

**CSDR Refit** 

Updated in June 2024



# **REVIEW OF CSDR (REGULATION ON CSDS AND SETTLEMENT)**

Updated in June 2024

#### REGULATORY EVOLUTION

- Settlement discipline regime (SDR): the MBI would become conditional with a narrowed scope of application (exclusion of certain types of transactions) and allowed mechanisms to avoid unnecessary buy-ins; as regards penalties the EC proposes to introduce some exemptions
- **Banking type ancillary services:** facilitation of the access to banking services for CSDs that are not bank
- **Passporting:** simplification of the process for CSDs wanting to operate across Europe
- Cooperation between NCAs: like in EMIR for CCPs, creation of colleges of supervisors for certain CSDs
- o Third Country CSDs: end of the grandfathering clause; improvement of the information given to ESMA and NCAs about the third country CSDs activity in the Union

### **FOCAL POINTS**

- Although reviewed, the MBI remains unsuitable and unworkable with negative consequences on the liquidity and competitiveness of EU capital markets; exemptions from penalties may impede the immunization principle
- CSDs perform critical market infrastructure functions; the proposal shall not result in a relaxation of the prudential requirements applicable to CSDs
- Removing barriers to cross-border including the simplification of the passporting rules may promote increased competition amongst CSDs

2026

**Q4 2026** 

MBI

Draft RTS on

2027

Increasing supervisory convergence should help ensure a level-playing field

2025

Draft RTS on SDR and

Settlement Efficiency

July 2025

2 Nov. 2025

MBI

Former start of

the original CSDR

No direct impact for participants / clients



EC consultation on CSDR Review



July 2021 EC released its report following the public consultation



2022

EC publishes its proposal Final vote at the EP May 2022

EC's "Have Your Say" July 2022 ECB's opinion on the

Oct. 2022 Draft of the EP's rapporteur

EC's proposal

Dec. 2022 Final vote within the Council

## 1 March 2023

(ECON)

2023

18 April 2023 Start of the trilogue process

## 27 June 2023

Agreement reached by the EP and the Council

## Nov 2023: adoption

- by the EP (9) - by the Council (27)

**15 Dec 2023** (ESMA)

- End of the Call for Evidence (T+1, T0)

- Start of the consultation on potential changes to the CSDR penalty mechanism

## 16 Jan 2024

2024

Entry into force of CSD Refit

# 21 March 2024

ESMA's feedback statement on T+1/T0

#### July - September 2024 ESMA's Consultation on

penalties / buy-ins exemptions

## Q3 2024

ESMA's Final Report on the penalty mechanism

## End 2024?

ESMA's Final Report on T+1

#### Q4 2024 - Q1 2025

2 ESMA's consultations (measures to improve settlement efficiency and methodology for calculating settlement efficiency rates)



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**STATEMENT** 

- The EC's proposal reviewed by the EP and the Council:
  - Final adoption by the EP (9/11/23) and by the Council (27/11/2023) of the agreed version
  - The agreed text has been published in the EU Official Journal and entered into force on the 16<sup>th</sup> of January 2024
- ESMA's consultations:
  - T+1 / T0: ESMA's final report expected to end 2024
  - On potential changes to the CSDR penalty mechanism (from 15<sup>th</sup> of December to end February 2024); final report expected in Q3 2024
  - Penalties / MBIs exemption: expected for July 2024
  - Monitoring and reporting of fails and measures to prevent fails: Dec 2024 / Jan 2025?

Delivery of RTS on settlement efficiency and on settlement disciplines postponed from January 2025 to July 2025; delivery of the RTS on MBI announced for Q4 2026.

## FOR YOUR CONSIDERATION

### o MBI:

- Possibility to apply only on specific financial instruments / types of transaction
- Exemptions: SFT, where the transaction is not considered as "trading" or where the cause of the fail is not attributable to the participant
- Two conditions to be jointly met in order to allow the EC to open the discussion on a possible MBI

### o Penalties:

- Exemptions: when settlement fail is caused by factors not attributable to the participants to the transaction or if the transaction is not considered as "trading"
- Prior to any analysis as regard the introduction of a MBI, the EC will have to assess the penalty regime and improve it if needed
- ESMA's consultation proposes several changes: all the penalty rates are multiplied by 6 and in addition will increase with the length of the fail, extra penalties for participants with high fail rates, ...

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If you want to know more, refer to Fiche To Know More

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