



FOCUS

CSDR Refit

Updated in January 2024

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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
- **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
- Increasing supervisory convergence should help ensure a level-playing field
- No direct impact for participants/ clients

2020



Dec. 2020
EC consultation on CSDR Review

2021



July 2021
EC released its report following the public consultation

2022



March 2022
EC publishes its proposal
May 2022
EC's "Have Your Say"
July 2022
ECB's opinion on the EC's proposal
Oct. 2022
Draft of the EP's rapporteur
Dec. 2022
Final vote within the Council

2023



1 March 2023
Final vote at the EP (ECON)
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

2024



16 Jan 2024
Entry into force of CSD Refit
Q2 2024
ESMA's consultations on monitoring/reporting of fails and on measures to prevent fails
Q3 2024
ESMA's Final Report on the penalty mechanism
Mid 2024 ?
ESMA's Final Report on T+1
Q4 2024
Final Reports following Q2 consultations

2025



2 Nov. 2025
Theoretical start of the original CSDR MBI

2026



2027



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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 enters into force on the 16th of January 2024
- ESMA's consultations:
 - T+1 / T0: Call for Evidence (until the 15th of December 2023)
 - On potential changes to the CSDR penalty mechanism (from 15th of December to end February 2024)
 - Still to come in Q4 on monitoring and reporting of fails and measures to prevent fails

FOR YOUR CONSIDERATION

- 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
- 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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Fiche To Know More

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