



EUROPEAN CENTRAL BANK

EUROSYSTEM

Classified as above until adoption,
thereafter ECB-PUBLIC

Technical working document (2/3)

produced in connection with ECB Opinion [CON/2026/13]¹

Drafting proposals in relation to the proposal for a Regulation of the European Parliament and of the Council on settlement finality and repealing Directive 98/26/EC and amending Directive 2002/47/EC on financial collateral arrangements (the proposed settlement finality regulation or proposed SFR)

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| Amendment 1 Article 2(1) | |
| <p>'1. For the purpose of this Regulation, the following definitions shall apply:</p> <p>[...]</p> <p>(3) "settlement" means settlement as defined in Article 2(1), point (7), of Regulation (EU) No 909/2014 of the European Parliament and of the Council;</p> <p>[...]</p> <p>(5) "securities settlement system" means a system whose activity consists of the settlement of transfer orders;</p> <p>[...]</p> <p>(12) "central securities depository" or "CSD" means a central securities depository as defined in Article 2(1), point (1), of Regulation (EU) No 909/2014;</p> <p>[...]</p> <p>(14) 'clearing house' means an entity responsible for the calculation of the net positions of</p> | <p>'1. For the purpose of this Regulation, the following definitions shall apply:</p> <p>[...]</p> <p>(3) "settlement" means, as regards securities settlement, settlement as defined in Article 2(1), point (7), of Regulation (EU) No 909/2014 of the European Parliament and of the Council, and as regards payment settlement, the completion of transfers of funds with the aim of discharging payment obligations of the parties;</p> <p>[...]</p> <p>(5) "securities settlement system" means a system whose activity consists of the settlement of transfer orders, where at least one of the transfer orders settled for each transaction is an instruction referred to in point (20)(b) of this paragraph;</p> <p>[...]</p> <p>(12) "central securities depository" or "CSD" means a central securities depository as defined</p> |

¹ This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published on EUR-Lex alongside the opinion itself.

² Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| <p>institutions, including a CCP or a settlement agent;</p> <p>[...]</p> <p>(15) “participant” means any of the following entities, which participates in a system:</p> <p>[...]</p> <p>(vii) an entity other than the entities listed in points (i) to (vi);</p> <p>[...]</p> <p>(16) “system member” means an entity referred to in point (15) (a)(vii);</p> <p>[...]</p> <p>(20) “transfer order” means any of the following instructions, including instructions that require the use of a cryptographic key or other device or method to digitally sign:</p> <p>(a) an instruction by a participant to place at the disposal of a recipient or member an amount of funds which results in the assumption or discharge of a payment obligation as laid down in the rules of the system;</p> <p>(b) an instruction by a participant to transfer the title to, or interest in, financial instruments and other instruments, where authorised by the system, including in relation to collateral arrangements and clearing, recorded by means of a book-entry or electronic recording on a register having a similar function or otherwise;’</p> | <p>in Article 2(1), point (1), of Regulation (EU) No 909/2014;</p> <p>(12a) “DLT settlement system” or “DLT SS” means a DLT settlement system as defined in Article 2(7) of Regulation (EU) 2022/858;</p> <p>(12b) “DLT trading and settlement system” or “DLT TSS” means a DLT trading and settlement system as defined in Article 2(10) of Regulation (EU) 2022/858;</p> <p>[...]</p> <p>(14) “clearing house” means an entity, including a CCP or settlement agent, responsible for the calculation of the net positions of institutions, including a CCP or a settlement agent;</p> <p>[...]</p> <p>(15) “participant” means any of the following entities, which participates in a system:</p> <p>[...]</p> <p>(vii) an entity a legal person other than the entities listed in points (i) to (vi);</p> <p>[...]</p> <p>(16) “system member” means an entity a legal person referred to in point (15) (a)(vii);</p> <p>[...]</p> <p>(20) “transfer order” means any of the following instructions, including instructions that require the use of a cryptographic key or other device or method to digitally sign, recorded by means of a book-entry or electronic recording on a register having a similar function or otherwise:</p> <p>(a) an instruction by a participant to place at the disposal of a recipient or member an amount of funds which results in the assumption or discharge of a payment obligation as laid down in the rules of the system;</p> <p>(b) an instruction by a participant to transfer the title to, or interest in, financial instruments and other instruments, where authorised by the system,</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| | including in relation to collateral arrangements and clearing, recorded by means of a book-entry or electronic recording on a register having a similar function or otherwise; |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>The proposed definition of ‘settlement’ covers only securities settlement and should also cover payment settlement. Conversely, the proposed definition of ‘securities settlement system’ is very broad and could be construed to cover payment systems as well. Suggestions are made in both respects.</i></p> <p><i>New definitions of DLT SS and DLT TSS should be introduced in order to clarify – in relation to the definition of designating authority proposed in Amendment 2 – that they are within the scope of the proposed SFR.</i></p> <p><i>The existing definition of clearing house should be adjusted to avoid any misinterpretation and clarify that the phrase ‘including a CCP or a settlement agent’ refers to a clearing house and not to ‘institutions’.</i></p> <p><i>As regards the definitions of ‘participant’ and ‘system member’, the term ‘entity’ is not fully clear, and it is thus suggested to refer to ‘legal persons’ in the definition of ‘participant’, as all other entities listed are also legal persons. Any future inclusion of natural persons in the definition of ‘participant’ or ‘system member’ should be subject to a thorough impact assessment. Financial market infrastructures establish legal, financial and operational requirements for their participants to fulfil in a timely manner. This, notably, involves having in place adequate information and communication technology systems and sufficient staff. The legal soundness and financial and operational capacity of participants are key safeguards for the stability of financial market infrastructures and for settlement efficiency, justifying the restriction of participation to legal entities (preferably, regulated financial institutions). Private individuals should not be able to become participants.</i></p> <p><i>As regards the definition of transfer order, recording by means of book-entry or electronic recording could refer to both categories of instructions.</i></p> <p><i>See paragraphs 4.3 and 6.5 of the ECB Opinion.</i></p> | |
| <p style="text-align: center;">Amendment 2</p> <p style="text-align: center;">Article 2(1)</p> | |
| <p>‘1. For the purpose of this Regulation, the following definitions shall apply:</p> <p>[...]</p> <p>(33) “designating authority” means the competent authority responsible for designating the system in accordance with Article 4(1);</p> | <p>‘1. For the purpose of this Regulation, the following definitions shall apply:</p> <p>[...]</p> <p>(33) “designating authority” means the competent authority responsible for designating the system in accordance with Article 4(1);</p> <p>(a) for systems operated by CCPs:</p> |

| Text proposed by the Commission | Amendments proposed by the ECB² |
|--|--|
| <p>(34) “national competent authority” means the competent authority in the Member State where the system operator is established;</p> <p>(35) “registering authority” means the competent authority responsible for registration the system in accordance with Article 12;’</p> | <p>(i) ESMA, for significant CCPs defined in Article 2(1a) of Regulation (EU) No 648/2012, or</p> <p>(ii) a competent authority designated in accordance with Article 22(1) of that Regulation for less significant CCPs defined in Article 2(1b) of that Regulation, or</p> <p>(iii) by way of derogation from point (ii), the ESCB member responsible for the oversight of CCPs, where appointed by a Member State in accordance with Article 10;</p> <p>(b) for securities settlement systems operated by CSDs:</p> <p>(i) ESMA, for significant CSDs defined in Article 2(1a) of Regulation (EU) No 909/2014, or</p> <p>(ii) a competent authority designated in accordance with Article 10(1) of that Regulation, for less significant CSDs defined in Article 2(1b) of that Regulation, or</p> <p>(iii) by way of derogation from point (ii), the ESCB member responsible for the oversight of securities settlement systems, where appointed by a Member State in accordance with Article 10;</p> <p>(c) for securities settlement systems operated by the operator of a DLT settlement system or a DLT trading and settlement system:</p> <p>(i) a competent authority as defined in Article 2(21) of Regulation (EU) 2022/858, or</p> <p>(ii) by way of derogation from point (i), the ESCB member responsible for the oversight of securities settlement systems, where appointed by the Member State in accordance with Article 10;</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---------------------------------|--|
| | <p>(d) for payment systems identified in accordance with Article 3(3) of Regulation (EU) 2025/1355 of the European Central Bank (ECB/2025/22)(*), the competent authority defined in Article 2(7) of that Regulation;</p> <p>(e) for payment systems other than those referred to in point (d), the member of the ESCB responsible for the oversight of their system operator;</p> <p>(f) by way of derogation from points (a) to (d), for any system operated by a member of the ESCB, the member of the ESCB overseeing the system;</p> <p>(33a) “competent authority” means an authority appointed pursuant to Article 10;</p> <p>(34) “national competent authority” means the competent authority in the Member State where the system operator is established:</p> <p>(a) as regards systems operated by significant CCPs as defined in Article 2(1a) of Regulation (EU) No 648/2012, the authority designated in accordance with Article 22(1) of that Regulation; and</p> <p>(b) as regards securities settlement systems operated by significant CSDs as defined in Article 2(1a) of Regulation (EU) No 909/2014, the authority designated in accordance with Article 10(1) of that Regulation;</p> <p>(35) “registering authority” means the competent authority responsible for registration the system designated in accordance with Article 12;</p> <p>(35a) “coordinating authority” means ESMA as regards third-country securities settlement systems and clearing systems, and the ECB as regards third-country payment systems;</p> <p>(*) Regulation (EU) 2025/1355 of the European Central Bank of 2 July 2025 on oversight requirements for systemically important</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| | <p>payment systems (ECB/2025/22) (OJ L, 2025/1355, 14.7.2025, ELI: http://data.europa.eu/eli/reg/2025/1355/oj)'</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>These amendments aim to refine the definition of ‘designating authority’ to ensure that in all cases where the system operators are authorised under Union law or overseen by ESCB central banks, the designating authority is the competent authority responsible for the supervision or oversight of the system operator, or, by way of derogation, in the case of a system operated by a central bank, the central bank itself. This would avoid any duplication between the regulatory and oversight frameworks to which a system operator is subject and the assessment of its compliance with the requirements of this Regulation envisaged prior to designation. The definition of national competent authority is adjusted accordingly, as it would then be only relevant for systems operated by a CCP or CSD supervised by ESMA. Additionally, in relation to the proposed simplification of the registration process for third-country systems, it is suggested to introduce a definition of ‘coordinating authority’.</i></p> <p><i>See paragraph 6.2 of the ECB Opinion.</i></p> | |
| <p style="text-align: center;">Amendment 3</p> <p style="text-align: center;">Article 3</p> | |
| <p>‘2. The designating authority of the Member State whose law governs the system may designate the system, where at least one of its participants has its head office in that Member State.’</p> | <p>2. The designating authority of the Member State whose law governs the system may designate the system, where at least one of its participants has its head office in that Member State.</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>The ECB recommends deleting Article 3(2) of the proposed SFR: first, it is duplicative of Article 5(1), specifically point (b), and introduces ambiguity as Article 3(2) provides that the designating authority ‘may’ designate the system while Article 5(1) requires that it ‘shall’. Second, it is not consistent with the ECB’s suggested definition of a designating authority.</i></p> <p><i>See paragraph 6.4 of the ECB Opinion and Amendment 2.</i></p> | |
| <p style="text-align: center;">Amendment 4</p> <p style="text-align: center;">Article 4</p> | |
| <p>‘Article 4</p> <p><i>Procedure for granting and refusing designation</i></p> <p>1. A system operator that applies for designation of a system that it operates shall submit an application for designation addressed to the</p> | <p>‘Article 4</p> <p><i>Procedure for granting and refusing designation</i></p> <p>1. A system operator that applies for designation of a system that it operates shall submit an application for designation addressed to the</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|---|
| <p>designating authority of the Member State whose law governs the system.</p> <p>2. The application shall be immediately shared with all of the following:</p> <p>(a) the designating authority;</p> <p>(b) where applicable, the national competent authority;</p> <p>(c) ESMA;</p> <p>(d) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);</p> <p>(e) The ESCB.'</p> | <p>designating authority of the Member State whose law governs the system by uploading it to the central database in accordance with Article 26(3).</p> <p>2. The application shall be immediately shared with all of the following:</p> <p>(a) the designating authority;</p> <p>(b) where applicable, the national competent authority;</p> <p>(c) ESMA;</p> <p>(d) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);</p> <p>(e) The ESCB the ECB and the national central bank of the Member State where the system operator is established.'</p> |
| <p><u>Explanation</u></p> <p><i>The amendment in paragraph 1 aims at clarifying that the designation application addressed to the designating authority is to be submitted to the central database in line with Article 26(3), and at aligning the text with the suggested definition of designating authority in Article 2(1), point (33).</i></p> <p><i>See Amendment 2.</i></p> <p><i>The amendments in paragraph 2 aim at simplifying the list of authorities involved, by limiting it to the authorities of the Member State, including the national central bank (NCB), ESMA, which has competence in respect of securities settlement systems and clearing systems, and the ECB, which has competence in respect of payment systems.</i></p> <p><i>See paragraph 6.2 of the ECB Opinion.</i></p> | |
| <p>Amendment 5</p> <p>Article 5</p> | |
| <p>'Article 5</p> <p><i>Conditions for designation</i></p> <p>1. A designating authority shall designate a system in accordance with Article 3, only where the designating authority is satisfied that all of the following conditions are fulfilled:</p> <p>(a) the system is governed by the law of the Member State of the designating authority;</p> <p>(b) at least one of the participants to the system is established in the Member State of the</p> | <p>'Article 5</p> <p><i>Conditions for designation</i></p> <p>1.A designating authority shall designate a system in accordance with Article 3, only where the designating authority is satisfied that all of the following conditions are fulfilled:</p> <p>(a) the system is governed by the law of the Member State of the designating authority;</p> <p>(b) at least one of the participants to the system is established in the Member State of the</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>designating authority; [...]</p> <p>2. ESMA may, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify the conditions referred to in paragraph 1 for securities settlement systems and clearing systems.</p> <p>The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.</p> <p>3. EBA may, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify the conditions referred to in paragraph 1 for payment systems.</p> <p>The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.'</p> | <p>designating authority whose law governs the system;</p> <p>[...]</p> <p>2. ESMA may, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify the conditions referred to in paragraph 1 for securities settlement systems and clearing systems.</p> <p>The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.</p> <p>3. EBA may, in close cooperation with the ESCB, develop draft regulatory technical standards to further specify the conditions referred to in paragraph 1 for payment systems.</p> <p>The Commission shall be empowered to adopt delegated acts to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.'</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|---|
| <p><u>Explanation</u></p> <p><i>The ECB would recommend removing the mandates given to ESMA and the EBA to develop regulatory technical standards (RTS). Most designation conditions fully or partially overlap with existing requirements already established under EMIR, CSDR and, for payment systems, in the SIPS Regulation and other applicable oversight frameworks, and adding further detail to these conditions would only make this issue more acute. Other designation conditions are specified in other provisions of the proposed SFR, some of which include their own RTS mandates. Moreover, the draft RTS that may be developed by the EBA in respect of payment systems would significantly overlap with the ECB's regulatory powers under Article 22 of the Statute of the ESCB in respect of euro area payment systems, including central bank-operated systems.</i></p> <p><i>See paragraph 6.3 of the ECB Opinion.</i></p> <p><i>The amendment to Article 5(1), point (b), ensures alignment with the suggested definition of designating authority in Article 2(1), point (33).</i></p> <p><i>See Amendment 2.</i></p> | |
| <p>Amendment 6</p> <p>Article 6</p> | |
| <p><i>'Article 6</i> <i>Notification of a designated system</i></p> <p>4. [...]</p> <p>5. The notification referred to in paragraph 1 shall contain at least all of the following information, as of the date of the designation:</p> <p>[...]</p> <p>(c) the Member State in which the system operator is established and the national competent authority, where applicable;</p> <p>[...]</p> <p>6. The designating authority shall notify ESMA and the authorities listed in Article 4(2), points (b), (d) and (e), as applicable, without undue delay, of any of the following:</p> <p>(a) any notifications made by the system operator in accordance with Article 8(2);</p> <p>(b) any changes to the designation of the system;</p> <p>(c) any updates to the information listed in paragraph 2.</p> | <p><i>'Article 6</i> <i>Notification of a designated system</i></p> <p>41. [...]</p> <p>52. The notification referred to in paragraph 1 shall contain at least all of the following information, as of the date of the designation:</p> <p>[...]</p> <p>(c) the Member State in which the system operator is established and the national competent authority, where applicable;</p> <p>[...]</p> <p>63. The designating authority shall notify ESMA and the authorities listed in Article 4(2), points (b), (d) and (e), as applicable, without undue delay, of any of the following:</p> <p>(a) any notifications made by the system operator in accordance with Article 8(2);</p> <p>(b) any changes to the designation of the system;</p> <p>(c) any updates to the information listed in paragraph 2, points (a) to (e).</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|---|
| <p>7. ESMA shall publish in a standardised format the information referred to in paragraph 2, point (a) to (g), and any updates thereto in accordance with paragraph 3, point (c), on its website without undue delay and no later than 2 working days after receipt of that information. ESMA shall specify the date when updates to the information on its website were made and which information was updated.'</p> | <p>74. ESMA shall publish in a standardised format the information referred to in paragraph 2, point (a) to (g) (e), and any updates thereto in accordance with paragraph 3, point (c), on its website without undue delay and no later than 2 working days after receipt of that information. ESMA shall specify the date when updates to the information on its website were made and which information was updated.'</p> |
| <p><u>Explanation</u></p> <p><i>The amendments to paragraph 2 and the introductory sentence of paragraph 3 aim to ensure alignment with the suggested amendments to Articles 2 and 4. The amendments to paragraph 3, point (c), and paragraph 4, point (c), aim to make the requirement concerning information to be published and updated on ESMA's website more proportionate, as the list of system participants and the system's rules and standardised procedures can be subject to frequent changes.</i></p> <p><i>See paragraph 6.2 of the ECB Opinion.</i></p> | |
| <p>Amendment 7</p> <p>Article 9</p> | |
| <p>'Article 9</p> <p><i>Withdrawal of designation</i></p> <p>[...]</p> <p>2. A designating authority shall only decide to withdraw the designation of a system after it has informed the national competent authority and requested an opinion on the appropriateness of withdrawing the designation. The opinion shall be requested from ESMA and the ESCB for the withdrawal of the designation for securities settlement systems and clearing systems, or from EBA and the ESCB, for the withdrawal of the designation for payment systems.</p> <p>Where ESMA, EBA or the ESCB are of the opinion that the withdrawal of the designation may cause material risks to the financial stability of the Union or in a Member State, it shall inform the designating authority within 10 working days of being informed of a potential withdrawal of a designation under first subparagraph and the</p> | <p>'Article 9</p> <p><i>Withdrawal of designation</i></p> <p>[...]</p> <p>2. A designating authority shall only decide to withdraw the designation of a system after it has informed the national competent authority and requested an opinion on the appropriateness of withdrawing the designation. The opinion shall be requested from ESMA and the ESCB for the withdrawal of the designation for securities settlement systems and clearing systems, or from EBA and the ESCB, for the withdrawal of the designation for payment systems.</p> <p>Where ESMA, EBA or the ESCB are of the opinion that the withdrawal of the designation may cause material risks to the financial stability of the Union or in a Member State, it shall inform the designating authority within 10 working days of being informed of a potential withdrawal of a designation under first subparagraph and the</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| <p>designating authority shall, before withdrawing the designation of the system, convene an ad hoc meeting with the national competent authority, the ESCB and, depending on the nature of the system, ESMA or EBA, to cooperate on how to mitigate the risks identified.</p> <p>Where the designated system is a CSD or a CCP, the designating authority shall not withdraw the designation without the consent of the authority responsible for the supervision of that CSD or CCP.</p> <p>3. A designating authority shall examine whether a system remains in compliance with the conditions under which the designation was granted when requested to do so by ESMA and the ESCB, for securities settlement systems and clearing systems, or EBA and the ESCB, for payment systems.</p> <p>4. Where the designating authority withdraws the designation, it shall notify simultaneously the system operator, the national competent authority, ESMA, EBA and the ESCB of its decision to withdraw the designation of a system and ESMA shall update its website accordingly on the day indicated by the designating authority in its notification.'</p> | <p>designating authority shall, before withdrawing the designation of the system, convene an ad hoc meeting with the national competent authority, the ESCB the national central bank, the ECB and, depending on the nature of the system as regards securities settlement systems and clearing systems, ESMA or EBA, to cooperate on how to mitigate the risks identified.</p> <p>Where the designated system is a CSD or a CCP, the designating authority shall not withdraw the designation without the consent of the authority responsible for the supervision of that CSD or CCP.</p> <p>3. A designating authority shall examine whether a system remains in compliance with the conditions under which the designation was granted when requested to do so by ESMA and the ESCB, for securities settlement systems and clearing systems, or EBA and the ESCB, for payment systems.</p> <p>4. Where the designating authority withdraws the designation, it shall notify simultaneously the system operator, the national competent authority, ESMA, EBA and the ESCB of its decision to withdraw the designation of a system and ESMA shall update its website accordingly on the day indicated by the designating authority in its notification.'</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>These amendments aim to simplify the involvement of authorities other than national authorities by limiting them to ESMA and the ESCB, in the light of their respective competences; and, in the case of the meeting provided for in paragraph 2, second subparagraph, by limiting ESCB involvement to the national central bank and the ECB, as involving all ESCB central banks is not practical. The provision prohibiting the withdrawal of designation without the consent of the supervisor would not be necessary in view of the change to the definition of the designating authority.</i></p> <p><i>See paragraph 6.2 of the ECB Opinion.</i></p> | |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|--|
| Amendment 8 Article 10(1) | |
| <p>'1. Each Member State shall appoint all competent authorities responsible for carrying out the duties resulting from this Regulation in relation to systems, including the designating authorities, the registering authorities and the competent authority referred to in Article 22(2).'</p> | <p>'1. Each Member State shall appoint all the competent authorities responsible for carrying out the duties resulting from this Regulation in relation to systems, including:</p> <p>(a) the designating authorities, in the cases referred to in Article 2(1), point (33)(a)(ii) and (iii), (b)(ii) and (iii), and (c);</p> <p>(b) the registering authorities and</p> <p>(c) the competent authority referred to in Article 22(2).'</p> |
| <p><u>Explanation</u></p> <p><i>Under the approach proposed by the ECB Opinion, the Member States would only need to appoint designating authorities, in line with the provisions of Article 2(1), point (33), when the designating authority is an authority appointed by the Member States in accordance with EMIR, CSDR, the DLT Pilot Regulation, or national law.</i></p> <p><i>See paragraph 6.2 of the ECB Opinion.</i></p> | |
| Amendment 9 Article 13 | |
| <p>'Article 13 <i>Procedure for granting and refusing registration</i></p> <p>1. Where the system operator of a third-country system ('third-country system operator') wishes to register that system as a registered system, it shall submit an application for registration, addressed to ESMA.</p> <p>2. ESMA shall immediately share the application with all of the following recipients:</p> <p>(a) at least, all registering authorities referred to in Article 12;</p> <p>(b) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);</p> <p>(c) the ESCB.</p> | <p>'Article 13 <i>Procedure for granting and refusing registration</i></p> <p>1. Where the system operator of a third-country system ('third-country system operator') wishes to register that system as a registered system, it shall submit an application for registration, addressed to ESMA the coordinating authority.</p> <p>2. ESMA The coordinating authority shall immediately share the application with all of the following recipients:</p> <p>(a) at least, all the registering authorities referred to in Article 12;</p> <p>(b) EBA for systems operating transfer orders set out in Article 2(1), point (20)(a);</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|--|
| <p>[...]</p> <p>4. An acknowledgement of receipt of the application referred to in paragraph 1 shall be sent to the third-country system operator within two working days of receipt of such application. The registering authorities shall, within 20 working days from receipt of the application, determine whether the application contains the documents and information required pursuant to paragraph 3. Where, during the applicable period specified under the first subparagraph, any of the registering authorities concludes that not all documents or information required pursuant to paragraph 3 have been submitted, such authority shall request the third-country system operator to submit such additional documents or information. Where the third-country system operator has failed to comply with any such request in full, any of the registering authorities may reject the application.</p> <p>5. By the end of the time limits referred to in paragraph 4, each registering authority shall notify ESMA, the third-country system operator and the authorities listed in paragraph 2, points (a), (b) and (c), whether the application is accepted or rejected.</p> <p>6. After having notified the third-country system operator that the application is accepted, each registering authority that accepted the application shall conduct an assessment of the third-country system operator's and the system's compliance with the conditions for registration laid down in Article 14 within 80 working days of the notification set out in paragraph 5 ("the assessment period").</p> <p>7. During the assessment period, any registering authority may submit questions to, or request complementary information from, the third-country system operator.</p> | <p>(e) (b) the ESCB.</p> <p>[...]</p> <p>4. An The coordinating authority shall send an acknowledgement of receipt of the application referred to in paragraph 1 shall be sent to the third-country system operator within two working days of receipt of such application. The registering coordinating authorities shall, within 20 working days from receipt of the application, determine whether the application contains the documents and information required pursuant to paragraph 3.</p> <p>Within 15 working days from the receipt of the application, registering authorities may inform the coordinating authority that they consider that additional documents or information should be requested. The coordinating authority shall consider the request and inform the requesting registering authority whether it will act upon it.</p> <p>Where, during the applicable period specified under the first subparagraph, any of the registering authorities the coordinating authority concludes that not all documents or information required pursuant to paragraph 3 have been submitted, such authority shall request the third-country system operator to submit such additional documents or information. Where the third-country system operator has failed to comply with any such request in full, any of the registering authorities the coordinating authority may reject the application.</p> <p>5. By the end of the time limits referred to in paragraph 4, each registering the coordinating authority shall notify ESMA, the third-country system operator and the authorities listed in paragraph 2, points (a), (b) and (c), whether the application is accepted or rejected.</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>Where the third-country system operator has not responded to the questions or provided the requested information within the deadline set by a requesting registering authority, ESMA may, upon request by any of the registering authorities that accepted the application, extend once the relevant assessment period by a maximum of 10 working days in total where, in their view, any of the questions is material for the assessment. ESMA shall inform the third-country system operator of the extension provided. A registering authority may take a decision on the application in the absence of the third-country system operator's response.</p> <p>8. During the assessment period, ESMA and the ESCB for securities settlement systems and clearing systems, and EBA and the ESCB for payments systems, shall take all appropriate measures, including convening ad hoc meetings, to ensure a convergent approach to the decisions to grant or refuse the registration of a third-country system by the registering authorities in their respective Member State.</p> <p>9. During the assessment process, ESMA, EBA and the ESCB shall promote the regular exchange and discussion among registering authorities, to ensure cooperation of the registering authorities in the registration process of such third-country system and provide input to the registering authorities' assessment process.</p> <p>10. Within the assessment period, each registering authority shall decide whether to grant or refuse the registration of the third-country system. Each registering authority shall decide to grant the registration only where it is fully satisfied that the third-country system operator and the third-country system comply with the conditions laid down in Article 14.</p> | <p>6. After having notified the third-country system operator that the application is accepted, each registering authority that accepted the application shall, in close cooperation with the ESCB and the registering authorities referred to in Article 12, conduct an assessment of the third-country system operator's and the system's compliance with the conditions for registration laid down in Article 14 within 80 working days of the notification set out in paragraph 5 ("the assessment period").</p> <p>7. During the assessment period, any registering authority the coordinating authority may submit questions to, or request complementary information from, the third-country system operator.</p> <p>Any registering authority may request that the coordinating authority submit questions to, or request complementary information from, the third-country system operator. The coordinating authority shall consider the request and inform the requesting registering authority whether it will act upon it.</p> <p>Where the third-country system operator has not responded to the questions or provided the requested information within the deadline set by a requesting registering authority, registering the coordinating authority, ESMA may, upon request by any of the registering authorities that accepted the application, the coordinating authority may extend once the relevant assessment period by a maximum of 40 20 working days in total where, in their its view, any of the questions is material for the assessment. ESMA The coordinating authority shall inform the third-country system operator of the extension provided. A registering authority may take a decision on the application in the absence of the third-country system operator's response.</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| <p>11. After taking a decision referred to in paragraph 10, each registering authority shall inform, without undue delay, the third-country system operator, ESMA and the authorities listed in paragraph 2, points (a), (b) and (c) as applicable, of its decision, including a fully reasoned explanation.'</p> | <p>8. During the assessment period, ESMA and the ESCB for securities settlement systems and clearing systems, and EBA and the ESCB for payments systems, shall take all appropriate measures, including convening ad hoc meetings, to ensure a convergent approach to the decisions to grant or refuse the registration of a third-country system by the registering authorities in their respective Member State. The coordinating authority shall inform the registering authorities referred to in Article 12 of the outcome of the assessment conducted in accordance with paragraph 6, including, where relevant, the views expressed by the registering authorities or by the ESCB.</p> <p>9. During the assessment process, ESMA, EBA and the ESCB shall promote the regular exchange and discussion among registering authorities, to ensure cooperation of the registering authorities in the registration process of such third-country system and provide input to the registering authorities' assessment process.</p> <p>910. Within the assessment period 20 working days of the receipt of the assessment referred to in paragraph 9, each registering authority shall decide whether to grant or refuse the registration of the third-country system. Each registering authority shall decide to grant the registration only where it is fully satisfied that the third-country system operator and the third-country system comply with the conditions laid down in Article 14.</p> <p>1110. After taking a decision referred to in paragraph 10, each registering authority shall inform, without undue delay, the third-country system operator, ESMA and the authorities listed in paragraph 2, points (a), (b) and (c) as applicable, of its decision, including a fully reasoned explanation.'</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| <p><u>Explanation</u></p> <p><i>In order to avoid multiple parallel registration processes at national level, the ECB suggests that a coordinating authority (ESMA for third-country securities settlement and clearing systems; the ECB for third-country payment systems) should take responsibility for the coordination of interactions with the third-country system operator and for the assessment of its compliance with requirements under the proposed SFR. Registering authorities would remain involved throughout the process and take the final decision as regards registration in their Member State.</i></p> <p><i>See paragraph 6.4 of the ECB Opinion.</i></p> | |
| <p>Amendment 10</p> <p>Article 14</p> | |
| <p><i>'Article 14</i></p> <p><i>Conditions for registration</i></p> <p>A registering authority may register a third-country system in its Member State only where all of the following conditions are met:</p> <p>(a) the system has common rules and standardised procedures for the settlement, clearing, or execution of transfer orders between the participants;</p> <p>(b) the system is authorised or supervised in the country of its establishment or in the country under which law the third-country system is governed;</p> <p>(c) the system is governed by a law that upholds the principles of settlement finality;</p> <p>(d) the system identifies clearly in its common rules and standardised procedures all of the following moments:</p> <p>(i) the moment of entry of a transfer order into the system referred to in Article 18(1);</p> <p>(ii) the moment of irrevocability of a transfer order entered into the system referred to in Article 20(1);</p> | <p><i>'Article 14</i></p> <p><i>Conditions for registration</i></p> <p>A registering authority may register a third-country system in its Member State only where all of the following conditions are met:</p> <p>(a) the system has common rules and standardised procedures for the settlement, clearing, or execution of transfer orders between the participants;</p> <p>(b) the system is authorised, or supervised or overseen in the country of its establishment or in the country under which law the third-country system is governed;</p> <p>(c) the system is governed by a law that upholds the principles of settlement finality;</p> <p>(d) the system identifies clearly in its common rules and standardised procedures all of the following moments:</p> <p>(i) the moment of entry of a transfer order into the system referred to in Article 18(1);</p> <p>(ii) the moment of irrevocability of a transfer order entered into the system referred to in Article 20(1);</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>(iii) the moment of final settlement of a transfer order entered into a system referred to in Article 21(1).</p> <p>(e) the system operator of the system is adequately structured and financed;</p> <p>(f) the system complies in all material respects with global principles of financial market infrastructures.’</p> | <p>(iii) the moment of final settlement of a transfer order entered into a system referred to in Article 21(1).</p> <p>(e) the system operator of the system is adequately structured and financed;</p> <p>(f) the system complies in all material respects with global principles of financial market infrastructures the internationally agreed CPSS-IOSCO principles for financial market infrastructures.</p> <p>Where the system operator is a CCP recognised in accordance with Article 25 of Regulation (EU) No 648/2012 or a CSD recognised in accordance with Article 25 of Regulation (EU) No 909/2012, the system operator shall be deemed to comply with the conditions laid down in points (b), (e) and (f).’</p> |
| <p><u>Explanation</u></p> <p><i>This amendment aims to avoid duplication of the recognition processes provided for in EMIR and CSDR for third-country CCPs and CSDs. It is also suggested that the possibility that third-country payment systems may be overseen by third-country central banks rather than supervised should be recognised. The reference to compliance with international standards should also be further clarified. See paragraph 6.4 of the ECB Opinion.</i></p> | |
| <p>Amendment 11</p> <p>Article 16</p> | |
| <p><i>‘Article 16</i> <i>Withdrawal of registration</i></p> <p>1. A registering authority shall withdraw the registration of a registered system where any of the following conditions is met:</p> <p>(a) the third-country system operator has obtained the registration by making false statements or by any other irregular or unlawful means;</p> <p>(b) the third-country system operator or the system it operates, as applicable, no longer complies with the conditions set out in Article 14;</p> | <p><i>‘Article 16</i> <i>Withdrawal of registration</i></p> <p>1. A registering authority shall withdraw the registration of a registered system where any of the following conditions is met:</p> <p>(a) the third-country system operator has obtained the registration by making false statements or by any other irregular or unlawful means;</p> <p>(b) the third-country system operator or the system it operates, as applicable, no longer complies with the conditions set out in Article 14,</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|--|
| <p>(c) the third-country system operator or the system it operates, as applicable, has seriously or systematically infringed the conditions for registration laid down in Article 14.</p> <p>2. A registering authority shall only decide to withdraw the registration of a third-country system operator after it has informed ESMA and provided ESMA with all the relevant information for ESMA to be able to update its list of registered systems registered in a Member State. ESMA shall share this information with EBA, the ESCB and other registering authorities, as applicable.</p> <p>3. Where one of the registering authorities, ESMA, EBA or the ESCB, as applicable, are of the opinion that the withdrawal of the registration may cause material risks to the financial stability of the Union or in a Member State, it shall inform the relevant registered authority within 10 working days of being informed of a potential withdrawal of a registration under paragraph 2 and the relevant registering authority shall convene an ad hoc meeting with the other registering authorities, ESMA, EBA and the ESCB, as applicable, to cooperate on how to mitigate the risks identified before the registering authority withdraws the registration.</p> <p>Where the registered system is a CCP determined by ESMA to be a Tier 2 CCP under Regulation (EU) No 648/2012, the registering authority shall not withdraw the registration without the consent of ESMA.'</p> | <p>and the system operator has not taken the remedial actions requested by the coordinating authority within a set timeframe;</p> <p>(c) the third-country system operator or the system it operates, as applicable, has seriously or systematically infringed the conditions for registration laid down in Article 14.</p> <p>The coordinating authority shall immediately inform the registering authorities referred to in Article 12 when it assesses that any of the conditions referred to in the previous subparagraph is met.</p> <p>Where a registering authority assesses that a third-country system operator or the system it operated no longer complies with the conditions set out in Article 14, it shall inform the coordinating authority. The coordinating authority shall consider the registering authority's assessment and, as needed, request that the system operator take remedial action within a set timeframe.</p> <p>2. A registering authority shall only decide that intends to withdraw the registration of a third-country system operator after it has informed ESMA and provided ESMA with all the relevant information for ESMA to be able to update its list of registered systems registered in a Member State shall inform the coordinating authority of the reasons for its assessment that a condition for withdrawal is met. ESMA The coordinating authority shall share this information with ESMA, EBA, the ESCB and other registering authorities, as applicable.</p> <p>3. Where one of the registering authorities, ESMA, EBA or the ESCB, as applicable, are of the opinion that the withdrawal of the registration may cause material risks to the financial stability of the Union or in a Member State, it shall inform the relevant registered registering authority and</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| | <p>the coordinating authority within 10 working days of being informed of a potential withdrawal of a registration under paragraph 2 and the relevant registering coordinating authority shall convene an ad hoc meeting with the other registering authorities, ESMA, EBA and the ESCB, as applicable, to cooperate on how to mitigate the risks identified before the registering authority withdraws the registration.</p> <p>Where the registered system is a CCP determined by ESMA to be a Tier 2 CCP under Regulation (EU) No 648/2012, the registering authority shall not withdraw the registration without the consent of ESMA.'</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>These amendments aim to adjust the registration withdrawal process in line with the stronger coordination envisaged in the amendments to Article 13. Additionally, it is proposed to align the condition for withdrawal under paragraph 1, point (b), with the proposal under Article 9, as the condition is otherwise very strict, overly constraining the discretion of the registering and coordinating authorities, and makes the condition under point (c) of the same paragraph redundant.</i></p> <p><i>See paragraph 6.4 of the ECB Opinion.</i></p> | |
| <p style="text-align: center;">Amendment 12</p> <p style="text-align: center;">Article 17</p> | |
| <p>'Article 17</p> <p>Netting and transfer orders</p> <p>1. Transfer orders and netting, including close-out netting, shall be legally enforceable and binding on third parties, provided that transfer orders were entered into the designated system or registered system before the moment of opening of insolvency proceedings as referred to in Article 22(1), even in the event of insolvency proceedings against any of the following:</p> <p>(a) a participant in the designated system or registered system;</p> | <p>'Article 17</p> <p>Netting and transfer orders</p> <p>1. Transfer orders and netting, including close-out netting, shall be legally enforceable and binding on third parties, provided that transfer orders were entered into the designated system or registered system before the moment of opening of insolvency proceedings as referred to in Article 22(1), even in the event of insolvency proceedings against any of the following:</p> <p>(a) a participant in the designated system or registered system;</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>(b) a participant to an interoperable system to a designated system;</p> <p>(c) the system operator of an interoperable system to a designated system, which is not a participant.</p> <p>Transfer orders that are entered into a designated system or registered system after the moment of opening of insolvency proceedings and that are carried out within the business day, as laid down in the common rules and standardised procedures of such system, during which the opening of such proceedings occur, shall be legally enforceable and binding on third parties only where the system operator can prove that, at the time that such transfer orders become irrevocable, it was neither aware, nor should have been aware, of the opening of such proceedings.</p> <p>[...]</p> | <p>(b) a participant to an interoperable system to a designated system;</p> <p>(c) the system operator of an interoperable system to a designated system, which is not a participant.</p> <p>Transfer orders that are entered into a designated system or registered system after the moment of opening of insolvency proceedings and that are carried out within the business day, as laid down in the common rules and standardised procedures of such system, during which the opening of such proceedings occur, shall be legally enforceable and binding on third parties only where the system operator can prove that, at the time that such transfer orders become irrevocable, it was neither aware, nor should have been aware, of the opening of such proceedings.</p> <p>[...]</p> |
| <p><u>Explanation</u></p> <p><i>These amendments aim to clarify the scope of the substantive provisions of the proposed SFR as applying to operators of designated systems only. It would be more proportionate for the SFR to refrain from applying substantive EU rules to the protection of transfer orders in third-country systems, while EU authorities expect EU law to apply to EU systems, even in case of insolvency proceedings involving third-country participants.</i></p> <p><i>See paragraph 6.4.2 of the ECB opinion.</i></p> | |
| <p>Amendment 13</p> <p>Article 19</p> | |
| <p>'Article 19</p> <p>Use of funds and financial instruments</p> <p>1.The opening of insolvency proceedings against a participant or a system operator of an interoperable system shall not prevent funds or financial instruments available on the settlement account or on accounts holding collateral,</p> | <p>'Article 19</p> <p>Use of funds and financial instruments</p> <p>1.The opening of insolvency proceedings against a participant or a system operator of an interoperable designated system shall not prevent funds or financial instruments available on the settlement account or on accounts holding</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|---|--|
| <p>including default fund contributions such as contributions to a pre-funded default fund held by a CCP in accordance with Article 42 of Regulation No 648/2012 and margins as referred to in Article 41 of Regulation No 648/2012, where applicable, of that participant or system operator from being used to fulfil that participant's obligations in the designated system, or registered system in the Member State where the participant is established, or in an interoperability arrangement on the business day of the opening of the insolvency proceedings.</p> <p>2. Such a participant's credit facility connected to the designated system or registered system, as applicable, shall be usable against available, existing collateral security to fulfil that participant's obligations in the designated system, or in the registered system in the Member State where the participant is established, or in an interoperability arrangement.'</p> | <p>collateral, including default fund contributions such as contributions to a pre-funded default fund held by a CCP in accordance with Article 42 of Regulation No 648/2012 and margins as referred to in Article 41 of Regulation No 648/2012, where applicable, of that participant or system operator from being used to fulfil that participant's obligations in the designated system, or registered system in the Member State where the participant is established, or in an interoperability arrangement on the business day of the opening of the insolvency proceedings.</p> <p>2. Such a participant's credit facility connected to the designated system or registered system, as applicable, shall be usable against available, existing collateral security to fulfil that participant's obligations in the designated system, or in the registered system in the Member State where the participant is established, or in an interoperability arrangement.'</p> |
| <p><u>Explanation</u></p> <p><i>These amendments aim to clarify the scope of the substantive provisions of the proposed SFR as applying to operators of designated systems only. It would be more proportionate for the SFR to refrain from applying substantive EU rules to the protection of third-country systems, while EU authorities expect EU law to apply to EU systems, even in case of insolvency proceedings involving third-country participants.</i></p> <p><i>See paragraph 6.4.2 of the ECB opinion.</i></p> | |
| <p>Amendment 14</p> <p>Article 21</p> | |
| <p><i>'Article 21</i></p> <p><i>Final settlement</i></p> <p>1. Settlement shall be final when the discharge of the obligations of the parties to a transaction is</p> | <p><i>'Article 21</i></p> <p><i>Final settlement</i></p> <p>1. Settlement shall be final when the discharge of the obligations of the parties to a transaction is</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>completed in an unconditional and irrevocable manner as determined by the common rules and standardised procedures of each designated system, in accordance with the applicable law for transfer of ownership and other rights. A designated system that is based on DLT shall implement mechanisms guaranteeing deterministic and legally enforceable finality moments.</p> <p>2. In the case of interoperable systems, each system shall determine in its own common rules and standardised procedures the moment of final settlement. Each system operator shall ensure, to the extent possible, that the rules of all interoperable systems concerned are coordinated. Unless expressly provided for by the common rules and standardised procedures of all the systems that are party to an interoperability arrangement, one system's common rules and standardised procedures on the moment of final settlement shall not be affected by any common rules or standardised procedures of the other systems with which it is interoperable.</p> <p>3. ESMA may, in close cooperation with the ESCB, for clearing and securities settlement systems not operated by a CSD, and taking into account the specificities of different types of systems, and the mechanics of those systems, develop draft regulatory technical standards to specify the rules for determining all of the following:</p> <p>[...]</p> <p>(e) the moment of final settlement referred to in paragraph 1;</p> <p>[...]</p> <p>4. EBA may, in close cooperation with the ESCB, and taking into account the specificities of different types of payments systems and the</p> | <p>completed in an unconditional and irrevocable manner as determined by the common rules and standardised procedures of each designated system, in accordance with the applicable law for transfer of ownership and other rights as referred to in the common rules and standardised procedures of each designated system. A designated system that is based on DLT shall implement technical mechanisms guaranteeing deterministic and irreversible settlement, to ensure that the legally enforceable finality moments in accordance with the applicable law for transfer of ownership and other rights can be identified with certainty.</p> <p>2. In the case of interoperable systems, each system shall determine in its own common rules and standardised procedures the moment of final settlement. Each system operator shall ensure, to the extent possible, that the rules of all interoperable systems concerned are coordinated. Unless expressly provided for by the common rules and standardised procedures of all the systems that are party to an interoperability arrangement, one system's common rules and standardised procedures on the moment of final settlement shall not be affected by any common rules or standardised procedures of the other systems with which it is interoperable.</p> <p>23. ESMA may, in close cooperation with the ESCB, for clearing and securities settlement systems not operated by a CSD, and taking into account the specificities of different types of systems, and the mechanics of those systems, develop draft regulatory technical standards to specify the rules for determining all of the following:</p> <p>[...]</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>mechanics of the systems, develop draft regulatory technical standards to specify the rules for determining all of the following:</p> <p>[...]</p> <p>(e) the moment of final settlement referred to in paragraph 1;</p> <p>[...]</p> | <p>(e) facilitate system operators' compliance with the obligation to record the moment of final settlement referred to in paragraph 1;</p> <p>34. EBA may, in close cooperation with the ESCB, and taking into account the specificities of different types of payments systems and the mechanics of the systems, develop draft regulatory technical standards to specify the rules for determining all of the following:</p> <p>[...]</p> <p>(e) facilitate system operators' compliance with the obligation to record the moment of final settlement referred to in paragraph 1;</p> <p>[...]</p> |
| <p><u>Explanation</u></p> <p><i>It is proposed to clarify this provision to better distinguish between the requirements applicable to the technical solution used by the system operator and the legal implications for the finality moments determined by the rules of the system.</i></p> <p><i>Moreover, given that laws for transfer of ownership and other rights are not harmonised across the Union (and the proposed regulation does not harmonise them), the obligations imposed upon system operators under Article 21(1) can only be construed as an obligation to faithfully record the applicable national law provisions, the obligation under Article 21(2) is impossible to comply with. Additionally, ESMA's RTS can only facilitate compliance with this obligation to record the moment of final settlement, not define the final settlement moments under Article 21(1).</i></p> <p><i>See paragraph 6.8 of the ECB opinion.</i></p> | |
| <p>Amendment 15</p> <p>Article 24</p> | |
| <p>'Article 24</p> <p>Law governing the rights and obligations of participants</p> <p>In the event of insolvency proceedings being opened against a participant in a system, the rights and obligations arising from, or in connection with, the participation of that</p> | <p>'Article 24</p> <p>Law governing the rights and obligations of participants</p> <p>In the event of insolvency proceedings being opened against a participant in a designated system or in a registered system, the rights and obligations arising from, or in connection with, the</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|---|
| <p>participant shall be determined by the law governing that system.'</p> | <p>participation of that participant shall be determined by the law governing that system.'</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>This amendment aims to clarify the scope of the governing law provision of the proposed SFR as applying to both designated and registered systems.</i></p> <p><i>See paragraph 6.4.2 of the ECB opinion.</i></p> | |
| <p style="text-align: center;">Amendment 16</p> <p style="text-align: center;">Article 30</p> | |
| <p>'Article 30</p> <p>Repeal</p> <p>1. Directive 98/26/EC is repealed with effect from [OP insert date = date of entry into force of this Regulation].</p> <p>2. References to Directive 98/26/EC shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex 1 to this Regulation.'</p> | <p>'Article 30</p> <p>Repeal</p> <p>1. Directive 98/26/EC is repealed with effect from [OP insert date = 12 months after date of entry into force of this Regulation].</p> <p>2. References to Directive 98/26/EC shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex 1 to this Regulation.'</p> |

| Text proposed by the Commission | Amendments proposed by the ECB ² |
|--|--|
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>Member States should take all necessary measures to adjust their national laws, in a timely manner, to comply with the proposed SFR. This is necessary to ensure legal certainty and compatibility between the proposed SFR and national insolvency and banking legislation. To accommodate such adjustments, the ECB recommends that the date of application of the proposed SFR, and repeal of the SFD, should be one year after the date of adoption. This reflects similar solutions under other Union financial services legislation, where regulations have replaced directives³. Other provisions of the proposed SFR may also need to be adjusted to refer to the date of application of the Regulation, in particular the provisions on transitional provisions (Article 28), review (Article 29) and amendments to Directive 2002/47/EC (Article 31).</i></p> <p><i>See paragraph 6.1 of the ECB Opinion.</i></p> | |
| <p style="text-align: center;">Amendment 17</p> <p style="text-align: center;">Article 32</p> | |
| <p>'Article 32</p> <p>Entry into force</p> <p>This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.'</p> | <p>'Article 32</p> <p>Entry into force</p> <p>1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities Union.</p> <p>2. It shall apply from [OP insert date = 12 months after entry into force of this Regulation].'</p> |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>See paragraph 6.1 of the ECB Opinion and Amendment 16.</i></p> | |

³ See, for example, Articles 37 and 39 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1 ELI: <http://data.europa.eu/eli/reg/2014/596/oj>).