



# CSDR Refit

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Updated in September 2025

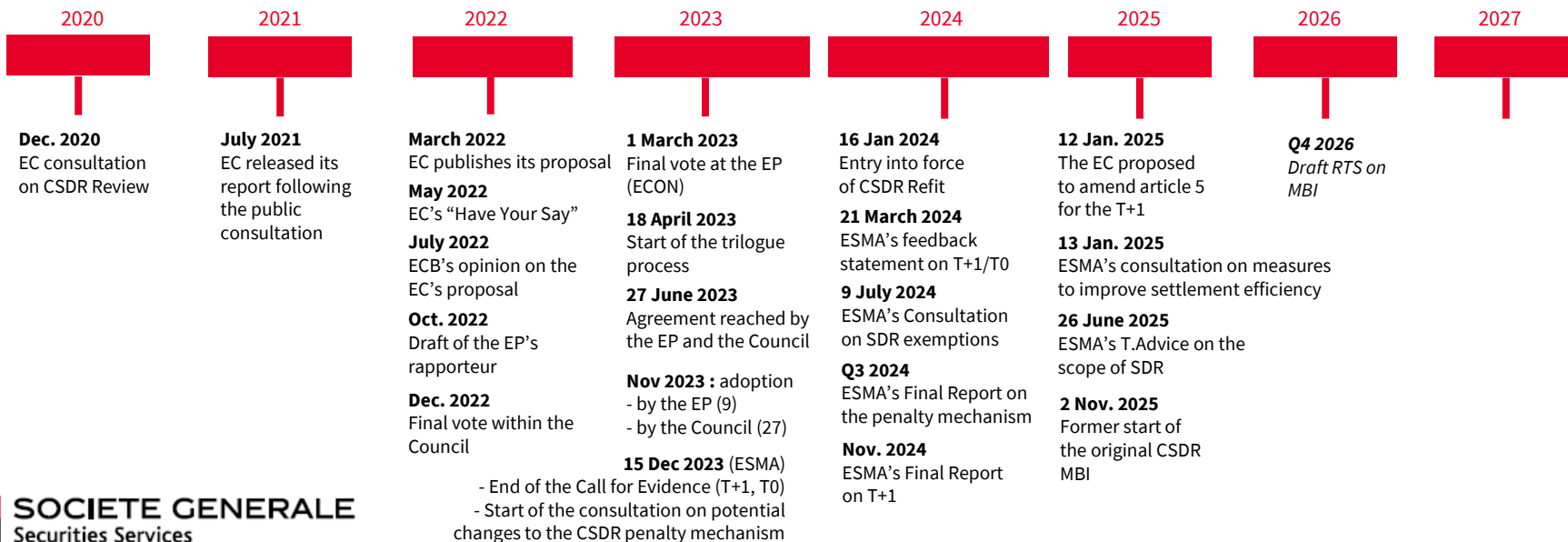
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**REGULATORY EVOLUTION**

- **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 entered into force on the 16<sup>th</sup> of January 2024
  - T+1: the EC has proposed an amendment of article 5(2) to introduced a T+1 settlement cycle as of the 11 of October 2027
- ESMA's consultations:
  - On potential changes to the CSDR penalty mechanism : final report issued in November 2024
  - Penalties / MBIs exemption: ESMA published its technical advice (26 June 2025)
  - Measures to prevent fails: consultation closed mid-April 2025
  - Consultation on MBI announced for 2026

## 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 for fails not attributable to the participants to the transaction or if the transaction is not considered as “trading”: ESMA has listed in its final reports the cases that fall under those categories
  - 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 proposed several changes: eventually the main change should be on the penalty rates
  - Industry's advocacy to benefit from a temporary exemption of penalties after the move to T+1

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 If you want to know more, refer to  
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