 42 of this Regulation on an aggregate basis over a one-year period, including, where relevant, the ECB in the framework of the tasks concerning the prudential supervision of credit institutions within the single supervisory mechanism conferred upon it in accordance with Council Regulation (EU) No 1024/2013;	‘(15) the following Articles 22a to 22e are inserted: “[…] Article 22d Relevant authorities for significant CCPs The following entities shall be involved in the authorisation and supervision carried out by the CCP’s competent authority of a significant CCP and be referred to as relevant authorities for such CCP: (a) the national competent authority of the Member State in which the significant CCP is established; (b) the competent authorities responsible for the supervision of the clearing members, of the significant CCP, which are established in the three Member States with the largest contributions to the default fund referred to in Article 42 of this Regulation on an aggregate basis over a one-year period, **as well as the competent authorities responsible for banking supervision in the home Member State of the CCP,** including, where relevant, the ECB in the framework of the tasks concerning the prudential supervision of credit institutions within

Text proposed by the Commission	Amendments proposed by the ECB
(c) the competent authorities responsible for the supervision of trading venues served by the significant CCP; (d) the competent authorities supervising central securities depositories to which the significant CCP is linked; (e) the ECB where the significant CCP clears or intends to clear financial and non-financial instruments denominated in euro; (f) the central banks of issue of the most relevant Union currencies other than euro, of the financial and non-financial instruments cleared or to be cleared by the significant CCP.";'	the single supervisory mechanism conferred upon it in accordance with Council Regulation (EU) No 1024/2013; (c) the competent authorities responsible for the supervision of trading venues served by the significant CCP; (d) the competent authorities supervising central securities depositories to which the significant CCP is linked; ~~(e) the ECB where the significant CCP clears or intends to clear financial and non-financial instruments denominated in euro;~~ (f) the central banks of issue of ~~the most relevant~~ **the** Union currencies ~~other than euro,~~ of the financial and non-financial instruments cleared or to be cleared by the significant CCP**;**~~.~~ **(g) the relevant members of the ESCB responsible for the oversight of the CCP and the relevant members of the ESCB responsible for the oversight of the CCPs with which interoperability arrangements have been established;** **(h) in Member States where CCPs are subject to additional requirements in accordance with Article 14(5), the competent authorities responsible for the supervision of those requirements.";'**
Explanation *The list of 'relevant authorities for significant CCPs' should be further clarified.* *First, further clarifications are needed to ensure involvement of central banks of issue, to ensure simplification and continuity with Article 18(2), point (h). Moreover, clarifications are needed to support the involvement of the central banks of issue of Union currencies other than the euro. This clarification is necessary, in particular to ensure consistency with their involvement in CCP colleges under Article 18(2), point (i), of EMIR, and to avoid an overly restrictive interpretation of the term 'relevant'. The current definition of 'the most relevant Union currencies' established in Article 1 of Commission*	

Text proposed by the Commission	Amendments proposed by the ECB
Delegated Regulation (EU) No 876/2013[9] *means that central banks of issue of non-euro Union currencies may not be identified as relevant authorities for significant CCPs clearing instruments in major international currencies. It is thus necessary to clarify their involvement, to ensure that they can access information and are thereby well-equipped to adequately assess and manage risks that significant CCPs clearing instruments denominated in those Union currencies may pose for their respective money markets, and thereby manage any potential disruptions in their functioning.* *Second, NCBs should be included within the definition of 'relevant authorities for significant CCPs', where those NCBs have oversight responsibilities for CCPs under national law and are not otherwise a designated competent authority under EMIR. Such NCBs were members of the CCP college pursuant to Article 18(2), point (g), of EMIR. In the interests of continuity, and given their experience and expertise, those NCBs should continue to be involved in the supervision of significant CCPs, as relevant authorities, including by means of cooperation arrangements.* *Third, in Member States where CCPs are subject to additional requirements in accordance with Article 14(5) of EMIR – including requirements relating to Union or national banking legislation – the competent authorities responsible for the supervision of those requirements in that Member State should be included on the list of relevant authorities.* *See paragraph 3.3 of the ECB Opinion.*	

9 Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19, ELI: http://data.europa.eu/eli/reg_del/2013/876/oj).

Text proposed by the Commission	Amendments proposed by the ECB
Amendment 19 Article 2, point (15), of the proposed master regulation (Article 22e(1) of EMIR)	
‘(15) the following Articles 22a to 22e are inserted: “Article 22e Consultation of central banks of issue regarding significant CCPs 1. With regard to supervisory assessments conducted in relation to, and decisions to be taken pursuant to, Articles 41, 44, 46, 49, 50 and 54 in relation to significant CCPs, the Executive Board shall consult the central banks of issue referred to in Article 22d, points (e) and (f), before finalising its assessment. Each central bank of issue may respond. Where the central bank of issue decides to respond, it shall do so within 10 working days of receipt of the draft decision. In emergency situations, that period shall not exceed 24 hours. Where a central bank of issue proposes amendments or objects to assessments related to, or draft decisions pursuant to Articles 41, 44, 46, 49, 50 and 54, it shall provide full and detailed reasons, in writing. Upon conclusion of the period for consultation, the Executive Board shall duly consider the response and any amendments proposed by the central banks of issue and provide its assessment to the central bank of issue. […]”;’	‘(15) the following Articles 22a to 22e are inserted: “Article 22e Consultation of central banks of issue regarding significant CCPs 1. With regard to **all** supervisory assessments ~~conducted in relation to,~~ and decisions ~~to be taken pursuant to,~~ **in relation to the requirements under** Articles 41, 44, 46, 49, 50 and 54 in relation to significant CCPs, **including where such supervisory assessments and decisions are taken pursuant to other provisions, including Articles 15, 17, 20 and 21,** the Executive Board shall consult the central banks of issue referred to in Article 22d, points (e) and (f), before finalising its assessment. **For the purposes of the consultation referred to in the first subparagraph, ESMA shall share the following information with the central banks of issue, either directly or via the central database:** **(a) the documents and information submitted by the significant CCP to ESMA, as soon as they are received; and** **(b) the draft supervisory assessment report and decision being prepared by ESMA.** Each central bank of issue may respond. Where the central bank of issue decides to respond, it shall do so within 10 working days of receipt of the draft decision. In emergency situations, that period shall not exceed 24 hours. Where a central bank of issue proposes amendments or objects to **supervisory**

Text proposed by the Commission	Amendments proposed by the ECB
	assessments ~~related to,~~ or draft decisions **referred to in paragraph 1**~~pursuant to Articles 41, 44, 46, 49, 50 and 54~~, it shall provide full and detailed reasons, in writing. Upon conclusion of the period for consultation, the Executive Board shall duly consider the response and any amendments proposed by the central banks of issue and provide its assessment to the central bank of issue. […]";'

Explanation

The obligation to consult central banks of issue in respect of the supervision of significant CCPs should be clarified.

First, a clarification should be introduced to ensure that central banks of issue will be consulted on all supervisory assessments and decisions that impact the six areas of relevance for central banks of issue, i.e. margin requirements, liquidity risk controls, collateral, review of models, stress testing and back testing, settlement, and interoperability arrangements as set out in Articles 41, 44, 46, 49, 50 and 54 of EMIR. The drafting suggestion seeks to confirm, for the avoidance of doubt, that central banks of issue should be consulted, irrespective of whether those assessments or decisions are taken separately, or as part of broader procedures, such as the procedures for extending activities and services, granting and refusing authorisation, withdrawal of authorisation and review and evaluation under Articles 15, 17, 20 and 21 of EMIR.

Second, it is important to clarify that central banks of issue have access to all documents and information relevant to the supervisory assessment and decisions on which they are being consulted. This includes the documents, information and applications submitted by the significant CCP to ESMA, and the draft reports and decisions being prepared by ESMA. To the extent that such documents are included in the central database pursuant to Article 17c of EMIR, these are necessary for the performance of the duties of the central banks of issue and should be accessed there. Where those documents are not included in the central database, ESMA should provide these documents directly to the central banks of issue.

See paragraph 3.3.1 of the ECB Opinion and Amendments 21 and 22.

Text proposed by the Commission	Amendments proposed by the ECB
Amendment 20 Article 2, point (16), of the proposed master regulation (Article 23(3) of EMIR)	
‘(16) in Article 23, the following paragraph 3 is added: “3. For each significant CCP, ESMA and the relevant authorities shall establish cooperation arrangements as laid down in Article 8a of Regulation (EU) No 1095/2010, including in relation to ESMA’s direct supervision of the CCP. Such arrangements shall reflect the distribution of competences and responsibilities pursuant to this Regulation and frame practical cooperation modalities in view of ESMA exercising its competencies and responsibilities with regard to significant CCPs. In particular, such arrangements may cover support and assistance by the relevant authorities, as relevant, in respect of all of the following: (a) the carrying out of supervisory tasks over a significant CCP, including investigations and on-site inspections; (b) the preparation of decisions, reports or other measures under this Regulation in relation to the significant CCP, including where specified under Articles 14, 15, 17, 17a, 20, 21, 24, 30, 31, 32, 35, 37, 41, 49, 49a and 51; (c) any supervisory task to ensure the financial stability and monitor the operational resilience and market conduct of the significant CCP, including stress-testing; (d) addressing emergency situations in relation to the significant CCP.”;’	‘(16) in Article 23, the following paragraph 3 is added: “3. For each significant CCP, ESMA and the relevant authorities shall establish cooperation arrangements as laid down in Article 8a of Regulation (EU) No 1095/2010, including in relation to ESMA’s direct supervision of the CCP. Such arrangements shall reflect the distribution of competences and responsibilities pursuant to this Regulation and frame practical cooperation modalities in view of ESMA exercising its ~~competencies~~**competences** and responsibilities with regard to significant CCPs. **Without prejudice to the competences of the relevant authorities, ESMA shall ensure the consistency of cooperation arrangements across all significant CCPs.** In particular, such arrangements **shall determine the modalities for** ~~may cover support and assistance by the relevant authorities, as relevant, in respect of all of the following~~: **(a) how the national competent authority of the Member State in which the CCP is established, and, upon each relevant authority’s request, the relevant authorities, are to be involved in supervisory activities relating to a significant CCP, including:** **(i) the establishment of supervisory priorities and the supervisory examination programme for the significant CCP;** **(ii)** ~~(a)~~ the carrying out of supervisory tasks over a significant CCP, including investigations and on-site inspections;

Text proposed by the Commission	Amendments proposed by the ECB
	(iii) ~~(b)~~ the preparation of **supervisory** decisions, **assessments** reports or other measures under this Regulation in relation to the significant CCP, including where specified under Articles 14, 15, 17, 17a, 20, 21, 24, 30, 31, 32, 35, 37, 41, 49, 49a ~~and~~ 51 **and 54; and** **(iv)** ~~(c) any~~ supervisory task**s** to ensure ~~the~~ financial stability and monitor the operational resilience and market conduct of the significant CCP, including stress-testing; **(b) the exchange of information between ESMA, the national competent authority, and all relevant authorities relating to the significant CCP;** **(c) the consultations of the relevant authorities referred to in Article 20(3), point (b);** (d) addressing emergency situations in relation to the significant CCP.";'
Explanation *The provisions in the Commission proposals concerning cooperation arrangements for significant CCPs should be sufficiently prescriptive.* *First, the ECB makes drafting suggestions to promote consistency across cooperation arrangements for different significant CCPs.* *Second, the cooperation arrangements should clarify the involvement in supervisory activities of the national competent authority of the Member State in which the CCP is established and, upon their request, relevant authorities for the significant CCP. The caveat 'upon their request' is important, to ensure that such involvement is voluntary and flexible, and is tailored to their interests, capacity and resources of those relevant authorities.* *Third, further details should be introduced as regards the supervisory activities that should be incorporated in the cooperation arrangements for significant CCPs. These include the establishment of supervisory priorities and the supervisory examination programme for the significant CCP, and supervisory decisions and assessment reports concerning the approval of interoperability arrangements. The inclusion of the approval of interoperability arrangements is important to complement the fact that the Commission proposals confer competence on ESMA to approve interoperability arrangements pursuant to Article 54 of EMIR.*	

Text proposed by the Commission	Amendments proposed by the ECB
Finally, cooperation arrangements should ensure the exchange of information between ESMA, the national competent authorities and all relevant authorities of the significant CCPs – also including the relevant authorities which are not involved in supervisory activities. *See paragraph 2.5 of the ECB Opinion.*	
Amendment 21 Article 2, point (20a) of the proposed master regulation (new) (Article 24b(1) of EMIR)	
No text.	‘(20a) in Article 24b, paragraph 1 is replaced by the following: **“1. With regard to all supervisory assessments and decisions in relation to the requirements under Articles 41, 44, 46, 49, 50 and 54 in relation to Tier 2 CCPs, including where such supervisory assessments and decisions are taken pursuant to other provisions, including Articles 25, 25b, 25p and 25q, the Executive Board shall consult the central banks of issue referred to in Article 25(3), point (f).** **For the purposes of the consultation referred to in the first subparagraph, ESMA shall share the following information with the central banks of issue, either directly or via the central database:** **(a) the documents and information submitted by the significant CCP to ESMA, as soon as they are received; and** **(b) the draft supervisory assessment report and decision being prepared by ESMA.** **Each central bank of issue may respond. Where the central bank of issue decides to respond, it shall do so within 10 working days of receipt of the draft decision. In emergency situations, that period shall not exceed 24 hours. Where a central bank of issue**

Text proposed by the Commission	Amendments proposed by the ECB
	proposes amendments or objects to supervisory assessments, or draft decisions referred to in paragraph 1, it shall provide full and detailed reasons, in writing. Upon conclusion of the period for consultation, the Executive Board shall duly consider the response and any amendments proposed by the central banks of issue and provide its assessment to the central bank of issue.";'
Explanation *Clarifications should be introduced with respect to the obligation to consult central banks of issue in respect of the supervision of Tier 2 third country CCPs, to confirm the scope of such consultations, and for the avoidance of doubt. These clarifications aim to ensure consistency with the wording of the new Article 22e on the consultation of central banks of issue for significant Union CCPs, including reference to all six areas of relevance for central banks of issue. Moreover, the amendments update the wording to ensure reference to the new ESMA Executive Board, replacing references to the CCP Supervisory Committee.* *See paragraph 3.3.1 of the ECB Opinion and the explanations under Amendment 19 and 22.*	
Amendment 22 Article 2, point (24a) of the proposed Regulation (new) (Article 25b(1) of EMIR)	
No text.	**'(24a) in Article 25b, paragraph 1 is replaced by the following:** **"1. ESMA shall be responsible for carrying out the duties resulting from this Regulation for the supervision on an ongoing basis of the compliance of recognised Tier 2 CCPs with the requirements referred to Article 25(2b), point (a). With regard to supervisory assessments and decisions in relation to the requirements under Articles 41, 44, 46, 49, 50 and 54, ESMA shall consult the central banks of issue referred to in Article 25(3), point (f), in accordance with Article 24b(1).";'**

Text proposed by the Commission	Amendments proposed by the ECB
Explanation *Clarifications should be introduced with respect to the obligation to consult central banks of issue in respect of the supervision of Tier 2 third country CCPs, to confirm the scope of such consultations, and for the avoidance of doubt. See Amendments 19 and 21.*	

Article 4 of the proposed master regulation

Proposed amendments to Regulation (EU) No 909/2014 (the CSDR)

Text proposed by the Commission	Amendments proposed by the ECB[10]
Amendment 23 Article 4, point (1), of the proposed master regulation (Article 1(4) of the CSDR)	
'(1) in Article 1, paragraph 4 is replaced by the following: "4. Articles 10 to 20, 22 to 24a and 27, Article 28(6), Article 30(4) and Articles 46 and 47, Article 48(2), (2a) and (2b), and Article 48b, the provisions of Title IV and the requirements to report to competent authorities or relevant authorities or to comply with their orders under this Regulation, do not apply to the members of the ESCB, other Member States' national bodies performing similar functions, or to other public bodies charged with or intervening in the management of public debt in the Union in relation to any CSD which the aforementioned bodies directly manage under the responsibility of the same management body, which has access to the funds of those bodies and which is not a separate entity.";'	'(1) in Article 1, paragraph 4 is replaced by the following: "4. Articles 10 to 20, ~~22~~ **21a** to 24a and 27, Article 28(6), Article 30(4) and Articles 46 and 47, Article 48(2), (2a) and (2b), and Article 48b, the provisions of Title IV and the requirements to report to competent authorities or relevant authorities or to comply with their orders under this Regulation, do not apply to the members of the ESCB, other Member States' national bodies performing similar functions, or to other public bodies charged with or intervening in the management of public debt in the Union in relation to any CSD which the aforementioned bodies directly manage under the responsibility of the same management body, which has access to the funds of those bodies and which is not a separate entity.";'
Explanation *It should be clarified that Article 21a does not apply to CSDs operated by public bodies, as the use of the central database is only relevant for CSDs subject to supervision by a competent authority.*	
Amendment 24 Article 4, point (5), of the proposed master regulation (Article 7(2) of the CSDR)	
'(5) in Article 7(2), third subparagraph, the third sentence is replaced by the following: "The cash penalties shall not be configured as a revenue source for the CSD or its participants.	'(5) in Article 7(2), third subparagraph, the third sentence is replaced by the following: "The cash penalties shall not be configured as a revenue source for the CSD or its participants.

10 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB[10]
Cash penalties shall be paid in cash or in e-money tokens.";'	Cash penalties shall be paid in cash or**, where provided for in the CSD's rules,** in e-money tokens.";'
Explanation *A clarification should be introduced that the acceptance of e-money tokens (EMTs) for the payment of cash penalties should be at the discretion of each CSD, as set out in its rules, as a general requirement that EMTs must be accepted as equivalent to cash would be overly burdensome for CSDs that do not intend to use DLT or tokenisation in their operations.*	
Amendment 25 Article 4, point (13), of the proposed master regulation (Article 14(3) of the CSDR)	
'(13) in Article 14, the following paragraphs 3 and 4 are inserted: "3. For each significant CSD, ESMA, the national competent authority and the relevant authorities shall establish cooperation arrangements, as laid down in Article 8a of Regulation (EU) No 1095/2010, including in relation to ESMA's direct supervision of each significant CSD. Such arrangements shall reflect the distribution of competences and responsibilities pursuant to this Regulation and frame practical cooperation modalities in view of ESMA exercising its competencies and responsibilities with regard to significant CSDs. In particular, such arrangements may cover support and assistance by the relevant authorities and the national competent authority in respect of all of the following: (a) the carrying out of supervisory tasks over a significant CSD, including investigations and on-site inspections; (b) the preparation of authorisations, approvals, decisions, reports or other measures pertaining to the significant CSD under this Regulation, including where specified under the relevant	'(13) in Article 14, the following paragraphs 3 and 4 are inserted: "3. For each significant CSD, ESMA, the national competent authority**,** ~~and~~ the relevant authorities, **the competent authorities of the host Member States where the CSD provides services in accordance with Article 23, and, where relevant, for each significant CSD authorised pursuant to Article 54, the competent authorities responsible for the supervision of the CSD as a credit institution pursuant to Directive 2013/36/EU, or as a bank pursuant to national law,** shall establish cooperation arrangements, as laid down in Article 8a of Regulation (EU) No 1095/2010, including in relation to ESMA's direct supervision of each significant CSD. Such arrangements shall reflect the distribution of competences and responsibilities pursuant to this Regulation and frame practical cooperation modalities in view of ESMA exercising its ~~competencies~~ **competences** and responsibilities with regard to significant CSDs. **Without prejudice to the competences of the authorities involved in the cooperation arrangements, ESMA shall ensure the**

Text proposed by the Commission	Amendments proposed by the ECB[10]
Article and under Articles 15, 16, 17,19, 19a, 22, 27, 27a, 27b, 33(3), 48, 48a, 48b, 55, 56 and 60; (c) any supervisory tasks to ensure financial stability and to monitor the operational resilience and market conduct of the significant CSD, including stress testing; (d) addressing emergency situations in relation to the significant CSD. […]";'	**consistency of those arrangements across all significant CSDs.** In particular, such arrangements **shall determine the modalities for** ~~may cover support and assistance by the relevant authorities, as relevant, in respect of all of the following~~: (a) **how the national competent authority of the Member State in which the CSD is established, and, upon each relevant authority's request, of the relevant authorities, are to be involved in supervisory activities relating to a significant CSD, including:** **(i) the establishment of supervisory priorities and the supervisory examination programme for the significant CSD;** **(ii)** the carrying out of supervisory tasks over a significant CSD, including investigations and on-site inspections; **(iii)** ~~(b)~~ the preparation of authorisations, approvals, decisions, reports or other measures pertaining to the significant CSD under this Regulation, including where specified under the relevant Article and under Articles 15, 16, 17,19, 19a, 22, 27, 27a, 27b, 33(3), 48, 48a, 48b, 55, 56 and 60; **(iv)** ~~(c)~~ ~~any~~ supervisory task**s** to ensure the financial stability and monitor the operational resilience and market conduct of the significant CSD, including stress-testing; **and** **(b) the exchange of information between ESMA and all authorities involved in the cooperation arrangement relating to the significant CSD and the supervisory activities referred to in point (a);** **(c) where relevant, the coordination of the supervisory activities referred to in point (a)**

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	with the supervisory activities carried out pursuant to Directive 2013/36/EU; (d) addressing emergency situations in relation to the significant CSD. […]";'

Explanation

The provisions in the Commission proposals concerning cooperation arrangements for significant CSDs should be sufficiently prescriptive.

First, to maintain the same level and scope of information sharing within cooperation arrangements regarding significant CSDs as within colleges for less significant CSDs, cooperation arrangements should include the competent authorities of the host Member States where the CSD provides services and, for CSDs authorised to provide banking-type ancillary services, the competent authority responsible for the supervision of the CSD as a credit institution.

Second, the ECB makes drafting suggestions to promote consistency across cooperation arrangements for different significant CSDs.

Third, the cooperation arrangements should clarify the involvement in supervisory activities of the national competent authority of the Member State in which the CSD is established and, upon their request, of the relevant authorities for the significant CSD. The caveat 'upon their request' aims to ensure that such involvement is voluntary and tailored to the interests, capacity and resources of those relevant authorities.

Fourth, the ECB suggests further details as regards the supervisory activities that should be incorporated in the cooperation arrangements for significant CSDs.

Fifth, cooperation arrangements should ensure the exchange of information between all authorities involved in the cooperation arrangement – also including the relevant authorities which are not involved in supervisory activities and the competent authorities of the host Member States where the CSD provides services. This would ensure that cooperation arrangements guarantee an equivalent level of information sharing to that within CSD colleges.

Finally, the cooperation arrangements should provide for cooperation with the banking supervisors of significant CSDs providing banking-type ancillary services in accordance with Title IV of the CSDR. This is necessary because while the supervision of these CSDs under the CSDR and the CRD is currently conducted within the same national competent authority, it would need to remain well coordinated between ESMA and the banking supervisor of each of those CSDs.

See paragraph 2.5 of the ECB Opinion.

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Amendment 26 Article 4, point (16), of the proposed master regulation (Article 17 of the CSDR)	
‘(16) Article 17 is amended as follows: […] (b) paragraph 3 is replaced by the following: “3. During the period specified under paragraph 8, the competent authority, ESMA and the relevant authorities may request the applicant CSD to provide additional documents or information, where such documents or information are needed to assess that the applicant CSD meets all of its obligations as laid down in this Regulation. The competent authority may take a decision on the application in the absence of the CSD’s response. (c) paragraph 4 is amended as follows: (i) the first, second and third subparagraphs are replaced by the following: “4. During the period specified under paragraph 8, the competent authority shall conduct a risk assessment of the applicant CSD’s compliance with the requirements laid down in this Regulation and shall consult the relevant authorities, ESMA, and, where applicable, the college referred to in Article 24a concerning the features of the securities settlement system operated by the applicant CSD. Within three months of the acknowledgement of receipt of the application referred to in Article 21a(2), where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within one month of the acknowledgement of receipt of the application referred to in Article 21a(2), where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19:	‘(16) Article 17 is amended as follows: […] (b) paragraph 3 is replaced by the following: “3. ~~During the period specified under paragraph 8, the competent authority, ESMA and the relevant authorities may request the applicant CSD to provide additional documents or information, where such documents or information are needed to assess that the applicant CSD meets all of its obligations as laid down in this Regulation. The competent authority may take a decision on the application in the absence of the CSD’s response.~~ **The competent authority shall assess the completeness of the application within 30 working days from receiving it and, if this is not complete, it shall set a time limit by which the applicant CSD has to provide additional information. The competent authority shall inform the applicant CSD once the application is considered to be complete.”;** (c) paragraph 4 is amended as follows: (i) the first, second and third subparagraphs are replaced by the following: “4. During the period specified under paragraph 8, the competent authority shall conduct a**n** ~~risk~~ assessment of the applicant CSD’s compliance with the requirements laid down in this Regulation and shall ~~consult~~ **submit its draft decision and assessment report to** the relevant authorities, ESMA, and, where applicable, the college referred to in Article 24a ~~concerning the features of the securities settlement system operated by the applicant CSD~~ **within two months of the submission of a complete application, where**

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(a) ESMA shall adopt an opinion pursuant to Article 14(4) determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a; and (b) each relevant authority may issue an opinion within its areas of competence, determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a. When providing the opinions referred to in the first subparagraph, ESMA and the relevant authorities, within their areas of competence, shall assess any relevant risks in relation to the applicant CSD, including any cross-border risks or risks to the financial stability of the Union, and may include any conditions or recommendations they consider necessary to mitigate any shortcomings in the applicant CSD's risk management. ESMA may also include in its opinion any elements needed to promote a consistent and coherent application of a relevant Article of this Regulation. A negative opinion shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met. Where any of the relevant authorities or ESMA, has issued a negative reasoned opinion, and the competent authority nevertheless intends to grant the authorisation, that competent authority shall, within 30 working days of receipt of the negative opinion, where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within 15 working days of receipt of the negative opinion, where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article	**the applicant CSD has applied for an initial authorisation pursuant to Article 16, and within one month of the submission of a complete application, where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19**. Within ~~three~~ **two** months of the ~~acknowledgement of receipt of the application referred to in Article 21a(2)~~ **submission of the draft decision and assessment report**, where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within one month of the ~~acknowledgement of receipt of the application referred to in Article 21a(2)~~ **submission of the draft decision and assessment report**, where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19: (a) ESMA shall adopt an opinion pursuant to Article 14(4) determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a; and (b) each relevant authority may issue an opinion within its areas of competence, determining whether the applicant CSD complies with the requirements laid down in this Regulation, and transmit it to the registered recipients referred to in Article 21a. When providing the opinions referred to in the first subparagraph, ESMA and the relevant authorities, within their areas of competence, shall assess any relevant risks in relation to the applicant CSD, including any cross-border risks or risks to the financial stability of the Union, and may include any conditions or recommendations they consider necessary to mitigate any shortcomings in the

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19, provide the relevant authority concerned or ESMA with the reasons why it intends to grant the authorisation notwithstanding the negative opinion."; (ii) the seventh subparagraph is deleted; (b) paragraph 6 is replaced by the following: "[…]"; (c) paragraphs 7 and 7a are deleted; (d) paragraph 8 is replaced by the following: "8. Within six months from the acknowledgement of receipt of the application referred to in Article 21a(2), where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within three months from of the acknowledgement of receipt of the application referred to in Article 21a(2), where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19, the competent authority shall adopt its decision and transmit it to the registered recipients referred to in Article 21a and the applicant CSD. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused. Where the decision of the competent authority does not reflect the opinion of ESMA, or any of the relevant authorities, including any conditions or recommendations contained therein, it shall contain a fully reasoned explanation of any significant deviation from those opinions or conditions or recommendations. Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent	applicant CSD's risk management. ESMA may also include in its opinion any elements needed to promote a consistent and coherent application of a relevant Article of this Regulation. A negative opinion shall state in writing the full and detailed reasons why the requirements laid down in this Regulation or other requirements of Union law are not met. Where any of the relevant authorities or ESMA, has issued a negative reasoned opinion, and the competent authority nevertheless intends to grant the authorisation, that competent authority shall, ~~within 30 working days of receipt of the negative opinion, where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or~~ within 15 working days of receipt of the negative opinion, ~~where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core service, pursuant to Article 19,~~ provide the relevant authority concerned or ESMA with the reasons why it intends to grant the authorisation notwithstanding the negative opinion."; (ii) the seventh subparagraph is deleted; (~~b~~**d**) paragraph 6 is replaced by the following: "[…]"; (~~c~~**e**) paragraphs 7 and 7a are deleted; (~~d~~**f**) paragraph 8 is replaced by the following: "8. Within six months from ~~the acknowledgement of receipt of the application referred to in Article 21a(2)~~ **the submission of a complete application**, where the applicant CSD has applied for an initial authorisation pursuant to Article 16, or within ~~three~~ **four** months from ~~of the acknowledgement of receipt of the application referred to in Article 21a(2)~~ **the submission of a complete application**, where an applicant CSD has applied for an extension of an existing authorisation or for the outsourcing of a core

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authority for non-compliance or for its intention not to comply."; […]'	service, pursuant to Article 19, the competent authority shall adopt its decision and transmit it to the registered recipients referred to in Article 21a and the applicant CSD. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused. Where the decision of the competent authority does not reflect the opinion of ESMA, or any of the relevant authorities, including any conditions or recommendations contained therein, it shall contain a fully reasoned explanation of any significant deviation from those opinions or conditions or recommendations. Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply."; […]'
Explanation *The changes proposed by the ECB as part of this amendment aim to improve the authorisation procedure to make it more effective and manageable for the authorities involved. The ECB proposes to reinstate the completeness check provided for under Article 17(3) of the CSDR, which is an essential step to ensure that competent and relevant authorities conduct their review of the application based on complete documentation. The text proposed by the Commission would force the competent authority to provide its assessment, and ESMA and the relevant authorities to provide their opinions, based on incomplete documentation, which may lead to either insufficient scrutiny of the CSD's compliance with regulatory requirements, or a failure of the application process, including on account of potential negative opinions from ESMA or relevant authorities.* *The ECB fully supports the proposal for the competent authority, given its expertise on, and proximity to, the CSD's operations, to prepare an assessment of the CSD's compliance with CSDR requirements, as for CCPs under EMIR. To avoid confusion, given that some CSDR requirements do not relate to risk management, the text could simply refer to 'an assessment'. Additionally, the timeframes for the various steps set out in the procedure should be adjusted to improve their clarity and ensure that ESMA and*	

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relevant authorities can consider the assessment prepared by the competent authorities prior to issuing their opinion, making the overall process more efficient and ensuring a cooperative dialogue between authorities on the CSD's compliance. *Finally, the reference to 'the features of the securities settlement system operated by the applicant CSD' should be deleted as it was only relevant from the perspective of central banks acting as relevant authorities, but not for ESMA and CSD colleges, and is in any case outdated, as determining the aspects of a CSD's compliance that are relevant to the SSS it operates is not straightforward and has led to unnecessary confusion in some cases.* *See paragraph 4.1.2 of the ECB Opinion and Amendment 34.*	
Amendment 27 Article 4, point (19), of the proposed master regulation (Article 19 of the CSDR)	
'(19) Article 19 is amended as follows: (a) in paragraph 1, the introductory wording is replaced by the following: "An authorised CSD shall submit an application for authorisation to the competent authority where it wishes to outsource a core service to a third party pursuant to Article 30, other than to a CSD within its group as referred to in Article 19a, or extend its activities to one or more of the following:"; (b) paragraph 2 is amended as follows: […]; (c) paragraphs 3 to 7 are deleted;'	'(19) Article 19 is amended as follows: (a) in paragraph 1, the introductory wording is replaced by the following: "1. An authorised CSD shall submit an application for authorisation to the competent authority where it wishes to outsource a core service to a third party pursuant to Article 30, other than to a CSD within its group as referred to in Article 19a, or extend its activities to one or more of the following:"; **(b) in paragraph 1, the following point (aa) is inserted:** **'(aa) the provision of one or more core services listed in Section A of the Annex using DLT;";** (~~b~~**c**) paragraph 2 is amended as follows: […]; (~~c~~**d**) paragraphs 3 to 7 are deleted;'
Explanation *The use of DLT to provide core CSD services is a major change in a CSD's operations, with significant implications for its compliance with several requirements of the CSDR, in particular Article 45 and the proposed Article 45a. This amendment would subject a CSD's proposed use of DLT to provide one or*	

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more CSD services to an authorisation procedure, as is the case for other major changes to CSD operations. *See paragraph 4.1.4 of the ECB Opinion.*	
Amendment 28 Article 4, point (23)(c), of the proposed master regulation (Article 22(6) of the CSDR)	
‘(c) in paragraph 6, the first and second subparagraphs are replaced by the following: “When performing the review and evaluation referred to in paragraph 1, the competent authority shall cooperate closely with ESMA, and with the relevant authorities. The competent authority shall, at an early stage, transmit the necessary information to ESMA, the relevant authorities and, where applicable, to the authority referred to in Article 67 of Directive 2014/65/EU, and consult them on whether the requirements of this Regulation or other requirements of Union law are met by the CSD as regards the functioning of the securities settlement systems operated by the CSD. Within 90 working days of receipt of the information referred to in the first subparagraph from the competent authority: (a) the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU may issue an opinion within their areas of competence; and (b) ESMA may issue an opinion pursuant to Article 14(4) in accordance with the procedure laid down in Article 17a.”;’	‘(c) in paragraph 6, the first and second subparagraphs are replaced by the following: “When performing the review and evaluation referred to in paragraph 1, the competent authority shall cooperate closely with ESMA, and with the relevant authorities. **The competent authority shall assess the CSD’s compliance with the requirements laid down in this Regulation during the period under review.** The competent authority shall, at an early stage, transmit the necessary information **and its assessment report** to ESMA, the relevant authorities and, where applicable, to the authority referred to in Article 67 of Directive 2014/65/EU, and consult them on whether the requirements of this Regulation or other requirements of Union law are met by the CSD ~~as regards the functioning of the securities settlement systems operated by the CSD~~. Within 90 working days of receipt of the information referred to in the first subparagraph from the competent authority: (a) the relevant authorities and, where applicable, the authority referred to in Article 67 of Directive 2014/65/EU may issue an opinion within their areas of competence; and (b) ESMA may issue an opinion pursuant to Article 14(4) in accordance with the procedure laid down in Article 17a.”;’

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Explanation *This amendment aims to align the process for reviews and evaluations with the proposed process for authorisations by introducing the preparation of an assessment report by the competent authority, to be submitted together with the necessary information to the authorities consulted on the review and evaluation, and by removing the reference to 'the functioning of the securities settlement systems operated by the CSD'.* *See paragraph 4.1.1 of the ECB Opinion.*	
Amendment 29 Article 4, point (33)(b), of the proposed master regulation (Article 30(6) of the CSDR)	
'(b) the following paragraphs 6 and 7 are added: "6. The use of DLT by a CSD to provide the core services shall not be considered as outsourcing, unless the CSD is entering into an arrangement with a third party to provide the core services using DLT. […]";'	'(b) the following paragraphs 6 and 7 are added: "6. The use of DLT by a CSD to provide **its** core services shall not be considered as outsourcing~~,~~ ~~unless~~ when the CSD **operates a DLT platform itself and** ~~is entering~~ **does not enter** into an arrangement with a third party to provide **those** core services using DLT**, even if one or more network nodes participating in the consensus mechanism are operated by third parties**. […]";'
Explanation *This amendment aims to clarify the circumstances in which the use of DLT by a CSD would not be considered outsourcing.*	
Amendment 30 Article 4, point (34), of the proposed master regulation (Article 33(7) of the CSDR)	
'(34) in Article 33, the following paragraph 7 is added: "7. The Commission shall be empowered to adopt delegated acts in accordance with Article 67 to enable CSDs to also allow private individuals to become participants in a CSD where such private	'~~(34) in Article 33, the following paragraph 7 is added:~~ ~~"7. The Commission shall be empowered to adopt delegated acts in accordance with Article 67 to enable CSDs to also allow private individuals to become participants in a CSD where such private~~

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individuals have been allowed to participate in a securities settlement system under [Regulation (EU) …/… on settlement finality]. The delegated acts shall specify any additional requirements needed to mitigate any risks that may arise for CSDs accepting private individuals as participants.";'	~~individuals have been allowed to participate in a securities settlement system under [Regulation (EU) …/… on settlement finality]. The delegated acts shall specify any additional requirements needed to mitigate any risks that may arise for CSDs accepting private individuals as participants.";~~'
Explanation *Financial market infrastructures must establish legal, financial and operational requirements to ensure that their participants can fulfil their obligations towards the infrastructure in a timely manner. The legal soundness and financial and operational capacity of direct participants are key safeguards for the stability of financial market infrastructures, and in the case of CSDs, for settlement efficiency. Natural persons typically do not have the financial and operational capacity to be a CSD participant, and if they have the means to develop such capacity, they should also be able to set up a legal entity for that purpose. There have been past cases where admitting a private individual as a participant has resulted in losses for an FMI and its participants. While the admission of private individuals has been permitted on a limited scale under the DLT Pilot Regime, the ECB would caution against extending that possibility broadly across wholesale financial markets.* *See paragraph 4.3 of the ECB Opinion.*	
Amendment 31 Article 4, point (39), of the proposed master regulation (Article 40(3) of the CSDR)	
'Article 40 is replaced by the following: "Article 40 Cash and e-money token settlement […] 3. Where a CSD does not settle in central bank money as provided in paragraph 1, a CSD shall only offer to settle the cash payments for all or part of its securities settlement systems: (a) through its own accounts; (b) through accounts opened with a credit institution authorised in accordance with Article 8 of Directive 2013/36/EU; or	'Article 40 is replaced by the following: "Article 40 Cash and e-money token settlement […] 3. Where a CSD does not settle in central bank money as provided in paragraph 1, a CSD shall only offer to settle the cash payments for all or part of its securities settlement systems: (a) through its own accounts; (b) through accounts opened with a credit institution authorised in accordance with Article 8 of Directive 2013/36/EU; or

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(c) through accounts opened with another CSD whether within the same group of undertakings ultimately controlled by the same parent undertaking or not. A CSD wishing to settle the cash payments as specified in points (a) to (c) of the first subparagraph, shall obtain an authorisation to do so in accordance with Articles 54, 54a or 54b and, where applicable, 54c, and Article 55, and shall comply with the requirements set out in Title IV.";'	(c) through accounts opened with another CSD whether within the same group of undertakings ultimately controlled by the same parent undertaking or not. A CSD wishing to settle the cash payments as specified in points (a) to (c) of the first subparagraph, shall obtain an authorisation to do so in accordance with Articles 54, 54a or 54b and, where applicable, 54c, and Article 55, and shall comply with the requirements set out in Title IV. **Where the authorisation referred to in the second subparagraph relates to a CSD intending to settle payments for its securities settlement systems in e-money tokens in any currency for which settlement in tokenised central bank money is available, the competent authority shall consult the relevant central bank of issue. The competent authority shall only grant this authorisation where it determines, on the basis of detailed evidence to be submitted by the CSD that settlement in central bank money would not be practical, and that the CSD complies with the relevant requirements of Title IV of this Regulation.**";'
Explanation *The general requirement pursuant to Article 40(1) of the CSDR for CSDs to settle cash payments in central bank money 'where practical and available' has been interpreted in a flexible manner that has allowed some CSDs to settle very significant amounts in their domestic currency in commercial bank money, even when they could conceivably settle in central bank money. Similar flexibility would not be warranted for settlement in EMTs, in view of the additional risks posed by this type of settlement asset, including the credit risk posed by the issuer and the risk that the price of the EMT may decrease. Additionally, the use cases for settlement in EMTs are those where both securities and the settlement asset are held and settled in tokenised form, and where settlement in tokenised central bank money should therefore always be practical, if available. This amendment would therefore make conditional the possibility to settle in e-money tokens to a prior authorisation by the relevant competent authority, in consultation with the relevant central bank of issue, on the basis of detailed evidence from the CSD that settlement in central bank money would not be practical, including for its participants. .*	

Text proposed by the Commission	Amendments proposed by the ECB[10]
See paragraph 4.5.2 of the ECB Opinion and Amendment 33.	
Amendment 32 Article 4, point (40), of the proposed master regulation (Article 45a of the CSDR)	
‘(40) the following Article 45a is inserted: “Article 45a Risks related to the use of distributed ledger technology outside of an outsourcing arrangement 1. Without prejudice to the provisions of Article 45, where a CSD operates itself a core service listed in Section A of the Annex using DLT the CSD shall ensure it complies with the following requirements: (a) the use of DLT does not result in depriving the CSD of the systems and controls necessary to manage the risks it faces; (b) the use of DLT does not negatively affect the relationship and obligations of the CSD towards its participants or issuers; (c) the use of DLT does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions; (d) the CSD retains the expertise and resources necessary to provide its services on DLT, to monitor the services provided using DLT and to effectively manage the risks associated with the use of DLT on an ongoing basis; (e) the CSD has direct access to the relevant information in relation to the provision of services using DLT. 2. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify the risks referred to in paragraph 1 and the methods of assessment	‘(40) the following Article 45a is inserted: “Article 45a Risks related to the use of distributed ledger technology outside of an outsourcing arrangement 1. Without prejudice to the provisions of Article 45, where a CSD operates itself a core service listed in Section A of the Annex using DLT the CSD shall ensure it complies with the following requirements: (a) the use of DLT does not result in depriving the CSD of the systems and controls necessary to manage the risks it faces; (b) the use of DLT does not negatively affect the relationship and obligations of the CSD towards its participants or issuers; (c) the use of DLT does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those functions; **(d) the CSD has identified, assessed the suitability of, and approved the participation of, all third parties operating network nodes participating in the consensus mechanism;** **(e) the CSD adequately manages the risks related to the use of DLT, including operational and governance risks relating to the DLT network, the network nodes participating in the consensus mechanism, the smart contracts and protocols used by the DLT, the use of cryptography, key custody, and the use of external data providers;**

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thereof, and to specify the methods for the CSD to meet the requirements set out in paragraph 1. ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 12 months after the entry into force of this amending Regulation]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.";'	**(f) if the CSD uses DLT to provide the settlement service, it ensures that the settlement of transactions is operationally deterministic and irreversible;** (~~d~~**g**) the CSD retains the expertise and resources necessary to provide its services on DLT, to monitor the services provided using DLT and to effectively manage the risks associated with the use of DLT on an ongoing basis; (~~e~~**h**) the CSD has direct access to the relevant information in relation to the provision of services using DLT. 2. ESMA shall, in close cooperation with the members of the ESCB, develop draft regulatory technical standards to specify the risks referred to in paragraph 1 and the methods of assessment thereof, and to specify the methods for the CSD to meet the requirements set out in paragraph 1. ESMA shall submit those draft regulatory technical standards to the Commission by [OP insert date = 12 months after the entry into force of this amending Regulation]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.";'
Explanation *This amendment aims to clarify regulatory expectations in terms of risk management for the use of DLT, especially as regards the suitability of network node operators, the relevant operational and governance risks, and the certainty and irreversibility of settlement. Such clarification would also better frame the development of the RTS by ESMA, in close cooperation with the ESCB.* *See paragraph 4.4 of the ECB Opinion.*	

Text proposed by the Commission	Amendments proposed by the ECB[10]
Amendment 33 Article 4, point (50), of the proposed master regulation (Article 54c of the CSDR)	
‘(50) the following Articles 54a, 54b and 54c are inserted: “[…] Article 54c Additional requirements for settlement of cash payments in e-money tokens 1. A CSD may offer to settle the cash payments for all or part of its securities settlement systems in e-money tokens. A CSD shall only be able to do so through any of the following: (a) its own accounts in accordance with Article 54; (b) accounts opened with another CSD in accordance with Article 54a; (c) accounts opened with a credit institution in accordance with Article 54b. 2. Where a CSD intends to settle the cash payments for all or part of its securities settlement systems in e-money tokens, it shall ensure that all of the following conditions are met: (a) the e-money token intended to be used for settlement of the cash leg is listed in the ESMA register established in accordance with Article 109 of Regulation (EU) 2023/1114 and is classified as a significant e-money token by EBA in accordance with Articles 56, or 57 of that Regulation; (b) the settlement of such payments in e-money tokens takes place through pre-funded accounts; (c) the e-money token intended to be used for the settlement in the CSD is accessible to the CSD’s participants in a sufficient amount to meet the intended use in the securities settlement system operated by the CSD;	‘(50) the following Articles 54a, 54b and 54c are inserted: “[…] Article 54c Additional requirements for settlement of cash payments in e-money tokens 1. A CSD may offer to settle the cash payments for all or part of its securities settlement systems in e-money tokens. A CSD shall only be able to do so through any of the following: (a) its own accounts in accordance with Article 54; (b) accounts opened with another CSD in accordance with Article 54a; (c) accounts opened with a credit institution in accordance with Article 54b. 2. Where a CSD intends to settle the cash payments for all or part of its securities settlement systems in e-money tokens, it shall ensure that all of the following conditions are met: (a) the e-money token intended to be used for settlement of the cash leg is listed in the ESMA register established in accordance with Article 109 of Regulation (EU) 2023/1114 and is classified as a significant e-money token by EBA in accordance with Articles 56, or 57 of that Regulation; **(b) the issuer of the e-money token has sufficient creditworthiness and liquidity to meet its obligations, and is operationally reliable and resilient;** **(c) the reserve of assets backing the e-money token bears a low level of credit and market risks;**

Text proposed by the Commission	Amendments proposed by the ECB[10]
(d) the information provided by the CSD itself, or by the credit institution or CSD it designated, to market participants about the risks and costs associated with settlement in e-money tokens is clear, fair and not misleading; (e) the CSD makes available sufficient information to clients or potential clients to allow them to identify and evaluate the risks and costs associated with settlement in e-money tokens and provides such information on request. […]";'	**(d) the issuer of the e-money token is contractually required and operationally capable of redeeming e-money tokens held by the CSD or the CSD's participants, in accordance with Article 49(4) of Regulation (EU) 2023/1114, and of ensuring the transfer of funds within one business day of the redemption request;** **(e) the CSD maintains procedures to monitor the issuer of the e-money token and its ongoing compliance with points (a), (b), (c) and (d);** **(f) the CSD maintains procedures to manage the default or operational failure of the issuer of the e-money token, or a decrease in the price of the e-money token, including to allocate potential losses and to ensure the continuity of cash-leg settlement;** (~~b~~**g**) the settlement of such payments in e-money tokens takes place through pre-funded accounts; (~~c~~**h**) the e-money token intended to be used for the settlement in the CSD is accessible to the CSD's participants in a sufficient amount to meet the intended use in the securities settlement system operated by the CSD; **(i) the e-money token is not fungible with any crypto-asset issued by an issuer not registered in the ESMA register established in accordance with Article 109 of Regulation (EU) 2023/1114;** (~~d~~**j**) the information provided by the CSD itself, or by the credit institution or CSD it designated, to market participants about the risks and costs associated with settlement in e-money tokens is clear, fair and not misleading; (~~e~~**k**) the CSD makes available sufficient information to clients or potential clients to allow

Text proposed by the Commission	Amendments proposed by the ECB[10]
	them to identify and evaluate the risks and costs associated with settlement in e-money tokens and provides such information on request. […]";'
Explanation *This amendment aims to better frame the possibility for CSDs to use EMTs as settlement assets in their securities settlement systems, in view of the additional risks posed by this type of settlement asset, including the credit risk posed by the issuer and the risk that the price of the EMT may decrease. Additional risk management safeguards should be introduced to address the need for increased safety and risk mitigation when such a settlement asset is used in wholesale financial markets, consistent with international standards, including the 2022 report of the Committee on Payments and Market Infrastructures' and Board of the International Organization of Securities Commissions' titled 'Application of the Principles for Financial Market Infrastructures to stablecoin arrangements'.* *The safeguards proposed in this amendment aim to mitigate any credit risk [towards] the issuer and the risk that the price of the EMT may decrease, and to ensure that CSD participants have prompt access to their funds in cash when they redeem e-money tokens used for securities settlement. Additionally, settlement in EMTs should only be permitted if it is subject to sound risk management safeguards to minimise the risks associated with their use, in line with international standards. Moreover, settlement in EMTs should only be permitted if the EMT is issued by a Union entity in compliance with Title IV of MiCAR and such EMT is not fungible with any crypto-asset(s) issued outside the Union, including in the case of crypto-assets that are part of any third-country multi-issuer scheme, given the risks posed by such schemes, as outlined by the ESRB in Recommendation ESRB/2025/9 of the European Systemic Risk Board of 25 September 2025 on third-country multi-issuer stablecoin schemes.* *See paragraph 4.5.2 of the ECB Opinion and Amendment 31.*	
Amendment 34 Article 4, point (51), of the proposed master regulation (Article 55 of the CSDR)	
'(51) Article 55 is amended as follows: […] (d) paragraph 4 is amended as follows: […] (iii) point (d) is replaced by the following:	'(51) Article 55 is amended as follows: […] (d) paragraph 4 is amended as follows: […] (iii) point (d) is replaced by the following:

Text proposed by the Commission	Amendments proposed by the ECB[10]
"(d) where applicable, the members of the college referred to in Article 24a;"; (e) paragraph 5 is amended as follows: (i) in the first subparagraph, the first sentence is replaced by the following: "The authorities referred to in paragraph 4 may issue a reasoned opinion on the authorisation within two months of receipt of the application as referred to in that paragraph."; (ii) the second, third and fourth subparagraphs are replaced by the following: "Where an authority referred to in paragraph 4 issues a negative reasoned opinion, the competent authority intending to grant the authorisation shall, within 30 working days of receipt of that negative opinion, provide the authorities referred to in paragraph 4 with the reasons addressing the negative opinion. Where, within 30 working days of those reasons being presented, any of the authorities referred to in paragraph 4 issues a negative opinion and the competent authority nevertheless intends to grant the authorisation, any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010. Where 30 working days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the authorities referred to in paragraph 4."; (iii) the seventh subparagraph is deleted. (f) the following paragraph 5a is inserted: "5a. Within six months from the acknowledgement of receipt of the application referred to in Article 21a(2), the competent authority shall adopt its	"(d) where applicable, the members of the college referred to in Article 24a;"; **(e) the following paragraphs 4a and 4b are inserted:** **"4a. Within 30 working days from the receipt of the application, the competent authority shall assess whether the application is complete. If the application is not complete, the competent authority shall set a time limit by which the applicant CSD has to provide additional information. The competent authority shall inform the applicant CSD when the application is considered to be complete.** **4b. During the period specified in paragraph 5a, the competent authority shall conduct an assessment of the applicant CSD's compliance with the requirements laid down in this Regulation and, within two months of the submission of a complete application, shall submit its draft decision and assessment report to the relevant authorities, ESMA, and, where applicable, the college referred to in Article 24a.";** (~~e~~**f**) paragraph 5 is amended as follows: (i) in the first subparagraph, the first sentence is replaced by the following: "The authorities referred to in paragraph 4 may issue a reasoned opinion on the authorisation within two months of ~~receipt of the application~~ **the submission of the draft decision and assessment report** as referred to in ~~that~~ paragraph **4b**."; (ii) the second, third and fourth subparagraphs are replaced by the following: "Where an authority referred to in paragraph 4 issues a negative reasoned opinion, the competent authority intending to grant the

Text proposed by the Commission	Amendments proposed by the ECB[10]
decision and transmit it to the registered recipients referred to in Article 21a, the authorities referred to in paragraph 4 and the applicant CSD via the central database. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused. Where the decision of the competent authority does not reflect the opinion of any of the authorities referred to in paragraph 4, it shall contain a fully reasoned explanation of any significant deviation from those opinions or conditions or recommendations. Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply."; (g) […];'	authorisation shall, within ~~30~~ **15** working days of receipt of that negative opinion, provide the authorities referred to in paragraph 4 with the reasons addressing the negative opinion. Where, within 30 working days of those reasons being presented, any of the authorities referred to in paragraph 4 issues a negative opinion and the competent authority nevertheless intends to grant the authorisation, any of the authorities that issued a negative opinion may refer the matter to ESMA for assistance under Article 31(2), point (c), of Regulation (EU) No 1095/2010. Where 30 working days after referral to ESMA the issue is not settled, the competent authority wishing to grant the authorisation shall take the final decision and provide a detailed explanation of its decision in writing to the authorities referred to in paragraph 4."; (iii) the seventh subparagraph is deleted. (~~f~~**g**) the following paragraph 5a is inserted: "5a. Within six months from the ~~acknowledgement of receipt of the~~ **submission of a complete** application ~~referred to in Article 21a(2)~~, the competent authority shall adopt its decision and transmit it to the registered recipients referred to in Article 21a, the authorities referred to in paragraph 4 and the applicant CSD via the central database. The decision shall include a fully reasoned explanation of whether the authorisation has been granted or refused. Where the decision of the competent authority does not reflect the opinion of any of the authorities referred to in paragraph 4, it shall contain a fully reasoned explanation of any significant deviation from those opinions or conditions or recommendations. Where the competent authority does not comply or does not intend to comply with an opinion of ESMA or with any conditions or recommendations

Text proposed by the Commission	Amendments proposed by the ECB[10]
	included therein, the Executive Board shall inform the Board of Supervisors. The information shall also include the reasoning from the competent authority for non-compliance or for its intention not to comply."; (~~g~~**h**) […];'
Explanation *This amendment aims to align the procedure for authorisation under Article 55 of the CSDR with the procedure for authorisation under Article 17 of the CSDR, notably by reintroducing the completeness check, previously covered by the cross-reference to Article 17(3) of the CSDR, which the ECB proposes to delete, introducing an assessment to be prepared by the competent authority, as envisaged in Article 17 as proposed by the Commission, and aligning the timelines for both authorisation procedures.* *See paragraph 4.1.2 of the ECB Opinion and Amendment 26.*	
Amendment 35 Article 4, point (56), of the proposed master regulation (Article 60(2) of the CSDR)	
'(56) in Article 60, paragraph 2 is amended as follows: (a) in the first subparagraph, points (a) and (b) are replaced by the following: "(a) in the cases referred to in Articles 54a and 54b, whether all the necessary arrangements between the CSD and the designated CSDs or designated credit institutions allow them to meet their respective obligations as laid down in this Regulation; (b) in the case referred to in Article 54, whether the arrangements relating to the authorisation to provide banking-type ancillary services allow the CSD to meet its obligations as laid down in this Regulation."; (b) the second and third subparagraphs are replaced by the following: "The competent authority of the CSD shall regularly, and at least immediately after the end of	'(56) in Article 60, paragraph 2 is ~~amended as follows~~ **replaced by the following**: ~~(a) in the first subparagraph, points (a) and (b) are replaced by the following:~~ "2. **The competent authority of the CSD shall review and evaluate at least every two years the following:** (a) in the cases referred to in Articles 54a and 54b, whether all the necessary arrangements between the CSD and the designated CSDs or designated credit institutions allow them to meet their respective obligations as laid down in this Regulation; (b) in the case referred to in Article 54, whether the arrangements relating to the authorisation to provide banking-type ancillary services allow the CSD to meet its obligations as laid down in this Regulation.~~";~~

Text proposed by the Commission	Amendments proposed by the ECB[10]
every review and evaluation period, inform the authorities referred to in Article 55(4) and, where applicable, the college referred to in Article 24a, of the results, including any remedial actions or penalties, of its review and evaluation under this paragraph. Where a CSD designates another CSD in accordance with Article 54a, or a credit institution in accordance with Article 54b, in view of the protection of the participants in the securities settlement systems it operates, a CSD shall ensure that it has access from the CSD or the credit institution it designates to all necessary information for the purpose of this Regulation and it shall report any infringements thereof to the competent authority of the CSD, to the relevant authorities and to competent authorities referred to in paragraph 1 of this Article.";'	**The competent authority shall cooperate closely with the competent authorities referred to in paragraph 1, ESMA, and the relevant authorities. The competent authority shall conduct an assessment of the compliance of the arrangements referred to in the first subparagraph with the requirements laid down in this Regulation during the period under review. The competent authority shall, at an early stage, transmit the necessary information and its assessment report to the competent authorities referred to in paragraph 1, ESMA, and the relevant authorities and shall consult them on whether the requirements of this Regulation or other requirements of Union law are met.** **Within 90 working days of receipt of the information referred to in the first subparagraph from the competent authority:** **(a) the competent authorities referred to in paragraph 1 and the relevant authorities may issue an opinion within their areas of competence; and** **(b) ESMA may issue an opinion pursuant to Article 14(4) in accordance with the procedure laid down in Article 17a.** **The third to seventh subparagraphs of Article 22(6) shall apply to opinions issued in accordance with point (a) of the second subparagraph.** ~~(b) the second and third subparagraphs are replaced by the following:~~ "The competent authority of the CSD shall regularly, and at least immediately after the end of every review and evaluation period, inform the authorities referred to in Article 55(4) and, where applicable, the college referred to in Article 24a, of the results, including any remedial actions or

Text proposed by the Commission	Amendments proposed by the ECB[10]
	penalties, of its review and evaluation under this paragraph. Where a CSD designates another CSD in accordance with Article 54a, or a credit institution in accordance with Article 54b, in view of the protection of the participants in the securities settlement systems it operates, a CSD shall ensure that it has access from the CSD or the credit institution it designates to all necessary information for the purpose of this Regulation and it shall report any infringements thereof to the competent authority of the CSD, to the relevant authorities and to competent authorities referred to in paragraph 1 of this Article.";'
Explanation *This amendment aims to align the procedure for the review and evaluation of banking-type ancillary services with that conducted in accordance with Article 22 of the CSDR, as regards the competent authority's preparation of an assessment of the CSD's compliance and its consultation of other authorities.* *See paragraph 4.1.1. of the ECB Opinion.*	

Article 8 of the proposed master regulation

Proposed amendments to Regulation (EU) 2022/858 (the DLTPR)

Text proposed by the Commission	Amendments proposed by the ECB[11]
Amendment 36 Article 8, point (5), of the proposed master regulation (Article 4a(3) of the DLTPR)	
‘(5) the following Article 4a is inserted: “Article 4a […] 3. Within two months of declaring the request complete, the competent authority shall submit a draft assessment of the request referred to in paragraph 2 to ESMA, together with the complete request. Within two months of receiving the draft assessment, ESMA shall provide the competent authority with a non-binding opinion on the draft assessment and the exemptions requested, including, where it deems necessary, recommendations for additional compensatory measures. The competent authority shall give that opinion due consideration and shall provide ESMA with a statement regarding any significant deviations from that opinion if ESMA so requests. ESMA’s opinion and the competent authority’s statement shall not be made public.”;’	‘(5) the following Article 4a is inserted: “Article 4a […] 3. Within two months of declaring the request complete, the competent authority shall submit a draft assessment of the request referred to in paragraph 2 to ESMA, together with the complete request. Within two months of receiving the draft assessment, ESMA shall ~~provide~~ **address a decision to** the competent authority ~~with a non-binding opinion~~ on the draft assessment and the exemptions requested, including, where it deems necessary, recommendations for additional compensatory measures. The competent authority shall ~~give that opinion due consideration and shall provide ESMA with a statement regarding any significant deviations from that opinion if ESMA so requests~~ **comply with ESMA’s decision**. ~~ESMA’s opinion and the competent authority’s statement shall not be made public.~~”;’
Explanation *The power to exempt regulated entities from compliance with Level 1 legislative requirements is very significant and should be exercised in a way that ensures the harmonised application of Union law. To this effect, ESMA should be granted the power to adopt a decision, in accordance with the proposed Article 4a(3), that is binding on the competent authority handling the request.* *See paragraph 5.3 of the ECB Opinion and Amendment 38.*	

11 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB[11]
Amendment 37 Article 8, point (6), of the proposed master regulation (Article 5(8c) to (8h) of the DLTPR)	
‘(6) Article 5 is amended as follows: […] (b) The following paragraphs 8a to 8h are inserted: “[…] 8c. Where the settlement of payments is carried out in commercial bank money through the accounts of a credit institution, Title IV of Regulation (EU) No 909/2014 shall apply to the operator of the DLT SS and the designated credit institution, with the exception of Article 54b(5), point (c). Where the designated credit institution provides the DLT notary and the DLT central account maintenance service in accordance with Articles 10b or 10c, the credit institution shall be additionally exempted from Article 54b(5), point (b), of Regulation (EU) No 909/2014. By way of derogation from the first subparagraph of this paragraph, Title IV of Regulation (EU) No 909/2014 shall not apply to a credit institution when it provides the settlement of payments using commercial bank money to a DLT market infrastructure operated under the simplified regime. When the settlement of payments is carried out using representations in the DLT TSS of prefunded commercial bank money held in one or more accounts at a credit institution, it shall be considered settlement in the accounts of the credit institution, provided that the following conditions are met: (a) where the DLT TSS is operated under the simplified regime: (1) the DLT TSS operator is authorised as an investment firm; and	‘(6) Article 5 is amended as follows: […] (b) The following paragraphs 8a to 8h are inserted: “[…] 8c. Where the settlement of payments is carried out in commercial bank money through the accounts of a credit institution, **the operator of the DLT SS shall comply with the provisions of** Title IV of Regulation (EU) No 909/2014 **which apply to a CSD referred to in Article 54b(1) of that Regulation** ~~shall apply to the operator of the DLT SS and the designated credit institution~~, **and the credit institution shall comply with the requirements of Article 54b(5) of that Regulation,** with the exception of ~~Article 54b(5),~~ point (c). Where the designated credit institution provides the DLT notary and the DLT central account maintenance service in accordance with Articles 10b or 10c, the credit institution shall be additionally exempted from Article 54b(5), point (b), of Regulation (EU) No 909/2014. By way of derogation from the first subparagraph of this paragraph, Title IV of Regulation (EU) No 909/2014 shall not apply ~~to a credit institution~~ when ~~it~~ **a credit institution** provides the settlement of payments using commercial bank money to a DLT market infrastructure operated under the simplified regime. When the settlement of payments is carried out using **tokenised** representations **of cash, issued by the operator of a DLT TSS** ~~in the DLT TSS, of prefunded commercial bank money~~ **fully backed by funds** held in one or more accounts at a credit institution, it shall be considered settlement in

Text proposed by the Commission	Amendments proposed by the ECB[11]
(2) the DLT TSS operator identifies, measures, monitors, manages, and minimises any risks arising from this settlement model; (b) where the DLT TSS is operated under the regular regime: (1) the DLT TSS operator is authorised as an investment firm; (2) the DLT TSS operator identifies, measures, monitors, manages, and minimises any risks arising from this settlement model; (3) the credit institution holding the accounts with prefunded commercial bank money is subject to Title IV of Regulation (EU) No 909/2014, with the exception of Article 54b(5), point (c). 8d. Settlement of payments in e-money tokens shall be carried out only in an e- money token referencing the value of an official EU currency, except where carried out for the settlement of a DLT financial instrument denominated in a non-EU currency. 8e. Where the settlement of payments is carried out in e-money tokens, the service of providing cash accounts for e-money tokens may be provided by the operator of a DLT SS, a credit institution, a CASP authorised to provide custody of e-money tokens in accordance with Regulation (EU) 2023/1114 or by any other financial entity permitted to provide custody of e-money tokens in accordance with Article 60 of that Regulation, subject to the notification procedure specified in that article. Services related to e-money tokens, other than providing cash accounts for e-money tokens and processing of payments of e-money tokens, that amount to services listed in Section C of the Annex to Regulation (EU) No 909/2014 shall be provided by a credit institution complying with Title IV of Regulation (EU) No 909/2014, with the exception of Article 54b(5), point (c).	**commercial bank money** ~~the accounts of the credit institution~~, provided that the following conditions are met: (a) ~~where the DLT TSS is operated under the simplified regime:~~ ~~(1)~~ the DLT TSS operator is authorised as an investment firm; ~~and~~ ~~(2)~~ **(b)** the DLT TSS operator identifies, measures, monitors, manages, and minimises any risks arising from this settlement model; **(c) the tokenised representations of cash issued by the DLT TSS operator are used exclusively for the purpose of settlement in the DLT TSS;** ~~(b) where the DLT TSS is operated under the regular regime:~~ ~~(1) the DLT TSS operator is authorised as an investment firm;~~ ~~(2) the DLT TSS operator identifies, measures, monitors, manages, and minimises any risks arising from this settlement model;~~ ~~(3)~~ **(d) the DLT TSS operator is authorised in accordance with Title IV of Regulation (EU) No 909/2014 to designate the credit institution holding the accounts in accordance with Article 54b of that Regulation, and** the credit institution holding the accounts with prefunded commercial bank money ~~is subject to Title IV of Regulation (EU) No 909/2014~~ **complies with Article 54b(5) of that Regulation**, with the exception of ~~Article 54b(5),~~ point (c). **Point (d) of the previous subparagraph shall not apply when the DLT TSS is operated under the simplified regime.** 8d. Settlement of payments in e-money tokens shall be carried out only in an e-money token referencing the value of an official EU currency, except where carried out for the settlement of a

Text proposed by the Commission	Amendments proposed by the ECB[11]
Where the credit institution provides the DLT notary and the DLT central account maintenance service in accordance with Articles 10b or 10c, the credit institution shall be additionally exempted from Article 54b(5), point (b), of Regulation (EU) No 909/2014. By way of derogation from the second subparagraph of this paragraph, Title IV of Regulation (EU) No 909/2014 shall not apply to a credit institution providing services listed in Section C of the Annex to Regulation (EU) No 909/2014 to a DLT market infrastructure operating in the simplified regime. 8f. Where the settlement occurs using commercial bank money provided by a credit institution to which Title IV of Regulation (EU) No 909/2014 does not apply by virtue of the second subparagraph of paragraph 8c, or where the settlement of payments occurs using 'e-money tokens', the DLT SS shall identify, measure, monitor, manage, and minimise any risks arising from the use of such means. 8g. At the request of a DLT SS operator, the competent authority may exempt that DLT SS from Article 45a of Regulation (EU) No 909/2014, provided that that DLT SS demonstrates compliance with Article 7. 8h. At the request of a DLT SS operator, the competent authority may exempt that DLT SS from Article 48a of Regulation (EU) No 909/2014, provided that that DLT SS commits to the participation in the industry group referred to in Article 10g. The competent authority shall maintain the exemption so long as the DLT SS operators demonstrates its participation in the industry group until the group delivers the technical standards referred to in Article 10g.";'	DLT financial instrument denominated in a non-EU currency. 8e. Where the settlement of payments is carried out in e-money tokens, the service of providing cash accounts for e-money tokens may be provided by **any of the following:** **(a)** the operator of ~~a~~ **the** DLT SS, **which shall comply with Title IV of Regulation (EU) No 909/2014;** **(b) a CSD designated by the operator of the DLT SS in accordance with Article 54a of Regulation (EU) No 909/2014, which shall be done in accordance with Title IV of that Regulation; or** **(c)** a credit institution~~, a CASP authorised to provide custody of e-money tokens in accordance with Regulation (EU) 2023/1114 or by any other financial entity permitted to provide custody of e-money tokens in accordance with Article 60 of that Regulation, subject to the notification procedure specified in that article.~~ **designated by the operator of the DLT SS in accordance with Article 54b of Regulation (EU) No 909/2014, in which case the operator of the DLT SS shall comply with the provisions of Title IV of that Regulation which apply to a CSD referred to in Article 54b(1) of that Regulation**, **and the credit institution shall comply with the requirements of Article 54b(5) of that Regulation, with the exception of point (c).** **The operator of the DLT SS shall ensure that all of the conditions of Article 54c(2) of Regulation (EU) No 909/2014 are met.** ~~Services related to e-money tokens, other than providing cash accounts for e-money tokens and processing of payments of e-money tokens, that amount to services listed in Section C of the Annex to Regulation (EU) No 909/2014 shall be provided by a credit institution complying with Title IV of~~

Text proposed by the Commission	Amendments proposed by the ECB[11]
	~~Regulation (EU) No 909/2014, with the exception of Article 54b(5), point (c).~~ Where the credit institution **referred to in point (c) of the previous subparagraph** provides the DLT notary and the DLT central account maintenance service in accordance with Articles 10b or 10c, the credit institution shall be additionally exempted from Article 54b(5), point (b), of Regulation (EU) No 909/2014. By way of derogation from the ~~second~~ **first three** subparagraph**s** of this paragraph, ~~Title IV of Regulation (EU) No 909/2014 shall not apply to a credit institution providing services listed in Section C of the Annex to Regulation (EU) No 909/2014 to a DLT market infrastructure operating in the simplified regime~~ **where the DLT SS is operated under the simplified regime, the service of providing cash accounts for e-money tokens may be provided by the operator of ~~a~~ the DLT SS, a credit institution, a CASP authorised to provide custody of e-money tokens in accordance with Regulation (EU) 2023/1114 or by any other financial entity permitted to provide custody of e-money tokens in accordance with Article 60 of that Regulation, subject to the notification procedure specified in that article. Title IV of Regulation (EU) No 909/2014 shall not apply in that case.** 8f. Where **a DLT SS operating under the simplified regime settles payments** ~~the settlement occurs~~ using commercial bank money ~~provided by a credit institution to which~~ **or e-money tokens without complying with** Title IV of Regulation (EU) No 909/2014 ~~does not apply by virtue of the second subparagraph of paragraph 8c, or where the settlement of payments occurs using 'e-money tokens'~~, the DLT SS **operator** shall identify, measure, monitor, manage, and minimise any risks arising from the use of such means.

Text proposed by the Commission	Amendments proposed by the ECB[11]
	8g. At the request of a DLT SS operator, the competent authority may exempt that DLT SS from Article 45a of Regulation (EU) No 909/2014, provided that that DLT SS demonstrates compliance with Article 7**, where the DLT SS is operated under the simplified regime**. 8h. At the request of a DLT SS operator, the competent authority may exempt that DLT SS from Article 48a of Regulation (EU) No 909/2014, provided that that DLT SS commits to the participation in the industry group referred to in Article 10g. The competent authority shall maintain the exemption so long as the DLT SS operators demonstrates its participation in the industry group until the group delivers the technical standards referred to in Article 10g.";'

Explanation

This proposed amendment aims to further clarify the provisions relating to settlement in commercial bank money, notably regarding the applicability of Title IV of the CSDR, which always applies primarily to the applicant CSD (in this case the DLT SS operator), while a CSD or credit institution designated by the applicant CSD / DLT SS operator must only comply with specific provisions of Title IV.

Additionally, where a DLT TSS operator issues a tokenised representation of cash backed by funds held at a credit institution in accordance with the proposed paragraph 8c, fourth subparagraph, this tokenised representation of cash should not be used for any purpose other than settlement in the DLT TSS, in order to avoid any use as an e-money token without the relevant authorisation under MiCAR.

Finally, the use of EMTs for settlement carries additional risks compared to the use of commercial bank money and should therefore not benefit from a more lenient regulatory treatment. To ensure a level playing field between DLT market infrastructures using commercial bank money and EMTs for settlement, Title IV of the CSDR should apply to all such infrastructures operating under the regular regime.

For the avoidance of doubt, the ECB strongly agrees that the provision of CSDR banking-type ancillary services relating to EMTs – especially those other than the provision of accounts and processing of payments – should be subject to compliance with Title IV of the CSDR outside the simplified regime. The suggested deletion of Article 5(8e), second subparagraph, proposed above should be read in the context of the ECB's suggestion to apply Title IV more generally to settlement in EMTs under the regular regime. Should the co-legislators not adopt this suggestion, Article 5(8e), second subparagraph, should be maintained.

Text proposed by the Commission	Amendments proposed by the ECB[11]
See paragraph 5.4 of the ECB Opinion.	
Amendment 38 Article 8, point (7), of the proposed master regulation (Article 5a of the DLTPR)	
‘(7) The following Article 5a is inserted: “Article 5a […] 3. Within two months of declaring the request complete, the competent authority shall submit a draft assessment of the request referred to in paragraph 2 to ESMA, together with the complete application. Within two months of receiving the draft assessment, ESMA shall provide the competent authority with a non-binding opinion on the draft assessment and the exemptions requested, including, where it deems necessary, recommendations for additional compensatory measures. The competent authority shall give that opinion due consideration and shall provide ESMA with a statement regarding any significant deviations from that opinion if ESMA so requests. ESMA’s opinion and the competent authority’s statement shall not be made public.”;’	‘(7) The following Article 5a is inserted: “Article 5a […] 3. Within two months of declaring the request complete, the competent authority shall submit a draft assessment of the request referred to in paragraph 2 to ESMA, together with the complete ~~application~~ **request**. Within two months of receiving the draft assessment, ESMA shall ~~provide~~ **address a decision to** the competent authority ~~with a non-binding opinion~~ on the draft assessment and the exemptions requested, including, where it deems necessary, recommendations for additional compensatory measures. The competent authority shall ~~give that opinion due consideration and shall provide ESMA with a statement regarding any significant deviations from that opinion if ESMA so requests~~ **comply with ESMA’s decision**. ~~ESMA’s opinion and the competent authority’s statement shall not be made public.~~”;’
Explanation *The power to exempt regulated entities from compliance with Level 1 legislative requirements is very significant and should be exercised in a way that ensures the harmonised application of Union law. To this end, ESMA should be granted the power to adopt decisions, in accordance with the proposed Article 5a(3), that are binding on the competent authority handling the request.* *See paragraph 5.3 of the ECB Opinion and Amendment 36.*	

Text proposed by the Commission	Amendments proposed by the ECB[11]
Amendment 39 Article 8, point (10), of the proposed master regulation (Article 7a of the DLTPR)	
‘(10) the following Article 7a is inserted: “Article 7a […] 5. By way of derogation from the requirements of Regulation (EU) No 909/2014 that apply to a DLT SS or a DLT TSS by virtue of Article 5(1), first subparagraph 6(1), first subparagraph, point (c), and Article 6(2), first subparagraph, point (a), of this Regulation, entities operating in the simplified regime shall not be subject to the following parts of Regulation (EU) No 909/2014: (a) Title II, Chapter III and Chapter IV, with the exception of Articles 6(3) and 6(4), 7(1) and 7(7) and 8; (b) Article 22a(2) to (7) and 24a; (c) Title III, Chapter II, with the exception of Articles 26(1) to 26(3), 26(5), 26(7), 27(1), 27(3), 27(5) to 27(7), 27a(1), 29(1) to 29(2), 30(1) to 30(3), 30(5), 32, 33(1), 36, 37, 38(1), 38(2), 39(3), 39(5), 40(1), 40(3), 41(1), 42 to 44, 45 (1) to (3), 45(6); and (d) Title VI.”;’	‘(10) the following Article 7a is inserted: “Article 7a […] 5. By way of derogation from the requirements of Regulation (EU) No 909/2014 that apply to a DLT SS or a DLT TSS by virtue of Article 5(1), first subparagraph 6(1), first subparagraph, point (c), and Article 6(2), first subparagraph, point (a), of this Regulation, entities operating in the simplified regime shall not be subject to the following parts of Regulation (EU) No 909/2014: (a) Title II, Chapter III and Chapter IV, with the exception of Articles 6(3) and 6(4), 7(1) and 7(7) and 8; (b) Article 22a(2) to (7) and 24a; (c) Title III, Chapter II, with the exception of Articles 26(1) to 26(3), 26(5), 26(7), 27(1), 27(3), 27(5) to 27~~(7)~~**(10)**, 27a(1), 29(1) to 29(2), 30(1) to 30(3), 30(5), 32, 33(1), **33(4)**, 36, 37, 38(1), 38(2), **38(7),** 39(3), 39(5) **to 39(7)**, 40(1), 40(3), 41(1), 42 to 44, 45 (1) to (3), **45(5),** 45(6)**, 46(1) to (3)**; and (d) Title VI.”;’
Explanation *This amendment aims to ensure that DLT SSs and TSSs operating under the simplified regime comply with certain essential requirements of the CSDR, or requirements that ensure the effectiveness of other essential requirements (all references are to the CSDR unless otherwise mentioned):* • *Article 27(8) to (10) include important safeguards for the exercise of supervisory powers. Compliance implies no administrative or operational burden for DLT SS/TSS operators.* • *Article 33(4) requires the establishment of procedures for the suspension and exit of participants that no longer meet participation criteria, which are critical to ensure the effectiveness and objective enforcement of these criteria.* • *Article 38(7) includes an important safeguard for DLT SS/TSS participants, restricting the DLT SS/TSS operators from using securities that do not belong to it without the participant’s prior*	

Text proposed by the Commission	Amendments proposed by the ECB[11]
express consent. Compliance implies minimal administrative or operational burdens for DLT SS/TSS operators. • *Article 39(6) ensures the availability of funds for DLT SS/TSS participants. Any market infrastructure operating in wholesale financial markets should avoid trapping liquidity in its system.* • *Article 39(7) requires delivery versus payment) settlement, which should not be prevented by the use of DLT and should be required for all DLT SS/TSS (as envisaged e.g. in Article 5(8) of the DLTPR).* • *Article 45(5) requires testing of business continuity / disaster recovery procedures and ICT tools, which is necessary to ensure the effectiveness of operational risk management requirements. The requirements for testing should rather be modulated through the proposed ESMA RTS, in line with the proposed Article 7a(6), point (b), of the DLTPR.* • *Article 46(1) to (3) establish minimum safeguards for the DLT SS/TSS operator's investment policy, which should apply to all infrastructures to avoid overly risky investments of their assets.* *See paragraph 5.1.3 of the ECB Opinion.*	
Amendment 40 Article 8, point (14), of the proposed master regulation (Article 10b of the DLTPR)	
'(14) The following Articles 10a to 10g are inserted: "[…] Article 10b […] 5. A DLT SS, DLT TSS or a CSD operating solely under Regulation (EU) No 909/2014 may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account keepers that have an aggregate market value that amounts to no more than the amount specified under Article 3(2b) at the time of settlement of the first transaction. By derogation from the first subparagraph, a DLT SS, DLT TSS or a CSD operating solely under Regulation (EU) No 909/2014 may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account	'(14) The following Articles 10a to 10g are inserted: "[…] Article 10b […] 5. **The aggregate market value of all DLT financial instruments recorded by a DLT notary or maintained in securities accounts managed by a DLT account keeper shall not exceed the amount specified under Article 3(2) of Regulation (EU) No 2022/858 at the time of initial recording of a new DLT financial instrument.** A DLT SS, DLT TSS or a CSD operating solely under Regulation (EU) No 909/2014 may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account keepers that have an aggregate market value that

Text proposed by the Commission	Amendments proposed by the ECB[11]
keepers that have an aggregate market value that amounts to no more than the EUR 30 billion at the time of settlement of the first transaction, where such DLT financial instruments are transferable securities issued by SMEs. […] 10. ESMA shall develop regulatory technical standards to specify the provisions of Title III of Regulation (EU) No 909/2014 that apply to each of the DLT notary and the DLT central maintenance service, and, where necessary, supplement the non-essential elements of the provisions of that title and amend regulatory technical standards to adapt them to the use of DLT and the specificities of business models involving the distributed provision of CSD core services.";'	amounts to no more than the amount specified under Article 3(2b) at the time of settlement of the first transaction. By derogation from the first subparagraph, a DLT SS, DLT TSS or a CSD operating solely under Regulation (EU) No 909/2014 may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account keepers that have an aggregate market value that amounts to no more than the EUR 30 billion at the time of settlement of the first transaction, where such DLT financial instruments are transferable securities issued by SMEs. […] 10. ESMA**, in close cooperation with the European System of Central Banks,** shall develop regulatory technical standards to specify the provisions of Title III of Regulation (EU) No 909/2014 that apply to each of the DLT notary and the DLT central maintenance service, and, where necessary, supplement the non-essential elements of the provisions of that title and amend regulatory technical standards to adapt them to the use of DLT and the specificities of business models involving the distributed provision of CSD core services.";'
Explanation *To ensure the overall consistency of the DLT pilot regime, the activity of DLT notaries and DLT account keepers should be limited overall, in line with the practice for DLT market infrastructures, and not only through a limitation applied to the DLT SS/TSS or CSD admitting their DLT financial instruments for settlement.* *Given the ESCB's role in the application of the CSDR and its interest in the safety and soundness of CSD services, the regulatory technical standards provided for under Article 10b should be developed in close cooperation with the ESCB.* *See paragraph 5.5.1 of the ECB Opinion.*	

Text proposed by the Commission	Amendments proposed by the ECB[11]
Amendment 41 Article 8, point (14), of the proposed master regulation (Article 10c of the DLTPR)	
‘(14) The following Articles 10a to 10g are inserted: “[…] Article 10c Settlement within a settlement scheme 1. DLT account keepers shall settle transactions in DLT financial instruments under Article 10b(5) only within a settlement scheme authorised under Article 10d. DLT account keepers shall only settle transactions with other DLT account keepers that are part of the same settlement scheme. 2. DLT account keepers settling transactions within a settlement scheme shall ensure that: (a) all transactions are settled only with central bank deposits that the DLT account keepers hold with the central bank of issue of the relevant currency; (b) all transactions in DLT financial instruments that involve a cash leg are settled on a DVP basis; (c) the settlement scheme provides adequate settlement finality of transfers of cash and DLT financial instruments, ensuring: (i) settlement finality is achieved at least on the day of the settlement date; (ii) moments of entry and of irrevocability of transfer orders are clearly defined (d) the settlement scheme effectively manages its legal, business and operational risks. 3. DLT account keepers settling transactions within a settlement scheme shall ensure that the settlement scheme they are a part of, and each DLT account keeper participating in the settlement scheme, complies with the following principles: (a) ensuring safe, efficient and smooth settlement;	‘(14) The following Articles 10a to 10g are inserted: “[…] Article 10c Settlement within a settlement scheme 1. DLT account keepers shall settle transactions in DLT financial instruments under Article 10b(~~5~~**6**) only within a settlement scheme authorised under Article 10d. DLT account keepers shall only settle transactions with other DLT account keepers that are part of the same settlement scheme. 2. DLT account keepers settling transactions within a settlement scheme shall ensure that: (a) ~~all~~ **the cash leg of** transactions ~~are~~ **is** settled ~~only with central bank deposits~~ **in central bank money through accounts** that the DLT account keepers hold with the central bank of issue of the relevant currency; (b) all transactions in DLT financial instruments that involve a cash leg are settled on a DVP basis; (c) the settlement scheme provides adequate settlement finality of transfers of cash and DLT financial instruments, ensuring: (i) settlement finality is achieved at least on the day of the settlement date; (ii) moments of entry and of irrevocability of transfer orders are clearly defined; (d) the settlement scheme effectively manages its legal, business and operational risks. 3. DLT account keepers settling transactions within a settlement scheme shall ensure that the settlement scheme they are a part of, and each DLT account keeper participating in the settlement scheme, complies with the following principles:

Text proposed by the Commission	Amendments proposed by the ECB[11]
(b) ensuring robust risk management of operations, including management of credit and liquidity risk as specified in paragraphs 5 and 6; and (c) ensuring protection of assets of clients of DLT account keepers. 4. DLT account keepers participating in a settlement scheme shall identify sources of operational risk to the functioning of the settlement scheme, both internal and external, and minimise their impact through the deployment of appropriate ICT tools, processes and policies set up and managed in accordance with Regulation (EU) 2022/2554 of the European Parliament and of the Council, as well as through any other relevant appropriate tools, controls and procedures for other types of operational risk. 5. DLT account keepers participating in a settlement scheme shall establish, implement and maintain an adequate business continuity policy and disaster recovery plan, including ICT business continuity policy and ICT response and recovery plans established in accordance with Regulation (EU) 2022/2554, to ensure the preservation of settlement activities within the settlement scheme and the timely recovery of its operations. DLT account keepers participating in a settlement scheme shall identify, monitor and manage the risks that service and utility providers might pose to its operations. 6. Each DLT account keeper providing banking services to their clients, related to the settlement activity within the settlement scheme, shall comply with the following specific prudential requirements for the credit risks related to those services: (a) it shall establish a robust framework to manage the corresponding credit risks; (b) it shall regularly identify the sources of such credit risks, measure and monitor corresponding	(a) ensuring safe, efficient and smooth settlement; (b) ensuring robust risk management of operations, including management of credit and liquidity risk as specified in paragraphs **6** ~~5~~ and **8** ~~6~~; and (c) ensuring protection of assets of clients of DLT account keepers. **4. DLT account keepers participating in a settlement scheme shall establish common, effective and clearly defined rules and procedures to manage the default of one or more of their clients that use the settlement service they provide through the settlement scheme.** **5.**~~4.~~ DLT account keepers participating in a settlement scheme shall identify sources of operational risk to the functioning of the settlement scheme, both internal and external, and minimise their impact through the deployment of appropriate ICT tools, processes and policies set up and managed in accordance with Regulation (EU) 2022/2554 of the European Parliament and of the Council, as well as through any other relevant appropriate tools, controls and procedures for other types of operational risk. **6.**~~5.~~ DLT account keepers participating in a settlement scheme shall establish, implement and maintain an adequate business continuity policy and disaster recovery plan, including ICT business continuity policy and ICT response and recovery plans established in accordance with Regulation (EU) 2022/2554, to ensure the preservation of settlement activities within the settlement scheme and the timely recovery of its operations. DLT account keepers participating in a settlement scheme shall identify, monitor and manage the risks that service and utility providers might pose to its operations. **7. Each DLT account keeper participating in a settlement scheme shall plan and carry out a**

Text proposed by the Commission	Amendments proposed by the ECB[11]
credit exposures and use appropriate risk-management tools to control those risks; (c) it shall fully cover corresponding credit exposures to individual borrowing participants using highly liquid collateral, or other collateral to which it shall apply appropriate haircuts, and other equivalent financial resources; (d) it shall set appropriate limits on credit exposures to individual clients; (e) it shall provide credit only to participants that have cash accounts with it; and (f) it shall provide for effective reimbursement procedures of intra-day credit 7. Each DLT account keeper providing banking services to their clients, related to the settlement activity within the settlement scheme, shall comply with the following specific prudential requirements for the liquidity risks related to those services: (a) it shall have a robust framework and tools to measure, monitor, and manage its liquidity risks, including intra-day liquidity risks, for each currency of the settlement scheme in which it settles transactions; (b) it shall measure and monitor on an ongoing basis its liquidity needs and the level of liquid assets it holds; (c) it shall have sufficient liquid resources in all relevant currencies for timely settlement of DLT financial instruments under a wide range of potential stress scenarios including, but not limited to the liquidity risk generated by the default of at least one participant, including its parent undertakings and subsidiaries, to which it has the largest exposures; (d) where prearranged funding arrangements are used, it shall select only creditworthy financial institutions as liquidity providers and establish and apply appropriate concentration limits for each of	**programme of tests of the arrangements referred to in paragraphs 5 and 6.** **8.**~~6.~~ Each DLT account keeper providing banking services to their clients, related to the settlement activity within the settlement scheme, shall comply with the following specific prudential requirements for the credit risks related to those services: (a) it shall establish a robust framework to manage the corresponding credit risks; (b) it shall regularly identify the sources of such credit risks, measure and monitor corresponding credit exposures and use appropriate risk-management tools to control those risks; (c) it shall fully cover corresponding credit exposures to individual borrowing participants using highly liquid collateral, or other collateral to which it shall apply appropriate haircuts, and other equivalent financial resources; (d) it shall set appropriate limits on credit exposures to individual clients; (e) it shall provide credit only to participants that have cash accounts with it; and (f) it shall provide for effective reimbursement procedures of intra-day credit **9.**~~7.~~ Each DLT account keeper providing banking services to their clients, related to the settlement activity within the settlement scheme, shall comply with the following specific prudential requirements for the liquidity risks related to those services: (a) it shall have a robust framework and tools to measure, monitor, and manage its liquidity risks, including intra-day liquidity risks, for each currency of the settlement scheme in which it settles transactions; (b) it shall measure and monitor on an ongoing basis its liquidity needs and the level of liquid assets it holds; (c) it shall have sufficient liquid resources in all relevant currencies for timely settlement of DLT

Text proposed by the Commission	Amendments proposed by the ECB[11]
the corresponding liquidity providers including its parent undertaking and subsidiaries; (e) it shall have prearranged arrangements to ensure that it can liquidate in a timely fashion the collateral provided to it by a defaulting client. 8. DLT account keepers participating in a settlement scheme shall enter into a legally binding written agreement clearly specifying the roles and responsibilities of the DLT account keepers within the settlement scheme. A DLT account keeper shall be a member of no more than two settlement schemes. A settlement scheme shall comprise at least two DLT account keepers. 9. Each settlement scheme may admit for settlement DLT financial instruments maintained in securities accounts managed by its participating DLT account keepers that have an aggregate market value that amounts to no more than the amount specified under Article 3(2b) at the time of settlement of the first transaction. Where the aggregate market value of all the DLT financial instruments that are admitted to settlement by a settlement scheme has reached the amount specified under Article 3(3), the DLT account keepers shall activate the transition strategy referred to in Article 10(e). The DLT account keepers shall notify ESMA of the activation of its transition strategy and of the timescale for the transition. By derogation from the first subparagraph, each settlement scheme may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account keepers that have an aggregate market value that amounts to no more than EUR 30 billion at the time of settlement of the first transaction, where such DLT financial instruments are transferable securities issued by SMEs. The DLT account keepers shall	financial instruments under a wide range of potential stress scenarios including, but not limited to the liquidity risk generated by the default of at least one participant, including its parent undertakings and subsidiaries, to which it has the largest exposures; (d) where prearranged funding arrangements are used, it shall select only creditworthy financial institutions as liquidity providers and establish and apply appropriate concentration limits for each of the corresponding liquidity providers including its parent undertaking and subsidiaries; (e) it shall have prearranged arrangements to ensure that it can liquidate in a timely fashion the collateral provided to it by a defaulting client. **10.**~~8.~~ DLT account keepers participating in a settlement scheme shall enter into a legally binding written agreement clearly specifying the roles and responsibilities of the DLT account keepers within the settlement scheme. **The written agreement shall establish common rules and procedures for the settlement scheme that are clear, understandable, and enforceable in all relevant jurisdictions. It shall be made available to the clients of the DLT account keepers that use the settlement service provided through the settlement scheme.** A DLT account keeper shall be a member of no more than two settlement schemes. A settlement scheme shall comprise at least two DLT account keepers. **11.**~~9.~~ Each settlement scheme may admit for settlement DLT financial instruments maintained in securities accounts managed by its participating DLT account keepers that have an aggregate market value that amounts to no more than the amount specified under Article 3(2b) at the time of settlement of the first transaction.

Text proposed by the Commission	Amendments proposed by the ECB[11]
activate its transition strategy when the market value of those transferable securities reaches EUR 45 billion. 10. DLT account keepers shall report to ESMA on a monthly basis the following information: (a) transfers that take place with the settlement scheme they participate to, including aggregate volumes; (b) the aggregate market value of DLT financial instruments admitted for settlement, calculated in accordance with Article 3(4); (c) most common issues that result in settlement fails; (d) the extent and management of intra-day liquidity risk by each DLT account keeper; (e) reporting on peak credit exposures to their clients, the type of collateral accepted, haircuts applied and collateral concentration. DLT account keepers shall report sufficiently detailed information for ESMA to verify compliance of the settlement scheme and participating DLT account keepers with this Article. The reporting requirement may be discharged by any DLT account keeper participating in the settlement scheme on behalf of other participants. All participants remain individually responsible for the completeness and veracity of information reported on their behalf.";'	Where the aggregate market value of all the DLT financial instruments that are admitted to settlement by a settlement scheme has reached the amount specified under Article 3(3), the DLT account keepers shall activate the transition strategy referred to in Article 10(e). The DLT account keepers shall notify ESMA of the activation of its transition strategy and of the timescale for the transition. By derogation from the first subparagraph, each settlement scheme may admit for settlement DLT financial instruments maintained in securities accounts managed by DLT account keepers that have an aggregate market value that amounts to no more than EUR 30 billion at the time of settlement of the first transaction, where such DLT financial instruments are transferable securities issued by SMEs. The DLT account keepers shall activate its transition strategy when the market value of those transferable securities reaches EUR 45 billion. **12.**~~10.~~ DLT account keepers shall report to ESMA on a monthly basis the following information: (a) transfers that take place with the settlement scheme they participate to, including aggregate volumes; (b) the aggregate market value of DLT financial instruments admitted for settlement, calculated in accordance with Article 3(4); (c) most common issues that result in settlement fails; (d) the extent and management of intra-day liquidity risk by each DLT account keeper; (e) reporting on peak credit exposures to their clients, the type of collateral accepted, haircuts applied and collateral concentration. DLT account keepers shall report sufficiently detailed information for ESMA to verify compliance

Text proposed by the Commission	Amendments proposed by the ECB[11]
	of the settlement scheme and participating DLT account keepers with this Article. The reporting requirement may be discharged by any DLT account keeper participating in the settlement scheme on behalf of other participants. All participants remain individually responsible for the completeness and veracity of information reported on their behalf.";'
	Explanation *The amendment aims to ensure that settlement schemes comply with requirements equivalent to those CSDR requirements with which DLT market infrastructures operating under the simplified regime are expected to comply, and to clarify that, where relevant, DLT account keepers participating in a settlement scheme should establish common rules and procedures to ensure the safe and smooth functioning of the scheme. While the coverage of relevant CSDR requirements is not exhaustive, this is intended to extend the requirement applicable to DLT account keepers to comply with the relevant CSDR requirements to be defined by the regulatory technical standards developed in accordance with Article 10b(10).* *See paragraph 5.5.2 of the ECB Opinion.*

Article 9 of the proposed master regulation

Proposed amendments to Regulation (EU) 2023/1114 (MiCAR)

Text proposed by the Commission	Amendments proposed by the ECB[12]
Amendment 42 Article 9, point (1a), of the proposed master regulation (new) (Article 40(2) of MiCAR)	
No text.	'(1a) Article 40(2) is replaced by the following: "2. Crypto-asset service providers shall not grant interest when providing crypto-asset services related to asset-referenced tokens **nor when engaging in any other activity with holders of asset-referenced tokens**.";'
Explanation *This amendment strengthens the existing prohibition on granting interest for asset-referenced tokens (ARTs) by clarifying that it also applies to any other activity involving holders of ARTs. The aim of this is to prevent circumvention of the rule through unlicensed or ancillary activities as observed in the market, such as crypto-lending or borrowing schemes, which could undermine the regulatory intent, as well as to counter risk taking by CASPs for which they are not requested to hold own funds.*	
Amendment 43 Article 9, point (1b), of the proposed master regulation (new) (Article 50(2) of MiCAR)	
No text.	'(1b) Article 50(2) is replaced by the following: "2. Crypto-asset service providers shall not grant interest when providing crypto-asset services related to e-money tokens **nor when engaging in any other activity with holders of e-money tokens**.";'
Explanation *This amendment strengthens the existing prohibition on granting interest for EMTs by clarifying that it also applies to any other activity involving holders of EMTs. The aim is to prevent circumvention of the rule through unlicensed or ancillary activities as observed in the market, such as crypto-lending or*	

12 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB[12]
borrowing schemes, which could undermine the regulatory intent, as well as to counter risk taking by CASPs for which they are not requested to hold own funds.	
Amendment 44 Article 9, point (3), of the proposed master regulation (Article 60 of MiCAR)	
'(3) in Article 60, the following paragraph 6a is inserted: "6a. The entities referred to in paragraphs 2 to 6 shall be required to submit yearly to their competent authority and ESMA information on their total annual turnover, in particular, the percentage of their total annual turnover according to the last available financial statements approved by their management body, which is generated from the provision of crypto-asset services.";'	'(3) ~~in~~ Article 60~~, the following paragraph 6a~~ is ~~inserted~~ **amended as follows:** **(a) paragraph 1 is replaced by the following:** **"1. A credit institution may provide crypto-asset services if it notifies the information referred to in paragraph 7 to ESMA at least 40 working days before providing those services for the first time. ESMA shall forward the notification submitted by the credit institution to the authority in charge of conducting supervision under Directive 2013/36/EU.";** **(b) paragraph 3 is replaced by the following: "3. An investment firm may provide crypto-asset services in the Union if it notifies the competent authority of the home Member State of the information referred to in paragraph 7 of this Article at least 40 working days before providing those services for the first time.** **For the purposes of this paragraph:** […] **(j) providing transfer services for crypto-assets on behalf of clients is a new activity investment firms are entitled to engage in. Where such transfers relate to e-money tokens this also requires notification by the ESMA to the competent authorities under Directive 2009/110/EC and compliance with the applicable requirements under Directive (EU) 2015/2366.';**

Text proposed by the Commission	Amendments proposed by the ECB[12]
	(c) the following paragraph 6a is inserted: '6a. The entities referred to in paragraphs 2 to 6 shall be required to submit yearly to their competent authority and ESMA information on their total annual turnover, in particular, the percentage of their total annual turnover according to the last available financial statements approved by their management body, which is generated from the provision of crypto-asset services.';'
Explanation *This amendment proposes that credit institutions notify ESMA rather than the competent authority of their home Member State under MiCAR. For information purposes, ESMA should forward such notifications to the authority in charge of conducting supervision under the CRD as such activities may have other implications, such as for the bank's business model, governance, risk management, capital and liquidity requirements.* *Moreover, in view of the need for simplification and proportionality, investment firms, which can already provide all but one crypto-asset service under their MiFID licence, should be allowed to provide all crypto-asset services based on a notification. In view of simplification and to reduce the number of double licences, in case of EMT transfers, investment firms should notify the competent authorities under Directive (EU) 2015/2366 of the European Parliament and of the Council[13] and Directive 2009/110/EC of the European Parliament and of the Council[14] and comply with those requirements, rather than apply for a separate payment service licence.* *See paragraph 7.2 of the ECB Opinion.*	
Amendment 45 Article 9, point (5)(b), of the proposed master regulation (Article 63(6) of MiCAR)	
'(b) paragraphs 1 to 9 are replaced by the following: […]	'(b) paragraphs 1 to 9 are replaced by the following: […]

13 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35, ELI: http://data.europa.eu/eli/dir/2015/2366/oj).

14 Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, p. 7, ELI: http://data.europa.eu/eli/dir/2009/110/oj).

Text proposed by the Commission	Amendments proposed by the ECB[12]
"6. Before granting or refusing an authorisation as a crypto-asset service provider, ESMA: a) may consult the competent authorities for anti-money laundering and counter-terrorist financing and financial intelligence units of the home Member State, in order to verify that the applicant crypto-asset service provider has not been the subject of an investigation into conduct relating to money laundering or terrorist financing; (b) may consult the competent authorities for anti-money laundering and counter-terrorist financing of the home Member State, to ensure that the applicant crypto-asset service provider that operates establishments or relies on third parties established in high-risk third countries identified pursuant to [Article 9 of Directive (EU) 2015/849 complies with the provisions of national law transposing Articles 26(2), 45(3) and 45(5) of that Directive];(c) shall, where appropriate, consult the competent authorities for anti-money laundering and counter-terrorist financing of the home Member State to ensure that the applicant crypto-asset service provider has put in place appropriate procedures to comply with the provisions of national law transposing [Article 18a(1) and (3) of Directive (EU) 2015/849].";'	"6. Before granting or refusing an authorisation as a crypto-asset service provider, ESMA: a) ~~may~~ **shall** consult the competent authorities for anti-money laundering and counter-terrorist financing and financial intelligence units of the home Member State, in order to verify that the applicant crypto-asset service provider **and entities of the same group** ~~has~~ **have** not been the subject of an investigation into conduct relating to money laundering or terrorist financing; (b) ~~may~~ **shall** consult the competent authorities for anti-money laundering and counter-terrorist financing of the home Member State, to ensure that the applicant crypto-asset service provider that operates establishments or relies on third parties established in high-risk third countries identified pursuant to [Article 9 of Directive (EU) 2015/849 complies with the provisions of national law transposing Articles 26(2), 45(3) and 45(5) of that Directive]; (c) shall~~, where appropriate,~~ consult the competent authorities for anti-money laundering and counter-terrorist financing of the home Member State to ensure that the applicant crypto-asset service provider has put in place appropriate procedures to comply with the provisions of national law transposing [Article 18a(1) and (3) of Directive (EU) 2015/849].";'

Text proposed by the Commission	Amendments proposed by the ECB[12]
Explanation *Checking with competent authorities for anti-money laundering and counter-terrorist financing should be mandatory rather than optional, which is what this amendment reflects. Such competent authorities should also consider findings related to other entities within the group.*	
Amendment 46 Article 9, point (7a), of the proposed master regulation (new) (Article 67 of MiCAR)	
No text.	‘**(7a) Article 67 is amended as follows:** **(a) in paragraph 1, the following point (c) is added**: **“(c) the K-factor requirement calculated in accordance with Article 15 of Regulation (EU) 2019/2033 of the European Parliament and of the Council(*). For this purpose, the K-factor methodology shall apply to crypto-asset services under this Regulation by reference to their equivalent activities under Directive 2014/65/EU, ensuring that custody and administration of crypto-assets corresponds to K-AUM, the operation of a trading platform corresponds to K-NPR, execution and transmission of orders and placement correspond to K-COH, exchange of crypto-assets for funds or other crypto-assets corresponds to K-DTF, and lending or borrowing of crypto-assets corresponds to K-TCD.”;** **(b) the following paragraphs 1a and 1b are inserted:** **“1a. ESMA shall require a crypto-asset service provider to hold an amount of own funds which is up to 20 % higher than the amount resulting from the application of paragraph 1 where the crypto-asset service provider is exposed to risks or elements of risk, not or not**

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	sufficiently covered, by paragraph 1 or where other institution-specific circumstances raise material supervisory concerns. **1b. ESMA shall take the necessary measures to prevent the multiple use of elements eligible for own funds where the crypto-asset service provider belongs to the same group as another financial institution. This paragraph shall also apply where a crypto-asset service provider is of a hybrid character and carries out activities other than crypto-asset services.;** **(*) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/2033/oj).”’**
Explanation *The current MiCAR framework sets out fixed minimum capital requirements and a simple overhead-based calculation for CASPs. While this provides a baseline, it does not adequately reflect the risk profile of CASPs engaging in diverse and complex activities such as custody, proprietary trading, lending, and order execution. These activities are economically and operationally similar to those performed by investment firms under MiFID, which are subject to risk-sensitive capital requirements under Regulation (EU) 2019/2033 of the European Parliament and of the Council[15] (hereinafter the ‘IFR’). In view of this, to ensure a level playing field and robust prudential safeguards, CASPs should also be subject to a comparable risk-based approach. This is what this amendment aims to achieve.* *Indeed, the IFR’s K-factor methodology is designed to capture risks to clients, markets, and the firm itself, and is therefore well-suited to address the operational and counterparty risks inherent in crypto-asset services. Applying this methodology to CASPs - through a clear mapping of MiCAR services to equivalent MiFID activities - ensures that own funds requirements scale with the actual risk drivers of the business model, rather than relying solely on static thresholds.*	

15 Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/2033/oj).

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This alignment achieves three key objectives: - *Risk sensitivity: capital requirements reflect the nature and scale of CASP activities, mitigating prudential, financial stability and investor protection risks.* - *Regulatory consistency: harmonisation with existing Union prudential frameworks avoids regulatory arbitrage and supports supervisory convergence.* - *Proportionality: this approach accommodates both small and large CASPs by combining fixed overheads, minimum capital floors, and activity-based K-factors.* *See paragraph 7.1.1 of the ECB Opinion.*	
Amendment 47 Article 9, point (8)(b)(c), of the proposed master regulation (Article 68(8) and (9) of MiCAR)	
‘(b) in paragraph 8, first subparagraph, the first sentence is replaced with the following: “8. Crypto-asset service providers shall have in place mechanisms, systems and procedures as required by Regulation (EU) 2022/2554, as well as effective procedures and arrangements for risk assessment, to comply with the provisions of national law transposing [Directive (EU) 2015/849] in their home Member State.”; (c) paragraph 9 is replaced by the following: “9. Crypto-asset service providers shall arrange for records to be kept of all crypto-asset services, activities, orders, and transactions undertaken by them. Those records shall be sufficient to enable ESMA to fulfil its supervisory tasks and to take enforcement measures, and in particular to ascertain whether crypto-asset service providers have complied with all obligations including those with respect to clients or prospective clients and to the integrity of the market. The records kept pursuant to the first subparagraph shall be provided to clients upon request and shall be kept for a period of five years and, where requested by competent authorities or	‘(b) in paragraph 8, first subparagraph, the first sentence is replaced with the following: “8. Crypto-asset service providers shall **establish and maintain strategies and policies for taking up, managing, monitoring and mitigating the risks that the said crypto-asset service provider is or might be exposed to, including those posed by the macroeconomic environment in which they operate. They shall** have in place mechanisms, systems and procedures as required by Regulation (EU) 2022/2554, as well as effective procedures and arrangements for risk assessment, to comply with the provisions of national law transposing [Directive (EU) 2015/849] in their home Member State.”; (c) paragraph 9 is replaced by the following: “9. Crypto-asset service providers shall arrange for records to be kept of all crypto-asset services, activities, orders, and transactions undertaken by them. Those records shall be sufficient to enable ESMA to fulfil its supervisory tasks and to take enforcement measures, and in particular to ascertain whether crypto-asset service providers

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ESMA for crypto-asset service providers authorised pursuant to Article 63, before five years have elapsed, for a period of up to seven years.';"	have complied with all obligations including those with respect to clients or prospective clients and to the integrity of the market. **Crypto-asset service providers conducting any of the activities listed in Class 2 or 3 of Annex IV of this Regulation, shall be considered public-interest entities as defined by Article 2, point 13, of Directive 2006/43/EC of the European Parliament and of the Council(*) and thus subject to statutory audit as set out by Regulation (EU) 537/2014 of the European Parliament and of the Council(**).** The records kept pursuant to the first subparagraph shall be provided to clients upon request and shall be kept for a period of five years and, where requested by competent authorities or ESMA for crypto-asset service providers authorised pursuant to Article 63, before five years have elapsed, for a period of up to seven years.; (*) **Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87, ELI: http://data.europa.eu/eli/dir/2006/43/oj).** **(**) Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p. 77, ELI: http://data.europa.eu/eli/reg/2014/537/oj).'"**
Explanation *This amendment is designed to strengthen risk management. Currently, MiCAR does not impose any requirement regarding the legal form of undertakings operating as CASPs. Consequently, some entities may not be subject to independent audits and, under national law, may not be required to publish*	

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financial statements. In contrast, MiFID provides that where a natural person offers services involving the holding of third-party funds or transferable securities, that person's annual accounts must be audited by one or more persons authorised under national law. The absence of such safeguards under MiCAR creates a risk of undetected misappropriation of client assets. For example, the collapse of FTX illustrates that external verification of asset segregation could have prevented or significantly mitigated the severity of losses. Thus all CASPs should be subject to independent audits. *See paragraph 7.1.1 of the ECB Opinion.*	
Amendment 48 Article 9, point (14), of the proposed regulation (Article 85 of MiCAR)	
'(14) Article 85 is deleted;'	'(14) Article 85 is ~~deleted~~ **replaced by the following**: "**1. A crypto-asset service provider shall be deemed significant if, in the Union, it meets at least three of the following criteria:** **(a) the crypto-asset service provider has at least 10 million active users, on average, in one calendar year, where the average is calculated as the average of the daily number of active users throughout the previous calendar year. A user is always considered active when it maintains an account with a balance either in funds or in crypto-assets irrespective of the execution of any transactions;** **(b) the crypto-asset service provider is designated under Article 31 of Regulation (EU) 2022/2554 as a critical ICT third-party service provider;** **(c) the volume of trades for the crypto-asset service provider's platforms exceeds EUR 1.2 billion, measured over the preceding 12 months;** **(d) the value of crypto-assets under the crypto-asset service provider's custody and/or**

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	administration exceeds EUR 1.2 billion, calculated by the total value of crypto-assets safeguarded or administered for clients; **(e) the average daily volume of client orders executed or transmitted by the crypto-asset service provider exceeds EUR 100 million, measured over the preceding six months;** **(f) the crypto-asset service provider's balance sheet total exceeds EUR 1.2 billion, based on its most recent audited financial statements;** **(g) the crypto-asset service provider, or any entity within its group, issues at least one asset-referenced token or e-money token;** **(h) the crypto-asset service provider, or any entity within its group, is a provider of core platform services designated as a gatekeeper in accordance with Regulation (EU) 2022/1925;** **(i) the activities of the crypto-asset service provider are significant on an international scale, including the conduct of proprietary trading, crypto-asset lending and/or borrowing;** **(j) the crypto-asset service provider is interconnected with the financial system.** **If the crypto-asset service provider is part of a group, the total of all crypto-asset related activities of the group shall be considered. The criteria for identifying significant crypto-asset service providers shall be subject to periodic review, to assess the calibration of the criteria, and to ensure their continued relevance, proportionality, and effectiveness. This review shall include an assessment of the thresholds, indicators, and metrics employed in the determination of significance, taking into account evolving market conditions,**

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	technological developments, and systemic risk considerations. **(***) Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2554/oj)** **2. Crypto-asset service providers shall notify ESMA within two months of fulfilling any of the criteria set out in paragraph 1. ESMA shall assess the information provided and, where at least three of the criteria are fulfilled, it shall publish, within two months, a decision on whether to designate the crypto-asset service provider as significant.** **3. Significant crypto-asset service providers shall, within a timeframe defined by ESMA, comply with the following, at both individual and group level:** **(a) if not already regulated under Article 21b of Directive 2013/36/EU, a significant crypto-asset service provider shall establish a financial holding company in the Union for all its activities related to financial services, become subject to consolidated group supervision by ESMA and disclose its worldwide group structure and close links to ESMA and other competent authorities within the Union;** **(b) a significant crypto-asset service provider shall establish and maintain written policies and procedures regarding internal governance and risk management which are commensurate to the size, complexity and riskiness of its operations. Significant crypto-asset service providers engaging in activities**

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	that give rise to maturity or liquidity transformation, or to leverage risk, shall ensure that appropriate policies and procedures are established and maintained to address such risks as part of its internal control framework; **(c) a significant crypto-asset service provider shall establish and maintain a remuneration policy that promotes the sound and effective risk management of such crypto-asset service provider and that does not create incentives to relax risk standards;** **(d) a significant crypto-asset service provider shall establish a recovery plan at group level for its total Union financial services activities. If such a crypto-asset service provider is part of a group with subsidiaries, branches or affiliated entities established in, or operating from, offshore jurisdictions, the recovery plan shall pay due attention to the implications deriving from such parties;** **(e) a significant crypto-asset service provider shall notify ESMA of any material change to the business model. The commencement or modification of activities entailing crypto-assets, although not subject to this Regulation, shall also constitute a material change to the business model;** **(f) a significant crypto-asset service provider shall obtain prior approval for the appointment of any new member of the management body or any key function holder;** **(g) a significant crypto-asset service provider shall comply with enhanced requirements with respect to the identification, prevention, management and disclosure of conflicts of interest;**

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	(h) a significant crypto-asset service provider shall submit enhanced reporting on risks and activities as defined by ESMA at individual and group level. **4. ESMA, in cooperation with the EBA and the ECB, shall develop draft regulatory technical and implementing standards to specify, for the purposes of this Article, the requirements under paragraph 3, points (b), (c), (d), (g) and (h). ESMA shall submit those draft regulatory technical and implementing standards to the Commission within six months from the date of approval of this Regulation.** **5. With respect to paragraph 3, point (d), ESMA shall consult all other impacted competent authorities within the Union to ensure the adequacy of the group-wide recovery plan.";**'
Explanation *This amendment complements the proposed master regulation which aims to centralise CASP supervision under ESMA by enhancing the existing framework for identifying significant CASPs with a view to introducing a risk-based framework for imposing additional requirements on significant CASPs.* *While the proposed master regulation transfers authorisation and oversight of all CASPs to ESMA, it does not differentiate between small and large entities. This amendment addresses that gap by defining objective criteria for systemic relevance and by imposing proportionate obligations. This is necessary because large CASPs can pose systemic risks similar to other major financial institutions, given their scale, cross-border operations, and concentration risks.* *Concretely, the amendment replaces the single user-based trigger in MiCAR with a multi-dimensional test where a CASP is deemed significant if it meets at least three of ten criteria, assessed on a group-wide basis. This approach ensures systemic risk drivers beyond client count are considered.* *Equally, by requiring CASPs to notify ESMA upon reaching defined thresholds, the amendment ensures timely supervisory action which provides legal certainty and transparency, enabling proportional oversight. Significant CASPs should comply with enhanced group-level obligations within 12 months of achieving the status of significance, including by establishing a Union financial holding company, implementing group-wide governance and risk management policies, adopting sound remuneration frameworks, and preparing a recovery plan for Union financial services activities. Additional measures include prior approval for management appointments, strengthened conflict-of-interest controls, and enhanced reporting at entity and group level.*	

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Finally, the amendment proposes that ESMA, in cooperation with the EBA and the ECB, be mandated to develop draft regulatory technical and implementing standards to specify governance, risk, recovery planning and reporting requirements. For recovery planning, ESMA must consult other impacted authorities to ensure adequacy and consistency across sectors. *These changes introduce a proportionate escalation mechanism for CASPs of systemic relevance, they reduce supervisory fragmentation, and align oversight with prudential principles applied to other large financial groups.* *See paragraph 7.1.2 of the ECB Opinion.*	
Amendment 49 Article 9, point (22), of the proposed master regulation (Article 138a(2) of MiCAR)	
'(22) in Title VII, the following Chapter 6 is inserted: "[…] 2. ESMA shall be responsible for the ongoing supervision and carrying out the supervisory functions and duties provided in this Regulation, as well as the supervisory functions and duties provided in other Union legislative acts on financial services for entities allowed to provide crypto-asset services pursuant to Article 60(2) to (6), whose main activity is the provision of crypto asset services. An entity shall be considered to be providing crypto asset services as its main activity when more than 50% of its total annual turnover according to the last available financial statements approved by the management body, is generated from the provision of crypto-asset services, for at least 2 consecutive years. In the case of the entities referred to in the first subparagraph, ESMA shall enter into cooperation agreements with the competent authorities that authorised those entities under other Union legislative acts on financial services. On the basis	'(22) in Title VII, the following Chapter 6 is inserted: "[…] 2. ESMA shall be responsible for the ongoing supervision and carrying out the supervisory functions and duties provided in this Regulation, as well as the supervisory functions and duties provided in other Union legislative acts on financial services for entities allowed to provide crypto-asset services pursuant to Article 60(2) to (6), whose main activity is the provision of crypto asset services. An entity shall be considered to be providing crypto asset services as its main activity when**, with regard to the total amount of financial service activities in the Union, any of the following apply:** **(a)** more than 50% of its total annual turnover according to the last available financial statements approved by the management body, is generated from the provision of crypto-asset services, for at least 2 consecutive years**;** **(b) More than 50 % of its total volume of operations derives from crypto-asset services,**

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of the cooperation agreement, those competent authorities shall provide support and assistance to ESMA in the supervision of the activities that are not covered by this Regulation.'	**including proprietary trading in crypto-assets and derivatives, or from borrowing and lending of crypto-assets;** **(c) More than 50 % of its total assets or liabilities are related to crypto-asset services, including proprietary trading in crypto-assets and derivatives, or to borrowing and lending of crypto-assets;** **(d) For entities that are part of a group, the calculation of turnover, and volume of operations and total assets or liabilities in the Union is performed on a consolidated basis, taking into account all entities within the group that provide crypto-asset services or related activities in the Union.** **The thresholds apply if either the single-entity or the consolidated calculation exceeds the limits set out in points (a) or (b).** In the case of the entities referred to in the first subparagraph, ESMA shall enter into cooperation agreements with the competent authorities (specifically, those that authorised those entities under other Union legislative acts on financial services). On the basis of the cooperation agreement, those competent authorities shall provide support and assistance to ESMA in the supervision of the activities that are not covered by this Regulation.'
Explanation *Reliance on a single metric such as 50 % turnover may not adequately capture business models where the key risk driver is the volume of operations (e.g. custody, trading venue). Consideration should also be given to proprietary trading in crypto assets and derivatives as well as borrowing and lending of crypto assets; these are activities that give rise to material risks which would not be captured by a turnover-based approach. Moreover, the anchor for these criteria should be the total financial service activities in the Union in order to avoid the circumvention of these criteria by conducting other unregulated activities.* *See paragraph 7.2 of the ECB Opinion.*	

Article 11 of the proposed master regulation

Proposed amendments to Regulation (EU) 2016/1011 (the Benchmarks Regulation)

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Amendment 50 Article 11, point (2)(b), of the proposed master regulation (Article 48f(2) of Regulation (EU) 2016/1011)	
‘(b) paragraph 2 is replaced by the following: “Notwithstanding Article 39f of Regulation (EU) No 1095/2010, the maximum amount of the fine for infringements of point (d) of Article 11(1) or of Article 11(4) shall be EUR 250 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency according to euro foreign exchange reference rate published by the European Central Bank applying on the date when the fine was imposed or 2 % of the total annual turnover of that legal person according to the last available financial statements approved by the management body, whichever is the higher for legal persons, and EUR 100 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency according to euro foreign exchange reference rate published by the European Central Bank applying on the date when the fine was imposed for natural persons. For the purposes of Article 39f paragraph 2 point (a) of Regulation (EU) No 1095/2010, where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated accounts approved by the	‘(b) paragraph 2 is replaced by the following: “Notwithstanding Article 39f of Regulation (EU) No 1095/2010, the maximum amount of the fine for infringements of point (d) of Article 11(1) or of Article 11(4) shall be EUR 250 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency according to ~~euro foreign exchange reference rate published by the European Central Bank~~ **a foreign exchange benchmark rate that complies with this Regulation and which applies** ~~applying~~ on the date when the fine was imposed or 2 % of the total annual turnover of that legal person according to the last available financial statements approved by the management body, whichever is the higher for legal persons, and EUR 100 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency according to ~~euro foreign exchange reference rate published by the European Central Bank~~ **a foreign exchange benchmark rate, which complies with this Regulation and which applies** ~~applying~~ on the date when the fine was imposed for natural persons. For the purposes of Article 39f paragraph 2 point (a) of Regulation (EU) No 1095/2010, where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the

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management body of the ultimate parent undertaking.”;’	relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.”;’
Explanation *See Amendments 10 and 11.*	