



# CSDR Refit

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Updated in February 2023

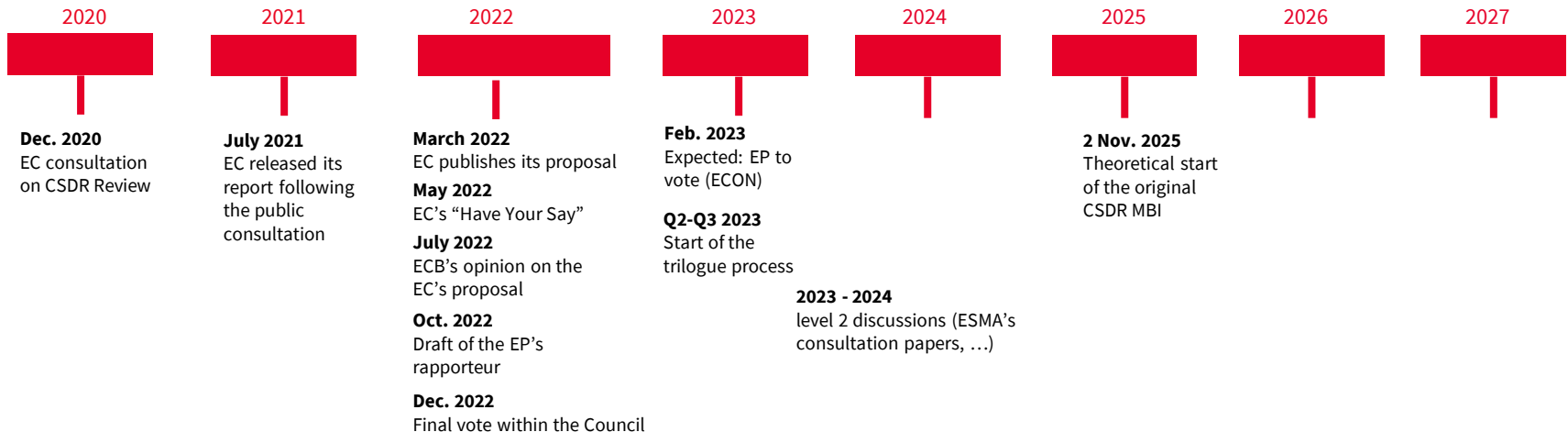
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**REGULATORY EVOLUTION**

- **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



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**STATEMENT**

- The EC's proposal reviewed by the EP and the Council:
  - The Council: Member States agreed position to revise CSDR (20<sup>th</sup> of December 2022)
  - Vote at the EP foreseen for the 23<sup>rd</sup> of February 2023
- The trilogue will start once the EP will have voted their own version of the text
- The ECB has issued in July 2022 its opinion on the proposal and concluded that MBI should be removed

**FOR YOUR CONSIDERATION**

- MBI:
  - EC to propose a conditional MBI with a narrowed scope and a pass-on mechanism
  - The ECB and the EP rapporteur in favor of a pure removal of the MBI; however, the final version of the EP should keep the MBI
  - Council: the MBI is maintained
  - Both EP and Council have amended the EC's proposal so that the likelihood of a MBI applying becomes very low
- Penalties:
  - EC to introduce some exemptions (when settlement fail is caused by factors not attributable to the participants to the transaction or if the transaction does not involve two trading parties)
  - The ECB, the Council and the EP are in line with the EC; however, the second type of exemption may create unfair situation by impeding the immunization principle to apply

[sylvie.bonduelle@sgss.socgen.com](mailto:sylvie.bonduelle@sgss.socgen.com)

If you want to know more, refer to  
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