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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Market Integration and Supervision Package Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/EC on financial collateral arrangements - *General Approach*

2025/0381 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/EC on financial collateral arrangements

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1]

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C, p. . (to be added once available/published)
2 OJ C, p. . (to be added once available/published)
3 OJ C, p. . (to be added once Position of the European Parliament and decision of the Council are available/have been published)

Whereas:

(1) This proposal is part of a package designed to establish a single market for financial services by addressing market inefficiencies resulting from fragmentation and to create truly integrated European capital markets which are accessible to all citizens and businesses across the Union. The package seeks to unlock the Union's financial markets potential by providing access to more efficient capital-market based financing and facilitating cross-border capital flows, which in turn should support the Union economy, stimulate job creation and enhance competitiveness.

(2) Directive 98/26/EC of the European Parliament and of the Council[4] lays down principles and rules aiming to reduce systemic risk arising from the insolvency of participants in payment systems and securities settlement systems by disapplying certain national insolvency rules, where a party to a transaction becomes insolvent, allowing payments and securities transactions to be made and settled safely. Directive 98/26/EC also protects collateral provided for by the insolvent party and clarifies which law is to apply in certain cross-border situations.

(3) A public consultation conducted in 2021 and the 2023 Commission report[5] showed that the obligations laid down in Directive 98/26/EC as well as protections granted towards domestic institutions participating in third-country systems were transposed differently by Member States, resulting in an unlevel playing field for Union systems and participants, and creating barriers to the smooth functioning of the single market.

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[4] Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45), http://data.europa.eu/eli/dir/1998/26/oj.

[5] Report from the Commission on the review of settlement finality in payment and securities settlement systems including its application to domestic institutions participating in third-country systems and of financial collateral arrangements under Directives 98/26/EC and 2002/47/EC, COM(2023) 345 final.

(4) Divergent national approaches have resulted in the fragmentation of the single market. Systems and participants are subject to different rules in different Member States. In this respect, a system could be designated in one Member State and not in another, or a transfer order could be protected in one Member State and not in another, depending on the law of the Member State applicable to the system. The divergent national approaches cause legal uncertainty, prevent market integration and inhibit cross-border transactions.

(5) To ensure that provisions imposing obligations on systems, their operators and their participants are applied in a uniform manner throughout the Union, thereby facilitating market integration and cross-border transactions, and ensuring greater legal certainty, it is appropriate and necessary to repeal Directive 98/26/EC and replace it with a Regulation. ***This Regulation aims to protect settlement and clearing in payment systems, securities settlement systems and clearing systems. Any settlement finality or netting arrangements which fall outside the harmonised scope of this Regulation, should remain subject to dedicated legal provisions on settlement finality and netting where they exist. Specifically, this Regulation does not affect the validity or enforceability, under the law of a Member State, of: (a) any bilateral netting arrangement; or (b) any other netting arrangement or settlement finality arrangement outside the securities settlement systems, clearing systems and payment systems. This Regulation is without prejudice to national law governing individual enforcement measures that do not constitute insolvency proceedings.***

(6) To enable a wider range of systems to benefit from the protections offered to systems and system operators, the concepts used and the rules laid down should be neutral as regards the use of any particular technology, including distributed ledger technology (DLT). In particular, any references to register or recordings should include instances where such registers are established on DLT or otherwise on distributed ledgers and where recordings are made onto such ledgers-based registers and hence may or may not include wallets or other digital representations of ownership and rights.

(7) Regulation (EU) 2022/858 of the European Parliament and of the Council[6] allows for market infrastructures based on DLT to test and experiment with the provision of certain services via DLT, including by establishing systems that settle transfer orders in DLT-based financial instruments. It should be possible to designate such systems under this Regulation, subject to their compliance with the conditions set out in both Regulation (EU) 2022/858 and this Regulation. The European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) should be mandated to further specify***, where necessary,*** the rules on how to assess and determine settlement finality ***under this Regulation*** in systems that use DLT. ***For DLT-based designated systems, the technical design of the system, including validation, consensus, recording or layered/probabilistic finality mechanisms, could be relevant for describing the moments of entry, irrevocability and, where relevant, final settlement in the system's rules. Any guidance by ESMA or EBA should be limited to the technical description of those moments in DLT-based systems and should not alter the legal effects of this Regulation or the applicable law governing the transfer of ownership or other rights, including national property, securities or insolvency law.***

(8) ▌Systems should be designated by the authorities of the Member State whose law governs the system, on the basis of uniform designation conditions and a harmonised procedure.

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[6] Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU (OJ L 151, 2.6.2022, p. 1), http://data.europa.eu/eli/reg/2022/858/oj

publicly disclosed on Union systems and third-country systems to which they chose to extend the protections of Directive 98/26/EC. To address the existing information asymmetry across Member States and to harmonise the information to be made publicly available, the type of information to be provided to the authorities in charge of the designation or registration of a system should be harmonised. Furthermore, ESMA should publish the information in a centralised way to facilitate access to that information. To ensure legal certainty, the information communicated to ESMA for the purpose of publication should be relevant, accurate and up-to-date.

(10) The list of entities that can be considered as participants in a system should take into account the different participation models adopted by systems, while ensuring that the aim to protect the financial system from systemic risk is met. To that end, the entities to be admitted as participants should fulfil certain conditions to avoid creating unnecessary risks for the system in which they participate. Such conditions should, however, not impose additional requirements where the system operator already applies admission requirements to the system under Union law when admitting new entities as participants ***in*** its designated systems, as in the case of central counterparties (CCPs) and central security depositories (CSDs). ▌

(11) To ensure an effective application of the settlement finality protections, Member States should nominate the authority or authorities responsible for the designation, the registration and the communication of the opening of insolvency proceedings. Those authorities should be granted the necessary powers for the exercise of their functions. They should cooperate and exchange information as necessary with each other and with ESMA and the members of the European System of Central Banks (ESCB). To facilitate their tasks and increase transparency across the Union, the list of those authorities should be made public.

(12) Member States should be able to ***enable*** entities established ***in those Member States which*** participate***, or intend to participate,*** in third-country systems ***registered in accordance with this Regulation, to benefit from the insolvency protections as*** provided ***for in Articles 17, 19, 22(1), 23, 24 and 25(1), to the extent necessary to ensure settlement finality protection linked to*** participation ***of the entities established in the Union*** in such ***systems. Such extension should not be understood as applying substantive Union rules on clearing, transfer orders, or the use of funds, financial instruments or other assets to*** third-country systems ***more broadly than is necessary for the purposes of this Regulation***. In order to remedy the unlevel playing field regarding participation of Union entities in third-country systems stemming from the different national regimes developed by Member States to extend the protections of Directive 98/96/EC, a harmonised regime for registration by Member States of third-country systems should be laid down. It should be based on a formalised and harmonised procedure that ensures the application of clear standards and that streamlines access conditions for all Union entities participating in a given third-country system. Registration of third-country systems by Member States should be done by the Member State in which an entity participating in such system is established. That may, however, result in several Member States registering the same third-country arrangement if members are established in several Member States. To prevent any unlevel-playing field for entities established in different Member States, the registration of such systems should be done in a coordinated and convergent way and be facilitated by ESMA ***having a coordinating role in the process of registration and assessment of compliance by the third country system operator with conditions for registration***. ***Where a system previously registered in one or several Member States wishes to extend its registration in additional Member States, or where a registering authority reverses a previous decision to reject a registration, the third country system operator or respectively the registering authority and ESMA should be able to rely on the initial application, submitted documents and assessment, and only the decision by the registering authorities in the additional Member States should be required for the registration in these additional Member States.***

(13) The reduction of systemic risk requires, in particular, the finality of settlement and the enforceability of collateral security. Transfer orders and their netting should therefore be legally enforceable in all Member States and binding on third parties. ***The enforceability of netting should cover all types of netting in relation to the participation in a system, including netting in the case of an enforcement event and set-off, so called close-out netting.*** Rules on enforceability of netting should not prevent systems from testing, before the netting takes place, whether orders that have entered the system comply with the rules of that system and allow the settlement of that system to take place.

(14) ▌ The moment a transfer order enters a system and the moment of irrevocability of a transfer order are important moments for the application of insolvency law to that transfer order. To ensure the highest possible degree of ▌ consistency regarding settlement finality protection across systems, as well as to facilitate cross-border activity in the single market, it is necessary to lay down principles to be used for the determination of those moments for all types of systems. ▌ Those ***moments*** should ***be determined by the common rules and standardised procedures*** of each system ***in a clear, objective and legally enforceable manner in accordance with these principles. Where relevant, a*** system ***may describe in its rules the operational point at which*** settlement ***is considered final for the purposes of that system. Such description should not create a new autonomous legal concept of final settlement and should be without prejudice to the legal effects of this Regulation and to the applicable law governing the transfer of ownership or other rights, including national property, securities or insolvency law***.

(15) Participants or third parties should not be prevented from exercising any right or claim resulting from the underlying transaction which they may have in law to recovery or restitution in respect of a transfer order which has entered a system, including in case of fraud or technical error, as long as that leads neither to the unwinding of netting nor to the revocation of the transfer order in the system.

(16) Member States ***competent authorities referred to in Article 22(1)*** should immediately notify ***the relevant competent authorities in*** other ***Member States as well as ESMA, EBA, the ESCB, the European Systemic Risk Board*** of the opening of insolvency proceedings against a participant in the system. Insolvency proceedings should not have a retroactive effect on the rights and obligations of participants in a system.

(17) In the event of insolvency proceedings against a participant in a system, it should be clear which ***specific legal provisions are*** applicable to the rights and obligations of that participant in connection with its participation in a system.

(18) Collateral security should be insulated from the effects of the insolvency law applicable to the insolvent participant. Collateral security comprises all means provided by a participant to the other participants in the settlement system, to secure rights and obligations in connection with that system, including repurchase agreements, statutory liens and fiduciary transfers.

(19) In the case of linked systems, it is necessary to ensure adequate protection of the system operator that provides collateral security to a receiving system operator in the event of insolvency proceedings against that receiving system operator.

(20) It is necessary to provide a conflict of laws rule regarding the rights of holders of collateral security in order to ensure that the law of the Member state where the collateral security was validly created in a register, account or centralised deposit system, determines also the validity and enforceability of that collateral security against the system, the system operator, and against any other person claiming directly or indirectly through it. That rule should only apply to a register, account or centralised deposit system which evidences the existence of proprietary rights in or for the delivery or transfer of the collateral security concerned.

(21) It is necessary to clarify the law of which Member State should apply to determine the rights of the holders of that collateral security. However, in some circumstances, in particular regarding the use of new technologies, it is not always possible to determine in which Member State the register, account or centralised deposit system, ▌ where the collateral security is legally recorded, is located***. This impossibility could arise from the technical or legal characteristics of the relevant arrangement but not from contractual, organisational or structural choices***. In such cases, the rights of the holders of that collateral security should be determined by the law governing the system concerned in connection with that collateral security.

(22) It is also necessary to provide a conflict of laws rule regarding the law applicable in case of insolvency of a participant. That rule should not prejudice the operation and effect of the law of the Member State under which the financial instruments are constituted or of the law of the Member State where the financial instruments may otherwise be located, including, inter alia, the law concerning the creation, ownership or transfer of such financial instruments or of rights in such financial instruments, and should not be interpreted to mean that any such collateral security will be directly enforceable or be capable of being recognised in any such Member State ▌ otherwise than in accordance with the law of that Member State.

(23) In view of the changes made in this Regulation, it is necessary to amend Directive 2002/47/EC of the European Parliament and of the Council[7] to ensure consistency. Divergences in the scope of this Regulation and Directive 2002/47/EC would cause legal uncertainty and conflicting application, in particular in relation to instruments issued on DLT, as such instruments would be recognised as potential collateral under this Regulation but not necessarily under Directive 2002/47/EC.

(24) ESMA, EBA and the ESCB should play a central role in the application of this Regulation by ensuring consistent application of Union rules by ▌ competent authorities.

(25) The Commission should be empowered to adopt regulatory technical standards developed by ESMA and EBA with regard to further specifying the ▌ information to be provided in an application for designation ***and*** the information to be provided in an application for registration***. Any further work by ESMA or EBA in relation to*** DLT-based systems ***should be limited to technical guidance and should not alter the legal effects of this Regulation***. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 of the Treaty on the Functioning of the European Union (TFEU) and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[8] and with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[9]**.**

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7 Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43), http://data.europa.eu/eli/dir/2002/47/oj

8 ▌ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84), http://data.europa.eu/eli/reg/2010/1095/oj.

9 ▌ 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), http://data.europa.eu/eli/reg/2010/1093/oj.

(26) The Commission should also be empowered to adopt implementing technical standards developed by ESMA or EBA with regard to the electronic formats for the application for designation, and the electronic formats for the application for the registration of a third-country system. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010 and with Article 15 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

(27) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of amendments to the definition of transfer order to add or remove settlement assets and amendments to the list of participants. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(28) Systems which were designated under Directive 98/26/EC, and third-country systems to which Member States extended the protections of that Directive prior to the date of entry into force of this Regulation, should benefit from some ▌ transitional measures in order to provide sufficient time for Member States to designate or register those systems, as applicable, in accordance with the conditions set out in this Regulation. The application of the designation and ▌ registration requirements for those systems should therefore be deferred. ***In addition, the designating and registering authorities should be able to appropriately adjust the redesignation and reregistration procedures to account for full ongoing compliance by the designating and registered systems with the requirements of this Regulation. Specifically, the designating and registering authorities should be able to waive in full or in part the procedural steps in the application procedure where they are satisfied that all conditions set out in this Regulation are already met by the systems concerned at the moment when the Regulation becomes applicable.***

In those situations, in order to minimise the administrative burden for both the designating authority and the system operator, it should be sufficient for the designating authority to notify the system operator that they are re-designated. A notification about redesignation should have equal legal status as re-designation decision following the ordinary designation procedure. A notification about redesignation should therefore be considered as an alternative to a formal redesignation process triggered by the application of a system operator and should have equal legal status as re-designation following the ordinary designation procedure.

(29) Since the objectives of this Regulation, namely to ensure a harmonised approach to protection against systemic risk arising from the functioning of settlement systems, in connection with the insolvency of any of their participants, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives**.**

(30) This Regulation introduces binding requirements for cross-border digital public services within the meaning of Regulation (EU) 2024/903[10]. The Digital Dimensions chapter of the Legislative Financial and Digital Statement constitutes the resulting report. This will also be published on the Interoperable Europe Portal following the Act's adoption.

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[10] Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (OJ L, 2024/903, 22.3.2024, p. 1), http://data.europa.eu/eli/reg/2024/903/oj.

(31) This Regulation aims to ensure financial stability by protecting designated systems, including those operated by CCPs authorised under Regulation (EU) No 648/2012 of the European Parliament and of the Council[11] (EMIR). As systems operated by CCPs authorised under EMIR might not only settle, clear or execute transfer orders by a participant to transfer the title to, or interest in, financial instruments, but also other instruments where authorised under EMIR, the definition of transfer order takes these other instruments into account where justified by systemic risk considerations and subject to the conditions and safeguards laid down in this Regulation. It should also allow, to an appropriate extent, the protection for the settlement, clearing or execution of transfer orders related to new types of instruments which do not fall under the definition of financial instruments under the SFR or cannot be authorised under EMIR yet where such protection may be warranted based on systemic risk considerations.. That possibility should be applied restrictively, subject to the conditions and safeguards laid down in this Regulation, and should not amount to an open-ended extension of the scope of this Regulation beyond its settlement-finality purpose.

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*[11] **Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories Text with EEA relevance (OJ L 201, 27.7.2012, pp. 1–59), http://data.europa.eu/eli/reg/2012/648/oj***

(32) In order to ensure legal certainty and preserve financial stability, the protections conferred by this Regulation in respect of transfer orders, netting arrangements, collateral security and settlement finality should apply equally to registered third-country systems. The application of Directive [A1] 2014/59/EU of the European Parliament and of the Council ( ), [Directive (EU) 2025/1 of the European Parliament and of the Council ( )], Regulation (EU) No 655/2014 of the European Parliament and of the Council ( ), Regulation (EU) 2021/23 of the European Parliament and of the Council and Regulation (EU) No 806/2014 of the European Parliament and of the Council ( ) should not undermine the effectiveness of the protections granted under this Regulation. Measures adopted pursuant to those legal acts should therefore respect the finality and enforceability of transfer orders, netting arrangements and collateral arrangements entered into in accordance with the rules of a registered third-country system.

HAVE ADOPTED THIS REGULATION:

TITLE I
OBJECT, SCOPE AND DEFINITIONS

Article 1

Object and scope

1. This Regulation lays down requirements for the designation of systems that qualify for the application of settlement finality rules in the Union as set out in Articles 17 to 25.

2. This Regulation also lays down requirements for the registration of third-country systems in one or ***more*** Member States in order to ***apply*** the insolvency ***protections*** provided for in Articles 17, 19, 22(1), 23, 24 and 25(1)**.**

In the case of an insolvency of a ***participant as defined in Article 2(1), point (15) of a registered*** system ***as defined in Article 2(1), point (9), the protections provided for in the first subparagraph shall apply where such participant is established in the*** Member ***State which has registered that system under Article 12.***

3. This Regulation shall apply to:

(a) any system as defined in Article 2(1), point (1);

(b) any participant as defined in Article 2(1), point (15);

(c) collateral security, as referred to in Article 25, provided in connection with and in relation to any of the following:

(i) participation in a system;

(ii) operations of the central banks of the Member States or the European Central Bank in the context of their function as central banks.

Article 2

Definitions

1. For the purpose of this Regulation, the following definitions shall apply:

(1) 'system' means a formal arrangement, other than an interoperability arrangement, with common rules and standardised procedures, including a securities settlement system, a clearing system or a payment system, which provide for the settlement, clearing or execution of transfer orders between participants;

(2) ‘third-country system’ means a system which is not governed by the law of a Member State;

(3) ‘settlement’ means*:*

(a) as regards settlement by a securities settlement system, settlement as defined in Article 2(1), point (7), of Regulation (EU) No 909/2014 of the European Parliament and of the Council[12];

(b) as regards payment settlement, the completion of transfers of funds;

(c) as regards settlement of instruments other than financial instruments, the transfer of instruments other than financial instruments in exchange for a payment;

(4) ‘clearing’ means*:*

(a) clearing as defined in Article 2, point (3), of Regulation (EU) No 648/2012 of the European Parliament and of the Council[13];

(b) the processing of funds before settlement occurring in a payment system;

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12 ***Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1), http://data.europa.eu/eli/reg/2014/909/oj.***

13 ***Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1), http://data.europa.eu/eli/reg/2012/648/oj.***

(5) ‘securities settlement system’ means a system whose ***principal*** activity consists of the settlement of transfer orders ***referred to in point (20)(b), including the settlement of transfer orders referred to in point (20)(a) that are functionally connected with securities settlement, and which is not a payment system.***

(6) ‘payment system’ means a payment system as defined in Article 4, point (7), of Directive (EU) 2015/2366 of the European Parliament and of the Council[14];

(7) ‘clearing system’ means a system ***whose activity consists of the*** clearing ***of transfer orders and which is not a payment system***;

(8) ‘designated system’ means a system designated in accordance with Article 3;

(9) ‘registered system’ means a system registered in accordance with Article 12;

(10) ‘institution’ means:

(a) any of the following entities, participating in a designated system, and being responsible for discharging the financial obligations arising from transfer orders within that system:

[14] 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), http://data.europa.eu/eli/dir/2015/2366/oj.

(i) a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council[15], including the entities listed in Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council[16];

(ii) an investment firm as defined in Article 4(1), point (1), of Directive 2014/65/EU of the European Parliament and of the Council[17] with the exception of the institutions referred to in Article 2(1) thereof;

(iii) a public authority;

(iv) a publicly-guaranteed undertaking;

(v) any undertaking whose head office is outside the Union and whose functions correspond to those of the Union credit institutions or investment firms referred to point (i) and (ii);

(b) any of the following entities, which participates in a designated system whose business consists of the execution of transfer orders as defined in point (20)(a) and which is responsible for discharging the financial obligations arising from such transfer orders within that system:

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15 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and ▌ amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1), http://data.europa.eu/eli/reg/2013/575/oj.

16 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions ▌ , amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338), http://data.europa.eu/eli/dir/2013/36/oj.

17 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349), http://data.europa.eu/eli/dir/2014/65/oj.

(i) a payment institution as defined in Article 4, point (4), of Directive (EU) 2015/2366, with the exception of a natural or legal person benefitting from an exemption pursuant to Article 32 or 33 of that Directive;

(ii) an electronic money institution as defined in Article 2, point (1), of Directive 2009/110/EC of the European Parliament and of the Council[18], with the exception of a legal person benefitting from a waiver under Article 9 of that Directive;

(11) 'central counterparty' or 'CCP' means a CCP as defined in Article 2, point (1), of Regulation (EU) No 648/2012;

(12) 'central securities depository' or 'CSD' means a central securities depository as defined in Article 2(1), point (1), of Regulation (EU) No 909/2014;

(13) 'settlement agent' means an undertaking providing ***to participants in a system*** settlement accounts ***through which transfer orders within such systems are settled and, as the case may be, extending credit to those*** participants ***for settlement purposes***;

(14) 'clearing house' means an entity responsible for the calculation of the net positions of ***participants;***

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[18] 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, 10.10.2009, p. 7), http://data.europa.eu/eli/dir/2009/110/oj.

(15) ‘participant’ means any of the following entities ***allowed to participate*** in a system ***in accordance with the rules of a system***:

(a) for designated systems, any of the following:

(i) an institution;

(ii) a CSD;

(iii) a settlement agent;

(iv) a clearing house;

(v) a system operator;

(vi) a clearing member of a CCP authorised pursuant to Article 17 of Regulation (EU) No 648/2012;

(vii) ***a CCP***;

(viii) an entity other than the entities listed in points (i) to (vii) , as specified in the delegated acts adopted pursuant to paragraph 2, point (b);;

(b) for registered systems, any ***entity*** allowed under the rules of that registered system;

(16) ‘system member’ means an entity referred to in point (15) (a)(***viii***);

(17) ‘indirect participant’ means any of the entities listed in point (15)(a)(i) to (v) that has a contractual relationship with a participant in a designated system executing transfer orders which enables the entity to pass transfer orders through the designated system;

(18) ‘client’ means any undertaking with a contractual relationship with a participant, including an indirect participant, which enables that undertaking to settle, clear and execute its transfer orders through the designated system via such participant;

(19) ‘financial instrument’ means a financial instrument as defined in Article 4(1), point (15), of Directive 2014/65/EU;

(20) ‘transfer order’ means any of the following instructions, including instructions that require the use of a cryptographic key or other device or method to digitally sign:

(a) an instruction by a participant to place at the disposal of a recipient or member an amount of ***money by means of a book entry or electronic recording on the accounts of a central bank, credit institution,, a central counterparty or a settlement agent, or any instruction*** which results in the assumption or discharge of a payment obligation as ***defined*** in the rules of the system;

(b) an instruction by a participant to transfer the title to, or interest in, financial instruments and other instruments, where authorised by the system, including in relation to collateral arrangements and clearing, recorded by means of a book-entry or electronic recording on a register having a similar function or otherwise;

(21) ‘funds’ means ***central bank money, scriptural money and electronic money, including electronic money tokens***;

(22) ***‘***book-entry’ means an electronic record, evidencing any credit or debit or other changes***, including a correction of erroneous entries or earmarking,*** made to such electronic record, ***including*** where the electronic record and any changes thereto may be undertaken by using distributed ledger technology;

(23) ‘insolvency proceedings’ means any collective measure provided for in the law of a Member State, or a third country, either to wind up a participant in a system or to reorganise such participant, where such measure involves the suspending of, or imposing limitations on, transfers or payments;

(24) ‘netting’ means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants either issue to, or receive from, one or more other participants with the result that only a net claim can be demanded or a net obligation be owed;

(25) ‘settlement account’ means an account used to settle transfer orders or used to hold settlement assets, including cash, funds and financial instruments, and, where used for extending credit for settlement purposes, operated by a central bank, a settlement agent or a clearing house;

(26) ‘account’ means a record, including a centralised or decentralised digital or electronic record, on which cash, financial instruments or other assets may be credited or debited or otherwise recorded to register a change in the record;

(27) ‘collateral’ means all realisable assets, including, without limitation, those financial instruments and funds, including those issued or recorded using distributed ledger technology, including in tokenised form, and financial collateral referred to in Article 1(4), point (a), of Directive 2002/47/EC, provided under a pledge, a title transfer arrangement, a repurchase or similar agreement, or otherwise, for the purpose of securing rights and obligations potentially arising in connection with or related to a system, or provided to central banks of the Member States or to the European Central Bank;

(29) ‘working day’ means all days other than public holidays, Sundays and Saturdays as calculated in accordance with Regulation (EEC, Euratom) No 1182/71[19];

(30) ‘interoperability arrangement’ means two or more designated systems whose system operators have entered into a formal arrangement with one another that involves cross-system execution of transfer orders;

(31) ‘interoperable system’ means a system that is part of an interoperability arrangement;

(32) ‘system operator’ means the undertaking or undertakings, legally responsible for the operation of a system, which may also act as a settlement agent, central counterparty, central securities depository or clearing house;

(33) ‘designating authority’ means the competent authority responsible for designating the system in accordance with Article 4(1);

(34) ‘***sectorial*** competent authority’ means***:***

(a) as regards systems operated by a CCP, the authority designated in accordance with Article 22(1) and 22a(1) of Regulation (EU) No 648/2012; in the Member State where the system operator is established,

(b) as regards securities settlement systems operated by a CSD, the authority designated in accordance with Article 10(1) and 11 of Regulation (EU) No 909/2014 in the Member State where the system operator is established;

(c) as regards payment systems, the authority responsible for overseeing the payment system in accordance with Article 26(2), point (b), of Directive (EU) 2015/2366;

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[19] Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1), http://data.europa.eu/eli/reg/1971/1182/oj

(35) ‘registering authority’ means the competent authority responsible for registration ***of*** the system in accordance with Article 12;

(36) ‘central database’ means the central database established in accordance with Article 26;

(37) ‘distributed ledger technology’ or ‘DLT’ means distributed ledger technology as defined in Article 2, point (1), of Regulation (EU) 2022/858 of the European Parliament and of the Council.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to amend any of the following:

(a) the definition of transfer order laid down in paragraph 1, point (20), where necessary to ensure that new types of assets subject to settlement, clearing or payment in designated systems are covered by the protections provided in this Regulation;

(b) the definition of participant laid down in paragraph 1, point (15), ***by:***

(i) adding natural persons, based on the experience of cases where such persons are allowed to participate in a DLT settlement system subject to Regulation (EU) 2022/858;

(ii) specifying the types of entities that shall be allowed to qualify as a participant in the designated system pursuant to paragraph 1, point (15)(a)(viii).

For the purposes of point (b) of the first subparagraph, the Commission shall consider the need to extend the protections provided under this Regulation to such entities and natural persons, as well as the legal and operational feasibility of such extension

TITLE II
SYSTEM DESIGNATION

Article 3

Designated system

1. Where an undertaking operates or intends to operate a system governed by the law of a Member State, such a system operator may apply for that system to be designated in accordance with the procedure laid down in Article 4, as a system in the Union to which the settlement finality rules laid down in Articles 17 to 25 apply.

A system operator referred to in paragraph 1 that, to a limited extent, offers the settlement, clearing or execution of instructions related to instruments other than those referred to in Article 2(1), point (20)(b), may request that the settlement finality rules set out in Articles 17 to 25 also apply in relation to such instruments. The designating authority may allow such instructions to be considered transfer orders when it considers that such a designation is warranted ***in view*** of systemic risk ***considerations and necessary for the safe and orderly functioning of the system***.

2. The designating authority of the Member State whose law governs the system may designate the system, where at least one of its participants has its head office in that Member State ***and provided that the conditions set out in Article 5 are fulfilled***.

3. By way of derogation from paragraph 1, where the designating authority of a Member State considers, on the basis of systemic risk considerations, that a system governed by the law of that Member State should be designated for the purposes of this Regulation, it may, on its own initiative, require the system operator to submit an application for designation in accordance with Article 4.

For the purposes of the first subparagraph, the designating authority shall notify the system operator of the reasons for its assessment, and provide an opportunity to submit observations. Upon such notification, the undertaking shall apply for designation within a period specified by the designating authority. The requirement to apply for designation shall not prejudge the outcome of the designation procedure.

4. By way of derogation from paragraph 1, systems operated by a member of the ESCB shall be exempt from the procedure set out in Article 4 and shall be considered as designated pursuant to Article 4 as soon as the central bank in question notifies the designating authority thereof. The notification shall contain all the necessary information and documents confirming the compliance of the system with the criteria set out in Article 5.

Article 4

Procedure for granting and refusing designation

1. A system operator that applies for designation of a system that it operates ***in accordance with Article 3*** shall submit an application for designation ***to the central database referred to in Article 26 (3). The application shall be*** addressed to the designating authority of the Member State whose law governs the system.

2. The application shall be immediately shared with all of the following:

(a) the designating authority;

(b) where applicable, the ***sectorial*** competent authority;

(c) ESMA;

(d) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);

(e) ***the ECB and the relevant members of*** the ESCB.

3. The system operator shall include in the application all documents and information necessary to demonstrate that it and the system it operates meet the requirements in this Regulation, including the information listed in Article 6(2) (a) and (c) to (g). ***By derogation from the first subparagraph, the system operator shall not be required to submit the information and documents which have already been submitted to the sectorial competent authority for the purposes of authorisation or licensing application, or where such documents are otherwise available via the central database. The sectorial competent authority shall share such information and documents with the designating authority.***

4. An acknowledgement of receipt of the application referred to in paragraph 1 shall be sent ***by the designating authority*** to the system operator within two working days of receipt of such application. The designating authority shall, within 20 working days of receipt of the application, determine whether the application contains the documents and information required pursuant to paragraph 3.

Where, during the applicable period specified under the first subparagraph, the designating authority concludes that not all documents and information required pursuant to paragraph 3 have been submitted, it shall request the system operator to submit such additional documents or information. Where the system operator has failed to comply with any such request in full, the designating authority may reject the application.

5. By the end of the time limits referred to in paragraph 4, the designating authority shall notify the system operator and the authorities listed in paragraph 2, points (b) to (e), as applicable, whether the application is accepted or rejected.

6. After having notified the system operator that the application is accepted, the designating authority shall conduct an assessment of the system operator's and the system's compliance with the requirements laid down in this Regulation within 80 working days of the date of the notification referred to in paragraph 5 ('the assessment period').

7. During the assessment period, the designating authority may submit questions to, or request complementary information from, the system operator.

Where the system operator has not responded to the questions or provided the requested information within the deadline set by the designating authority, the designating authority may decide to extend once the relevant assessment period by a maximum of 10 working days in total where, in its view, any of the questions or information is material for the assessment. The designating authority shall inform the system operator of the extension provided. The designating authority may take a decision on the application in the absence of the system operator's response.

8. Within the assessment period, the designating authority shall decide whether to grant or refuse the designation of the system referred to in Article 3. The designating authority shall decide to grant designation only where it is fully satisfied that the system and its operator comply with the requirements laid down in this Regulation.

9. After taking a decision referred to in paragraph 8, the designating authority shall, inform, without undue delay, the system operator, and the authorities listed in paragraph 2, points (b) to (e), as applicable, of its decision, including a fully reasoned explanation.

Article 5

Conditions for designation

1. A designating authority shall designate a system in accordance with Article 3, only where the designating authority is satisfied that all of the following conditions are fulfilled:

(a) ***the system is a formal arrangement of three or more participants, excluding the system operator of that system, and any settlement agent, clearing house or an indirect participant;***

(b) the system is governed by the law***, chosen by its participants,*** of the Member State of the designating authority;

(c) at least one of the participants ***in a*** system ***has its head office*** in the Member State ***whose law governs the system***;

(d) the system has common rules and standardised procedures for the settlement, clearing, or execution, as applicable, of transfer orders between the participants;

(e) the system has clearly identified in its common rules and standardised procedures the moments of finality that fulfil the requirements set out in Articles 18, 20 and ***the moment of final settlement as referred to in Article 21 and in accordance with the law governing the system***.

(f) the common rules and standardised procedures of the system stipulate, where relevant in accordance with Article 7, the requirements for participation in the system;

(g) there are no apparent conflicts between the common rules and standardised procedures of the system and the law governing the system;

(h) the system operator is able to ensure adequate monitoring of compliance of its system with the common rules and standardised procedures of the system it operates;

(i) the system operator is capable of operating the system, is of sufficiently good repute and has sufficient experience to ensure the sound and prudent management of the system;

(j) the system operator has enough financial resources to operate the system;

(k) the system operator is legally accountable, responsible and liable for the operation of the system, including for any links to other systems and the relationship to third parties and to the authorities;

(l) the system operator has put in place sufficient measures to mitigate the risks related to the operation of the system;

(m) where the system operator consists of a network of nodes operating under a common governance and supervision framework, the common rules and standardised procedures of the system shall ensure that one undertaking is legally accountable, responsible and liable for the operation of the system;

(n) where the system operator is a consortium of entities, all entities shall be jointly and severally accountable, responsible and liable for the operation of the system.

2. ***For the purposes of paragraph 1,*** the conditions ***in points (f) and (h) to (n) of that*** paragraph ***shall be considered fulfilled in case of the following*** systems***:***

(a) clearing systems operated by CCPs subject to authorisation pursuant to Article 14 of Regulation (EU) No 648/2012;

(b) securities settlement systems operated by CSDs subject to authorisation pursuant to Article 16 of Regulation (EU) No 909/2014;

(c) payment systems subject to Regulation (EU) 2025/1355 of the European Central Bank of 2 July 2025 on oversight requirements for systemically important payment systems or payment systems of the non-Euro area subject to equivalent rules.

Article 6

Notification of a designated system

1. A designating authority shall notify, simultaneously and without undue delay, ESMA ***and the authorities listed in Article 4(2), points (b), (d) and (e), as applicable*** and the system operator of its decision taken pursuant to Article 4. The designation shall be effective from the date of notification.

2. The notification referred to in paragraph 1 shall contain at least all of the following information, as of the date of the designation:

   (a) the identification of the system, the law governing the system, the system operator and the designating authority;

   (b) the date on which the system was designated;

   (c) the Member State in which the system operator is established and the ***sectorial*** competent authority, where applicable;

   (d) whether the system is a securities settlement system, a clearing system or a payment system;

(e) the ▌ moments of ***entry into*** the system ***and of irrevocability*** as specified in its rules in accordance with Articles 18 ***and 20, respectively, and the moment of final settlement in accordance with the law governing the system***;

(f) the ***categories of*** participants ***in*** the system ***according to Article 2(1)(15)***

(g) the identity of the participants to the system, without prejudice to any applicable confidentiality or data privacy restrictions;

(h) the common rules and standardised procedures of the system;

3. the designating authority's assessment of the system operator's and system's compliance with the requirements under this Regulation, including ***its assessment of*** the conditions for designation set out in Article ***5.3***. ***The designating authority shall notify ESMA and the authorities listed in Article 4(2), points (b), (d) and (e), as applicable, without undue delay, of any of the following:***

▌

(a) any notifications made by the system operator in accordance with Article 8(2);

(b) any changes to the designation of the system;

(c) any updates to the information listed in paragraph 2.

4. ESMA shall publish in a standardised format the information referred to in paragraph 2, point (a) to ***(h)***, and any updates thereto in accordance with paragraph 3, point (c), on its website without undue delay and no later than 2 working days after receipt of that information. ESMA shall specify the date when updates to the information on its website were made and which information was updated.

ESMA shall, without undue delay, provide updated information to EBA and the ESCB, as applicable.

Article 7

Participants in designated systems

1. A system operator may admit one or more types of participants listed in Article 2(1), point (15)(a)(i) to (***viii***), to the designated system it operates.

A designated system that allows a participant to act in several of the capacities listed in Article 2(1), point (15)(a), or carry out part ***of*** or all the tasks related to those capacities, shall specify that in its common rules and standardised procedures.

A Member State ***shall ensure that a competent authority*** may, in exceptional circumstances and for the purposes of this Regulation, admit an indirect participant as participant where the indirect participant is known to the system operator and the participants of the system, and where that is warranted on the grounds of systemic risk. That possibility shall, however, not limit the responsibility of the participant through which the indirect participant passes transfer orders to the designated system.

2. A system operator of a designated system may accept a system member to the system only where that member meets all of the following conditions:

(a) it has the capacity and ability to meet the obligations arising from its participation in the system;

(b) it has the capacity and ability to mitigate the risks resulting from its participation in the system;

(c) it complies with the rules of the system.

A system operator of a designated system shall establish admission criteria, differentiating per type of participant where relevant. Such admission criteria shall be non-discriminatory, transparent and objective to ensure fair and open access to the designated system.

A system operator of a designated system shall ensure that the system members comply with the conditions set out in the first subparagraph on an ongoing basis and shall have timely access to the information relevant for such assessment.

3. A participant that enables its clients to access a designated system by transmitting instructions for transfer orders through that system shall inform the system operator of that system thereof. That participant shall have the necessary additional financial resources and operational capacity to perform that activity and shall provide the system operator with the information necessary to identify, monitor and manage relevant concentrations of risk relating to the provision of services to clients.

A participant that enables its clients to access the services of the system shall, upon request from the system operator, inform the system operator about the criteria and arrangements it adopts to enable its clients to access those services. Regardless of such information, that participant shall remain solely responsible with respect to the system operator and other participants ***in a*** system for ensuring that its clients comply with their obligations.

Article 8

Duties of a system operator of a designated system

1. The system operator of a designated system shall be responsible for its compliance, and that of the system it operates with the provisions of this Regulation at all times.

2. The system operator shall notify, without undue delay, to the designating authority of any of the following:

   (a) any material changes that affect or may affect the system operator's compliance, and that of the system it operates, with the provisions of this Regulation;

   (b) any ***material*** changes to the list of information provided for in Article 6(2), points (a) to ***(h), which affect the conditions under which the designation was granted***.

Article 9

Withdrawal of designation

1. A designating authority shall withdraw a designation it granted, where any of the following conditions is met:

   (a) the system operator has obtained the designation by making false statements or by any other irregular or unlawful means;

   (b) the system operator or the system it operates, as applicable, no longer complies with the requirements of this Regulation and the system operator has not taken the remedial actions requested by the designating authority within a set timeframe;

   (c) the system operator or the system it operates, as applicable, has seriously or systemically infringed the requirements laid down in this Regulation.

2. A designating authority shall only decide to withdraw the designation of a system after it has informed***, where applicable, the sectorial*** competent authority and requested an opinion on the appropriateness of withdrawing the designation. The opinion shall be requested from ESMA and the ESCB for the withdrawal of the designation for securities settlement systems and clearing systems, or from EBA and the ESCB, for the withdrawal of the designation for payment systems.

   Where ESMA, EBA or the ESCB are of the opinion that the withdrawal of the designation may cause material risks to the financial stability of the Union or in a Member State, ***they*** shall inform the designating authority within 10 working days of being informed of a potential withdrawal of a designation under first subparagraph and the designating authority shall, before withdrawing the designation of the system, convene an ad hoc meeting with the ***sectorial*** competent authority, the ESCB and, depending on the nature of the system, ESMA or EBA, to cooperate on how to mitigate the risks identified.

Where the designated system is a CSD or a CCP, the designating authority shall not withdraw the designation without the consent of the authority responsible for the supervision of that CSD or CCP.

Before deciding to withdraw a designation, the designating authority shall notify the system operator of its preliminary assessment, state the reasons for the proposed withdrawal, and provide the system operator with an opportunity to submit observations.

3. A designating authority shall examine whether a system remains in compliance with the conditions under which the designation was granted when requested to do so by ESMA and the ESCB, for securities settlement systems and clearing systems, or EBA and the ESCB, for payment systems.

4. Where the designating authority withdraws the designation, it shall notify simultaneously the system operator, the ***sectorial*** competent authority, ESMA, EBA and the ESCB of its decision to withdraw the designation of a system and ESMA shall update its website accordingly on the day indicated by the designating authority in its notification.

5. The withdrawal of a designation shall be effective from the date of notification referred to in paragraph 4.

TITLE *III*
AUTHORITIES AND COOPERATION

Article 10

Competent authority

1. Each Member State shall appoint ***one or more*** competent authorities responsible for carrying out the duties resulting from this Regulation in relation to systems, ▌ including the designating authorities ***and*** the registering authorities***)***.

Where a Member State appoints more than one competent authority, it shall determine their respective roles.

Each Member State shall designate a single competent authority to be responsible for cooperation with other Member States' competent authorities, ESMA, EBA and the ESCB***, and a single competent authority responsible for collecting and transmitting the information from the judicial or administrative authorities pursuant to Article 22***.

2. Member States shall notify to ESMA, the designating authorities and the registering authorities referred to in paragraph 1, first subparagraph, and specify their respective roles under this Regulation, and the single competent authority referred to in paragraph 1, third subparagraph.

3. ESMA shall publish, without undue delay, a list of the designating authorities and the registering authorities referred to in paragraph 1, first subparagraph, and their respective roles, and the single competent authority referred to in paragraph 1, third subparagraph, on its website and inform the EBA and the ESCB of any changes to that list.

Article 11

Exchange of information

1. ***All*** competent authorities referred to in Article ***10(1), sectorial competent authorities,*** ESMA, EBA and the ESCB, shall share and provide one another with information where that is requested for carrying out their respective duties under this Regulation without undue delay.

2. Both the request for information and the reply to the request shall be submitted through the central database.

3. Any confidential information received pursuant to this Regulation shall only be used for the exercise of any duty arising under this Regulation.

TITLE *IV*

THIRD-COUNTRY SYSTEMS

Article 12

Registration of third-country systems

Each of the registering authorities in any of the Member States in which a ***participant or a prospective participant*** in a third-country system is established may decide to register such a third-country system in accordance with the procedure set out in Article 13, ▌. Each of those registering authorities shall assess the application for registration of the third-country system.

Article 13

Procedure for granting and refusing registration

1. Where the system operator of a third-country system ('third-country system operator') wishes to register that system as a registered system, it shall submit an application for registration, addressed to ESMA.

2. ESMA shall immediately share the application with all of the following recipients:

   (a) at least, all registering authorities referred to in Article 12;

   (b) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);

   (c) the ESCB.

3. The third-country system operator shall include in the application all documents and information necessary to demonstrate that it and the system it operates meet the conditions for registration laid down in Article 14, including the information on the members of that system which are established in the Union, broken down by Member State.

4. ***ESMA shall send*** an acknowledgement of receipt of the application referred to in paragraph 1 ▌ to the third-country system operator within two working days of receipt of such application. ***ESMA*** shall, within 20 working days from receipt of the application, determine whether the application contains the documents and information required pursuant to paragraph 3. ***Within 15 working days from the receipt of the application, registering authorities and the relevant members of the ESCB may inform ESMA that they consider that additional documents or information should be requested. ESMA shall consider the request and inform the requesting registering authority whether it will act upon it.***

Where, during the applicable period specified under the first subparagraph, ***ESMA*** concludes that not all documents or information required pursuant to paragraph 3 have been submitted, ***it*** shall request the third-country system operator to submit such additional documents or information. Where the third-country system operator has failed to comply with any such request in full, ***ESMA*** may reject the application.

5. By the end of the ***20 working day period*** referred to in paragraph 4, ***ESMA*** shall notify ▌ the third-country system operator and the authorities listed in paragraph 2, points (a), (b) and (c), whether the application is accepted or rejected.

6. After having notified the third-country system operator that the application is accepted, ***ESMA*** shall***, in close cooperation with the authorities listed in paragraph 2, points (a), (b) and (c),*** conduct an assessment of the third-country system operator's and the system's compliance with the conditions for registration laid down in Article 14 within ***60*** working days of the notification set out in paragraph 5 ('the assessment period'). ***Where the assessment concerns a third-country payment system, the assessment shall be undertaken in agreement with the EBA and the ECB.***

7. During the assessment period, ***ESMA*** may submit questions to, or request complementary information from, the third-country system operator. ***Any registering authority may request that ESMA submits questions to, or request complementary information from, the third-country system operator. ESMA shall consider the request and inform the requesting registering authority whether it will act upon it.***

Where the third-country system operator has not responded to the questions or provided the requested information within the deadline set by ***ESMA***, ESMA may ▌ extend once the relevant assessment period by a maximum of 10 working days in total where, in ***its*** view, any of the questions is material for the assessment. ESMA shall inform the third-country system operator of the extension provided. A registering authority may take a decision on the application in the absence of the third-country system operator's response.

8. ***ESMA*** shall ***inform*** the registering authorities ***referred to in Article 12 of the outcome of the assessment conducted in accordance with paragraph 6, including, where relevant, the views expressed by other the registering authorities, the EBA or by the ESCB***.

9. Within ***20 working days of the receipt of*** the assessment ***by ESMA referred to in paragraph 8***, each registering authority shall decide whether to grant or refuse the registration of the third-country system. Each registering authority shall decide to grant the registration only where it is fully satisfied that the third-country system operator and the third-country system comply with the conditions laid down in Article 14.

10. After taking a decision referred to in paragraph ***9***, each registering authority shall inform, without undue delay, the third-country system operator, ESMA and the authorities listed in paragraph 2, points (a), (b) and (c) as applicable, of its decision, including a fully reasoned explanation.

11. ESMA shall, in close ***co-operation*** with the ESCB, develop, for clearing and securities settlement systems, draft regulatory technical standards to further specify the information to be provided in:

(a) an application for registration as referred to in paragraph 1, with a view to demonstrate that the applicant third-country system operator and the third-country system comply with all relevant requirements set out in this Article, including the conditions set out in Article 14, and to specify the information the application shall contain on the members of the third-country system, established in the Union;

(b) an application for designation as referred to in Article 4(1), with a view to demonstrate that the applicant system operator and the system comply with all the relevant requirements of this Regulation.

In developing the regulatory technical standards, ESMA and the ESCB shall take into consideration that the requested information shall be proportionate to and relevant for the type of system seeking to be registered or designated.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP insert date = 1 year after the date of entry into force of this Regulation].

The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

12. ESMA shall, in close ***co-operation*** with the ESCB, develop draft implementing technical standards to specify, for securities settlement systems and clearing systems:

(a) the uniform electronic formats for the application for registration referred to in paragraph 1, to be submitted to the central database;

(b) the uniform electronic formats for the application for designation referred to in Article 4(1), to be submitted to the central database.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [OP enter 1 year after the date of entry into force of this Regulation].

The Commission shall be empowered to adopt implementing acts to supplement this Regulation by adopting the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

13. EBA shall, in close ***co-operation*** with the ESCB, develop, for payment systems, draft regulatory technical standards to further specify the information to be provided in:

(a) an application for registration as referred to in paragraph 1 with a view to demonstrate that the applicant third-country system operator and the third-country system comply with all relevant requirements set out in this Article, including the conditions set out in Article 14, and to specify the information the application shall contain on the members of the third-country system, established in the Union;

(b) an application for designation as referred to in Article 4(1), with a view to demonstrate that the applicant system operator and the system comply with all the relevant requirements of this Regulation.

In developing the regulatory technical standards, EBA and the ESCB shall take into consideration that the requested information shall be proportionate to and relevant for the type of system seeking to be registered or designated.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by [OP insert date = 1 year after date of entry into force of this Regulation].

The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

14. EBA shall, in close ***co-operation*** with ESCB, develop draft implementing technical standards to specify, for payment systems:

(a) the uniform electronic formats for the application for registration referred to in paragraph 1 of this Article to be submitted to the central database;

(b) the uniform electronic formats for the application for designation referred to in Article 4(1), to be submitted to the central database.

EBA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by [OP insert date = one year after the date of entry into force of this Regulation].

The Commission shall be empowered to adopt implementing acts to supplement this Regulation by adopting the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Article 14

Conditions for registration

1. A registering authority may register a third-country system in its Member State only where all of the following conditions are met:

(a) the system has common rules and standardised procedures for the settlement, clearing, or execution of transfer orders between the participants;

(b) the system is authorised***,*** supervised ***or subject to oversight*** in the country of its establishment or in the country under which law the third-country system is governed ▌

(c) the system is governed by a law***, chosen by its participants,*** that upholds the principles of settlement finality;

(d) the system identifies clearly in its common rules and standardised procedures all of the following moments:

(i) the moment of entry of a transfer order into the system referred to in Article 18(1)***, unless it coincides with the moment referred to in point (ii)***;

(ii) the moment of irrevocability of a transfer order entered into the system referred to in Article 20(1);

(iii) ***a description of the operational point at which*** settlement ***is considered final for the purposes of the third-country system, without prejudice to the applicable law governing the*** transfer ***of ownership or other rights***.

(e) the system complies in all material respects with global principles of financial market infrastructures.

2. For the purposes of paragraph 1, the condition in point (b) shall be considered fulfilled where the system operator is:

(a) a CCP recognised in accordance with Article 25 of Regulation (EU) No 648/2012;

(b) a CSD recognised in accordance with Article 25 of Regulation (EU) No 909/2014.

Article 15

Notification of registered systems

1. After taking a decision referred to in Article 13(10), each registering authority shall notify, simultaneously and without undue delay, the applicant third-country system operator, ESMA, EBA, the ESCB and the other registering authorities, as applicable, of its decision. The registration shall be effective from the date of notification.

2. The notification referred to in paragraph 1 shall contain at least all of the following information, as of the date of the registration:

(a) the identification of the registered system and its system operator;

(b) the date of registration of the registered system;

(c) the country in which the third-country system operator is established;

(d) the Member States in which the registered system has been registered and each of the registering authorities that granted the registration;

(e) whether the system is a securities settlement system, a clearing system, or a payment system;

(f) the law governing the registered system;

(g) the settlement finality moments of the registered system;

(h) the Union participants ***in a*** registered system.

3. The registering authority of a registered system shall, without undue delay, notify ESMA and the authorities listed in Article 13(2), points (a), (b) and (c), as applicable, of any of the following:

(a) any substantive changes that materially affect, or may materially affect, the compliance with the conditions for registration set out in Article 14;

(b) any updates to the information listed in paragraph 2.

4. ESMA shall publish in a standardised format the information referred to in paragraph 2 and any updates thereto in accordance with paragraph 3, point (b), on its website, without undue delay and no later than 2 working days after receipt of that information ESMA shall specify the date when updates to the information***. Such publication shall indicate the Member State or Member States in which the registration has effect. ESMA shall specify the date when updates to the information*** on its website were made and which information was updated.

ESMA shall, without undue delay, provide updated information to the registering authorities, EBA and the ESCB, as applicable.

Article 16

Withdrawal of registration

1. A registering authority shall withdraw the registration of a registered system where any of the following conditions is met:

   (a) the third-country system operator has obtained the registration by making false statements or by any other irregular or unlawful means;

   (b) the third-country system operator or the system it operates, as applicable, no longer complies with the conditions set out in Article 14; ***and the system operator has not taken the remedial actions requested by the registering authority within a set timeframe;***

   (c) the third-country system operator or the system it operates, as applicable, has seriously or systematically infringed the conditions for registration laid down in Article 14.

2. A registering authority shall only decide to withdraw the registration of a third-country system operator after it has informed ESMA and provided ESMA with all the relevant information for ESMA to be able to update its list of registered systems registered in a Member State. ***Before deciding to withdraw a registration, the registering authority shall notify the third-country system operator of its preliminary assessment, state the reasons for the proposed withdrawal, and provide the third-country system operator with an opportunity to submit observations.*** ESMA shall share this information with EBA, the ESCB and other registering authorities, as applicable.

Where the third-country system is registered in more than one Member State, the registering authority shall notify ESMA and the other registering authorities before adopting a final withdrawal decision. ESMA shall coordinate an exchange of views among the registering authorities, EBA and the ESCB, as applicable.

3. Where one of the registering authorities, ESMA, EBA or the ESCB, as applicable, are of the opinion that the withdrawal of the registration may cause material risks to the financial stability of the Union or in a Member State, it shall inform the relevant registered authority within 10 working days of being informed of a potential withdrawal of a registration under paragraph 2**.** The relevant registering authority shall convene an ad hoc meeting with the other registering authorities, ESMA, EBA and the ESCB, as applicable, to cooperate on how to mitigate the risks identified before the registering authority withdraws the registration. ***The relevant registering authority shall take due account of the views expressed before adopting its final decision.***

Where the registered system is a CCP determined by ESMA to be a Tier 2 CCP under Regulation (EU) No 648/2012, the registering authority shall not withdraw the registration without the consent of ESMA.

4. Where the registering authority withdraws the registration, it shall notify simultaneously the system operator, ESMA, EBA, the ECSB and other registering authorities, as applicable, of its decision to withdraw the registration of the system and ESMA shall update its website accordingly on the day indicated by the registering authority in its notification.

5. The withdrawal of the registration of a system shall be effective from the date of notification referred to in paragraph 4.

TITLE *V*

NETTNG AND SETTLEMENT FINALITY

Article 17

Netting and transfer orders

1. Transfer orders and ▌ netting, shall be legally enforceable and binding on ***the participant and*** third parties, provided that transfer orders were entered into the designated system or registered system before the moment of opening of insolvency proceedings as referred to in Article 22(1), even in the event of insolvency proceedings against any of the following:

   (a) a participant in the designated system or registered system;

   (b) a participant to ***a*** system ***in an interoperability arrangement***;

   (c) the system operator of ***a*** system ***in an interoperability arrangement***, which is not a participant.

   Transfer orders that are entered into a designated system or registered system after the moment of opening of insolvency proceedings ▌ , shall be legally enforceable and binding on ***participants and*** third parties only where***:***

   (a) the system operator can prove that, at the time that such transfer orders have become irrevocable, it was neither aware, nor should have been aware, of the opening of such proceedings, or the system operator can prove that, after becoming aware of the opening of the insolvency proceedings, it had immediately taken all the appropriate steps to prevent any additional transfer orders from becoming irrevocable, and

(b) transfer orders have become irrevocable within a maximum of 24 hours from the moment of the opening of insolvency proceedings, or within the next business day if insolvency proceedings were opened outside of the business day of the system operator, or at the end of the business day of the system operator.

2. No law, regulation, rule or practice on the setting aside of contracts and transactions concluded before the moment of opening of insolvency proceedings, as provided for in Article 22(1), shall lead to the unwinding of netting ▌ .

Article 18

Moment of entry of a transfer order into a designated system

1. ***Each designated system shall determine in its common rules and standardised procedures the specific*** moment of entry of a transfer order into ***the*** system***. That moment*** shall be determined by ***objective and verifiable criteria appropriate to the*** system***'s design and operation, including, where relevant,*** the receipt***, validation,*** registration ***or recording*** of the transfer order by ***or within*** the system.

2. In the case of interoperable systems, each ▌ system ***in an interoperability arrangement*** shall determine in its own common rules and standardised procedures the moment of entry of a transfer order into its system, while ensuring, to the extent possible, that the common rules and standardised procedures of all interoperable systems concerned are coordinated. Unless expressly provided for by the common rules and standardised procedures of all the systems that are party to the interoperability arrangement, one system's rules on the moment of entry of a transfer order shall not be affected by any rules of the other systems with which it is interoperable.

Article 19

Use of funds and financial instruments

1. The opening of insolvency proceedings against a participant or a system operator of an interoperable system shall not prevent funds or financial instruments available on the settlement account or on accounts holding collateral, including default fund contributions such as contributions to a pre-funded default fund held by a CCP in accordance with Article 42 of Regulation No 648/2012 and margins as referred to in Article 41 of Regulation No 648/2012, where applicable, of that participant or system operator from being used to fulfil that participant's obligations in the designated system, or registered system in the Member State where the participant is established, or in an interoperability arrangement ▌ .

2. Such a participant's credit facility connected to the designated system or registered system, as applicable, shall be usable against available, existing collateral security to fulfil that participant's obligations in the designated system, or in the registered system in the Member State where the participant is established, or in an interoperability arrangement.

Article 20

The moment of irrevocability of transfer orders

1. Each designated system shall determine ***in its common rules and standardised procedures*** the specific moment where ▌ a participant or a third party cannot revoke a transfer order ***('moment of irrevocability'). That moment*** shall ***be identified in a clear, objective and legally enforceable manner, taking into*** account ***the operational and technical features*** of the ***system, without necessarily requiring that irrevocability depends on confirmation by the system or on the*** transfer order ***becoming technically irreversible***.

A transfer order may not be revoked by a participant in a system nor by a third party from that moment defined by the rules of that system.

2. In the case of interoperable systems, each system shall determine in its own common rules and standardised procedures the moment of irrevocability, while ensuring, to the extent possible, that the common rules and standardised procedures of all interoperable systems concerned are coordinated. Unless expressly provided for by the common rules and standardised procedures of all the systems that are party to an interoperability arrangement, one system's rules on the moment of irrevocability shall not be affected by any rules of the other systems with which it is interoperable.

Article 21

Final settlement

1. ***Each designated system*** shall ***determine in its*** common rules and standardised procedures ***the moment settlement is considered to be final*** in accordance with the ***law governing the*** system***.***

TITLE *VI*

PROVISIONS CONCERNING INSOLVENCY PROCEEDINGS

Article 22

The moment of opening of insolvency proceedings

1. For the purpose of this Regulation, the moment of opening of insolvency proceedings shall be the moment the judicial or administrative authority concerned hands down its decision.

2. When a decision has been taken in accordance with paragraph 1, the judicial or administrative authority concerned shall immediately notify that decision to ***the*** competent authority responsible for collecting that information, appointed pursuant to Article 10(1)***, third subparagraph. That competent authority*** shall immediately notify, via the central database, ESMA, EBA, the ESCB, the European Systemic Risk Board***, the designating and registering authorities, its counterparties in*** other Member States***, as well as the operators of the systems designated in its Member State in which the insolvent party participates***.

The obligation to notify system operators shall be without prejudice to the related obligations of the participants in the systems to notify the decisions referred to in paragraph 1 in case of the opening of insolvency proceedings against them, pursuant to the rules of the systems they participate in. For the purposes of Article 17(1), second subparagraph, the notification received first, from the judicial or administrative authority or from the participants in the system, shall suffice to presume the knowledge of the system operator about the opening of insolvency proceedings.

Article 23

No retroactive effects

Insolvency proceedings shall not have retroactive effects on a participant's rights and obligations arising from, or in connection with, its participation in a designated system, or in a registered system for its participants established in Member States where the third-country system is registered, before the opening of such proceedings pursuant to Article 22(1). Such proceedings shall not have retroactive effect on the rights and obligations of a participant in an interoperable system, or on a system operator of an interoperable system where such system operator is not a participant.

Article 24

Law governing the rights and obligations of participants

In the event of insolvency proceedings being opened against a participant in a ***designated system or in a registered*** system, the rights and obligations arising from, or in connection with, the participation of that participant shall be determined by the law governing that system.

TITLE *VII*
INSULATION OF THE RIGHTS OF HOLDERS OF COLLATERAL SECURITY FROM THE EFFECTS OF THE INSOLVENCY OF THE PROVIDER

Article 25

Collateral security

1. The rights of a system operator or of a participant to collateral security provided to them in connection with a designated system, a registered system for its participants established in the Member States where the system is registered, or an interoperability arrangement, and the rights of central banks of the Member States or the European Central Bank to collateral security provided to them, shall not be affected by insolvency proceedings against any of the following:

   (a) the participant in the designated or the registered system concerned or in an interoperability arrangement;

   (b) the system operator of an interoperable system which is not a participant;

   (c) a counterparty to the central bank of a Member State;

(d) a counterparty to the European Central Bank;

(e) any third party which provided the collateral security.

Such collateral security may be realised for the satisfaction of those rights.

The rights of a system operator to the collateral security it provided to another system operator in connection with an interoperability arrangement shall not be affected by insolvency proceedings against the receiving system operator.

2. The rights of participants ***in designated systems***, system operators ***of designated systems***, a central bank of a Member State, the European Central Bank and of any nominee, agent or third party acting on their behalf with respect to the financial instruments, including rights in those financial instruments, which are provided as collateral security that is legally recorded on a register, ***account or centralised deposit system,*** including where recorded on a distributed ledger, ▌ located in a Member State, shall be governed by the law of that Member State.

For the purposes of ***this provision***, the location of a register, account or centralised deposit held ***by*** a legal entity ***at a branch or head office in a Member State*** shall be the Member State where that ***branch or head*** office ***is located***.

3. ***Without prejudice to the second paragraph of Article 25(2),*** where ***due to the organisational and technological set up of the*** register, account or centralised deposit system***, including a distributed ledger, it is objectively not possible to determine a single Member State where the register, account or centralised deposit system is located*** in accordance with paragraph 2, the determination of the rights of participants, system operators, a central bank of a Member State or the European Central Bank, and the rights of any nominee, agent or third party acting on their behalf, with respect to the financial instruments provided as collateral security ***in connection with a designated system***, shall be governed by the law governing ***that*** system **.**

Where a system falls within the scope of the first subparagraph, its common rules and standardised procedures shall state that fact expressly and shall identify the law governing the system for the purposes of that subparagraph.

4. For the purposes of paragraphs 2 and 3, the reference to the law of a Member State is a reference to its domestic law, disregarding any rule under which, in deciding the relevant question, reference is made to the law of another country.

TITLE *VIII*

CENTRAL DATABASE AND EXERCISE OF DELEGATION

Article 26

Central database

1. ESMA shall establish and maintain a central database in accordance with Article 35c of Regulation (EU) 1095/2010. Separately for each system concerned, ***all the*** competent authorities ▌ referred to in Article ***10(1), the sectorial competent authorities***, ESMA, EBA***, the European Systemic Risk Board,*** and the ESCB ('registered recipients'), shall have access to all information and documents as referred to in paragraph 3, registered within the database for that system and where relevant or necessary for the performance of their duties.

2. A system operator shall have access to the central database as regards the information and documents it submitted to that central database or the documents transmitted to it through that central database by any of the registered recipients.

Other recipients shall also submit and have access to certain specific documents or information, where specified under this Regulation, that is registered in the central database. ESMA shall ensure that the central database performs the functions under this Article.

3. System operators, including for designated and registered systems as well as the registered recipients shall upload to the central database, in electronic format, all information and documents, including applications, decisions, recommendations, requests, information, questions, answers and notifications, referred to in this Regulation unless stated otherwise.

An acknowledgement of receipt shall be sent via the central database within two working days of submission of information or documents.

4. ESMA shall ensure the database enables DLT recorded data, including on-chain data reading and access to such data.

5. ESMA shall design the central database to automatically inform the registered recipients when changes have been made to its content, including the uploading, deletion or replacement of documents, submission of questions or requests for information.

6. ESMA shall make available the information shared via the central database under this Regulation to relevant authorities for the purpose of Regulations (EU) No 648/2012 and Regulation (EU) No 909/2014 where relevant or necessary for the performance of their duties.

Article 27

Exercise of the delegation

1. The power to adopt delegated acts is conferred to the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated act referred to in Article 2(2) shall be conferred on the Commission for an indeterminate period of time from [OP insert date = the date of entry into force of this Regulation].

3. The delegation of power referred to in Article 2(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall endeavour to consult ESMA and EBA and shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 2(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

TITLE *IX*
FINAL PROVISIONS

Article 28

Transitional provisions

1. By way of derogation from Article 3, a system designated under Directive 98/26/EC prior to [OP insert date = entry into force of this Regulation] shall continue to be designated for the purposes of this Regulation until it is re-designated under that Article or until [OP insert date= 5 years after the entry into force of this Regulation], whichever is earlier. In the meantime, the Member State law on the designation of a system shall continue to apply.

For the purposes of redesignation, the system operator may accompany its application only with the data and information relating to fulfilment of the conditions for designation referred to in Article 5(1) that were not verified or applicable when the system was designated under Directive 98/26/EC.

The condition referred to in Article 5(1), point (a), for existing designated systems comprising of two participants shall not apply in the process of redesignation. During the period set out in the first subparagraph, the designating authority may, notify the system operators of the systems designated under Directive 98/26/EC, that it intends to redesignate them on its own initiative where that designating authority is already satisfied about the full ongoing compliance of the system concerned with all the criteria set out in Article 5. Following this notification, the system concerned shall be considered as designated pursuant to Article 4(8).

1a. Systems designated under Directive 98/26/EC which are operated by a member of the ESCB shall be considered as re-designated following a notification by the relevant central bank to the designating authority.

2. By way of derogation from Article 12, a third-country system to which a Member State has extended ***one or more of*** the protections granted under Directive 98/26/EC ***or has applied similar protections*** prior to [OP insert date = entry into force of this Regulation] shall be considered as registered in that Member State for the purposes of this Regulation until it is registered in accordance with that Article in that same Member State or until [OP insert date = 5 years after the date of entry into force of this Regulation], whichever is earlier.

3. By way of derogation from Article 13, [ESMA and the registering authorities of the Member States concerned may waive, in part or in full, the procedure set out in Article 13 for third-country systems to which Member States have extended the protections granted under Directive 98/26/EC prior to [OP insert date = entry into force of this Regulation] in accordance with the procedure set out in this paragraph.

At the latest [6 months] after [OP insert date = date of entry into force of this Regulation], the registering authorities of the Member States shall submit to ESMA the information about all third-country systems registered in their Member State, indicating whether they consider that those third-country systems comply with all the registration conditions set out in Article 14.

Where the registering authority considers that all applicable conditions are met by the third-country system, it shall provide ESMA with the supporting information and documents in its possession to confirm the third country system's compliance at the latest [9 months] after [OP insert date = date of entry into force of this Regulation]. ESMA shall share this information and documents with all the other relevant registering authorities. The registering authorities of the Member States shall also notify the third-country system thereof.

Following the notification confirming full compliance pursuant to the previous subparagraph, the registration pursuant to Article 13(10) shall be deemed as granted in those Member States.

Where the registering authority considers that it lacks any information or documents to assess compliance with any of the conditions listed in Article 14, it shall inform ESMA and the third-country system operator thereof at the latest [9 months] after [OP insert date = date of entry into force of this Regulation]. Following that notification, the third-country system operator may choose to provide only the information or documents that were identified as missing by the relevant registering authorities to ESMA. The submission of additional documents and information shall be treated as submission of complete application pursuant to Article 13(4).

4. A transfer order which enters a system before [OP insert date = date of entry into force of this Regulation], but is settled thereafter shall be deemed to be a transfer order for the purposes of this Regulation.

5. Until the central database has been established in accordance with Article 26, the exchange of information and documents including, the submission of applications, decisions, recommendations, requests, information, questions, answers, and any notifications, that are required to be provided using the central database shall be carried out through the use of alternative arrangements.

Article 29

Review

1. By [OP insert date = 6 years after the date of entry into force of this Regulation] the Commission shall assess the application of this Regulation and prepare a general report. The Commission shall submit that report to the European Parliament and to the Council, together with any appropriate proposals.

2. By [OP insert date = 5 years after the date of entry into force of this Regulation] ESMA, in close cooperation with the EBA and the ESCB, shall submit a report to the Commission on the functioning of the settlement finality regime laid down in this Regulation.

Article 30

Repeal

1. Directive 98/26/EC is repealed with effect from [OP insert date = date of ***application*** of this Regulation].

2. References ***in Directive 2014/59/EU of the European Parliament and of the Council ( ), [Directive (EU) 2025/1 of the European Parliament and of the Council ( )], Regulation (EU) No 655/2014 of the European Parliament and of the Council ( ), Regulation (EU) 2021/23 of the European Parliament and of the Council and Regulation (EU) No 806/2014 of the European Parliament and of the Council ( ) to systems referred to in Article 2, point (a), of*** Directive 98/26/EC shall be construed as references to ***both designated systems and registered systems, including third-country systems deemed registered*** in accordance with ***Article 28(2).***

Article 31

Amendments to Directive 2002/47/EC

Directive 2002/47/EC is amended as follows:

(1) in Article 1(4), the following subparagraphs are added in point (a):

‘For the purpose of this Directive, references to cash, financial instruments and credit claims shall include where they are issued or recorded using DLT.

Member States may extend the scope of financial instruments to be covered by this Directive to include the instruments referred to as ‘financial instrument’ in Article 4(1), point (15), of Directive 2014/65/EU where these are negotiable on the capital market.;’

(2) Article 2 is amended as follows:

(a) in paragraph 1, the following point is added:

‘(p) ‘account’ means account as defined in Article 2(1), point (26), of [Regulation (EU) …/… on settlement finality];’

(b) the following paragraph is added:

‘4. Any reference to “account”, “registration” or “register” shall be understood to include any form of electronic record, including based on DLT, that fulfils the same function. In addition, any instructions or notification shall allow for the use of a cryptographic key or other device or method to electronically sign such instruction or notification..’

(3) The following Article is added:

Article 10a

Review

By XX (three years after entry into force of the Settlement Finality Regulation), the Commission shall review whether the application of [add reference to the official title of the Settlement Finality Regulation] warrant further alignments under this Directive. The Commission shall assess in particular the need for any further amendments to this Directive with regard to netting, the use of new technologies and the scope of this Directive, as well as the need to transform it into a Regulation. The Commission shall submit a report thereon to the European Parliament and the Council, accompanied where appropriate by proposals for revision of this Directive.

(4) in Article 11, the following subparagraph is added after the first subparagraph:

‘By way of derogation from the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1(4), point (a), first and second subparagraphs, Article 2(1), point (p), and Article 2(4) by [OP insert date = 18 months after the date of entry into force of this Regulation] at the latest. They shall forthwith inform the Commission thereof..’

Article 32

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European ***Union***.

It shall apply from [2 years after entry into force] with the exception of Article 28 [Transitional arrangements], which shall apply from the date of entry into force.

It shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *For the Council*

ANNEX

CORRELATION TABLE

(referred to in Article 30)

Directive 98/26/EC	This Regulation	
---	Article 1(1)	
---	Article 1(2)	
Article 1	Article 1(3)	
Article 2(a)	Article 2(1)(1)	
---	Article 2(1)(2)	
---	Article 2(1)(3)	
---	Article 2(1)(4)	
---	Article 2(1)(5)	
---	Article 2(1)(6)	
---	Article 2(1)(7)	
---	Article 2(1)(8)	
---	Article 2(1)(9)	
Article 2(b)	Article 2(1)(10)	
Article 2(c)	Article 2(1)(11)	
---	Article 2(1)(12)	
Article 2(d)	Article 2(1)(13)	
Article 2(e)	Article 2(1)(14)	
Article 2(f)	Article 2(1)(15)	

---	Article 2(1)(16)	
Article 2(g)	Article 2(1)(17)	
---	Article 2(1)(18)	
---	Article 2(1)(19)	
Article 2(h)	---	
Article 2(i)	Article 2(1)(20)	
---	Article 2(1)(21)	
---	Article 2(1)(22)	
Article 2(j)	Article 2(1)(23)	
Article 2(k)	Article 2(1)(24)	
Article 2(l)	Article 2(1)(25)	
Article 2(m)	---	
---	Article 2(1)(26)	
----	Article 2(1)(27)	
Article 2(n)	Article 2(1)(28)	
---	Article 2(1)(29)	
---	Article 2(1)(30)	
Article 2(o)	Article 2(1)(31)	
Article 2(p)	Article 2(1)(32)	
---	Article 2(1)(33)	
---	Article 2(1)(34)	

---	Article 2(1)(35)	
---	Article 2(1)(36)	
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---	Article 3	
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Article 3(3)	Article 18(1)	
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Article 4	Article 19(1)	
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Article 5, first subparagraph	Article 20(1)	
Article 5, second subparagraph	Article 20(2)	
---	Article 21	
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---	Article 25(3)	
---	Article 25(4)	
Article 10(1)	Articles 4(3), 4(9) and 6	
Article 10(2)	Article 28	
Article 10a(1)	---	
Article 10a (2)	Article 11(1)	
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Article 12	Article 29(1)	

Article 12a	---	
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Article 14	---	
---	Article 26	
---	Article 27	
---	Article 29(2)	
---	Article 30	
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