



CSDR Refit

Updated in March 2024

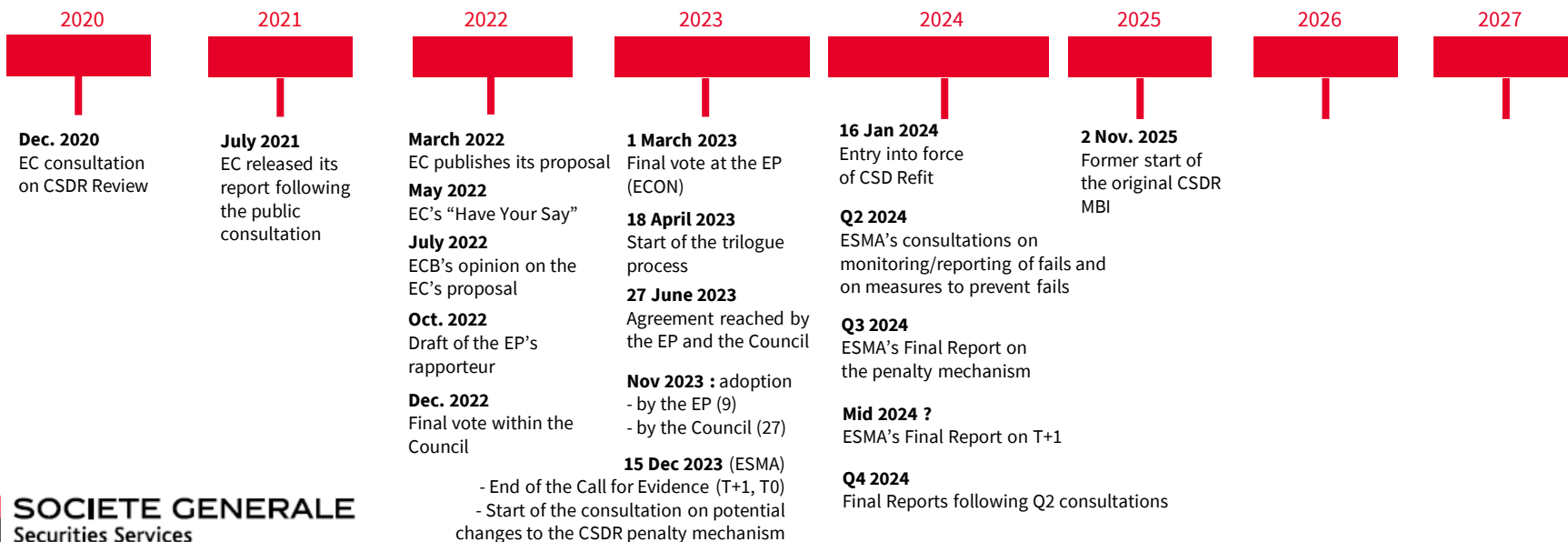
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REGULATORY EVOLUTION

- **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



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

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